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THE SCULLY ESTATE AND ITS CASH-LEASING SYSTEM
IN THE MIDWEST.

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THE SCULLY ESTATE AND ITS
CASH-LEASING SYSTEM
IN THE MIDWEST

DISSERTATION
Presented in Partial Fulfillment of the Requirements for the
Degree Doctor of Philosophy in the Graduate School of
The Ohio State University

By
Russell LaVerne Berry, B.S., M.S.

* * * * * *

The Ohio State University
1966

Approved by

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PLEASE NOTE:
Figure pages are not original copy. They tend to "curl". Filmed in the best possible way.

University Microfilms.
The purposes of this study were (1) to determine the nature of the farm tenure problem, (2) to determine whether the Scully Estate and its cash-leasing system reduced tenure problems and (3) to examine ways to improve the ability of a cash-leasing system to solve tenure problems.

This work was initiated under South Dakota Agricultural Experiment Station Research Project 147 "Farm Tenancy Improvement" and has been continued under Project 371, which has the following objectives:

"1. To identify the objectives and purposes which people expect tenure arrangements to serve.

"2. To appraise alternative tenure systems and institutions which impede or expedite achievement of objectives. . . .

"3. To examine in detail specific arrangements with consideration given to how well they serve the aspirations of people involved. . . ."

Project 371 is a contributing project to North Central Regional Project NC-53 "Needed Changes in Land Tenure To Meet Changing Agricultural Conditions," which has objectives similar to those of Project 371.
The procedures followed closely the objectives as stated above and included a comparative analysis of 103 Scully and non-Scully farmers in Marion County, Kansas, to determine to what extent, if any, the Scully Estate and its cash-leaseing system solved the most important farm tenure problems.

The survey in Marion County, Kansas, was financed by funds made available by what is now the Great Plains Resource Economics Committee, the Kansas Agricultural Experiment Station, and the South Dakota Agricultural Experiment Station. The latter institution has borne the costs of the analysis and the preparation of this report.

The cooperation of the 120 Marion County, Kansas, farmers interviewed is deeply appreciated as is the help provided by the institutions listed above. A number of people have made important contributions to this study and deserve special mention. Among these are Professor John Kenneth Galbraith, Harvard University, who first approved the topic for the dissertation; Dr. Joseph Ackerman, Farm Foundation; Professors Max Myers, South Dakota State University; Wilfred Pine, Kansas State University; Kris Kristjanson then of the University of Nebraska and John Muehlbeier, U. S. Department of Agriculture, stationed at the University of Nebraska.

Special thanks are due to William Scully, namesake and grandson of the founder and owner of the Marion County Scully Estate and his agents: J. M. Quackenbush of Beatrice, Nebraska, and D. W. Montgomery of Marion, Kansas, who have provided much important information needed for this study. For information concerning the Illinois
Estates, the author is deeply indebted to James M. Stewart, agent, Scully Estates Office, Lincoln, Illinois, who also gave permission to reproduce his article on the Scully Estate. (See Appendix B of this work.)

Much credit for the completion of this work is due to the preceptive guidance of Professor William A. Wayt, chairman of the author's graduate committee, and to his able successor, Professor Richard H. Baker, both of Ohio State University. Professor Baker's kindly but probing questions has led to much improvement in this work. Thanks are also due to Professors Robert M. Reecer and Edward Siaudys also of Ohio State University for reading this manuscript and making suggestions for improvement.

A number of other people have read various portions of this manuscript and offered valuable suggestions for improvement. Among these were Dr. Marshall Harris, agricultural economist, U. S. Department of Agriculture and Professors Paul W. Gates, historian, Cornell University, and Homer E. Socolofsky, historian, Kansas State University. The latter two men gave permission to use their maps showing the location of Scully Estate lands in Logan County, Illinois, and Marion County, Kansas, respectively.

The interviewing crew consisted of Charles Marsh, Vernon McKee and Ivan Schmedemann, then graduate students at Kansas State University, Harold Bents, Joe Dvorak, Jr., Gearhard Franzen, Clarence Wall and Floyd Yaussi, all of Marion County, Kansas.
Mary Wilmont Taylor assisted with the preparation of the tables and the statistical analysis and Paul H. Jess assisted with the editing. His wife, Janet Jess, typed the final product.

To all these people the author extends heartfelt gratitude for their help, encouragement, suggestions and criticisms. He also absolves them of any faults that remain.

The author wishes to thank the publishers for permission to quote passages from Cecil Woodham-Smith’s, The Great Hunger: Ireland, 1845-1849, Harper and Row, Publishers, New York, 1962. The maps showing the location of Scully lands in Gage and Nuckolls Counties, Nebraska, are reproduced from Addison E. Sheldon, Land Systems and Land Policies in Nebraska, with permission of the publishers, the Nebraska State Historical Society.
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PUBLICATIONS

(A selected list)


FIELDS OF STUDY

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<td>How many beef cows do you have on this place?</td>
</tr>
<tr>
<td>54</td>
<td>How many sows or gilts which have farrowed do you have on this place today?</td>
</tr>
<tr>
<td>55</td>
<td>How many chickens do you have on this place today?</td>
</tr>
<tr>
<td>56</td>
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CHAPTER I

INTRODUCTION

One of the earliest and strongest goals of American farmers is that they should own the land that they operate. Full ownership has been regarded as the top of the agricultural ladder—a ladder on which the farmer climbed from unpaid family worker to hired worker, to tenant, and then to full ownership. Why was land ownership such a strong goal? The reasons are complex but one is obvious. It provides the most nearly perfect tenure available to man. The patent or deed grants and conveys possession, use and enjoyment of the land forever. In contrast the typical farm lease conveys possession, use and enjoyment for only one year or year-to-year and its renewal or continuation, especially under share rent leases, is often uncertain. As a result the tenant's freedom to farm and freedom to improve may be and often is severely limited as compared to full owners. Part ownership (part tenancy), the fastest growing tenure class, gives the tenant more freedom to improve but as will be shown may still limit the tenant's freedom to farm like a full owner.

A: Some Farm Tenure Problems

Today in the most productive areas of the Midwest more than 60 percent of the land is being leased—mostly for a crop-share rent.
What are the prospects for the future? Will owner operation continue to decline and share-rent leasing increase? If so, what problems will this create for farmers? What were the important goals which owner-operation achieved and are these valid goals today?

Would the development of a cash-leasing system similar to that of England of the nineteenth century give farmers more of the fixity or security of tenure and freedom of operation and improvement enjoyed by full owners? If so, at what cost? What are some of the problems of such a system and how might they be removed?

The English cash-leasing system was held in high esteem long before the adoption of present English tenancy legislation. Even in the United States cash leasing is highly regarded. Poirot notes that "in New York State a cash tenant is as much different from a share tenant as the share tenant differs from the hired man in his progress along the agricultural ladder."


In the Midwest the Scully Estate leases 180,000 acres of land to farmers in Illinois, Nebraska and Kansas on a one-year cash lease, renewed annually. These lands were originally purchased by William Scully, the founder, between 1850 and 1887. In 1918 the Illinois lands were acquired by his eldest son, Thomas A. Scully, and the Nebraska and Kansas lands by his youngest son, Frederick Scully. All the lands were still managed from the Scully Estates Office in Lincoln, Illinois,
until 1947. The Nebraska lands are now owned by Frederick's youngest son, Robin Scully, and the Kansas lands by his eldest son, William Scully, and managed from the Scully Estates Office in Beatrice, Nebraska. The Illinois lands are held in separate trusts for Mrs. Thomas A. Scully, her sons—Michael Scully, and Peter Scully, and their children—and managed by the Scully Estates Office in Lincoln, Illinois.

Is the leasing system of this Estate similar to that of large English landed estates before present tenancy legislation was adopted? Where do the Scully cash tenants stand on the agricultural ladder as compared with share tenants and full owners?

Part owners (part tenants) comprise the fastest growing tenure group in the United States. Most of these part owners own the land on which the buildings are located. This arrangement seems to solve the problem of upkeep and repair of improvements which is a serious problem on many share-rented farms. An unusual feature of the Scully Estate leasing system is that Scully tenants are also part owners but of a different kind. They own all the buildings and fences on the land they lease. Does this system, once popular in Northern Ireland, solve the problem of upkeep and repair of improvements? What problems might it create for typical farm landlords and tenants?

The Scully Estate has been leasing land to farmers in the Midwest for more than one hundred years. What does the performance of the system suggest about the need for tenancy legislation such as that of England to give Scully tenants more of the four F's: fixity or
security of tenure, freedom of improvement, freedom of operation or cropping, and fair rents? In any event, what are the possibilities of such tenancy legislation being adopted if a number of large estates developed?

Finally, what if anything does the experience of the Scully Estate suggest might be done to make this type of leasing more acceptable to American farmers?

These are some of the questions which this study attempted to answer.

B. Some Hypotheses to Be Tested

More explicitly, the purpose of this study was to test certain hypotheses about the nature and solution of farm tenure problems. The major hypotheses by chapters are

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Hypothesis</th>
</tr>
</thead>
<tbody>
<tr>
<td>II.</td>
<td>The perfect lease would give the landlord complete security of rent and property and the tenant complete security of possession, and complete freedom to use and enjoy the property.</td>
</tr>
<tr>
<td>III.</td>
<td>The decline of owner-operation and the increase in share-rent tenancy has reduced the farmer's four F's: (1) fixity or security of possession or tenure on the land, (2) freedom of improvement or long-run management, (3) freedom of operation or short-run management, and (4) fair rents.</td>
</tr>
<tr>
<td>Chapter</td>
<td>Hypotheses</td>
</tr>
<tr>
<td>---------</td>
<td>------------</td>
</tr>
<tr>
<td>IV.</td>
<td>The major farm tenure problems, hence the major farm tenure goals, are the four F's.</td>
</tr>
<tr>
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</tr>
<tr>
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</tr>
<tr>
<td>VII.</td>
<td>Scully Estate tenants have much fixity or security of tenure largely because of the use of cash rents and the size of the estate.</td>
</tr>
<tr>
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<td>Ownership of improvements by Scully tenants, plus their security of tenure, gives most of the freedom to improve enjoyed by owner-operators and much more such freedom than enjoyed by share-rent tenants.</td>
</tr>
<tr>
<td>IX.</td>
<td>Scully tenants have much of the freedom of operation of owner-operators and much more freedom than share-rent tenants.</td>
</tr>
</tbody>
</table>
| X.      | The Scully Estate appears to have done a good job of providing tenants with the four F's, judging by the fact that little of the criticism and legislation directed at the
estate was concerned with the tenant's fixity of tenure, freedom to improve or operate, or fair rents.

XI. The major problem of the Scully Estate is one of winning and keeping public approval in a country where the ideal of owner-operation has been reinforced by the fear of the economic and political powers of big business and big government.

C. Procedures Used in this Study

The evidence to be presented concerning the tenure situation, tenure problems and goals, and leasing theory comes from secondary sources. However, some of the evidence concerning the Scully Estate comes from primary sources made available by the Scully Estate offices in Marion County, Kansas and in Lincoln, Illinois.

The evidence concerning the relative merits of the cash-leasing system used by the Scully Estate was secured by a survey of 103 Scully and non-Scully farmers in Marion County, Kansas, in 1955.

1. A Brief Description of Marion County, Kansas

Marion County is in central Kansas about 80 miles east of the center of the State and about 50 miles north-northeast of Wichita. It includes 953 square miles or 610,000 acres. The county is slightly rolling with the exceptions of a rough area in the northwestern corner and the Flint Hills which extend into the eastern part of the county.
The mean temperature is 56°F and ranges from 111°F to -29°F. The annual precipitation average is 31 inches.


The average farm size in Marion County was 314 acres in 1954 and 356 acres in 1959. During the same period the average value of farm land and buildings increased from $31,000 to $45,000, or from $99 to $120 an acre. A one-third share of corn, oats and wheat is the most common rental rate. The major crop yields for Marion County and Kansas can be seen in Table 1. The farms operated by Scully tenants are compared in size with those operated by all farmers in Marion County in Table 2.

TABLE 1.—Comparison of average crop yields per acre, Marion County, Kansas, 1950-64

<table>
<thead>
<tr>
<th>Crop</th>
<th>Marion County average yields per acre</th>
<th>Kansas average yields per acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corn, all purposes, bu.</td>
<td>23.7</td>
<td>35.0</td>
</tr>
<tr>
<td>Sorghum for grain, bu.</td>
<td>25.0</td>
<td>26.6</td>
</tr>
<tr>
<td>Wheat, bu.</td>
<td>22.4</td>
<td>20.0</td>
</tr>
<tr>
<td>Alfalfa, ton</td>
<td>1.8</td>
<td>2.1</td>
</tr>
</tbody>
</table>

TABLE 2.—Total size of farms of Scully tenants and non-Scully farmers interviewed and all farms, Marion County, Kansas, 1955

<table>
<thead>
<tr>
<th>Total size class in acres</th>
<th>Scully farms</th>
<th>non-Scully farms</th>
<th>Total farms</th>
<th>Marion County farms</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>52</td>
<td>51</td>
<td>103</td>
<td>1,601</td>
</tr>
<tr>
<td>140 - 179</td>
<td>19</td>
<td>19</td>
<td>19</td>
<td>19</td>
</tr>
<tr>
<td>180 - 219</td>
<td>6</td>
<td>14</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>220 - 259</td>
<td>14</td>
<td>6</td>
<td>10</td>
<td>16</td>
</tr>
<tr>
<td>260 - 499</td>
<td>47</td>
<td>49</td>
<td>48</td>
<td>43</td>
</tr>
<tr>
<td>500 - 999</td>
<td>14</td>
<td>12</td>
<td>13</td>
<td>10</td>
</tr>
<tr>
<td>1,000 or more²</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>2</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

²Differences not significant at .05 level between Scully and non-Scully farms and between Scully farms and Marion County farms.

²Four Scully farms of 1,000 acres or more were eliminated from the sample because no comparable farms appeared in the non-Scully sampling.

2. Population and Sampling Procedures

The population, for the purpose of this study, was composed of Scully and non-Scully farmers living in ten townships in northwestern Marion County. The area included and the location of the Scully Estate lands are shown in Figure 1.

The Scully Estate office in Marion, Kansas, furnished a complete list of 187 tenants; 60 of whom were selected by the use of a table of
Fig. 1—Location of Scully Estate Lands in Marion County, Kansas

(Scully lands shaded)
random numbers. Non-Scully farmers were selected from township lists in the Agricultural Stabilization and Conservation Service office in Marion by starting with a randomly chosen name and taking every fifth name.

To eliminate size as a factor, the Scully tenants were sorted into six classes on the basis of total acres farmed (Table 2). Non-Scully farmers were included in the sample only if (1) total acres farmed were in one of the six classes of the Scully tenants, and (2) more farms were needed to equal the Scully tenants in this particular size class.

Because the ASCS lists were given by tract and because many farmers operated two or more tracts, control of the size was difficult. However, as can be seen in Table 2, the size differences were minimized by omitting from the study four Scully tenants who operated 1,000 acres or more. The Scully farms were not significantly different from all farms in the county.

Interviewing was done by a crew of eight men, August 12-27, 1955. Funds for the survey were furnished by the Farm Foundation through the Resource Economics Committee of the Great Plains Agricultural Council and the Kansas and South Dakota Agricultural Experiment Stations. The schedule of questions used in the survey appears in Appendix A.
3. Classification of Farmers Interviewed

Farmers interviewed were sorted into three groups according to the ownership of the land on which their improvements stood. The first group, Owners, owned the land in fee on which their farmstead buildings stood. The second, Renters, leased both land and buildings from non-Scully landlords—mostly on a share-rent basis. The third, Scully Tenants, owned their farmstead improvements which stood on land leased from the Scully Estate (Table 3).

TABLE 3.—Classification of farmers interviewed by the location of their improvements and tenure, Marion County, Kansas, 1955

<table>
<thead>
<tr>
<th>Classification of farmers</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Owners: Improvements on owned land</td>
<td>38</td>
</tr>
<tr>
<td>1. Full owner-operator</td>
<td>8</td>
</tr>
<tr>
<td>2. Part owner-part renter</td>
<td>22</td>
</tr>
<tr>
<td>3. Part owner-part Scully</td>
<td>8</td>
</tr>
<tr>
<td>B. Renters: Improvements on rented land</td>
<td>24</td>
</tr>
<tr>
<td>1. Full renter</td>
<td>17</td>
</tr>
<tr>
<td>2. Part renter-part owner</td>
<td>4</td>
</tr>
<tr>
<td>3. Part renter-part Scully</td>
<td>3</td>
</tr>
<tr>
<td>C. Scully: Improvements on Scully land</td>
<td>41</td>
</tr>
<tr>
<td>1. Full Scully tenant</td>
<td>24</td>
</tr>
<tr>
<td>2. Part Scully-part renter</td>
<td>15</td>
</tr>
<tr>
<td>3. Part Scully-part owner</td>
<td>2</td>
</tr>
<tr>
<td>Grand Total</td>
<td>103</td>
</tr>
</tbody>
</table>

aIncludes three sub-Scully tenants.
This classification was adopted because the analysis of the part owners-part renters, the full renters and the full Scully tenants failed to give answers significantly different from those of the broader classifications described above.

As shown in Table 4, about 95 percent of the farmers paid a share rent in either crops or livestock, with or without cash for pasture and buildings. This is important because one object of this study was to compare the merits of share-rent leasing with the cash leasing of the Scully Estate.

**TABLE 4.--What kind of rent do you pay for non-Scully land? Replies of farmers by location of their improvements, Marion County, Kansas, 1955**

<table>
<thead>
<tr>
<th>Kind of Rent</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>21</td>
<td>21</td>
<td>17</td>
<td>59</td>
</tr>
<tr>
<td>Livestock share</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Crop share</td>
<td>95</td>
<td>95</td>
<td>88</td>
<td>93</td>
</tr>
<tr>
<td>Straight cash</td>
<td>5</td>
<td>5</td>
<td>6</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*Difference not significant at .05 level.*

The classification of the farmers interviewed into Owners, Renters and Scully Tenants, as defined above, had no significant effect on the distribution of size of farms operated by the three groups.
Furthermore, there were no significant differences in the amount of cropland for the three groups. Any differences noted, therefore, must be attributable to tenure or other factors associated with these tenure groups.

TABLE 5—How many acres do you operate? Replies of farmers by location of their improvements, Marion County, Kansas, 1955a

<table>
<thead>
<tr>
<th>Size class in acres</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>140 - 179</td>
<td>16</td>
<td>20</td>
<td>22</td>
<td>19</td>
</tr>
<tr>
<td>180 - 219</td>
<td>8</td>
<td>13</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td>220 - 259</td>
<td>11</td>
<td>4</td>
<td>17</td>
<td>12</td>
</tr>
<tr>
<td>260 - 499</td>
<td>44</td>
<td>50</td>
<td>51</td>
<td>48</td>
</tr>
<tr>
<td>500 - 999</td>
<td>21</td>
<td>13</td>
<td>3</td>
<td>12</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

aDifference not significant at .05 level.

One such factor was the age of the farmers. In most tenure studies share renters are the youngest group, full owners the oldest, with part owners in between. Because even the full Scully Tenants are "part owners" by virtue of their ownership of improvements, it is not surprising that they would be older than the Renters and younger than the Owners (Table 6).
TABLE 6.—What is your present age? Replies of farmers by the location of their improvements, Marion County, Kansas, 1955

<table>
<thead>
<tr>
<th>Age class in years</th>
<th>Improvements located on</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Owned land</td>
<td>Rented land</td>
<td>Scully land</td>
<td>Total replies</td>
<td></td>
</tr>
<tr>
<td>25-29</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td></td>
<td>3</td>
<td>29</td>
<td>5</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>30-34</td>
<td>5</td>
<td>25</td>
<td>15</td>
<td>14</td>
<td></td>
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<tr>
<td>35-39</td>
<td>18</td>
<td>13</td>
<td>19</td>
<td>17</td>
<td></td>
</tr>
<tr>
<td>40-44</td>
<td>8</td>
<td>21</td>
<td>19</td>
<td>15</td>
<td></td>
</tr>
<tr>
<td>45-49</td>
<td>21</td>
<td>4</td>
<td>12</td>
<td>14</td>
<td></td>
</tr>
<tr>
<td>50-54</td>
<td>13</td>
<td>0</td>
<td>10</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>55-59</td>
<td>16</td>
<td>8</td>
<td>10</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>60-64</td>
<td>13</td>
<td>0</td>
<td>5</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>65 and over</td>
<td>13</td>
<td>0</td>
<td>5</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td></td>
</tr>
</tbody>
</table>

\[a\] Difference significant at \( X^2 \approx 0.05 \).

No significant differences were found in the educational and social experiences of the three tenure groups (Table 7). More of the Renters had completed high school and fewer had started farming before 1935, but undoubtedly this difference was due to their younger age. An analysis of the socio-economic status of the three tenure groups
TABLE 7.--Summary of education and social experiences of farmers by the location of their improvements, Marion County, Kansas, 1955*  

<table>
<thead>
<tr>
<th>Experiences</th>
<th>Owned land 38</th>
<th>Rented land 24</th>
<th>Scully land 41</th>
<th>Total replies 103</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completed grade school</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Completed high school</td>
<td>87</td>
<td>96</td>
<td>85</td>
<td>88</td>
</tr>
<tr>
<td>Attends church weekly</td>
<td>24</td>
<td>42</td>
<td>24</td>
<td>28</td>
</tr>
<tr>
<td>Subscribes to a daily newspaper</td>
<td>89</td>
<td>83</td>
<td>76</td>
<td>83</td>
</tr>
<tr>
<td>Belongs to farm organizations</td>
<td>61</td>
<td>54</td>
<td>51</td>
<td>55</td>
</tr>
<tr>
<td>Holds positions in community</td>
<td>74</td>
<td>58</td>
<td>61</td>
<td>65</td>
</tr>
<tr>
<td>Subscribes to farm magazines</td>
<td>42</td>
<td>42</td>
<td>32</td>
<td>38</td>
</tr>
<tr>
<td>Has been farming continuously</td>
<td>89</td>
<td>96</td>
<td>93</td>
<td>92</td>
</tr>
<tr>
<td>Started farming before age 25</td>
<td>95</td>
<td>100</td>
<td>95</td>
<td>96</td>
</tr>
<tr>
<td>Started farming before 1935</td>
<td>74</td>
<td>62</td>
<td>63</td>
<td>67</td>
</tr>
</tbody>
</table>

*Difference not significant at .05 level.
failed to show any significant differences. The socio-economic scores were: Scully Tenants 79; Renters 80; Owners 82. In comparison, 53 tenants in Moody County, South Dakota, scored 81 on the same scale.


This scale rates farmers according to their education and church attendance, the construction and condition of their house, the number of rooms per person, lighting system, water system, washing facilities, refrigeration, daily newspapers, radio, telephone, and automobile. One reason for the small difference in the socio-economic scores was that there were no significant differences in the possession of facilities except for running water and telephone (Table 8). Whereas the Scully tenants had smaller houses, they also had smaller families. Their number of rooms per person was thus about the same as for the other two tenure groups.
TABLE 8.—Summary of home conveniences of farmers by the location of their improvements, Marion County, Kansas, 1955

<table>
<thead>
<tr>
<th>Facilities</th>
<th>Improvements located on</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Owned land</td>
</tr>
<tr>
<td>Electricity</td>
<td>100</td>
</tr>
<tr>
<td>Kitchen sink</td>
<td>89</td>
</tr>
<tr>
<td>Running water</td>
<td>68**</td>
</tr>
<tr>
<td>Power washer</td>
<td>100</td>
</tr>
<tr>
<td>Refrigerator</td>
<td>100</td>
</tr>
<tr>
<td>Home freezer</td>
<td>37</td>
</tr>
<tr>
<td>Radio</td>
<td>100</td>
</tr>
<tr>
<td>Telephone</td>
<td>100*</td>
</tr>
<tr>
<td>Automobile</td>
<td>100</td>
</tr>
<tr>
<td>Septic tank</td>
<td>47</td>
</tr>
</tbody>
</table>

*Difference significant at .05 level.

**Difference significant at .01 level.
PART I

THE NATURE AND SIGNIFICANCE OF
FARM TENURE PROBLEMS
CHAPTER II

ECONOMIC THEORY AND FARM LEASES

Just as the perpetual motion machine—a frictionless machine that once started would run forever—is a model or goal of perfection for the mechanical engineer, the perfect economy—also frictionless—is a model for the economist as he seeks to understand and improve the complex economic machinery which, without direction other than Adam Smith's "invisible hand," answers the central question of any economy: What should be produced? How much should be produced? With what should it be produced? and to whom should it be distributed?

In theory the invisible hand, which in a competitive free enterprise economy directs the economic machinery, is the market place—a kind of Town Hall in which buyers and sellers use dollars as votes to answer the central questions of the economy.

What are the characteristics of a perfect market? Of the perfect firm? Of the perfect lease? If these questions can be answered, a model of perfection will exist which can be used as a guide in improving if not perfecting farm leases.

A. The Perfect Market, the Perfect Firm and the Perfect Lease

If the market is defined as a large group of buyers and sellers, what is required for its perfection? The basic requirement is that the
buyers and sellers have complete freedom to buy and sell. Any conditions that hinder such freedom make the market imperfect. Lack of knowledge about the products being marketed is one obvious limitation on the perfect market. Hence standardization of the product is a basic requirement. Standards are necessary because buyers and sellers must have perfect knowledge of the product. Unless they do they lack freedom to buy and sell, and freedom of choice among the substitutes. It should be noted that standardization does not imply that the good is perfect—only that its qualities are known. In a perfect barter market, standardized goods would be exchanged for other standardized goods. In a modern market, where money is used as a medium of exchange and a standard of value, the money obviously must also be standardized. That is, perfect knowledge of the value of money must exist if buyers and sellers are to have freedom from friction that would be created by uncertainty as to what is being asked or bid.

This is necessary because goods are purchased either for further production or for direct consumption. In either case their costs must be known if efficiency in satisfying wants is to be achieved.

The perfect firm would be a frictionless input-output machine. It would have complete freedom to buy and sell outputs in the market place. The perfect firm would know its production possibilities and with perfect markets would know both costs and selling price.
perfect firm would have complete freedom to allocate its resources as prices, costs and other goals direct.


A lease is an agreement which conveys or transfers the right to possession, use, and enjoyment of land for a limited term from one firm (the landlord's) to another firm (the tenant's) usually in exchange for rent and promises to maintain the productivity of the property. To be perfect such a lease must give the tenant complete fixity of possession or tenure and complete freedom to use and enjoy the leasehold. Moreover, it must give the landlord complete security of the amount of his rent, the payment of his rent and the protection of his property. Because the landlord is in control of his property he is not likely to give the tenant more fixity of tenure or freedom of operation and improvement until he has more security of rent and property. The importance of this point can hardly be emphasized enough and hence will be discussed in detail below.

B. The Effect of Tenure on Farmer's Freedom

Unencumbered owner-operation of the land generally gives the farmer the greatest freedom of operation and improvement. Mortgaged ownership is second in this regard. As Heady has remarked, "Perhaps an owner-farm operating under a full (or nearly full) equity and
long-term expectancy on the farm most nearly provides the ideal tenure environment from the standpoint of entrepreneurial decisions."


No doubt land purchased on an installment contract would rank third, although the difference would not be important unless the farmer failed to meet the payments.

Of the various leasing methods, the cash-rent lease probably provides the greatest fixity of tenure, freedom of operation and freedom to improve. Crop-share leasing is probably second and livestock-share leasing third. Sharecropping of the cotton and tobacco plantations in the South and other parts of the world (Metayer system in Europe) probably provides the farmer with the least freedom (except slavery or serfdom) and is commonly regarded as an employer-employee rather than a landlord-tenant relationship.

However, because lease provisions restricting the tenant's farming can and do vary greatly, generalizations are of limited usefulness. For instance, a cash-rent lease may contain so many restrictions upon the tenant's farming that he becomes in essence an employee. Usually, however, because the landlord's cash rent is a fixed amount not normally affected by the tenant's farming, the landlord is apt to give the cash tenant greater freedom than is enjoyed by tenants under any of the other popular rental methods.
Under both the crop-share and the livestock-share lease the
landlord's rent can be, and generally is, affected by the manner in
which the tenant farms. Hence it is not surprising that the tenant's
freedom to farm under these rental arrangements is often limited by
various conditions not found in fixed cash or other objectively de-
termined rents.

Many of the limitations placed upon the tenant are direct and
obvious. Most leases contain standard provisions to protect the land-
lord's reversionary estate by requiring the tenant to do a good job of
farming, perform certain tasks and not to permit or commit waste. In
addition, especially under share leases, the landlord may specify in
detail the kinds of crops, the acres of crops, the variety of seeds,
the amount and kind of fertilizer, the use of herbicides, insecti-
cides, and so on. On the other hand, the lease may merely specify
that the farming is to be done "under the direction and according to
the plans of the landlord." Or the landlord may simply tell the ten-
ant, "Now don't worry about keeping the farm. You can keep it as long
as you do a good job and pay a fair rent." In any case, the amount of
freedom enjoyed by the tenant depends largely upon his bargaining
powers vis-à-vis his landlord.

Given the goal of agricultural efficiency to be attained by
free markets and free firms, the perfect lease must also be free from
all restraints except those necessary to protect the value of the land-
lord's reversionary estate. Because in the long run both landlord and
tenant are interested in preserving the productive capacity of the farm, such limits as are necessary should not interfere with agricultural efficiency.

C. Heady's Concept of the Perfect Lease

This reasoning about the nature of the perfect lease is not new. Heady assumed private ownership of resources and competitive markets that would, except for the imperfections in leases, efficiently allocate resources. He concluded that "a perfect leasing system must, therefore, result in (1) the most efficient organization of resources on the farm relative to consumer demand as expressed in market prices and (2) an equitable division of the product among the owners of the various resources employed in production."

Heady, Economics of Agricultural Production, p. 589. This chapter is a revision of his earlier article, "Economics of Farm Leasing Systems," Journal of Farm Economics, Vol. 29, No. 3, Aug. 1947, with the same quotation on p. 660 (italics added).

Heady further said, "A test of the perfect leasing system is in its effect on the total product available to consumers. Resource and commodity prices should, in a perfect market, indicate the pattern of production and combination of resources which is most nearly consistent with a maximization of consumer satisfaction. Leasing systems should facilitate an organization of resources within the individual farm which will bring about this pattern. Any characteristic of a lease which violates the pricing system is in this respect
imperfect. . . . The leasing system is imperfect if it does not encourage adoption of the most productive combination of resources.

. . . The leasing system thus becomes imperfect if it hinders allocation of resources. . . . The test of a leasing system is this: it should not cause further deviations from the conditions which define economic efficiency."

Heady, Economics of Agricultural Production, pp. 590-91 (italics added).

Thus according to Heady a perfect lease must result in, facilitate and encourage efficiency and should not have any characteristic which violates, hinders or causes further deviations from the conditions which define economic efficiency. These phrases seem to say that given efficiency as a general goal of society, and given the private free-enterprise system to achieve it, a perfect lease must not limit the tenant's freedom to allocate resources to meet consumer demand as expressed by competitive market prices and costs. Thus it appears that Heady's concept of the perfect lease is one that gives the tenant perfect freedom of resource allocation to achieve maximum efficiency of production.

It should be noted, however, that although "freedom of resource allocation" may describe the nature of the perfect lease, it does not tell how perfect leases are to be achieved. How much freedom should the tenant have if his lease is to be perfect? How is perfect freedom
to be provided? Heady listed the necessary conditions for perfection:

(1) "The arrangements for sharing costs and production for each particular crop must be the same."

(2) "The shares of all competitive crops must be the same."

(3) "The share of income going to each party of the lease must represent the product of the resources furnished by this person."

(4) "The prospects for return over time ... must be the same under the lease as they would be in its absence."


Heady's rules tell the landlord he should

(1) share operating costs as the product is shared,

(2) charge the same rent for cropland regardless of the crops grown,

(3) charge a specific and fair rent for improvements and pasture as well as cropland, and

(4) give the tenant security of tenure and freedom to improve,
D. Cost-Sharing to Increase Tenant Freedom


Share rents (whether crop, livestock or both) often place certain restraints upon the tenant's freedom to farm as intensively as prices and costs direct. This occurs because the tenant usually gets only a share of the product but often pays all of the variable costs.

This restraint can be illustrated with a simple example. Suppose the share tenant pays all the fertilizer costs but gets only a share of the product. If fertilizer costs $6 an acre and gives a return of $9, either a full owner or a cash tenant would make $3, or 50 percent, on his investment. In contrast, a tenant who gets only two-thirds share ($6) will merely break even, hence will be reluctant to use the fertilizer. The landlord, who gets one-third share ($3) at no extra cost, will strongly favor its use. As a result, disagreement may arise because the landlord feels that the share tenant should farm like an owner.

This difficulty was recognized by Adam Smith, Alfred Marshall and other Europeans, as D. Gale Johnson has pointed out.

Schickale seems to have been the first to call attention to the fact that this defect of share leasing could be removed if the landlord shared costs as the product was shared. Thus, in the example given above, if the landlord paid one-third of the cost, or $2, and received one-third of the return, or $3, he would make 50 percent on his investment. Likewise, if the tenant paid two-thirds of the cost, or $4, and got two-thirds of the return, or $6, he also would make 50 percent on his investment. Because this return is the same as for the full owner or cash tenant, presumably the tenant would farm just as intensively as either of the other two and the problem would be solved. Although this solution was logically or mathematically correct, Schickale contended that it had limited possibilities. "Since labor and machinery are always furnished by the tenant alone, total operating expenses are never fully shared between landlord and tenant; a sharing of parts of these costs mitigates but does not eliminate the effect of share rent on intensity of operation, and hence farming efficiency." Therefore, "In comparison with cash rent conditions it is clear that the degree of intensity of farming operations, and hence of the farm enterprise as a whole, tends to be materially lower under crop share tenancy."


In 1947 Heady agreed with Schickale that share-rent leases were
probably less efficient than cash leases, but argued that landlords should adopt Schickale's solution for greater efficiency.


Many agricultural economists have adopted Heady's proposed solution and share landlords are generally being told "Each variable expense must be shared in the same proportion as the products obtained from it are shared."


The basic difficulty with this solution is that it enlarges the element of partnership which the share rents introduce into the lease. Thus Hurlburt defines a lease as "a contract between a landlord and a renter concerning the use of resources." He declares that the function of the lease is "(1) to provide a basis for combining resources in production and (2) to distribute income to resource owners within the firm."


Farm landlords and tenants are being told, "Remember that your lease combines the resources of two persons... Operating a rented farm is usually a cooperative endeavor. Landlord and tenant are partners
in an economic sense, although legally they do not form a partnership."


There is, of course, truth in these statements. The share rent does introduce a large element of partnership into the share lease. Under some landlords this may even create the relationship of employer-employee. When costs are shared as the product is shared the landlord has much more reason to enter the tenant's firm and take charge of the management to insure a good job of farming and a fair share of rent. If cost sharing is necessary there seems to be no place to stop short of a perfect partnership.

Usually landlords are advised only to share the variable costs. However, although the tenant's labor and management may be fixed for the firm it is by no means fixed within the firm, and the same is true for farm machinery and equipment. The tenant may believe that his net satisfactions are increased more by going to town, going fishing or merely resting than by applying additional labor to crops or livestock—especially when he gets only a share of the extra product. This also creates problems regarding the sharing of products between enterprises. For example, dairying is much more labor consuming than is hog
production. Hence tenants often prefer the latter, even though dairying may give a higher return.

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Heady has noted that in the long run all costs are variable, hence

"perfection... can be brought about only if both parties own some of each category of resource, the proportion depending upon the share of the product to be received by either. Thus perfect share leases would almost always require complete partnership arrangements."

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What are the views of landlords and tenants regarding the sharing of costs like the product is shared? To find out, a survey was made of 250 landlords and 500 tenants in Brookings County, South Dakota. One-third of the landlords and one-fourth of the tenants replied. Almost all landlords and tenants agreed that fertilizer costs should be shared and that all other cash operating costs should not be shared (Table 9). Some did say that all seed costs should be shared if the tenant were paying half the crop as rent. The main objection of the tenants seemed to be that cost sharing would limit their freedom and cause friction with the landlord. Landlords also cited cost sharing as a source of friction. Bookkeeping problems would be severe when the tenant was a part owner or rented from other landlords.
TABLE 9.--Opinion of landlords and tenants regarding the sharing of operating costs, Brookings County, South Dakota, 1961

<table>
<thead>
<tr>
<th>Questions</th>
<th>Replies received</th>
<th>Number of replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Party&lt;sup&gt;a&lt;/sup&gt;</td>
<td>Yes</td>
</tr>
<tr>
<td>Should the landlord:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Share fertilizer costs:</td>
<td>L</td>
<td>95</td>
</tr>
<tr>
<td></td>
<td>T</td>
<td>98</td>
</tr>
<tr>
<td>Share fertilizer as the product is shared?</td>
<td>L</td>
<td>94</td>
</tr>
<tr>
<td></td>
<td>T</td>
<td>95</td>
</tr>
<tr>
<td>Share all seed costs?</td>
<td>L</td>
<td>13</td>
</tr>
<tr>
<td></td>
<td>T</td>
<td>12</td>
</tr>
<tr>
<td>Share tractor fuel costs?</td>
<td>L</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>T</td>
<td>1</td>
</tr>
<tr>
<td>Share hired labor costs?</td>
<td>L</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>T</td>
<td>8</td>
</tr>
<tr>
<td>Share machinery repairs?</td>
<td>L</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>T</td>
<td>0</td>
</tr>
<tr>
<td>Share all cash operating costs?</td>
<td>L</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>T</td>
<td>3</td>
</tr>
<tr>
<td>Share costs and give long-term lease?</td>
<td>L</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td>T</td>
<td>15</td>
</tr>
</tbody>
</table>

<sup>a</sup>L--Landlord; T--Tenant.

<sup>b</sup>Difference significant at the .01 level.

If costs are to be shared like the product is shared, it might be wiser for the two parties to recognize that what they want is a partnership. All too many father-son farm partnerships founder on the confusion and uncertainty as to the rights, duties and obligations of the two parties. This confusion often exists under share-rent leases when the landlord attempts to dictate the details of farming.

Coe has pointed out that under a strict lease the tenant-son has the right to make all managerial decisions; under an employer-employee relationship the father has this right; and under a partnership any agreement can be worked out. If there is no agreement, the rights are equal under the Uniform Partnership Laws.

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E. Discriminatory Rents and Tenant Freedom

Full owners pay the same land charges (interest on his investment and taxes) regardless of crops grown or livestock kept and get 100 percent of the return. But cash tenants may be charged different rates depending upon the crops or livestock produced. Likewise share tenants may be charged different shares depending upon what is produced. Rents which vary with crops or livestock produced are discriminatory. For example, if the tenant gets two-thirds of the corn and only half the oats he will tend to favor corn production, as
compared to an owner operator who gets equal shares (100 percent) of all products.

Thus if the object is to give the tenant the same freedom of farming as a full owner, shares should be uniform regardless of the crop produced. However, it does little good to have uniform rents and then insert in the lease how many acres of each crop shall be grown. One restraint on the tenant's freedom is merely replaced by another.

Eelfson has argued that neither the tenant's labor nor the landlord's land is truly fixed within the firm, hence must be treated as variable costs that exhibit disutilities for some uses. As a result he holds that equal sharing of product is unsatisfactory. Although there seems to be no theoretical reason why production-possibility curves cannot take these disutilities into account, the practical problems are formidable. Another solution which Eelfson mentions but rejects, is for the two parties to share all inputs including labor and land on some percentage basis. "But this would turn the lease into a partnership and our concern is with the lease" (p. 110). However, Heady does not reject this solution. He clearly recognizes that perfection would transform the share lease into a perfect partnership. The only way to avoid this pitfall, as well as discriminatory rents, is to reject share-rent leasing in favor of fixed or flexible cash rents.

Eelfson cites tobacco as an example of a crop that should be shared differently from the other crops grown on the same farm.
(p. 115). Although his argument is valid, his assumption that tobacco and other crops are competitive is not. Tobacco allotment land is something special—such as a small bit of muck suited to truck crops. Where a market exists, such land is much more valuable than most and a higher rent would be charged for it—whether in cash or kind. If the tenant wanted to put the tobacco land into some other specialty crop which might be competitive, the rents should be uniform on this land so as not to encourage or discourage such a change. However, the landlord might well prevent such a reduction of the allotted acres of tobacco because of possible loss of his base and the resulting effect on the long-run value of his farm.

Elefson also argues that complementary and supplementary considerations may justify differential or discriminatory rents. For example, he speculates that Iowa landlords charge one-half share for corn and two-fifths share for oats to encourage short-term tenants to grow oats as a complementary crop. But if oats (or a clover catch-crop seeded in oats) is complementary, it should not be necessary for the landlord to offer this incentive to get even short-term tenants to grow it because most of the complementary benefits would be available to the next crop. However, they still might not grow oats if corn and commercial fertilizer is more profitable than the rotation.

To summarize, if the tenant is to have freedom of cropping neither cash nor share rents should be discriminatory. The fact that equal share rents may be somewhat discriminatory is not a valid argument for gross discrimination.
F. Discriminatory Rents for Other Resources and Tenant Freedom

The tenant's freedom of farming may be curtailed when the rents charged for house, barns, pasture and cropland are not equitable and specific for each kind of resource leased. As a result the landlord has little direct incentive to furnish these resources and the tenant lacks the usual incentive to ration their use. For example, when, as often happens, no specific charge is made for buildings or pasture and only a share of the crops is paid as rent, the landlord may feel that the share rent is for cropland only whereas the tenant may feel that the share rent is enough to cover buildings and pasture as well as cropland. As a result neither the landlord's firm nor the tenant's firm is able to allocate resources as prices direct because the prices are unknown.

Unfortunately there appears to be no easy and certainly no precise way to determine equitable rents for each kind of resource. Heady holds that "the return to any of the resource owners must be based on the marginal value productivity of the resources which the individual contributes."

Heady, Economics of Agricultural Production, p. 589.

But Elefson points out that "if the production functions involved are not homogeneous in the first degree, the amount of the total product will not be equal to the sum of the factor rewards as determined by the method" (pp. 120-1).
Heady has also recognized that this is true. Because few if any agricultural production functions meet this requirement, about the best that can be done is to approximate the fair rent for each kind of resource in the same way that a fair rent or sale price is arrived at--by landlord-tenant or buyer-seller bargaining in the market place. This bargaining would be tempered, of course, by each party's knowledge of costs and productivity of the particular building, pasture or cropland being considered.

Unless a partnership is intended, there seems to be little to justify the contributions approach to a fair rent, whether modified by Heady's rules or not. If the landlord's firm is separate from the tenant's firm the landlord is entitled to a fair return on the resources he sells or leases, independent of the resources of the buyer. Hence, Hurlburt's proposal for "Rent Determination Within the Farm Firm" (italics supplied) is suitable for use only when the parties are interested in a partnership rather than in a lease.


In discussing the "pricing of the land input," Hurlburt recognizes that the land market, imperfect as it is, must be used and the parties should "agree upon a price which would reflect willing buyer, willing seller relations" (p. 15). Having reached this point, a contract rent can be calculated by adding up the landlord's costs for depreciation, insurance, repairs, taxes, and interest on investment
needed to keep the landlord from selling the land. Also the customary share may be checked to see whether it will yield this return under normal conditions. If it does not, adjustments need to be made. Reiss has prepared forms which simplify this task and eliminate the need for the partnership approach.

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The determination of the value of the buildings is even more difficult; but again the value of the buildings, therefore the rent, should not be determined by any given tenant's resources but by market value.

Whatever the difficulties, a "fair" rent must be specified for each kind of resource furnished if the tenant is to have the freedom to respond to prices and costs in the same way as an owner-operator. At best this will be an approximation, but approximate equity is better than obvious discrimination.

G. Fixity of Tenure and Freedom to Improve

If tenants are to have the same freedom to improve as full owners they must have expectations or "prospects for return over time," of full owners. Without such expectations tenants lack the incentive to make long-run plans or investments. When tenants lack security of tenure they cannot afford to make improvements that they
would make were they owners. Soil conservation and land development are also problems when tenants are insecure.


Unfortunately it is one thing to recognize a problem and quite another to solve it. Heady has pointed out that "Long leases can provide a time period which allows tenant decisions to conform to those of an owner operator... One of the greatest shortcomings of the leasing systems in the United States is the '1-year' aspect."

Heady, Economics of Agricultural Production, p. 616.

Although long-term leases might give tenants much of the freedom of owners, the difficulty is that landlords apparently do not think that they can afford to give the tenant, and especially a share tenant, this much freedom. After all, the way the tenant farms affects the landlord's rents. Moreover, if costs are shared as the product is shared, as Heady advises, the element of partnership introduced into the lease by share rents is greatly enlarged. This increases the landlord's reluctance to make a long-term lease.

Even without such cost sharing, two-thirds of the landlords and three-fourths of the tenants in two South Dakota surveys agreed that the "main reason why the short-term lease is customarily used is to
make sure that the tenant does a good job of farming and pays a fair share as rent."


Wallace and Beneke say, "While the tenant may press for an unqualified three- or five-year lease such an agreement is seldom to the advantage of the landowner. Committing himself to a lease of this length deprives the owner of the only recourse he has in the event the tenant operator is not performing satisfactorily—a change of tenants. In some cases an unqualified long-term lease also dulls the incentive for the tenant to do his best work by giving him a false sense of security."


Another possible way of giving the tenant expectations over time is for the landlord to agree to compensate the tenant for the unexhausted value of his improvements, should the tenant leave the farm. This is sometimes done with lime and fertilizers and more rarely with other semi-durable improvements. As Heady has pointed out, compensation is not particularly suited to buildings and other more permanent improvements: "the tenant who has limited capital is unlikely
to invest funds in a barn which will stand empty because he cannot then buy cows."

Heady, Economics of Agricultural Production, p. 615.

Major improvements should be made by the landlord, and a rent charged for their use. Even this is difficult because many landlords have no more capital for such an investment than does the tenant—some have even less. Furthermore, a landlord who builds an expensive barn or silo for the current tenant may discover that the next tenant does not need or want such an investment and is unwilling to pay enough rent to cover the landlord's costs.

A further difficulty is that share landlords may be reluctant to enter an agreement to compensate the tenant for the unexhausted market value of an improvement expected to last several years, because such an agreement may have the effect of giving the tenant the security of a long-term lease. As pointed out above, when the rent is a share of the crops, the landlord is especially reluctant to give the tenant security of tenure by a long-term lease.

H. Evaluation of Heady’s Rules for Tenant Freedom

The basic difficulty of Heady’s rules is that Rule 1 on cost sharing conflicts with Rule 4 on security of tenure. The first rule would create a perfect partnership under long-run conditions and reduce the tenant’s freedom of operation or independence. Of course if
a partnership is desired, nothing is lost and much is gained by this rule. However, if a partnership is desired Rule 4 cannot be recommended. The partners should, under ideal conditions, have equal security of tenure. The landowner should not give the operator security of tenure if he wants an equal voice in the partnership business.

Rule 2, which requires the same rent be paid regardless of the crops grown, is valid not only for share rent leases but also cash leases and partnerships. When the rent or share discriminates against certain crops neither party has as much freedom to respond to prices and costs as the full owner. Hence, whatever the relationship this rule is a good one.

Rule 3, which requires specific fair or equitable rental charges for each kind of resource leased, is a valid rule despite the difficulties of determining precisely what is the fair or equitable rent.

Rule 4, is also a desirable rule. If the tenant is to have freedom of improvement and operation, security of tenure is necessary. But security of tenure is not likely to be achieved if the landlord's rent depends upon the quality of the tenant's farming and his honesty. Cost sharing increases this dependence and removes any remaining reason for granting security of tenure.

Heady's rules alone will not create a perfect lease. Each can be followed, yet its purpose avoided by other restraints in the lease. For example, the landlord

(1) may share costs as the product is shared, but may limit inputs,
(2) may charge the same rent for all cropland, but specify the acres of each crop to be grown,

(3) may charge fair rents for each class of resource, but refuse to furnish the kind or amount of resource needed, and

(4) may provide security of tenure, but deny the freedom that security normally gives by excessive restrictions on use and improvement.

Thus the problem of providing the tenant with the freedom needed for efficient production is not solved by Heady's rules. His Rule 1 is helpful only in the extreme case in which the product is not shared, and hence costs are not shared. Only in this extreme case is the conflict between Rule 1 and Rule 4 removed. This analysis suggests that share rents, despite their attractive advantage of varying with yields and prices, are the main cause of the tenant's lack of fixity of tenure, lack of freedom of improvement and lack of freedom of operation.

I. The Crucial Problem of Farm Lease Improvement

A lease has been defined as an instrument which transfers the possession, use and enjoyment of land from the landlord's firm to the tenant's firm in exchange for a rent and promises to maintain the physical productivity of the property. Now if the landlord is to give the tenant perfect fixity of possession and perfect freedom to use or enjoy the property, the landlord must have perfect security of
(1) the amount of his rent (2) the payment of his rent and (3) the protection of his property against waste.

Although perfection is probably impossible to achieve, the landlord can be given much more security as to the amount of rent to be paid by adopting a fixed cash, fixed produce or an objective flexible cash rent, none of which can be affected by either the landlord or the tenant after the lease is signed. There are popular objections to fixed cash rents by both landlords and tenants that need to be analyzed. One of these is the sticky characteristic of cash rents. However, fixed cash rents can be adjusted yearly in line with trends in economic rents, land values or other rents in the community. They may also be varied with crop prices and county average yields.


To insure rent payment and to prevent waste, awards, penalties, liens and short-term leases seem to be the practical remedies currently available, but some method of guaranteeing the landlord his rent might possibly be developed. For example, banks and their trust departments or similar agencies might lease farms from landlords for a guaranteed fixed cash rent and then sublease the farms on a flexible cash lease, charging a sufficient premium to cover their costs, including the rent costs incurred when the variable payments are below
average. In any event, much educational work could be done to improve
the use of awards, penalties, liens and the short-term lease to give
the landlord more security of the payment of rent and the protection of
his property.

Because of these imperfections, the perfect lease is probably as
unattainable as the perpetual motion machine. Nonetheless the share
landlord's insecurity about the amount of his rent can be largely
eliminated if fixed cash or flexible cash rents are used. This would
not only give the landlord freedom from worry about the way that the
tenant is farming but it would also give the tenant much more freedom
of operation because the way he farms no longer affects the landlord's
rents.

Also landlords would no longer have to use the short-term lease
as a means of protecting the amount of their rent against poor or dis-
honest farmers. Hence the tenant would tend to have greater fixity of
tenure even though the short term continued to be used—as it probably
should be to help insure the payment of the rent and the protection of
the property from waste.

Because the cash-rent tenant would tend to be more secure and
have more freedom of operation he would be more likely to continue to
lease the farm year after year. As a consequence he would have more
interest in making repairs and improvements and maintaining the pro-
ductivity of the soil by conservation measures.

Thus the landlord's lack of security of the amount of his rent
is a crucial problem because its solution can, in theory at least,
be expected to solve three of the problems of farm tenants—lack of fixity of tenure, lack of freedom of operation, and lack of freedom of improvement.

The need to give the landlord freedom from worry about the amount of his rent, the payment of his rent, and the protection of his property has been discussed in an earlier paper by Berry and "rules" suggested to achieve them.


In retrospect it seems sufficient to recognize the crucial problem created by share rents and recommend that cash or flexible cash rents be used instead. If this is done the landlord will have freedom from worry about the amount of rent and the details of the tenant's farming.

In addition, the tenant will tend to have more freedom of operation, more fixity of tenure and more freedom to improve—other things being equal.

J. Summary and Conclusion

Heady's rules for perfecting share-rent leases are a mixture of partnership and leasing rules. His first rule, that variable costs should be shared like the product is shared, would, under long-run conditions where all factors are variable, result in a perfect partnership rather than a perfect lease. Even under short-run conditions,
problems are created because two important factors—labor and land, although fixed from the standpoint of the firm—are variable within the firm.

A more serious objection to cost sharing is that neither landlords nor tenants seem to be interested in this solution because it seems to create more problems than it solves. Specifically it tends to create a partnership, which neither party wants.

Another objection to cost sharing is that because it is almost unthinkable for the landlord to give a share tenant a long-term lease, it is doubly so if most of the costs are shared. Yet a long-term lease is what Heady's Rule 4 prescribes.

Under what conditions can landlords give tenants more freedom of operation and improvement and more fixity of tenure? The answer appears to be that this can only be accomplished when the landlord's rent cannot be affected by the tenant's farming or the way he divides the crops. Thus either a fixed cash or an objectively determined flexible cash rent must be used.

Heady's Rule 2, which would eliminate discriminatory rents among crops, and his Rule 3, which would eliminate discriminatory rents among buildings, pasture and cropland, have much to commend them. However, all of Heady's rules can be followed, yet their purpose defeated by other provisions in the lease.

A farm lease usually transfers possession, use and enjoyment of land from the landlord to the tenant for a definite term in exchange
for a rent and promises to maintain the value of the property. If the tenant is to have perfect possession, perfect use and enjoyment of the land it appears that the landlord must have perfect security of the amount of rent, the payment of the rent and the protection of his property.

Logic suggests that if the landlord was given more security of the amount of rent, the tenant would tend to have more fixity of possession, more freedom of operation and more freedom of improvement—all of which are often lacking under share-rent leases.

Changing from share rents to fixed cash or flexible cash rents which neither party can affect after the lease is signed, is a possible solution to these important tenure problems.
CHAPTER III

THE FARM TENURE SITUATION IN THE MIDWEST

What are the changes in the farm tenure situation that call for a study of the English cash-leasing system? The purpose of this chapter is to answer this question. More specifically, evidence concerning the following hypotheses will be examined:

(a) Farm size and capital investment will continue to increase in the years ahead.
(b) As size and value of farms increase, farm owner-operation will decline and part ownership and full tenancy will increase.
(c) Part ownership and share-rent leasing will become increasingly unsatisfactory as farms enlarge and multiple landlords become more common.
(d) Cash rent leasing will become more desirable as farms become larger, the cost exceeds $500 or more per acre, and landlords become less and less familiar with good farming practices.

A. The Rapid Growth in Farm Size

In the North Central States, between 1945 and 1959, the average size of farms increased from 201 to 314 acres—an increase of 50
percent in 15 years (Table 10). There can be no doubt that this trend will continue. One has only to leaf through any farm magazine to note the signs of changes to come. Tractors are no longer pictured pulling plows of two or three bottoms; they pull five to seven bottoms or more, and other machinery has grown accordingly. In addition, the herbicides and other innovations and improvements now available make it possible for many farmers to double or triple the size of their farms.

TABLE 10.—Change in farm size by tenure of operators, North Central Region of the United States, 1900-1959

<table>
<thead>
<tr>
<th>Year</th>
<th>All farmers</th>
<th>Full owners</th>
<th>Part owners</th>
<th>Full tenants</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>acres</td>
<td>acres</td>
<td>acres</td>
<td>acres</td>
</tr>
<tr>
<td>1900</td>
<td>144</td>
<td>129</td>
<td>230</td>
<td>129</td>
</tr>
<tr>
<td>1910</td>
<td>157</td>
<td>138</td>
<td>232</td>
<td>152</td>
</tr>
<tr>
<td>1920</td>
<td>172</td>
<td>137</td>
<td>292</td>
<td>178</td>
</tr>
<tr>
<td>1930</td>
<td>181</td>
<td>129</td>
<td>308</td>
<td>192</td>
</tr>
<tr>
<td>1940</td>
<td>185</td>
<td>122</td>
<td>372</td>
<td>196</td>
</tr>
<tr>
<td>1945</td>
<td>201</td>
<td>128</td>
<td>402</td>
<td>207</td>
</tr>
<tr>
<td>1950</td>
<td>212</td>
<td>137</td>
<td>397</td>
<td>223</td>
</tr>
<tr>
<td>1954</td>
<td>232</td>
<td>146</td>
<td>417</td>
<td>243</td>
</tr>
<tr>
<td>1959</td>
<td>314</td>
<td>162</td>
<td>457</td>
<td>272</td>
</tr>
</tbody>
</table>

Saupe and Kaldor have shown that if all farms in the North Central Region were organized as well as the best are today, farms would increase from 314 acres to 515 acres—a 64 percent increase.


But this would be only the beginning. Such a reorganization of farms could be expected to increase output by 100 percent. With a free market this would cause a fall in farm prices and farmers would leave agriculture. "Because of the decline in the number of farmers, the demand for land would be lessened and land prices would decline, making it relatively low cost compared to other factors." Thus the remaining farmers would find it to their advantage to add more land to their fixed labor and capital. As a result gross production would decline per acre and for the region because the marginal output would fall. By 1980 a least cost and a market-clearing situation would be achieved with farms averaging 1,078 acres—a 243 percent increase in size over 1959 (Table 11). The value of capital needed for this farm would increase from $18,000 in 1959 to $36,000—a 96 percent increase. The total investment in capital and land would increase from $63,000 to $191,000. While prices would fall by one-third, earnings would increase by 400 percent. Although these drastic changes would occur only if
<table>
<thead>
<tr>
<th>Reorganization</th>
<th>Number of Farms</th>
<th>Size of Farms (acres)</th>
<th>Value of Farms ($45,000)</th>
<th>Months of Labor per Year</th>
<th>Value of Capital ($18,400)</th>
<th>Value of Capital ($3,000)</th>
<th>Product Prices Index</th>
</tr>
</thead>
<tbody>
<tr>
<td>1959 situation</td>
<td>1,171,000</td>
<td>314</td>
<td>$45,000</td>
<td>16.2</td>
<td>$18,400</td>
<td>$3,000</td>
<td>100</td>
</tr>
<tr>
<td>1959 minimum cost</td>
<td>714,000</td>
<td>515</td>
<td>74,000</td>
<td>20.8</td>
<td>39,900</td>
<td>15,300</td>
<td>100</td>
</tr>
<tr>
<td>1959 market clearing</td>
<td>306,000</td>
<td>1,200</td>
<td>172,000</td>
<td>20.8</td>
<td>39,900</td>
<td>17,800</td>
<td>97</td>
</tr>
<tr>
<td>1980 min. cost and mkt. clearing</td>
<td>330,600</td>
<td>1,078</td>
<td>155,000</td>
<td>14.8</td>
<td>36,200</td>
<td>15,800</td>
<td>66</td>
</tr>
<tr>
<td>Change 1959 to 1980</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

-72% +243% +243% -9% +96% +425% -34%


*Assuming a productivity increase of 1.75 compounded annually and constant elasticity of demand for farm products. Gross production would increase 248%.
the assumptions made materialize, they clearly indicate the trend in farm numbers and size that can be expected:

The probable effect of continued growth in farm size is suggested by Figure 2. As farms increase in size beyond 100 acres, the percentage of full owner-operators declines rapidly; beyond 500 acres, full tenants also decline. When farms reach 500 acres in size, only 25 percent are operated by full owners. Part ownership expands rapidly indeed as farms grow larger; Although the amount of land leased is not shown, the proportion leased undoubtedly grows larger as size increases and multiple landlords become more common. This trend toward more farm tenancy is in keeping with the long-time historical trends.

B. Historical Trends in Farm Tenure

The early colonists in America were familiar with the long struggle of English tenants to acquire the "four F's." With almost unlimited land available, the colonists quickly discovered that these four tenure goals could be acquired by ownership. Hence, ownership by farmers became the ideal tenure goal. Instead of a struggle with landlords for the first three F's at a "fair rent," the struggle became one with land speculators and the government for ownership which provided the three F's at "fair sale" or as "free land."

