Early Land Claims in Michigan

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THE STATE OF MICHIGAN as of 1951 holds title to approximately 4,150,000 acres of land within its borders, one acre in every nine. Holdings were doubled on November 3, 1939, with reversion to the state of tax delinquent lands bid in at the May 3, 1938 tax sale.

The state's role as large landholder, however, is not new. Once, title to one acre in every three was held by the state.

Also, the state's role, past and present, is eclipsed by those of early possessors of the territory which is now Michigan. A King of Spain once claimed it. A King of France, by virtue of discoveries of French priests and soldiers, later took possession and French kings held the territory until it was wrested from them by the English. Great Britain, in turn, surrendered it to victorious colonists; with Maryland, Virginia, New York and Connecticut disputing title, each claiming ownership of grants surrendered by the English crown.

The French held possession from about 1610 to 1763 when, with the end of the Seven Years War, the territory was ceded to Great Britain. The English crown claimed ownership and jurisdiction until July 11, 1796 when it came into possession of the United States, as part of a greater area which was called the Northwest Territory.

Establishment, in 1805, of a territorial government may be said to mark the beginning of the state's present land policy.

PEACE presents its problems no less than war and the struggling new American nation in the years following the Revolutionary war was occupied with its immediate concerns, sparing little thought for those pioneers who were establishing themselves in the great Northwest Territory, so far away across the Alleghenies.

But, by 1787, the need of those pioneers for the guarantees of government had made itself recognized and an ordinance of that year—an Act of Congress—was an effort to establish some semblance of order. Most pressing need, perhaps, was for the determining and guaranteeing of rights in real property—in land.

The "Territory of Michigan"

Soldiers of the Revolutionary army .were pressing into the territory lying northwest of the Ohio river to claim bounty grants. Others wanted to buy lands. It was evident that the system of metes and bounds surveys by which land had been apportioned in the territory prior to 1787 was inadequate and a first concern of the new territorial government was the setting up of a better system of land measurement and the determining and recording of land ownership.

Ordinances of 1787 and 1789 were adopted as the charter for portions of the Northwest Territory—including the northern and southern peninsulas of Michigan and the area which is now Wisconsin—which were designated as the Territory of Michigan. Detroit was chosen as the seat of government of the new territory and administration of its affairs was placed in the hands of a governor and three judges appointed by the president of the United States. The governing body assumed its duties of administration on June 30, 1805.

Fire Devastates Detroit

Detroit, then, occupied two acres. Buildings in the settlement were crowded together and on June 11, less than three weeks before the arrival of the governor and judges, fire devastated the town.

The folly of rebuilding in its original form was obvious. Lanes and passageways between buildings rarely had been more than 14 or 15 feet wide and the jumble of closely-packed structures had offered an ever-present fire hazard. Expansion of the town, in its rebuilding, was inevitable. Fire had destroyed the constricting habiliments of the old town.

Destruction of the town posed an immediate problem for the new government. Some of the inhabitants, living in the town for many years, had no clear title to the land on which their homes and places of business had stood, but their long tenure had established "rights of occupation" — "squatters' rights" — which were perhaps equitable but were not legal. And, following the fire, some of the inhabitants began rebuilding operations on the "commons," which was, according to the governor, property of the government and, as such, was to be protected from trespass.

The problem was: Who owned the land?

Titles were almost entirely lacking. In fact, Judge Augustus Woodward, in a letter to the chairman of the United States Committee on the Territory of Michigan, under date of March 12, 1806, advised there were in the entire Territory only eight legal titles!

French vs. English Systems

One asks: Why should this have been the case? The village of Detroit was 15 years older than Philadelphia. Yet, in Detroit, land ownership could be proved only with difficulty while in Philadelphia such ownership could be determined exactly and easily.

The answer is found in those differences distinguishing the French and English concepts of property. Detroit had been a French, Philadelphia an English possession.