The struggle to achieve the four F's by ownership was successful largely because subdividing and selling the raw land in fee to farmers was more profitable than was holding it for lease. Moreover, in a
FARM TENURE BY SIZE OF FARM, NORTH CENTRAL REGION, 1959

PERCENT

U. S. Census Data

SIZE OF FARM IN ACRES

FULL OWNERS PART OWNERS MANAGERS TENANTS

Figure 2
democracy it was the political thing to do. From the beginning, government provided credit for land purchases, then lower land prices. Later, the Graduation Act and the Preemption Act were passed. Beginning in 1862, the various homestead acts were adopted which enabled a million and a half people to acquire farm ownership.


Yet, despite the success of the various efforts to make farmers owner-operators, the first Federal Census showed that 25 percent of the farmers were tenants (Table 12). After the depression of the 1890's, tenancy rose to 35 percent in 1900 and 37 percent in 1910. The rapid rise in land values led to the enactment of the Federal Farm Loan Act of 1916 which established the Federal Land Banks. Murray notes that "the first purpose of loans listed in the Act was for the purchase of land; One of the strongest arguments offered in behalf of this new legislation was that it would give deserving tenants an opportunity to become owners."


Whatever the effect it was not enough to decrease farm tenancy, which in 1920 stood at 38 percent and by 1930 had risen to 42 percent. Federal Land Bank loan rates were liberalized in 1933 and the
TABLE 12.—Farms: Percentage distribution by tenure of operator, United States, 1900-1959

<table>
<thead>
<tr>
<th>Year</th>
<th>Full owners</th>
<th>Part owners</th>
<th>Full tenants</th>
<th>All land under lease</th>
</tr>
</thead>
<tbody>
<tr>
<td>1880</td>
<td>NA</td>
<td>NA</td>
<td>26</td>
<td>NA</td>
</tr>
<tr>
<td>1890</td>
<td>NA</td>
<td>NA</td>
<td>28</td>
<td>NA</td>
</tr>
<tr>
<td>1900</td>
<td>56</td>
<td>8</td>
<td>35</td>
<td>NA</td>
</tr>
<tr>
<td>1910</td>
<td>53</td>
<td>9</td>
<td>37</td>
<td>NA</td>
</tr>
<tr>
<td>1920</td>
<td>52</td>
<td>9</td>
<td>38</td>
<td>NA</td>
</tr>
<tr>
<td>1925</td>
<td>52</td>
<td>9</td>
<td>39</td>
<td>NA</td>
</tr>
<tr>
<td>1930</td>
<td>46</td>
<td>10</td>
<td>42</td>
<td>44</td>
</tr>
<tr>
<td>1935</td>
<td>47</td>
<td>10</td>
<td>42</td>
<td>45</td>
</tr>
<tr>
<td>1940</td>
<td>51</td>
<td>10</td>
<td>39</td>
<td>44</td>
</tr>
<tr>
<td>1945</td>
<td>56</td>
<td>11</td>
<td>32</td>
<td>38</td>
</tr>
<tr>
<td>1950</td>
<td>57</td>
<td>15</td>
<td>27</td>
<td>35</td>
</tr>
<tr>
<td>1954</td>
<td>57</td>
<td>18</td>
<td>24</td>
<td>35</td>
</tr>
<tr>
<td>1959</td>
<td>57</td>
<td>23</td>
<td>20</td>
<td>36</td>
</tr>
<tr>
<td>1964</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


^Source: A Graphic Summary of Farm Tenure, 1954, USDA, Table 3.
Bankhead-Jones Farm Tenant Act of 1937 established a new program under the newly created Farm Security Administration (now the Farmers Home Administration) to help tenants acquire farm ownership.

No doubt these efforts and the efforts of a dozen states to provide credit for ownership had some effect on tenancy. But farm tenancy appears to have declined during and after World War II largely because farm incomes rose more rapidly than did farm land prices. In any event, full tenancy declined steadily after 1940, and by 1959 was down to 20 percent—the lowest figure on record (Table 12).

In 1900, only 56 percent of the farmers were full owners; by 1930 full owners had declined to 46 percent, but by 1945 they had again reached 56 percent and have since remained at about this level. In 1900, full owners operated 51 percent of all land in farms. The percent operated fell steadily until 1935 then leveled off; In 1954, the downward trend resumed and by 1959 stood at 31 percent (Table 13). Since 1945 the number of part-owners (part-tenants) has more than doubled (Table 12). In 1959, part-owners operated 45 percent of all farmland—thus constituting the most important tenure group insofar as land use was concerned (Table 13). The importance of part-owners is emphasized by the fact that they operate 57 percent of the 382 million acres under lease, whereas full tenants operate only 43 percent.

Taken as a whole, the tenure situation in the North Central Region is not greatly different from that of the entire country. This
TABLE 13.--Land in farms: Percentage distribution by tenure of operator, United States, 1900-1959

<table>
<thead>
<tr>
<th>Year</th>
<th>Full owners %</th>
<th>Part owners %</th>
<th>Full tenants %</th>
<th>Managers %</th>
</tr>
</thead>
<tbody>
<tr>
<td>1900</td>
<td>51</td>
<td>15</td>
<td>23</td>
<td>10</td>
</tr>
<tr>
<td>1910</td>
<td>53</td>
<td>15</td>
<td>26</td>
<td>6</td>
</tr>
<tr>
<td>1920</td>
<td>48</td>
<td>18</td>
<td>28</td>
<td>6</td>
</tr>
<tr>
<td>1925</td>
<td>45</td>
<td>21</td>
<td>29</td>
<td>5</td>
</tr>
<tr>
<td>1930</td>
<td>38</td>
<td>25</td>
<td>31</td>
<td>6</td>
</tr>
<tr>
<td>1935</td>
<td>37</td>
<td>25</td>
<td>32</td>
<td>6</td>
</tr>
<tr>
<td>1940</td>
<td>36</td>
<td>28</td>
<td>29</td>
<td>6</td>
</tr>
<tr>
<td>1945</td>
<td>36</td>
<td>32</td>
<td>22</td>
<td>9</td>
</tr>
<tr>
<td>1950</td>
<td>36</td>
<td>36</td>
<td>18</td>
<td>9</td>
</tr>
<tr>
<td>1954</td>
<td>34</td>
<td>41</td>
<td>16</td>
<td>9</td>
</tr>
<tr>
<td>1959</td>
<td>31</td>
<td>45</td>
<td>14</td>
<td>10</td>
</tr>
<tr>
<td>1964</td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>


can be seen by comparing Table 14 with Table 12 and Table 15 with Table 13. In both cases the trends are the same and the differences small. The largest difference is in full tenants. In 1959, only 14 percent of all farmland in the United States was leased by full tenants whereas 24 percent was leased by full tenants in the North Central Region. Hence, one might conclude that the tenure problem is only
TABLE 14.—Farms: Percentage distribution by tenure of operator, North Central Region of the United States, 1900-1959a

<table>
<thead>
<tr>
<th>Year</th>
<th>Full owners %</th>
<th>Part owners %</th>
<th>Full tenants %</th>
<th>Land leased %</th>
</tr>
</thead>
<tbody>
<tr>
<td>1900</td>
<td>59</td>
<td>12</td>
<td>28</td>
<td>NA</td>
</tr>
<tr>
<td>1910</td>
<td>56</td>
<td>14</td>
<td>29</td>
<td>NA</td>
</tr>
<tr>
<td>1920</td>
<td>55</td>
<td>13</td>
<td>31</td>
<td>NA</td>
</tr>
<tr>
<td>1925</td>
<td>54</td>
<td>13</td>
<td>32</td>
<td>NA</td>
</tr>
<tr>
<td>1930</td>
<td>49</td>
<td>16</td>
<td>34</td>
<td>49</td>
</tr>
<tr>
<td>1935</td>
<td>48</td>
<td>15</td>
<td>36</td>
<td>50</td>
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<tr>
<td>1940</td>
<td>50</td>
<td>14</td>
<td>35</td>
<td>52</td>
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<tr>
<td>1945</td>
<td>53</td>
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<td>29</td>
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<td>1950</td>
<td>56</td>
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<td>1954</td>
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<tr>
<td>1959</td>
<td>53</td>
<td>25</td>
<td>21</td>
<td>38</td>
</tr>
<tr>
<td>1964</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

aSource: A Graphic Summary of Farm Tenure, 1959, USDA, pp. 6, 14, and A Graphic Summary of Farm Tenure, 1954, USDA, Table 3.

slightly more serious in the Midwest than for the nation. However, these averages obscure the real problem. The low percent of tenancy in northern Minnesota, Wisconsin, Michigan, southern Missouri, Illinois, Indiana and Ohio and all of Kentucky obscures the high rates in the center area (Figure 3).
TABLE 15. — Land in farms: Percentage distribution by tenure of operator, North Central Region of the United States, 1900-1959

<table>
<thead>
<tr>
<th>Year</th>
<th>Full owners %</th>
<th>Part owners %</th>
<th>Full tenants %</th>
<th>Managers %</th>
</tr>
</thead>
<tbody>
<tr>
<td>1900</td>
<td>53</td>
<td>19</td>
<td>25</td>
<td>3</td>
</tr>
<tr>
<td>1910</td>
<td>49</td>
<td>21</td>
<td>28</td>
<td>2</td>
</tr>
<tr>
<td>1920</td>
<td>44</td>
<td>21</td>
<td>32</td>
<td>2</td>
</tr>
<tr>
<td>1925</td>
<td>41</td>
<td>23</td>
<td>34</td>
<td>1</td>
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<td>1930</td>
<td>35</td>
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<td>2</td>
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<tr>
<td>1935</td>
<td>34</td>
<td>27</td>
<td>38</td>
<td>2</td>
</tr>
<tr>
<td>1940</td>
<td>33</td>
<td>28</td>
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<td>2</td>
</tr>
<tr>
<td>1945</td>
<td>34</td>
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</tr>
<tr>
<td>1950</td>
<td>36</td>
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<td>1954</td>
<td>34</td>
<td>40</td>
<td>24</td>
<td>2</td>
</tr>
<tr>
<td>1959</td>
<td>32</td>
<td>42</td>
<td>24</td>
<td>2</td>
</tr>
<tr>
<td>1964</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


Farm tenancy is highly concentrated in the heart of the Corn Belt and the Wheat Belt of the North Central Region; 40-59 percent of this land is under lease. In central Illinois, northwestern Iowa and in scattered counties of South Dakota, Nebraska, Kansas, and Ohio more than 60 percent of the land is under lease (Figure 4).
Figure 3: Map showing the percent of all farms operated by tenants in the United States in 1959. The map uses a legend to indicate different percentage ranges and highlights various regions across the country with varying levels of tenant farm operation.

- **Legend**: The map legend shows different shades to represent different percent ranges:
  - Less than 10
  - 10 to 24
  - 25 to 59
  - 60 or more

- **United States Average**: 10.5 percent

- **Source**: U.S. Department of Commerce, Bureau of the Census.
What is the significance of the fact that more than 50 percent of the land is leased in the most productive area of the Midwest? Obviously the favorable conditions for ownership during the past 15-20 years have not been enough to bring about a high degree of owner-operation. This being true, it seems unlikely that farm tenancy in these areas will soon be much less than it is today—barring massive use of governmental credit to help tenants become owners. With the rapid decline in farm population and the waning farm influence in Congress, an expanded credit program seems unlikely. Such influence as farmers have been able to exercise during the past 30 years has been directed largely towards parity prices and improved farm income. Although some attention has been given to farm-mortgage credit problems, it has not been sufficient to make owner-operators out of many tenants. Thus it seems realistic to believe that the percentage of leased land in these areas will continue to be high and even increase as farms continue to become larger as a result of modern mechanization trends.

The fact that 40-59 percent of the most productive land in the Midwest is under lease makes it clear that the ideal of owner operation has not and probably cannot be achieved (Figure 4). Some road to the four F's, other than full owner-operation, needs to be found. One possibility is part ownership; another is the English cash-leasing system. Both now exist in this area of high tenancy and may be expected to increase in the years ahead.
C. Part Ownership and the Four F's

Part ownership (part tenancy) is the dominant tenure pattern in the North Central Region. Part-owners farm more land than any other tenure group (Tables 13 and 15). To what extent will part ownership give the farmer more of the four F's? What problems will be accentuated?

The effect of part ownership on the four F's depends upon how much of the land operated is owned and the kind of rental arrangement on the leased land. If all but a small portion of his land is owned, the operator should enjoy almost as much of the four F's as if he were a full owner. Even though he does not own much of the land, if he leases the remainder for a fixed cash, fixed produce or objectively determined flexible cash rent from a permanent professional landlord, he may have much of the four F's of an owner operator. But in the North Central Region less than 40 percent of the land leased by part owners is leased for a cash rent. Share-rent leasing is the most common in the grain producing areas of the North Central Region (Figure 5).

The part-owner's security of tenure on the owned portion of his farm should be as great as that of a full owner—other things being equal. But other things may not be equal. For example, his ability to make principal and interest payments on the owned land may depend upon the proportion owned and upon his ability to keep the rented land or obtain other rented land. Under a share-rent lease the term is usually only one year or year-to-year, and all too often the landlord because
MOST FREQUENT METHOD OF RENTING FARMS, 1959

Figure 5
of age, personality or financial resources, lacks the stability needed to give the tenant as much security of tenure as he needs. Even when an objective fixed cash, fixed produce, or flexible cash lease is used, so that friction over farming practices is largely eliminated, the financial resources and the age of the landlord may create insecurity of tenure.

Loss of the rented land may leave the part-owner with the problem of paying for improvements on his own land with too little land for efficient use of his machinery and labor. Hence, part ownership may lessen but not necessarily solve the problem of insecure tenure—especially on the leased land.

The operator's freedom to improve his house, barns and other buildings is greatly increased when they are located on land which he owns. This freedom arises in part because his security of tenure is generally greater than under the usual share-rent lease. This is particularly true of owned land because he knows he can keep it as long as he pays the land charges. Also, he knows that if he decides to quit farming or move, he can sell the improved land and get the market value for his unexhausted improvements. This is not the case under share-rent leasing. Most share tenants do not feel secure enough to want to improve a rented farm, and those who do find it difficult to get compensation for the unexhausted value of their improvements.

Thus, farmer ownership of the house, barns and other farmstead improvements solves a major difficulty that landlords and tenants often
have over which improvements should be made, who should keep them up, and what rent should be charged. Unfortunately, the problem remains on leased land regarding fencing, tile draining, conservation practices and soil amendments.

When the tenant owns most of the improvements he may even be less concerned about those on the leased land. Conservation, development and improvements may be centered on the owned land and the rented land be neglected. Legumes may be grown on the owned land because they can be more readily pastured or harvested and stored. Of course when farming land is scarce, the landlord may be able to use the short-term lease to compel the tenant to farm the leased land as the same way that he farms his own.

No doubt the part owner can farm the land he owns much as if he were a full owner. Moreover, if he pays an objective fixed cash, fixed produce or flexible cash rent, he will want to farm the leased land much like an owner operator. The reason is that he gets all the returns from any increased effort. But if he share rents, it may pay him to farm the rented land less intensely. This is true because he gets all of the crops from his own land but only part of his returns from the rented land and in many cases he pays all the variable costs except fertilizers. Hence, the part owner would be inclined to put his most valuable crops on his own land—particularly those that would respond most to extra cultivation and fertilizer—because he would get all the returns from these crops. Although this could be corrected if
the landlord shared costs the same way that the crop is shared, this
may create more problems than it solves—especially under part-ownership
conditions.


Hence, crops grown on rented land are likely to be the less
responsive and less profitable crops. Crops grown on the rented land
are more likely to be fed on the owned land, and manure is likely to
be applied to only the owned land. Of course, the share landlord
could be expected to object were it apparent that his land was being
handled in this manner. When land is scarce the tenant may farm the
share-rented land like his own in order to keep it. The need to
alternate row crops with small grain crops for weed control and mois­
ture conservation would also tend to limit such distortions of the
cropping system. Nonetheless, the pressure to operate in a manner in­
consistent with consumer demand as reflected in prices and costs would
be considerable when the part-owner is also a share-renter.

Thus, share-rent leasing is the Achilles heel of part ownership.
When the improvements are located on the owned portion, the farmer
enjoys much of the freedom to improve of full owners. But when a large
share of the land operated is share rented, the problem of the other
three F's remains. Often the share landlord uses the short-term lease to protect his rent and to limit the farmer's freedom of operation.

D. Trends in Cash-Rent Leasing and Land Concentration

Because share rents create problems even under part ownership, alternatives should be examined. One of these alternatives is cash-rent leasing. There is little indication, however, that farm-tenure research and extension workers are seriously examining this alternative. Not a single research or extension publication on cash leasing has been found. Perhaps the reason for this lack of interest is that cash renting seems to be declining in popularity. In the North Central Region about one-third of the farms were leased for cash in 1900. There was a gradual decline to one-fourth by 1940, and by 1959 only 12 percent were leasing for a cash rent (Table 16). Only in the less productive areas of the country and around industrial areas is cash renting of farms the most frequent method used (Figure 5).

However, before it is concluded that cash-rent leasing does not provide a more satisfactory solution than share-rent leasing to the leasing problem, the reasons for this decline need to be carefully examined. No doubt the rapid rise in both yields and prices after 1940 explains part of the decline in cash-rent leasing (Figure 6). Landlords do not like the cash rent because it does not adjust to these rapid changes. Landlords have less opportunity to participate in the farm business and hence it may be more difficult to make
TABLE 16.--Percent of tenant operated land and farms leased for cash
rents in North Central Region and United States, 1900-1959a

<table>
<thead>
<tr>
<th>Year</th>
<th>Tenant operated land</th>
<th>Tenant operated farms</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>North Central % cash</td>
<td>United States % cash</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>North Central % cash</td>
</tr>
<tr>
<td></td>
<td></td>
<td>United States % cash</td>
</tr>
<tr>
<td>1900</td>
<td>32</td>
<td>34</td>
</tr>
<tr>
<td>1910</td>
<td>32</td>
<td>29</td>
</tr>
<tr>
<td>1920</td>
<td>24</td>
<td>27</td>
</tr>
<tr>
<td>1930</td>
<td>21</td>
<td>26</td>
</tr>
<tr>
<td>1940</td>
<td>16</td>
<td>25</td>
</tr>
<tr>
<td>1950</td>
<td>11</td>
<td>15</td>
</tr>
<tr>
<td>1954</td>
<td>10</td>
<td>12</td>
</tr>
<tr>
<td>1959</td>
<td>--</td>
<td>12</td>
</tr>
<tr>
<td>1964</td>
<td></td>
<td>14</td>
</tr>
</tbody>
</table>

a1900-1954 data calculated from Statistical Summary Farm Tenure
1954 USDA, ARS Stat. Info. Bul. 200, Tables 4 and 7; 1959 data from A
Vol. 5, Part 6, Ch. 2, p. 12.

desired improvements under a cash lease. Finally, there is evidence
that share-rent leasing, particularly in periods of rising prices, may
give double the return of cash-rent leasing (Figure 6).

Also see: R. L. Berry, Share Rents and Short-Term Farm Leases,
by states see W. H. Scofield, "Land Returns and Farm Income," Farm
Real Estate Market Developments, U. S. Dept. of Agr. ARS, Aug. 1965,
Table 4.
For Iowa Farms

LANDLORD'S SHARE OF NET RETURNS

% OF TOTAL

- Cash leases
- Crop-share leases
- Stock-share leases

1920 1930 1940 1950

Figure 6
The fixed nature of cash rents is a frequent source of criticism by both landlords and tenants. While they can be changed yearly such changes are unpopular with one or both parties. Remission of rents can also add flexibility in times of poor crops or prices but are not popular with either party for obvious reasons. However, there are the various flexible cash-lease forms of the United States Department of Agriculture and several Agricultural Experiment Stations which may be used to vary a cash rent with produce prices if not with crop yields. Although these flexible cash leases are still cumbersome and apparently are not widely used, it is possible that they may be improved. Once landlords and tenants come to recognize their advantages, their use may become more common.

In those areas where 50 percent or more of the land is under lease, and particularly where its value exceeds $500 an acre, landlords are more likely to be investors who know little of farming and are better suited to use cash rather than share-rent leases. As farms grow in size, farmers with multiple landlords will be more common, as will part ownership. Under these circumstances there may be a trend toward more cash-rent leasing. The fact that over one-third of the part-owners lease for cash is significant.

There is some evidence that the number of landlords with two to four farms is increasing, but there was no evidence up to 1946 that landlords with five or more farms are increasing (Table 17). However, neither a trend toward large estates nor cash renting is necessary to
Justify the study of the cash-leasing system. If cash rent leasing becomes a more satisfactory alternative the trend will develop. Cash leasing can be used by a landlord with one farm as well as by landlords with ten or more farms.

TABLE 17.—Concentration of ownership of leased farms, North Central Region, 1900, 1920 and 1946

<table>
<thead>
<tr>
<th>Number farms owned</th>
<th>In 1900</th>
<th>In 1920</th>
<th>In 1946</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>474,894</td>
<td>71,397</td>
<td>5,301</td>
</tr>
<tr>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>1 farm</td>
<td>88</td>
<td>87</td>
<td>79</td>
</tr>
<tr>
<td>2 farms</td>
<td>8</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>3 or 4 farms</td>
<td>3</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>5 or more</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>


Because only 14 percent of the leased farms are let for a cash rent, it is difficult to find enough cash-rent farms for such a comparative analysis. One solution to this problem was to use a large estate that leases for a cash rent.

The Scully Estate of Illinois, Nebraska and Kansas is relatively well known for its use of the cash-lease system. An unusual
feature of the Scully Estate leasing system is that the tenants own all the improvements on the Scully land that they lease. These tenants have complete freedom to make any improvements that they believe are economically sound. They may sell these improvements to the oncoming tenant when they leave the farm. In view of the trend toward part ownership, and particularly the problems created by the combination of part ownership and share-rent leasing, the Scully Estate's unusual part ownership system, combined with cash-rent leasing, provides an opportunity not only to observe an English-type landed estate in action in the Midwest, but also to compare it with share-rent leasing with regard to the four F's.

E. Summary and Conclusions

The principal reason for studying the English cash-leasing system is that as farms become larger and larger, and their value becomes higher and higher, fewer farmers are able to achieve the four F's by owner-operation. As a result, owner-operation is being replaced by share-rent leasing which provides much less of the four F's and creates serious internal problems, especially under part ownership—the fastest growing tenure class.

In the areas of greatest concentration of farm tenancy, where land values are often $500 or more an acre, there is likely to develop the equivalent of the English landed estate. Some of these can already
be found in most communities, and their numbers may increase. Hence, it seems desirable that a study of such an estate be undertaken to determine whether it provides more of the four F's than does share-rent leasing.
CHAPTER IV

FARM TENURE PROBLEMS AND GOALS

John Dewey has defined the problematic situation as one in which there is doubt, uncertainty or difficulty. What are the farm-tenure situations that give rise to doubt and uncertainty? What are the crucial problems of these situations? What should be the objectives or goals of those who seek to solve these problems?

The purpose of this chapter is to attempt to answer these questions by testing the hypothesis that the most important farm tenure problems are the lack of the four F’s: (1) fixity or security of tenure or occupancy, (2) freedom of improvement or long-run management, (3) freedom of operation or short-run management, and (4) fair rents or fair land prices and payment plans.

Evidence will be presented under the following headings:

(a) The elusive nature of farm tenure problems,
(b) The four F’s and cash leasing in England,
(c) The four F’s and owner-operation in the United States,
(d) Landlord and tenant opinion regarding the four F’s,
(e) Land-tenure research workers and the four F’s,
(f) Farm-tenure goals of landlords, and
(g) Summary and conclusions.
A. The Elusive Nature of Farm Tenure Problems

The task of determining the crucial problem is as difficult as it is important. As Dewey said, "There is not at first a situation and a problem, much less just a problem and no situation. There is a troubled, perplexed, trying situation, where the difficulty is, as it were, spread throughout the entire situation, infecting it as a whole. If we knew just what the difficulty was and where it lay, the job of reflection would be much easier than it is. As the saying truly goes, a question well put is half answered. In fact, we know what the problem exactly is simultaneously with finding a way out and getting it resolved. Problem and solution stand out completely at the same time. Up to that point our grasp of the problem has been more or less vague and tentative."


That land-tenure research workers' grasp of tenure problems has also been vague and tentative has been made clear by Salter, who reviewed published research in this field between 1910 and 1945. He concluded:

In the first place a good deal of the work is not of the problem-solving type. Much effort has been given to describing existing lease forms and republicising census data, not with any purpose of revealing sources of difficulty or finding solutions, but merely to make simple information available to any who might be interested in it. Only in H. C. Taylor's earliest work and
a few rare instances since, is there any evidence that investigations were specifically conducted for the purpose of clarifying difficulties and uncovering experiments in which these difficulties had been overcome.

On the contrary . . . there has been an increasing predominance of reports with no action problem posed, no problem explored, and no problem solved.


Salter goes on to say "it should be recognized that research has its roots in problematic situations; that is, it exists because of conditions under which there is doubt as to what people should do because there is conflict between the purposes they are striving to achieve and the consequences they are experiencing. There is need for sharper attention to the preliminary exploration and clear definition of problems—that is, to the statement of doubts and conflicts. . . .

"The next step is to encourage the functional use of hypotheses. Hypotheses are suggested alternative lines of action that will lead to the achievement of purposes. Their function is to direct the search for evidence . . ." (p. 252).

Despite the favorable reaction to Salter's criticism, and despite the enthusiasm of tenure-research workers for John Dewey's ideas about the necessity of exploring troubled, perplexing and difficult situations to discover the problem, there remains much doubt and uncertainty about the nature of land-tenure problems. For example, in
1955 the Interregional Land Tenure Research Committee, in its "Gray Report," suggests that inefficiency, instability and inequality in resource use are the relevant social problems; and the objective or the goal is to remove them. If this is true, "then the functions of tenure arrangements become the creation of necessary incentives and means conductive to (1) efficient resource use, (2) stability of resource productivity, and (3) equality of access of resources among individuals."


These goals were sharply criticized by Bogholt who asked, "What is the basis . . . for the claim that the situation described as desirable as an end is really so? . . . How was it come by? By what special methods? What assurance is given, open to the test of others, that the ends set up are desirable, as is asserted?" He goes on to say, "the genuine judgment as to what is desirable is the outcome of an inquiry which is instigated by an experienced lack or insufficiency in a unique situation. The lack or insufficiency, let us call it a gap or discrepancy, is not something that is determined by comparing the existent with an ideal. It is a situation directly experienced."


The Gray Report was revised in 1962 by Ottoson, Wunderlich and
Disselin who found that efficiency, stability and equality as tenure goals left much to be desired. "In the first place there can be goals other than efficiency, stability and equality of access; such things as economic progress, distribution of income, political freedom, freedom from economic restraint, balanced growth . . . security and justice come to mind. . . . In the second place, and perhaps even more important from the standpoint of research, the three objectives suggested in the Gray Report are so general, so obscure, that they are of little use empirically."


Although 26 areas of suggested tenure research were then outlined, the authors "make no pretense this 'listing' approach is the well-calculated result of a logically constructed system of objectives" (p. 4).

Because of the confusion in identifying the major tenure problems, objectives or goals, it is fitting that the first objective of a farm-tenure research project should be to determine the problems or to "identify the objectives and purposes that people expect tenure arrangements to serve" before it attempts to "appraise alternative tenure systems and institutions which impede or expedite achievement of objectives" or "examine in detail specific arrangements with consideration
given to how well they serve the aspirations of people involved and the impact on resource use and community life."

These are the three objectives of South Dakota Agr. Exp. Sta. Research Project 371, approved June 18, 1962, a contributing project to NC-53 which has similar objectives.

B. The Four F's and Cash Leasing in England

What was the crucial problem in the tenure situation of English tenants? Ashby notes that during the nineteenth century, English landlord-tenant problems centered around what were then known as "the three F's: Fair rents, fixity of tenure and freedom of cropping, to which was added later freedom of sale of produce. . . . Demand on the part of tenants for fixity of tenure . . . or alternately provision for compensation for improvements made by the tenant became necessary as agricultural practices developed and traditional systems no longer sufficed."

A. W. Ashby, "Farm Tenancy," Encyclopaedia Social Science, 1931, Vol. 6, p. 121. A fourth F, freedom to improve, was probably already achieved by the time the three F's became a popular expression of tenure goals. In any event, freedom to improve was the first of the major tenure goals achieved.

It would be a mistake, however, to believe that these problems were unique to the nineteenth century. Two centuries earlier Walter Blith, English Improver Improved (1652) declared, "If a Tenant be at ever so great paines or cost for the improvement of his Land, he doth
thereby but occasion a greater Rack upon himself, or else invests his
Land-Lord into his cost and labour gratis, or at best lies at his Land- 
Lord's mercy for requitall; which occasions a neglect of all good
Husbandry. . . . Now this I humble conceive may be removed, if there
were a Law Inacted by which every Land-Lord should be obliged, either
to give him reasonable allowance for his clear Improvement, or else
suffer him or his to enjoy it so much longer as till he hath a pro-
portionable requitall."

Lord Erne, English Farming Past and Present, revised, Frank

Alternatively these early English landlords and tenants were
being urged to make 21-year leases, such as were being used in Flanders,
which specified that "whatsoever four indifferent persons (whereof two
to bee chosen by one and two of the other) should judg the Farm to bee
improved at the end of his Leas, the Owner was to paie so much in
value to the Tenant for his improving it."

Sir Richard Weston, Discours of the Husbandrie used in
Brabant and Flanders (1645, Pub. by Samuel Hartlib in 1650 and 1651),
as quoted by Erne, English Farming, p. 113.

Long-term leases eventually became common in certain parts of
England, but rapid changes in prices caused them to fall into dis-
favor with both landlord and tenant. The question of compensation for
unexhausted value still arose at the end of the term and the tenant who
for years had been secure, progressively became less secure as the term
approached its end. Some tenants who did not expect the lease to be renewed used the last years to "milk" the land. Another reason for the decline in the use of long-term leases may have been the decline in the need for major farm improvements such as clearing and draining or the assumption of this responsibility by the landlord. With no major improvements to be made, about all the landlord wanted of the tenant was the rent and maintenance of the property—requirements as easily met under a short-term lease as a long one. So long as these conditions were met, the tenant may have enjoyed a strong feeling of security.

Ashby noted that "tenancies from year to year, in practice for one year and then from one year to another until notice to terminate is given by one of the parties, are theoretically short term leases. But in practice agreements for tenancies from year to year may subsist for long periods. There are well authenticated cases of continuous occupation of one farm by one family for two or three generations under such agreements in England. . . . On the whole it is probable that tenancies subsist for longer periods under the year to year agreements than under leases for periods of years" (p. 120).

It would be a mistake, however, to assume that long occupancy always results in a feeling of secure tenure. Much depends upon the nature of the landlord and customary practice. When the landlord is a permanent estate consisting of many farms and has an established record of fair dealing with tenants, never putting them off except for failure to pay the rent or flagrant abuse of the property, the tenants are as
likely to feel secure as if they had a long-term lease. But when the landlord owns only one or two farms, has little ability to deal with tenants, lacks financial security, is quite old and has heirs who cannot be expected to continue the lease, the short-term tenant will probably feel insecure. Under these circumstances even a long-term lease might not be of much help because the tenant may feel that the landlord will find a reason to break the lease if it is to his advantage to do so. As Thomas pointed out "all landlords were not good landlords, and a traditional system untrammeled with legal restrictions gave scope for the bad landlord as well as opportunity for the good landlord. In particular, the system suffered from three drawbacks known to students of the subject as the 'three F's' standing for the absence of fair rents, fixity of tenure and free sale."


To make the general practice uniform, legislation was first adopted in 1851 which gave the tenant the right to remove certain improvements, provided he had received the written consent of the landlord before building them. In 1875 an Agricultural Holdings Act was adopted which permitted the outgoing tenant to claim compensation for the unexhausted value of certain improvements that he had made, but the law could be, and often was, contracted around. In 1883 the provisions of the law were made compulsory so that all tenants on quitting
a farm could claim compensation for the value of unexhausted improve-
ments to an oncoming tenant.


Two goals, "fixity of tenure" and "freedom of cropping," were achieved in 1906 when Parliament passed an act which permitted the tenant to claim compensation for unjustified disturbance and gave him, subject to some restrictions, freedom to follow a system of farming of his own choosing.

In 1920 the third goal, "fair rents," was largely achieved by another act permitting the tenant to demand arbitration of the rent to be paid. If the landlord refused to arbitrate, the tenant could leave the farm and claim compensation for unjustified disturbance just as if the landlord had given notice. This law also permitted the tenant to claim compensation for farming practices superior to those of the community.

Parliament consolidated all these laws into the Agricultural Holdings Act of 1923. Further changes were made in the Agricultural Act of 1947 and the tenure provisions were again consolidated in the Agricultural Holdings Act 1948, making "the once servile tenant into the spoilt darling of the legislature... by putting land tenure on a basis which, in practice, made a solvent sitting tenant irremovable and kept rents substantially below their open market level."
Subsequent political trends made adjustments in favor of the agricultural landlord inevitable and the first installment was made in the Agricultural Act of 1958."


Watson had earlier called attention to the fact "that the law has been repeatedly changed to the advantage of the tenant. It is no matter for surprise that the tenants now no longer ask for long leases; the common tenancy—which runs from year to year until one party or the other gives a year's notice to terminate—gives all the security that could be reasonably demanded. Again it is not surprising that British farmers (who, in general, have never had much ambition to own their farms) are now definitely adverse to ownership. A farmer will rarely buy if he can rent the kind of a farm he wants."


Watson continued, "The main anxiety now is whether the landlord will be able or willing, for the future to fulfill what are regarded as his normal responsibilities—the maintenance and modernization when necessary of the farmhouse, hired men's house, barns, farm roadways and drainage systems."

Thus the law which Walter Eliot called for in 1652 was finally enacted in 1883, and in subsequent legislation the other F's have been
fully achieved. Indeed they appear to have been over-achieved so that the landlords, rather than the tenants, now have a serious tenure problem. Be that as it may, the passage of the tenancy legislation indicates that the four F's were major objectives or goals of farmers.

C. The Four F's and Owner-Operation in the United States

During the two centuries that the English tenant was acquiring the four F's, his cousin in America was achieving the four F's and more by fee simple ownership. The attempts to reproduce medieval feudalism in the New World by making large grants to Royalty failed simply because land was too easily obtained in other ways. Therefore, men who ventured to the Colonies did not voluntarily settle on the feudal holdings that were set up. Attempts to collect quit rents also failed: Why would anyone agree to pay such rents when land was almost free for the taking? Why would anyone become a tenant on unimproved land, then after clearing the wilderness lose or share the returns with a landlord who had contributed little or nothing?

Lands granted to the New England Colonies were in turn granted to groups of settlers who created townships and divided the land by lot according to need and productivity. This system was based on the English manorial system, but the manorial head was replaced by a democratic town government. Instead of rents, taxes were paid; no doubt the question of "fair taxes" replaced the question of "fair
rents." Because the settler had fixity of tenure, freedom of improvement, and freedom of cropping, these problems did not arise.


The only fully developed manorial system arose in the middle colonies that later became New York, Pennsylvania, New Jersey, Maryland and Delaware. This system was started by the Dutch in New York—especially along the Hudson River—but these manors were almost deserted when the British took over in 1664. The lands that are now New York, Pennsylvania and Delaware were granted to the Duke of York—a younger brother of the King. In 1680 the Duke leased Pennsylvania and Delaware to William Penn for 10,000 years.

The Duke's effort to introduce the quitrents (cash payments as a substitute for labor on the Lord's holdings) was unpopular and poorly enforced. Nonetheless quitrents continued to be a source of irritation, even violence, until the middle of the nineteenth century. Penn's efforts to establish manorial systems were somewhat more successful partially because the quitrents were only a penny an acre. The New England system and the headright system were also used and, of course, with virtually unlimited land available these systems provided unbeatable competition for the manors.

In Virginia a headright of 50 acres could be secured by anyone who "adventured" himself to the Colony. Soon this privilege was
extended to every member of the family and finally to anyone who would pay 1 to 5 shillings for the right. The headright could be located on any available land and of course the best was chosen. At the beginning of the eighteenth century other methods of land disposal were used by the southern Colonies. Small grants with quitrents were used. Some groups of settlers established semi-autonomous communities known as "hundreds."

The scarcity of labor also made it difficult for large landed estates to develop. At least four of five free white men in the Colonies were farmers on their own land. They were not interested in developing land for others. Only the introduction of Negro slaves made the large estates and plantations profitable and possible. These plantations resembled manors except that they were worked by slaves. Once created they tended to be kept intact in Virginia by primogeniture and entails until 1776 when Jefferson succeeded in changing these laws.


The abolition of primogeniture and entails, started by Jefferson in Virginia, soon spread to the other states. Both primogeniture and entails were prohibited by the Northwest Ordinance of 1787 which specified that property of all "dying intestate, shall
descend to, and be distributed among their children, and the descend­
ants of a deceased child, in equal parts."


Although the outlawing of primogeniture and entails did not pre­
vent estates being held together by will and trusts, the action clearly
indicates that the farmers of the time chose to solve the problems of
the four F's not by long leases, compensatory clauses and legislation,
but by ownership. Although the problems and goals were much the same,
the English tenant took the road to tenancy improvement and his
American cousin the road to ownership.

If the manorial system had succeeded, the problems of the four
F's probably would have been as severe in this country as in England.
But the scarcity of labor and the abundance of land made the purchase
of land for resale to farmers in fee simple a more attractive business
than leasing. For the American farmer the major concern was with "fair
sale" of land, fair credit terms and eventually free land which gave
him the remaining three F's, fixity of tenure, freedom of improvement
and freedom of operation.

Starting in 1787 one land-credit scheme after another was tried
and found wanting. By 1820 credit was abolished in favor of cash sales,
with a minimum price of $1.25 per acre. In 1841 the Pre-emption Act
was passed which allowed those who settled on the public domain ahead
of the surveys to have first opportunity to acquire title to 160 acres
When it was offered for sale at the minimum price. In 1854 the Graduation Act provided that land which had been on the market 10 years could be sold for $1.00 an acre; 15 years for $.75, 20 years at $.50 and so on. Then in 1862, after a long struggle for "free land," the Homestead Act of that year virtually gave 160 acres of land to any settler after five years of residence or permitted him to commute this requirement by paying $1.25 to $2.50 per acre. The original Homestead Act was followed by the Desert Land Act, the Timber Culture Act, and the Timber and Stone Act. All these acts made it possible for the settler to secure the additional land needed for an economic unit in the West.

Unfortunately the settlers had to learn the hard way that free land was not inexhaustible and that what was free to one generation was costly for the next. As a result, farm tenancy had increased from 25 percent in 1880 to 35 percent in 1900 and 37 percent by 1910. Sharp increases in land prices had doubled the need for credit for land purchases, and agitation for more credit resulted in a return to governmental credit for farm ownership. Strong pressures resulted in the passage of the Federal Farm Loan Act in 1916, which established the Federal Land Banks. One of the strongest arguments for this Act was that it would give deserving tenants an opportunity to become owners; but from 1917 to 1921 only 18 percent of the loans were used to purchase land, and the figure did not rise above 20 percent until 1937.

That farmers and their leaders were greatly concerned about the problem of maintaining the four F's by owner-operation is indicated by the number of states that enacted credit measures between 1913 and 1915. These were Massachusetts, Utah, Wisconsin, New York, Missouri, Oklahoma, Montana, Minnesota and the two Dakotas.

The depression of the 1930's and the extensive farm-mortgage foreclosures caused the Federal government to pass the Emergency Farm Mortgage Act of 1933 which provided for Land Bank Commissioner Loans that after 1945 permitted loans up to 65 percent of the normal agricultural value of the farm. In 1937 Congress passed the Bankhead-Jones Farm Tenant Act which, according to Murray, "was a clear-cut mandate of Congress to use Government credit to aid tenants in purchasing farms" (p. 319). A unique feature was that these loans could be made for up to 100 percent of value of the farm as certified by a county committee of farmers. Lack of funds and the limitation of loans to farms of average size or smaller has kept the program from affecting significantly the farm-tenure situation, but its existence does emphasize the strong demand for the achievement of the four F's by owner-operation.

D. Landlord and Tenant Opinion Regarding the Four F's

The evidence available from farm tenure surveys leaves much to be desired. None of the studies reviewed below had as its sole objective the determination of what problems frustrate farmers. Indeed,
in most, the evidence as to the nature of the problem is a side product of other purposes.

Questions designed to determine a farmer's frustrations and the cause of those frustrations are difficult to construct. Even when good questions have been designed, the farmer's answers will vary with his experience and intelligence. This is true because it is one thing to experience difficulty and be frustrated because of it and quite another to be able to identify and express the cause of the difficulty. The survey results, however, do give some evidence of the nature of farm-tenure problems.

That tenants want more fixity of tenure is suggested by their desire for longer-term leases even though the strength of this desire has not been satisfactorily measured. In Nebraska, Lambrecht and Wallin found that of 54 tenants interviewed, only 7 percent preferred one-year leases, whereas 17 percent preferred three- to four-year leases and 76 percent five-year leases. In contrast, 70 percent of the landlords interviewed preferred a one-year lease.


Similar results were secured when 90 central South Dakota tenants were asked (1) 'What is the length of your present lease?' and (2) 'What length of lease do you prefer?' Although 95 percent had
one-year or year-to-year leases, 66 percent preferred three-year terms or longer, and 35 percent five-year terms or longer.


These answers were in sharp contrast to replies from 267 South Dakota landlords. Of these, 83 percent used a one-year lease and 76 percent said they preferred the short term (p. 6).

In 1961, questionnaires were sent to 250 landlords and 500 tenants in Brookings County, South Dakota. Replies were received from 85 landlords and 130 tenants. Only 53 percent of these landlords said that they believed long-term leases should be made, whereas 84 percent of the tenants preferred long terms. It is also possible that some of the landlords who said they favored long terms may have confused long terms with long occupancy, which they favor—provided a good job of farming is done and a fair rent is paid. In any event, the difference in opinion is still considerable.


Tenants seem to feel fairly confident of long occupancy—perhaps believing that they can keep the landlord satisfied that they are doing a good job and paying a fair rent. For example, 60 percent of the tenants in Moody County, South Dakota, said they felt they had 10 chances out of 10 of keeping their present farms for the next 5 years, even
though many of these tenants had one-year leases and preferred longer terms. Only 26 percent said they had a 50-50 chance or less of keeping the farm for the next five years. Moreover, only 17 percent thought that a five-year lease would increase their chances of keeping the farm for the next five years. The rest (83 percent) thought it would not make much difference.


Why then, do tenants prefer longer-term leases? A possible answer is that they want more freedom of operation or management than they have under short terms.

If this is true, why do farm landlords resist the tenants' desire for more freedom and independence? Asked why the short-term lease was customarily used, 65 percent of 267 South Dakota landlords replying chose the statement, "Because the short-term lease keeps the tenant on his toes since he knows you can get another tenant if he does a poor job."

Berry, Share Rents, pp. 10-13, Table 7. The other alternatives listed were: (A) Because long-term leases are not as binding on tenants as they are on landlords, (B) Because the one-year lease gives the landlord a chance to increase the rent as his expenses rise, (C) quoted above, (D) Other. An open-end pretest indicated that these answers were the most popular.

In the 1961 study, 67 percent of the landlords and 77 percent of the tenants indicated that they believed the following statement was
true: "The main reason why the short-term lease is customarily used is to make sure that the tenant does a good job of farming and pays a fair share as rent."

Berry, Farm Tenancy Problems, Table 21, last question.

Because the share-rent lease was being used by almost all of these landlords, it is not difficult to understand the reluctance to grant long-term leases that would permit tenants to farm in a way that might seriously reduce rents. After all, the short term is the landlord's best insurance against a tenant who does a poor job and pays a poor rent.

E. Land-Tenure Research Workers and the Four F's

Although research bulletins on farm tenancy between 1910 and 1945 had little to say about tenure problems and goals, some special reports and journal articles were beginning to discuss them.

In 1937 the President's Committee recognized that ownership was the historic means of achieving security, rather than being an end or goal in itself. Therefore, they urged not only more credit for ownership but also legislation similar to that in England to give the tenant more security of tenure and more freedom of improvement. Security of tenure and freedom of improvement thus appear to be the immediate goals sought. Stability of rural life, soil conservation, conservation of levels of living and economic stability and security, however, were
also discussed. It is not clear whether these latter were regarded as tenure goals or as general goals of society that were only incidentally related to tenure.


Henry C. Taylor, a member of the President’s Committee, pointed out that fair rent, security of tenure and freedom of operation were problems of the past and raised the question as to what degree these goals should be sacrificed to achieve other goals of society.


Maddox listed four outstanding goals of the major national programs. One of these was "security, opportunity and personal integrity of nonlandowning agriculturalists, such as tenants and farm laborers." Another was to maintain owner-operation. Whether the security referred to is economic or tenure-related was not made clear.


Much clearer was Schickel's statement that "security of tenure and opportunity to exercise initiative and develop managerial competence on the part of the tenant are cornerstones of an efficient tenancy system which are deplorably lacking in the corn belt." To
achieve these objectives, compensation for the tenant's unexhausted improvements and automatic continuation clauses with longer-term notices were recommended for study.


In contrast, Wiley believed that the tenure problem was one of increasing the farmer's equity whether he be a tenant or an owner. Larger farms and greater efficiency thus were regarded as means to greater equity. Nonetheless he called for improvements in landlord-tenant relationships, "thereby leading to greater security of tenure."


Brandt said our society calls for a tenure system that will maximize economic efficiency in such a way that an optimum of creativity, and individual freedom and security can be attained. "Greater security of tenure and compensation for improvements promises to assimilate the functioning of tenancy to that of owner operation and to lead to longer occupancy, more conservationist husbandry and improvement in durable land improvements. The social and professional standards of tenants will gradually be raised. . . ."

To Hoffsommer, control in tenure relations is more fundamental than security of tenure. "Control implies the ability to do what one wants to do—to be either venturesome or conservative," he declared.


Thus control implies freedom of short-run operation and long-run improvement. Without security of tenure, such control or freedom is not likely to exist.

Although Hammar disagreed with Brandt about the importance of the tenure problem, he did little to clarify the point. He decried the land-tenure ideal or goal of owner-operation and argued that if efficiency in the use of human resources were achieved, the tenure problem would largely solve itself.


In 1943 Timmons stressed the importance of distinguishing between ends and means in farm-tenure goals. He declared that "the following six goals . . . are posed as the ends of tenure policy towards which means should be directed . . . .

(1) *Freedom* to develop one's resources and to realize his inalienable rights to life, liberty and happiness.

(2) *Widely distributed rights in land* (control over land
resources) to provide the physical resources with which to work and enjoy life.

(3) Security in the future possession of present landed rights.

(4) Stability of rural institutions including the school, church and local government.

(5) Efficiency of production directed towards the maximization of the produce from the resources in which rights are held.

(6) Conservation of resources in which rights are held or over which control is exercised."


When the North Central Land Tenure Research Committee reviewed available research data the following year, they concluded that (1) adequate farm income, (2) security of tenure and (3) opportunity for personal and community development were necessary objectives or goals that were basic to constructive tenure policies.


In the same year a committee of the Association of Land Grant Colleges and Universities agreed that owner-operation should remain the tenure pattern, but concluded that "the farmer's security and
freedom in the use of land and his share in farm income are of more significance than whether he is called an owner, tenant or laborer."

Postwar Agricultural Policy, Association of Land Grant Colleges and Universities, 1944, pp. 30-31.

In 1945, the U. S. Department of Agriculture declared that "public policy ought to encourage the development of owner-operated family farms and be directed towards these primary objectives:

1. An equitable distribution of farm income.
3. Effective farm work and efficient production.
4. Wide distribution of the control over farm land.
5. Maximum freedom of action for individuals.
6. Equality of opportunity, dignity, and self respect for all tenure groups.
7. Reasonable security for the individual in his possession of rights in land.
8. A wholesome, well-integrated and stable community."

Farm Tenure Improvement in the United States, U. S. Dept. of Agriculture Interbureau Committee on Postwar Programs (mimeo. prelim.), 1945, p. 56.

One year later the land tenure committee of the Northern Great Plains Agricultural Advisory Committee accepted (1) adequate income, (2) security of tenure, (3) stability of rural life, (4) land
conservation and development, and (5) more owner operation as "an effective means of furthering other tenure objectives."


At the International Conference on Family Farms held in Chicago in 1946, Belshaw declared that a desirable tenure system should

1. prevent waste or encourage conservation,
2. provide the opportunity or freedom of farming and improvement,
3. encourage efficient sized farms,
4. encourage entry of well-qualified farmers regardless of their capital,
5. provide security of tenure,
6. avoid speculative booms and bursts in land prices,
7. encourage wage rates comparable to other occupations, and
8. increase stability of net income.


At the same conference a committee chaired by E. B. Hill, on the "Place of Ownership and Tenancy," declared that "the weak spots in farm tenancy . . . are (a) insecurity of tenure; (b) inadequate farms—farms too small, soil productivity low, farm improvements not maintained; (c) lack of managerial control by the tenant; (d) incompetent
management; (e) inadequate family incomes; (f) poor housing; (g) lack of tenant participation in community affairs; (h) lack of reimbursement for improvements made and for damage done by the tenant."


Another committee chaired by Hoffsommer, on "Measures to Improve Tenure Conditions of Family Farms," listed as problems "(1) security and stability of occupancy, (2) conservation and improvement of farming, (3) structural improvements and other provisions for tenants, (4) rental rates, and (5) cooperation between owner and tenant."

H. Hoffsommer and others, *Family Farm Policy*, p. 441.

A third committee on "Government and Tenure Improvement," chaired by Benedict, found that legislation was needed to:

(1) Compensate the tenant for the value of his unexhausted improvements and penalize him for his waste, damages, or failure to meet other obligations.

(2) Provide security of tenure through automatic renewal and compensation for unjustified disturbance.

(3) Provide reasonable freedom of cropping.

(4) Protect the tenant against excessive rentals.

(5) Provide adequate housing.

Harris and Ackerman summarized the goals of Belshaw and the committees of the conference in twelve points, but in discussing farm tenancy they said, "Lack of managerial control on the part of the tenant is a major shortcoming everywhere, although admittedly more pronounced in some places than others. This has an adverse effect upon securing maximum production efficiency for the tenant is not free to choose a balanced combination of enterprises, he is handicapped in the development of livestock and his short-time viewpoint forces him to have little concern about planning crop rotations and following conservational practices."

The authors continued, "where the tenant is not assured of occupancy long enough to get the benefit from capital developments or where he has no right of compensation for improvements when he leaves the farm" he is afraid to improve for fear of losing the farm or being charged a higher rental.

Marshall Harris and Joseph Ackerman, "Interpretive Summary of the Conference," Family Farm Policy, pp. 25-26.

Harris listed the following tenure objectives or goals at the Caribbean Land Tenure Symposium in 1946:

1. Responsible freedom of personal action.
2. Equality and dignity of all tenure groups.
4. Equitable distribution of rights in property.
5. Conservation and development of physical resources.
6. Highly efficient utilization of productive resources.

7. Equitable distribution of income.

8. Well integrated community life."


A year after the International Farm Family Conference, Heady wrote an article on leasing which appeared to question most of the problems and goals developed by the conference.


To Heady the major problem of society, and certainly of agriculture, is inefficiency. He cited imperfect leasing systems as one cause of agricultural inefficiency and formulated the rules which were discussed at length in Chapter II. As pointed out, Heady was concerned about providing the tenant with freedom to allocate resources as prices and costs direct in the interest of greater efficiency.

That the lack of the four F's may not affect efficiency was indicated by several studies which compared share tenants and
owner-operators. Little or no evidence was found that share tenants farmed less efficiently than did owners.


Contrary to expectations, Sanderson found that in the adjoining deep loess areas of Iowa, Missouri, Nebraska and Kansas, crop-share tenants were more efficient crop producers than either owner-operators or livestock-share tenants. In overall efficiency, however, livestock-share tenants excelled whereas there was little difference between crop-share tenants and owner-operators.


In the same soil area of Nebraska, Neuman and Ottson found that share tenants used less inputs per acre than either owner-operators or livestock-share tenants, but that crop-share farmers made about $1,200 more net farm income than owner-operators and $1,200
less than livestock-share farms. Thus no conclusion was possible as to the effect on efficiency.

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Barlowe noted that although emphasis on goals has changed with time, the central core of these goals has been the desire for

1. a wide distribution of property rights,
2. opportunity for every man to manage his business,
3. adequate sized farms,
4. efficient use of land over time, and
5. maximum security and stability of possession consistent with good management.

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These may appear to be different from the four F's, but they are not. Item 1 has been achieved by the equivalent of "fair rents," i.e. "fair sale," by the government homestead laws, and by fair credit terms. Item 2 is obviously the same as freedom of operation. Item 3 calls for freedom to enlarge the farm that is an improvement comparable to enlarging the barn or introducing irrigation. Item 4 asks for freedom to improve over time, and Item 5 asks for fixity or security of tenure. Thus these five points are equivalent to the four F's.
As mentioned above the Interregional Land Tenure Research Committee in its "Gray Report," held that "the functions of tenure arrangements become the creation of necessary incentives and means conducive to: (1) efficient resource use, (2) stability of resource productivity and (3) equality of access to resources among individuals" (p. 2). The interpretation usually placed on these three items is that they are tenure goals. Yet it appears that the three F's, fixity of tenure, freedom to improve and freedom to operate, may be more immediate goals. The report declares that the debt-free full owner "has the greatest freedom to organize his resources and has maximum security of tenure expectations. The debt-free full owner can choose investments (enterprises) that will yield the greatest return over time with assurance that his length of tenure will permit his gaining the returns from these investments. Similarly he is not affected by the dissociation of costs and returns between individuals. The full owner can supply as much of each factor as is economically feasible, knowing that he will receive the full return from every unit employed, whereas the tenant can employ resources only to the point where the last unit employed is equal to his share of the additional returns produced" (p. 9).

This quotation and the discussion that follows, concerning mortgaged owner-operators and tenants, make it clear that for these two groups acquiring more of the security of tenure and freedom of operation and improvement enjoyed by full owners is the immediate goal
of research activity which perfect market theory suggests should result in greater efficiency. In essence then, the argument is the same as Heady's, and analysis suggests that fixity of tenure, freedom of improvement and freedom of operation are the recognized immediate tenure goals.

How helpful are goals of efficiency, equality and stability as guides in giving farmers more security and freedom? One can only agree with Ottozon, Wunderlich and Diesslin that they "are so general, so obscure, that they are of little help empirically" (p. 3).

Nonetheless, the word efficiency appears frequently in their discussion of the 26 areas of land-tenure research. Efficiency, equality and stability are mentioned as objectives of research on getting started farming. "Achieving Efficiency in Agricultural Land Use" is the first area discussed. Under this heading the authors say, "Tenure arrangements will obstruct efficiency if they do not encourage enlargement of farms to meet technological changes; do not give security of tenure that will lead to adoption of effective long range farm plans and improved farming practices; and do not give a fair division of costs and returns between the individuals involved" (p. 4).

Efficiency still appears to be the main objective, but sub-objectives appear to be fixity or security of tenure, freedom to improve by enlarging the farm, freedom to adopt other long-range plans and improved practices and "to determine the elements in the market
situation that cause land prices whether the use price in rental or value in transfer of ownership to fail to reflect properly the productivity of land"—in short, fair rents or fair price.

In discussing leasing arrangements (p. 8) the authors note that problems are created (1) when costs are not shared as the product is shared, (2) when discriminatory rents are charged, and (3) when short terms create insecure tenure. As pointed out in discussing Heady's rules, the four F's are implied as objectives by these problems. Whether the achievement of these goals will result in greater efficiency is perhaps beside the point unless one is willing to say that people should endure any frustration that does not affect efficiency. Thus a sore should not be of concern, no matter how irritating, unless it affects one's efficiency.

The views expressed in the 22 works published between 1936 and 1962 can be summarized:

<table>
<thead>
<tr>
<th>Problems, objectives, goals or incentives</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fixity or security of tenure</td>
<td>22</td>
</tr>
<tr>
<td>Freedom of improvement or long-run management</td>
<td>18</td>
</tr>
<tr>
<td>Freedom of operation or short-run management</td>
<td>17</td>
</tr>
<tr>
<td>Fair or equitable rents</td>
<td>10</td>
</tr>
<tr>
<td>Economic efficiency</td>
<td>14</td>
</tr>
<tr>
<td>Opportunity or equality (various meanings)</td>
<td>6</td>
</tr>
<tr>
<td>Soil conservation (improvement?)</td>
<td>7</td>
</tr>
</tbody>
</table>
Problems, objectives, goals or incentives

<table>
<thead>
<tr>
<th>Problem</th>
<th>Frequency</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stability of rural institutions</td>
<td>3</td>
</tr>
<tr>
<td>Ownership (as a means to the first three items?)</td>
<td>5</td>
</tr>
<tr>
<td>Economic stability</td>
<td>3</td>
</tr>
</tbody>
</table>

There seems to be general agreement among these research workers that the first four items—the four F's—are important aspects of tenure that should receive attention because their lack constitutes a problem; and the goal or objective should be to provide them if only as an "incentive" to greater efficiency—the fourth-ranked problem or goal.

A capitalistic free-enterprise society is founded on the notion that the greatest efficiency results when private firms have freedom to allocate their resources as costs and prices direct. To the extent that the four F's give farmers this freedom it is logical to believe that efficiency may be increased. The fact that increased efficiency has not been found in several empirical comparisons of owner-operators, cash tenants and share-rent tenants does not weaken the logic. Rather it suggests that there may be other reasons for lack of any difference—custom, lease provision, or fear of losing the farm. But these studies do raise the question as to whether lack of efficiency is a tenure problem, hence whether its removal is a meaningful tenure objective or goal. If an automobile engine stalls, the problem is not one of miles per gallon of fuel or efficiency. More likely it is a problem of ignition or fuel supply to the engine. The
precise problem, therefore the precise objective of the mechanic, is a matter to be determined rather than assumed.

Opportunity as a goal seems to have no generally accepted meaning. Sometimes it refers to opportunity to acquire fixity of tenure, sometimes to opportunity to manage the business. In either case it appears to be a synonym for one or more of the four F’s.

Soil conservation as a goal suggests that farmers should have freedom to conserve as well as to improve. (These freedoms do not necessarily imply freedom to waste.) Ownership is one means of acquiring the four F’s that is justly popular with farmers. Stability of rural institutions seems to be closely related to fixity of tenure. Finally, economic stability, like economic efficiency, does not appear to be a tenure problem but a problem of society as a whole.

F. Farm-Tenure Goals of Landlords

Historically the four F’s have been stated from the tenant’s viewpoint and this view has been accepted above. Yet if these tenure goals are to be achieved they must also be attractive to farm landlords. This is true because in the United States the farm landlord is generally in a stronger bargaining position than is the tenant, especially when the landlord has a productive farm attractive to many land-hungry tenants. Unless the farm landlord can more easily achieve his goals he is not likely to give the tenant either greater fixity of tenure or freedom of operation or improvement.
What, then, are the landlord's goals? In Chapter II it was indicated that a perfect lease would give the landlord security as to the amount of rent, security as to the payment of the rent and security as to the productivity of his property or reversionary interest.

Stated from a different standpoint the landlord wants freedom from poor farming, poor rents and poor upkeep of the farm.

What are the logical or theoretical reasons for believing that these hypothetical problems and goals of landlords may be valid?

First, a landowner who proposes to lease his farm is obviously not interested in farming it himself. Nor is he interested in selling the farm. If he had this in mind, his main problem or goal would be to get a fair price. Once the price was paid he would probably have no further economic problems or objectives with regard to this farm except such as any citizen might have or as a matter of sentimental attachment.

If the landowner accepted a partial payment of 30 percent or more and a note secured by a mortgage for the balance, his concern would be greater. He would want to be reasonably sure that the new owner could farm well enough to make the payments as scheduled. In the event of default, the mortgage holder would want to be sure that the value of the property had been maintained sufficiently so that it would be worth the unpaid balance in the event that he were compelled to foreclose. Because the risk that it would be less is small, this is not usually a serious problem.
Again, if the landowner is selling on a land contract with perhaps a 10 percent down payment, he is likely to be more concerned about whether the buyer is a good farmer who will maintain or improve the farm, cultivate it properly and make the payments on time. Failure to maintain the farm or to make the payments could result in a serious loss for the seller. Hence the seller's degree of concern would normally be greater about the buyer, his maintenance and improvement, his management and ability to meet the payments.

If the landowner is interested in leasing the land—that is in selling only the possession, use, and enjoyment of his land for a definite term in exchange for a rent—he is certainly interested in getting a good "buyer" or tenant. If a fixed cash rent is to be paid, the landlord's main concern will be security of rent, of payment, and security of the productivity of his property.

If the rent is an objectively determined flexible cash rent, which neither tenant nor landlord can affect after the lease is signed, the degree of concern remains much the same as in the fixed cash rent. Because the tenant can have a serious effect upon the landlord's reversionary estate, the landlord is much more concerned in getting and keeping a good farmer than he would be were he selling the land under any of the methods discussed above.

When the landlord elects to lease for a crop-share, the tenant becomes even more important. If he can get and keep a good tenant he is assured a good job of improvement, a good job of management and a
fair share as rent. The problem is that frequently the tenant is deficient in one or more of these aspects. Hence the share landlord lacks (1) security as to the amount of rent, (2) security of rent payment and (3) security of his property. Cash rents eliminate the first of these problems but not the last two.

Because the share landlord is uncertain about rent, he may, and often does, specify in detail the crops to be grown, their acres, the variety of seed to be used, the kind and amount of fertilizers to be applied, the weed, insect and disease controls to be used and so on. Such activity on the part of the landlord, and the hiring of professional farm managers, is evidence of the importance of these problems and goals under share-rent leases.

Some landowners, however, are not interested in selling either their freehold or their leasehold. What they are interested in is either some kind of a partnership or an employer-employee relationship. Under some partnerships each party owns the same share of all resources. Other partnerships are less clear. Of these the livestock-share lease is an example. Often one party owns all the land and buildings and half of the livestock while the other party furnishes all the power, machinery, labor and half the livestock; all costs and returns are shared equally. Whether this is a legal partnership is debatable, but certainly it must be at least a quasi-partnership, otherwise it would not seem so necessary to stress that it is a lease and that no partnership is intended.
When the crop-share landlord feels that it is necessary to dictate the farming plans in the detail suggested above, the result can only be a kind of quasi-partnership which differs from the livestock-share lease mainly in that the livestock is not shared. If, as sometimes happens, the landlord exercises full control over the farming plans, the tenant may be only slightly different from the sharecropper of the cotton and tobacco plantations of the South or the métayer in Europe. Finally, there are those landowners who hire a working manager to carry out plans for the operation of the farm. The relationship here is that of employer-employee. Unfortunately the distinction between a leasehold and a partnership is not clear. This leads to much confusion. Does the landowner want a tenant, an employee, or both? If he wants a tenant then it appears that his problems are likely to be insecurity as to the amount of rent, insecurity as to the payment of rent and insecurity as to the maintenance of his property. Therefore his major goals would be to achieve security of rent and property.

Empirical evidence supports the theory that landlords are primarily concerned about the amount of rent, the payment of their rent and the protection of the property.

For example, Pond asked 3,300 randomly selected Minnesota landlords why their last tenant moved; the 22 percent who replied gave the following reasons:

1. Tenant moved to (a) a better farm 23%
(b) a purchased farm  
(c) other work or retirement  
(d) illness or death  

2. Tenant was unsatisfactory  
3. Tenant failed to pay rent  
4. Landlord-tenant disagreement  
5. Other  

Total  

Landlord concern with good farming and fair rents is indicated by the fact that 41 percent of the tenants moved for these reasons (Items 2 and 3).

In Illinois, farm landlords attending county extension meetings chose 6 items from a list of 18 tenant characteristics. The most popular choices and the percentage choosing each were as follows:

1. Tenant with adequate power and machinery 71%  
2. Tenant who will help build up farm 70%  
3. Tenant who is willing to work 69%  
4. Tenant who keeps up with new ideas 66%  
5. Tenant to make small repairs and keep place neat 61%  
6. Timely planting and harvesting 42%  
7. Fair sharing of costs 41%
8. Clean attractive farm 36%
9. Written lease 32%
10. Cooperative planning 28%
11. Courteous and respectful treatment 25%


The importance of good farming and hence good share rent is indicated by Items 1-4 and 6. The importance of maintaining the property is indicated by Items 5 and 8.

In contrast, Illinois farm tenants who attended the same meetings indicated the following preferences:

- Productive farm 90%
- Landlord willing to make improvements 60%
- Adequate buildings 58%
- Modern house 56%
- Lease longer than one year 47%
- Written lease 41%
- Fair sharing of costs 40%
- Landlord willing to try new ideas 32%
- Courteous and respectful treatment 31%
- Appreciation for extra work done 25%
- Repayment for tenant-made improvements 20%
Thus if landlords want good farmers they need productive, well-improved farms and must provide some security of tenure, freedom to improve, freedom to operate and fair sharing of costs.

In South Dakota a mail questionnaire was sent to 1,200 randomly chosen landlords. Of the 317 who replied, 103 said that their previous tenant left at their request. The reasons given for requesting that the tenant leave were

- Poor manager 47%
- Lazy 3%
- Dishonest 12%
- Other reasons 30%
- No reply 8%


In Oklahoma, several hundred farm landlords who attended Farm Landlord-Tenant Hearings in 1938 gave these reasons why tenants move:

- Poor farming 51%
- To get better farm 17%
- Poor Income 16%
- Poor upkeep of property 16%

The same landlords gave the following reasons for landlord-tenant disagreements:

- Poor farming: 32%
- Division of crops: 27%
- Indefinite agreements: 21%
- Destruction of property: 19%

These landlords also said that when they selected tenants they looked for:

- Power and equipment: 29%
- Honesty and dependability: 28%
- Good past record: 22%
- Good worker: 21%

In contrast, tenants said that they looked for these characteristics in selecting a landlord:

- Better land: 37%
- Better improvements: 31%
- Water and pasture: 20%
- Agreeable landlord: 12%

In Iowa, Timmons asked 145 tenants and 131 landlords what they looked for in each other. Their replies were:

<table>
<thead>
<tr>
<th>Tenant's replies</th>
<th>Landlord's replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ability to cooperate and get along</td>
<td>52%</td>
</tr>
<tr>
<td>Honesty and integrity</td>
<td>25%</td>
</tr>
</tbody>
</table>
Again good farming and fair rents are suggested as the main goals by the replies of these landlords.

Farm lease forms are also an indication of what landlords want since commercial farms are almost always prepared for landlords rather than tenants. Some of these forms merely say that the tenant will farm as the landlord directs. Others say that farming plans shall be made jointly. Others such as the model "Crop-Share-Cash Farm Lease" (AD561, March 1960) prepared and distributed by the U. S. Department of Agriculture provides much space to specify the crops, the acres of each crop, the location of the crop, the seed variety, the kind and amount of fertilizer to be used and many other provisions (See Appendix C).

Commercial lease forms and many forms distributed by State Extension Services contain liens on the tenant's crops to guarantee the payment of the rent.

A one-year or year-to-year term is almost invariably used to insure a good job of farming, a fair rent, payment of the rent and

<table>
<thead>
<tr>
<th></th>
<th>Tenant's replies</th>
<th>Landlord's replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Farm experience</td>
<td>16%</td>
<td>42%</td>
</tr>
<tr>
<td>Other</td>
<td>7%</td>
<td>11%</td>
</tr>
<tr>
<td>Total</td>
<td>100%</td>
<td>100%</td>
</tr>
</tbody>
</table>
upkeep of the property. Such provisions are found in the Scully leases shown in the Appendix.

Thus both the logic and the survey results (sketchy though they are) suggest that landlord and tenant goals may be complementary in many cases. Landlords want to get and keep good tenants who can and will take care of minor repair and upkeep problems, do a good job of farming and pay a fair rent. Tenants want to get and keep good farms on which they can make improvements, do a good job of farming as they see it and likewise pay a fair rent. Thus it seems that there would be much less leasing were it not for the mutual or complementary goals achieved by leasing.

There are of course, many exceptions. Not all landowners and farmers would agree to these goals. Some landowners are definitely interested in keeping the management of the farm largely in their own hands and prefer to treat their tenants as partners or employees rather than as independent contractors. Sharecropping in the South is an example, but some share-rent leases are little better. Still other landlords tend to think of their tenants as partners in which both improvement and operation are joint responsibilities, as is usually the case under share-rent agreements. But even here many share-rent landlords are content to leave most of these problems to the tenant, reserving by means of the short-term lease the right to remove him if he does a poor job or fails to pay a fair rent.
The evidence suggests that in the latter class are many landlords who would heartily subscribe to the four goals. Certainly they are interested in getting and keeping good tenants for the very reason that they do not want to be concerned or bothered with problems of improvements, day-to-day management and doubts about the fairness of the rent. But because the share tenant's management does affect the rent, the landlord often finds himself involved in the tenant's farming plans, worried about the amount of the rent, and using the short term to protect himself against flagrant abuse. Because the short term limits the tenant's security of tenure, it also limits his freedom to improve.

G. Summary and Conclusions

The purpose of this chapter was to determine if possible the major farm tenure problems and goals of both landlords and tenants. Evidence from English and American history, from tenure studies and from farm tenure research workers was examined.

English history reveals that the four F's were the relevant tenure goals in that country that were finally made uniform by tenancy legislation after at least two centuries of effort. Today the English tenant has great security of tenure, freedom of improvement, freedom of cropping and full opportunity to seek adjustment of rents that he deems unfair. There can be no doubt as to the objectives sought, because they are incorporated in the law for all to see. That they may
have achieved too well for the future of their leasing system is a further indication of the strength of these tenure goals—the four F's.

The American colonists were also interested in the four F's, but the abundance of raw land and the scarcity of labor made it possible for them to achieve their objective by fee-simple ownership. Investors found that there was more money in buying large blocks of land, subdividing and selling it to settlers than in holding it for leasing as was done in England.

Ownership, hence the four F's, was easily achieved in part because Congress passed numerous credit acts, the Graduation Act, the Preemption Act, the various homestead acts, and created the Federal Land Bank system and the Farmers Home Administration, both intended to make owner-operators out of tenants.

Despite all efforts at increasing owner-operation, farm tenancy has increased to the point where more than 50 percent of the land in much of the Corn Belt is now under lease. In some areas it is as high as 75 percent. What do the landlords and tenants say that their major tenure problems are? Such evidence as is available indicates that the most important problems are the lack of the four F's, fixity of tenure, freedom to improve, freedom to operate and fair rents.

Land-tenure research workers also seem to be in general agreement that lack of the four F's constitutes the major tenure problem. In recent years there has been much talk about efficiency, stability
and equality as social goals which tenure arrangements should achieve. However, an examination of the proposed arrangements reveals that they would give the tenant fixity of tenure, by one means or another, freedom to improve by compensating him for the value of his unexhausted improvements, and freedom of operation by eliminating discriminatory rents among crops and among such resources as buildings, pasture and cropland.

Although there is much less literature on the subject of farm landlord problems and goals the evidence, such as it is, indicates that the lack of security of the amount of rent particularly under share-rent leases is the major problem. Next comes the landlord's insecurity about the preservation of the productivity of his property. Thus the landlord's goals are to get a tenant who will do a good job of farming, pay a fair rent and maintain the farm.
CHAPTER V

THE ORIGIN OF THE SCULLY ESTATE AND
ITS CASH-LEASING SYSTEM

The Scully Estate at its peak consisted of some 224,000 acres of farmland located in Illinois, Missouri, Nebraska, Kansas and Louisiana. At one time this land was leased to 1,200 farm tenants, mostly on a one-year cash lease renewable annually. An unusual feature of the Scully lease is that the tenant owns all the improvements and when he leaves the farm he sells them to the oncoming tenant. This large estate was managed until 1947 by an agent at Lincoln, Illinois with six sub-agents in the counties where the lands were located.

To what extent is the Scully Estate a good example of English leasing estates of the nineteenth century? This question is important because of the light that the Scully Estate may shed on the problems of using the English cash-leasing system in this country. Some historical evidence concerning this question will be presented under the following headings:

(a) Some examples of large English estates,
(b) The Scully Estate in Ireland,
(c) The Scully Estate in the Midwest,
(d) Keeping the Scully Estate in the family,
(e) The administration of the Scully Estate,
(f) The English-Irish origin of the Scully leasing system, and
(g) Summary and conclusions.

A. Some Examples of Large English Landed Estates

When an English landed estate is mentioned, one usually thinks of a large estate with many tenants. Actually, they may be as small as 1,000 acres or range upwards to 100,000 acres or more. Typically they are owned by a family that takes great pride in such ownership and has kept the estate within the family for several generations. At one time primogeniture and entails played an important role in the transmission of the estate, but long before these laws were abolished, family settlements by will and trusts were the general rule, as is the case today.

On the smaller English estates the landlord usually acts as his own agent; but on the larger estates, supervisory and resident land agents are employed for this purpose. These persons are often supplemented by an accountant, an auditor, and an engineer and other persons needed in the management of the estate.

Spring has recently made case studies of several large English landed estates and their administration during the nineteenth century.

Because the Scully Estate is also large and operates today under laws not greatly different from those of nineteenth century England, a brief summary of the main features of four of these estates will be presented for comparison.

The estate of the seventh Duke of Bedford (1788-1861) contained about 80,000 acres divided into four local estates: Woburn--33,000 acres in Bedfordshire; Thorny--24,000 acres in Fens; another in West Country of 20,000 acres which included a copper and arsenic mine, and finally 119 acres in the heart of London including Covent Gardens—the famous market place.

Spring suggests that the seventh Duke was typical of nineteenth century landlords who were inspired by scientific studies, stock breeding, new crops and machinery, and by the writings of men like Arthur Young. Unlike his father, who was something of a dilettante in agricultural affairs, the seventh Duke found estate management his main source of satisfaction. He was "less concerned to add to the literature of farming than to invest capital in its new techniques and his enthusiasm for agricultural improvement never waned." He employed an estate manager who had general charge of all estate business and supervised local agents who reported directly to him and he to the Duke. The local agents were professional estate managers (pp. 13-14).

The Fitzwilliam estate was also dispersed, but was more loosely controlled. Some 80,000 acres were in County Wicklow, Ireland, where a relative of Earl Fitzwilliam was in charge. On the three separate
English estates, solicitors were used as agents and there was no central management (p. 15).

The Duke of Northumberland's estate of 150,000 acres, divided into 13 local estates, was managed by 12-13 resident agents (bailiffs) who were tenant farmers on the estate, and by a supervisory agent (commissioner) at the home office.

The resident bailiffs collected the rents, saw to the cultivation of the estate farms, recommended repairs and improvements, watched estate boundaries, settled disputes between incoming and outgoing tenants, received applications for farms, and in general kept the central office informed and carried out its orders. Final decisions and the spending of money was handled by the supervisory agent or the Duke (pp. 9-10).

The Duke of Buckingham had 57,000 acres of which 27,000 acres were in Buckinghamshire, 17,000 in Ireland, 9,000 in Hampshire, 2,000 in Cornwall, 2,000 in Middlesex and a plantation in Jamaica. This estate had little or no direction from the Duke, no central management, and considerable mismanagement by the resident land agents. As a result, the estate was soon on the verge of ruin. Since good management was easily secured it is not difficult to believe, as Spring states, that such mismanagement was highly unusual (p. 181).

Spring found no evidence to support the theory advanced by some that these landlords were poor managers, for either political or social reasons. Moreover, the transfer of these estates from eldest
son to eldest son did not appear to be a serious source of administra-
tive ineptitude, even though examples of it—such as the second Duke
of Buckingham—could be found. Spring doubted that the management was
any worse than that of English industrialists of the time (pp. 178-182).
Indeed, everything would seem to favor the landowners in such a com-
parison. The leasing of land for a fixed cash rent does not begin to
involve the many relationships of even a small enterprise. The rate of
industrial failures due to mismanagement must have been many times that
of owners of landed estates.

With this background, it is possible to evaluate the Scully
Estate as an example of the English cash-leasing estate.

B. The Scully Estate in Ireland

William Scully (1821-1906), the founder of the Scully Estate in
the United States, was a member of a prominent landowning family that
had owned and leased land in Ireland for many generations. His
father, Dennis Scully, was a lawyer, a leader in the struggle for
Catholic emancipation and a landowner. William Scully was also edu-
cated as a lawyer and, in 1843 at the age of 21, he inherited a small
estate of 1,000 to 2,500 acres from his father who had died when he
was nine years of age. For the next seven years he devoted himself to
Improving his estate, during what was undoubtedly the most trying decade of Irish history.

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For 700 years Ireland had suffered invasions, land distributions and redistributions among the English conquerors. But race, language and especially the Catholic religion, which was strong in Ireland, kept the two countries at sword's points despite the Act of Union in 1800.

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By the time young William Scully inherited his Irish estate the movement for Repeal of the Act of Union was fast approaching a climax; open rebellion seemed so eminent that in 1844 England had more troops in Ireland than in all of India.

But the real problem of Ireland was one of overpopulation. For reasons not fully understood even today, Irish population increased from 1.2 million in 1700 to 4.5 million in 1800 and to 8.2 million by 1841—making a population density of 251 per square mile for agrarian Ireland as compared to 272 for industrialized England.
Moreover, there are reasons to believe that the 1841 census underestimated the true population by at least 1.0 million people.

The magnitude of the population problem is suggested by the fact that in 1961 the Irish population was only 2.8 million or 104 per square mile. See Statistical Abstract of United States, 1963.

Even assuming eight persons per family, there would have been more than 1 million families in Ireland—most of whom had to find their living on the land. Yet Ireland had only 685,000 "farms," and 300,000 of these were less than three acres in size. Another 250,000 ranged from 3 to 15 acres; and fully 93 percent were less than 30 acres.

Woodham-Smith notes that in 1841, nearly half of the rural population was living in windowless mud cabins of a single room. In one place of 9,000 persons there were only 10 beds, 93 chairs and 243 stools. Pigs slept with their owners and the unemployed put roofs over ditches, burrowed into banks, and existed in bog holes (p. 20).

Except in parts of northern Ireland, there was little or no job opportunity other than on the land. Yet farms were too small to employ hired labor. As a result there was an irresistible demand for the subdivision of land. Woodham-Smith notes that at first this subdivision was carried out by the landlords and their agents and middlemen, "but subdivision which preceded the famine was carried out by the people themselves, frequently against the landlord's will. As the population increased, the demand for a portion of ground grew more
and more frantic; land became like gold in Ireland. Parents allowed their children to occupy a portion of their holdings because the alternative was to turn them out to starve; the children in turn allowed occupation by their children and in a comparatively short time three, six and even ten families were settled on land which could provide food for only one family" (p. 32).

The population problem was compounded by the potato, which was the main source of food for the people. In 1844, a new potato blight appeared in the United States; and by 1845 it had been carried to Ireland where it destroyed or partially destroyed the potato crops for four successive seasons. Woodham-Smith reports this caused a famine in which 1.5 million people died of starvation (p. 411). In addition to the blight there was a general depression from 1845-47, and in 1846 the protective tariff on grains, known as the Corn Laws, was removed causing an agricultural panic and a fall in grain prices in 1848-50.

What was clearly needed under these appalling conditions was a mammoth governmental relief program, but under the strained conditions between England and Ireland and the laissez faire philosophy that then existed, what was done was too little and too late to prevent a catastrophe for the starving people and the future of English-Irish relations.

Another victim of these unbearable circumstances was the landlord. The minute subdivision of the land destroyed its rent-paying capacity and violated clauses which most landlords had in their leases. Because a large number of Irish landlords were insolvent, they had
little choice but to try to evict the illegal tenants as well as those who failed to pay rent. But the cost was high. Woodham-Smith reports that six landlords and ten other persons of property were murdered in the fall of 1847. One observer declared "the personal insecurity of all property owners is so hideous that the impression is of being in an enemy country." Another reported, "not one of the proprietors or their agents dare go out alone, even in daylight, and everyone is armed to the teeth. On Friday I saw a gentleman at his sister's funeral, three policemen with him and himself armed. The man who is hired to shoot him was walking on the road with a gun in his hand. Pleasant state of things that!" (pp. 324-29).

The English cash-leaseing system was a success in England, but it was a failure in Ireland. The reasons usually given are absenteeism and mismanagement. But it is difficult to understand why absenteeism created any special difficulties, because most landlords employed agents to look after their estates and to act in their absence. It is not unreasonable to believe that many of these agents were better qualified to manage the estate than were the owners.

Moreover, it appears that the landlords most severely criticized were those who attempted to manage their estates in an efficient manner. Among these was young William Scully who, like many of the landlords of nineteenth century England was a strong believer in
scientific agriculture and who in his own words, found his Irish estate "... exhausted, overlet, cottiered and ill-managed and therefore precarious."

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Hence, he took it under direct management for the next seven years. His management was reasonably successful considering the times, but it won him no plaudits in Ireland or elsewhere. His efforts to consolidate his inadequate farms earned him a reputation for being a hard landlord. His eviction of tenants resulted in three attacks upon him and his agents that led to court action. In one he was accused but acquitted of shooting two young men—sons of a tenant being evicted. In another he was found guilty of striking and wounding the wife of a tenant who had attacked him as he sought to serve eviction papers. In a third incident he and his party were ambushed. Two of his men were killed and Scully was wounded.

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Clearly such management was not what the Irish people wanted of their landlords. What was wanted, of course, was land; and when the land failed, food. This is indicated by the few landlords in Ireland who were popular with their tenants. Popular landlords did without
rent and, during the famine, fed their tenants, impoverishing themselves in the process. Those of great wealth could and did stand the drain, but less-fortunate landlords with encumbered estates had no choice in the matter unless they were willing to accept financial ruin and lose their estate to others, who in turn were faced with the same dilemma.

The English cash-leasing system, to be successful, was and is dependent upon commercial farming by independent and solvent farmers. The farmer buys from the landlord the use of the land and unless the farmer can pay the going rate, subject to some adjustment in bad years, the system can only fail. In Ireland it failed simply because the pressure of population on the land was so great that farming reverted to a subsistence level in which there was little or nothing left for rent. The demise of the cash-leasing system in Ireland was hastened by an association of tenants, organized in 1850, which demanded three F's: fair rents, free sale of improvements and fixity of tenure. These demands were met in 1870 and 1881, but by 1885 a massive governmental farm-credit program was enacted that by 1921 had converted two-thirds of the tenants to owner-operators. In 1921, the remaining tenants were converted to owner-operators by compulsory statute.

C. The Scully Estate in the Midwest

No doubt the difficulties in Ireland, as well as the attractions of cheap land in America influenced Scully's decision to come to the
United States in 1850. He made his first land purchase in central Illinois in that same year. By 1853 he had purchased 38,000 acres of land in Logan, Tazewell, Livingston, and Grundy counties of Illinois. Another 8,000 acres were eventually purchased in these and nearby counties making a total of 46,000 acres in Illinois.


Almost all of this land was purchased from the Federal government with Mexican War Military Warrants, which soldiers had elected to sell rather than use to claim the land for which they were issued. The location of the Scully lands in Logan County is shown in Figure 7.


From 1850 to 1870 Scully was busy managing his Irish and Illinois estates. But in 1868, after the attempt on his life in which he was wounded and two companions killed, he sold part of his Irish Estate and two years later purchased from the Federal government 41,420 acres of land in Nuckolls County, Nebraska, 14,060 acres in Marion County, Kansas, and 1,160 acres in Dickinson County, Kansas. Apparently these were his last purchases from the Federal government, but he continued
Fig. 7.—Location of Scully Lands in Logan County, Illinois

(Scully lands shaded)
to purchase some privately owned land until 1895. His major purchases from private owners were

<table>
<thead>
<tr>
<th>Location</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marion County, Kansas</td>
<td>41,406</td>
</tr>
<tr>
<td>Butler County, Kansas</td>
<td>8,605</td>
</tr>
<tr>
<td>Marshall County, Kansas</td>
<td>5,115</td>
</tr>
<tr>
<td>Gage County, Nebraska</td>
<td>22,288</td>
</tr>
<tr>
<td>Bates County, Missouri</td>
<td>42,000</td>
</tr>
</tbody>
</table>

Total purchased 119,000

The Bates County lands were sold in 1941 to the Farm Security Administration—now the Farmers Home Administration.

In Marion County the total purchases were

<table>
<thead>
<tr>
<th>Source</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal government</td>
<td>14,060</td>
</tr>
<tr>
<td>John Williams, Springfield, Ill.</td>
<td>9,440</td>
</tr>
<tr>
<td>Santa Fe Railroad</td>
<td>8,622</td>
</tr>
<tr>
<td>Christie Ranch</td>
<td>2,560</td>
</tr>
<tr>
<td>42 other private owners</td>
<td>21,000</td>
</tr>
</tbody>
</table>

Total purchased 56,000

The average size of the 42 other purchases was 500 acres, and some of these lands were improved.
The total purchases of William Scully in the United States can be summarized as follows:

<table>
<thead>
<tr>
<th>State</th>
<th>Years most purchased</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illinois</td>
<td>1850-53; 1887</td>
<td>46,000</td>
</tr>
<tr>
<td>Nebraska</td>
<td>1870-86</td>
<td>71,000</td>
</tr>
<tr>
<td>Kansas</td>
<td>1870-86</td>
<td>65,000</td>
</tr>
<tr>
<td>Missouri</td>
<td>1890-95</td>
<td>42,000</td>
</tr>
</tbody>
</table>

Total acres purchased 224,000

These purchases made William Scully one of the largest private landholders in the country.


The location of the lands purchased in Marion County is shown in Figure 1. Those purchased in Gage and Nuckolls Counties, Nebraska, are shown in Figures 8 and 9.

These maps were reproduced from Addison E. Sheldon, Land Systems and Land Policies in Nebraska, Nebraska State Historical Society, Lincoln, Nebraska, 1936, pp. 320 and 323.

D. Keeping the Estate in the Family

English landed estates often passed from father to eldest son. But William Scully apparently did not approve of this system—perhaps because he, himself, had been a younger son and received little land.
Fig. 8.—Location of Scully Lands in
Gage County, Nebraska

(Scully lands shaded)
Fig. 9.—Location of Scully Lands in Nuckolls County, Nebraska

(Scully lands shaded)
His eldest son, John Scully (1849-1885), died before his father and hence did not have the opportunity to inherit land. He did receive the Butler County lands and they are now held by heirs of his son, John C. Scully. Three daughters by his first wife, Margaret Mary Sweetman, received no land—at least in this country (Beaver, pp. 84-5).

William Scully deeded most of his landed estate to his second wife, E. Angela Chenoweth Scully, about a year before his death in 1906. She deeded these lands to her two sons—Thomas A. Scully and Federick Scully in 1918. Thomas received the Illinois and Missouri lands and Frederick received the Nebraska and Kansas lands (Figure 10). The daughter, Ita Angeleta, also received no land.

Keeping the land in the family promises to be more difficult in the years ahead. There are now a dozen great-grandchildren of William Scully and E. Angela Scully who are in direct line to inherit a major portion of the founder’s estate (Figure 10) and apparently the daughters are to share in land (see quotation below). Frederick deeded his wife, Betty, some land but most of this has been repurchased.

Upon Frederick Scully’s death in 1942 his will gave his youngest son, Robin, all of his Nebraska lands and his oldest son, William, all of his Kansas lands and made them tenants in common of 27,000 acres of Louisiana delta land which Frederick had purchased in 1914-1917. When the estate was settled in 1947, John C. Scully became trustee of the Kansas lands while Thomas A. Scully became trustee of the Nebraska lands. William Scully received full control of the Kansas
Fig. 10.—Descendants of William Scully and E. Angela Scully with location and dates of land bought or inherited.
lands in 1952, and Robin Scully full control of the Nebraska lands in 1959. In Illinois,

In 1954 Thomas A. Scully deeded approximately one-half of this land to his two sons in trust for their lifetime and then to their children. In 1959 Thomas A. Scully deeded 12,000 acres of land in trust to his grandchildren and to any additional grandchildren who might be born at a later date, and then to their children with the further provision that if any of his great-grandchildren wished to sell the land they must first offer it to a male descendant of Thomas Scully by the name Scully. At the death of Thomas A. Scully in 1961, he owned 12,000 acres of land—one-half of which was left to his wife, Mrs. Violet Scully, under a marital trust and at her death to her sons (there were no daughters). The remaining half was placed in a residuary trust for the use of his wife during her lifetime and then to her sons.


The will and trusts of Thomas A. Scully are now being challenged in the Probate Court at Lincoln, Illinois, by children of his first wife—three daughters and a son.

E. Administration of the Scully Estate

Until 1947 the huge Scully Estate had a head agent at Lincoln, Illinois, with sub-agents located at Dwight, Illinois; Beatrice and Nelson, Nebraska; Marion, Kansas; Clovelly Farms Plantation, Cut Off, Louisiana (now at New Orleans); and in Butler, Missouri (closed in 1941 when land was sold).
William McGalliard apparently was the first Scully agent, or co-agent. His name as "Atty. for Wm. Scully" appears on an 1863 handwritten lease that is unusual since it leased tracts of adjoining land to five tenants. Fred C. W. Koehnle's name also appears as a witness.

Book I, Misc. Record Logan County, Ill. 209, 1863. The lease is reproduced in Appendix I.


When John Scully died in 1885 he was succeeded as co-agent by Frederick H. Trapp who began a tenure of 47 years in 1886 and retired in 1933 at 81. A son, William E. Trapp, who had been with the firm 29 years, and Frank Ryan of the Lincoln office, "have formed a partnership which will handle the vast empire on which 1,300 tenant farmers reside."


Before Frederick Trapp's tenure, few if any records had been kept, except those of William Scully himself. These were often in his own handwriting (Beaver, p. 50). William E. Trapp worked for the Scully family for some 50 years and when he retired in 1952 he was succeeded by James M. Stewart, the present agent in charge of the Illinois lands.

In Marion County the first sub-agent was A. E. Case who also carried on a real estate business in Marion. He was succeeded by
William Fox who conducted an insurance agency. A Dr. Gillette served for a time and then John Powers came from Lincoln, Illinois, to join Fox in the management of the Scully lands. Powers continued as a Scully agent until the 1920's. Then C. C. Niederhauser served as manager until about 1950 when he retired and D. W. Montgomery became manager.

Starting in 1947 John C. Scully, as trustee for William Scully, managed the Kansas lands separately from the Lincoln office. Then, when the trusteeship of Thomas A. Scully over Robin Scully's Nebraska lands terminated, the Scully operations in the United States were permanently divided into two main groups: (1) the Illinois operation under James M. Stewart, head agent, with offices at Lincoln and Dwight, Illinois, and (2) the Kansas, Nebraska and Louisiana operations under J. M. Quackenbush, head agent, with offices in Beatrice and Superior, Nebraska; Marion, Kansas; and New Orleans, Louisiana.


The present manager of the Kansas lands is D. W. Montgomery, assisted by Forrest L. Smith. The present managers were trained in agriculture and play a more active role in the management of the Estate than did the earlier agents. They have been active in promoting soil conservation work on the Scully lands. In general, the local agents have since the beginning had a great deal of freedom in the management of their portion of the Estate. This is still true today. The general
policies of the Estate are well-established, and the need for consultation arises mainly when large capital expenditures or sales are involved.

Administrative time and costs are at a minimum under the English cash-leasing system. Stewart, agent for the Illinois lands, notes that "the 46,000 acres of Scully land in Illinois are located in five counties and are actually divided into only seven tracts" (Stewart, Appendix B). Travel costs are therefore at a minimum.

The cash-leasing system with tenant ownership of improvements also keeps administrative costs low as compared to share-rent leasing. Because the Scully Estate leases for a share of crops in Grundy County (Dwight office) the two systems can be compared.

Stewart writes

In Central Illinois the Logan, Tazewell, and Sangamon County lands comprising 35,000 acres are managed by my assistant and myself—with the aid of a secretary and some small amount of day labor during the summer months mainly on tile repairs. More than one half of my time is taken up by the personal affairs of members of the Scully family not at all related to the management of the farm land. At the Dwight, Illinois office Peter Scully spends full time, there is an Agent, a secretary and three maintenance men all full time. This operation involves 11,000 acres, but is operated on a share rent basis and involves 40 sets of farm buildings. Any new construction is contracted for as our own staff has time only for maintenance. Gross income per acre at Dwight is much higher than in the Lincoln area, but administrative and maintenance costs reduce the net return to a somewhat comparable figure.

F. The English Cash-Leasing System versus The Scully Cash-Leasing System

As the name suggests, the principal characteristic of the English cash-leasing system is that the rent is paid in cash rather than in a share of the produce—crop or livestock. The word "English" merely means that cash rents as used in England are being discussed. Perhaps the main difference in cash renting between the United States and England is that in England much of the cash leasing is done by professional landlords or their agents; whereas in the United States most of it appears to be done by "accidental" or avocational landlords. More than 90 percent of the farm landlords in the North Central Region own one or two farms only.


The special merit of cash leasing can best be appreciated by comparing it with the share-rent lease. Under a share rent, the tenant's management is an important factor in determining the landlord's rent. Hence, the landlord is greatly concerned about the management of the farm and may elect to control the tenant's farming in considerable detail. But even if the landlord does not exercise such control, he will be critically evaluating the tenant's performance. This may lead to friction and misunderstandings that keep the tenant feeling insecure because the lease may be terminated.
In contrast, under the cash-lease system the amount of rent specified in the lease cannot be affected by the tenant's management. Hence, the landlord is not much concerned with the details of the tenant's management. As long as the rent specified is paid and the value of the property preserved, the landlord has little to gain by changing tenants. In fact he might have something to lose because changes are often costly. Thus, even under a one-year lease the cash tenant as a rule is much more secure than he would be as a share tenant. This is particularly true when the landlord is a large estate that is permanent and professional in its management, as is generally true in England and as is true of the Scully Estate.

Under the cash-lease system the landlord's firm sells the use of land to the tenant's firm for a specific price. The landlord's primary concerns are the payment of the rent and the protection of his reversionary estate. As is sometimes said, the landlord is the land manager whereas the tenant is the farm manager; but even this may overstate the landlord's role under the English cash-lease system. According to Alfred Marshall, "The chief merit of the system is that it enables the landlord to keep in his own hands the responsibility for that part and only that part of the property he can look after with but little trouble to himself, and little vexation to his tenant; and the investment of which, though requiring both enterprise and
judgment does not demand constant supervision of minor details.


Because the cash-rent landlord has freedom from worry about the amount of the share rent, he also has freedom from worry about the tenant's management. As a result the tenant not only has more freedom to farm but also more fixity of tenure, hence freedom to improve.

Cash rents are often called "fixed." This terminology may account for some of the decline of cash rentals in this country (Table 16). When a one-year lease is used, the cash rents can be adjusted yearly if desired, although they do tend to be "sticky."

However, the rents may be and sometimes are varied according to changes in taxes, land values, crop prices and even the crop yields of a township or county without violating the objective nature of the cash rental.

The Scully gross cash rents vary directly and yearly with taxes. For example, the lease form presently being used in Marion County, Kansas calls for the payment of a base rent plus taxes: "Tenant hereby leases said premises and agrees to pay as rent therefor the following cash sums during the lease year: $____ on August 1 and $____ on December 1, provided, however, as additional rent, and on December 1, Tenant agrees to pay Landlord an amount equal to all taxes, general or special of every kind or character levied or
assessed against said real estate for the year 19_" (Form 1-60, Appendix E).

The lease form being used in Nebraska contains almost identical language (Form 21-G;M, Appendix G). In Illinois the rents also vary with taxes, but this fact is not indicated in the lease (Form 29-1965, Appendix D) because the Illinois Legislature passed a law in 1887 which prohibited any alien landlord leasing farm lands from "requiring the tenant or other person for him, to pay taxes on said lands."

**Illinois Revised Statutes, Ch. 6, Sect. 9.**

Although this provision has not been applicable to the Scully Estate since 1902 when William Scully became an American citizen, the practice has been continued. The tenants are aware, of course, that their rents do vary from year to year with the taxes.

Interestingly enough, the Scully Estate in Illinois is now collecting and paying the taxes on the Scully improvements because the buildings were re-classified as real estate about five years ago, and in 1966 the state tax authorities decreed that taxes on real estate of any kind must be collected from the owner of the land. Letter from J. M. Stewart, Scully Estate Agent, Lincoln, Illinois, May 5, 1966.

The base rents charged by the Scully Estate are adjusted when conditions warrant, but they have been notoriously sticky.

For example, Soeelofsky found that in Marion County, Kansas, Scully "rents have been reasonable over the years." One tenant who retired in 1944 after 52 years of farming on Scully land remarked that
except for the increase in rent just after the first World War, he had paid approximately the same rent for the last 40 years. Another tenant paid the cash rent on his 320 acres in 1946 with the income from crops on six acres. Of course, he had to pay the taxes and pay for improvements and other costs, but with the high prices for farm crops in 1947, payments were easy to make. Other landlords cannot compete with Scully on his rent."


The Scully Estate has frequently reduced rent during bad years. In Marion County, Scully Estate tenants were only required to pay enough rent to cover their taxes after the panic of 1893. During the drought and depression of the 1930's, rents were reduced. Because of drought and poor crop yields rents were reduced about 10 percent in 1952, 1953, and 1954.

Interview with D. W. Montgomery, Manager, Scully Estates Office, Marion, Kansas, Summer, 1955.

In Nebraska the Scully agents reported the "rentals for the 5-year period from March 1, 1930 to March 1, 1935 (without deducting head office expense and income taxes) is 37 cents per acre per year. This year [1936] will no doubt show a deficit."

Letter from Trapp and Ryan, Scully Estate agents Lincoln, Illinois, Jan. 11, 1936, as quoted by Sheldon, p. 322 n.
Reductions in rent were also made during the 1950's. In Nebraska, Thomas A. Scully, trustee for Robin Scully, petitioned the court for permission to reduce rents 20 percent in Gage County and 33 to 50 percent in Nuckolls County in 1956.

Rents also vary under the English cash-leasing system. As Pollock said in 1883, "the farmer is legally bound to pay the full amount of his agreed rent, without regard to the goodness or the badness of the season; but in bad years it is very common practice for the landlord to remit such a percentage of the rent as to leave the tenant answerable only for such as the farm seems capable of paying under the circumstances. A great landlord who refused to follow this practice would be entirely within his legal rights, but would certainly be thought the worse of in the country."


Marshall has also called attention to the flexibility even in the most orthodox English cash rents: "When seasons and markets are favorable to the farmer, he pays his full rent and avoids making demands on the landlord that might set him to thinking whether the rent ought not to be raised. When things go badly, the landlord, partly from sympathy and partly as a matter of business, makes temporary remissions of rent, and bears the expense of repairs, etc., which he would
otherwise have left to the farmer. There may thus be much give and
take between landlord and tenant without any change in nominal rent"  
(p. 658).

Such informal flexibility works fairly well for short-run varia-
tions, but when the rental rates remain constant over longer periods of  
rising prices, "the tenant," says Marshall, "has a kind of partnership
in the soil, which he owed partly to the forebearance of his landlord,
if it happened that the true net value of the land had risen, but
partly also to the constraining force of custom and public opinion"  
which makes any sudden and violent increase in rents, dues, and fines
a matter of moral indignation (p. 641).

There are reasons to believe that this has happened on the
Scully Estate, as will be discussed in detail in the next chapter.

G. Summary and Conclusions

If the Scully Estate in the Midwest is typical of English landed
estates, a study of it should shed some light on the problems and
possibilities of English cash-leasing estates in this country.

The evidence presented in this chapter indicates that the Scully
Estate is similar in size, family ownership, succession and administra-
tion to that of English landed estates: William Scully, the founder of
the Scully Estate in this country, came from a family that had owned
Irish estates that were leased in the English manner for many genera-
tions: Furthermore he held his Irish estates and continued to lease
them until the close of the nineteenth century. It was during this same period that he purchased the lands that now make up the Scully Estate in Illinois, Nebraska and Kansas.

The Scully cash-rental system appears to be a good example of the English cash-rental system before the adoption of present English tenancy legislation. The rents are paid in cash, administered by professional agents or managers, tend to be raised slowly and only after yields and prices have fully justified the increase, are frequently lowered in years when poor yields or prices make rent payment difficult—much as was the practice in England before the adoption of its present tenancy legislation.
PART II

THE FOUR F'S AND THE SCULLY ESTATE'S
CASH-LEASING SYSTEM

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CHAPTER VI

FAIR RENTS FOR SCULLY ESTATE LANDS

As has been pointed out in previous chapters, one of the important reasons why share-rent landlords use the short-term lease is "to make sure the tenant does a good job of farming and pays a fair share as rent." Thus under a share rent there are three requirements for a fair rent: (1) The share specified must be fair, (2) The farming must be good and (3) The division of the produce must be as specified.

Under a fixed cash rent only the first requirement must be met. The tenant's farming does not affect the amount to be paid and there can be no uncertainty about the amount to be paid.

Are the cash rents charged by the Scully Estate fair or equitable to both parties? This is an important question, because if the cash rents are too high, such leasing should be discouraged. If the cash rents are too low, investors lack enthusiasm for this type of leasing, whatever its other advantages.

Preliminary investigation suggested several hypotheses about the Scully Estate's cash-leasing system. These were

(a) Cash rents charged by the Scully Estate have been less than those charged by share-rent landlords and less than the full economic rent.
(b) The low rents have been largely capitalized into the value of the improvements.

(c) The low rents tend to be balanced by high improvement costs, with the result that the total land charge to Scully tenants tends to be comparable to that of other farmers.

(d) The main problem of fair rents is to charge the tenants the full amount of the economic rent remaining after the value of their leasehold is subtracted, and

(e) The Scully Estate gross rents in Marion County, Kansas have followed the trends in land values and cash rents of Kansas farms wholly rented for cash.

A. Economic Rents versus Scully Rents

There is indirect but persuasive evidence which suggests that Scully net cash rents have been less than the full economic rent. This evidence is of three kinds: (1) a lack of complaint by tenants about unfair rents, (2) the relatively low returns secured on the Scully lands in Marion County, Kansas, and (3) the high prices paid by tenants for Scully improvements or leaseholds.

1. Tenant Complaints of Unfair Rents

First, it should be recognized that the mere absence of complaint about rental rates does not prove that rents favor the tenant at the expense of the landlord. Second, Scully tenants have
protested when rents were raised in line with land values. They have also protested when the rents were not lowered when crop yields and prices have fallen. The significance of these protests needs to be evaluated.

Tenant concern and protests about any sharp increase in cash rents can be expected because such a raise affects the value of their improvements or leasehold. Such protests are a part of the bargaining process by which rental rates are set. Labor union bargaining over wages and other working conditions is a familiar example of this process. The surprising thing about the protests of the Scully tenants is that only four have been strong enough to attract public notice during the 114 years that the Estate has been leasing land.

In Illinois, Scully tenants held a protest meeting in 1878 as a result of several years of light crops, resulting in arrears of rents, and the Estate's announcement that rents must be paid in full before crops were sold. The following year another protest meeting was held "at which resolutions were adopted declaring cash rent unjust and discriminating in favor of the landlord. The participants pledged themselves to pay grain or share rents only, unless the landlords would lease their farms for a 'cash rent of $2 per acre and that only for cultivated lands.'"

What the Scully rents were, and whether or not they were adjusted, is not known. However, in 1870 the University of Illinois was charging rents of $3 to $5 an acre. In Indiana, cash rents were reported to be $4 to $5 an acre and one nearby farm was being advertised at $5 an acre in 1876 (p. 49 N.).

Gates states that in the 1880's "journalistic vituperation of the rankest kind" was heaped upon William Scully because he was an alien landlord and often absentee. "Stress was laid on the un-American character of tenancy—despite the fact that numerous westerners owned large tracts of land they were renting to tenants—on the fact that taxes had to be paid by tenants, and above all on the cash rent feature. The term 'rack renting' was bandied about, though there is no important evidence to show that Scully rents were higher than those of other landlords" (pp. 54-55).

Beaver recently re-examined the evidence and also found no basis for the charge of rack renting. On the contrary, some newspapers commented upon his low rents and one said that "Mr. Scully never was in any sense a rack-renter."


By 1914, Scully rents in Illinois had risen to $6 an acre and apparently remained at that level until 1918 when the Estate proposed to increase them to $10. This action was vigorously protested by
tenants and rents were finally set at $8 an acre. The Scully Estate agent said, "we gave the farmers the advantage of four years of unusually high prices. They have made a lot of money. Increased income taxes and war's other calls on the Scully estate necessitated raising the rents this year."


The index of prices of feed grains and hay had increased from an index of 110 in 1916 to 186 in 1917 and rose to 207 in 1918. It was not until 1921 that prices fell from this high level to 92 (1910-14=100). It seems probable that rents were also increased in Kansas and Nebraska at this same time. In 1921, Scully tenants in Marion County, Kansas had a poor crop and the price index of all products fell from 211 in 1920 to 124 in 1921. Hence they felt that rents should be reduced by 40 percent. To press their demands they organized a tenant association that functioned for the next three years. The Scully Estate offered a 25 percent reduction, but the tenants held out for the 40 percent reduction, which was finally accepted (Socolofsky, p. 351).

In the 1930's the tenants once again found rents hard to pay as a result of low prices and poor crops. In 1933 the Kansas Legislature passed a law which described but did not name the Scully Estate. This act declared (1) that the base rent was "fully equal to the
fair and reasonable rental value of land" (2) that in addition the tenant had to pay the taxes and (3) that both were "a lien on all crops . . . teams, farming implements and machinery" including the buildings owned by the tenant (4) that these leases were unusual in a number of other respects and (5) therefore these leases were declared "to be against public policy of the state illegal and unenforceable" with the tenants obligated "to pay under said leases as rent for the lands only fair and reasonable sums" with lien only on crops grown and livestock raised on the leased land.

Kansas General Statutes, 1949, Ch. 67, Art. 531-3.

The Scully Estate did make rental adjustments during the 1930's, but it was not learned whether the adjustments were made before or after this law was passed.

The fact that only four times in more than a century of operation did tenant protests about rents become publicly known—and the frequency with which the Scully Estate has made downward adjustments in rents—leaves little basis for fears that the Scully rents have been unfair to the tenants.

2. Comparison of Scully Rents and Other Cash Rents

If the Scully Estate has received less than the full economic rent for land, then the tenants have received part of the economic rent. If tenants expect to receive this part of the economic rent in
the future, it has a present value just like any other stream of incomes. The present value can be estimated by discounting the expected incomes back to the present, or, what is the same thing, by capitalizing expected incomes.

For example, suppose the Scully lands in Marion County, Kansas give a net economic rent of $4 an acre, but that the base rent paid by the tenant is $3. If tenants recognize that they are paying $1 less than the full economic rent and expect to get this "unearned increment" indefinitely, it has a present value which can be determined by dividing $1 by the appropriate interest rate. If 5 percent is chosen, $1 divided by .05 gives $20 per acre as its present value. Thus for 160 acres the present value of this stream of income would be $3,200 and for 320 acres $6,400. But the fact that this could happen is not proof that it has happened. Hence the available evidence as to what has taken place needs to be examined.

The most direct way of judging Scully Estate rents would be to compare them with the cash rents received by other landlords. Unfortunately, cash rents by counties or even areas of Kansas are not available. Moreover, most cash-rented farms are improved farms whereas the Scully improvements are owned by the tenants. However, land values, cash rents per acre, and gross rate of return for all cash-leased farms in Kansas are available (Table 18).

Assuming that unimproved land in Marion County approximates the state average, the gross rate of return on Scully land can be
TABLE 18.—Estimated gross rate of return on Scully lands of Marion County assuming that their value equals that of all Kansas farms wholly rented for cash, 1947-1965

<table>
<thead>
<tr>
<th>Year</th>
<th>Farms rented wholly for cash(^a)</th>
<th>Cash</th>
<th>Rate</th>
<th>Scully cash rent</th>
<th>Est. Scully gross rate of return</th>
<th>Marion Co. farm taxes per acre(^b)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Value per acre</td>
<td>per acre</td>
<td>of return</td>
<td>per acre</td>
<td>per acre</td>
<td>per acre</td>
</tr>
<tr>
<td>1947</td>
<td>60</td>
<td>3.60</td>
<td>6.0</td>
<td>1.87</td>
<td>3.1</td>
<td>.81</td>
</tr>
<tr>
<td>1948</td>
<td>67</td>
<td>4.45</td>
<td>6.6</td>
<td>2.13</td>
<td>3.2</td>
<td>.79</td>
</tr>
<tr>
<td>1949</td>
<td>67</td>
<td>4.55</td>
<td>6.8</td>
<td>2.49</td>
<td>3.7</td>
<td>.85</td>
</tr>
<tr>
<td>1950</td>
<td>69</td>
<td>4.50</td>
<td>6.6</td>
<td>2.55</td>
<td>3.7</td>
<td>.91</td>
</tr>
<tr>
<td>1951</td>
<td>82</td>
<td>5.40</td>
<td>6.6</td>
<td>2.64</td>
<td>3.2</td>
<td>.95</td>
</tr>
<tr>
<td>1952</td>
<td>86</td>
<td>5.70</td>
<td>6.6</td>
<td>2.89</td>
<td>3.4</td>
<td>1.01</td>
</tr>
<tr>
<td>1953</td>
<td>90</td>
<td>5.85</td>
<td>6.5</td>
<td>3.08</td>
<td>3.4</td>
<td>1.16</td>
</tr>
<tr>
<td>1954</td>
<td>84</td>
<td>5.40</td>
<td>6.4</td>
<td>3.05</td>
<td>3.6</td>
<td>1.15</td>
</tr>
<tr>
<td>1955</td>
<td>93</td>
<td>5.65</td>
<td>6.1</td>
<td>3.25</td>
<td>3.5</td>
<td>1.36</td>
</tr>
<tr>
<td>1956</td>
<td>92</td>
<td>6.05</td>
<td>6.4</td>
<td>3.42</td>
<td>3.7</td>
<td>1.30</td>
</tr>
<tr>
<td>1957</td>
<td>96</td>
<td>6.35</td>
<td>6.6</td>
<td>3.43</td>
<td>3.6</td>
<td>1.42</td>
</tr>
<tr>
<td>1958</td>
<td>102</td>
<td>6.45</td>
<td>6.4</td>
<td>3.49</td>
<td>3.4</td>
<td>1.51</td>
</tr>
<tr>
<td>1959</td>
<td>102</td>
<td>6.90</td>
<td>6.7</td>
<td>3.56</td>
<td>3.5</td>
<td>1.46</td>
</tr>
<tr>
<td>1960</td>
<td>110</td>
<td>7.25</td>
<td>6.6</td>
<td>3.77</td>
<td>3.4</td>
<td>1.62</td>
</tr>
<tr>
<td>1961</td>
<td>118</td>
<td>7.10</td>
<td>6.0</td>
<td>3.94</td>
<td>3.3</td>
<td>1.73</td>
</tr>
<tr>
<td>1962</td>
<td>116</td>
<td>7.90</td>
<td>6.8</td>
<td>4.00</td>
<td>3.4</td>
<td>1.75</td>
</tr>
<tr>
<td>1963</td>
<td>121</td>
<td>8.45</td>
<td>7.0</td>
<td>4.04</td>
<td>3.3</td>
<td>2.18</td>
</tr>
<tr>
<td>1964</td>
<td>126</td>
<td>8.55</td>
<td>6.8</td>
<td>3.98</td>
<td>3.2</td>
<td>2.02</td>
</tr>
<tr>
<td>1965</td>
<td>134</td>
<td>8.60</td>
<td>6.4</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>


\(^b\)Derived by dividing total gross rents for Scully lands in Marion County by 53,000 acres. Gross rents from Scully Estates Office, Marion, Kansas, D. W. Montgomery, Manager, October 20, 1965.

calculated by dividing the Scully cash rent per acre by the assumed value of the land. If the assumption is correct, it appears that Scully rents are only one-half the usual cash-rental rate, hence give only about half the return.

But is the assumption correct? It appears to be. Improved farms in Marion County averaged $99 per acre in 1954 and $120 in 1959, according to the U. S. Census of Agriculture. When these figures are compared with those shown for all Kansas farms wholly rented for cash, in Table 18 ($84 and $102), it is seen that the Marion County lands are $15, or 18 percent, greater in 1954 and $18, or 18 percent, greater in 1959.

If the Scully lands with tenant improvements are equal in value to all lands in Marion County, the difference is 18 percent. A study of the soils indicates that the Scully lands are at least comparable in value if not above, the county average. But because the Scully Estate does not own the improvements, these must be subtracted. Estimates by the U. S. Department of Agriculture placed the value of the buildings in Kansas at 17 percent of the value of land and buildings in 1960.


Because the value of all cash-rented farms in Kansas appears to be 18 percent less than the value of all farms in Marion County, it
seems safe to assume that this difference is more than sufficient to account for the fact that the Scully Estate does not own improvements on the land. Hence the evidence suggests that the comparison of Scully Estate land in Marion County with Kansas farms wholly rented for cash is valid, despite the fact that the Scully land is unimproved. While this analysis has obvious faults, it appears that the Estate's gross cash rental rate in Marion County is only one-half of the usual cash rental rate. To get the net rent, taxes and management costs must be subtracted. The taxes on unimproved Scully land probably would be slightly less than those shown in the last column of Table 18. But even when these taxes are adjusted downward to allow for improvements, the net return on the value of the Scully land is small indeed and suggests that the rental rate is unfair to the landlord.

But is this really true? The answer depends upon the value of the Scully Estate's stream of rents. If the Scully Estate should decide to sell the land, what would buyers be willing to pay? Because rents appear to be only one-half the normal cash rents, another landlord would probably be reluctant to pay more than half the value for the land. For example, suppose the net rent is expected to be $3 an acre. If the appropriate interest rate is 5 percent, the value of the land is $60 an acre. If this is a fair value for the Estate's land, considering the low rents and the tenant's leasehold interest, then the Scully Estate's return on its investment is comparable to that of other landlords.
Even if the Scully Estate should sell the land to farmers, much
the same result could be expected because the farmer would not only
have to buy the Estate’s interest but also the tenant’s leasehold in-
terest. Assuming that the tenant has capitalized one-half the economic
rent into the price of the buildings, the farmer would have to buy the
tenant’s interest which would again be $60 an acre or a total of $120
plus buildings.

If the farmer bought the Estate’s fee interest and refused to
pay the Scully tenant the market value of his leasehold interest, the
refusal would work an extreme hardship on the tenant. The tenant’s
leasehold interest would also be largely destroyed if the Scully Estate,
or another landlord to whom the Estate sold its interest, raised rents
to the level of other cash landlords in Kansas (Table 18).

Any increase in rents beyond that justified by an increase in
economic rents would be unfair to the tenants and constitute rack
rents. Of course the converse is also true: any failure of the Estate
to keep the rents adjusted to increases in economic rent means that
the landlord’s rent is unfair to him and a reverse rack rent situation
exists. The problem of fair rents is thus a delicate one at best and
in the case of the Scully Estate even more difficult because it ap-
ppears that low rents in the past have been bid up into the value of
the tenant’s improvements creating what Marshall has called “a kind of
partnership in the soil" that often characterizes the English cash-leasing system.


Although the rents may be relatively low in Kansas, this may not be true in Illinois and Nebraska. In Illinois the management has an opportunity to make direct comparisons because in Grundy County it leases 11,000 acres of land and buildings for a crop-share rent and 35,000 acres without buildings for a cash rent in nearby counties. Stewart, the Scully Agent in Illinois, notes that the gross income per acre in Grundy County is much higher than on the cash-leased land but "administrative and maintenance costs reduce the net return to a somewhat comparable figure." He goes on to say that "it is estimated that Scully's cash rent is about the same as 2/5 share rent in this area where normal share rent is 1/2" and hence believes that "the Scully system has been satisfactory to both tenant and landlord."


According to Quackenbush, Agent for the Nebraska and Kansas lands, the Nebraska rents are probably not as low relative to the economic rent as they are in Kansas. He points out that when farm incomes are low because of prices and drouths and land values are increasing because of the need to enlarge farms it is difficult to keep
rents adjusted to the full economic rent. Tenant opposition is too
great. However, he believes that if farm incomes can be stabilized at
a reasonable level, rents can be made fair for both landlord and
tenant.

Letter from J. M. Quackenbush, Agent, Scully Estates Office,
Beatrice, Nebraska, July 6, 1966.

B. Low Rents and High Improvement Costs

The extent to which low rents have been bid up into the prices
of the improvements or the leasehold interest is also difficult to de-
termine with precision. What is needed, of course, is the precise
value of the improvements and the precise price paid for them. The
difference might then represent the effect of the low rents. Even
here it is difficult to be sure that the difference might not be due to
"Scully tradition." For example, fixity of tenure and freedom of oper-
ation are believed to be ends of considerable intangible value as well
as means to more efficient farming. If so, the difference may be par-
tially due to these intangibles rather than low rents. But the first
problem is to determine what is being paid for Scully improvements.

Because buyers of Scully improvements also become Scully tenants,
the Estate is much concerned about the person to whom the improvements
are sold. Therefore any sale of improvements must meet with the ap-
proval of the Estate. Because a prospective tenant who is willing to
pay "too much" for the improvements may make a poor tenant, approval
may be denied. Therefore, there may be considerable reluctance on the part of buyer and seller to disclose the full amount paid. Some report "one dollar and other valuable considerations" and others simply may not report all that they paid.

In Illinois only, the Estate draws the contract for sale of the improvements and the Internal Revenue Service uses this price to determine the tenant's depreciation on his buildings.

With these factors in mind, some idea of the cost of Scully improvements may be gained from "a representative sample of considerations paid" as reported to the Scully Estates office in Marion. These prices are shown in Table 19.

These prices vary from $5,000 to $15,000 and average $9,073. Some idea of the amount being paid because of low rents can be gained by comparing this average with $7,906--the estimated average value of Kansas farm improvements (including house) in 1960 (CD-55, p. 28).

This difference of $1,167, or 15 percent, seems small compared to the estimated differences in rent of nearly 50 percent. This raises questions about the accuracy of these figures. Scully houses may be compared with non-Scully houses in Figure 11 of Chapter VIII.

The average cost of Scully Estate improvements is $40 an acre (Table 19). However, because many of the Scully tenants rent additional land from other landlords or have land of their own, these figures should not be confused with the cost of improvements per acre operated. For example, if each of these Scully tenants actually
### TABLE 19. Some prices reported paid for improvements on Scully Estate land, Marion County, Kansas, 1955-1964

<table>
<thead>
<tr>
<th>Year improvement sold</th>
<th>Acres in Scully lease</th>
<th>Price paid by tenants&lt;sup&gt;a&lt;/sup&gt;</th>
<th>Price per acre</th>
</tr>
</thead>
<tbody>
<tr>
<td>1955</td>
<td>320</td>
<td>$5,000</td>
<td>$16</td>
</tr>
<tr>
<td>1955</td>
<td>320</td>
<td>10,500</td>
<td>33</td>
</tr>
<tr>
<td>1956</td>
<td>320</td>
<td>7,250</td>
<td>23</td>
</tr>
<tr>
<td>1959</td>
<td>160</td>
<td>10,000</td>
<td>62</td>
</tr>
<tr>
<td>1959</td>
<td>160</td>
<td>6,500</td>
<td>41</td>
</tr>
<tr>
<td>1960</td>
<td>160</td>
<td>8,500</td>
<td>53</td>
</tr>
<tr>
<td>1961</td>
<td>320</td>
<td>12,000</td>
<td>38</td>
</tr>
<tr>
<td>1962</td>
<td>160</td>
<td>5,000</td>
<td>31</td>
</tr>
<tr>
<td>1962</td>
<td>240</td>
<td>10,500</td>
<td>44</td>
</tr>
<tr>
<td>1962</td>
<td>160</td>
<td>9,000</td>
<td>56</td>
</tr>
<tr>
<td>1963</td>
<td>160</td>
<td>10,200</td>
<td>64</td>
</tr>
<tr>
<td>1964</td>
<td>320</td>
<td>15,000</td>
<td>47</td>
</tr>
<tr>
<td>1964</td>
<td>160</td>
<td>8,500</td>
<td>53</td>
</tr>
<tr>
<td>Totals</td>
<td>2,960</td>
<td>117,950</td>
<td>--</td>
</tr>
<tr>
<td>Average</td>
<td>228</td>
<td>9,073</td>
<td>40</td>
</tr>
</tbody>
</table>

<sup>a</sup>Source: Letter from D. W. Montgomery, Manager, Scully Estates Office, Marion, Kansas, Oct. 20, 1965.

operated twice the acres shown, the cost of improvements would be $20 per acre operated. Or if they operated the same acreage as the average Marion County farmer—419 acres—then their average cost of improvements would be $22 an acre as compared with $17 an acre for all Kansas
farms for 1960 (CD-55, p. 28). The difference of $5 an acre might be attributed to low Scully rents or to other factors.

Unfortunately this analysis has two defects. The first is that the $17 figure may be too high. The 1960 average value of the improvements in the four Northern Plains states of North Dakota, South Dakota, Nebraska and Kansas was only $5,644 or $9.71 per acre. The second is that there is no assurance that the 13 Scully tenants constituted a random sample of all Scully tenants or that they reported all money paid for improvements. In talking to farmers in the community, one gets the impression that $12,000 is more likely to be the current average price.

For example, in 1965 three Scully Estate farmers at a Congressional hearing told what they paid for their Scully leases, and estimated their present sale values: (1) a 160-acre leasehold which sold for $7,000 in 1950 was estimated by the owner to be worth $15,000 (2) a 320-acre lease purchased in 1960 for $15,000 was estimated to be worth $20,000, and (3) another 320-acre lease costing $15,000 in 1962 was estimated by the owner to be worth $25,000.

---

Omnibus Rivers and Harbors and Flood Control Bills, 1965:
Hearings before subcommittee on Rivers and Harbors, subcommittee on Flood Control of the Committee on Public Works, House of Representa­tives, 89th Congress, First Session, Part III, pp. 1199-1200.

These estimates were made in connection with an effort to get the Federal government to compensate the tenant for his equity in the
leaseholds that will be inundated by the reservoir created by the Marion Dam being constructed by the U. S. Army Corps of Engineers. For this reason the estimates are likely to be asking prices rather than prices being paid, but they do raise a question as to how much is actually being paid for Scully Estate leases.

Thus it appears impossible to determine with much precision the amount being paid by tenants because of low rents or other factors such as fixity or freedom. There cannot be much question, however, that it is an important part of the total price paid.

C. Low Rents Plus High Leaseholds and Fair Rents

According to economic theory, land or real estate values in a free land market are determined by competitive bidding for the stream of incomes expected in the future. The income that can be expected is known as economic rent—the surplus over all costs, including labor and management, incidental to the productive process. If, as is often the case, the stream of incomes is expected to remain constant or to average a certain amount, the value can be calculated by the well-known formula

\[
\text{Present value} = \frac{\text{annual economic or net rent}}{\text{interest rate}}
\]

Thus if the annual economic or net rent is $4 per acre and the
interest rate 4 percent, the present value of the stream of rents would be

\[
\frac{\$4.00}{.04} = \$100 \text{ per acre.}
\]

If the land is worth $100, the landlord normally receives the rent as interest on his investment because $4 is an interest rate of 4 percent. In addition he receives payment for depreciation on any buildings and fences that he furnishes, repairs, insurance and taxes on the property.

Because the Scully Estate does not furnish the buildings and fences, it would normally receive only the economic rent plus taxes. In practice, however, the Estate in Marion County, Kansas appears to have collected less than the full economic rent—although just how much less is difficult to say with precision. The answer differs depending upon the data used.

If it is assumed for illustrative purposes that the Scully Estate lands in Marion County yield an economic rent of $4 and that the Estate has been collecting half this amount, or $2, the present value of the stream of incomes being received by the Scully Estate is

\[
\frac{\$2.00}{.04} = \$50.
\]

If the tenant's share of the rent is also $2, the present value of his leasehold is also $50. Were this hypothetical situation true, the tenant, when selling his improvements, should be able to get the oncoming tenant to pay the present value of the $2-per-acre economic rent which
the Estate has not been collecting in addition to the fair market value of his improvements. Of course the oncoming tenant would be willing to pay this amount only if he were convinced that the Estate would continue its policy of collecting only half the economic rent.

Assuming that the oncoming tenant would pay $50 for this expected stream of incomes, his first cost would be the interest on the $50 which he paid for the uncollected rent; at 4 percent this would be $2. In addition he would pay $2 an acre to the Scully Estate, plus all land taxes. Because the tenant owns the improvements he bears all depreciation, repair and insurance costs on them.

The important point of all this is that in a perfect market the tenant's costs are theoretically the same whether he pays the full economic rent to the Scully Estate or buys the expectation of receiving the remainder of the economic rent. Moreover, the cost of the land is the same regardless of how the economic rent is divided if the other specified conditions hold true. Finally, if a fair rent is one set by the bargaining process, it appears that the total land charge is fair. This is true because the Scully Estate charges less than the full economic rent, and farmers in the community decide the value of the remainder of the economic rent by the bargaining process of the market place.

Farmers, of course, may pay too much for the uncollected economic rent, just as they may pay too much for other land, a house, a tractor, or any other good. If they do, this is not the fault of
the landlord. If the landlord has any fault it has been in not charging
the full economic rent to prevent tenant bargaining over it. If this
is a fault, then generosity is a fault. Few tenants are likely to argue
that the resulting low rents are a fault of the Scully Estate. In
fact, they could be expected to strongly resist any sharp increase in
rents.

Thus, although the theory suggests that the Scully tenants,
despite low rents, are paying total land charges equal to that of other
farmers, there is no conclusive evidence that this is actually the
case.

D. The Theory of Fair Rents

When a set of improvements is sold for more than their true
market value, it is obvious that the buyer expects something in re-
turn—low rents and fixity of tenure appear to be the most important
of these. To an observer not acquainted with the operation of the
Scully Estate, these expectations may appear to be all but worthless.
There is no legal reason why the Scully Estate cannot decide to raise
rents to equal the full economic rent. Also, because the Scully
Estate uses a one-year lease, the tenant's tenure appears to be highly
insecure. Yet the practice of the Scully Estate is the reverse. As
will be shown in Chapter VII, Scully tenants appear to have much of
the security of tenure of owner-operators. Moreover, the Scully
Estate has rarely increased rental rates, and those made appear to be fully justified by increases in land values.

Because of the inflated value of the improvements, Scully tenants have become informal "co-owners" of the land that they lease as well as legal owners of the improvements. Why this came about, why less than the full economic rent has been charged, is debatable. Perhaps it may have been the price of survival for the Scully Estate, owned as it was by an alien and often absentee landlord.

For details see Chapter X.

On the other hand, this may be an inevitable consequence of the cash-leasing system wherever used. This same feature has been noted in both England and Ireland. In the United States the difficulty of keeping cash rents adjusted to farm earnings has long been the important obstacle to their general use.

The difficulty with this type of co-ownership is that the tenant's equity is directly affected by rents charged. If rents are increased more rapidly than the general rise in economic rents, the tenant's equity is reduced. For example, assume again that the economic rent in Marion County is $4 and that the appropriate interest rate is 4 percent. Assume also that the Scully Estate has been collecting half, or $2, and leaving $2 for the tenant. If the Scully Estate should increase its rent to $3, the tenant's equity would be reduced by half. Thus if the Scully tenant paid $50 an acre for the
expectation of receiving $2 of economic rent, he could now sell for only $25 per acre. Thus

\[
\frac{1.00}{.04} = 25.
\]

An increase in rental rates has the same effect on the equity of Scully tenants as a tax increase has on the equity of a fee owner. Both suffer a loss. The taxpayer may be able to bear his loss more easily because the money is being spent for community projects which he may favor, but rents are more difficult for the tenant to rationalize and unless clearly justified by trends in economic rent, and hence land values and contract rent, he is strongly opposed to changes.

The saying that the power to tax is the power to destroy is equally true of rents. If the rents increase more rapidly than economic conditions warrant, the tenant's quasi-ownership interests are eroded and eventually destroyed.

On the other hand, if the Scully Estate's rents fall in relation to economic rent, the Estate's equity is also eroded and if carried to an extreme, destroyed. Perhaps it was the necessity of salvaging some rents that helped to give the founder of the Scully Estate a reputation as a hard landlord who insisted that rents be collected and the value of the property preserved. Certainly there were few in the early days who recognized the merits of the English cash-leasing system. When the value of the tenant's leasehold reflects low rents, changes can be made only when there is an unexpected change in economic rent.
Thus as economic rents, land values and contract rents continue to rise, the problem of the Scully Estate is to increase the rents at the same rate. That such an increase would not hurt the present equities of the tenants is easily demonstrated. Suppose the economic rent increased from $4 to $5 per acre and the interest rate remained at 4 percent. Suppose at the beginning that the Estate and the tenants both expected $2 of the economic rent. Thus $2 ÷ .04 = $50 per acre for both landlord and tenant. If the Scully Estate raises the rent to $3, then $3 ÷ .04 = $75 per acre, but the tenant's equity remains the same, $50 per acre. Hence no unfairness nor injustice results for the tenant and the landlord's rent is increased enough to encourage him to remain in business.

E. Current Trends of Scully Rents in Marion County

The Scully Estate's rents in Marion County, Kansas have followed closely the trend in land values and rents of Kansas farms wholly leased for cash (Table 20). From 1954 to 1958 the Estate's rents were somewhat above both Kansas land values and cash rents, but fell behind Kansas cash rents after 1962. One reason for this may be the Estate's high income from oil on these lands during the past ten years. Although this income has no logical connection with fair rents from the farm land, it has been used as a reason by the tenants to resist any increase in rents. Another factor that has some bearing
upon the rents charged is the owner's income-tax rate. Finally, the Scully Estate adjusts rents whenever crops and prices are poor.

<table>
<thead>
<tr>
<th>Year</th>
<th>Value as a % of 1947</th>
<th>Gross rent as a % of 1947</th>
<th>Scully land gross rent as a % of 1947</th>
<th>Marion Co. taxes as a % of 1947</th>
</tr>
</thead>
<tbody>
<tr>
<td>1947</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>1948</td>
<td>112</td>
<td>124</td>
<td>114</td>
<td>98</td>
</tr>
<tr>
<td>1949</td>
<td>112</td>
<td>126</td>
<td>133</td>
<td>105</td>
</tr>
<tr>
<td>1950</td>
<td>115</td>
<td>125</td>
<td>136</td>
<td>112</td>
</tr>
<tr>
<td>1951</td>
<td>137</td>
<td>150</td>
<td>141</td>
<td>117</td>
</tr>
<tr>
<td>1952</td>
<td>143</td>
<td>158</td>
<td>154</td>
<td>125</td>
</tr>
<tr>
<td>1953</td>
<td>150</td>
<td>162</td>
<td>165</td>
<td>143</td>
</tr>
<tr>
<td>1954</td>
<td>140</td>
<td>150</td>
<td>163</td>
<td>142</td>
</tr>
<tr>
<td>1955</td>
<td>155</td>
<td>157</td>
<td>174</td>
<td>168</td>
</tr>
<tr>
<td>1956</td>
<td>153</td>
<td>168</td>
<td>183</td>
<td>160</td>
</tr>
<tr>
<td>1957</td>
<td>160</td>
<td>176</td>
<td>183</td>
<td>175</td>
</tr>
<tr>
<td>1958</td>
<td>170</td>
<td>179</td>
<td>187</td>
<td>186</td>
</tr>
<tr>
<td>1959</td>
<td>170</td>
<td>191</td>
<td>190</td>
<td>180</td>
</tr>
<tr>
<td>1960</td>
<td>183</td>
<td>201</td>
<td>202</td>
<td>200</td>
</tr>
<tr>
<td>1961</td>
<td>197</td>
<td>197</td>
<td>211</td>
<td>214</td>
</tr>
<tr>
<td>1962</td>
<td>193</td>
<td>219</td>
<td>214</td>
<td>216</td>
</tr>
<tr>
<td>1963</td>
<td>202</td>
<td>235</td>
<td>216</td>
<td>269</td>
</tr>
<tr>
<td>1964</td>
<td>210</td>
<td>238</td>
<td>213</td>
<td>249</td>
</tr>
<tr>
<td>1965</td>
<td>223</td>
<td>NA</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

*These indexes were calculated from the data shown in Table 18.

The problem of keeping cash rents in line with changes in land values and other cash rents is more difficult than the figures suggest.
No one can say with certainty what will happen to land values and cash rents next year. Yet the fixed cash rent must be set almost a year before crops are harvested. Although they can be, and sometimes are, adjusted downward when crops or prices are poor, it is impossible to adjust rents upward when they are good. Any adjustment must wait until the next year. Hence upward rent adjustments are always one year behind and may be more.

Questions can be raised about the adequacy of Kansas land values, and particularly cash rents, as a guide to fair rents on the Scully Estate in Marion County. Obviously this is, at best, a rough guide to fair rents. Land values for the County or economic area would be more satisfactory. Land values for the economic area in which Marion County is situated are available, but were not obtained in time for use in this analysis. There is, of course, reason to believe that Kansas cash rents have some of the stickiness of Scully Estate rents. Hence they too may lag behind the true economic rent and true land values. However, this does not seem to be the case in the data presented above.

A popular idea is that both taxes and rents must vary according to the productivity of the various tracts of the land in order to be fair or just. Therefore, much time and effort is spent in determining the productivity of land and in levying taxes or rents accordingly. This policy has been followed on the Scully Estate lands in Marion County. As a result there is no flat rental charge. For example, in
1954 the gross rents per acre varied from less than $3 to more than $4 per acre (Table 21).

**TABLE 21.**—Percent of tenants paying different gross rental rates on the Scully Estate lands of Marion County, Kansas, 1954a

<table>
<thead>
<tr>
<th>Rent per acre all land (inc. taxes)</th>
<th>Tenants paying each rate</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
</tr>
<tr>
<td>Under $3.25</td>
<td>7</td>
</tr>
<tr>
<td>$3.25 - 3.49</td>
<td>10</td>
</tr>
<tr>
<td>$3.50 - 3.74</td>
<td>15</td>
</tr>
<tr>
<td>$3.75 - 3.99</td>
<td>11</td>
</tr>
<tr>
<td>$4.00 or more</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>53</strong></td>
</tr>
</tbody>
</table>

*Source: These 53 tenants were randomly selected from the 187 Scully Estate tenants in Marion County, Kansas. These gross rents were secured from the records of the Scully Estate office, Marion, Kansas, August 1955. These rents include taxes and are unadjusted for summer fallow, conservation practices, etc.*

Nearly half of the tenants were paying $3.50 to $4.00 rental. The sample average was $3.46 as compared with $3.15 as calculated for all tenants by dividing gross rents for the year by the total acres leased. The actual rentals paid were less than these figures indicate because reductions in rent were allowed for summer fallowing on all but two farms. This reduction was about $30-$50 for half the farmers and more than $50 for a third (Table 22). The average allowance for summer
TABLE 22.—Rental reduction to tenants who summer-fallow land on Scully Estate, Marion County, Kansas, 1954.

<table>
<thead>
<tr>
<th>Rental reduction for summer fallowing</th>
<th>Tenants receiving reduction</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
</tr>
<tr>
<td>None</td>
<td>2</td>
</tr>
<tr>
<td>Under $30</td>
<td>4</td>
</tr>
<tr>
<td>$30 - 39</td>
<td>15</td>
</tr>
<tr>
<td>$40 - 49</td>
<td>13</td>
</tr>
<tr>
<td>$50 - 59</td>
<td>8</td>
</tr>
<tr>
<td>$60 - 69</td>
<td>3</td>
</tr>
<tr>
<td>$70 - 79</td>
<td>2</td>
</tr>
<tr>
<td>$80 or more</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
</tr>
</tbody>
</table>

*Source: See footnote to Table 21.*

Fallowing was $47 per tenant for the sample. In addition, downward adjustments in the rental rates were made on almost all of the Scully Estate's land in 1954. Most of these adjustments were $20-50 per tenant (Table 23). The sample adjustment was $34 per tenant. Penalties were added to the rents of four of the 53 tenants for failing to comply with certain requirements of the lease: these penalties were $20, $20, $70 and $179. A reduction of rent for conservation maintenance was allowed for three of the 53 tenants: these reductions were $20, $30 and $64.
### TABLE 23—Distribution of rental adjustments made in rents on Scully Estate lands, Marion County, Kansas, 1954

<table>
<thead>
<tr>
<th>Amount of Adjustment</th>
<th>Tenant receiving adjustments</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Number</td>
</tr>
<tr>
<td>None</td>
<td>1</td>
</tr>
<tr>
<td>Under $20</td>
<td>7</td>
</tr>
<tr>
<td>$20 - 29</td>
<td>16</td>
</tr>
<tr>
<td>$30 - 39</td>
<td>13</td>
</tr>
<tr>
<td>$40 - 49</td>
<td>9</td>
</tr>
<tr>
<td>$50 - 59</td>
<td>4</td>
</tr>
<tr>
<td>$60 or more</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
</tr>
</tbody>
</table>

*Source: See footnote to Table 21.*

#### F. Summary and Conclusions

The main purpose of this chapter was to determine whether the cash rents charged by the Scully Estate were fair or equitable for both parties.

During the 11% years of operation there appear to have been only four rent protests that made the newspapers. Because the public was critical of the Scully Estate, it seems almost certain that had rents been too high much would have been made of this fault. However, the
evidence that exists suggests that the rents were usually less than that of other landlords.

In Marion County, Kansas for 1947 to 1965 Scully rents appeared to be about half the cash rents charged by other landlords in Kansas.

If the Scully Estate charges much less than the full economic rent, theory suggests that the "surplus" would tend to be bid up into the prices of the tenant's improvements or leasehold. There is some evidence that this has happened but not to the extent that might be expected by the low rents.

Theory also suggests that under perfect land markets the total cost of the land to farmers would be the same whether the land was leased or owned. However, the land market is not perfect and the evidence available does not permit the conclusion that the total land charge of the Scully tenants is comparable to that of other farmers.

Because rents, like taxes, have the power to destroy land values, there is reason to believe that the principal problem of maintaining fair rents on the Scully Estate lands is to keep the rents adjusted to the changes in economic rent. Failure to do this results in unfair rents for one of the parties.

The evidence suggests that these changes have been made in Marion County since 1947. Despite the fact that the Scully base rents in Marion County have not been greatly increased during the past ten years, it appears that the small increases made and the increase in taxes has kept Scully rents in line with the general trend in land
values and other cash rents. Any attempt of the Estate to recapture the full economic rent already bid up into the value of the tenants' improvements will work a hardship on tenants and amount to unfair rents simply because tenants will then be paying rent for what they have already bought from previous tenants.
CHAPTER VII

FIXITY OF TENURE OF SCULLY TENANTS

If the tenant is to have fixity of tenure, freedom of improvement and freedom of operation, then the landlord must have security of a fair rent. As has been shown in the last chapter, Scully rents appear to be too low to encourage other landlords to use a similar system. Yet because they are cash rents, the details of the tenant's farming do not affect the amount of rent to be paid as is true under share-rent leases. Therefore logic suggests that the Scully tenants should have more fixity of tenure than share-rent tenants in the same community.

The purpose of this chapter is to examine the evidence concerning this hypothesis. The principal source of evidence will be the results of a survey of 103 farmers in the area of Marion County.

As mentioned in Chapter I the farmers interviewed were divided into three groups depending upon who owned the land on which their buildings stood. Thus Scully Tenants improvements are located on land leased from the Scully Estate; Renters improvements are leased from and located on land owned by non-Scully landlords and Owners improvements are located on land that they own in fee although many of them may lease additional land (Table 3).
Although fixity of tenure is probably an end in itself, it is also a means to freedom of long-term operation or freedom of improvement. As has been pointed out, the cash lease in England apparently gave tenants enough security of tenure that they made many improvements. As a result, some landlords adopted the practice of compensating the outgoing tenant for the unexhausted value of his improvements. Eventually this practice was made uniform by laws enacted in 1851, 1875 and 1883—the first effective English tenancy legislation. It was not until 1906 that laws were enacted which gave the tenant compensation for unjustified disturbance of tenure.


The evidence presented will be discussed under the following headings:

(a) Length of tenure of Scully tenants,
(b) Tenant desire for long-term leases,
(c) Feeling of security of Scully tenants,
(d) Source of security of Scully tenants,
(e) Other factors affecting security of tenure, and
(f) Summary and conclusions.
A. Length of Tenure of Scully Tenants

Although long occupancy is not the same as security of tenure, it is an indicator of considerable value that should not be ignored. Thus it is important to note that Scully tenants in Marion County have averaged 15 years of occupancy, whereas for the United States as a whole full owners have averaged 17 years, part owners 15 years, and full tenants 7 years (Table 24). Thus it appears that only 7 percent

TABLE 24.—Years on present farm: Scully tenants and all farmers in the United States, 1954

<table>
<thead>
<tr>
<th>Years on Farm</th>
<th>Scully tenants</th>
<th>All U. S. farmers, 1954</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>1 or less</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>2 - 4</td>
<td>12</td>
<td>11</td>
</tr>
<tr>
<td>5 - 9</td>
<td>20</td>
<td>23</td>
</tr>
<tr>
<td>10 or more</td>
<td>66</td>
<td>62</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>Average</td>
<td>15</td>
<td>17</td>
</tr>
</tbody>
</table>


\[\text{bDifference between Scully tenants and U. S. tenants significant at } X^2_{.01}.\]
of the Scully tenants move each year. Most of these move because of
retirement or other personal reasons. In Illinois only three tenants
have been asked to move in the first 12 years that Stewart has served
as agent for the Scully Estate.

Paul J. Beaver, William Scully and the Scully Estates of Logan
County, Illinois, Master's thesis, Illinois State University, Normal,
Illinois, 1964, p. 46.

It is not surprising that Scully tenants in Marion County have
had longer tenure than have other tenants in the same community
(Table 25). Of the 103 farmers interviewed, 95 were full or part

Table 25.—"How many years have you leased this land?" Replies of
farmers interviewed by kind of lease in Marion County, Kansas

<table>
<thead>
<tr>
<th>Years leased</th>
<th>Scully leases</th>
<th>Other leases</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 or less</td>
<td>10</td>
<td>26</td>
<td>17</td>
</tr>
<tr>
<td>5 - 9</td>
<td>28</td>
<td>32</td>
<td>30</td>
</tr>
<tr>
<td>10 - 14</td>
<td>22</td>
<td>26</td>
<td>23</td>
</tr>
<tr>
<td>15 - 19</td>
<td>6</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>20 - 24</td>
<td>4</td>
<td>9</td>
<td>8</td>
</tr>
<tr>
<td>25 or more</td>
<td>30</td>
<td>5</td>
<td>18</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

^Difference significant at $x^2_{05}$. 
tenants. Of these, 52 leased some land from the Scully Estate and 43 from other landlords. Thirty percent of the Scully tenants had leased their land 25 years or more and 40 percent 15 years or more. In contrast, only 5 percent of the non-Scully tenants had leased their land 25 years or more and only 16 percent had leased their land 15 years or longer.

B. Tenant Desire for Long-Term Leases

Although long tenure may indicate or suggest secure tenure, it is possible for a tenant to remain on the same farm year after year yet fear that each year is his last. Hence, it is necessary to get some idea of how tenants feel. When tenants feel insecure, they often wish they had a long-term lease. Thus a strong demand for long terms is an indication of the insecurity of tenure felt by tenants.

To get some idea of the tenants' feelings of security, some South Dakota tenants as well as Kansas tenants were asked: (1) What is the length of your present lease? (2) What length of lease do you prefer? The answers to these two questions are shown in Table 26. In South Dakota 67 and 80 percent of the tenants said they preferred a lease longer than one year, thus suggesting a feeling of insecurity. By contrast in Marion County, only 50 percent of the non-Scully tenants said they preferred a lease for 2 years or longer; and what was even more significant, only 34 percent of the Scully tenants expressed
a preference for longer terms. Thus the evidence suggests that Scully tenants either felt more secure or were less certain that longer terms would result in greater security.

TABLE 26.—"What length of lease do you prefer?" Replies of tenants in South Dakota and Marion County, Kansas

<table>
<thead>
<tr>
<th>Length of term preferred</th>
<th>S. D. Tenants&lt;sup&gt;a&lt;/sup&gt;</th>
<th>Marion Co., Kansas&lt;sup&gt;b&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Central</td>
<td>Moody Co.</td>
</tr>
<tr>
<td>1-year or year-to-year</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>90</td>
<td>54</td>
</tr>
<tr>
<td>2-3 years</td>
<td>33</td>
<td>20</td>
</tr>
<tr>
<td>4-5 years</td>
<td>25</td>
<td>24</td>
</tr>
<tr>
<td>More than 5 years</td>
<td>35</td>
<td>48</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>


<sup>b</sup>No significant difference between renters and Scully tenants at .05 level, but difference between Scully tenants and South Dakota tenants significant at $\chi^2 .01$.

<sup>c</sup>All but three had one-year or year-to-year leases. These three had and preferred 5-year leases.

<sup>d</sup>The Scully leases are all for 1-year terms.
C. Feeling of Security of Scully Tenants

In a further attempt to determine whether Scully tenants felt more security of tenure than share-rent tenants, the farmers interviewed were asked: "Would you say that Scully tenants as compared to crop-share tenants have more security or less security on the land which they are renting?" Their replies are shown in Table 27.

<table>
<thead>
<tr>
<th>Replies</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>More security</td>
<td>81</td>
<td>75</td>
<td>96</td>
<td>85</td>
</tr>
<tr>
<td>Less security</td>
<td>3</td>
<td>4</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Same</td>
<td>3</td>
<td>8</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Don't know</td>
<td>13</td>
<td>13</td>
<td>6</td>
<td>9</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>103</td>
</tr>
</tbody>
</table>

*Difference significant at $X^2_{.01}$.*

Almost all (96 percent) of the Scully tenants said that they had more security of tenure than did crop-share tenants of other landlords; and 81 percent of the Owners and 75 percent of the Renters agreed.
Thus, the consensus of 85 percent of the farmers interviewed was that the Scully tenants enjoyed more security of tenure.

Almost the same answers were obtained when part-owners, full renters and full Scully tenants were compared, as shown in Table 28. This and other comparisons indicated that the broader classification of Owners, Renters and Scully Tenants gave the same results as the more limited classification; hence, the former is generally used throughout this analysis.

TABLE 28. "Would you say that Scully tenants as compared to crop-share tenants have more security or less security on the land which they are renting?" Replies of part owners, full renters and full Scully tenants, Marion County, Kansas

<table>
<thead>
<tr>
<th>Replies</th>
<th>Part owners 22</th>
<th>Full renters 17</th>
<th>Full Scully 24</th>
<th>Total replies 63</th>
</tr>
</thead>
<tbody>
<tr>
<td>More security</td>
<td>85</td>
<td>82</td>
<td>92</td>
<td>87</td>
</tr>
<tr>
<td>Less security</td>
<td>5</td>
<td>6</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Same security</td>
<td>0</td>
<td>12</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>Don't know</td>
<td>10</td>
<td>0</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*aSee Table 3, class A2, B1 and C1 for this classification.

Differences are not significant at the .05 level.
The 86 farmers who said that Scully tenants had more security on the land than share-rent tenants were immediately asked: "How sure do you feel about this?" Their answers are shown in Table 29. Only 6 percent said that they were not really sure whether the Scully tenants had more security; 94 percent said either that they were fairly sure or very sure of their answer.

TABLE 29.--"How sure do you feel that Scully tenants have more security on the land than crop-share tenants?" Replies of farmers who said Scully tenants had more security, by the location of their improvements, Marion County, Kansas.

<table>
<thead>
<tr>
<th>Improvements located on</th>
<th>Replies</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>31</td>
<td>18</td>
<td>37</td>
<td>86</td>
</tr>
<tr>
<td>Very sure</td>
<td></td>
<td>$</td>
<td>$</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Fairly sure</td>
<td></td>
<td>48</td>
<td>17</td>
<td>57</td>
<td>45</td>
</tr>
<tr>
<td>Not sure</td>
<td></td>
<td>52</td>
<td>66</td>
<td>38</td>
<td>49</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*Difference not significant at .05 level.*

D. Source of Security of Scully Tenants

The 86 farmers who said the Scully tenants had more security were asked: "Would you say that this greater security is mainly the result of the cash rental, size of the estate, or other?" The replies
are shown in Table 30. Because ownership of the improvements was believed to be quite important, this item was omitted from the list of alternatives in the question. The thought was that ownership of improvements was such an important factor that respondents would probably reject cash rentals and size of the estate in favor of owned improvements. However, 61 percent of all 85 farmers replying said that the cash rental was the most important, and 19 percent said that the size of the estate was the main reason for tenant security. Only 6 percent volunteered owned improvements as the most important factor.

**TABLE 30.—**"Would you say that this greater security is mainly the result of the cash rental, the size of the estate, or some other thing?" Replies of farmers by the location of their improvements, Marion County, Kansas a

<table>
<thead>
<tr>
<th>Improvements located on</th>
<th>Owned land 30</th>
<th>Rented land 19</th>
<th>Scully land 36</th>
<th>Total replies 85</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Replies</strong></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Cash rental</td>
<td>73</td>
<td>63</td>
<td>50</td>
<td>61</td>
</tr>
<tr>
<td>Size of estate</td>
<td>17</td>
<td>5</td>
<td>28</td>
<td>19</td>
</tr>
<tr>
<td>Both</td>
<td>0</td>
<td>11</td>
<td>14</td>
<td>8</td>
</tr>
<tr>
<td>Owned improvements</td>
<td>3</td>
<td>16</td>
<td>3</td>
<td>6</td>
</tr>
<tr>
<td>All other</td>
<td>7</td>
<td>5</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

aDifference significant at $X^2_{.05}$
Half of the Scully Tenants thought the cash rental was most important, but nearly a third (28 percent) thought the size of the estate was the most important reason for their security of tenure. Another 14 percent said the two factors were equally important. Only 3 percent mentioned ownership of the improvements as a factor. Obviously, ownership of buildings should have been included in the list, or the question should have been entirely open-end. It seems reasonable to believe that tenant ownership of the improvements is a more important factor affecting tenure than these answers suggest, although perhaps not as important as it was thought to be when the questionnaire was prepared.

E. Other Factors Affecting Security of Tenure

Practically all of the farmers interviewed (95 percent) said that they had a good chance of keeping the leased farmland if the landlord did not die nor sell the land (Table 31, question 1). Only the Scully Tenants, however, thought their chances were just as good (96 percent) even if the landlord should die, although 86 percent of the Owners and 76 percent of the Renters said that under such circumstances their chances of keeping the leased land were still good (question 2).

The Scully Tenants also had great confidence that the landlord was unlikely to sell the farm (question 3) and terminate the lease. This confidence is well grounded in experience. Almost from the beginning the Scully Estate has shown great reluctance to sell land. This reluctance to sell is one reason the Scully Estate has been
TABLE 31.--Farmers' opinion of chances of keeping leased land under certain conditions, by location of their improvements, Marion County, Kansas^a

<table>
<thead>
<tr>
<th>Questions and answers</th>
<th>Improvements located on</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Owned land</td>
<td>Rented land</td>
</tr>
<tr>
<td>1. &quot;If your present landlord neither dies nor sells the farm during the next 5 years, would you say that your chances of keeping the farm through 1960 are:&quot;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Good</td>
<td>94</td>
<td>92</td>
</tr>
<tr>
<td>Poor</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>2. &quot;If your present landlord should happen to die do you feel that your chances of renting this farm through 1960 would be:&quot;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Good</td>
<td>86</td>
<td>76</td>
</tr>
<tr>
<td>Poor</td>
<td>14</td>
<td>24</td>
</tr>
<tr>
<td>3. &quot;Would you say that the chances of your landlord selling this farm during the next five years are:&quot;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Unlikely</td>
<td>93</td>
<td>88</td>
</tr>
<tr>
<td>Likely</td>
<td>7</td>
<td>12</td>
</tr>
<tr>
<td>4. &quot;If your landlord was dissatisfied with the way you farm would your chances of keeping this land for the next two years be:&quot;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Good</td>
<td>34</td>
<td>57</td>
</tr>
<tr>
<td>Poor</td>
<td>66</td>
<td>43</td>
</tr>
</tbody>
</table>

^aDifference not significant at .05 level.

^b"fairly good" and "very good" were combined as good; "fairly poor" and "very poor;" "fairly unlikely" and "very unlikely;" and "fairly likely" and "very likely" were also combined.
severely criticized. For example, while the Scully Estate lands were still under trusteeship, the city of Hillsboro in Marion County wanted to buy 160 acres for a city golf course and park but had to condemn the land for public purpose to get it. What is not generally recognized is that the Trustee had no authority to sell the land, hence it had to be condemned. In any case, reluctance or inability to sell land stands as the clearest evidence that the Scully Estate is not likely to sell land at the first opportunity to make a profit. As a result, Scully tenants have little to fear from this familiar source of uncertainty of tenure.

Even when the landlord is dissatisfied with the farming, about two-thirds of the Scully Tenants say that they still have a good chance of keeping the land (question 4). No doubt the cash rental contributes to this sense of security. Only 34 percent of the Owners (part renters) and 57 percent of the Renters said that they had a good chance of keeping their leased land if the landlord was dissatisfied with their farming. Because most of the non-Scully renters paid a share rent, this is not surprising.

F. Summary and Conclusions

The main purpose of this chapter was to present the evidence concerning the Scully tenant's fixity or security of tenure—especially in comparison of share-rent tenants. The evidence indicates that Scully tenants enjoy longer tenure than share-rent tenants, and most of
the Marion County, Kansas farmers interviewed in this study said that the Scully tenants had "more security" on the land which they were renting. Of the 86 farmers who said Scully tenants were more secure, only 6 percent admitted that they were not sure that their answer was correct. The rest, 94 percent, were either "fairly sure" or "very sure" that Scully tenants had more security.

Three-fifths of the farmers interviewed said that the cash rental was the main reason why the Scully tenants had greater security of tenure. The size of the estate was chosen by one-fifth of the farmers interviewed. Surprisingly, only 6 percent mentioned tenant ownership of improvements as a cause of greater security of tenure but this may be because of the fact that it was not listed as a possible cause in the question. No doubt tenant ownership of improvements makes refusal to renew the lease more difficult. Because cash rentals and tenant ownership of improvements remove the two most important causes of landlord dissatisfaction with tenants, there may be little reason to ask the tenant to move.

The evidence from this survey, limited though it is, suggests that the use of the English cash-leasing system has given Scully tenants security of tenure similar to that enjoyed by English tenants before the enactment of laws against unjustified disturbance in 1906. Logically this greater fixity or security of tenure should give the
Scully tenants more freedom to improve and to operate. The evidence concerning their freedom to improve will be presented and analyzed in the next chapter.
CHAPTER VIII

FREEDOM OF IMPROVEMENT OF SCULLY TENANTS

Do Scully tenants have more freedom to make improvements than share-rent tenants? Three factors suggest that they do: their cash rent, their secure tenure, and their ownership of the improvements or "tenant right" as it is known in England and Ireland. Their cash rents and their fixity of tenure have been discussed in the preceding chapters. This chapter will discuss the effect of ownership of improvements on their freedom to improve, under the following headings:

(a) The Scully system of tenant ownership of improvements,
(b) Origin and present use of tenant ownership of improvements,
(c) Problems created by public taking of Scully Estate land,
(d) Opinion about freedom to improve on Scully Estate land,
(e) Soil conservation practices on Scully Estate land,
(f) Practicality of tenant ownership of improvements, and
(g) Summary and conclusions.

A. The Scully System of Tenant Ownership of Improvements

An unusual feature of the Scully cash-leasing system is that Scully tenants own all improvements located on the land they lease from the Estate. These improvements include the house, barns, sheds, cribs, bins, silos, fences and all other above-ground structures. Excluded
are soil conservation and development measures such as terraces, grass waterways, ditches, dams and tile drains.

When the lease is not renewed, the Scully tenant may either remove the improvements or sell them to the oncoming tenant. Few if any of the improvements are ever removed because there is usually a strong demand for Scully leases. Hence, the tenant seeks a buyer for the improvements and other advantages of the lease. The buyer must be acceptable to the landlord as a tenant.

The present Illinois lease states that

The Landlord is not liable to make or erect any houses, fences or other improvements whatsoever on or about said lands . . . the Tenant taking premises as they are, and agreeing to make all such improvements as he may deem necessary for the efficient cultivation of the land and the protection of crops at his own exclusive cost and expense.

The lease then states that when the rent and taxes have been fully paid, and other agreements kept by the tenant, the Scully Estate will consent to the removal of all buildings, fences and other chattels made or erected by the Tenant upon the premises or belonging to him thereon, PROVIDED that removal be made within six months after the expiration or termination of the lease. (Form 29-1965, Appendix D).

The Nebraska lease differs only in editorial detail except that it requires "that said removal be made promptly" and does not define the term (Form 21-M.G., Appendix G).

The clause in the Kansas lease (Form 10-47, Appendix F) was identical to the Nebraska form in every respect. Except for minor
editorial changes the same provision is found in the lease form used in 1893.

A copy of the 1893 lease is found in Homer E. Socolofsky, The Scully Lands in Marion County, Kansas Historical Quarterly, Vol. 28, No. 4, Nov. 1950, Appendix, p. 370.

The lease form now being used by the Scully Estate in Marion County, Kansas declares

It is understood that Tenant owns all buildings, fences and other improvements on said real estate and has the privilege of building such other improvements as Tenant desires and deems necessary in the operation of said real estate; that such buildings, fences and other improvements shall be deemed personal property as between the parties and shall be removed from said premises by Tenant at Tenant's sole cost and expense upon the termination of this lease or upon its prior cancellation for breach by Tenant of any of the terms or covenants hereof, and if not so removed within 60 days from such termination or cancellation then and in such event said buildings, fences and improvements shall be deemed abandoned by Tenant, or if Landlord so elects he may in such event remove the same at the cost and expense of Tenant. Tenant shall not have the right to sell space for highway signs on said premises or to erect improvements for uses other than necessary for Tenant's farming purposes (Form 1-60, Appendix E).

Although more simply and directly stated, this provision has the same effect as the earlier provisions cited above. As far as the landlord is concerned, it gives the tenant complete freedom to make any improvements and remove them or, as is almost always the case, sell them to the oncoming tenant when he leaves the farm.

Because the lease is for only a one-year term this freedom to improve may seem of little value. However, the leases are renewed year after year as long as the rent is paid and the property maintained.
Only 5-6 percent move each year and almost all of these are made on the initiative of the tenant. The result is that Scully tenants occupy land almost as long as do owner-operators in the United States (Table 24). It is not unusual for a lease to have been kept in one family for three or more generations.

In 1955, Professor Wilfred Pine of Kansas State University, accompanied by the author, asked a new Scully tenant if he was not afraid the Scully Estate might put him off the farm. The tenant's reaction was automatic. "Why, no, they couldn't do that! I have a 99-year lease!" An interview by the author in the same community drew the same response from another tenant's wife in 1965. When the point was pressed she said, "Why I think it is in the lease." When inspection of the lease showed that it was for a one-year term, she commented, "Well, I guess it's just a community saying."

In another interview, Professor Pine admired a Scully tenant's new house which he had recently built and remarked, "I suppose you own this farm?" To Pine's surprise the tenant said, "Yes, I do." After some further remarks, Pine asked, "By the way, whom did you buy this land from?" This time the tenant appeared shocked. "Oh, I don't own the land; what I own is the lease. This is Scully land." In the discussion that followed, he argued that the Scully Estate leasing system was the best in the country.

Pine, Barry and Kris Kristjanson interviews, Marion County, Kansas, June 1955.
As a rule, no difficulty has been experienced in finding buyers for the improvements. According to the Estate there has been for years a waiting list of persons desiring to buy a Scully lease. However, because the Estate wants to combine its small farms, another Scully tenant has preference. "Today we have an unwritten policy that every outgoing tenant must first offer his lease to another Scully tenant," declared William Scully, owner of the Kansas lands.

Personal interview, December 8, 1965.

Realtors sometimes handle the sale of the lease. For example, the following classified advertisement appeared in the Hillsboro Star-Journal, October 28, 1965:

FOR SALE

160 ACRE SCULLY LEASE
Nearly new 3 Bedroom House
Silo 2-pressure Systems Cement
Slab Feed Rack, Machine Shed,
Barn and Milk Parlor.
A complete farm set-up
also 60 acres adjoining to
be sold as a unit with the
above acreage.
A REAL OPPORTUNITY
Which Comes Once in a Lifetime

C. H. SIEBEL
REAL ESTATE

Because the Scully Estate can refuse to lease the land to any prospective purchaser, such sales must be made subject to the Estate's approval. The main concern of the Scully Estate is to get a good man who will pay the rent and maintain the productivity of the land. The
Estate is also concerned about the high cost of improvements and tries to discourage what is considered excessive prices. However, refusal to accept a tenant who is willing to pay "too much" for the improvements tends to create a "black market" situation in which the buyer and seller may agree to report a price less than the actual price paid. The cure for too high a sale price for improvements is higher rentals, but when many tenants in the same community are involved, these are probably as difficult to raise as are taxes.

B. Origin and Present Use of Tenant Ownership of Improvements

Because William Scully, the founder of the Scully Estate in this country, was an Irish landlord it seems likely that he brought this system with him from Ulster in what is now northern Ireland. Ashby noted that "Under the Ulster system of right, the tenant provided buildings and permanent equipment for farms, and his right to compensation for improvements sometimes represented more than half the total capital value of the holding."

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A. W. Ashby, "Farm Tenancy," Encyclopaedia of Social Science, Vol. 6, 1931, p. 120.

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This system of "tenant right" was not generally used in southern Ireland where the Scully Estates were located. This suggests it may have been imported into northern Ireland when Ulster was settled by Scotch and English farmers after 1607.
In Scotland "it is not uncommon today to find ... long leases under which the lessee is responsible for improvements."


Garnier mentions that in France some such leasing has been carried on since the twelfth century. The tenant pays a small rent, erects all buildings at his own expense, and is compensated when he leaves the farm. Either party can terminate the lease at will.


Ashby also noted that "farm tenants in the French speaking regions of Belgium propose their successors to their landlords, having previously come to agreement with the proposed incomer on the subject of the valuation of the outgoer's improvements. The 'Evesham custom' in Worcestershire, England, gives the tenant the right to dispose of his interests to an incoming tenant subject to the owner's acceptance of the incomer, which is rarely refused. Similar practices exist in Picardy" (p. 120).

Tenant ownership of improvements has been used on lands owned by the Brown Land Company, the Beverley Land Company and the Hopewell Land Company in northwestern Iowa and northeastern Nebraska. These companies appear to have been founded by John Carter Brown, Robert H. Ives,
Charlotte R, and Moses B, I. Goddard, related families from Providence, Rhode Island, who purchased 268,000 acres of land in the Midwest.


John Carter Brown was a direct descendant of the Browns who founded Brown University in 1773.


It is interesting to note that Brown University purchased 46,000 acres of Kansas lands between 1865 and 1871 and Cornell University also bought 4,000 acres and did not buy more only because conditions were not considered favorable.


The Beverley and Hopewell lands were originally leased for five-year terms (as was Scully land) and for a cash rent. Frick, the present manager, states, "In very recent years we have leased some of
these on a crop-share basis, making allowance for the cost of upkeep of tenant-owned buildings."

Franklyn Frick, Hatfield Farm Management Co., Sioux City, Iowa, letter to the author Aug. 17, 1956. According to Frick, the founder of the management company, a Mr. Gilman, purchased for the Goddard family 96,000 acres of land in Iowa and Nebraska using Mexican War Warranties.

The Brown lands of Iowa and Nebraska were also let for many years under Scully-type cash leases; but in recent years the system has been changed to the conventional crop-share lease. Of 67 Brown farms being leased in 1957, only on five or six were the improvements still owned by tenants. One-half share rent is charged when the landlord furnishes the improvements and a two-fifths share when the tenant owns the improvements.

The change from cash rents to share rents was made to increase the landlord's return on his investment. Tenant ownership of improvements was being discontinued because it made it more difficult (1) to change tenants when they were doing a poor job, (2) to get another good tenant because improvements had to be purchased and (3) to sell the land to an owner operator.

Interview with Glenn Le Doit, Byron Reed Realty Company, Omaha, Manager of Brown Land Company lands in western Iowa and northeastern Nebraska (Cedar, Knox, Dixon and Dakotah Counties), April 1, 1957.

Australia, in its efforts to settle soldiers on the land, makes use of a Scully-type lease. "It is a Perpetual Lease not subject to
reappraisal; under it the land and non-structural improvements are leased at a yearly rental of $2\frac{1}{2}$% of their value, and the structural improvements are purchased over 25 years if their value does not exceed £800 or 35 years if their value is greater than that amount. Interest only is payable during the first 5 years. The rate of interest is $2\frac{1}{2}$%.


The Province of Saskatchewan, Canada, is currently leasing 390,000 acres of land to 1,900 farmers on terms up to 33 years for an annual rent of 6 percent of its appraised value. The tenant pays all taxes and assessments and furnishes all buildings and fences. When he gives up his lease he sells the improvements to the oncoming tenant much as on the Scully Estate.


For many years Nebraska has been leasing 1,6 million acres of land that it received from the Federal government for the support of common schools. The land was leased for a cash rent set at public auction for a 12-year term.
The Rules state "Any improvements on school land are the property of the former lessee, and should some person other than the former lessee be the successful bidder for the lease, he is required to make payment for such improvements. If the parties can agree upon the value of the improvements this may be done. However the state has a lien upon such funds to the amount of any unpaid rent due and owing the state from the former lessee. . . . If the parties are unable to agree upon the value of the improvements, such improvements shall be appraised by a board of three appraisers to be chosen as follows: one by the former lessee, one by the new lessee and one to be agreed upon by the two appraisers so chosen."

Board of Educational Lands and Funds, Nebraska 40th Biennial Report, 1954-56, p. 11.

Mahlin states that "my Board permits maintenance of existing farmstead improvements, but we would not permit, at this time, the construction of new farmsteads on school land. The Board does permit fences, wells, dams and other improvements as outlined, including irrigation wells." He goes on to say that when the improvements are good and the tenant unsatisfactory, "we have found, in some instances,
that it is impossible to get another party to even bid the rent asked by the State let alone get a settlement for the improvements."

Letter from Elmer H. Mahlin, Secretary, Board of Educational Lands and Funds, Lincoln, Nebraska, March 9, 1957.

The last session of the Nebraska Legislature enacted a law which requires that all the educational lands be sold and the Attorney General has ruled that all tenant-made improvements belonged to the State. At this time the matter is before the State Supreme Court.

Letter from John F. Olson, Secretary, Board of Educational Lands and Funds (by Keith W. Carlson), June 6, 1966.

The State of South Dakota leases 1.4 million acres of grazing lands to 5,000 farmers and ranchers on five-year leases. According to State law

the Commissioner of School and Public Lands may grant to any lessee of land . . . a permit to erect thereon such buildings, corrals, fences and well apparatus as may be necessary to carry out the purposes of the lease and such lessee shall have the right to remove such improvements . . . during a period of sixty days from the date upon which such land is offered for releasing /sic/ or sale (SDC 1960 Supp. 15.0415).

The Commissioner reports that about half of the operators own improvements located on State land.

The rent is set at public auction and the South Dakota law further provides that

When a person other than the owner of the improvements thereon is the highest bidder, therefore, such bidder before a lease shall issue, shall deposit with the county auditor his receipt showing payment of the amount of rental due, and in addition thereto a receipt showing that he has deposited with the county treasurer an amount equal to the appraised value of such improvements . . . or an amount agreed upon between such successful bidder and the owner of such improvements or proof that the owner elects to remove all such improvements. (SDC, 1939, 15.0416)

Although a permit is not a lease it is interesting to note that the Taylor Grazing Act of 1934 allows permittees to construct "fences, wells, reservoirs and other improvements necessary to the care and management of the permitted livestock." However, "no permit shall be issued which shall entitle the permittee to the use of such improvements constructed and owned by a prior occupant until the applicant has paid to such occupant the reasonable value of the improvements."

The Taylor Grazing Act of June 28, 1934 With Amendments to Sept. 1, 1955, U. S. Dept. of Interior, p. 4 or see U. S. Code, Title 43, Sec. 315c.

Tenants on Federal grazing lands

may fence the land or any part thereof; develop water by wells, tanks, water holes, or otherwise and make and construct other improvements for grazing or stock raising purposes, so long as such improvements do not impair the value of the land or interfere with other uses.
A permit is required. The oncoming tenant may be required to agree to compensate the lessee for any grazing improvements of a permanent nature that have been placed upon the leased lands.

U. S. Code, Title 43, Ch. 1, Bureau of Land Management, Department of Interior, Part 160, Grazing Leases, Sect. 160.17-18.

This brief summary of the use of tenant right indicates that the system is used more than is generally recognized. It appears to be most generally used when the landlord has many farms and has no plans to sell the land. Its chief merit is that it relieves the landlord of the responsibility of making improvements and at the same time gives the tenant much freedom to make any improvements that he desires. When Scully was asked why he did not make improvements on his farm lands he replied: "I could not attempt it. With so many farms I would be at the mercy of an army of mechanics. I prefer to rent the lands at a price which enables the tenant to make his own improvements."


C. Problems Created By Public Taking of Scully Estate Land

One example of the problems created when Scully land is sold or condemned is illustrated by the Marion Dam and Reservoir on the
Cottonwood River in Marion County, Kansas. This project was approved by Congress as a flood-control measure; and construction of the dam is now nearing completion by the U. S. Army Corps of Engineers.

For this dam and reservoir the government had to acquire fee-simple ownership of 12,500 acres, and flowage easements over several hundred additional acres. Of this land, 6,960 acres are owned by William Scully and 3,500 of these acres will be inundated. This land is leased to 30 tenants: 9 of these tenants have improvements that must be removed; 10 have improvements on portions of the leased land not being acquired; and 11 have no improvements, except possibly fencing, on the leased land being taken.

As is the usual procedure, the Corps of Engineers attempted to purchase the land, including the improvements, from the landowner—leaving it to the landowner to settle with his tenants. But the Scully Estate pointed out that it had no right to sell the tenants' improvements and would not accept the offer. Therefore, the Corps filed a condemnation suit in the U. S. District Court in Kansas on June 21, 1965.

Earlier, on March 2, 1965, Congressman Garner E. Shriver introduced in the 89th Congress, 1st Session, H.R. 5701 to authorize that the Secretary of the Army shall pay to each person having a leasehold interest in any Scully real property acquired by the
United States in connection with the Marion Dam and Reservoir project on the Cottonwood River in Kansas the following:

(1) the actual market value, if any, of such person's leasehold interest;

(2) the fair market value of all buildings and improvements which are owned by such person and which are located on such real property; and

(3) severance damages for the loss or impairment of such leasehold interest and such buildings and improvements (p. 1193).

The position of the Scully Estate is that they have attempted to discourage tenants from paying more than the buildings and improvements are actually worth. The Scully Estate lease makes it clear that nothing but the improvements belong to the tenant. Hence, the Scully Estate is under no legal obligation to share the proceeds from the sale of the land other than on the basis of the fair market value of the improvements, which is much less than the amount paid for them by most tenants. The fact that the Scully Estate has not seen fit to charge as high a rent as other landlords does not mean that when the lease is terminated they should be compelled to compensate the tenants for having bid these unclaimed rents up into the value of the improvements.

The Estate recognizes that the tenants expected their one-year leases to be renewed annually as they have been for many years, but there is nothing in the lease that converts this custom into law and gives tenants a right to claim compensation for disturbance. In any event, it is the Federal government, not the Estate, that is disturbing their occupancy of land.
The position of the Scully tenants is that in order to get a Scully lease they have to pay the going market price for the improvements plus Scully's "good will" represented by the low rental payments.

As their attorney, David W. Wheeler, a life-long resident of Marion, Kansas explained to the Congressional Committee on Public Works

Scully leases in our area have a recognized value. Real estate men sell Scully leases as if such leases were real estate. When a Scully tenant dies, his lease is appraised and State and Federal inheritance taxes are paid on the value of the lease as well as upon the value of the improvements thereto. They are inventoried in the estates and have frequently in our area been set off to the widows as homesteads.

Now, Scully leases have this market value because, first, a tenant knows that his lease will be renewed indefinitely without any interference from third persons trying to rent the land and cut underneath him. Scully would not stand for that.

A farmer for all practical purposes can have the benefit of ownership at a minimum cost.

And I might say to the committee that Mr. Klein up here, he farms and has leases on 800 acres of Scully land. That land at a conservative figure is worth $275 an acre. That amounts to $220,000. That would be at 5 percent. It would cost him $11,000 per year in the interest to own that land. He has to pay the taxes on it, which is $1,000 which would be a total of $12,000 a year it would cost him to own the land.

He leases that very land from Scully for $2,300 and pays the taxes for $1,000, which makes his annual cost on that land of $3,300. And that is one of the other reasons why Scully leases have a market value.

The Scully policy on rents has not generally followed the upward cycle of rentals, but over the years has been reasonable. And in fact below what other landlords charged.
People living in the area where Scully controls large amounts of land have purchased the leases, in many instances in order to have a home and a family close together in their farm operations. (p. 1196).

Lony W. Hart, Chief Real Estate Legislative Service Officer, Office of the chief of Engineers, Department of Army, in his testimony pointed out that the Federal courts have established the principle that just compensation is equal to the fair market value of the property actually taken. Hence, he concludes, "As presently drafted, this bill would appear to provide no different formula for payment than presently established with the possible exception as to improvements." But if the intent is to change the formula it "is considered objectionable in that (1) it lacks guidelines to determine the value, (2) could result in duplication of payments to both lessees and the fee owner for the same property, and (3) the Government would be paying more than the fair market value for the lands and interests acquired" (p. 1202).

It is obvious that the bill proposes to change the present formula because of the hardship involved. Hence, the bill probably should specify how "the actual market value" would be determined. This could be done by specifying that the same procedures be used as in normal condemnation cases. Appraisers could establish the sale value of recent leaseholds and use them to determine the actual market value of the leaseholds.
Hart presents the legal difficulty when he points out, "With respect to the leasehold estates, under existing rules, the Scully lessees would legally be entitled to the fair market value of the unexpired term of the lease. The term of these leases is fixed at 1 year without the right of renewal, and even though the probability exists that the leases may be renewed, the probability is merely speculation and cannot be considered in the valuation of the leasehold estate. . . . The Scully Estate as fee-owner cannot be deprived of any portion of its legal property rights; therefore, should payments to lessees be based on a lease term greater than 1 year, it would, in effect, be a duplication of payments to both tenants and landowner" (p. 1202). This is the law as it now stands.

This raises the question: is there any justice in changing the rules for this particular case? There can be little disagreement to the proposition that the Scully Estate should get the full market value of its land, less the tenant's improvements. Present procedures provide that this will be done. The fact that the Scully Estate has consistently charged less than the full economic rent is no reason why it should also be deprived of its fair or full market value when the land is acquired by the Federal Government. Generosity with regard to rents should not compel generosity with regard to the land on which these rents are based. The fee owner should get the fair market value of his property when it is condemned for public purposes. This is a well-established law.
Yet the fact remains that, to get a Scully lease the tenants have had to buy not only the buildings but also the right to receive the part of the economic rent not claimed by the Scully Estate. This stream of unclaimed rents accounts for the fact that bare or unimproved Scully land has a market value. It has a market value because in the judgment of the buyers and sellers the prospects are that the low Scully rents will continue indefinitely. Fee-owned land has value for the same reason: buyers expect that prices, costs and yields will continue to produce a net income or economic rent that justifies the purchase price. The buyer of either freehold nor leasehold expects the government to take, without compensation, what he has bought.

Unfortunately, however, the law was not written for cases of this kind. The Scully Estate type of leasing is almost unique in the United States, hence it can be argued that a private bill to grant these Scully tenants relief is in order, even though this would make the price of the Scully land higher than the land of other owners in the area.

In the meantime the U. S. District Court of Kansas had given the Land Commission the task of determining the compensation for the land. At the request of the Scully tenants involved, the Court had issued "special instructions" to the Commission on valuing the leasehold interests. Among other things the Court declared you are instructed that even though the lease by its provisions provides for a term of very limited duration, the landlord and the tenants are presumed to have made the lease contract with reference to any custom and usage which pertains
to the subject of the contract and in this connection, you may consider the methods and practices, if any, adopted and followed by the landlord and his predecessors in his dealings with his tenants during a long period of years. Any such matters, if established by the evidence and shown to have been taken into account by the parties in the execution of the leases, are proper matters to be considered now in ascertaining the intent of the parties when their relationship of landlord and tenant was entered into.


As a result, 27 of the 29 tenants have agreed to offers made by the government for their leases.

Marion County Record, March 24, 1966, p. 1

Apparently the Scully tenants are being compensated for the full market value of their leasehold interests and as a result the Scully Estate is to receive less than the full value of the land itself. A request of the Scully Estate for a substitute instruction was denied and a revised instruction was issued which strengthened the original instruction.


Unless this ruling can be overturned it appears that in any sale of the land the Scully tenants must be treated as if they had purchased from the Scully Estate a life estate in the land. Although
it is true that they have purchased a leasehold estate, they purchased it from previous tenants rather than from the Scully Estate. Any attempt by either the government or the Scully Estate to take their leasehold interest without compensation is certain to meet with strong opposition and popular condemnation as unfair or unjust.

D. Opinion About Freedom to Improve on Scully Estate Lands

How much freedom to improve do Scully tenants have as compared to other farmers in the same community? One object of the survey of Scully tenants and other farmers in Marion County, Kansas was to attempt to answer this question. Questions were asked of the 103 farmers interviewed and the results classified by the location into three groups: Owners, Renters and Scully Tenants as shown in the table headings. In addition, a separate random sample of farmers was drawn and pictures taken of the houses in which they lived so that a visual comparison could be made.

Almost all of the 103 farmers interviewed had frame houses. Painted frame houses were the general rule, with 89 percent of the Owners, 77 percent of the Renters, and 85 percent of the Scully Tenants falling in this class. The remainder were mostly unpainted frame, with less than 3 percent stucco or brick veneer.

As was mentioned earlier the houses of Scully tenants have fewer rooms than do those of Owners or Renters (Table 32). But because Scully Tenants also have smaller families, there was little
TABLE 32:—"How many rooms does this house have?" Replies of farmers by the location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Rooms</th>
<th>Improvements located on</th>
<th>Owned</th>
<th>Rented</th>
<th>Scully</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>land</td>
<td>land</td>
<td>land</td>
<td>replies</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>38</td>
<td>22</td>
<td>41</td>
<td>101</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

\[ Difference \text{ significant at } \chi^2_{.01}. \]

difference in the number of rooms per person for the two groups (Table 33).

There was no significant difference in the condition of the houses of the three tenure groups, although none of the Owners, 12 percent of the Scully Tenants, and 18 percent of the Renters said that the condition of their house was poor (Table 34).
TABLE 33. "How many children do you have?" Replies of farmers by the location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Children per family</th>
<th>Improvements located on</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Owned land 38</td>
<td>Rented land 24</td>
</tr>
<tr>
<td>(unmarried)</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>0 - 2</td>
<td>10</td>
<td>17</td>
</tr>
<tr>
<td>3 - 4</td>
<td>24</td>
<td>24</td>
</tr>
<tr>
<td>5 or more</td>
<td>40</td>
<td>55</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*Difference significant at $X^2$, .01.*

TABLE 34. "In general, would you say that the condition of the house on this place is good, fair, or poor?" Replies of farmers by the location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Replies</th>
<th>Improvements located on</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Owned land 38</td>
<td>Rented land 22</td>
</tr>
<tr>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Good</td>
<td>50</td>
<td>18</td>
</tr>
<tr>
<td>Fair</td>
<td>50</td>
<td>64</td>
</tr>
<tr>
<td>Poor</td>
<td>0</td>
<td>18</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*Difference not significant at .05 level.*
Because pictures are often better evidence than figures, pictures were taken of a special random sample of Scully and non-Scully houses in the area being studied. Twenty-four pictures are presented in Figure 11. Twelve of these are Scully Tenant houses. The tenant houses are indicated in the footnote below.

It should be emphasized that these houses were selected by an entirely different sampling procedure than was used for the other portion of the study. The owners of the houses pictured are not necessarily those who answered the questionnaires. The Scully improvements are those on the right.

Because the Scully Estate purchased some improved land between 1870 and 1886, some of the Scully Tenant houses may have been built by owner-operators. Some of the houses built by Scully Tenants may have been built at a time when the Scully Estate and its leasing system had not yet proved itself and gained the confidence of its tenants.

There may still be a reluctance on the part of some Scully Tenants to build like owner-operators. When the farmers interviewed were told "someone has suggested that Scully tenants consider it impractical to make as good improvements on a Scully lease as they would on land they own," about half agreed. However, only two-fifths of the Scully Tenants agreed (Table 35). Half of the Scully Tenants disagreed with the statement—saying in effect that they would build just as well as if they were owner-operators.

Perhaps the reluctance on the part of some Scully Tenants to make improvements explains why Scully Tenants appear to place more
Figure 11

Comparison of Randomly Selected Houses of Scully Tenants and Other Farmers in Marion County, Kansas
(Scully houses on right)

(Figure 11 includes pp. 229, 230, 231)
TABLE 35.—"Someone has suggested that Scully tenants consider it impractical to make as good improvements on a Scully lease as they would on land which they own. Would you agree or disagree with this idea?" Replies of farmers by the location of their improvements, Marion County, Kansas.

<table>
<thead>
<tr>
<th>Improvements located on</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Replies</td>
<td>38</td>
<td>24</td>
<td>40</td>
<td>102</td>
</tr>
<tr>
<td>Agree</td>
<td>53</td>
<td>50</td>
<td>40</td>
<td>48</td>
</tr>
<tr>
<td>Disagree</td>
<td>26</td>
<td>38</td>
<td>48</td>
<td>38</td>
</tr>
<tr>
<td>Don't Know</td>
<td>21</td>
<td>12</td>
<td>12</td>
<td>16</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*Diffe.re not significant at .05 level.

emphasis on trench silos than upon upright silos (Table 36). The Owners had significantly more upright silos and the Scully Tenants more trench silos, but the differences in the latter were not statistically significant. More Owners also had milking machines and field forage harvesters, but again the differences are not statistically significant.

No data were secured on the size and condition of the barns and other buildings of the farmers in the sample. General observation indicates that most of the barns were built for horses at the turn of the century or earlier. They are functionally obsolete and are not being
TABLE 36.—Do you have any silos, field forage harvesters or milking machines? Replies of farmers by the location of their improvements
Marion County, Kansas

<table>
<thead>
<tr>
<th>Facilities</th>
<th>Improvements located on</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Owned land</td>
</tr>
<tr>
<td>Upright silo</td>
<td></td>
</tr>
<tr>
<td>total replies</td>
<td>%</td>
</tr>
<tr>
<td>76**</td>
<td>41</td>
</tr>
<tr>
<td>Trench silo</td>
<td>34</td>
</tr>
<tr>
<td>Field forage harvester</td>
<td>29</td>
</tr>
<tr>
<td>Milking machine</td>
<td>26</td>
</tr>
</tbody>
</table>

**Significant difference at the .01 level.

replaced. In the meantime, some serve as shelter for small herds of cattle, feed storage and other purposes. Large well-kept, painted barns are rare in this cash-grain area of Kansas.

E. Soil Conservation Practices on Scully Estate Land

Land conservation and development is another kind of improvement of importance. How does the Scully land compare with other land in the same community in the rate of adoption of soil conservation measures? On the Scully land were found 70 percent of the grass waterways, 62 percent of the drainage projects, 55 percent of the terraces and 65 percent of the contouring and strip cropping. Owner-operators, however,
had about twice the number of reservoirs, tanks and ponds for stock-watering purposes (Table 37). These figures need to be adjusted for the percentage of total land farmed shown in the last line of the table but even when this was done the differences in favor of the Scully land were highly significant.

TABLE 37.—Percentage distribution of some conservation practices on owner-operated, non-Scully rented, and Scully leased land of 103 farmers interviewed, Marion County, Kansas

<table>
<thead>
<tr>
<th>Conservation practices</th>
<th>Total acres or number</th>
<th>Percent of practices found on</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Owner operated land</td>
<td>Non-Scully rented land</td>
</tr>
<tr>
<td>Grass waterways, acres</td>
<td>144</td>
<td>19</td>
</tr>
<tr>
<td>Drainage, acres</td>
<td>795</td>
<td>9</td>
</tr>
<tr>
<td>Terraces, acres</td>
<td>636</td>
<td>26</td>
</tr>
<tr>
<td>Contouring and strip, acres</td>
<td>788</td>
<td>26</td>
</tr>
<tr>
<td>Reservoirs, etc., no.</td>
<td>35</td>
<td>48</td>
</tr>
<tr>
<td>Total land farmed, acres</td>
<td>32,800</td>
<td>26</td>
</tr>
</tbody>
</table>

Note that this classification is based on ownership of land rather than farm units. The differences are significant at $X^2$ assuming that the distribution expected was the same as the distribution of the land (last line).

Perhaps the main reason for this striking difference in the adoption of soil conservation practices is due to the Scully Estate's
active interest in establishing good conservation practices largely at their own expense. They employ a full-time soil conservation specialist and own and operate a motor patrol grader for the construction of conservation works. The construction of grass waterways and drainage works exceeds the construction of terrace works because the Estate management insists that structures must be established to handle the runoff from the terraces if they are to be effective in controlling soil erosion over time.

About half of the reservoirs, stock ponds and earth tanks are located on owner-operated land. One possible reason for this is that the Agricultural Stabilization and Conservation Service (ASCS) pays owners a substantial subsidy (70 percent of cost in 1965 in Brookings County) for building approved stock-watering structures, but makes no such payments to tenants.

On the other hand, when the Scully Estate makes improvements such as terraces and grass waterways, it does so at its own expense. The tenants can claim the full subsidy payment provided by ASCS for the improved practice and are not required to share it with the Scully Estate.

In 1955, the lease form then in use by the Scully Estate called for the tenant to agree "to sow, or if already sown, to keep growing and maintain at least _____ acres of said land in alfalfa. . . . sow in clover or sweet clover, either in oats or alone, at least one eighth of said premises . . . for the purpose of changing or resting the land."
... The Landlord agrees that for every acre of the above required legume crop plowed under, the rent at the rate above specified shall be remitted. ..." A $5 penalty was specified for failure to grow and plow under the legumes (Lease Form 10-47, Appendix F).

In 1954, the Scully Estate in Marion County reduced rents for summer fallow. These reductions ranged up to $80 or more per tenant; the most common such payment was in the $30-50 range. Only four of 53 Scully Tenants interviewed had been penalized for failure to keep this or other provisions of the lease. Penalties ranged from $20 to $179.

The lease form presently being used in Marion County still includes the requirement that "The tenant agrees to sow, or if already sown, to keep growing and maintain at least _____ acres of said land in alfalfa or mixture of alfalfa and brome during the period of this lease." The requirement for sweet clover has been dropped as have all remittances of rent and penalties for non-compliance. In the present lease the tenant agrees "to cooperate in the establishment of soil conservation measures, remove and relocate fences, seed and mow waterways when requested by the Landlord or his agents; to maintain in proper working condition all soil conservation measures that have been or may hereafter be applied to said land, said maintenance shall be performed when necessary and shall comply to the judgment of said Landlord or his agents" (Form 1-60, Appendix E).

These changes reflect the conviction of the present management of the Estate that both the incentive payments and penalties create
more management problems than they solve. Remittances of rent are popular with those who receive them, but unless applied across the board they create dissatisfaction. Penalties are never popular and, if used as much as justified, create unified opposition. For example, despite the fact that the Scully Estate made substantial reductions in rent during the 1930's, the tenants secured the passage of an act by the Kansas Legislature which declared penalties like those in the Scully lease contrary to public policy and therefore unenforceable.


Some lawyers believe that this act is unconstitutional but it has never been tested. Now that the penalty provisions have been eliminated from the Scully lease used in Kansas such a test is not likely to occur.

F. Practicality of Tenant Ownership of Improvements

Lack of freedom to improve was considered a serious tenure problem by the farmers interviewed in Marion County, Kansas.

When these farmers were asked what they thought was the most important cause of landlord-tenant disagreement, 44 percent chose the statement "whether or not a good job of farming has been done;" 33 percent chose "upkeep and repair of buildings and fences." Owners and Scully Tenants were in close agreement, but Renters were split on upkeep and "fair division of the crops." This is shown in Table 38.
As shown in the last column, South Dakota tenants were in close agreement; however, 42 percent placed upkeep and repair first and 34 percent placed the quality of farming second.

TABLE 38. — "Which would you say is the most important cause of landlord-tenant disagreement?" Replies of farmers by the location of their improvements, Marion County, Kansas and South Dakota

<table>
<thead>
<tr>
<th>Causes</th>
<th>Improvements located on</th>
<th></th>
<th></th>
<th>Total replies</th>
<th>S. D. tenants</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Owned land 38</td>
<td>Rented land 24</td>
<td>Scully land 41</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Quality of farming</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Upkeep and repair of improvements</td>
<td>42</td>
<td>17</td>
<td>32</td>
<td>33</td>
<td>42</td>
</tr>
<tr>
<td>Fair division of crops</td>
<td>10</td>
<td>17</td>
<td>10</td>
<td>12</td>
<td>11</td>
</tr>
<tr>
<td>Soil erosion control</td>
<td>5</td>
<td>4</td>
<td>0</td>
<td>3</td>
<td>--</td>
</tr>
<tr>
<td>Sharing operating expenses</td>
<td>0</td>
<td>4</td>
<td>5</td>
<td>3</td>
<td>13</td>
</tr>
<tr>
<td>Other causes</td>
<td>3</td>
<td>4</td>
<td>10</td>
<td>6</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

aDifference not significant at .05 level.

Because of the importance of the problem of upkeep and repairs, it seemed desirable to determine attitudes of farmers in Marion County toward extending tenant ownership of improvements to land leased by other landlords. Therefore, the question in the title of Table 39 was asked. The replies were nearly evenly divided. However, 62 percent of the Renters apparently did not feel that purchase of the improvements would solve their problems. Of those favoring tenant purchase, 69 percent of the Owners, 50 percent of the Renters and 90 percent of the Scully Tenants thought the main advantage to the tenants would be

TABLE 39.—"Upkeep and repairs of farm improvements are one of the most important causes of landlord-tenant disagreement. Someone has suggested that selling the improvements to the tenant as is done on the Scully Estate is a practical solution to this problem. Would you agree or disagree with this idea?" Replies of farmers by the location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Replies</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>38</td>
<td>24</td>
<td>40</td>
<td>102</td>
</tr>
<tr>
<td>Agree</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td></td>
<td>37</td>
<td>21</td>
<td>45</td>
<td>36</td>
</tr>
<tr>
<td>Disagree</td>
<td>34</td>
<td>62</td>
<td>43</td>
<td>44</td>
</tr>
<tr>
<td>Don't know</td>
<td>29</td>
<td>17</td>
<td>12</td>
<td>20</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

a Difference not significant at .05 level.
Because of the importance of the problem of upkeep and repairs, it seemed desirable to determine attitudes of farmers in Marion County toward extending tenant ownership of improvements to land leased by other landlords. Therefore, the question in the title of Table 39 was asked.

The replies were nearly evenly divided. However, 62 percent of the Renters apparently did not feel that purchase of the improvements would solve their problems. Of those favoring tenant purchase, 69 percent of the Owners, 50 percent of the Renters and 90 percent of the Scully Tenants thought the main advantage to the tenants would be

### TABLE 39

"Upkeep and repairs of farm improvements are one of the most important causes of landlord-tenant disagreement. Someone has suggested that selling the improvements to the tenant as is done on the Scully Estate is a practical solution to this problem. Would you agree or disagree with this idea?" Replies of farmers by the location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Improvements located on</th>
<th>Replies</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>38</td>
<td>24</td>
<td>40</td>
<td>102</td>
</tr>
<tr>
<td>Agree</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Disagree</td>
<td>37</td>
<td>21</td>
<td>45</td>
<td>36</td>
<td></td>
</tr>
<tr>
<td>Don't know</td>
<td>34</td>
<td>62</td>
<td>43</td>
<td>44</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>29</td>
<td>17</td>
<td>12</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td></td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td></td>
</tr>
</tbody>
</table>

^ Difference not significant at .05 level.
their greater freedom to improve. Of those 41 farmers who opposed non-Scully Tenants purchasing improvements, 59 percent did so because they believed it better to own the land as well as the buildings.

As might be expected from the answers above, there was little interest in having the Scully Estate furnish the improvements. Of the farmers interviewed, 75 percent were opposed to the Scully Estate furnishing the improvements and increasing the rent sufficiently to cover their repairs, depreciation, and insurance costs, leaving them a net of 6 percent on their investment (Table 40). Note that 93

TABLE 40.—"Someone has suggested that the Scully Estate should furnish all of the improvements on their land and increase the cash rent enough to cover repairs, depreciation, and insurance and leave them a net of 6 percent on their investment. Would you favor or oppose this idea?" Replies of farmers by the location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Answers</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>37</td>
<td>24</td>
<td>41</td>
<td>102</td>
</tr>
<tr>
<td>Favor</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Oppose</td>
<td>8</td>
<td>21</td>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td>Don't know</td>
<td>70</td>
<td>54</td>
<td>93</td>
<td>75</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

aDifference significant at $X^2_{.05}$. 
percent of the Scully Tenants were opposed to this proposal. Of the 71 farmers opposed, 64 percent said that the rent would be too high. Of the Scully Tenants, 50 percent felt the same way. Another 11 percent of the Scully Tenants said that it was better to own (without saying why). Still another 11 percent said that freedom to improve would be lost (Table 41).

TABLE 41.—Why do you oppose the suggestion that "...the Scully Estates should furnish all of the improvements on their land and increase the cash rent enough to cover repairs, depreciation, and insurance and leave them a net of 6 percent on their investment?" Replies of farmers by the location of their improvements, Marion County, Kansas.

<table>
<thead>
<tr>
<th>Replies</th>
<th>Owned land 24</th>
<th>Rented land 11</th>
<th>Scully land 36</th>
<th>Total replies 71</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rent too high</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Lose security</td>
<td>4</td>
<td>9</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Lose freedom</td>
<td>4</td>
<td>0</td>
<td>11</td>
<td>7</td>
</tr>
<tr>
<td>Better to own</td>
<td>4</td>
<td>0</td>
<td>11</td>
<td>7</td>
</tr>
<tr>
<td>All other</td>
<td>17</td>
<td>0</td>
<td>25</td>
<td>18</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*Difference not significant at .05 level.*

It seems unlikely that many crop-share landlords could be induced to sell their improvements to their tenants even if the tenants
were willing, and able, to buy them. This is true because tenant purchase would: (1) make it more difficult to change tenants in the event of dissatisfaction, (2) make the farm much more difficult to sell, (3) make it difficult for the owner to personally assume operation of the farm, and (4) might reduce considerably the share-rent landlord's pride in ownership. No doubt other reasons also exist which have combined to keep other landlords in Marion County from following the example of the Scully Estate. Apparently tenant ownership of improvements is a practical solution to the problem of upkeep and repairs only when the farm owner is a professional landlord like the Scully Estate—that is, a landlord who is interested in the permanent leasing of land for a cash rent and has no reason to disturb the tenant if the rent is paid and the soil maintained.

G. Summary and Conclusions

An unusual feature of the Scully Estate's leasing system is the Irish system of tenant ownership of farm improvements. The Scully lease specifies that the tenant must make all the improvements and has the right to remove them when he leaves the farm. However, the usual practice is for the outgoing tenant to find a buyer for his improvements that is acceptable to the Scully Estate as a tenant. Generally this is not difficult to do, because there is usually a waiting list of prospective tenants.
This system of tenant ownership of improvements or "tenant right" has been used in northern Ireland and it is believed that William Scully, the founder, brought it to this country. It is also used in Scotland, Belgium, France, Australia and Canada.

Lands granted to the states of South Dakota and Nebraska are leased under a system that permits tenant ownership of improvements—much as on the Scully Estate. The Brown Land Company, the Beverley Land Company and the Hopewell company operating in northwestern Iowa and northeastern Nebraska also used this system for many years but is gradually being liquidated to permit easier sale and the use of share rents.

Tenant ownership of improvements creates severe problems when the land is sold or taken for public purposes. This problem is particularly difficult when low rents have been bid up into the value of the improvements as appears to be the case on the Scully Estate lands in Marion County, Kansas. In Marion County the U. S. Army Corps of Engineers has taken some Scully land for a dam and reservoir. The Federal District Court has ruled that the tenants are entitled to a share of the appraised value of the land in payment for their leases. This decision is now being contested by the Estate.

The Scully tenant houses were somewhat smaller than the houses of non-Sully farmers in the same community of Marion County, but this factor was largely offset by the fact that the Scully tenants also had smaller families. A comparison of randomly selected Scully
and non-Scully improvements shows little differences in general appearance. About half the farmers interviewed agreed that "Scully tenants consider it impractical to make as good improvements on a Scully lease as they would on land which they own." Scully Tenants had more trench silos and less upright silos than did Owners.

Scully Tenants had about two-thirds of all conservation practices in the community except reservoirs and stock dams. No doubt this is largely because of the fact that the Scully Estate promotes and pays most of the cost of these practices.

The problem of upkeep and repair of improvements ranked second only to "a good job of farming" in the opinion of the farmers interviewed in Marion County and also in South Dakota. Yet only a third of the farmers felt that the solution to the problem was for the landlord to sell the improvements to the tenant. Only 21 percent of the share renters thought this was a good idea; nevertheless three-fourths of the farmers interviewed were opposed to the idea of the Scully Estate furnishing the improvements at a rental yielding a net of 6 percent. A major objection was that the rent would be too high.

In general, it appears that the Scully tenant's fixity or security of tenure plus their ownership of improvements gives them much more freedom to improve than share-rent tenants. Tenant ownership of improvements and the system of selling improvements to the oncoming tenant provides a satisfactory way to compensate for the unexhausted
value of improvements. However, this system of tenant right appears to be practical only with large estates, or government lands leased under the English cash-leasing system.
CHAPTER IX

FREEDOM OF OPERATION OF SCULLY TENANTS

Theory suggests that share-rent tenants have less freedom of operation than cash tenants because the share-rent lease is almost always imperfect. For example, often costs are not shared as the product is shared, rents are discriminatory among crops and among resources furnished and insecure tenure and lack of compensation inhibits freedom of long-run management. Yet as was pointed out in Chapter II a lease may be perfect in these respects but still contain restrictive clauses which seriously limit the tenant's freedom of operation and improvement. These restrictions may appear in cash leases as well as share-rent leases. If carried to an extreme they reduce the tenant to the status of an employee.

How does the Scully Tenant's freedom of operation compare with that of other farmers, particularly share-rent farmers in the same community? The purpose of this chapter is to attempt to answer this question by an analysis of the available evidence. This will be done under the following headings:

(a) Share rents and tenant freedom,
(b) Scully cash rents and tenant freedom,
(c) Soil conservation on Scully Estate lands.
(d) Farmer opinion about freedom of farming of Scully tenants,
(e) Farming practices of Scully Tenants, Renters and Owners,
(f) Summary and conclusions.

A. Share Rents and Tenant Freedom

The owner-operator has a high degree of freedom of operation, but the tenant's freedom must be tempered sufficiently to protect the landlord's interests. Because the share landlord's rent depends upon crop production, it would not be surprising if he limited his tenant's freedom of cropping more than would a landlord who received a cash rent. One way to find out if this is true is to compare the restrictions placed on the tenant's cropping by share-rent leases and by Scully leases.

Such a comparison has limitations; less than one-third of the leases in the Midwest are written. Although oral leases can be simple, they are sometimes quite complex. For example, a landlord may say "you can have the farm for one-third share, and you can keep it as long as you do a good job and pay a fair rent." If the tenant agrees, a lease is made. Later the tenant may find that what the landlord meant by a "good job" was farming precisely as he directs; these directions may be as elaborate as if the tenant were a hired man. If the job is deemed unsatisfactory, the landlord "fires" the tenant and gets another.
Moreover, if any question arises about the rights of the two parties, the leasing customs of the neighborhood apply. As Beuscher says, "the law presumes that they intended to contract in the customary way since they did not say anything to the contrary." Because witnesses are apt to disagree, "it is the jury's guess that ultimately sets the terms of the lease" and when no established customs can be found, "the hoary rules of landlord-tenant real property law govern."


Written leases may tell the tenant that he is expected to do a good job in more explicit language, as do these three examples from commercially printed lease forms from central Kansas (emphasis added):

(1) to cultivate in a good, careful and workmanlike manner and at proper times, all the tillable land on said premises to the satisfaction of the party of the first part (the landlord).

(2) to sow and plant said land in such crops as the lessor shall direct.

(3) subject to the approval of the lessor, devise and carry into effect a comprehensive farm program ... and in the event the lessor or its agents shall notify the lessee the number of acres it desires planted to each crop, the kind of crop and the location of each crop on the leased premises, the lessee hereby agrees to so plant said crop ... to farm said premises in a good and husbandlike manner, to properly care for all crops, to plant, cultivate and harvest same in proper season, to place all of said leased premises in crop ... to rotate crops ... all to the complete satisfaction and under the direction and subject to the approval of the lessor or its agents.
Leases often avoid both neighborhood custom and "hoary laws of leasing" by substituting equally hoary provisions to avoid their application.

In contrast to the above open-ended leases, most crop-share lease forms prepared and distributed by Agricultural Experiment Stations and state extension services try to be specific about what is expected of the tenant. A good example of this approach is the "Crop-Share-Cash Farm Lease" (AD 561, March 1960) which was prepared by the U. S. Department of Agriculture and widely distributed by state extension services (Appendix C).

This USDA model lease provides space for specifying the use of land, acres of each crop, the location of each crop, the variety of seeds to be used, the kind and amount of fertilizer to be used, the kind and number of livestock to be kept, and the special health, sanitation or feeding practices to be used. Moreover, it provides for yearly adjustments of these practices and for specification of the amount of products that may be used for home consumption.

As compared to owner-operation, these conditions restrict the share tenant's freedom of cropping. Yet, it merely makes explicit many of the conditions that are often implicit in other share leases, such as those described above. Many share landlords and tenants might benefit from the use of this model. The many provisions are necessary if the tenant is to know explicitly what the share landlord means by a "good job" of farming. Nonetheless, there can be little doubt that
the share tenant’s freedom of management is restricted whether the good job is specified in detail or left for day-to-day agreement.

E. Scully Cash Rents and Tenant Freedom

Early Scully leases gave the tenant almost as much freedom to farm as owner operators. In 1863, Woolrod Keif and four other tenants in Logan County, Illinois were given five-year handwritten leases which only required them "to cultivate said land in a good and husband like manner[Signature] and do and suffer no waste to be done thereon during the term of this lease" (Appendix I). In 1868 Henry Zumwalt of Logan County was given a five-year lease (printed form) which did not contain even this restraint (Appendix J).

Thirty years later, in 1893, Henry W. Fisher was given a five-year lease to 480 acres in Marion County, Kansas which required him to "sow at least 100.00 acres of said land in small grain, such as wheat, oats, rye, flax, millet, [Signature] alfalfa, or sorghum; in each and every year during the continuance of this lease."

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This was the only limit placed on this tenant’s farming if, indeed, it can be considered a limit in a county where small grains are the most profitable crop. Perhaps the lease form used was the same as that used
in Illinois or Nebraska where small grain may have been required to prevent the growing of continuous corn.

In 1919, after the Marion County lands had been deeded to Frederick Scully, the Estate leased 160 acres of land for $550. This lease stated that "the said Tenant . . . agrees that she will sow at least 40 acres of said land to small grain such as wheat, oats, rye, flax, or millet, in each and every year during the continuance of this lease, and in case of her failure to sow said 40 acres in such small grain she shall and will forfeit and pay to said Landlord the sum of $1.00 per acre for the amount of acres for such failure" (Appendix H). The same lease continues "the said Tenant further agrees to sow, or if already sown, to keep growing and maintain at least 10 acres of said land in alfalfa during her tenure of this lease . . . and in case of her failure so to do, said Tenant agrees to pay to the Landlord the sum of $3.00 per acre . . . for her failure so to do."

The requirement that one-fourth of the land be seeded to small grain suggests again that this provision was written for Illinois or Nebraska conditions where farmers were inclined to grow corn continuously. In Marion County this provision could scarcely be said to limit the tenant's freedom of cropping. It is unthinkable that a farmer would want to plant less than a fourth of his land in small grain. Except for the alfalfa, all the land could be put to small grains—the crops best adapted to central Kansas.
Of the lease forms currently in use, the Nebraska form is the oldest (Form 21-G.M., Appendix G). Because all Scully lands were under the general management of the main office at Lincoln, Illinois until 1947 it seems likely that this lease, with adaptations for differences in soils, climate and the laws of the various states, was used in all three states but comparisons were not possible because "we do not have copies of leases used before 1947."


The Nebraska lease, like the earlier Kansas lease also states that "the said Tenant further agrees he will sow at least acres of said land in small grain such as wheat, oats, rye, flax, millet, or sorghum." and that if he fails to do so a penalty of $5.00 will be assessed. "Corn may not be grown on the same land more than two years in succession" (Sect. 16).

The Tenant also agrees to keep "at least acres of said land in alfalfa" or pay a penalty of $5 per acre (Sect. 15). Finally the Tenant agrees to seed or maintain "not less than acres of brome and alfalfa or brome and sweet clover or brome and red clover on crop rotation land." To encourage this production the landlord agrees to reduce the rent by $5 per acre for the first year and to abate it for the next two years. Failure to grow the amount specified results in a $15 penalty per acre (Sect. 17).
These limits suggest that a four-field rotation of corn, corn, small grain and legumes is considered desirable. Thus the maximum intensity of corn production would be about 50 percent. However, if the required legume acreage was small enough, crops could be produced in a minor rotation of say corn, small grain, hay, hay, hay, and the major rotation could then consist of corn, corn, small grain. If the minor rotation fields were 20 acres each, and the major 80 acres each, then of 340 acres farmed, 200 acres of nearly 60 percent would be in corn, 80 acres or 22 percent in small grain, and 60 acres or 18 percent in legumes. Thus, again, the limitation on the tenant's freedom of cropping depends largely upon the percentage of the land required as a minimum in small grain and legumes. For a heavy livestock farmer, of course, heavy legume requirements would not be restrictive. Indeed, the Scully Estate has been the salvation of some tenants with heavy livestock programs, because many share landlords prefer cash grain rather than forage crops.

In 1947, while John C. Scully was still acting as trustee for William Scully, the Kansas lease was revised and its cropping provisions called for small grain, alfalfa and sweet clover:

And the said Tenant further agrees that he will sow at least acres of said land in small grain, such as wheat, oats, rye, flax, or millet, in each and every year during the continuance of this lease.

And the said Tenant agrees to sow, or if already sown, to keep growing and maintain at least acres of said land in alfalfa during his tenure of this lease and any extension or renewal thereof; and no rent shall be remitted
for alfalfa plowed under. No permanent pasture or meadow shall be broken up, without the written consent of the Landlord or his agents.

The said Tenant will sow in clover or sweet clover, either in oats or alone, at least one eighth of said premises... for the purpose of changing and resting the land. The legume crop, herein required to be sown, shall not be plowed under sooner than eighteen months from the time the same was sown. The Landlord agrees that for every acre of the above required legume crop plowed under, the rent at the rate above specified shall be remitted, and the Tenant may pasture or graze said legume crop, or cut same for use on said land only. But none of the legume crop, except the seed, shall be sold or removed from the land. The Tenant agrees to pay an additional rent of $5.00 per acre for each acre of the required amount of legumes not grown and turned under as herein provided. Corn shall not be planted on any land where corn was grown during the two years next preceding (Form 10-47, Appendix F).

The requirement that one-eighth of the land be seeded to sweet clover was a slight limitation on the tenant's freedom to use the land, but inasmuch as no rent was charged, the main effect was that it reduced the acres available for other more profitable crops. The survey made in 1955, while this form was still in use, showed that Scully Tenants were not growing as much alfalfa (Table 42) but were growing significantly more sweet clover than were other farmers in the community (Table 43).

The current Kansas lease adopted in 1960 is greatly simplified (Form 1-60, Appendix E). Its only limitation on the tenant's freedom of cropping declares: "The tenant agrees to sow, or if already sown, to keep growing or maintain at least__ acres of said land in alfalfa or a mixture of alfalfa and brome during the period of this
TABLE 42.— "How many acres of alfalfa or alfalfa mixtures do you have on this place this year?" Replies of the farmers by location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Acres</th>
<th>Improvements located on</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Owned land</td>
</tr>
<tr>
<td>4 or less</td>
<td>%</td>
</tr>
<tr>
<td>5 - 14</td>
<td>16</td>
</tr>
<tr>
<td>15 - 24</td>
<td>37</td>
</tr>
<tr>
<td>25 - 34</td>
<td>16</td>
</tr>
<tr>
<td>35 or more</td>
<td>13</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
</tr>
</tbody>
</table>

aDifference not significant at .05 level.

lease." If the amount of alfalfa required was high and enforced, this could be a serious limitation on the tenant's freedom of cropping but this seems highly unlikely. In 1955 Scully tenants were not growing more alfalfa than other farmers in the community.

The Illinois lease in use from 1959 to 1965 (Form 28-1959) provided for a four-field rotation of corn, corn, small grain, and clover in which "the Tenant agrees to sow one-fourth of the premises . . . in small grain such as oats, wheat, or rye, during this lease, and sow in such small grain red clover at the rate of not less than seven and a one-half pounds per acre or sweet clover at the rate of not less than
TABLE 43.—"How many acres of sweet clover to you have on this place this year?" Replies of farmers by location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Acres</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>38</td>
<td>24</td>
<td>39</td>
<td>101</td>
</tr>
<tr>
<td>4 or less</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>5 - 14</td>
<td>45</td>
<td>83</td>
<td>21</td>
<td>44</td>
</tr>
<tr>
<td>15 - 24</td>
<td>16</td>
<td>9</td>
<td>62</td>
<td>32</td>
</tr>
<tr>
<td>25 - 34</td>
<td>5</td>
<td>4</td>
<td>13</td>
<td>8</td>
</tr>
<tr>
<td>35 or more</td>
<td>8</td>
<td>0</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

\*Difference significant at \( x^2\).01.

twelve pounds per acre or an approved grass-legume mixture at corresponding seeding rates." Legumes may not be plowed under until 18 months later but for every acre plowed under "the rent at the rate of \$_ per acre shall be remitted." If the tenant fails to seed the require of acres of legumes, he agrees to pay \$30 per acre for the acres deficient. Corn is not to be planted more than twice in
succession on the same field, thus limiting corn to 50 percent of the acreage.


This provision is similar to the older Nebraska lease and is probably only slightly different from earlier Illinois leases adopted by Thomas and Frederick Scully shortly after they acquired the land in 1918. The Illinois lease (Form 28-1959) differs in that although no alfalfa is required

the Tenant agrees to apply agricultural limestone, or rock phosphate or muriate of potash according to test by a state approved soil testing laboratory but not in amounts less than 3,000 lbs. of agricultural limestone, 750 lbs. of rock phosphate, and 125 lbs. of muriate of potash. Upon presentation of satisfactory evidence of application according to test the Landlord agrees to allow a credit upon the rent at the rate of $ per ton of limestone, $ per ton of rock phosphate and $ per ton of muriate of potash up to an amount not exceeding $ per acre for the acreage herein leased.

In 1965 Illinois tenants were given three other options under the new Basic Farm Lease (Form 29-1965) and supplements A, B, C and D (Appendix D).

"Supplement A" is identical in language to that quoted from Form 28-1959 above. Only 2 percent of the Scully tenants were using this form and these were given no choice because of the nature of their soils. The rent was $18.75 an acre.
"Supplement B" states that "the tenant agrees to follow a basic rotation of Corn, Corn, Corn and Oats with an approved catch crop seeded with oats." Thus 75 percent of the land may be planted to corn. Commercial fertilizers are to be applied as needed with minimums to be specified. Twenty percent of the tenants elected to use this rotation and paid a cash rent of $25 an acre.

"Supplement C" provides that one-half the land shall be handled as under A and the other half as under B. These two rotations permit 62 percent of the land to be seeded to corn. This was the most popular plan—72 percent of the tenants were using it and paying a rent of $21.87 an acre (average of $18.75 and $25.00).

"Supplement D" provides for a five-field rotation of corn, corn, corn, oats and clover and was required of 6 percent of the tenants who paid a rent of $20 an acre.

The information concerning Illinois lease Form 29-1965 was secured by letter from J. M. Stewart, Agent, Scully Estates Office, Lincoln, Illinois, July 28, 1966.

The fact that 92 percent of the Illinois tenants shifted from a rotation limiting them to 50 percent of corn to rotations permitting 62 to 75 percent corn suggests that the farmer did limit their freedom to farm as they wished.

Thus, the addition of rotations B, C, and D to the new lease has given the tenants considerably more freedom of cropping than they have previously enjoyed, although the opportunity to make short-run changes
is still limited. An unknown factor here is the degree of enforcement of these provisions before and after the change. If enforcement was lax before the change and is now quite strict, their tenants' feeling of freedom may have been diminished despite the apparent increase.

The primary concern here is whether the Scully leases provide more or less freedom of operation or cropping than share-rent leases. In this respect it needs to be noted that none of the Scully leases contain requirements that the crops be produced "to the satisfaction" of the landlord or as the landlord "shall direct." Nor do any of the Scully leases go as far as the USDA Model "Crop-Share-Cash Farm Lease" in specifying kinds and varieties of crops, acres and fields to be planted, kind and amount of fertilizers to be used, kind and maximum number of livestock to be kept, and how they are to be fed. Of course this is to be expected because the choice of crops has little or no effect on the Scully Estate's rents, whereas the choice of crops may drastically affect the rents of a share landlord.

Cash tenants may be given more freedom of cropping when it is more generally recognized that although legumes usually increase grain yields per acre the total grain and net returns per farm usually decrease.

For example see R. L. Berry, Most Profitable Rotations for the Cornbelt of Southeastern South Dakota, S. D. Agr. Exp. Sta. Circ. 129, 1956, (Crop rotations experiments in Iowa, Illinois, and Ohio are evaluated).
C. Soil Conservation and Tenant Freedom

When yields fall because nitrogen, phosphorus or potassium has been depleted, these elements can be added and yields increased. But when yields fall because the top layer of the soil has eroded away, there is usually no economic way that the level of productivity can be restored. Preventing a permanent fall in soil productivity (or soil conservation) is therefore a matter of concern to anyone with long-run interests in the land.

Because the interests of landlords as fee-simple owners are usually longer than those of short-run tenants, most leases contain provisions intended to prevent a permanent decline in soil productivity. This has been a consuming interest of the Scully Estate owners and their agents as is reflected in their lease forms.

The unusual feature of the Scully lease forms is the system of credits and penalties used to achieve compliance. The Nebraska lease form illustrates this point:

The Tenant further agrees to seed brome and legumes, or native grasses, in all waterways and gullies as directed by the Landlord or his Agents, and to help and cooperate in the establishment of grass aprons, waterways and prevention of erosion. Any such area shall not be included as crop rotation land. For such waterways and gullies established in grass, the landlord agrees to allow credit of $per acre for one year only. Damages of $per acre will be charged against the tenant for plowing up or disrupting any waterways or gullies that have been established in grass, without the written consent of the Landlord or his Agents.
The Tenant further agrees to maintain in proper working condition all soil conservation measures that have been or may hereafter be, applied on said land. Said maintenance shall be performed when necessary and will comply with the judgment of the Landlord or his agents. The Tenant agrees that if said maintenance is not performed properly in the judgment of said Landlord or his agents, the Landlord shall have the right to perform said maintenance, and the Tenant shall pay an additional rent of Dollars per hour for time required to perform said maintenance (Form 21-G, M., Appendix G).

In Illinois the new lease states

That the Tenant agrees, at the direction of the Landlord or his Agent, to assist in leveling all draws and waterways subject to erosion and to seed the same to permanent grass and to assist and cooperate in the construction and maintenance of erosion prevention dams, terraces and other devices. The Tenant further agrees to comply with all soil conservation practices which are approved by the Landlord and his Agent.

That the Landlord agrees to abate any rent on any acreage taken out of cultivation through the construction and maintenance of any grass waterways and also to pay for all hauling and material used in the construction of such work as is directed by the Landlord or his Agent. The Tenant agrees to pay $200.00 per acre for each acre of grass waterways, etc., plowed up or disrupted without the consent of the Landlord or his Agent (Form 29-1965, Appendix D).

The present Kansas lease merely states that the tenant agrees

To cooperate in the establishment of soil conservation measures, remove and relocate fences, seed and mow waterways when requested by the Landlord or his agents; to maintain in proper working condition all soil conservation measures that have been or may hereafter be applied on said land, said maintenance shall be performed when necessary and will comply to the judgment of said Landlord or his agents (Form 1-60, Appendix E).

Both awards and penalties have been eliminated. In 1954, when the old lease (Form 10-47, Appendix F) was still being used, a random sample
of 53 tenant records revealed that four tenants in the sample were charged penalties of $20, $20, $70 and $179. A reduction in rent for conservation maintenance was made for three tenants. These reductions were $20, $30 and $64. For 51 tenants a reduction in rent was made for summer fallowing of land that had been in legumes.

The Scully conservation provisions compare favorably with the USDA Model "Crop-Share-Cash Farm Lease," (AD 561, March 1960, Appendix C). This model requires the tenant to "control erosion as completely as practicable by strip cropping and contouring and by filling in, or otherwise controlling, small washes or ditches that may form." Furthermore, "the tenant will keep in good repair all terraces, open ditches, inlets and outlets of tile drains, preserve all established watercourses or ditches including grass waterways when seed and fertilizer are furnished by the landlord and refrain from any operation or practice that will injure them." The USDA Model then provides a table in which the contributions of the two parties to planned conservation can be indicated along with compensation, if any, for the Tenant's contribution when he leaves the farm.

Although the model lists neither awards nor penalties, a share-crop tenant who protects the landlord's property is apt to be rewarded by renewal of his lease, and conversely he who fails by a refusal to renew. Because of the cash rent, the long tenure of its tenants, tenant ownership of improvements and the size of the Estate, the refusal to renew for failure to conserve and maintain the landlord's property
may have been more severe than public opinion would allow. Hence the
irksome but less drastic penalties may have been the only effective
way of enforcement.

Now that the Scully emphasis on soil conservation and noxious
weed control has become popular, it may be that the Estate can use moral
persuasion, or even rigorous penalties, to accomplish their ends. In
any event, neither the Scully requirements nor the penalties are an
infringement upon the tenant's freedom of cropping. Rather they are
a bar to waste and irresponsibility.

The same may be said for the other penalties found in Scully
leases at least since 1893.

An 1893 Scully lease contained penalties as follows: failure
to keep open ditches $.75 per rod; failure to cut hedges $.25 per
rod; failure to control burrs and weeds $2.00 per acre. The lease is
reproduced by Socolofsky, pp. 365-68. The penalties are found on
p. 367.

In Illinois the new lease (Form 29-1965) provides that if the tenant
fails
to keep open the ditches or keep the berms so sown or set in
grass, timothy or brome, trim the hedgerows, and pull out and
destroy the willows, burrs, thistles and other weeds, re-
spectively, as aforesaid, the Tenant agrees to pay Landlord
five dollars per rod for the ditches, two dollars per rod
for berms, twenty-five cents per rod for the hedges, ten
dollars per acre for land in burrs, weeds and willows, and
five dollars per acre for stubble land not mowed.
In Marion County the present Scully lease (Form 1-60) has dropped all credits and penalties, as mentioned above, and the Tenant agrees only

(a) To cultivate and manage said land in a good and husband-like manner, and not to permit litter or trash to accumulate on or about the premises;

(b) . . . [conservation provision quoted above];

(c) Not to commit any waste;

(d) To keep all weeds from maturing;

(e) Not to plow or break out pasture or meadow without written consent of Landlord.

This list is much shorter than the list appearing in the USDA Model and most leases distributed by state extension services.

D. Farmer's Opinion About Freedom of Farming of Scully Tenants

The comparison of Scully Estate leases with those of the USDA Model "Crop-Share-Cash Farm Lease" (AD 561, March 1960) above, suggests that although the Scully Estate tenants agreed to plant certain minimums of small grains and legumes, these might not be as limiting to their freedom of cropping as some share-rent leases which call for an indeterminate "good job" or good husbandry "as the landlord shall direct," or even the USDA Model in which the kinds of crops, crop acres, crop location, crop varieties and crop treatment are to be specified. Obviously such a comparison has severe limitations. At best it tends to be a speculative comparison of empty forms.
To overcome these difficulties, random samples of Scully Tenants and other farmers in Marion County, Kansas were interviewed. In these interviews two kinds of questions were asked: (1) questions of opinion about the Scully tenant's freedom of farming, and (2) questions of fact about their farming.

Because the Scully Estate uses a fixed-cash rent that by its very nature calls for fewer restrictions on the tenant's farming, it would have been surprising to find that farmers believed that Scully tenants had less freedom to farm than did crop-share tenants. But no such surprise materialized. What was surprising was the near-unanimity with which the Scully farmers agreed with the theory.

The farmers were asked: "Would you say that Scully tenants, as compared to crop-share tenants, have more freedom or less freedom to farm as they think best?" Ninety-six percent of the Scully Tenants said "More," and 71 percent of the Owners and 62 percent of the Renters agreed (Table 44). Not shown in the table, but of interest, is the fact that 100 percent of the 24 full-Scully tenants said that Scully tenants had more freedom to farm; 82 percent of the 22 part owners agreed, as did 59 percent of the 17 full renters.

Those farmers who said Scully tenants had more freedom were immediately asked: "How sure do you feel about this?" Their replies are shown in Table 45. Of the Scully tenants, 70 percent said they were very sure and 27 percent were fairly sure. Only 3 percent admitted that they were not sure that the Scully tenants had more freedom than
TABLE 44.—"Would you say that Scully tenants as compared to crop-share tenants have more freedom or less freedom to farm as they think best?"
Replies of farmers by the location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Improvements located on</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Replies</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>More</td>
<td>71</td>
<td>62</td>
<td>96</td>
<td>78</td>
</tr>
<tr>
<td>Less</td>
<td>23</td>
<td>17</td>
<td>0</td>
<td>13</td>
</tr>
<tr>
<td>Same</td>
<td>3</td>
<td>13</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Don't know</td>
<td>3</td>
<td>8</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*Difference significant at $X^2_{0.01}$*

share tenants. Fifty-nine percent of the owners and 57 percent of the tenants were "very sure" that the Scully tenants had more freedom of farming than did share tenants.

Next the farmers were asked: "Would you say that this greater freedom in farming is mainly the result of the cash rental, the size of the estate, or some other thing?" More than 80 percent of the farmers said that the "cash rental" was the cause. Three fourths of the Scully tenants and owners and all of the renters agreed that this was the case (Table 46). The size of the estate came in a poor second.
TABLE 45.—“How sure do you feel that Scully tenants have more freedom of farming than crop share tenants?” Replies of farmers by location of their improvements, Marion County, Kansas.

<table>
<thead>
<tr>
<th>Replies</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Very sure</td>
<td>59</td>
<td>57</td>
<td>70</td>
<td>64</td>
</tr>
<tr>
<td>Fairly sure</td>
<td>37</td>
<td>43</td>
<td>27</td>
<td>33</td>
</tr>
<tr>
<td>Not sure</td>
<td>4</td>
<td>0</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

^Difference not significant at .05 level.

E. Farming Practices of Scully Tenants, Renters and Owners

From at least the time of Adam Smith it has been recognized that a share-rent tenant cannot afford to farm as intensely as an owner-operator or cash tenant simply because he gets only a share of the marginal product. This share will not pay for as much additional fertilizer, cultivations, and so on as does all of the additional product. That this theory is logically correct cannot be disputed. Although several studies have been made, no one has produced conclusive evidence to show that crop-share tenants do in fact farm less intensely than do owner-operators and cash tenants. In the most recent study the findings agreed with those of previous studies. There are
TABLE 46—"Would you say that this greater freedom in farming is mainly the result of the cash rental, the size of the estate, or some other thing?" Replies of farmers by the location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Improvements located on</th>
<th>Owned</th>
<th>Rented</th>
<th>Scully</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>land</td>
<td>land</td>
<td>land</td>
<td>replies</td>
</tr>
<tr>
<td>Replies</td>
<td>27</td>
<td>14</td>
<td>37</td>
<td>78</td>
</tr>
<tr>
<td>Cash rental</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Size of estate</td>
<td>75</td>
<td>100</td>
<td>78</td>
<td>81</td>
</tr>
<tr>
<td>Both of above</td>
<td>11</td>
<td>0</td>
<td>16</td>
<td>12</td>
</tr>
<tr>
<td>Scully system</td>
<td>7</td>
<td>0</td>
<td>3</td>
<td>4</td>
</tr>
<tr>
<td>Lease provisions</td>
<td>0</td>
<td>0</td>
<td>3</td>
<td>1</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

aDifference not significant at .05 level.

few differences between the general tenure forms as to efficiency of resource use."


There are at least three reasons why the theory may not be reflected in practice. The first is that many farm practices have become "customary" and so generally accepted by the farmers of a community that they do not consider other practices. Second, when the input is less lumpy and less "standard," as in the case of fertilizers
and weed and insect sprays, the costs already are often shared as the product is shared—thus effectively solving the problem.

A third reason may be that share-rent landlords are able to force share-rent tenants to farm like owner-operators for fear that their one-year lease will not be renewed or the year-to-year lease will be terminated. In short, the share tenant may simply lack the freedom to farm as prices and costs direct.

Because an object of this study was to determine whether there were any significant differences in the farming practices of the Owners, Renters and Scully Tenants that might be attributable to the lease, an effort was made to eliminate the size of farm as an uncontrolled variable. That this effort was successful can be seen in Table 47. There were no significant differences in the acres of cropland of the three groups.

Further analysis revealed that with one exception there were no statistically significant differences in the acres of crops grown, the kind and amount of livestock kept, and other farming practices of the three groups: Owners, Renters and Scully Tenants. This can be seen in Tables 47-56. The one exception was that the Scully Tenants were growing more sweet clover than either the Owners or the Renters (Table 43). This difference was probably caused by the lease then in use: "The said Tenant will sow in clover or sweet clover, either in oats or alone at least one eighth of premises . . . for the purpose of changing or
TABLE 47. — "How much cropland do you have on this place this year?" Replies of farmers by the location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Acres</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>94 or less</td>
<td>5</td>
<td>4</td>
<td>0</td>
<td>3</td>
</tr>
<tr>
<td>95 - 134</td>
<td>10</td>
<td>21</td>
<td>17</td>
<td>16</td>
</tr>
<tr>
<td>135 - 174</td>
<td>10</td>
<td>17</td>
<td>27</td>
<td>18</td>
</tr>
<tr>
<td>175 - 254</td>
<td>42</td>
<td>33</td>
<td>34</td>
<td>37</td>
</tr>
<tr>
<td>255 - 334</td>
<td>11</td>
<td>17</td>
<td>20</td>
<td>15</td>
</tr>
<tr>
<td>335 - 414</td>
<td>11</td>
<td>8</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>415 or more</td>
<td>11</td>
<td>0</td>
<td>0</td>
<td>4</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*Difference not significant at .05 level.

TABLE 48. — "How many acres of wheat do you have on this place this year?" Replies of farmers by the location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Acres</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 or less</td>
<td>3</td>
<td>0</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>15 - 34</td>
<td>10</td>
<td>13</td>
<td>17</td>
<td>14</td>
</tr>
<tr>
<td>35 - 54</td>
<td>16</td>
<td>21</td>
<td>34</td>
<td>24</td>
</tr>
<tr>
<td>55 - 74</td>
<td>29</td>
<td>29</td>
<td>24</td>
<td>27</td>
</tr>
<tr>
<td>75 - 94</td>
<td>18</td>
<td>12</td>
<td>15</td>
<td>16</td>
</tr>
<tr>
<td>95 or more</td>
<td>24</td>
<td>25</td>
<td>10</td>
<td>18</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*Difference not significant at .05 level.
TABLE 49—"How many acres of corn do you have on this place this year?" Replies of farmers by the location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Acres</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>4 or less</td>
<td>21</td>
<td>25</td>
<td>12</td>
<td>18</td>
</tr>
<tr>
<td>5 - 14</td>
<td>5</td>
<td>13</td>
<td>7</td>
<td>8</td>
</tr>
<tr>
<td>15 - 24</td>
<td>26</td>
<td>33</td>
<td>36</td>
<td>32</td>
</tr>
<tr>
<td>25 - 34</td>
<td>16</td>
<td>4</td>
<td>20</td>
<td>14</td>
</tr>
<tr>
<td>35 - 44</td>
<td>19</td>
<td>8</td>
<td>10</td>
<td>13</td>
</tr>
<tr>
<td>45 - 54</td>
<td>8</td>
<td>4</td>
<td>10</td>
<td>8</td>
</tr>
<tr>
<td>55 or more</td>
<td>5</td>
<td>13</td>
<td>5</td>
<td>7</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*aDifference not significant at .05 level.

TABLE 50—"How much permanent pasture is there on this place?" Replies of farmers by the location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Acres</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>4 or less</td>
<td>3</td>
<td>4</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>5 - 44</td>
<td>34</td>
<td>24</td>
<td>37</td>
<td>32</td>
</tr>
<tr>
<td>45 - 84</td>
<td>18</td>
<td>50</td>
<td>29</td>
<td>30</td>
</tr>
<tr>
<td>85 - 124</td>
<td>21</td>
<td>8</td>
<td>20</td>
<td>17</td>
</tr>
<tr>
<td>125 - 164</td>
<td>8</td>
<td>0</td>
<td>5</td>
<td>5</td>
</tr>
<tr>
<td>165 or more</td>
<td>16</td>
<td>17</td>
<td>7</td>
<td>13</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*aDifference not significant at .05 level.
TABLE 51.—How many pounds of fertilizer per acre were used on wheat this year? Replies of farmers by the location of their improvements, Marion County, Kansas\(^a\)

<table>
<thead>
<tr>
<th>Pounds per acre</th>
<th>Owned land 38</th>
<th>Rented land 24</th>
<th>Scully land 41</th>
<th>Total replies 103</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>49 or less</td>
<td>13</td>
<td>17</td>
<td>32</td>
<td>21</td>
</tr>
<tr>
<td>50 - 69</td>
<td>18</td>
<td>12</td>
<td>12</td>
<td>15</td>
</tr>
<tr>
<td>70 - 89</td>
<td>40</td>
<td>46</td>
<td>30</td>
<td>37</td>
</tr>
<tr>
<td>90 - 109</td>
<td>24</td>
<td>21</td>
<td>17</td>
<td>20</td>
</tr>
<tr>
<td>110 or more</td>
<td>5</td>
<td>0</td>
<td>7</td>
<td>5</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

\(^a\)Difference not significant at .05 level.

TABLE 52.—“How many milk cows and milk heifers do you have on this place?” Replies of farmers by the location of their improvements, Marion County, Kansas\(^a\)

<table>
<thead>
<tr>
<th>Number</th>
<th>Owned land 38</th>
<th>Rented land 24</th>
<th>Scully land 41</th>
<th>Total replies 103</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>1 - 4</td>
<td>13</td>
<td>8</td>
<td>17</td>
<td>13</td>
</tr>
<tr>
<td>5 - 9</td>
<td>32</td>
<td>63</td>
<td>39</td>
<td>42</td>
</tr>
<tr>
<td>10 - 14</td>
<td>29</td>
<td>4</td>
<td>22</td>
<td>20</td>
</tr>
<tr>
<td>15 - 19</td>
<td>5</td>
<td>8</td>
<td>12</td>
<td>9</td>
</tr>
<tr>
<td>20 or more</td>
<td>16</td>
<td>13</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

\(^a\)Difference not significant at .05 level.
TABLE 53.—“How many beef cows do you have on this place?” Replies of farmers by the location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Number</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>39</td>
<td>29</td>
<td>12</td>
<td>26</td>
</tr>
<tr>
<td>1 - 9</td>
<td>22</td>
<td>8</td>
<td>19</td>
<td>18</td>
</tr>
<tr>
<td>10 - 19</td>
<td>18</td>
<td>38</td>
<td>32</td>
<td>27</td>
</tr>
<tr>
<td>20 or more</td>
<td>21</td>
<td>25</td>
<td>37</td>
<td>29</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*aDifference not significant at .05 level.

TABLE 54.—“How many sows or gilts which have farrowed do you have on this place today?” Replies of farmers by location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Number</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>81</td>
<td>79</td>
<td>71</td>
<td>77</td>
</tr>
<tr>
<td>One</td>
<td>3</td>
<td>0</td>
<td>12</td>
<td>6</td>
</tr>
<tr>
<td>Two or more</td>
<td>16</td>
<td>21</td>
<td>17</td>
<td>17</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*aDifference not significant at .05 level.
TABLE 55.—"How many chickens do you have on this place today?" Replies of farmers by location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Improvements located on</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number</td>
<td>38</td>
<td>24</td>
<td>41</td>
<td>103</td>
</tr>
<tr>
<td>None</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Under 99</td>
<td>3</td>
<td>13</td>
<td>12</td>
<td>9</td>
</tr>
<tr>
<td>100 - 199</td>
<td>16</td>
<td>13</td>
<td>20</td>
<td>17</td>
</tr>
<tr>
<td>200 - 299</td>
<td>18</td>
<td>37</td>
<td>24</td>
<td>25</td>
</tr>
<tr>
<td>300 - 399</td>
<td>26</td>
<td>16</td>
<td>15</td>
<td>19</td>
</tr>
<tr>
<td>400 or more</td>
<td>26</td>
<td>13</td>
<td>17</td>
<td>19</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

^Difference not significant at .05 level.

TABLE 56.—"Do you sell whole milk or cream?" Replies of farmers by location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Improvements located on</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Replies</td>
<td>38</td>
<td>24</td>
<td>41</td>
<td>103</td>
</tr>
<tr>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>None</td>
<td>29</td>
<td>42</td>
<td>37</td>
<td>35</td>
</tr>
<tr>
<td>Milk</td>
<td>24</td>
<td>4</td>
<td>2</td>
<td>11</td>
</tr>
<tr>
<td>Cream</td>
<td>47</td>
<td>54</td>
<td>61</td>
<td>54</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

^Difference not significant at .05 level.
resting the land” (Form 10-47). As noted above, this requirement has been removed from the present lease.

The lease then in use (Form 10-47) also required the tenant to grow a specified acreage of small grains, corn and alfalfa, but there were no significant differences in the acres of these crops grown by the three tenure groups. This can be seen in Tables 42, 48 and 49. Apparently there was no need for these lease provisions, and as previously noted they have since been eliminated.

Because Owners, Renters and Scully Tenants are not pure tenure types as is shown in Table 3, another classification was made in which 17 full non-Scully renters were compared with 24 full Scully tenants. Again there were no significant differences in acres of crop-land (Table 57) nor in farming practices (Table 58) except sweet clover, all legumes and rotation pasture. Because the numbers were small and the tables repetitious, only the most significant line from each table is shown in Table 58.

F. Summary and Conclusions

Logic and theory suggest that share-rent landlords often restrict their tenants' farming because the way the tenants farm affects the rent. When a cash rent is paid, as is true under the Scully Estate leases, the landlord's rent is not appreciably affected by the way the tenant farms. Thus it seems likely that Scully Estate Tenants would have more freedom of farming than would share-rent tenants.
TABLE 57.—Comparison of total cropland of 17 full renters and 24 full Scully tenants of the 103 farmers interviewed, Marion County, Kansas®

<table>
<thead>
<tr>
<th>Cropland acres</th>
<th>Full Renters (non-Scully)</th>
<th>Full Scully tenants</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>17</td>
<td>24</td>
<td>41</td>
</tr>
<tr>
<td>Under 150 acres</td>
<td>41</td>
<td>38</td>
<td>39</td>
</tr>
<tr>
<td>150 - 199 acres</td>
<td>24</td>
<td>41</td>
<td>34</td>
</tr>
<tr>
<td>200 acres or more</td>
<td>35</td>
<td>21</td>
<td>27</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

®Note the classification of these farmers. See Table 3, EL and C1. The differences are not significant at .05 level.

A comparison of the Model USDA "Crop-Share-Cash Farm Lease," with the three Scully lease forms in use in Illinois, Nebraska and Kansas tends to support the theory. But because the forms are "empty boxes" with the acres of various crops unspecified, the results are inconclusive. If some share-rent landlords do use the USDA Model and fill it out in detail without consulting the tenant, it is safe to conclude that those landlords do limit the tenant's freedom of cropping more than does the Scully Estate in Illinois with its four rotations, or in Nebraska with its minimum of small grain and legumes.

But even if the share landlord fills out the USDA Model with the active participation of the tenant, as is intended, it seems that the compromises involved would certainly limit the tenant's freedom
### TABLE 58—Farming practices reported by full renters and full Scully tenants of 103 farmers interviewed, Marion County, Kansas

<table>
<thead>
<tr>
<th>Practice</th>
<th>Full Renters (non-Scully)</th>
<th>Full Scully tenants</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Wheat (under 85A)</td>
<td>47</td>
<td>67</td>
<td>58</td>
</tr>
<tr>
<td>Corn (under 35A)</td>
<td>71</td>
<td>79</td>
<td>76</td>
</tr>
<tr>
<td>Perm. pasture (under 100A)</td>
<td>76</td>
<td>62</td>
<td>68</td>
</tr>
<tr>
<td>No summer fallow</td>
<td>94</td>
<td>75</td>
<td>83</td>
</tr>
<tr>
<td>All legumes (under 35A)</td>
<td>100</td>
<td>67*</td>
<td>80</td>
</tr>
<tr>
<td>No sweet clover</td>
<td>94</td>
<td>16**</td>
<td>50</td>
</tr>
<tr>
<td>Rotation past. and hay (under 35A)</td>
<td>94</td>
<td>50**</td>
<td>68</td>
</tr>
<tr>
<td>Some alfalfa</td>
<td>71</td>
<td>54</td>
<td>61</td>
</tr>
<tr>
<td>No limestone used</td>
<td>94</td>
<td>88</td>
<td>90</td>
</tr>
<tr>
<td>Fertilizer used on 85A or more</td>
<td>41</td>
<td>25</td>
<td>32</td>
</tr>
<tr>
<td>No corn fertilized</td>
<td>70</td>
<td>66</td>
<td>68</td>
</tr>
<tr>
<td>Wheat fertilized (50 lbs/A or more)</td>
<td>76</td>
<td>71</td>
<td>73</td>
</tr>
<tr>
<td>Cows owned (less than 25)</td>
<td>65</td>
<td>58</td>
<td>61</td>
</tr>
<tr>
<td>Beef cows (less than 15)</td>
<td>65</td>
<td>38</td>
<td>50</td>
</tr>
<tr>
<td>Milk cows (10 or more)</td>
<td>61</td>
<td>83</td>
<td>78</td>
</tr>
<tr>
<td>Selling cream</td>
<td>53</td>
<td>58</td>
<td>56</td>
</tr>
</tbody>
</table>

*Difference significant at .05 level.

**Difference significant at .01 level.

*a*Note the classification of farmers. See Table 3, Bi and Cl.

*b*This is a summary of tables similar to Tables 46-56. Only the most important class of each is shown.
more than the Scully lease now being used in Marion County, which lease specifies only a minimum acreage of alfalfa.

Under the present Scully leases in Illinois, Nebraska and Kansas the tenant is required to cooperate in soil conservation work; rent is remitted and awards made for some kinds of conservation work. Also, penalties are assessed for failure to maintain and protect soil conservation structures. Although these may be irksome to tenants who have neglected their responsibilities, it should be kept in mind that a typical landlord in the Midwest might choose instead not to renew the tenant's lease. At any rate, there seems little reason to regard these penalties as an interference with the tenant's freedom to farm. The tenant has two responsibilities to the landlord—to pay his rent as specified and to protect the value of his property. As long as he performs these responsibilities, the limitations and penalties do not affect his freedom.

A second source of evidence about the Scully Tenant's freedom of operation is farmer opinion. The Scully Tenants interviewed in Marion County were almost unanimous in saying that they had more freedom of operation than did share-rent tenants in the same community. Moreover, about two-thirds of the other farmers in the community agreed with the Scully Tenants.

A third source of evidence about the Scully Tenants' freedom to farm was secured by comparing their farming with that of other farmers in the same community. The differences in cropping systems were not
statistically significant at the .05 level except in the case of sweet clover, which the lease then in use required Scully tenants to grow. The present Kansas lease does not have this requirement. This evidence suggests that the Scully tenants have much of the freedom of operation of other farmers in the community. Share tenants may farm like owner-operators because this is the way that their landlords want them to farm, but this cannot be said of Scully Estate Tenants in Marion County. If these men farm like other farmers it must be because they prefer to. The only Scully lease limitation on their freedom of cropping was the requirement that they grow sweet clover. But even this was not enough to make their other crops significantly different from those of Owners and Renters.
PART III

SOME PUBLIC RELATIONS PROBLEMS
OF LANDED ESTATES
Full ownership has long been regarded as the ideal farm tenure system in the United States. Full owners were and are regarded as superior to tenants because they had, among other things, more of the four P's: fixity or security of tenure, freedom of improvement, freedom of operation and (usually) fair land charges.

Yet as has been pointed out more than 50 percent of the land in the most productive areas of the Midwest is under lease. Moreover, the prospects are that leasing will increase rather than decline as farms become larger and more costly. With this situation in mind, Benedict called the goal of owner-operation a "will-o-the-wisp." He urged the adoption of tenancy legislation similar to that in England to provide tenants with greater freedom to improve, greater security of tenure, greater freedom of cropping and arbitration of disputes.


However, he noted that one obstacle to the adoption of such tenancy may be the absence of a large group of professional landlords who contemplate permanent leasing of their land.

Salter agreed that retired farmers, farm owners, and even
tenants who hope to become owners are not likely to generate a demand for English-type tenancy legislation. But he declared "perhaps it is time to find out what the consequences are of having urban or corporate large-scale landlords as compared with having rented farms owned by retired farmers. And, in such analysis it may be well to include as a part of either form of landlordism its effect on the formulation and implementation of tenure policy."


Legislation directed at the Scully Estate in Illinois and Kansas suggests two hypotheses: (1) The Scully tenants lacked the four F's and (2) Only a few large estates would be needed to generate a strong demand for English-type tenancy legislation. The purpose of this chapter is to examine the evidence concerning these two hypotheses. This will be done under the following headings:

(a) The political power of large landed estates,
(b) Anti-alien land ownership and tax legislation,
(c) The Berg Decision in Kansas,
(d) Free Sale of Improvement Law in Kansas,
(e) Rent and lien legislation in Kansas,
(f) Farm corporations in Kansas,
(g) Prospects for tenancy legislation,
(h) Summary and conclusions.
A. The Political Power of Large Landed Estates

In a democracy such as the United States, 200 small landlords each with one tenant would normally wield more political power than would one landlord with 200 tenants. The small landlords could outvote the large 200 to 1. Even if all tenants voted like their landlords, the small landlords and their tenants could outvote the large landlord and his tenants 400 to 201. If the small landlords and the tenants voted the same way on an issue they could outvote the large landlord 600 to 1. This is an extreme case but it indicates that the large landlord, despite his many farms, would lack voting, hence political, power.

This raises a question as to why the English landlord remained so powerful that 70 percent of the membership of the House of Commons "were representatives of the landed class" as late as 1867. The answer seems to be that many tenants could not vote, and those who could were under considerable, though often indirect and subtle, pressure to vote the landlord's politics.


Another explanation may be that they often had only the choice of voting for one of two landlords.
In the United States there has been much less pressure of this kind. Indeed it appears that the pressure is quite the other way. But even in England large estates could not ignore the interests of their tenants without suffering reprisals of various kinds. This is also true of large organizations in the United States today. As Slichter said

The argument that bigness threatens our political liberties is without foundation. If there is any one handicap that bigness possesses, it is lack of political influence. Let any group or organization become large and economically powerful and its political influence drops. That is true of both labor and business. The most powerful lobbies in Washington are those that represent the farmers and small business... One thing we need not fear from bigness is loss of our political liberties.

On economic liberties, Slichter said

There is no evidence to support the notion that big firms in general are able to get a competitive advantage by observing lower standards of business conduct than are observed by their smaller competitors... The fact that a concern is larger than any of its rivals means that most of its policies and activities are conspicuous and must stand up under the scrutiny of competitors, suppliers, customers and government officials.

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Given the restraints which democracy places upon large organizations, there is some truth to this analysis. However, the extent to
which the statement is true in any particular instance depends on the
restraints that exist. In any event, Slichter's view of the effect of
size on political and economic powers in a democracy accurately de-
scribes the situation of the Scully Estate. It has been virtually
defenseless against political attack; every change in rents, every
purchase or sale, and every change in tenants has been a matter of
public concern and immediate protest if it appeared that a mistake had
been made. Because of its size, the Scully Estate has many of the
characteristics of a unit of government. It does have, however, per-
manently elected officers. Although the owner and his agents cannot be
voted out of power, they can be treated "with journalistic vituperation
of the rankest kind," and with little or no justification.

For example, Gates critically examined the performance of the
Scully Estate and found that its tenants had these important advantages
over share-rent tenants:

(1) Greater fixity of tenure. In the early years leases were
made for 5 or 6 years and were fairly certain to be
renewed,

(2) Greater freedom to improve because they were required to
build or buy all improvements and could sell them to an
oncoming tenant. Moreover, the Scully Estate took much
interest in improving the productivity of the land by
tile drains and other measures,
(3) Greater freedom of operation because the cash rents were not affected by the way that the tenant farmed, and

(4) Fair or reasonable rents during most of the history of the Scully Estate.

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Despite this nearly ideal tenancy situation, early tenants were not always happy. There can be no doubt that the lot of the pioneer tenants was a hard one, particularly from 1875 to 1895 when the Scully Estate was being vigorously criticized. Crops were often poor, prices low and credit hard to get. Many of the tenants wanted ownership and seemed to feel that the Scully Estate, whatever its merits, was the principal cause of their frustrations.

Some of the newspapers of the day led the attack on Scully. He was denounced because he was a foreigner, because he was sometimes absentee, because he was wealthy, but mainly because he owned land. Fault was found with the cash rents, which made the tenant's great security of tenure and freedom of operation and improvement possible. Fault was found with Scully's policy of adding the amount of taxes to a base cash rent, thus making tenants responsible for public improvements which they approved. Fault was found with Scully's policy of requiring tenants to furnish their own improvements, even though this eliminated one of the principal causes of landlord-tenant friction and
gave tenants freedom to make any improvements they desired. Fault was found with the provisions to control weeds and protect the value of the land, although this was in the interest of tenant as well as landlord (Gates pp. 55-56).

Finally, fault was found with the liens which insured that the rent would be paid. It seems probable that these criticisms arose in part because it was felt the Scully Estate had kept tenants from becoming owner-operators. It is true, of course, that the Scully land was not for sale.

There is much to be said for owner-operation in preference to large leasing estates that is rational and worthy of careful consideration. But some of the attacks on the Scully Estate were clearly made with the intent of destroying the Estate rather than limiting its powers. As Salter pointed out, "A review of farm land ownership studies indicates that by and large any concentration of ownership on rented farms has been considered evil; and the evil is regarded as worse the more that landlordism is absentee, urban, corporate or alien" (Salter, p. 127).

B. Anti-Alien Land Ownership Legislation

Because William Scully, the founder, owned an Irish as well as an Illinois estate, he was necessarily alien or absentee to one of the estates. One way to avoid these criticisms was to dispose of the Irish estate and take out American naturalization papers.
The latter may have been his first plan. When he married in 1851 he built a large, frame "White House" on some 2,000 acres in Logan County and started livestock farming. In 1853, he made application for citizenship; the following year, however, his wife became ill and returned to Europe to regain her health. Scully then put all Illinois lands and livestock up for sale, perhaps with the intention of returning permanently to Ireland. At any rate, his application for citizenship was not then completed and he did not become a citizen until 1900.


Scully's plans to sell his Illinois lands were not successful. Only 8,500 acres were sold by 1857—a year of panic and the beginning of a period of readjustment that lasted until 1862—and he put an end to his land sales. His wife died in 1861. Perhaps her death removed a major reason for selling. After the attempt on Scully's life in Ireland in 1868, Scully sold that part of his Irish lands leased to 22 tenants and returned to the United States (Gates, p. 38).

From 1870 to 1895, Scully bought land in Nebraska, Kansas and Missouri and this helped stir up anti-alien landowner feelings. Anti-alien sentiment found expression in Congress in 1887 when that body adopted a law "to restrict the ownership of real estate in the Territories to American citizens." Indiana adopted such a law in 1885; as did Illinois, Nebraska, Kansas, Wisconsin, Minnesota and Colorado in
1887; Iowa in 1888, Idaho in 1891 and Missouri in 1895 (Gates, pp. 58-61). In Kansas, a joint resolution was passed to amend the Constitution in 1887 and the bill against alien landowners was actually passed in 1891.


Although these acts stopped the purchase of lands by aliens, they were not retroactive. There seems little doubt, however, that a retroactive act would have received much popular support.

In 1887 Illinois passed another law apparently aimed directly at the Scully Estate—one that prevented alien landlords from requiring tenants to pay the land taxes (Gates, p. 58). This law ignored the fact that income from the land must pay all costs including taxes if it is to be kept in production. The tenant must pay the taxes directly to the collector or indirectly to the landlord. The result is the same; the taxes are paid from the income produced by the land. Because William Scully became a U. S. citizen in 1900, this law no longer applies, but Scully tenants are still billed for a lump sum which includes taxes. However, they are aware that if taxes are increased, rent increases accordingly. In Kansas and Nebraska, Scully tenants pay a base rent plus the taxes. Thus, if the tenant desires and votes for better schools and roads, he knows the increased taxes will appear on his rent bill. Because the land must pay for any such
improvements in the long run, this policy promotes responsible community citizenship. Moreover, because the tax rate does not affect the base rent, the landlord has no reason to attempt to influence the tenant's political beliefs or the way he votes. Thus, a possible source of friction is removed. Despite these factors, there was much misunderstanding of the Scully policy, which misunderstanding led to the enactment of the alien landlord tax law cited as well as an attempt to tax Scully's rents—later invalidated by the Illinois Supreme Court (Gates, p. 54).

C. The Berg Decision and the Scully Estate

Although the Scully tenants did not have a permanent tenant union, they formed an association to protect their interests and bargain with the Scully Estate when conditions warranted. The Illinois tenants formed such an association in 1918 when they were notified that rents would be increased from $6 to $10. As mentioned before, the rent was finally set at $8 an acre.

In 1923 the Marion County, Kansas association successfully defended a tenant who lost his lease as a result of a dispute with the owner, Frederick Scully, over the need to reduce rents. This tenant, Godfrey Berg, was served notice on July 16, 1923 "that his lease would not be renewed and that he must vacate by March 1, 1924; that he must dispose of his improvements on the leased premises after his rents had been paid; that he should not put in fall crops." Despite the long
notice and usual strong demand for Scully leases, the tenant failed to find a buyer for his improvements and did not vacate by March 1. As a result he was evicted by a sheriff.

With the backing of the association, Berg sued the Scully Estate claiming, among other things, that the Estate had not given him the customary help in securing a buyer for his improvements. The Circuit Court at Marion refused to consider customary practices and Berg lost. Upon appeal, the Kansas Supreme Court held that the evidence concerning customary practices should have been considered and reversed the decision. The Court held that "The conduct and acts of the defendant [Frederick Scully] . . . indicate that he not only did nothing to aid the plaintiff [Berg] in his efforts to dispose of his improvements, but that he did those things which tended to prevent such a result. His notice to the plaintiff not to plant a fall crop of wheat leaves a fair inference that he intended to prevent plaintiff from disposing of his property at a fair and reasonable price. His requirement that the plaintiff remove his buildings and improvements off the land and forfeit them was unreasonable. He knew that they could not be moved without rendering them valueless. His attitude leaves a fair inference that he did not intend, as was his usual course and custom of dealing, to cooperate with the plaintiff on the disposal of his crops and improvements to an incoming tenant."

The Court's chief complaint was that the Scully Estate did not follow its customary practices of helping the tenant dispose of his crops and improvements. The Court was apparently unmoved by the fact that a notice of nearly 8 months was given whereas none was required under a one-year lease. The Court also ignored the fact that in many states when a tenant seeds a fall crop he is allowed to continue the lease for another year. This is true in Illinois, but the issue is still unsettled in Kansas.


Although the Court recognized that the Scully Estate would be the loser if the buildings were removed and the land left idle, it still held that the Scully Estate was unwilling to help Berg dispose of his crops and improvements. It is possible that this could have been true. However, except the denial of the right to seed winter wheat, no evidence was cited by the Court.

D. The Free Sale of Improvements Law

Before the Berg decision, the tenant association had succeeded in getting the 1925 session of the Kansas Legislature to adopt an act which declared that "when a landlord is renting farms in large numbers and a total acreage of five thousand acres and has tenants in excess of ten or more, and by the lease requires such tenants to erect and own
and maintain substantially all the improvements on the farm, such a lease shall contain just and fair provisions for the free sale and transfer of such buildings and improvements, or the purchase thereof by the landlord, without requiring the tenant to remove the same from the land." The law also declared that the tenant "may transfer his term and improvements without the consent of the landlord and any provision in the lease prohibiting such transfer or requiring the tenant or his assignees to remove such buildings or improvements, that does not require the landlord or the new tenant to pay the owner thereof the fair value of the improvements to the land at the time of the expiration of the lease shall be null and void."

______________________________


Because this law was passed after the Berg suit was initiated, it was not applicable to that case; but the Supreme Court did cite it as an indication of public policy. The Court might have also noted that it was Scully policy to permit the "free sale and transfer of such buildings and improvements" provided that the purchaser was an acceptable tenant. The legislation, by declaring that the tenant "may transfer his term and improvements without the consent of the landlord," appeared to strip the landlord of any control over the choice of his tenants. Further, "any provision in the lease prohibiting such transfer or requiring the tenant or his assignees to remove such buildings . . . shall be null and void," seems to say that the tenant need
not be concerned about selling his improvements because he can leave them on the land indefinitely.

The interesting thing is that there is no provision in the Scully lease prohibiting the sale of the buildings nor their removal if the rents have been paid. The Kansas lease form adopted in 1947 declared only "that upon the expiration of the term of this lease, and upon the rent and taxes herein provided for being fully paid, and the other promises and undertakings herein written having been done, kept and performed by said Tenant_ (but not otherwise) that he, the said Landlord, will consent to the removal of all buildings, fences or other chattels made or erected by said Tenant_ . . . provided, that said removal be made promptly." Except for minor editorial changes this provision does not differ from that used in 1919 and 1893. (See Appendixes F, G and H.)

Still more interesting, this legislation is an example of how easy it seems to be to get tenancy laws of dubious merit enacted when a large estate with few votes and little or no political power is involved.

E. Rent and Lien Legislation in Kansas

During the drouth and depression years of the 1930's, when some farmers were resisting farm mortgage foreclosures with pitchforks, the Scully tenants in Kansas were also having difficulty paying cash rents.
They also found it difficult to borrow money because the Scully lease contained a lien against crops, improvements, teams and other personal property.

Although the Scully Estate did lower rents during the 1930's, apparently they were not lowered early enough or fast enough to satisfy the tenants if one may judge from legislation enacted in 1933 which described but did not mention the Scully Estate. Briefly this unusual legislation declared (1) that the base rent was "fully equal to the fair and reasonable rental value of the land without any other or further rental obligation on the tenants' part," (2) that nonetheless the tenant was expected to pay in addition all taxes and assessments against the land, (3) that such rents, taxes and interest thereon constituted "a lien on all crops . . . teams, farming implements and machinery" including the farm buildings owned by the tenant, (4) that the lease contained unusual requirements for the control of weeds and the maintenance of hedges, drains and soil productivity with penalties for non-compliance, (5) that "tenants are made to waive the benefits of exemption, valuation and appraisement laws," (6) that "the foregoing lease conditions and requirements are variant from the ordinary and generally used and approved rental agreements between landlord and tenant in the particulars above mentioned, are harsh, burdensome, oppressive and extortionate in their terms . . . ." and (7) that therefore "lease agreements containing all of the burdensome requirements heretofore recited are hereby declared to be against public policy of the
state, illegal and unenforceable, and the tenants subscribing to the same obligated to pay under said leases as rents for the lands only fair and reasonable sums with an accord of lien only on the total crops grown on the leased land and on the total of the livestock raised on share or lease and on the total receipts or returns from pasture received by the tenant including an accord of lien on the tenants' livestock sufficient to pay pasturage on the tenants' livestock on the landlords' land."

Kansas General Statutes, 1949, Chapter 67, Art. 531-3 or Kansas Session Laws, 1933, Ch. 233 Sects. 1-3. Also see Socolofsky, "Scully Land System," p. 357.

The immediate effect of this legislation on the language of the lease is not known, but by 1947 at least the penalties complained of had disappeared. Nevertheless, the tenant was still required to "clean out, and destroy all burrs, thistles, sunflowers and other weeds on said land and pasture and the public roads adjoining by the first of August of each year. . . . on or before the first day of August in each and every year of this lease mow or plow all lands sown to small grain. . . . cultivate, protect and maintain all hedgerows, fences, fruit and other trees . . . by the first day of January . . . and burn the brush. . . . keep open, cleanse, plow, scrape and dig out all ditches and drains . . . by the first day of October" (Form 10-47, Appendix F). That these provisions were of little value is suggested by the fact that in the present Kansas lease they have been entirely eliminated and the
tenant is only required to "cultivate and manage the land in good and husbandlike manner, . . . to maintain in proper working condition all soil conservation measures . . . not to commit waste . . . to keep all weeds from maturing [and] not to plow or break out pasture or meadow without the written consent of the Landlord" (Form 1-60, Appendix E).

The 1947 lease also provided "that all the rent herein reserved and agreed to be paid, shall constitute and be a lien upon all the crops growing or made on said land during any of the time for which said premises are leased as aforesaid; and upon any and all teams, farming implements, fences, buildings and chattel improvements and machinery owned by said tenant--and used on said land during said time; and that this lease may be filed at the proper office, and will be a chattel mortgage on said property for said purpose."

The new 1960 lease still gives the Estate "a first and prior lien upon all buildings, fences, and other improvements now or hereafter erected on said premises and on the growing crops thereon as security for the payment of rent and the performance of all the covenants and agreements heretof" (Form 1-60). Thus, it appears from the continuance of the lien on personal property that the Scully Estate regards the 1933 law as an unconstitutional infringement upon their right to contract but thus far its constitutionality has not been tested. Therefore, the 1933 act stands only as a reminder that the Scully Estate lacks political power and because of this lack, its economic powers are also not to be feared.
F. Farm Corporations in Kansas

The political climate in which the Scully Estate operates is clearly shown in the attitude of the Kansas Legislature toward farm corporations. In 1931 a law was passed which prohibited any corporation from producing wheat, corn, barley, oats, rye, or potatoes, or the milking of cows for dairy purposes.


In 1965, grain sorghums were added to this list and the rules were liberalized to permit family-type corporation farming. Corporations may now produce the prohibited list of products if (a) the corporation has no more than ten stockholders; (b) stockholders are individuals or representatives of individuals, such as guardians and trusts; (c) all incorporators are residents of Kansas; (d) the corporation does not directly or indirectly own, control, manage, or supervise more than 5,000 acres of land, and (e) no stockholder owns stock in another corporation producing products on the restricted list.


This change may be interpreted as a relaxation of the old fears of all corporations, but fear of the "big guys" evident in limitations placed on corporation farming stems from the same fears that resulted in the
160-acre limitation of the Homestead Act of 1862 and the 160-acre limitation still in effect on irrigation projects. Hence it is not surprising that farmers should be wary of corporations that might reduce their freedom of farming. And of course the same is true of large estates.

Such fears must be allayed if the corporation or the estate is to play a useful role in a democracy. This will be discussed further in the next chapter.

G. Prospects for Tenancy Legislation

What are the possibilities that English-type farm-tenancy legislation would be adopted in the United States? The experience of the Scully Estates in Illinois and Kansas suggests that only a few large estates similar in size to the Scully Estate would be necessary to generate pressures for some kind of tenancy legislation to guarantee the four F's.

There seemed to be no great difficulty enacting legislation concerning the Scully Estates even though their management left little to be desired. This is evidenced by the fact that although legislation was enacted, none of it dealt with the tenant's fixity or security of tenure nor has there been any agitation for long-term leases.

Likewise, freedom to improve was not an issue because the Scully Estate had adopted the Ulster system of tenant ownership of improvements. The Berg case and subsequent legislation appears to have been
generated more by a personality conflict than by a real need of the tenants. Both the Kansas Supreme Court decision and the legislation indicate that tenancy legislation concerning tenant improvements could be easily secured if large estates refused to permit tenants to improve or refused to compensate them for the unexhausted value of their improvements when they left the farm.

Although it seems doubtful that the alleged "burdensome requirements" of the Scully lease were anything more than good farming practice, the fact that their presence was irritating enough for the legislature to declare them "against public policy of the state, illegal and unenforceable," is evidence that perhaps a half dozen estates like the Scully Estate could be sufficient to generate tenancy legislation.

Much of the controversy about the Scully Estate centered about the fourth F—fair rents. Although cash rents were generally condemned in times of poor yields and prices, there is no evidence that they were unfair to the tenants except possibly during the sharp fall in prices after World War I and during the 1930s.

Most of the evidence actually suggests that Scully Estate rents have been considerably below the true economic rent of the land. This appears to be the only way to explain the willingness of tenants to pay several thousand dollars for the privilege of leasing unimproved land. But the united action of tenants and legislative condemnation of the Scully rents during the 1930s strongly suggests that a large estate
foolish enough to charge unreasonable rents would bring about legislation similar to that of England.

The fact that more drastic action has not been taken against the Scully Estate may be because of its use of the cash-leasing system plus tenant ownership of improvements.

Had the Scully Estate used share-rent leases and owned the improvements, it is possible that much more friction and disagreement would have arisen because of the greater complexity of the relationship. Large estates may find it desirable or even necessary to use some type of fixed-cash, fixed-produce or objective-flexible rents to avoid controversies that might lead to legislation that may not be to the best interests of either landlord or tenant.

I. Summary and Conclusions

Simple arithmetic indicates that large landlords have little political power except where, as in England up to almost the twentieth century, the landlord class is firmly entrenched largely because all tenants did not have voting privileges. This is not the case in the United States. It would seem that tenancy laws similar to those in England might be adopted readily were there enough large landed estates to which such laws could be applied.

The experience of the Scully Estate shows that the number of large landed estates need not be great to secure the passage of such tenancy legislation. This seems true despite the fact that Scully
Estate tenants appear to enjoy a much higher degree of the four F's than do most share-rent tenants. Yet paradoxically, the very way the four F's were provided was cause for criticism.

This criticism apparently stemmed from the farmers' frustration because they were unable to acquire farm ownership. Although the Estate did hold land that could have been sold to farmers, it seemed to be forgotten that this land was available on reasonable terms—and to farmers who were not in a position to buy land.

At any rate, the feelings against the Scully Estate in both Illinois and Kansas frequently ran so high that little trouble was experienced getting legislation favorable to tenants.

It should also be noted that most of this legislation was enacted during periods of special hardship for all farmers. Also, the feeling toward tenancy and toward the Scully Estate in general, has changed greatly during the past 30 years. It nevertheless seems likely that no more than a half dozen large landed estates in Kansas could cause its legislature to pass tenancy laws similar to those in England. The prospect of such a development may effectively discourage investors from creating large estates and leasing them under a cash-rental system.
CHAPTER XI

PROBLEMS OF ENGLISH-TYPE LANDED ESTATES

For more than a century the Scully Estate and its English cash-leasing system has provided farm tenants in the Midwest with a high degree of fixity of possession and freedom of operation and improvement at remarkably low rents. In these respects, judging by the evidence presented above, it is unquestionably superior to share-rent leasing but somewhat inferior to owner-operation. Yet as shown in Chapter X, this English cash-leasing system clashed head-on with the ideal of owner-operation—which has been regarded almost a birthright of the American farmer.


Despite political and ideological support, less than one-third of the land in farms in the Midwest is now operated by full owners. Two-fifths of the farmers are part owners and one-fourth full tenants. More than 60 percent of the land is under lease in the most productive areas of the Corn Belt and there is little reason to believe that this percentage will decrease in the future. Almost all of this land is presently leased for a crop-share rent, with perhaps some cash for pasture and improvements (See Chapter III).
For the better farmers, on the better farms owned by men of good judgment, share-rent tenancy works satisfactorily. But for less successful farmers on poorer farms or on farms owned by persons unsuited as landlords, serious problems arise—problems about the quality of farming, the division of the crops, the payment of rent, the upkeep and repair of improvements, security of tenure, and freedom to improve and operate and so on.

Because the Scully Estate appears superior to share-rent leasing in these respects, how do farmers feel about the possible adoption of the English cash-leasing system by the Federal Land Banks, the insurance companies, local companies and governmental agencies? How might the image of such farm-leasing concerns be improved?

These questions will be discussed under the following headings:

(a) Farmer attitude toward landed estates,
(b) Improving the image of landed estates,
(c) Legitimization of landed estates, and
(d) Summary and conclusions.

A. Farmer Attitude Toward Landed Estates

Because it was possible that the farmers in Marion County might be strongly opposed to the English cash-leasing system as used by the Scully Estate, a series of questions was asked to determine attitudes not only toward the Scully Estate in general but also toward the extension of the leasing system.
Some indication of their attitude toward the Estate is revealed by the fact that four of five farmers interviewed said Scully Tenants had more security on the land and more freedom to operate as they pleased than crop-share tenants (Tables 27 and 42). Next they were asked to respond to this statement: "Suppose you had a friend who had a chance to buy a Scully lease. Other things being equal, would you urge him to buy a Scully lease or not?" Two-thirds of all the farmers interviewed replied that they would urge a friend to buy a Scully lease (Table 59). Three-fourths of the Scully Tenants said that they would urge a friend to buy a Scully lease, but only half the Renters would do so. However, this was not a significant difference.

TABLE 59.—"Suppose you had a friend who had a chance to buy a Scully lease. Other things being equal, would you urge him to buy the Scully lease or not?" Replies of farmers by location of their improvements, Marion County, Kansas.

<table>
<thead>
<tr>
<th>Improvements located on</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Replies</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td></td>
</tr>
<tr>
<td>Would urge</td>
<td>66</td>
<td>48</td>
<td>73</td>
<td>65</td>
</tr>
<tr>
<td>Would not urge</td>
<td>18</td>
<td>35</td>
<td>20</td>
<td>22</td>
</tr>
<tr>
<td>Don't know</td>
<td>16</td>
<td>17</td>
<td>7</td>
<td>13</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

\(^a\)Difference not significant at the .05 level.
The 60 farmers who said they would urge a friend to buy a Scully lease gave these reasons: 26 percent said "cheaper" or "more profitable;" 17 percent said "more security;" another 17 percent said "more freedom;" the remaining 40 percent gave diverse reasons that were not classified. Of the 23 farmers who would not urge a friend to buy a Scully lease, 70 percent said it was "better to buy" and 26 percent said the cost of a Scully lease was too high.

The first question would have been more useful if answers could be compared with replies of tenants of other leasing estates. Unfortunately such comparison was not possible.

Perhaps the question should have been asked this way: "Suppose a friend had the choice of share renting a farm or of buying an equally good Scully lease. Which would you recommend?" Or the question might have been put this way: "Suppose a friend could buy the same farm either on a Federal Land Bank Loan or as a Scully lease. Which would you recommend?" These two possibilities are suggested because some farmers may have had one situation in mind and some the other. In the first situation a high percentage probably would favor the Scully lease. In the second, opinion might have been sharply divided. In discussing the Scully leasing system with farmers there is little debate about its merits vis-a-vis share renting. The debate becomes lively only when the merits of buying a Scully lease are compared with a mortgage loan for purchase in fee simple.
Next the farmers interviewed were reminded that more than 60 percent of the land in Marion County is leased—mostly for a crop-share rent. Then they were told: "Someone has said that most of these crop-share landlords would be willing to lease land for a 1-year cash rent as the Scully Estate does. Would you agree or disagree with this statement?" Of the farmers interviewed, only 21 percent agreed, 53 percent disagreed and 26 percent said that they did not know what share-rent landlords would do (Table 60).

<table>
<thead>
<tr>
<th>Replies</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Agree</td>
<td>28</td>
<td>12</td>
<td>20</td>
<td>21</td>
</tr>
<tr>
<td>Disagree</td>
<td>44</td>
<td>71</td>
<td>51</td>
<td>53</td>
</tr>
<tr>
<td>Don't know</td>
<td>28</td>
<td>17</td>
<td>29</td>
<td>26</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*Difference not significant at .05 level.*

The reason most farmers did not believe share-rent landlords would use the cash-rent system was not determined. Perhaps they felt typical share-rent landlords would object to the low cash rents as
well as tenant ownership of improvements. When a landlord has only one or two farms his need for income often calls for a high return on his investment. Also he may need to sell to the highest bidder on short notice. In contrast owners of Scully-type estates are more likely to prefer secure and trouble-free rents to high rents.

Because there seemed little likelihood that typical share-rent landlords would lease land using the Scully system, these Marion County farmers were asked if they would favor or oppose such leasing by the Federal Land Banks. Only 34 percent of the farmers interviewed favored this idea, 57 percent were opposed (Table 61). Although 65 percent of

TABLE 61.--"Someone has suggested that the Federal Land Bank should lease land to tenants on a cash rental basis like the Scully Estate does. Would you favor or oppose this idea?" Replies of farmers by the location of their improvements, Marion County, Kansasa

<table>
<thead>
<tr>
<th>Replies</th>
<th>Owned land 37</th>
<th>Rented land 23</th>
<th>Scully land 41</th>
<th>Total replies 101</th>
</tr>
</thead>
<tbody>
<tr>
<td>Favor</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Oppose</td>
<td>32</td>
<td>31</td>
<td>37</td>
<td>34</td>
</tr>
<tr>
<td>Don't know</td>
<td>65</td>
<td>65</td>
<td>46</td>
<td>57</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

aDifference not significant at .05 level.
both Owners and Renters opposed this idea, only 46 percent of the Scully Tenants were opposed.

Of the 48 farmers opposing Land Bank leasing, 36 percent said that the Federal Land Banks should help tenants buy land and 29 percent said that there would be, as several put it, "too many big guys." Another 29 percent gave miscellaneous reasons and 6 percent did not say why they opposed the idea (Table 62).

TABLE 62.—"Why would you be opposed to the Federal Land Bank renting on a cash rental basis like the Scully Estate does?" Replies of "opposed" farmers by location of their improvements, Marion County, Kansas.

<table>
<thead>
<tr>
<th>Reasons</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Should help tenant buy</td>
<td>25</td>
<td>50</td>
<td>36</td>
<td>36</td>
</tr>
<tr>
<td>&quot;Too many big guys&quot;</td>
<td>30</td>
<td>36</td>
<td>21</td>
<td>29</td>
</tr>
<tr>
<td>All other</td>
<td>40</td>
<td>7</td>
<td>36</td>
<td>29</td>
</tr>
<tr>
<td>Don't know</td>
<td>5</td>
<td>7</td>
<td>7</td>
<td>6</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

No significant difference.

Much the same reaction was received when the farmers were asked whether they would favor or oppose insurance companies leasing land using the Scully system (Table 63). Of 101 farmers replying, 37 percent favored the idea and 56 percent were opposed. Those Scully
Tenants who were undecided about the idea of Federal Land Bank leasing were more favorable to the idea of insurance company leasing. Half of the Scully Tenants favored the idea, compared to only a fourth of the Owners—a significant difference.

**TABLE 63.** "Insurance companies now lend millions of dollars to farmers on farm mortgages. It has been suggested that they should rent farms to tenants on cash leases like those used by Scully Estate. Would you favor or oppose this idea?" Replies of farmers by location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Replies</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Favor</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Oppose</td>
<td>24</td>
<td>35</td>
<td>49</td>
<td>37</td>
</tr>
<tr>
<td>Don't know</td>
<td>68</td>
<td>56</td>
<td>46</td>
<td>56</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*Difference not significant at .05 level.*

Those 48 farmers who opposed Scully-type leasing by insurance companies gave much the same reasons for their opposition that they gave for opposing Land Bank leasing: 31 percent said insurance companies should help tenants buy land; 29 percent again expressed opposition to "too many big guys" (Table 64). Half of the Renters were particularly concerned about securing credit for buying land; 44 percent of the Scully Tenants expressed fear of the "big guys."
TABLE 64—"Why would you oppose insurance companies renting land to tenants on a cash lease?" Replies of farmers opposed by the location of their improvements, Marion County, Kansasa

<table>
<thead>
<tr>
<th>Replies</th>
<th>Improvements located on</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Owned land</td>
</tr>
<tr>
<td></td>
<td>21</td>
</tr>
<tr>
<td></td>
<td>%</td>
</tr>
<tr>
<td>&quot;should help tenants buy&quot;</td>
<td>28</td>
</tr>
<tr>
<td>&quot;too many big guys&quot;</td>
<td>19</td>
</tr>
<tr>
<td>All other</td>
<td>34</td>
</tr>
<tr>
<td>Don't know</td>
<td>19</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
</tr>
</tbody>
</table>

aDifference not significant at .05 level.

The idea that farmers and other businessmen in the community might organize a leasing company like the Scully Estate found favor with only one-third of the farmers interviewed--two-thirds were opposed (Table 65). As might be expected, the pattern of opposition also remained much the same; 42 percent of the Renters thought they should be helped to buy land and 44 percent of the Scully Tenants still feared "too many big guys" (Table 66).

Fifty-three tenants in Moody County, South Dakota, were asked identical questions regarding leasing by the Federal Land Banks, insurance companies and local companies, except that "a long-term
TABLE 65—"It has been suggested that farmers and other businessmen of this area organize a company to hold and lease land to tenants like the Scully Estate does. Would you favor or oppose such an idea?" Replies of farmers by the location of their improvements, Marion County, Kansas.

<table>
<thead>
<tr>
<th>Replies</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>37</td>
<td>24</td>
<td>40</td>
<td>101</td>
</tr>
<tr>
<td>Favor</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Oppose</td>
<td>24</td>
<td>29</td>
<td>35</td>
<td>30</td>
</tr>
<tr>
<td>Don't know</td>
<td>68</td>
<td>58</td>
<td>65</td>
<td>64</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

^ Difference not significant at .05 level.

TABLE 66—"Why would you oppose a local company to hold and lease land to tenants like the Scully Estate does?" Replies of "opposed" farmers by the location of their improvements, Marion County, Kansas.

<table>
<thead>
<tr>
<th>Replies</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>18</td>
<td>12</td>
<td>23</td>
<td>53</td>
</tr>
<tr>
<td>Should help tenants buy land</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>&quot;Too many big guys&quot;</td>
<td>28</td>
<td>42</td>
<td>17</td>
<td>26</td>
</tr>
<tr>
<td>All others</td>
<td>17</td>
<td>25</td>
<td>44</td>
<td>30</td>
</tr>
<tr>
<td>Don't know</td>
<td>50</td>
<td>25</td>
<td>30</td>
<td>37</td>
</tr>
<tr>
<td>Total</td>
<td>5</td>
<td>8</td>
<td>9</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

^ Difference not significant at .05 level.
lease" was substituted for "on a cash lease like the Scully Estate
does."

For the Moody County questions and answers, see R. L. Berry, 
*Tenant Interest in Long-Term and Flexible Cash Leases*, S. D. Agr. 

No doubt these differences explain why more Moody County tenants
favored large landlords as shown here:

<table>
<thead>
<tr>
<th></th>
<th>Moody County tenants (53)</th>
<th>Marion County farmers (103)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Land Bank Leasing</td>
<td>81%</td>
<td>34%</td>
</tr>
<tr>
<td>Insurance company leasing</td>
<td>57%</td>
<td>37%</td>
</tr>
<tr>
<td>Local company leasing</td>
<td>37%</td>
<td>30%</td>
</tr>
</tbody>
</table>

If these agencies were to make long-term leases they would most cer-
tainly have to use a cash lease. Had this been made clear to the
Moody County tenants, much of the difference in the percentages might
have disappeared. Another factor affecting the result may have been
the average age of the two groups. The Moody County tenants were
younger (59% under 45) than the Marion County farmers (34% under 45)
and may have been more receptive to change.

The Marion County farmer's fear of the "big guys" apparently does
not extend to the government. When the farmers were told that the
Australian government was leasing land to its war veterans on a plan
similar to that of the Scully Estate, 59 percent of those interviewed
thought this a good idea for use in this country; 38 percent thought it
was a poor idea. The wording of the question and the replies are shown in Table 67. Both Owners and Renters were evenly divided on this question, but 72 percent of the Scully Tenants favored the idea whereas only 25 percent thought it a poor idea.

TABLE 67.—According to a news item in the American Farm Bureau News Letter of June 6, 1955, the Australian government "has established a program of purchasing land and leasing it to discharged soldiers on a very reasonable financial plan. While the veteran cannot sell the land, he owns the lease and can increase its value through improvements." In general, do you think this is a good idea or a poor idea for use in this country?" Replies of farmers by location of their improvements, Marion County, Kansas^  

<table>
<thead>
<tr>
<th>Repplies</th>
<th>Improvements located on</th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Owned land</td>
<td>Rented land</td>
<td>Scully land</td>
<td>Total replies</td>
<td></td>
</tr>
<tr>
<td>Diagonal</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td></td>
</tr>
<tr>
<td>Good idea</td>
<td>51</td>
<td>48</td>
<td>72</td>
<td>59</td>
<td></td>
</tr>
<tr>
<td>Poor idea</td>
<td>49</td>
<td>43</td>
<td>25</td>
<td>38</td>
<td></td>
</tr>
<tr>
<td>Don't know</td>
<td>0</td>
<td>9</td>
<td>3</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td></td>
</tr>
</tbody>
</table>

^Difference significant at $X^2_{.05}$.

Of the 58 farmers who said that government ownership and leasing was a good idea, 17 percent admitted that they were not sure. Twenty-one percent of the Scully Tenants said that they were not sure, compared to only 10 percent of the Renters and 15 percent of the Owners (Table 68). Although 80 percent of the renters felt fairly sure that
government leasing was a good thing, this difference was not statistically significant.

**TABLE 68.**—"How sure are you that it is a good idea that our government lease land to veterans like the Australian government?" Replies of farmers who favor the idea by location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Replies</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not sure</td>
<td>15</td>
<td>10</td>
<td>21</td>
<td>17</td>
</tr>
<tr>
<td>Fairly sure</td>
<td>55</td>
<td>80</td>
<td>54</td>
<td>59</td>
</tr>
<tr>
<td>Very sure</td>
<td>30</td>
<td>10</td>
<td>25</td>
<td>24</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

\(^a\)Difference not significant at .05 level.

There were various reasons why farmers opposed the idea of the government leasing of land to veterans as was done in Australia. Of the 39 farmers opposed, 44 percent said veterans did not need help; 13 percent said that the government should help veterans buy land, and 43 percent gave other reasons for opposing the idea (Table 69).

The way this question was asked undoubtedly influenced replies. The words "American," "soldiers" and "veterans" could be expected to stir feelings of patriotism and sympathy in most communities, hence help increase the "good idea" response.
TABLE 69.--Why do you think that it is a poor idea for the government to lease land to veterans? Replies of farmers who oppose the idea by location of their improvements, Marion County, Kansas

<table>
<thead>
<tr>
<th>Improvements located on</th>
<th>Owned land</th>
<th>Rented land</th>
<th>Scully land</th>
<th>Total replies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Replies</td>
<td>%</td>
<td>%</td>
<td>%</td>
<td>%</td>
</tr>
<tr>
<td>Should help veterans buy</td>
<td>11</td>
<td>0</td>
<td>30</td>
<td>13</td>
</tr>
<tr>
<td>Veterans don't need help</td>
<td>39</td>
<td>55</td>
<td>40</td>
<td>44</td>
</tr>
<tr>
<td>All other</td>
<td>50</td>
<td>45</td>
<td>30</td>
<td>43</td>
</tr>
<tr>
<td>Total</td>
<td>100</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>

*Numbers too small for test of significance.*

What conclusions are warranted from the opinion of farmers toward the extension of Scully-type leasing? About one-third of the farmers seemed to think that this was a good idea, whereas nearly two-thirds were opposed. Some farmers were opposed because they felt that such institutions should help farmers buy rather than lease. This raises the question as to whether these institutions mentioned might not do both. This would create a basic conflict, however, because land held for leasing in the Scully Estate manner, cannot be sold without jeopardizing the system. Thus, farmers with this view may be merely saying that owner-operation is more desirable if there is a choice.

However, another third of the farmers indicated that they were opposed because they were afraid of "too many big guys." These farmers
may have felt also that the Federal Land Banks and insurance companies should devote all funds to mortgage loans. But judging by their answers they feared bigness as an evil in itself.

Fortunately the English cash-leasing system can be used by small landlords as well as large. However, size does tend to give the tenant greater fixity of tenure because the farm is less likely to be sold to an owner-operator or farmed directly by one of the heirs. Also, the larger estate usually provides better and more stable management. Because it seems likely that some large estates may develop, some attention should be given to the elimination of their most objectionable features in order that they can do a better job of serving their tenants and the society in which they operate.

B. Improving the Image of Landed Estates

The perfect lease has been defined as one which transfers or conveys the ultimate in fixity of tenure, and freedom of operation and improvement in exchange for a guaranteed rent and guaranteed maintenance of the property. If this definition is accepted, the perfect landlord's firm is one which makes such leases with a perfect tenant's firm guaranteeing rental payments and property maintenance.

Obviously, such ideal firms and leases do not exist and probably never will. The concept does, however, have the merit of indicating the general direction which must be taken if leases are to be improved. This has been done in Chapters II and IV.
The tenants complain of a lack of the four F's: fixity of tenure, freedom of operation, freedom of improvement, and fair rents. Landlords complain of lack of freedom from worry about rents and lack of freedom from problems of operation and improvement. As noted before, these problems seem most serious under the share-rent lease and least serious under the English cash-lease system. However, although the English cash-lease system was generally recognized to be superior to share-rent leasing in Europe, it was not without its imperfections. In England, George Hope, described as the greatest farmer of his generation, wrote in 1863 that

On many large estates the family character of the owners and traditional usage are considered a species of security by the tenants and practically few changes are made amongst them; often generation succeeds generation on the same farm, and that, too, at a very moderate rent. Still . . . instances are not wanting where such tenants who have ventured to improve their lands, have had their rents at once raised, while the sluggard continued to pay as formerly. Others again have received notice to quit for having refused to drink a toast, or it may have been some paltry dispute about game, or the assertion of political or religious independence; or perhaps to make way for some favourite in want of a farm.


If English cash-rent leasing has only the minor defects indicated by this quotation, why the need for improvement? One answer is that the English-type leasing estates are not
considered desirable in the United States and they can only become desirable by improving their public image.

The problem, then, is one of making the English cash-leasing system more attractive to American farmers. Judging by the Scully Estate there is inherent in the system some attractive features which should not be overlooked. Among these are the high degree of fixity of tenure, much freedom to improve, considerable freedom of cropping and rents which are fair to a fault from the landlord's standpoint. Yet, as has been shown, the Scully Estate has on several occasions achieved much unfavorable notice.

Newly organized English-type leasing estates are apt to make much more serious errors than the Scully Estate, because the latter's founder, William Scully, was well acquainted with English leasing practices and was soon to learn by hard experience the power of public opinion. Thus, if errors in public relations were made by several newly organized estates, it seems likely that legislation would soon be enacted that would either force them to sell the land or operate under laws similar to those in England. If, as seems likely, the first alternative were chosen (as it was in Ireland) the share-rent leasing system might persist for many more generations before a more satisfactory alternative was developed.

Incidents similar to those mentioned by Hope are also likely to occur in the United States because almost all of the land laws are of English origin and have not been significantly developed beyond those
of nineteenth century England. But in England these occasional abuses led to the adoption of tenancy legislation which made uniform the general practice on the better estates. The first effective tenancy legislation was enacted in 1883 when tenants were given considerable freedom of improvement and compensation when they left the farm, for the value of unexhausted improvements. By 1921 they had also been given freedom of cropping, fair rents and compensation for unjustified disturbance. Some observers feel that English tenancy legislation has been so favorable to the tenant and so unfair to the landlord that it now endangers the system.

For example see McGregor, p. xliii, and James A. S. Watson, "Land Ownership, Farm Tenancy, and Farm Labor in Britain," Agricultural History, Vol. 17, April, 1943, p. 77.

Be that as it may, the legislation does clearly indicate the problems as seen by English farmers and there is every reason to believe that American farmers may be even more sensitive to the lack of the four F's. Certainly this is indicated by the experience of the Scully Estate.

One solution to this problem would be for estates to adopt a set of principles which would provide some degree of the four F's. Such policy might be much more helpful to a new estate than to an old, where custom has established certain basic principles for dealing with tenants. However, even for older estates a statement of general principles might do much to improve the image of the estate.
Principles of this kind have developed, for example, in colleges and universities. These have been reduced to writing and form a basis for evaluating administration-faculty relations all over the country.


There is a fascinating parallel between the administrative-faculty relationship and the landlord-tenant relationship under the English cash-leasing system. In any college or university worthy of the name, the faculty member is given freedom of research, freedom of teaching and freedom of publication. Moreover, the faculty member, after a probationary period, is given fixity of tenure even though a one-year contract may be used.

A number of other professional groups have codes to guide their conduct of business. Those of medical doctors and lawyers are perhaps the best known, but there are others such as those subscribed to by members of the American Society of Farm Managers and Rural Appraisers and the National Association of Real Estate Boards. In time, perhaps, there will be a code for English-type farm landlords. Certainly the merits of such a code should be seriously considered by any individual, company or agency leasing land to a large number of tenants, particularly under the relatively unfamiliar English cash-leasing system.
The following code is suggested for further study and improvement:

Suggested Code for English Cash-Leasing Estates

The heart of a capitalistic, free-enterprise economy is the free market. It is the free market which answers the questions: What shall be produced? How much shall be produced? With what shall it be produced? and for whom shall it be produced? If farmers are to produce what consumers demand in the free markets, they must have maximum freedom of operation and improvement consistent with soil conservation or the long-run productivity of the land. Such freedom can only be achieved when farmers have sufficient fixity or security of possession of the land to permit long-run plans for operation and improvement. Moreover, the land must be made available at a fair price or rental rate set by the free land market. Recognizing these basic goals of our economy, and the farmer's desire to achieve them, the ____________ Estate pledges that it will make every effort to provide

1. Fair Rents: (1) By using objectively determined cash or flexible cash rents to eliminate the question, "has a good job of farming been done and a fair rent been paid?" (2) By keeping rents in line with land values, other rents, or crop prices and yields depending upon the kind of cash rent used.

2. Fixity of Possession: By using the one-year or year-to-year lease only as a means to insure payment of the amount of rent due and the maintenance of the property.
3. Freedom of Cropping and Operation: By eliminating all restrictions that are not necessary to protect the inherent productive capacity of the soil from wind or water erosion and noxious weeds.

4. Freedom to Improve: By giving the tenant more fixity of tenure as outlined above, by making needed improvements in exchange for an additional rent or by allowing the tenant to make needed improvements at his own expense and, when he leaves the farm, either remove them or sell them to the oncoming tenant.

Although not explicitly stated, this landlord's code implies a tenant code as well. The tenant code should parallel that of the landlord. As a minimum the tenant should give the landlord security of the amount of rent, the payment of the rent and the protection of his property. In other words the landlords should have

1. Freedom from worry about the amount of rent,
2. Freedom from worry about the payment of rent, and
3. Freedom from worry about the upkeep and maintenance of the property.

Obviously both the landlord's and the tenant's codes should be a part of the written lease agreement. The suggested code would be a guideline to the development of the lease much as is the theory of the perfect lease as discussed in Chapter II.

The main value of the code then, would be that of clarification
and publication of objectives as part, but only a part, of a program of image improvement.

C. Legitimization of Landed Estates

That English cash-lease estates are not a part of the American dream is so obvious that it scarcely deserves mention except for one important fact. The dream of owner-operation of the nation's farms, which once seemed not only desirable but attainable, has not materialized. The prospects in the Midwest are for commercial farms of 1,000 acres or more, costing $150,000 or more, that require another $36,000 for successful operation.


As pointed out in Chapter III, the major tenure trend in the United States has been towards part ownership. About two thirds of the land leased by part owners is being rented on a crop-share basis. As has been noted, this share-rented land creates serious problems for part owners. At stake is the freedom of operation and improvement made possible by the security of tenure which ownership provides. If cash rents provide more freedom of operation, more freedom of improvement and more fixity of tenure than share-rent leasing, it seems likely that the English-type estates may eventually become an accepted part of the
American cash-leasing system—particularly if practical means can be developed which will allow cash rents to vary with crop yields and prices.

A much more difficult task may be to win acceptance of English-type leasing estates. In their favor is their use of the English cash-leasing system. However, because share-rent leasing is still the most popular method, the use of cash rents may continue to be a handicap until it is more generally recognized that share rents tend to limit the tenant's fixity of tenure and freedom of operation and improvement.

Also it needs to be recognized that the variation of rents with crop yields and prices is not free. The landlord is willing and able to bear crop-share risks only because a "premium" is paid over and above cash rents. Evidence is scarce, but that readily available indicates that share rents may be 50 percent or more higher than cash rents (Figure 6).

R. L. Barry, Share Rents and Short-Term Farm Leases, S. D. Agr. Exp. Sta. Cir. 117, 1955, Table 13 and text.

Part of this difference may result from the lag of cash rents in inflationary periods and in the increased costs of management of share-rented farms. But even then the difference appears to be worthy of more attention than has been given to it.

In view of the strong feeling that rents should vary with crop yields and prices, perhaps leasing estates could win popular approval by using a flexible cash lease in which rents vary with farm prices and
yields of the community. If rents are to vary with community yields there exists the problem of determining just what these yields are. This could be done in various ways, such as sampling the fields. If this is done the question arises as to who should do it. To be satisfactory, both the landlord and the tenant should participate in the process of deciding what the yield figures should be for any given year.

Boulding holds that such participation or representation can be a powerful force in the legitimization of any business concern or corporation:

The state has been forced to employ this as it has moved from absolute monarchy toward representative government, and as L'Etat, c'est moi is replaced by L'Etat, c'est nous. Similarly, business may find it advantageous to legitimize itself through representation, even though this representation may, in fact, be largely symbolic and may not much affect the real sources of power. Certainly the representation of trade unions on boards of directors, as we have seen especially in Germany, has had much more effect upon legitimacy than upon power. If representatives of government were to sit on the boards of the large corporations, still more if representatives of the United Nations were to sit on the boards of the international corporations, their legitimacy would be substantially enhanced and their operations would probably not be much interfered with.


Estates might also enhance their acceptance if they could find some way to use a committee of tenants in an advisory capacity regarding disputes over tenure, farming practices and soil maintenance.
Perhaps the code could specify a probationary period for tenants. During this time the Estate management could refuse to renew the lease on its own motion. After this period, the tenant whose lease is not to be renewed could ask for a hearing before the tenure committee before the final decision was made. The committee might recommend renewal, non renewal, or perhaps a compromise between these two extremes in the form of a fine for failure to observe good farming practices and soil conservation.

The merits of incorporation should be carefully evaluated as to possible effects on the acceptance of the estate. It may be that incorporation would be less objectionable than one-man ownership—especially if some stock was made available to the public—particularly to the tenants or other farmers in the community.

Tenant representation on the board of directors in ex officio capacity has been used not only in Germany, as Boulding points out, but also in this country. Some colleges and universities have one or more faculty members who meet with their boards of control to help set policy governing the institution. Perhaps their usefulness is about the same as Senator Sherman of anti-trust fame whose ghost has been said to sit on the board of directors of every large company. Like Sherman's ghost, tenant representatives may temper policies and help achieve public acceptance.

Ownership of large blocks of land has very real economic advantages when drainage, irrigation, and even soil conservation and weed
control practices are involved. For example in Logan County, Illinois, block ownership of 48 sections of land made possible a comprehensive drainage system of dredged open ditches and perhaps 1,200 miles of tile that would have been much more difficult under scattered ownership.


There are also some advantages in managing the land, because the time spent driving from farm to farm is reduced to a minimum. The 46,000 acres of Scully land in Illinois are located in five counties and only seven tracts. A disadvantage is that there is a certain amount of public opposition to one estate owning a large acreage in a community. Not only the owner but his tenants and their farming are often criticized—particularly if they happen to be of a different ethnic origin than others of the community.

Gates found newspapers which were supporting the anti-alien landlord laws of 1867 describing the tenants as ignorant foreigners, Bohemians, Scandinavians and Poles. These newspapers claimed the Scully tenants "are not a class who are desirable neighbors" a "dreary and woebegone" lot of "scarecrow tenants" who "are in a state of absolute serfdom under his heartless alien rule, mostly transients raising nothing but corn year after year, from the same ground." The Scully lands were described as "the most forlorn-looking estate in Illinois." The houses were "a miserable lot of shanties." It was
argued that the continuous corn "breeds burrs and weeds, the seeds of
which are carried to surrounding farms."

Paul W. Gates, Frontier Landlords and Pioneer Tenants, Cornell
University Press, Ithaca, New York, 1949, pp. 55-56. Quotations from
four newspapers March and April 1887.

In evaluating this criticism it should be kept in mind that the
large blocks of land purchased by the Scully Estate were extremely
wet and subject to flooding. As a result it was not until the late
1870's that much of the Logan county land was leased to German and
Scandinavian immigrant families. "These farmers leased virgin land,
some of which was still swamp, as well as farms left by Scully ten-
ants who had moved away" (Beaver, p. 46).

These immigrants had little money for either buildings or
taxes. Because they were developing land 30 years or more after the
better-drained lands had been developed it is not surprising that these
farms did not look prosperous, that burrs were spread by flooding, and
that roads were poor and schools unsatisfactory. Nor is it particu-
larly surprising that "the new German immigrants were disliked to a
certain extent at first by the older residents of the county" (Beaver,
p. 48).

The lesson to be learned from this experience is that diffusion
of land ownership has its merits in that it prevents ghetto-like es-
tates and ghetto-like discrimination against it. Of course part of the
difficulty might have been prevented by a mixed or balanced settlement policy. Yet this might not have been possible, given the circumstances.

D. **Summary and Conclusions**

Would farmers support the use of English cash leasing by the Federal Land Banks, insurance companies, and local companies? Two-thirds of the farmers interviewed in Marion County, Kansas said that they would urge a friend to buy a Scully lease—yet only a fifth thought other landlords would make leases such as the Scully Estate does. Only one-third of the farmers interviewed favored Land Bank and insurance company leasing in this manner, despite the fact that they believed the Scully tenants had more fixity of tenure and freedom to farm than did share-rent tenants. The main objection was that such credit agencies should help farmers become owners. Another important objection was that the policy would make "too many big guys."

These answers indicate two things: (1) owner operation is still considered the highest rung on the tenure ladder, and (2) there is fear that the "big guys" will prevent farmers from achieving their tenure goals of ownership. Obviously these strong feelings must be taken into account in considering the future of English cash leasing in the United States.

One way to meet this problem is for the landlord—whether individual, estate, Federal Land Bank, insurance company, or trust—to provide tenants with much of the four F's usually provided by
owner-operation. To do this, the landlord must have freedom from worry about the amount of rent, payment of rent, and protection of his property. The amount of rent can only be assured by fixed-cash or objective flexible-cash rents. This shift from share to cash rents is the key to greater acceptance of English-type landlords. Acceptance would probably be greater if such an estate could adopt the Scully Estate policy of tenant ownership of improvements. The adoption of a code might be of considerable help in securing public acceptance of a leasing estate. Such a code should, if possible, provide for the four F's.

The prospect for public acceptance of English-type leasing by Federal Land Banks, insurance companies, and estates like the Scully Estate has in its favor cash rents which tend to increase security of tenure, freedom of operation and freedom of improvements. However cash rents might be made more acceptable if they were varied with crop prices and area yields. It appears that legitimacy would also be enhanced if various means of tenant participation in the administration could be worked out. Tenant committees might be used in determining yields for rent variation, deciding upon penalties, including non-renewal of lease, and violation of good husbandry and soil conservation.

Incorporation might permit farmers and others of the community to purchase some stock. Provision for tenant participation in board action might do much to make such a leasing concern more acceptable to the public than appears to be true at the present time.
Although there are some important advantages of a leasing concern or estate having its land in large blocks, such blocks also create problems of acceptance in the community—especially when "outsiders" are brought in as tenants. This has been demonstrated by the Scully Estate in Illinois. This problem can be solved in part by more dispersed landholdings or by balancing the ethnic groups.

If the English cash-leasing system has merit, it is likely to grow, though slowly, as a result of its adoption by some of the larger landlords. It is possible, however, that land agents may find it profitable to lease on long-term, straight-cash leases from landowners with the privilege of subletting on a cash- or flexible-cash lease with sufficient differential to pay for the costs of management. Like the other ideas expressed, this idea needs further study to determine its feasibility.
CHAPTER XII

SUMMARY AND CONCLUSIONS

One of the earliest and strongest of American ideals is that farmers should own all the land they operate. Full ownership has been regarded as the top of the agricultural ladder because among other things it generally provides the highest degree of the four F's:

1) fixity or security of tenure or possession, (2) freedom of short-run operation or management, (3) freedom of improvement or long-run management, and (4) fair land charges.

Yet today in the most productive areas of the Midwest more than 60 percent of the land is under lease—mostly for share rents—which provides much less of the four F's than does ownership. Furthermore there seems little prospect that there will be a sharp increase in full owners in the near future. Part owners (part tenants) are the fastest growing tenure group and when a share rent is paid for the leased land some serious tenure problems are created.

Some historical evidence suggested the English cash-leasing system would provide more of the four F's than does share-rent leasing. The purpose of this study was to investigate this hypothesis by making a case study of the cash-leasing system as used by the Scully Estate in Illinois, Nebraska and Kansas.
The procedure consisted of a review of the literature, interviews and correspondence with the Scully Estate managers and comparisons of replies to questions asked in personal interviews of 103 randomly selected Scully and non-Scully farmers in Marion County, Kansas.

Because each chapter in the body of this thesis contains its own summary and conclusions, only the major conclusions will be restated here.

The perfect lease was defined as one which gives the landlord complete assurance as to the amount of his rent, the payment of his rent, and the protection of his property and the tenant complete assurance of the four F's (Chapter II).

Historical trends indicate that full ownership which provides farmers with much of the four F's has declined until more than 60 percent of the land in the most productive areas of the Midwest is under lease, largely for a share rent (Chapter III).

History, leasing studies, and the opinion of farm tenure research workers indicate that the lack of the four F's is the major farm tenure problem—hence their achievement is the major goal. Other evidence indicates that landlords feel that they cannot give the tenant more of the four F's as long as the way the tenant farms and his fairness in dividing the crops affects the rents. Thus the crucial problem is to give the landlord more security of a fair rent (Chapter IV).
The origin, size, and administration of the Scully Estate indicates that it is a good example of the larger English cash-leasing estates. Moreover, the Scully Estate uses a cash-leasing system that is similar to that used by English cash-leasing estates before the adoption of its modern farm tenancy legislation. There is one notable exception—tenant ownership of the improvements, which appears to have come from northern Ireland (Chapter V).

An analysis of the cash rents of the Scully Estate in Marion County, Kansas indicates that they are considerably below the cash rents charged by other Kansas landlords. There is little evidence that the rents have ever been unfair to the tenants (Chapter VI).

The Scully tenants appear to have much more fixity of tenure than do share-rent tenants because cash rents eliminate the need for the landlord to use the one-year or year-to-year lease to insure a good job of farming and the payment of a fair rent (Chapter VII).

Scully tenants appear to have more freedom to improve because their tenure is more secure and they own all improvements (Chapter VIII).

Scully tenants have much more freedom of operation than many share-rent tenants because the way the tenants farm does not affect the amount of rent paid (Chapter IX).

In view of the strong feelings against the Scully Estate and several legislative acts directed toward it, the absence of any significant legislation to guarantee fixity of tenure, freedom to
improve, freedom to operate, and fair rents indicates that the Scully Estate left little to be desired regarding these goals (Chapter X).

Despite the evidence that the Scully Estate's cash-leasing system gives its tenants much more of the four F's than share-rent leasing, only one-third of the farmers interviewed in Marion County, Kansas favored the use of the Scully system by Federal Land Banks, insurance companies or locally owned companies. Some felt that credit agencies should help farmers acquire ownership and others objected to "too many big guys." This response suggests that English-type leasing estates and English cash leases need to be Americanized if they are to be more widely accepted in this country. The use of a code and tenant participation in the management of leasing companies, especially with regard to the four F's, and flexible cash leases appear to be ways to increase public acceptance that need further study (Chapter XI).
APPENDIX A

SCHEDULE OF QUESTIONS USED IN INTERVIEWING

FARMERS IN MARION COUNTY, KANSAS

337
CONFIDENTIAL

EFFECTS OF SHARE AND CASH LEASING ON FARMING CONDITIONS
IN MARION COUNTY KANSAS.

A Survey by the Kansas, Nebraska, and South Dakota Agricultural Experiment Stations as a Subcommittee of the Northern Great Plains Tenure, Land Value, Farm Organization and Credit Committee, August 15, 1955.

I. INTRODUCTION

1. Farm No. __________ Interview: Date: Hour: Length of Interview
2. Operator __________ First Call ______ Time stopped ______
3. P. O. __________ Second Call ______ Time started ______
4. Acres __________ Third Call ______ Total time ______
5. Legal ____________ Interviewed by __________

YOUR EXPERIENCE AND YOUR FAMILY

6. In what year did you first start farming? year ______
7. (a) Have you been farming ever since? yes 1 no 2 ______
(b) If "NO", why not? ______________________________________
8. How many different farms have you operated since starting farming? number ______
(Ave, years per farm) ______
9. How old were you when you started farming? years ______
(Present Age) years ______
10. (a) How many years of schooling do you have? years ______
(b) How many years of schooling does your wife have? years ______
11. How many children do you have, if any? number ______
12. Of what farm organization, if any, are you a member? Farm Bureau 1, Farmers Union 2, Grange 3, Other 4. (Give Name) code _____

13. What positions, if any, do you hold in: (read stub slowly)
   a) Farm Organizations? ________________________
   b) Twp. or county government? ________________________
   c) Schools? ________________________
   d) Church? ________________________
   e) Others? ________________________

14. Do you subscribe to a daily newspaper? yes 1 no 2 ______

15. To what farm magazines do you subscribe, if any? ______

16. From what country did your ancestors come? ______

17. How often do you attend church or Sunday School? . . . . . . . . . . . . . . . . . . per month _____

18. How often does your wife attend church or Sunday School? . . . . . . . . . . . . per month _____

YOUR PRESENT TENURE SITUATION

19. How much land including permanent hay and pasture land are you farming this year? Total acres ______

20. Of this land, how much do you own? ....... acres ______

21. How much do you Scully lease? ....... acres ______

22. How much other land do you rent? ....... acres ______

23. What kind of rent do you pay for this "other land" (question 22)
   (a) Livestock share? ....... acres ______
(b) Crop-share? . . . . . . acres ______
(c) Straight Cash rent? . . . . acres ______
(d) Other? __________________ acres ______

24. On which land is your farmstead located: Owned land ______
Scully land ______
Other land ______
(Tenure classification)

II. YOUR FARM PRODUCTION AND PRACTICES

LAND USE THIS YEAR, 1955

25. How much permanent pasture (not cropland) is there on this place? . . . . . . acres ______

26. How much cropland pasture and hay do you have on this place? . . . . . . acres ______

27. (a) Of this hay and cropland pasture how much is legumes or legume mixtures? acres ______
(b) Of the legumes and legume mixtures, how much is
   Alfalfa or alfalfa mixtures? . . . acres ______
   Sweet Clover? . . . . . . . . . acres ______
   Other legumes? . . . . . . . . acres ______

28. ______

29. How many acres of corn do you have on this place? . . . . . . . . . . . . acres ______

30. How many acres of wheat did you have on this place? . . . . . . . . . . . . acres ______
31. What other grain crops do you have on this place this year?

acr es  

acr es  

acr es  

acr es  

acr es  


32. How many acres of cropland were in cultivated summer fallow this year? acres

33. How many acres are in house lots, barn lots, lanes, roads, ditches and wasteland? acres

(3.) Add answers to questions 25-33 and enter here. Total acres

(This answer should be within 10 acres of the total acres farming this year.)

(Ask of those having 2 or more kinds of tenure)

35. HOW MUCH OF

<table>
<thead>
<tr>
<th>Owned Land</th>
<th>Scully Land</th>
<th>Other Rented</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Permanent pasture is on</td>
<td>___</td>
<td>___</td>
</tr>
<tr>
<td>(b) Legumes and legume mixtures are on</td>
<td>___</td>
<td>___</td>
</tr>
<tr>
<td>(c) Alfalfa and alfalfa mixtures are on</td>
<td>___</td>
<td>___</td>
</tr>
<tr>
<td>(d) Corn is on</td>
<td>___</td>
<td>___</td>
</tr>
<tr>
<td>(e) Wheat is on</td>
<td>___</td>
<td>___</td>
</tr>
</tbody>
</table>

FERTILIZER AND LIME USED IN 1956

(Include any purchased or paid for by the landlord for use on this place)

36. How much lime and liming materials were purchased this year? tons

acres limed
37. Of the acres limed how many were on:

- Owned land? . . . . . . . . . . acres ______
- Scully land? . . . . . . . . . . acres ______
- Other rented land? . . . . . acres ______

38. How much commercial fertilizer and fertilizing materials were purchased this year? Total tons ______
(If "None" write none and skip to question 43.)

Total acres on which used ______

39. Of the acres fertilized how many acres are on:

- Owned land? . . . . . . . . . . ______ ______
- Scully land? . . . . . . . . . . ______ ______
- Other rented land? . . . . . ______ ______

40. HOW MANY TONS WERE USED ON—(read stub to question 39 and insert answers under tons).

41. On how many acres of the following crops was this fertilizer used?

- (a) Hay and cropland pasture ______ ______
- (b) Other pasture (not cropland) ______ ______
- (c) Corn? ______ ______
- (d) Wheat? ______ ______
- (e) Other crops (Give Name) ______ ______

Total ______ ______

42. HOW MANY TONS WERE USED ON—(read stub of question 41 again and insert answers under tons to question 41).

LIVESTOCK NUMBERS AND PRODUCTION

CATTLE QUESTIONS. Include all cattle on this place whether they belong to the operator or not. Also include all cattle temporarily grazing on other land.
43. How many cattle and calves are on this place? number ____
   (If "none" write none and skip to hogs.)

44. Of the total cattle and calves on this place—
   How many are cows? (include heifers which
   have calved). . . . . . . . . . . . . . number ____

45. How many cows and heifers were milked
   yesterday? . . . . . . . . . . . . . number ____

46. How many milk cows and milk heifers do you
   have on this place (include dry cows and
   heifers which have calved). . . . . . . number ____
   (If none write none and skip to Hogs)

47. How many of the dry cows and heifers will
   freshen or calve before Nov. 1 this fall? . . number ____

48. How many gallons of milk were produced
   yesterday? . . . . . . . . . . . . . . . . . . . gallons ____

49. Do you sell whole milk or cream? Milk 1
   Cream 2

50. To whom do you sell your milk or cream?
    _____________________________________________
    Address ______________________________________

51. (If whole milk is sold ask) how much of the
    milk sold, if any, is bottled by you or
    others? All 1, Part 2, None 3, Don't know 4  ________

52. How much milk or butterfat did your cows
    produce as an average last year?        Milk pounds ____
    B. F. pounds ____

53. Could you give us your reasons for keeping milk cows rather than
    (more) hogs? ________________________________

54. What things caused you to milk cows rather than keep (more) beef
    cows? ____________________________________

**HOG QUESTIONS**

55. How many hogs and pigs of all kinds do you
    have on this place today? . . . . . . . . . . number ____
    (If none write none and skip to sheep.)

56. How many hogs and pigs of all kinds do you
57. Of these hogs how many are sows or gilts which have farrowed? . . . . . . number ______

58. Why did you decide to produce hogs rather than (more) beef cattle? _______________________

SHEEP QUESTIONS

59. How many sheep and lambs of all kinds do you have on this place today? . . . . . . number ______
   (If none write none and skip to next section.)

60. How many of these sheep are ewes (have lambed)? . . . . . . . . . . . . number ______

61. Why did you decide to raise sheep rather than (more) hogs? ______

POULTRY QUESTIONS

62. How many chickens do you have on this place today? . . . . . . . . . . . . number ______
   (If none write none and skip to land improvements)

63. How many of these chickens were hatched since January 1 of this year? . . . . . . . . . . . . number ______

III. LAND IMPROVEMENTS

HOUSING ON THIS PLACE

64. Is the house on this place--
   Check one
   a frame house? 1. ______
   a stucco or veneer house? 2. ______
   a solid masonry house? 3. ______
   other ____________________________ 4. ______

(65). If a frame house would you say that it is painted or not? . . . . . . . . . . . .

66. How many rooms does it have? . . . . . . number ______
   (Exclude bath, halls, etc. and unfinished attic and basement rooms not suitable for living quarters.)

67. How many persons are now living in this house? number ______
   (Include babies and children)
68. In general would you say that the condition of this house is:  
   Check one  
   good 1. ______  
   fair 2. ______  
   poor 3. ______  

69. How many dollars were spent on repairing or improving this house last year?  
   nearest $100 dollars ______  
   (By both operator and landlord if any)  

FACILITIES ON THIS PLACE  

70. DO YOU HAVE ON THIS PLACE—  
   Yes No  
   (a) Electric lights? ______  
   (b) Gas, mantle or pressure lights ______  
   (c) Water piped into house? ______  
   (d) Power washer? ______  
   (e) Mech, refrigerator? ______  
   (f) Home freezer? ______  
   (g) Kitchen sink? ______  
   (h) Radio? ______  
   (i) Telephone? ______  
   (j) Automobile? ______  
   (k) Milking machine? ______  
   (l) Upright silos? ______  
   (m) Trench silos? ______  
   (n) Field forage harvester? ______  

71. What improvements or repairs are needed most on this house? ______  

BUILDINGS AND FENCES CONSTRUCTED  

72. How much, if any, of the following improvements have been made since January 1, 1950 on this place?  
   (a) New woven wire, fences rods ______  
(b) New barbwire fences ________
(c) New roofing or shingles on house ________
(d) New roofing or shingles on barn ________
(e) Barn painted? ________
(f) House painted (outside)? ________
(g) Septic tank installed? ________

73. What new buildings, if any, have been built since January 1, 1950?

74. What new buildings are most needed?

SOIL CONSERVATION PRACTICES USED

75. How much, if any, of the following soil conservation practices are in use on the land which you are now operating?
   (If "none," so indicate.)

   (a) Grass waterways . . . . acres
   (b) Drainage (open or tile) . acres
   (c) Terraces. . . . . . . acres
   (d) Contouring or strip cropping . . . . . . acres
   (e) Reservoirs, stock pond or earth tanks . . . . acres

76. (If mixed tenure ask:) How much of these conservation practices are on land which you own? Scully lease? Rent from other landlords? (Read stub to question 73 above and distribute answers.)

(If no land is rented or leased skip Section IV and go to Section V)

IV. FACTORS AFFECTING YOUR SECURITY OF POSSESSION AND FREEDOM OF OPERATION

Now we would like to ask you some questions concerning your landlord (s) and your lease (s) because these things affect your chances of keeping your farm.
<table>
<thead>
<tr>
<th>Question</th>
<th>Options</th>
</tr>
</thead>
<tbody>
<tr>
<td>77. (Landlord's name or code)</td>
<td>A. Scully B C</td>
</tr>
<tr>
<td>78. What is the age of this landlord</td>
<td>X</td>
</tr>
<tr>
<td>79. Is this landlord a man or a woman?</td>
<td>X</td>
</tr>
<tr>
<td>80. Is this landlord:</td>
<td></td>
</tr>
<tr>
<td>an individual?</td>
<td>1 X</td>
</tr>
<tr>
<td>an estate?</td>
<td>2 X</td>
</tr>
<tr>
<td>a partnership?</td>
<td>3 X</td>
</tr>
<tr>
<td>a corporation?</td>
<td>4 X</td>
</tr>
<tr>
<td>a governmental unit?</td>
<td>5 X</td>
</tr>
<tr>
<td>81. Present occupation of this landlord?</td>
<td>X</td>
</tr>
<tr>
<td>82. How did this landlord acquire ownership?</td>
<td>X</td>
</tr>
<tr>
<td>83. Number of farms leased out by this landlord</td>
<td>X</td>
</tr>
<tr>
<td>84. What is your relation to this landlord if any?</td>
<td>X</td>
</tr>
<tr>
<td>85. Is your present lease written? Yes or no</td>
<td>X</td>
</tr>
<tr>
<td>86. What is the length of term of your present lease (Years).</td>
<td></td>
</tr>
<tr>
<td>87. What length of lease do you prefer?</td>
<td></td>
</tr>
<tr>
<td>88. For how many years have you rented this land?</td>
<td></td>
</tr>
<tr>
<td>89. For how many additional years would you like to rent this land?</td>
<td></td>
</tr>
<tr>
<td>90. Number of visits of this landlord or agent to farm per year</td>
<td></td>
</tr>
<tr>
<td>91. Number of visits desired from this landlord or agent per year</td>
<td></td>
</tr>
</tbody>
</table>
CHANCES OF KEEPING YOUR RENTED OR LEASED LAND

92. If your present landlord neither dies nor sells the farm during the next 5 years, would you say that your chances of keeping the farm through 1960 are (read stub)

Landlord's name or code

A. Scully B C

very poor 1
fairly poor 2
fairly good 3
very good 4

93. If your present landlord should happen to die do you feel that your chances of renting this farm through 1960 would be: (read stub)

very poor 1
fairly poor 2
fairly good 3
very good 4

94. If your present landlord should sell this farm do you feel that your chances of renting this farm from the next owner would be: (read stub)

very poor 1
fairly poor 2
fairly good 3
very good 4

95. Would you say that the chances of your landlord selling this farm during the next five years are: (read stub)

very likely 1
fairly likely 2
fairly unlikely 3
very unlikely 4

96. If your landlord was dissatisfied with the way you farm would your chances of keeping this land next year be:

very poor 1
fairly poor 2
fairly good 3
very good 4
97. (a) Would you say that Scully tenants as compared to crop-share tenants have more security or less security on the land which they are renting?

more security ______
less security ______

(b) How sure do you feel about this?
very sure 1, fairly sure 2, not sure 3 . . . . . . . . . . . . . . . .

(c) (If more security ask:) Would you say that this greater security is mainly the result of the: (read stub)
cash rental ______
size of estate ______
or other (spec.) ______

(d) (If less security ask:) What factors cause Scully tenants to be less secure? _____________________________

98. (a) Would you say that Scully tenants as compared to crop-share tenants have more freedom or less freedom to farm as they think best?

more freedom ______
less freedom ______

(b) How sure do you feel about this?
very sure 1, fairly sure 2, not sure 3 . . . .

(c) (If more freedom ask:) Would you say that this greater freedom in farming is mainly the result of the: (read stub)
cash rental ______
size of estate ______
or other (spec.) ______

(d) (If less freedom ask:) Why do you feel that Scully tenants have less freedom than crop-share tenants? _____________________________
99. (a) Suppose you had a friend who had a chance to buy a Scully lease. Other things being equal would you urge him to buy the Scully lease or not? would urge ______ would not urge ______

(b) (If would urge ask:) Why? ___________________________

(c) (If not urge ask:) Why not? ___________________________

100. (a) Upkeep and repairs of farm improvements are one of the most important causes of landlord-tenant disagreement. Someone has suggested that selling the improvements to the tenant as is done on the Scully Estate is a practical solution to this problem. Would you agree or disagree with this idea? agree ______ disagree ______

(b) What advantages do you see to this proposal?____________________

(c) What disadvantages do you see to this proposal?____________________

101. (a) Someone has suggested that Scully tenants consider it impractical to make as good improvements on a Scully lease as they would on land which they own. Would you agree or disagree with this idea? agree ______ disagree ______

(b) (If agree ask:) Why do you agree?____________________

(c) (If disagree ask:) Why do you disagree?____________________
102. (a) Someone has suggested that the Scully Estate should furnish all of the improvements on their land and increase the cash rent enough to cover repairs, depreciation, and insurance and leave them a net of 6 percent on their investment. Would you favor or oppose this idea?

favor ________ 
oppose ________ 

(b) (If favor) Why do you favor this proposal? ________________

(c) (If oppose) Why do you oppose this proposal? ________________

VI. IMPROVING THE TENANT'S CHANCES OF KEEPING THE FARM

We would now like to have your ideas on how the cause of landlord-tenant difficulties can best be removed so that the tenant's chances of keeping the farm and his freedom of operation will be better.

103. Here's a list of reasons why landlords and tenants sometimes disagree (Show Exhibit A). Which would you say is the most important reason for landlord-tenant disagreement: Second most important? Third? Fourth? Fifth? (Rank choices 1, 2, 3, 4 and 5.)

(a) Sharing of operating expenses ________
(b) Upkeep and repair of buildings and fences ________
(c) Fair division of the crops ________
(d) Whether or not a good job of farming has been done ________
(e) Soil erosion control practices ________
(f) Other causes ________

104. Over 60 percent of the farm land in Marion County is rented land. This land is rented by 800 full tenants and 700 part-tenants. Most of these tenants pay a crop-share rent to landlords owning 1-2 farms each. Someone has said that most of
these crop-share landlords would be willing to lease land for a 1-year cash rent as the Scully Estate does. Would you agree or disagree with this statement?

agree ______
disagree ______

(b) Why? ___________________________________________

105. (a) Someone has suggested that the Federal Land Bank should lease land to tenants on a cash rental basis like the Scully Estate does. Would you favor or oppose this idea?

favor ______

oppose ______

(b) (If opposed ask:) Why would you be opposed to the Federal Land Bank renting land on a cash rental basis like the Scully Estate does?_________________________________________

106. (a) Insurance companies now lend millions of dollars to farmers on farm mortgages. It has been suggested that they should rent farms to tenants on cash leases like those used by Scully Estate. Would you favor or oppose this idea?

favor ______

oppose ______

(b) (If opposed ask:) Why would you oppose insurance companies' renting land to tenants on a cash lease?_________________________________________

107. (a) It has also been suggested that farmers and other businessmen of this area organize a company to hold and lease land to tenants like the Scully Estate does. Would you favor or oppose such an idea?

favor ______

oppose ______

(b) (If opposed ask:) Why would you oppose such an organization?_________________________________________
108. (a) According to a news item in The American Farm Bureau Official News Letter of June 6, 1955, the Australian government "has established a program of purchasing land and leasing it to discharged soldiers on a very reasonable financial plan. While the veteran cannot sell the land, he owns the lease and can increase its value through improvements." In general do you think this is a good idea or a poor idea for use in this country?

- good idea ______
- poor idea ______

(b) How sure are you that such a program is a (good) idea?

- not sure ______
- fairly sure ______
- very sure ______

109. (If poor idea ask:) Why do you think this is a poor idea?______

HAVE ALL QUESTIONS BEEN ANSWERED?
APPENDIX B

J. M. STEWART, FARM BUILDINGS: LEASING ARRANGEMENTS:
SCULLY ESTATES, ILLINOIS SOCIETY OF PROFESSIONAL
FARM MANAGERS AND RURAL APPRAISERS, PROCEEDINGS
OF THE WINTER MEETING, JAN. 30-31, 1964 (Mimeo.)
The topic assigned to me is rather unusual in view of my position. William Scully, founder of Scully Estates, is reported to have said on numerous occasions that "fools build houses for wise men to live in." Mr. Scully practiced what he preached. He became one of the largest landowners in the Middle West, but he owned buildings on only two occasions: first, in the 1850s, a set of buildings in Logan County, Illinois, in the center of an ill-fated sheep ranching enterprise; and, second, a large home in Washington, D. C., that he bought about 1900. About that time he found it necessary to establish permanent residence in the United States and to apply for citizenship to hold his rather large acreage in the Middle West.

The Scully Estates have been in existence some 112 years. It is therefore not unusual that certain management practices have become strict business policy and are commonly known to those who work for the Scullys as "Scully tradition." Before his retirement, my predecessor, William E. Trapp, who worked for the Scully family some fifty years, advised me that I would find three ways of doing things: the right way, the wrong way, and the Scully way. After some twelve years of experience, I am sure Mr. Trapp gave me excellent advice, but I would suggest putting it in a different order: The right way, the Scully way, and the wrong way.

To understand the Scully system of management, it is necessary to go back into Scully history, which started with William Scully, who was born in County Tipperary, Ireland, in 1821 and died in London, England, in 1906. He was the younger son of a large landed family owning estates in Ireland for some 400 years. It was customary that the title to the lands, as well as the courtesy title ordinarily given to large landowners, be vested in the elder son. However, in the Scully family, the elder son had no children. Therefore, title to

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---

the lands was transferred to the next son having male heirs. By this method, William Scully inherited about 2,500 acres of Irish land, which he operated by the tenant method.

In the late 1840s, Great Britain did away with grain tariffs, making it unprofitable to produce grain in the moist, cool climate of the British Isles. William Scully then came to the United States with borrowed money to invest. He looked for land where he could produce grain and also re-establish the sons of his old Irish tenants.

He bought about 31,000 acres of land in Logan County, Illinois, in 1851 and 11,000 acres in Livingston and Grundy Counties in 1852. In the late 1870s he bought 25,000 acres in Gage County and 45,000 acres in Nuckolls County, Nebraska. In the next few years, he bought a total of 90,000 acres in Marshall, Marion, and Butler Counties, Kansas. During the 1880s he added 43,000 acres in Bates County, Missouri, and his last purchase consisted of 4,000 acres in Sangamon County, Illinois. All but the last two purchases were made through the Government Land Office at a price of about $1.25 an acre. The last two purchases (in Missouri and Illinois) were from private landowners.

The Scully method of operation is rather unique in this section of the country, although I understand that it is not unusual in the British Isles. The land and drainage system are owned by the Scullys, but the buildings are owned by the tenant. The buildings owned by the tenant are considered personal property and are assessed on the county tax rolls in that manner. In other words, the Scullys pay the taxes on the land, and the tenants pay the taxes on the buildings. In recent years this arrangement has been changed in Grundy and Livingston Counties, where most of the buildings are now owned by the Scully family and the land is rented on a share-crop basis.

I will confine my remarks to the rental system in Illinois, assuming that you are not particularly interested in the practices in Nebraska and Kansas. They do not differ greatly, however, except as required by the quality of the land. The Scully lease is a long, detailed document developed over many years. Briefly, it establishes a tenancy for not more than one year, at the end of which the tenant has the right to remove his buildings within six months. I do not know of any buildings that have been removed.

A rental payment of $23.51 an acre is paid in cash...one-fourth in August and three-fourths in January. The lease further provides for abatement of the full amount of rent per acre on one-fourth of the tillable acreage that is required to be seeded to legumes or a legume-grass mixture to stand over for one year. Thus, a four-year
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rotation of corn, corn, oats, and clover is generally established. Beans may be substituted for corn and wheat for oats. This requirement has been in effect since 1926 and obviously has worked to the disadvantage of both landlord and tenant under government farm programs, since the corn base is low and no credit is given for past conservation practices.

The lease further provides that the tenant will apply agricultural limestone, raw rock phosphate, and potash on one-fourth of the acreage each year, provided a soil test by an accredited laboratory indicates a need. For these practices he is reimbursed by the landlord as follows: limestone, $1.50 per ton; rock phosphate, $6.00 per ton; and potash, $15.00 per ton.

On much of the land an extensive system of tile and open-ditch drainage has been established and maintained by the Scullys. However, the tenants are required to conduct their farm practices in a way that will not damage the drainage system: a 15-foot-wide sod berm on either side of an open ditch must be maintained by the tenant; sod turn strips are required on the more rolling land; grassed waterways constructed by the landlord must be maintained by the tenant. No rent is charged for land in berms, turn strips, and waterways. A severe penalty is imposed on a tenant who damages or destroys any of the drainage and erosion control system.

All hay and crop residue produced on the leased land must remain there. Legumes may be used for pasture, hay, or green manure, but no hay or crop residue may be sold or removed from the farm. Only grain and livestock may be removed from the farm (legume seed may be harvested and sold by the tenant). Under ASC regulations a tenant who leases for cash is considered the same as a landowner; therefore, the tenants may or may not enter into the ASC program. Of course, the lease contains many other clauses commonly found in farm leases, such as good husbandry, control of weeds and brush, etc.

There are both advantages and disadvantages to the Scully system of leasing.

Advantages: (1) The system attracts a very good grade of tenant-operator. In addition to having personal property necessary to operate a livestock farm, he must have a considerable amount of cash to purchase the buildings. (The tenant is required to live on the land he leases.) (2) Administrative costs under this system are very low, as there is no building maintenance cost. (3) The land is owned in large blocks rather than in scattered farm units; therefore, little traveling time is required of the farm manager. The 46,000 acres of Scully land
in Illinois are located in five counties and are actually divided into only seven tracts. (4) The one-year lease enables the manager to quickly remove an undesirable tenant. However, at present the turn-over is very low. Of some 175 farm units in Logan and Sangamon Counties, usually not more than five leases change hands annually. The change is generally due to retirement of an aged tenant, and then the lease is often turned over to a son. More than 90 percent of the transfers are to another Scully tenant who is enlarging his unit. At the present time, modestly improved 160-acre leases sell for about $25,000. The tenant usually finds his own buyer, but a transfer is subject to approval of the Scully office. It may be difficult to understand why a tenant will pay as much as $25,000 for a modest set of buildings and the privilege of paying an additional amount of cash rent for a one-year leasehold. But Scully tradition has made these leases valuable. Many tenants are third- and fourth-generation Scully tenants and have spent their entire lives on the lease where they now live. They know that if they abide by the terms of the lease, pay their rent when due, and maintain a good standing in the community, they may stay there for the rest of their lives. (5) As I have already mentioned, the Scully lands are owned in large blocks.

Disadvantages: (1) The greatest disadvantage is due to the cash rental system. The landlord is at least one year behind. In the winter months of 1963, he must attempt to determine what rent he will charge on the land for the crop year 1964. Of course, he does not know what the crop yields will be or what price the tenant will receive for the grain and livestock. Should the tenant raise a good crop with good prices, he will have a good net income and no difficulty in paying his rent. However, the landlord will not be able to take advantage of the good income as is automatically done under a crop-share lease. Likewise, in a poor crop year the tenant may have difficulty in paying his rent. On several occasions the Scully family have abated some rents because of economic conditions, but there is no way they can increase the rent once the contract is signed. (2) It is almost impossible for the landlord to increase his land holdings in the community where he already owns land and still maintain good public relations. Good tenants are looking for additional land to operate, and when land comes up for sale they are generally active bidders. The Scully family would be severely criticized for outbidding their tenants. (3) There is a certain amount of public opposition to owning large acreages in a community. This is true of the Scully estates and the system of succession of land ownership that has developed. As stated, William Scully bought most of the Illinois land in 1851 and 1852. About 1890 he deeded this land to his wife, who was several years younger. In 1918 his wife, Mrs. Angela Scully, deeded the land to her son, Thomas A. Scully. In 1954 Thomas A. Scully deeded
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approximately one-half of this land to his two sons in trust for their lifetime and then to their children. In 1959 Thomas A. Scully deeded 12,000 acres of land in trust to his grandchildren and to any additional grandchildren who might be born at a later date, and then to their children with the further provision that if any of his great-grandchildren wished to sell the land they must first offer it to a male descendant of Thomas Scully by the name Scully. At the death of Thomas A. Scully in 1961, he owned 12,000 acres of land, one-half of which was left to his wife, Mrs. Violet Scully, under a marital trust and at her death to her sons (there were no daughters). The remaining half was placed in a residuary trust for the use of his wife during her lifetime and then to her sons.

In the 112 years during which the Scully Estates have existed in the United States, there has not been a mortgage against any of the land, there have been no delinquent taxes and, prior to the death of Thomas A. Scully in 1961, none of the land had been involved in the settlement of an estate.

SCULLY ESTATES

Richard Carter*

I shall relate some experiences in managing the portion of Scully land that is rented on a crop-share basis. In November 1954, after having worked for Mr. Stewart and the Scully Estates in Lincoln for about a year, I moved to Dwight and began helping Peter Scully manage his land in Livingston and Grundy Counties.

At that time there were 42 crop-share and 18 cash-rent leases averaging 182 acres in size. In 1963, nine years later, there are 27 crop-share, 7 cash rent leases, and one corporation, and the average size was 325 acres.

Our first experience with shelled corn storage was in 1956, when we bought a grain dryer. In 1957 we added another drying operation. This method of harvesting and storing corn has continued until now we have eight picker-sheller-dryer operations that handle about 40 percent of the total corn crop.

We have converted many of our ear-corn cribs to shelled corn storage by lining the inside of the studs with corrugated metal.

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*Scully Estate Office, Dwight, Illinois.
roofing. Conversions have cost from 8 to 35 cents per bushel of storage, depending on the condition of the cribs. In determining whether to convert a crib, we estimate the cost and compare it with the cost of steel bins. Our latest conversion of ear-corn cribs cost about 12 cents a bushel.

In 1963 we converted a pole-type crib to shelled corn storage at a cost of 12 cents a bushel and converted an ordinary ear-corn crib to a 25' x 64' machine shed at a cost of $1,143. In comparison, a new 26' x 60' pole-type machine shed, built in 1962, cost $1,870. The same carpenters constructed both sheds.
APPENDIX C

USDA "CROP-SHARE-CASH FARM LEASE."

(AD 561, MAR. 1960)
CROP-SHARE-CASH FARM LEASE

A. PROPERTY RIGHTS.—The landlord hereby leases to the tenant, to occupy and use for agricultural and related purposes, the following-described property, hereinafter referred to as the “farm,” located in _______________ County, State of _______________, and commonly known as the _______________ farm.

and consisting of _______________ acres, more or less, together with all buildings and improvements thereon and all rights thereto except as specified below:

1. Reservation of land and buildings.—The landlord reserves the right to use the following land and buildings for the following purposes:

2. Right of entry.—The landlord reserves the right of himself, his agents, his employees, or his assigns to enter the farm at any reasonable time for purposes (a) of consultation with the tenant; (b) of making repairs, improvements, and inspections; (c) of developing mineral resources; and (d) after notice of termination of the lease is given, of plowing, seeding, fertilizing and such customary seasonal work, none of which is to interfere with the tenant in carrying out regular farm operations.

3. No right to sublease.—The landlord does not convey to the tenant the right to lease or sublet any part of the farm or to assign the lease to any person or persons whomsoever.

4. Transfer of farm.—If the landlord should sell or otherwise transfer title to the farm, he will do so subject to the provisions of this lease.

5. Heirs and successors.—The terms of this lease shall be binding upon the heirs, executors, administrators, and successors of both landlord and tenant in like manner as upon the original parties. However, in event the lease is for more than one year, the heirs or successors of the tenant shall have the option to give written notice of termination effective at the end of the lease year in which death occurs.

6. Right to lease.—The landlord warrants that he has the right to lease the farm, and will defend the tenant’s possession against any and all persons whomsoever.

7. Rent additional land.—The tenant will not, unless he shall first have obtained written consent of the landlord, farm more than _______________ acres of additional land and will not enter into any other business, occupation, or sideline.

8. Additional agreements regarding property rights:
B. LAND USE AND LIVESTOCK PRODUCTION

1. Land use.—The agreed-upon use of the land is outlined in the following table:

<table>
<thead>
<tr>
<th>USE OF LAND</th>
<th>ACRES</th>
<th>FIELDS</th>
<th>SEED VARIETY</th>
<th>KIND AND AMOUNT OF FERTILIZER PER ACRE</th>
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FOR FAMILY LIVING
WOODLAND
FARMSTEAD AND LOTS
TOTAL

2. Livestock production.—The tenant on his own may engage in the following production of livestock:

<table>
<thead>
<tr>
<th>KIND OF LIVESTOCK</th>
<th>MAXIMUM NUMBERS</th>
<th>SPECIAL HEALTH, SANITATION, OR FEEDING PRACTICES</th>
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</thead>
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3. Acres and numbers.—The acres of crops and the fields on which grown and numbers of livestock shown above are those planned for the first year of this lease. They may be adjusted within the year or from year to year by mutual agreement.

4. Crop and livestock adjustments.—If it is impracticable in any year, from causes beyond the tenant's control, to grow the crops and to keep within the number of livestock according to the plan shown, appropriate adjustments will be made by mutual agreement between the parties.

5. Restriction on livestock.—Neither the owner nor the tenant shall bring livestock that is not covered by this agreement on the farm during the period of the lease without express permission of the other party.

6. Home use.—The tenant and landlord may take for home use the following kinds and quantities of jointly owned crops:

7. Buying and selling.—The two parties will buy and sell jointly owned property according to the following agreement:

8. Division of property.—At the termination of this lease, all jointly owned property will be divided or disposed of as follows:
C. IMPROVING, CONSERVING, AND MAINTAINING THE
FARM.—To improve the farm, conserve its resources, and maintain
it in a high state of cultivation, the two parties agree as follows:

1. General maintenance.—The tenant will maintain the farm
during his tenancy in as good condition as at the beginning, normal
wear and depreciation and damages from causes beyond the tenant's
control excepted.

2. Good husbandry.—The tenant will operate the farm in an effi-
cient and husbandlike way, will do the plowing, reeling, cultivating,
and harvesting in a manner that will conserve the landlord's property.

3. Cropping practices.—The tenant will not, without oral consent
of the landlord, (a) plow permanent pasture or meadowland, (b)
cut live trees for sale or personal uses, but will take for fuel or use on
the farm only dead or unmarketable timber designated by the land-
lord, (c) allow livestock other than his own on stallfields or stubble-
fields, (d) burn or remove cornstalks, corncoobs, straw, or other crop
residues grown on the farm, (e) pasture new seedings of legumes or
grasses in the year they are seeded, and (f) plant legumes on land
not known to be thoroughly inoculated without first inoculating
the seed.

4. Livestock practices.—In caring for his livestock, the tenant
will follow health and sanitation measures and guard against disease.

5. Manure and crop residue.—The tenant will spread the manure,
straw, or other crop residues on the farm as soon as practicable on
fields agreed upon by the two parties, except as follows:

6. Pasturing.—The tenant will prevent trampling of fields by
stock and rooting by hogs when injury to the farm will be done.

7. Waste.—The tenant will not commit waste on or damage to
the farm and will use due care to prevent others from so doing.

8. Fire protection.—The tenant will not, without written consent
of the landlord, house automobiles, motor trucks, or tractors in barns,
or otherwise violate restrictions in the landlord's insurance policy,
which restrictions the landlord shall make known to the tenant.

9. Replace losses.—The landlord will replace or repair as
promptly as possible the dwelling or any other building that may be
destroyed or damaged by fire, flood, or other cause beyond the con-
trol of the tenant or make rental adjustments in lieu of replacements.

10. Noxious weeds.—The tenant will use diligence to prevent
noxious weeds from going to seed on the farm and will destroy the
same, and will keep the weeds and grass cut or destroyed on the
fields, farmstead, roadside, and fence rows. Treatment of weed
infestation and cost thereof shall be handled as follows:

11. Maintenance of improvements.—The tenant will keep the
buildings, fences, and other improvements on the farm in as good
repair and condition as they are when he takes possession, and in as
good repair and condition as they may be put during the term of the
lease, ordinary wear and tear, loss by fire, or unavoidable depreciation
or destruction excepted.

12. Materials and labor.—The landlord will furnish materials
and the tenant will perform labor for normal maintenance and
repairs, except that skilled labor which the tenant himself is unable
to perform satisfactorily will be furnished by the landlord. Addi-
tional agreements regarding materials and labor:
13. Purchase of materials.—The tenant may buy, without further authorization, materials for normal maintenance and repairs in a total amount not to exceed $.................. within each year, and the landlord will credit or reimburse the tenant for such expenditures, as follows:

14. Add improvements.—The tenant will not, without written consent of the landlord, (a) erect or permit to be erected on the farm any nonremovable structure or building, or (b) incur any expense to the landlord for such purpose, or (c) add electrical wiring, plumbing, or heating to any buildings, and, if consent is given, he will make such additions meet standards and requirements of power and insurance companies.

15. Conservation practices.—The tenant will control soil erosion as completely as practicable by strip cropping and contouring, and by filling in or otherwise controlling small washes or ditches that may form.

16. Conservation structures.—The tenant will keep in good repair all terraces, open ditches, and inlets and outlets of tile drains, preserve all established watercourses or ditches including grass waterways when seed and fertilizer are furnished by the landlord, and refrain from any operation or practices that will injure them.

17. Compensation for improvements.—The two parties will carry out new conservation practices and measures and make other improvements, and share contributions and costs necessary for completion of such practices and improvements as set forth below. The tenant will be reimbursed by the landlord when the practice, measure, or improvement is completed, or the tenant will be compensated for its unexhausted value when he leaves the farm, according to the table below:

<table>
<thead>
<tr>
<th>CONSERVATION PRACTICE, MEASURE, OR OTHER IMPROVEMENT</th>
<th>DATE TO BE COMPLETED</th>
<th>ESTIMATED COST (DOLLARS)</th>
<th>PERCENT TO BE FURNISHED BY LANDLORD AND BY TENANT</th>
<th>VALUE PLACED ON TENANT'S CONTRIBUTION (DOLLARS)</th>
<th>RATE OF ANNUAL DEPRECIATION (PERCENT)</th>
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<td></td>
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<td>MATERIALS</td>
<td>LABOR</td>
<td>MACHINERY</td>
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18. Additional agreements relative to conservation and improvements:

19. Review of conservation program.—A new schedule covering conservation practices and improvements will be prepared each year on an appropriate form which will become a part of this lease when signed by the two parties.

20. Preparing or seeding land.—When the tenant leaves the farm, if the total acreages of prepared or seeded land are greater than at the beginning of his tenancy, he will be compensated by the landlord on the basis of the value of such excess acreages. If such total acreages are less than at the beginning of his tenancy, the tenant will compensate the landlord on the basis of the value of such deficiency, provided that the deficiency is not due to drought, flood, or other causes beyond the control of the tenant. The acreages at the beginning of this tenancy and the basis of payment are as shown in the table at the right above:

21. Renovable improvements.—Minor improvements of a temporary or removable nature, not provided for in item 17 of this section, which do not in any way affect the condition or appearance of the farm may be made by the tenant at his own expense. The tenant may, at any time this lease is in effect, or within a reasonable time thereafter, remove such improvements, provided he leaves in good condition that part of the farm from which they are removed.

22. Compensation for damages.—When the tenant leaves the farm he will pay the landlord reasonable compensation for any damage to the farm for which the tenant is responsible, except ordinary wear and depreciation and damages beyond the tenant's control.
D. SHARING COSTS AND RETURNS.—All costs and returns shall be divided between landlord and tenant as provided below, unless otherwise specifically stated elsewhere in this lease.

1. Rental rates.—The tenant agrees to pay as rent the shares or quantities of crops and cash as indicated below:

<table>
<thead>
<tr>
<th>CROPS OR IMPROVEMENTS</th>
<th>ACRES</th>
<th>SHARE RENT</th>
<th>CASH RENT</th>
<th>PLACE OF SALE OR DELIVERY</th>
<th>DATE OF SALE, DELIVERY, OR PAYMENT</th>
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<tbody>
<tr>
<td>FARM BUILDINGS</td>
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<td>DWELLING</td>
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2. Additional agreements in regard to rental rates:

3. Expenses.—Expenses, including investments in personal property, shall be supplied by the tenant, except as indicated in section C and except as follows:

<table>
<thead>
<tr>
<th>INVESTMENTS IN PERSONAL PROPERTY</th>
<th>FURNISHED BY LANDLORD</th>
<th>EXPENSES</th>
<th>FURNISHED BY LANDLORD</th>
<th>EXPENSES</th>
<th>FURNISHED BY LANDLORD</th>
</tr>
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<tbody>
<tr>
<td>TRACTOR</td>
<td>LABOR</td>
<td>LINING MATERIAL</td>
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<tr>
<td>MACHINERY AND EQUIPMENT</td>
<td>MAINTENANCE—BUILDINGS</td>
<td>FERTILIZER</td>
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<td>MAINTENANCE—FENCES</td>
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<td>MACHINE REPAIRS</td>
<td>SEED</td>
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<td>FUEL—TRACTOR</td>
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<td>FUEL—TRUCK</td>
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<td></td>
<td>FUEL—OTHER</td>
<td>ELECTRICITY</td>
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<td>CUSTOM WORK AND HAULING</td>
<td>TELEPHONE</td>
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<td>WEED CONTROL MATERIAL</td>
<td>INSURANCE—BUILDINGS</td>
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<td>INSECTICIDES</td>
<td>INSURANCE—CROPS</td>
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<td>FIELD PURCHASED OR SUPPLIED</td>
<td>TAXES—REAL ESTATE</td>
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<tr>
<td>LIVESTOCK</td>
<td>LIVESTOCK EXPENSES</td>
<td>TAXES—PERSONAL</td>
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</table>
4. Additional agreements relative to expenses:
   - No partnership created.
   - Government programs.

E. TERM OF LEASE
1. Term.
   - The term of this lease shall be .................. year(s) from ................., 19 ......., to ................., 19 ......., and this lease shall continue in effect from year to year thereafter until written notice of termination is given by either party to the other at least ............... months before expiration of this lease or any renewal.
2. Continuous occupancy.
4. Review of lease.

F. MISCELLANEOUS PROVISIONS
1. No partnership created.
2. Government programs.
3. Debts and accidents.
5. Farm records.
6. Arbitration of differences.
7. Additional agreements:

IN WITNESS WHEREOF, the parties have signed this lease on the date first above written.

Witnesses:

[Seal]
(Landlord)

[Seal]
(Tenant)

(Acknowledgment in appropriate form to be attached)
APPENDIX D

SCULLY LEASE FORM 29-1965, ILLINOIS

WITH SUPPLEMENTS A, B, C AND D
APPENDIX D

SCULLY LEASE FORM 29-1965, ILLINOIS
WITH SUPPLEMENTS A, B, C AND D
AGREEMENT made in duplicate between

of , Illinois (herein called "LANDLORD") and

"TENANT"): of , Illinois, (herein called

WHEREIN IT IS MUTUALLY AGREED AS FOLLOWS:

That Landlord hereby LEASES to Tenant the following described tract of land in the County of

and State of Illinois, to wit:

supposed to contain acres; excepting, however, any part or parts thereof which may have been, or may hereafter be dedicated, condemned or otherwise taken or used for public highways, or given, granted or taken for railroads, school houses, or other public uses; with full liberty for entry, egress and regress at all times for the Landlord, his heirs, executors, administrators and assigns, and for his or their agent or agents, and all persons authorized by him or them without being liable for any damages done to crops or fences of Tenant; TO HOLD (subject to all and singular the conditions, restrictions, and limitations hereinafter mentioned), for the term of one year, from and after the first day of March, 19 , or so soon there-after as the present Tenant or Tenants occupying the premises, or any portion of them, shall give possession of the same, and ending on the last day of February, 19
That Tenant shall pay Landlord as rent for the leased premises for the one year term hereby created, the sum of $ , payable as follows:

(a) On or before the day of 19 fifteen percent (15%) of the amount of rent herein reserved. Failure to pay such portion of the rent herein reserved when due shall render the whole rent for the current year immediately due and payable.

(b) On or before the first day of January 19 , the balance of all rents reserved.

(c) A penalty amounting to percent per annum will be due and payable on demand at the office of the Landlord upon the amount of rents remaining unpaid after the time they are herein made payable until the same are fully paid.

That this lease is hereby expressly made upon the following terms, conditions and covenants, which the Tenant agrees to keep, observe and perform:

1. That the Tenant agrees that if any portion of the rent reserved shall remain due and unpaid at the end of the rental year, then at the option of the Landlord such portion of the rent remaining due and unpaid, with interest as herein provided, shall be added to and become a part of the rent for the succeeding year, in case this lease is extended.

2. That the Tenant will not assign this lease or any interest in it, nor sublet, assign, alien or dispose of the demised premises, or any part thereof, to any person or persons wheresoever, or put any other person or persons in possession thereof, without first obtaining the consent in writing of the Landlord, his agents, or attorneys, endorsed hereon.

3. That the Tenant shall not sell, remove, encumber by chattel mortgage, or otherwise dispose of the crop, or any part thereof, standing, growing or raised on the demised premises before having paid all rent herein reserved, or made provisions satisfactory to the Landlord for the payment thereof, and that the Landlord shall deem the security for his rent endangered thereby, it shall be lawful for the Landlord or Agent to proceed forthwith to collect all rent without any previous notice or demand, by Warrant of Distress, Attachment or other legal process, in the same manner and to the same extent as if the rent was actually due and payable, and thenceforth terminate this lease and annul the same thenceforth.

4. That the Landlord shall likewise have a continuing lien upon all the improvements, buildings, fences, and chattels now upon the demised premises, or which may be erected or made during the period of this lease and owned by the Tenant, as additional security for the faithful performance by the Tenant of the provisions of this lease.

5. That the Landlord is not liable to make or erect any houses, fences, or other improvements whatsoever on or about the lands; nor to be liable to contribute in any way to the making, erecting or repairing any such houses, fences or other improvements; nor to allow for the same; nor to be responsible for any damage that may arise or be done through any want of or deficiency in the same; the Tenant taking the premises as they are, and agreeing to make all such improvements as he may deem necessary for the efficient cultivation of the land and for the protection of the crops at his own exclusive cost and expense; and in no event shall the Tenant allow any mechanics’ liens or claims for such liens to be filed against the premises. But the Landlord hereby agrees, that upon the expiration of the term of this lease, and upon the rent herein provided for being fully paid, and the other promises and understandings herein written having been done, kept and performed by the Tenant (but not otherwise), that he, the Landlord, will consent to the removal of all improvements, buildings, fences or other chattels made or erected by the Tenant upon the premises, or belonging to him thereon, PROVIDED, that removal be made within six months after the expiration or termination of this lease; but all buildings, fences, or other improvements herein belonging to the Landlord, and all additions or repairs that may be made or done to the same during this lease; and any hedges, windbreaks, live fences, fruit or other trees that may be planted, set out or grown on the premises at any time previous to or during the term of this lease, shall be deemed fixtures and shall not be removed without consent of the Landlord.

6. That Tenant will cultivate and manage the land in a good and husband-like manner. That he will pull out, clean out and destroy all burrs, thistles and other weeds on the land and the public road adjoining, mow all stubble land sown to clover by the 15th day of August. That he will take care of, cultivate, protect and maintain all hedgerows, windbreaks, fences, fruit and other trees that now are, or may hereafter be planted on the land. That he will trim all hedges on the land by the first day.
of October and burn the brush. That he will at his own expense, keep open all tile outlets that now are, or may hereafter be made on the land and seed and maintain a berm of at least fifteen feet on each bank of all open ditches, well protected by fence from grazing livestock well set in blue grass, timothy, or brome, and kill and destroy all willows and weeds in and along such ditches by the first day of September; and in case of failure to keep open the ditches or keep the berms so sown or set in grass, timothy or brome, trim the hedgerows, and pull out and destroy the willows, burrs, thistles and other weeds, respectively, as aforesaid, the Tenant agrees to pay Landlord five dollars per rod for the ditches, two dollars per rod for berms, twenty-five cents per rod for the hedges, ten dollars per acre for land in burrs, weeds and willows, and five dollars per acre for stubble land not mowed. That the Tenant agrees to fence all open ditches when adjacent land is being pastured and pay as damages five dollars per rod for failure to do so; also to pay a penalty of five dollars for the removal of any tile outlet marker. That Tenant will not permit any livestock on the land, except in the lots and pasture, when the ground is soft and would be injured thereby; and that he will deliver up the premises to the Landlord in as good order and condition as they now are, at the end or other sooner determination of the period for which the same are let, reasonable wear and tear only excepted.

7. That in case this lease shall be terminated from any cause sooner than the last day of February, by notice from the Landlord or Agent, that the lease is to be terminated or not extended, then as soon as the crop has been harvested the Tenant shall surrender up to the Landlord the possession of all that part of the lands which the Landlord reserves the right to fall plow, and for which purpose, as well as for the purpose of sowing wheat on such land the Tenant agrees to allow the Landlord or Agent or his lessee full liberty for ingress and egress in and to the lands.

8. That the Tenant shall not sell, remove, destroy or part with any dung, compost or crop residue made on the ground. All straw and other crop residue shall be used on the farm and shall not be sold or burned. The Tenant shall pay as additional rent the sum of $30.00 for each ton of hay, straw, or other crop residue sold, removed or destroyed.

9. That the Tenant agrees to apply agricultural limestone or rock phosphate according to test by a state approved soil testing laboratory, but not in amounts less than 3000 lbs. of agricultural limestone, and 750 lbs. of rock phosphate. Upon presentation of satisfactory evidence of application according to test the Landlord agrees to allow a credit upon the rent at the rate of $ per ton for limestone, and $ per ton for rock phosphate, up to an amount not exceeding $ per acre for the acreage herein leased.

10. That the Tenant agrees, at the direction of the Landlord or his Agent, to assist in leveling all draws and waterways subject to erosion and to seed the same to permanent grass and to assist and cooperate in the construction and maintenance of erosion prevention dams, terraces and other devices. The Tenant further agrees to comply with all soil conservation practices which are approved by the Landlord and his Agent.

11. That the Landlord agrees to abate any rent on any acreage taken out of cultivation through the construction and maintenance of any grass waterways and also to pay for all hauling and material used in the construction of such work as is directed by the Landlord or his Agent. The Tenant agrees to pay $200.00 per acre for each acre of grass waterways, etc., plowed up or disrupted without the consent of the Landlord or his Agent.

12. That the Tenant accepts this lease with full knowledge of the danger which might arise from the present or any future electric line construction, fixtures and equipment, and assumes all risk thereof and agrees to indemnify and to hold harmless the Landlord from any loss, damage, costs or expense and claims of every kind and character arising therefrom or out of any injury including death, resulting therefrom to any person or persons, or property of any kind.

13. That the Tenant agrees to use the premises for farming and grazing purposes only and that the same will not be used for any other purpose.

14. That nothing in this lease contained shall confer upon the Tenant any right to the coal, minerals, sand, gravel, mines, oils and quarries underlying the land, or any part thereof; but the same are hereby expressly reserved by the Landlord.

15. That nothing in this lease contained shall be construed to create a tenancy longer than the one year term herein specified; and notwithstanding anything herein contained to the contrary the Tenant agrees to yield up possession and vacate the premises at the expiration of the one year term hereby created without any necessity of demand or notice from Landlord.
16. That the amounts due from Tenant as penalties or damages as a consequence of Tenant's breach or violation of any of the foregoing provisions of this lease shall be considered as additional rent due Landlord, and as security for the payment thereof the Landlord shall have the right to exercise all of the liens and legal remedies provided in this lease for enforcing the payment of the cash rent due under this lease.

17. That the failure of the Tenant to make the rental payments when due, or the neglect, failure or refusal of Tenant to keep, observe and perform any of the other provisions, covenants and conditions herein contained, shall operate immediately and automatically to terminate this lease, and shall constitute a forfeiture of all the Tenant's rights under this lease; in which event Landlord shall have the right without notice to cancel and terminate this lease and to re-enter and take possession of the leased premises the same as if this lease had expired by lapse of time, and all rents and other sums that are made payable by this lease on the first day of January following, shall immediately become due and payable, and the right in the Landlord to collect and receive the same shall become absolute.

— IV —

That this is a basic lease between the parties hereto whose signatures appear below.

That a supplemental agreement must be attached hereto and will become binding upon the Tenant and Landlord with respect to rotation of crops, application of commercial fertilizer, and matters related thereto.

— V —

That it is further mutually agreed that this lease merges all prior promises, agreements, or understandings, as to the contract between the parties hereto, and that this contract shall not be altered or changed, except in writing endorsed hereon and signed by the parties hereto.

"In the construction of this lease the masculine shall include the feminine and the singular the plural in all cases where such meanings would be appropriate."

— VI —

That all the promises, undertakings, provisions and conditions herein mentioned to be done, kept and performed by the parties respectively, shall be equally binding upon their respective heirs, executors and administrators and assigns; and the Tenant hereby waives and releases all right and benefit of HOMESTEAD in the premises leased and all benefit of the EXEMPTION LAWS of the State of Illinois.

WITNESS the signatures and seals of the parties hereto, this day of , 19

(S Seal)

Signed and Delivered in Presence of

By: .................................................. (Seal)
His Attorney in Fact.
By initials placed hereon the Tenant signifies that he has read and understands this SUPPLEMENT and agrees that it is a part of the BASIC FARM LEASE ________________

That the Tenant agrees to sow one-fourth of the premises (exclusive of land in house lot and permanent pasture) in small grain such as oats, wheat, or rye, during this lease, and sow in such small grain red clover at the rate of not less than seven and one-half pounds per acre or sweet clover at the rate of not less than twelve pounds per acre or approved grass-legume mixture at corresponding seeding rates. The clover and grass-legume mixture herein required to be sown shall not be plowed under sooner than eighteen months from the time the same was sown. The Landlord agrees that for every acre of the required legumes plowed under at the end of eighteen months, the rent at the rate of $3 per acre shall be remitted, and the Landlord further agrees that the Tenant may pasture or graze the crop grown, or cut the same for hay, but the hay shall only be fed on the land and none of the legumes or grass, except the seed shall be sold or removed from the land. The Tenant agrees to reseed clover or an approved grass-legume mixture at the rate above specified to make up any deficiency of the legume requirement, caused by adverse weather, insect damage or other conditions beyond control. The Tenant agrees to pay an additional rent of $30.00 per acre for each acre of the required amount of legumes not grown and turned under as above specified.

That corn shall not be planted on any part of the land where corn was grown during the two years next preceding. Soy beans shall not be seeded following soy beans nor on land where corn has been grown during the two years next preceding.
SUPPLEMENTAL—C C (Oats-Catch)

FORM 29—1955

SUPPLEMENT TO BASIC FARM LEASE

FARM NO.______________________

By initials placed hereon the Tenant signifies that he has read and understands this SUPPLEMENT and agrees that it is a part of the BASIC FARM LEASE ________________________

That the Tenant agrees to follow a basic rotation of Corn, Corn, Corn and Oats with an approved catch crop to be seeded with oats. The Landlord agrees that soybeans may be substituted for corn and that wheat may be substituted for oats in the above rotation and that the tenant may pasture or graze the crops grown or cut the same for hay, but the hay shall only be fed on the land.

That the Tenant agrees to make application of commercial fertilizers in addition to limestone and raw rock phosphate as basically required, according to test and best estimates of crop needs, but in amounts of not less than ______# per acre of actual nitrogen on first year corn and ______# per acre of actual nitrogen on second and third year corn. On land to be seeded to oats with a catch crop ______# of triple super phosphate and ______# of 0-0-80.

That corn shall not be grown on any part of the land where corn was grown during the three years next preceding.

Lincoln, Ill., 19

This lease is hereby extended for one year from March 1, 19__, to February last 19__, upon the rents, terms, and conditions stated within except as follows:

[This renewal form is repeated six times on each Supplement—A, B, C and D]

(SEAL)

Signed and delivered in the presence of

By: ______________________________________________________ (SEAL)

Attorney in fact.

(SEAL)

(SEAL)
By Initials placed hereon the Tenant signifies that he has read and understands this SUPPLEMENT and agrees that it is a part of the BASIC FARM LEASE _________________________

That on one-half the tillable land in this lease the Tenant agrees as follows: to sow one-fourth of the premises (exclusive of land in house lot and permanent pasture) in small grain such as oats, wheat, or rye, during this lease, and sow in such small grain red clover at the rate of not less than seven and one-half pounds per acre or sweet clover at the rate of not less than twelve pounds per acre or approved grass-legume mixture at corresponding seeding rates. The clover and grass-legume mixture herein required to be sown shall not be plowed under sooner than eighteen months from the time the same was sown. The Landlord agrees that for every acre of the required legumes plowed under at the end of eighteen months, the rent at the rate of $ per acre shall be remitted, and the Landlord further agrees that the Tenant may pasture or graze the crop grown, or cut the same for hay, but the hay shall only be fed on the land and none of the legumes or grass, except the seed shall be sold or removed from the land. The Tenant agrees to reseed clover or an approved grass-legume mixture at the rate above specified to make up any deficiency of the legume requirement, caused by adverse weather, insect damage or other conditions beyond control. The Tenant agrees to pay an additional rent of $30.00 per acre for each acre of the required amount of legumes not grown and turned under as above specified.

That corn shall not be planted on any part of the land where corn was grown during the two years next preceding. Soy beans shall not be seeded following soy beans nor on land where corn has been grown during the two years next preceding.

That on one-half the tillable land in this lease the Tenant agrees as follows: to follow a basic rotation of CORN, CORN, CORN and Oats with an approved catch crop to be seeded with oats. The Landlord agrees that soybeans may be substituted for corn, and that wheat may be substituted for oats in the above rotation, and that the Tenant may pasture or graze the crops grown or cut the same for hay, but the hay shall only be fed on the land.

That the Tenant agrees to make applications of commercial fertilizers in addition to limestone and raw rock phosphate as basically required, according to test and best estimates of crop needs, but in amounts of not less than ——— # per acre of actual nitrogen on first year corn and ——— # per acre of actual nitrogen on second and third year corn. On land to be seeded to oats and a catch crop ——— # of triple super phosphate and ——— # of 0-0-60.

That corn shall not be grown on any part of the land where corn was grown during the three years next preceding.
By initials placed hereon the Tenant signifies that he has read and understands this SUPPLEMENT and agrees that it is a part of the BASIC FARM LEASE.

That the Tenant agrees to sow one-fifth of the premises (exclusive of land in house lot and permanent pasture) in small grain such as oats, wheat, or rye, during this lease, and sow in such small grain red clover at the rate of not less than seven and one-half pounds per acre or sweet clover at the rate of not less than twelve pounds per acre or approved grass-legume mixture at corresponding seeding rates. The clover and grass-legume mixture herein required to be sown shall not be plowed under sooner than eighteen months from the time the same was sown. The Landlord agrees that for every acre of the required legumes plowed under at the end of eighteen months, the rent at the rate of $ per acre shall be remitted, and the Landlord further agrees that the Tenant may pasture or graze the crop grown, or cut the same for hay, but the hay shall only be fed on the land and none of the legumes or grass, except the seed shall be sold or removed from the land. The Tenant agrees to reseed clover or an approved grass-legume mixture at the rate above specified to make up any deficiency of the legume requirement, caused by adverse weather, insect damage or other conditions beyond control. The Tenant agrees to pay an additional rent of $30.00 per acre for each acre of the required amount of legumes not grown and turned under as above specified.

That corn shall not be planted on any part of the land where corn was grown during the three years next preceding.
APPENDIX E

SCULLY LEASE FORM 1-60,
MARION COUNTY, KANSAS
THIS LEASE Made this __ day of ____________, 19__ between ____________________________, hereinafter called Landlord and ____________________________, hereinafter called Tenant.

1. WITNESSETH, Landlord in consideration of the rents, covenants and agreements herein specified hereby leases to Tenant the following described real estate:

Section ___, Township ___ Range ___, in _____________ County, Kansas, subject to existing easements, for a term of one year commencing March 1, 19___, and ending the last day of February, 19__.

2. Tenant hereby leases said premises and agrees to pay as rent therefor the following cash sums during the lease year: $____________ on August 1 and $____________ on December 1, provided, however, as additional rent, and on December 1, Tenant agrees to pay Landlord an amount equal to all taxes, general or special, of every kind or character levied or assessed against said real estate for the year 19___. Any unpaid rent (including the amount of taxes as aforesaid) shall bear interest at ___ percent from due date until paid.

3. It is understood that Tenant owns all buildings, fences and other improvements on said real estate and has the privilege of building such other improvements as Tenant desires and deems necessary in the operation of said real estate; that such buildings, fences and other improvements shall be deemed personal property as between the parties and shall be removed from said premises by Tenant at Tenant’s sole cost and expense upon the termination of this lease or upon its prior cancellation for breach by Tenant of any of the terms or covenants hereof, and if not so removed within 60 days from such termination or cancellation then and in such event said buildings, fences and improvements shall be deemed abandoned by Tenant, or if Landlord so elects he may in such event remove the same at the cost and expense of Tenant. Tenant shall not have the right to sell space for highway signs on said premises or to erect improvements for uses other than necessary for Tenant’s farming purposes.
4. Tenant covenants and agrees:
   (a) To cultivate and manage said land in a good and husbandlike manner, and not to permit litter or trash to accumulate on or about the premises;
   
   (b) To cooperate in the establishment of soil conservation measures, remove and relocate fences, seed and mow waterways when requested by the Landlord or his agents; to maintain in proper working condition all soil conservation measures that have been or may hereafter be applied on said land, said maintenance shall be performed when necessary and will comply to the judgement of said Landlord or his agents;
   
   (c) Not to commit any waste;
   (d) To keep all weeds from maturing;
   (e) Not to plow or break out pasture or meadow without written consent of Landlord.

3. Tenant hereby gives Landlord and Landlord shall have a first and prior lien upon all buildings, fences and other improvements now or hereafter erected on said premises and on the growing crops thereon as security for the payment of rent and the performance of all of the covenants and agreements hereof.

6. Should Tenant fail to pay any rent when due or violate any of the agreements or covenants hereof, then and in any such event Landlord may at his option declare this lease wholly forfeited, cancelled and of no further force and effect upon giving Tenant 30 days notice of such cancellation in writing; provided, however, that should Tenant remedy such default or defaults within such 30 day period then and in such event such default shall be deemed cured and the lease shall be and remain in full force and effect; but if not so cured Landlord shall be entitled to immediate possession of said premises without further notice to Tenant and Tenant shall yield and deliver up possession thereof and Tenant shall remove his property from said premises as provided in paragraph 3 hereof; provided, however, that in the event of such cancellation Tenant shall have the right and privilege to go upon said premises to harvest an unmatured crop, but such crop shall be subject to Landlord's lien as provided in paragraph 3 hereof. If tenant fails or refuses to harvest such crops when mature then Landlord may do so and apply the proceeds therefrom;

   (a) To expenses of such harvesting;
   (b) To remedying any default hereunder; if any surplus remains it shall be paid to Tenant.
7. Said premises shall be used for farming and grazing purposes only, and this lease shall not be assigned or subleased by Tenant without the written consent of Landlord. Landlord shall have the right for himself, his agents and employees to go upon said land and inspect the same at all times.

8. Tenant hereby waives the benefit of the exemption, valuation and appraisal laws of the State of Kansas for the rent herein to be paid.

9. This lease does not confer upon the tenant any right to oil, gas, or other minerals underlying said premises.

10. The Tenant agrees to sow, or if already sown, to keep growing and maintain at least ______ acres of said land in alfalfa or mixture of alfalfa and brome during the period of this lease.

EXECUTED the day and year first above written.

WITNESS:

WILLIAM SCULLY

By

Landlord

Tenant
APPENDIX F

SCULLY LEASE FORM 10-47,

MARION COUNTY, KANSAS
FORM 10-47 LEASE

(hereinafter called the LANDLORD), hereby rents to

(hereinafter called the TENANT), the following tract of land, in the County of ___________________ and STATE OF KANSAS, to-wit:

supposed to contain _______ acres; excepting, however, any part or parts thereof which may have been, or may hereafter be condemned or taken for Public Highways, or given, granted or taken for Railroads, School Houses, or other public uses; with full liberty for entry, egress and regress at all times for the said Landlord, his Heirs, Executors, Administrators and Assigns, and for his or their agent or agents, and all persons authorized by him or them without being liable for any damages done to crops or fences of said Tenant; TO HOLD (subject to all and singular the conditions, restrictions, and limitations hereinafter mentioned), for the term of _______ year, from and after the first day of March, A. D. 19____, or so soon thereafter as the present Tenant or Tenants occupying said premises, or any portion of them, shall give possession of the same, and ending on the last day of February, A. D. 19____.

And in consideration thereof, the said Tenant undertakes, promises and agrees as follows:

To pay to said Landlord the following sums, and to do and perform the following things, as rent for said premises:

On the first day of

A. D. 19____ $ ______________

(_________________________________________ Dollars).

On the first day of November, A. D. 19____ $ ______________

(_________________________________________ Dollars).
And likewise in addition to the said several sums of money aforesaid as part of said rent to pay yearly to said Landlord, at the several and respective times of payment aforesaid, the full amount of all taxes or assessments, general or special, of every kind or nature whatsoever, made, levied or assessed upon or against said land or any part thereof, for and during the period of this lease, for the year 19... And further to pay interest at the rate of six per cent. per annum upon the amount of said rent and taxes from the time they are herein made payable until the same are fully paid.

And the said Tenant further agrees that if, during any year of this lease, or extension or renewal thereof, any portion of the rent reserved for such year shall remain due and unpaid at the commencement of the next succeeding rental year, then and in that event, the portion of the rent remaining due and unpaid, with interest as herein provided, shall be added to and become a part of the rent for such succeeding year.

That said Tenant will pay said Landlord on the first day of August, in each and every year of this lease, the proportionate amount of the rent hereinbefore reserved, on all land that may have been sown to small grain the spring or fall preceding. And it is hereby further covenanted and agreed, that said Landlord reserves and retains to himself or his agents, or any person by him or them thereunto authorized, the right of entry upon said land, for the purpose of fall plowing, any ground which may have been in small grain the crop season preceding the expiration or other sooner determination of this lease, and also of sowing wheat in the corn growing on said land.

It is further expressly agreed between the parties hereto, that if default shall be made in the payment of the rents above reserved, or any part thereof, or any of the covenants or agreements herein contained to be kept by said Tenant, it shall be lawful for the Landlord or his legal representatives, to enter into and upon said premises or any part thereof, either with or without process of law, to re-enter and re-possess the same at the election of the Landlord, and to distrain for any rent that may be due thereon upon any property belonging to the Tenant. And in order to enforce a forfeiture for non-payment of rent, it shall not be necessary to make a demand on the same day the rent shall become due; but a failure to pay the same at the time aforesaid or a demand and refusal to pay on the same day, or at any time on any subsequent day, shall be sufficient; and after default shall be made, the Tenant and all persons in possession under him shall be deemed guilty of a forcible detainer of said premises under the statute.

And it is further covenanted and agreed between the parties hereto, that all the rent herein reserved and agreed to be paid, shall constitute and be a lien upon all the crops growing or made on said land during any of the time for which said premises are leased as aforesaid; and upon any and all teams, farming implements, fences, buildings and chattel improvements and machinery owned by said Tenant and used on said land during said time; and that this lease may be filed at the proper office, and will be a chattel mortgage on all said property for said purpose.

Any assignment of this lease, or underletting of said land or any part thereof, without the written assent of the Landlord or his duly authorized agents first obtained, shall operate to immediately determine this lease, without notice from the Landlord, and the rent for the then current year and all arrears of rent shall become immediately due and payable. And it is further agreed between the parties hereto, that the Landlord, should he deem it necessary may, at the cost and expense of the Tenant, employ men, teams and machinery to go upon said premises and cultivate the crops and harvest them, or to do anything that is necessary to promote their growth or save them at any time before they are in the granaries, the whole expense of the same to be a lien upon the said Tenant's share of said crops.
That the said Landlord is not liable to make or erect any houses, fences, or other improvements whatsoever on or about said lands; nor to be liable to contribute in any way to the making, erecting or repairing any such houses, fences or other improvements; nor to allow for the same; nor to be responsible for any damage that may arise or be done through any want of or deficiency in the same; the said Tenant—taking said premises as they are, and being permitted to make all such improvements as—may deem necessary for the efficient cultivation of said land and for the protection of the crops at his own exclusive cost and expense. But the said Landlord hereby agrees, that upon the expiration of the term of this lease, and upon the rent and taxes herein provided for being fully paid, and the other promises and undertakings herein written having been done, kept and performed by said Tenant—that he, the said Landlord, will consent to the removal of all buildings, fences or other chattels made or erected by said Tenant—upon said premises, or belonging to him thereon, provided, that said removal be made promptly; all buildings, fences, or other improvements thereon belonging to the Landlord, and all additions or repairs that may be made or done to the same during this lease and any hedges or live fence, fruit or other trees that may be planted, set out or grown on said premises at any time previous to or during the term of this lease, shall be deemed fixtures by both parties hereto and shall not be removable under any circumstances or at any time. The Tenant—shall not cut or remove any trees of any kind without the written consent of the Landlord or his agents.

Nothing in this lease contained shall confer upon the Tenant—any right to the Coal, Minerals, Sand, Gravel, Mines, Oils, and Quarries underlyingsaid land, or any part thereof; but the same are hereby expressly reserved by the Landlord, together with full right, liberty and land room to him, to enter upon the premises and to bore, search, and excavate for the same, to work and remove the same, and to deposit excavated rubbish; and with full liberty to pass over said premises with vehicles, and to lay down and work any such railroad track or tracks as may be necessary and convenient for the above purposes; said Landlord, however, agreeing to deduct from the annual rent “pro-rata” for the land so taken, by him or his assigns for said uses. It is agreed between the parties hereto, that this lease is made and accepted subject to the reservation: That, if any portion of said land is leased for oil and gas operations, or either of them, by the Landlord, this lease shall be abrogated and surrendered as to the rights of the tenants, as to said portion of said land, but a proportionate abatement of the rent for the land leased for said oil and gas operations shall be made by the Landlord.

That said Tenant—will cultivate and manage said land in a good and husbandlike manner. That—he—will pull out, clean out and destroy all burrs, thistles, sunflowers and other weeds on said land and pasture and the public road adjoining by the first of August in each year. That—he—will, on or before the first day of August in each and every year of this lease, mow or plow all lands sown to small grain. That—he—will take care of, cultivate, protect and maintain all hedges, fences, fruit and other trees that now are, or may hereafter be planted on said land by the first day of January in each year during this lease and burn the brush. That—he—will at his or their own expense, keep open, clean, plow, scrape, and dig out all the ditches and drains that now are, or may hereafter be made on said land, by the first day of October in each year during this lease; and that—he—will deliver up said premises to the said Landlord in as good order and condition as they now are, at the end or other sooner determination of the period for which the same are let, reasonable wear and tear only excepted. That said Tenant—will not sublet, remove, sell or dispose of the stalks standing on said land, but shall have full pasture privileges for his own live stock. That—he—will not suffer, allow or permit any horses, hogs, cattle or other livestock to feed, run or be herded on said land when the ground is soft and would be injured thereby.
And the said Tenant further agrees that he will sow at least ____________ acres of said land in small grain, such as wheat, oats, rye, flax, or millet, in each and every year during the continuance of this lease.

And the said Tenant agrees to sow, or if already sown, to keep growing and maintain at least ____________ acres of said land in alfalfa during his tenure of this lease and any extension or renewal thereof; and no rent shall be remitted for alfalfa plowed under. No permanent pasture or meadow shall be broken up, without the written consent of the Landlord or his agents.

The said Tenant will sow clover or sweet clover, either in oats or alone, at least one eighth of said premises exclusive of land in house lots, orchard or permanent pasture, for the purpose of changing and resting the land. The legume crop, herein required to be sown, shall not be plowed under sooner than eighteen months from the time the same was sown. The Landlord agrees that for every acre of the above required legume crop plowed under, the rent at the rate above specified shall be remitted, and the Tenant may pasture or graze said legume crop, or cut same for use on said land only. But none of the legume crop, except the seed, shall be sold or removed from the land. The Tenant agrees to pay an additional rent of $5.00 per acre for each acre of the required amount of legumes not grown and turned under as herein provided. Corn shall not be planted on any land where corn was grown during the two years next preceding.

For soil conservation, prevention of erosion and maintenance of soil fertility, the Tenant agrees to seed brome and legumes, or native grasses, in all water ways and gullies, as wide as directed by the Landlord or his agents, but it shall not be less than one rod wide from each edge of said gully or waterway, and on any other areas designated by the Landlord or his agents, and to help and cooperate in the establishment of grass water ways and the prevention of erosion, as directed by the Landlord or his agents. If the Tenant fails or refuses to properly seed said gullies or waterways in said grasses, Tenant agrees to pay to Landlord a penalty of fifty cents per linear rod for such gullies or waterways not seeded. For such waterways, gullies and erosion prevention areas established in grass, to the satisfaction of the Landlord or his agents, the Landlord agrees to allow a credit of $________ per acre for one year only. Any area once established in grass under the provision of this paragraph shall be deemed permanent grass land and a penalty of one dollar per linear rod for all gullies and waterways, and $10.00 per acre for all acreage will be paid by the Tenant to the Landlord, for plowing up or disrupting any such area without the written consent of the Landlord or his agents. The Tenant may pasture, graze, cut for hay or seed, such legume and grass crops, only after the same, in the sole opinion of the Landlord or his agents, is well established, but no hay may be removed from the premises without the written consent of the Landlord or his agents. Any such area shall not be included as crop rotation land.

For eradication of bindweed and other perennial noxious growths the Landlord agrees to allow a credit of $________ per acre for __________ acres of infested land, provided an approved method of eradication is employed by the Tenant, and subject to the inspection and approval of the Landlord or his agents. Land designated for bindweed eradication hereunder shall not be eligible for abatement or rent remittance under the terms of either of the two preceding paragraphs. In no case shall credit or rent remittance be made in excess of $________ for each 160 acres under lease, for brome and legume crops established, for waterways and gullies seeded or bindweed tracts brought under treatment, for any single year.

The Tenant accepts this lease with full knowledge of the danger which might arise from the present or any future electric line construction, fixtures and equipment, and assumes all risk thereof and agrees to indemnify and hold harmless the Landlord.
from any loss, damage, costs or expense arising therefrom or out of any injury resulting therefrom to any person or persons.

Nothing in this lease contained shall be construed to create a tenancy longer than the one year term herein specified.

And the said Tenant hereby waives the benefit of the Exemption, Valuation and Appraisement Laws of the State of Kansas for the rent herein reserved.

And it is further mutually agreed that this lease merges all prior promises, agreements and understandings, as to the contract between the parties hereto, and that this contract shall not be altered or changed, except in writing endorsed hereon and signed by the parties hereto; that no act of either or both parties, or a holding over, shall be construed as an extension of this lease, unless the same shall be reduced to writing and signed by both parties hereto.

Said Tenant agrees to use said premises for farming and grazing purposes only and that the same will not be used for any other purpose.

The covenants herein shall extend to and be binding upon the heirs, executors and administrators of the parties to this lease.

WITNESS the hands and seals of the parties in triplicate, this ______ day of __________________________________ A. D. 19______

WITNESS:

______________________________________________________________ (SEAL)

______________________________________________________________ (SEAL)

______________________________________________________________ (SEAL)
THIS MEMORANDUM, made and entered into this day, WITNESSETH: That

in the within lease, and whose name ______ subscribed hereto, by and with the consent of Landlord, the Lessor herein, has

sold to _____________________________________________________________________ whose name ______ also appear subscribed

hereto, all the buildings, fences and chattels on the demised premises, belonging to the said Lessee; and further assigned and

transferred to _____________________________________________________________________ the right to the use and occupation of the demised premises, under this lease, for the unexpired term

thereof, after _____________________________________________________________________ and in consideration of said sale and transfer, and

the consent of the said Landlord thereto, the said _____________________________________________________________________ is hereby substituted as Tenant of the demised

premises under the within lease in the place of the original Lessee, and hereby undertake, promise and agree to and

with the said Landlord, to do and perform, stand to and abide by all and singular the covenants, undertakings, promises and

agreements to be done, kept and performed by the said original Lessee as in said lease written, and hereby acknowledge _____________________________________________________________________ bound by all and singular the conditions, limitations, restrictions, penalties and forfeitures therein contained, in the same manner and to the same extent as if he were the original Lessee therein.

DATED AT _____________________________________________________________________ this _____________________________________________________________________ day of ____________________________ A. D. 19______


The consent of Landlord is hereby given to the foregoing transfer.

DATED this _____________________________________________________________________ day of ____________________________ A. D. 19______

(SEAL)

(SEAL)
This lease is hereby extended for one year from March 1, 19____, to February last, 19____, upon the rent, terms, and conditions stated within.

To

(Seal)  (Seal)  (Seal)

This lease is hereby extended for one year from March 1, 19____, to February last, 19____, upon the rent, terms, and conditions stated within.

(Seal)  (Seal)  (Seal)

This lease is hereby extended for one year from March 1, 19____, to February last, 19____, upon the rent, terms, and conditions stated within.

(Seal)  (Seal)  (Seal)

This lease is hereby extended for one year from March 1, 19____, to February last, 19____, upon the rent, terms, and conditions stated within.

(Seal)  (Seal)  (Seal)  (Seal)

Begins March 1st, 19____
Ends February last, 19____
APPENDIX G

SCULLY LEASE FORM 21-G.M., NEBRASKA
(hereinafter called the LANDLORD), hereby rents to

(hereinafter called the TENANT), the following tract of land, in the County of ....................................................... and STATE OF .............................................................. to wit:

supposed to contain ...................................... acres; excepting, however, any part or parts thereof which may have been, or may hereafter be condemned or taken for Public Highways, or given, granted or taken for Railroads, School Houses, or other public uses; with full liberty for entry, egress and regress at all times for the said Landlord, his Heirs, Executors, Administrators and Assigns, and for his or their agent or agents, and all persons authorized by him or them without being liable for any damages done to crops or fences of said Tenant: TO HOLD (subject to all and singular the conditions, restrictions, and limitations hereinafter mentioned), for the term of one year, from and after the first day of March, A. D. 19............, or so soon thereafter as the present Tenant or Tenants occupying said premises, or any portion of them, shall give possession of the same, and ending on the last day of February, A. D. 19............

2. And in consideration thereof, the said Tenant undertakes, promises and agrees as follows:

To pay to said Landlord the following sums, and to do and perform the following things, as rent for said premises:

On the first day of ............................................., A. D. 19..........., $...............................................

On the first day of December, A. D. 19..........., $...............................................

(......................................................... Dollars).
3. And likewise in addition to the said several sums of money aforesaid as part of said rent to pay yearly to said Landlord, at the several and respective times of payment aforesaid, the full amount of all taxes or assessments, general or special, of every kind or nature whatsoever, made, levied or assessed upon or against said land or any part thereof, for and during the period of this lease, for the year 19............... And further to pay interest at the rate of eight per cent per annum upon the amount of said rent and taxes from the time they are herein made payable until the same are fully paid.

4. And the said Tenant...... further agrees that if, during any year of this lease, or extension or renewal thereof, any portion of the rent reserved for such year shall remain due and unpaid at the commencement of the next succeeding rental year, then and in that event, the portion of the rent remaining due and unpaid, with interest as herein provided, shall be added to and become a part of the rent for such succeeding year.

5. That said Tenant...... will pay said Landlord on the first day of August, in each and every year of this lease, the proportionate amount of the rent hereinbefore reserved, on all land that may have been sown to small grain the spring or fall preceding. And it is hereby further covenanted and agreed, that said Landlord reserves and retains to himself or his agents, or any person by him or them thereunto authorized, the right of entry upon said land, for the purpose of fall plowing, any ground which may have been in small grain the crop season preceding the expiration or other sooner determination of this lease, and also of sowing wheat in the corn growing on said land.

6. It is further expressly agreed between the parties hereto, that if default shall be made in the payment of the rents above reserved, or any part thereof, or any of the covenants or agreements herein contained to be kept by said Tenant...... it shall be lawful for the Landlord or his legal representatives, to re-enter and re-possess said premises at the election of the Landlord, and to distrain for any rent that may be due thereon upon any property belonging to the Tenant...... And in order to enforce a forfeiture for non-payment of rent, it shall not be necessary to make a demand on the same day the rent shall become due; but a failure to pay the same at the time aforesaid or a demand and refusal to pay on the same day, or at any time on any subsequent day, shall be sufficient. And after default shall be made, the Tenant...... and all persons in possession under ......him shall be deemed guilty of a forcible detainer of said premises under the statute.

7. And it is further covenanted and agreed between the parties hereto, that all the rent herein reserved and agreed to be paid, shall constitute and be a lien upon all the crops growing or made on said land during any of the time for which said premises are leased as aforesaid; and upon any and all teams, farming implements, buildings and chattel improvements and machinery used by said Tenant...... and used on said land during said time; and that this lease may be filed at the proper office, and will be a chattel mortgage on all said property for said purpose; and that the said Tenant...... will, on or before the first day of July in each and every year during the continuance of this lease, on demand of the Landlord, execute to him a chattel mortgage, an additional security, upon all growing crops for the purpose of securing the payment of the rent for the then current year.

8. That the said Landlord shall likewise have a continuing lien upon all the buildings, fences and chattels now upon the demised premises, or which may be erected or made thereon during the period of this lease, as additional security for the faith-
ful performance by the Tenant... of the provisions of this lease. The Tenant... shall not have the right to cut or remove any trees of any kind that are now, or hereafter may be growing on said land.

3. That the said Tenant... shall not sell, remove, encumber by chattel mortgage to a third party, or otherwise dispose of the crops, or any part thereof, standing, growing or raised on the demised premises during any year, before the rent for said year shall have become due and payable, without having paid the same, or made provisions satisfactory to said Landlord for the payment thereof; and that if....he....shall attempt to do so, and the said Landlord shall deem the security for his rent endangered thereby, it shall be lawful for the said Landlord to proceed forthwith to collect said rent without any previous notice or demand, by attachment or other legal process, in the same manner and to the same extent as if said rent were actually due and payable, and thereupon terminate this lease and annul the same thenforth.

10. Any assignment of this lease, or underletting of said land or any part thereof, without the written consent of the Landlord or his duly authorized agents first obtained, or any encumbering of the crops or buildings by said Tenant..... by chattel mortgage except to said Landlord, shall operate to immediately determine this lease, without notice from the Landlord, and the rent for the then current year and all arrears of rent shall become immediately due and payable.

11. That the said Landlord is not liable to make or erect any houses, fences, or other improvements whatsoever on or about said lands; nor to be liable to contribute in any way to the making, erecting or repairing any such houses, fences or other improvements; nor to allow for the same; nor to be responsible for any damage that may arise or be done through any want of or deficiency in the same; the said Tenant..... taking said premises as they are, and agreeing to make all such improvements as....he..... may deem necessary for the efficient cultivation of said land and for the protection of the crops at....his..... own exclusive cost and expense. But the said Landlord hereby agrees, that upon the expiration of the term of this lease, and upon the rent and taxes herein provided for being fully paid, and the other premises and undertakings herein written having been done, kept and performed by said Tenant..... (but not otherwise), that he, the said Landlord, will consent to the removal of all buildings, fences or other chattels made or erected by said Tenant..... upon said premises, or belonging to....him..... thereof, provided, that said removal be made promptly; but all buildings, fences, or other improvements thereon belonging to the Landlord, and all additions or repairs that may be made or done to the same during this lease and any hedges or live fence, fruit or other trees that may be planted, set out or grown on said premises at any time previous to or during the term of this lease, shall be deemed fixtures and shall not be removable under any circumstances or at any time.

12. Nothing in this lease contained shall confer upon the Tenant..... any right to the Coal, Minerals, Mines, Sand, Gravel, Oils, and Quarries underlying said land, or any part thereof; but the same are hereby expressly reserved by the Landlord, together with full right, liberty and land room to him, to enter upon the premises and to bore, search, and excavate for the same, to work and remove the same, and to deposit excavated rubbish; and with full liberty to pass over said premises with vehicles, and to lay down and work any such railroad track or tracks as may be necessary and convenient for the above purposes; said Landlord, however, agreeing to deduct from the annual rent “pro-rata” for the land so taken, by him or his assigns for said uses. It is agreed between the parties hereto, that this lease is made and accepted subject to the reservation: That, if any portion of said land is leased for oil and gas operations, or either of them, by the Landlord, this lease shall be abrogated and surrendered as to rights of the tenants, but a proportionate abatement of the rent for the land leased for said oil and gas operations shall be made by the Landlord.

13. That said Tenant..... will cultivate and manage said land in a good and husbandlike manner. That.....he.....will pull out, clean out and destroy all burrs, thistles, sunflowers and other weeds on said land and the public road adjoining by the first of August in each year. That.....he.....will take care of, cultivate, protect and maintain all hedgerows, fences, fruit and other trees
that now are, or may hereafter be planted on said land. That he...will trim all hedges on said land by the first day of January in each and every year during this lease and burn the brush. In case of failure to trim such hedgerows, and pull out and destroy the burrs, thistles, sunflowers and other weeds, respectively, as aforesaid, the Tenant... agrees to pay said Landlord twenty-five cents per rod for the hedges, two dollars per acre for land in burrs, weeds or sunflowers, as damages for such failure in addition to the rent hereby reserved, such damages to be recoverable by the said Landlord in the same manner as rent in arrears. No land shall be plowed in the fall of the year for spring seeding, except an established stand of grass and legumes, without the prior written consent of the Landlord or his agents. The Tenant... also agrees that under no condition will summer fallowing be practiced. The Tenant... agrees that where he has performed such improper fall plowing or summer fallowing to pay to said Landlord $2.00 per acre, such damages to be recoverable by said Landlord in the same manner as rent in arrears. That said Tenant... will not sublet, remove, sell or dispose of the stalks standing on said land, but shall have full pasture privileges for his own livestock. That he will not suffer, allow or permit any horses, hogs, cattle or other livestock to feed, run or be herded on said land when the ground is soft and would be injured thereby; and that he will deliver up said premises to the said Landlord in as good order and condition as they now are, at the end or other sooner determination of the period for which the same are let, reasonable wear and tear only excepted.

14. The Tenant... further agrees to co-operate in the establishment and maintenance of all soil conservation measures.

15. And the said Tenant... agrees to sow, or if already sown, to keep growing and maintain at least ________________ acres of said land in alfalfa during...his...tenure of this lease and any extension or renewal thereof; and in case of...his...failure so to do, said Tenant... agrees to pay the Landlord the sum of $3.00 per acre in addition to the rent reserved as agreed and liquidated damages for...his...failure so to do, and no permanent pasture or meadow shall be broken up until a like acreage has been re-set in pasture.

16. And the said Tenant... further agrees that...he...will sow at least ________________ acres of said land in small grain, such as wheat, oats, rye, flax, millet or sorghum, in each and every year during the continuance of this lease, and in case of...his...failure to sow... ________________ acres in such small grain...he...shall and will forfeit and pay to the said Landlord the sum of $5.00 per acre for the amount of acres agreed to be sown in small grain and not sown, as agreed and liquidated damages for such failure in addition to the rent reserved. Corn shall not be grown on same land more than two years in succession.

17. For soil conservation, prevention of erosion, maintenance of soil fertility and the rotation of crops, the Tenant... agrees to seed, if not already seeded and established, at his own expense, not less than ________________ acres of brome and alfalfa or brome and sweet clover or brome and red clover on crop rotation land. For the establishment and maintenance of such grass and legume crop, the Landlord agrees to allow a credit on the rent of $5.00 per acre the first year and to abate the rent the next two succeeding years on said ________________ acres, in the event this lease is extended, renewed or a new lease is made to said Tenant... but no lease shall be made for more than one year. No credit or rent remittance shall be given on the same area for more than three years in succession. The Landlord agrees to allow the abatement of $5.00 per acre for one year only, where red clover is sown on level land and not plowed sooner than eighteen months after seeding. The Tenant... may pasture, graze, cut for hay or seed, such grass and legume crop, or legume crops, only after the same, in the sole opinion of the Landlord or his agents, is well and securely established, but no hay may be removed from the premises without the written consent of the Landlord or his agents. The Tenant... agrees to pay an additional rent of $15.00 per acre for each acre of the required acreage not grown as herein provided.

18. The Tenant... further agrees to seed brome and legumes, or native grasses, in all waterways and gullies as directed by the Landlord or his Agents, and to help and cooperate in the establishment of grass aprons, waterways and prevention of
erosion. Any such area shall not be included as crop rotation land. For such waterways and gullies established in grass, the Landlord agrees to allow credit of $............... per acre for one year only. Damages of $............... per acre will be charged against the tenant for plowing up or disrupting any waterways or gullies that have been established in grass, without the written consent of the Landlord or his Agents.

19. The Tenant further agrees to maintain in proper working condition all soil conservation measures that have been or may hereafter be, applied on said land. Said maintenance shall be performed when necessary and will comply with the judgment of the Landlord or his agents. The Tenant agrees that if said maintenance is not performed properly in the judgment of said Landlord or his agents, the Landlord shall have the right to perform said maintenance, and the Tenant shall pay an additional rent of .......................Dollars per hour for time required to perform said maintenance.

20. For eradication of bindweed and other perennial noxious growths the Landlord agrees to allow a credit of $5.00 per acre for .................acres of infested land, provided an approved method of eradication is employed by the tenant, and subject to the inspection and approval of the Landlord or his Agents. Land designated for bindweed eradication hereunder shall not be eligible for abatement or rent remittance under the terms of either paragraph 17 or 18. In no case shall credit or rent remittance be made in excess of $.........................for land herein leased, for brome and legume crops established, for waterways and gullies seeded or bindweed tracts brought under treatment, for any single year.

21. The Tenant accepts this lease with full knowledge of the danger which might arise from the present or any future electric line construction, fixtures and equipment, and assumes all risk thereof and agrees to indemnify and hold harmless the Landlord from any loss, damage, costs or expense arising therefrom or out of any injury resulting therefrom to any person or persons.

22. Nothing in this lease contained shall be construed to create a tenancy longer than the one year term herein specified.

23. And the said Tenant hereby waives and releases all right and benefit of HOMESTEAD and all benefit of the EXEMPTION LAWS of the State of.......................... for the rent herein reserved. The covenants herein shall extend to and be binding upon the heirs, executors, administrators and assigns of the parties to this lease.

24. And it is further mutually agreed that this lease merges all prior promises, agreements, or understandings, as to the contract between the parties hereto, and that this contract shall not be altered or changed, except in writing endorsed hereon and signed by the parties hereto.

25. Said Tenant agrees to use said premises for farming and grazing purposes only and that the same will not be used for any other purpose.

Witness the hands and seals of the parties in triplicate, this .........................day of.........................A. D. 19..........

.......................................................... (Seal)
This Memorandum, made and entered into this day, WITNESSETH: That

the Lessee,...

in the within lease, and whose name......subscribed hereto, by and with the consent of Landlord, the Lessor herein, ha......

sold to  ..............whose name......also appear......subscribed hereto, all the buildings, fences and chattels on the demised premises, belonging to the said Lessee; and further assigned and transferred to...............the right to the use and occupation of the demised premises, under this lease, for the unexpired term thereof, after ...

and in consideration of said sale and transfer, and the consent of the said Landlord thereto, the said.

is hereby substituted as Tenant.....of the demised premises under the within lease in the place of the original Lessee....., and hereby undertake....., promise.....and agree.....to and with the said Landlord, to do and perform, stand to and abide by all and singular the covenants, undertakings, promises and agreements to be done upon, kept and performed by the said original Lessee.....as in said lease written, and hereby acknowledge............sel.............bound by all and singular the conditions, limitations, restrictions, penalties, and forfeitures therein contained, in the same manner and to the same extent as if.....he......were the original Lessee.....therein.

DATED AT........................................day of........................................A. D. 19....

The consent of Landlord is hereby given to the foregoing transfer.

DATE: AT BEATRICE, NEBR., this................day of........................................A. D. 19....

(By).....(Seal)

By ......................................................... (Seal)

His Attorneys in fact.
APPENDIX H

SCULLY LEASE (FORM 13) MARION COUNTY, KANSAS
1919-1920
Copy

FREDERICK SCULLY

E. Angela Scully (hereinafter called Landlord) hereby rents to

(herinafter called the Tenant) the following tract of land, in the

County of Marion and State of KANSAS to-wit:

(Description of land) ________________________________________

supposed to contain 160 acres; excepting, however, any part or parts thereof which may have been, or may hereafter be condemned or taken for public highways, or given, granted or taken for Railroads, School Houses, or other public uses; with full liberty for entry, egress and regress at all times for the said Landlord, his heirs, executors, administrators and assigns, and for his agent or agents, and all persons authorized by him without being liable for any damages done to crops or fences of said Tenant: TO HOLD (subject to all and singular the conditions, restrictions, and limitations hereinafter mentioned) for the term of one year, from and after the first day of March A.D. 1919, or soon thereafter as the present Tenant or Tenants occupying said premises or any portion of them shall give possession of the same, and ending on the last day of February A.D. 1920.

AND IN CONSIDERATION THEREOF THE SAID TENANT UNDERTAKES PROMISES AND AGREES AS FOLLOWS:

TO PAY TO SAID LANDLORD THE FOLLOWING SUMS, AND TO DO AND PERFORM THE FOLLOWING THINGS AS RENT FOR SAID PREMISES:

ON THE FIRST DAY OF NOVEMBER A.D. 1919 $550.00

(.......................... Dollars)
ON THE FIRST DAY OF NOVEMBER A.D. 1919: $_____
........................................... Dollars

ON THE FIRST DAY OF NOVEMBER A.D. 1919: $_____
........................................... Dollars

ON THE FIRST DAY OF NOVEMBER A.D. 1919: $_____
........................................... Dollars

And likewise in addition to the said several sums of money aforesaid as part of said rent to pay yearly to said Landlord at the several and respective times of payment aforesaid, the full amount of all taxes or assessments, general or special, of every kind or nature whatsoever, made, levied or assessed upon or against said land or any part thereof, for and during the period of this lease, for the year 1919. And further to pay interest at the rate of eight per cent per annum upon the amount of said rent and taxes from the time they are hereinafter made payable until the same are fully paid.

And the said Tenant...further agrees that she will sow at least 40 acres of said land in small grain, such as wheat, oats, rye, flax or millet, in each and every year during the continuance of this lease, and in case of her failure to sow said 40 acres in such small grain she shall and will forfeit and pay to the said Landlord the sum of $1.00 per acre for the amount of acres for such failure.

And the said Tenant further agrees to sow, or if already sown, to keep growing and maintain at least 10 acres of said land in alfalfa during her tenure of this lease and any extension or renewal thereof; and in case of her failure so to do, said Tenant agrees to pay the Landlord the sum of $3.00 per acre in addition to the rent reserved as agreed and liquidated damages for her failure so to do.

And the said Tenant further agrees that if, during any year of this lease any portion of the rent reserved for such year shall remain due and unpaid at the commencement of the next succeeding rental year, then and in that event, the portion of the rent remaining due and unpaid, with interest as herein provided shall be added to and become a part of the rent for such succeeding year.

That the said Landlord is not liable to make or erect any houses; fences, or other improvements whatsoever on or about said lands; not to be liable to contribute in any way to the making, erecting or repairing any such houses, fences, or other improvements;
ON THE FIRST DAY OF NOVEMBER A.D. 19' $_____

...........................................Dollars

ON THE FIRST DAY OF NOVEMBER A.D. 19' $_____

...........................................Dollars

ON THE FIRST DAY OF NOVEMBER A.D. 19' $_____

...........................................Dollars

And likewise in addition to the said several sums of money aforesaid as part of said rent to pay yearly to said Landlord at the several and respective times of payment aforesaid, the full amount of all taxes or assessments, general or special, of every kind or nature whatsoever, made, levied or assessed upon or against said land or any part thereof, for and during the period of this lease, for the year 1919. And further to pay interest at the rate of eight per cent per annum upon the amount of said rent and taxes from the time they are hereinafter made payable until the same are fully paid.

And the said Tenant...further agrees that she will sow at least 40 acres of said land in small grain, such as wheat, oats, rye, flax or millet, in each and every year during the continuance of this lease, and in case of her failure to sow said 40 acres in such small grain she shall and will forfeit and pay to the said Landlord the sum of $1.00 per acre for the amount of acres for such failure.

And the said Tenant further agrees to sow, or if already sown, to keep growing and maintain at least 10 acres of said land in alfalfa during her tenure of this lease and any extension or renewal thereof; and in case of her failure so to do, said Tenant agrees to pay the Landlord the sum of $3.00 per acre in addition to the rent reserved as agreed and liquidated damages for her failure so to do.

And the said Tenant further agrees that if, during any year of this lease any portion of the rent reserved for such year shall remain due and unpaid at the commencement of the next succeeding rental year, then and in that event, the portion of the rent remaining due and unpaid, with interest as herein provided shall be added to and become a part of the rent for such succeeding year.

That the said Landlord is not liable to make or erect any houses; fences, or other improvements whatsoever on or about said lands; not to be liable to contribute in any way to the making, erecting or repairing any such houses, fences, or other improvements;
not to allow for the same; nor to be responsible for any damage that may arise or be done through any want of or deficiency in the same; the said tenant taking said premises as they are, and agreeing to make all such as she may deem necessary for the efficient cultivation of said land and for the protection of the crops at her own exclusive cost and expense. But the said landlord hereby agrees, that upon expiration of the term of this lease, and upon the rent and taxes herein provided for being fully paid, and the other promises and undertakings herein written having been done, kept and performed by said tenant... (but not otherwise), that he the said landlord, will consent to the removal of all buildings, fences or other chattels made or erected by the said tenant upon said premises, or belonging to her thereon, provided, that said removal be made promptly, but all buildings, fences, or other improvements thereon belonging to the landlord, and all additions or repairs that may be made or done to the same during this lease; and any hedges or live fence, fruit or other trees that may be planted, set out or grown on said premises at any time previous to or during the term of this lease, shall be deemed fixtures and shall not be removable under any circumstances or at any time.

That said tenant... will cultivate and manage said land in a good husbandlike manner. That she will pull out, clean out and destroy all burrs, thistles and other weeds on said land by the first of August in each year. That she will on or before the first day of August in each and every year of this lease, mow or plow all lands sown to small grain the spring or fall preceding. That she will take care of, cultivate, protect and maintain all hedgerows, fences, fruit and other trees that now are, or may hereafter be planted on said land. That she will trim all hedges on said land by the first day of January in each and every year during this lease and burn the brush. That she will, at his or their own expense, keep open, cleanse, plow, scrape, and dig out all ditches and drains that now are, or may hereafter be made on said land, by the first day of October in each and every year during this lease, and in case of failure to keep open, cleanse, plow, scrape and dig out such ditches, trim such hedgerows, and pull out and destroy the burrs, thistles and other weeds, respectively as aforesaid, the said tenant agrees to pay said landlord seventy-five cents per rod for the ditches, twenty-five cents per rod for the hedges, two dollars per acre for land in burrs and weeds, and one dollar per acre for stubble land not mowed or plowed, as damages for such failure in addition to the rent reserved, such damages to be recoverable by the said landlord in the same manner as rent in arrears. That said tenant will not permit or suffer cattle or other animals, to feed upon stalks standing on said land, said stalks being reserved to the landlord; and that she will deliver up said premises to the said landlord in as good order
and condition as they now are, at the end or other sooner determination of the period for which the same are let, reasonable wear and tear only excepted.

That said Tenant will pay said Landlord on the first day of August in each and every year of this lease, the proportionate amount of the rent hereinafter reserved, on all land that may have been sown to small grain the spring or fall preceding. And it is hereby further covenanted and agreed, that said Landlord reserves and retains to herself or her agents the right of entry upon said land, for the purpose of fall plowing, any ground which may have been sown to small grain the spring or fall preceding the expiration or other sooner determination of this lease, and also of sowing wheat in the corn growing on said land.

It is further expressly agreed between the parties hereto, that if default shall be made in the payment of the rents above reserved, or any part thereof or any of the covenants or agreements herein contained to be kept by the said Tenant it shall be lawful for the Landlord or her legal representatives to enter into and upon said premises or any part thereof, either with or without process of law, to re-enter and re-possess the same at the election of the Landlord, and to distrain for any rent that may be due thereon upon any property belonging to the Tenant. And in order to enforce a forfeiture for no-payment of rent it shall not be necessary to make a demand on the same day the rent shall become due; but a failure to pay the same at the time aforesaid or a demand and a refusal to pay on the same day, or at any time of any subsequent day, shall be sufficient; and after default shall be made, the Tenant and all persons in possession under her shall be deemed guilty of a forcible detainer of said premises under the statute.

Nothing in this lease contained shall confer upon the Tenant any right to the Coal, minerals, Sand, Gravel, Mines, Oils and Quarries underlyng said land, or any part thereof; but the same are hereby expressly reserved by the Landlord, together with full right, liberty and land room to him to enter upon the premises and to bore, search, and excavate for the same, to work and remove the same, and to deposit excavated rubbish; and with full liberty to pass over said premises with vehicles, and to lay down and work any such railroad track or tracks as may be necessary and convenient for the above purposes; said Landlords, however, agreeing to deduct from the annual rent "pro-rata" for the land so taken by him or his assigns for said uses.
and condition as they now are, at the end or other sooner determination of the period for which the same are let, reasonable wear and tear only excepted.

That said Tenant will pay said Landlord on the first day of August in each and every year of this lease, the proportionate amount of the rent hereinafter reserved, on all land that may have been sown to small grain the spring or fall preceding. And it is hereby further covenanted and agreed, that said Landlord reserves and retains to herself or her agents the right of entry upon said land, for the purpose of fall plowing, any ground which may have been sown to small grain the spring or fall preceding the expiration or other sooner determination of this lease, and also of sowing wheat in the corn growing on said land.

It is further expressly agreed between the parties hereto, that if default shall be made in the payment of the rents above reserved, or any part thereof or any of the covenants or agreements herein contained to be kept by the said Tenant it shall be lawful for the Landlord or her legal representatives to enter into and upon said premises or any part thereof, either with or without process of law, to re-enter and re-possess the same at the election of the Landlord, and to distrain for any rent that may be due thereon upon any property belonging to the Tenant. And in order to enforce a forfeiture for non-payment of rent it shall not be necessary to make a demand on the same day the rent shall become due; but a failure to pay the same at the time aforesaid or a demand and a refusal to pay on the same day, or at any time of any subsequent day, shall be sufficient; and after default shall be made, the Tenant and all persons in possession under her shall be deemed guilty of a forcible detainer of said premises under the statute.

Nothing in this lease contained shall confer upon the Tenant any right to the Coal, minerals, Sand, Gravel, Mines, Oils and Quarries underlyinig said land, or any part thereof; but the same are hereby expressly reserved by the Landlord, together with full right, liberty and land room to him to enter upon the premises and to bore, search, and excavate for the same, to work and remove the same, and to deposit excavated rubbish; and with full liberty to pass over said premises with vehicles, and to lay down and work any such railroad track or tracks as may be necessary and convenient for the above purposes; said Landlords, however, agreeing to deduct from the annual rent "pro-rata" for the land so taken by him or his assigns for said uses,
And it is further convenanted and agreed between the parties hereto, that all the rent herein reserved and agreed to be paid, shall constitute and be a lien upon all the crops growing or made on said land during any of the time for which said premises are leased as aforesaid.

Any assignment of this lease, or underletting of said land or any part thereof, without the written assent of the Landlord, or his duly authorized agents first obtained, shall operate to immediately determine this lease, without notice from the Landlord, and the rent for the current year and all arrears of rent shall become immediately due and payable.

And the said Tenant hereby waives the benefit of the EXEMPTION, VALUATION, AND APPRAISAL LAWS OF THE STATE OF KANSAS for the rent herein reserved.

The covenants herein shall extend to and be binding upon the heirs, executors and administrators of the parties to this lease.

WITNESS the hands and seals of the said parties, this ___ day of ___ A. D. __.

FREDERICK SCULLY
E. ANGELA SCULLY (SEAL)

By Trapp & Fos (SEAL)
His Attorneys in fact.

WITNESS:

_____________________________________

_____________________________________

(SEAL)

This memorandum, made and entered into this day. Witnesseth That .................The Lessee I the within lease, and whose name .... subscribed hereto, by and with the consent of FREDERICK SCULLY E. ANGELA SCULLY the lessor herein has sold to....... whose name also appears subscribed hereto, all the buildings, fences and chattels on the devised premises, under this lease, for the unexpired term thereof, after............. and in consideration of said sale and transfer, and the consent of the said FREDERICK SCULLY.
E. ANGELA SCULLY is hereby substituted as Tenant of the devised premises under the within lease in the place of the original Lessee and hereby undertakes, promises and agreed to and with the said FREDERICK SCULLY to do and perform, stand to and abide by all and singular the covenants, undertakings, promises and agreements to be done, kept and performed by the said original Lessee as in said lease written, and hereby acknowledges himself bound by all and singular the conditions limitations, restrictions, penalties and forfeitures herein contained, in the same.

Dated at Marion, this .............day of ..........19........

The consent of FREDERICK SCULLY is hereby given to the foregoing transfer.

Dated at Lincoln, Ill. this .............day of ..........A.D. ..........

By..............................................(SEAL)
His Attorneys in fact

Copy

MARION COUNTY, KANSAS LEASE FORM 13  FREDERICK SCULLY E. ANGELA SCULLY
To______________________________. Begins March 1st, 1919, Ends February last, 1920____________________________(Tenant Copy)
APPENDIX I

SCULLY LEASE USED IN LOGAN COUNTY,

ILLINOIS, 1863 (FIVE TENANTS)
Wm. Scully to Woolrod Kief et al.

Filed Sept. 4, 1863

Woolrod Kief, Chas. Wehrer, Michael Hoffman, Ernest Leirer and Daniel Buhler have this day leased from Wm. Scully (to whom they attorn as Landlord). Certain portions of Section Seventeen (17), Eighteen (18) and Nineteen (19) in Township Twenty (20) North, and Range Three (3) West of the 3rd P.M. in Logan County Illinois to wit:

Woolrod Kief rents the North West Quarter of Section Seventeen (17) and the North East quarter of the North East quarter of Section Eighteen (18) being in all One (100) Hundred Acres.

Charles Wehrer rents the West Half of the North East quarter of Section Eighteen (18) being (80) Eighty Acres.

Michael Hoffman rents the South East quarter of the North East quarter of Section Eighteen (18) and 60 acres of the North Side of the South East quarter of Section (18) being on all One Hundred Acres.

Ernest Leirer rents the Eighty (80) acres in the South East quarter of Section Eighteen (18) lying immediately South of said last mentioned tract of Sixty (60) acres.

Daniel Buhler rents the remaining Twenty (20) acres in said South East quarter of Section Eighteen (18) lying immediately South of the Eighty (80) acre tract rented by Leirer; and also the North half of the North East Quarter of section Nineteen (19) Eighty (80) acres now in the occupancy of One C. Lozier being in all One Hundred acres; said several portions being correctly shown in the following diagram to wit: [diagram omitted].

The said lessees severally lease the said respective portions above designated for the period of Five years from the first day of March A.D. 1864 and they severally agree to pay Wm. Scully as the annual rent of said premises the sum of One dollar per acre for each and every acre assigned to them as above stated that is to say the said:

Woolrod Kief agrees to pay the annual rent of Two Hundred Dollars ($200);

Charles Wehrer agrees to pay the annual rent of Eighty Dollars ($80);
Michael Hoffman agrees to pay the annual rent of One Hundred Dollars ($100);

Ernest Lehrer agrees to pay the annual rent of Eighty Dollars ($80);

Daniel Buhler agrees to pay the annual rent of One Hundred Dollars ($100);

said rents to be promptly paid on or by the first day of January on each rent year (the first day of payment being January 1, 1865) and to bear 10 percent per annum interest after that day if not then paid.

It is expressly understood and agreed that the said Wm. Scully shall in no wise be responsible for any damage that may be done to any of the crops grown on said premises or any part thereof at any time during this lease - by reason of any defects in any of the fences upon or around said premises or by reason of want of fences nor shall he be liable to do or make any repairs upon them or make any houses, buildings, out buildings, fences or any other improvements nor shall he suffer any deduction from said rents from that cause or any other cause whatsoever during this lease; the said Lessees (each for himself) taking the respective portions of said premises as above designated with whatever improvement there are on them just as they now are and as they may become during said lease and agreeing and being willing to make whatever repairs or improvements may at any time become necessary for the proper cultivation of said premises and preservation of the crops raised thereon and convenience of living at his and their own exclusive costs and expenses.

The said lessees - each for himself - agree to cultivate said land in a good and husband like manner and to do and suffer no waste to be done thereon during this lease; to take good care of all the houses, fences on other improvements there may be upon said land, and to deliver the said entire premises up to the said Wm. Scully at the end of this lease without notice to quit or demand for possession whatever.

It is also made an express condition of this lease that none of said lessees shall sublet any of said premises leased to him non assign his lease or any interest in it to any other person or persons whatever without the consent of the Wm. Scully given in writing signed by him or his duly authorized agent; and if any one of said lessees shall do so the said Wm. Scully shall at liberty so treat this lease as
forfeited by such lessee and to reenter and take possession of his portion and distrain for the rent due from such person and relet such part of said premises to another.

And if any one of said lessees shall not promptly pay his rent when it becomes due in any year, the said Wm. Scully shall be at liberty to treat this lease as forfeited by such defaulting lessee and to declare the same void, and reenter upon the possession of such defaulting lessee and take possession of the same and distrain for the rent in arrears and relet said portion or portions to any other person and no notice to quit or demand for possession shall in such case be necessary.

It is understood that Woolrod Kief and Michael Hoffman are already in possession of certain portions of said premises for the year 1863 by lease from Wm. Scully and shall nothing in this lease contained shall conflict with their obligations assumed in and by said former lease for the present year and that the said Charles Wehrer, Ernest Leirer and Daniel Buhler take possession of their respective portions whenever they please.

Provided that they do not in any way interfere with the rights and farms of any of the tenants now in possession of any of said premises and provided further that the said Wm. Scully does not undertake to give the said Daniel Buhler possession of the tract or house on and in which Losier now lives any earlier after the first of March '64 than it may require by legal means to obtain possession of the same for himself. It is further agreed that the said lessees may at the end of this lease remove whatever entire new buildings or new fences which they may have made out of materials entirely their own on said premises at any time during said lease.

In witness whereof the said parties have hereinto set their hands this 4th day of September A.D. 1863.

Attest

Fr. C. W. Koehnle
Wm. McGalliard

Wm. McGalliard
Att'y, for Wm. Scully

Ernest Leirer
Daniel Buhler
Woolrod Kief
Carl Wehrer
Michael Hoffman
forfeited by such lessee and to reenter and take possession of his portion and distrain for the rent due from such person and relet such part of said premises to another.

And if any one of said lessees shall not promptly pay his rent when it becomes due in any year, the said Wm. Scully shall be at liberty to treat this lease as forfeited by such defaulting lessee and to declare the same void, and reenter upon the possession of such defaulting lessee and take possession of the same and distrain for the rent in arrears and relet said portion or portions to any other person and no notice to quit or demand for possession shall in such case be necessary.

It is understood that Woolrod Kief and Michael Hoffman are already in possession of certain portions of said premises for the year 1863 by lease from Wm. Scully and shall nothing in this lease contained shall conflict with their obligations assumed in and by said former lease for the present year and that the said Charles Wehrer, Ernest Leirer and Daniel Buhler take possession of their respective portions whenever they please.

Provided that they do not in any way interfere with the rights and farms of any of the tenants now in possession of any of said premises and provided further that the said Wm. Scully does not undertake to give the said Daniel Buhler possession of the tract or house on and in which Lozier now lives any earlier after the first of March '64 than it may require by legal means to obtain possession of the same for himself. It is further agreed that the said lessees may at the end of this lease remove whatever entire new buildings or new fences which they may have made out of materials entirely their own on said premises at any time during said lease.

In witness whereof the said parties have hereinto set their hands this 4th day of September A.D. 1863.

Attest

Wm. McGalliard
Atty. for Wm. Scully

Ernest Leirer
Daniel Buhler
Woolrod Kief
Carl Wehrer
Michael Hoffman

Fr. C. W. Koehnle
Wm. McGalliard
APPENDIX J

SCULLY LEASE USED IN LOGAN COUNTY,

ILLINOIS, 1868
WILLIAM SCULLY, party hereto of the first part, hereby rents party hereto of the second part, the following tract of land in the County of in the State of Illinois to-wit:

The West Half of the North East Quarter of Section Thirty-One (31) in Township Twenty-Two (22), North Land Range Three (3) West of the Third (3d) Principal Meridian

supposed to contain Eighty (80) acres; to hold for the term of Hereo years from the first day of March, A. D. 1868, or so soon thereafter as the present tenant or tenants occupying said premises or any portion of them, shall give up possession of the same, and ending on the first day of March A. D. 1869.

The said party of the second part undertakes and promises as follows:

First: To pay at the Bank, as the said party of the first part may from time to time in writing signed by him be directed, to the credit of the said William Scully, the sum of Dollars, on the first day of January next succeeding the date hereof, together with the full amount of all taxes or assessments of every kind or nature whatsoever, made, levied or assessed upon said land or any part thereof for the year 1868.

And for the remaining years of this lease, the sum of Dollars per year on the first day of January in each rent year, together with the full amount of all taxes or assessments of every kind or nature whatsoever, made, levied or assessed upon said land or any part thereof for the current year, and likewise, to pay interest at the rate of ten per cent per annum, upon the aggregate amount of said rent and taxes aforesaid from the time they are made payable until day of payment.
Secondly: That the said party of the first part is not to make, erect, or to be responsible in any manner for any houses, fences or for any other improvements whatsoever, on or about said lands; or to be liable to contribute in any way to the making, adding to or repairing any such houses, fences or other improvements, or of being responsible for any damage to any said houses, fences or improvements, or by being done through any want or deficiency in the same: the said party of the second part taking said premises as they now are and agreeing to make all such improvements as he may deem necessary for the efficient cultivation of said land and the proper preservation of his crops, at his own exclusive cost and expense. But the said party of the first part hereby agrees, that upon the expiration of the term of this lease and upon the rent herein provided or being fully paid, and the other promises and undertakings herein written having been done and performed by the said party of the second part, he, the said party of the first part will consent to the removal of all such improvements made or erected by the said party of the second part, provided said removal be made promptly.

Thirdly: It is mutually understood and agreed that if the rent and taxes above reserved or any part thereof shall not be promptly paid at the several times of payment aforesaid, it shall and may be lawful for the said party of the first part to declare said term ended and to enter into said premises or any part thereof without process of law and without notice; and to remove and put out any person or persons occupying the same and to take possession of said premises as in his former estate; and to demand for any rent that may be due thereon, the goods and chattels of the said party of the second part and all the crops raised on said premises. And it is further provided that if said party of the second part shall remain in possession of premises after the termination of this lease, by the said party of the first part declaring the same void, he shall be deemed of forcible detainer under the Statute, and shall be liable to eviction and removal without or without process of law to work and perform this lease and to give the said party of the first part the right to enter and take possession, and agrees that the right of election by the said party of the first part to declare said lease terminated shall not be waived by any lapse of time or in any other manner so long as said rent and taxes are in arrear and unpaid or the other conditions of this lease remain unperformed.
Lastly: it is agreed that the said party of the second part shall not assign this lease or any interest in it or sublet the demised premises or any portion of them to any person whomsoever without the consent in writing of the said party of the first part, and any such assignment or subletting shall be wholly inoperative to vest in any other person any right to enter upon said premises and shall furnish to the said party of the first part sufficient ground upon which to declare this lease terminated and to retake immediate possession of the demised premises.

Witness the hands of the said parties this 1st day of July, 1857.

Attest: J. W. Galbraith

John Zimmern.
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