Michigan was a part of a vast territory claimed by France by right of discovery. Title to the land was taken in the name of the king and all ownership was conferred by him. Apparently the French policy was to establish a line of trading posts or forts from Quebec up the Great Lakes and down the Mississippi. At the heads of the immediate governments, centered in the posts and forts, were governors or intendants. In their hands was placed the right to make grants of lands. But, to complete the titles, it was essential to have confirmation by the king. It is asserted that the French were notoriously lax about such matters and made little effort to secure complete titles and that if they did possess titles confirmed by the king they often failed to place them in proper government archives. It also was claimed that the French authorities had destroyed many records to prevent them from falling into the hands of the English.

Only Nominal Ownership

But, likely enough, the real reason why complete titles were so seldom existent, under French rule, was that at best they conferred only nominal ownership, were the concessions made under a modified feudalistic concept of rights in property, and possessors were, in fact, little more than tenants, paying tribute to the real owner—the king.

The French were in possession of the Michigan territory until the concluding of the Treaty of Paris in 1763, ending the Seven Years War (our French and Indian wars).

Between the years 1763 and 1796 the territory was the possession of the English king.

And prior possession of the territory by the English had not complicated the new government's problem of determining prior ownership of lands in the territory. It was not the English policy to sell or grant lands and except for a few doubtful sales made by local military officers, no attempts had been made to convey tides.

Only other claims to lands in the Michigan Territory were those of the original possessors — the Indians. Neither French nor English recognized claims of the Indians; in fact, with neither was it considered legal to acquire lands from the Indians by treaty or purchase.

French Titles Recognized

The new officers of the territorial government, then, had those claims to consider which dated back to French occupancy, a few less valid claims which originated with the English and those of persons who had possessed property in the fire-devastated town and who were on the ground on June 30, 1796 when the new government was set up and who professed allegiance to it.

There were records of several grants of land, in the name of the French king, given by de La Mothe Cadillac which were recognized by the American authorities, fee title being conveyed to holders by the United States government.

These claims recognized, the new governor and judges turned to the claims of the townspeople and of those who had cleared farms in the territory. Congress was duly memorialized and a tentative plan of land registry was set up.

In a letter written January 17, 1806 to the Secretary of the United States Treasury, Judge Woodward referred to the 442 farms and settlements which were located along the Detroit, St. Clair, Raisin, Huron and Otter rivers. Of this number, 77 farms or settlements were cited as fronting on the Detroit river, 121 along the Raisin. The new administrators, noting that all of the settlements fronted on streams or lakes—then the principal routes of travel, considered as of first concern the retaining of riparian ownership in legal form.

French Method of Survey

Whether or not there were exact surveys is not known, although there is occasional reference to certain determination of area by accurate measurement. The French method was to secure an area two arpents[1] in width on the water and 40 arpents in depth, extending at right angles to the course of the stream. The only differences in such claims appear to have concerned the frontage on water—such frontage rarely exceeding six arpents—the depth of all such claims having been the same.

Procedure stipulated by the governor and judges in determining existing claims in the new Michigan Territory included, as a first step, the actual surveying of claims by duly authorized and competent surveyors. The next step was for the claimant to appear before a commission with his witnesses, or armed with any documents which might help in substantiating his claim. These documents, being duly examined and considered, were forwarded to the Treasury Department in Washington with the recommendation of the commission. Basing judgment on the report, a patent could be issued.

[1]An arpent, as used in this sense, is 192.2+ feet.

Old Claims Still Recognized

In this connection it is interesting to note that patents based upon the stipulated original procedure have been issued even at this late day.

It was quickly discovered that a lack of land existed in the vicinity of the town, a lack resulting from the customary procedure of those holding “front” claims—on water—in depending upon the land “back” of their lands for fuel and pasture. These claims were likewise considered, the same procedure being followed.

If one cares to examine present-day maps of Wayne and Monroe counties, he will notice immediately the “crazy quilt” pattern of claims. These claims, a hodgepodge of the familiar rectangular blockings, followed and recognized the land claims of persons or their forebears who were, once, citizens of France or England, but whose titles came from the United States.

GOVERNOR and judges, administrators of the new Territory of Michigan, found themselves burdened more with problems than with precedents. They were able to pass on the land claims of inhabitants of the old Detroit, destroyed by fire shortly before they assumed their duties in the summer of 1805, and of the men and women who had established homes along the banks of streams in the vicinity of the new capital. But there were few precedents which they could follow in disposing of other lands in the new territory.

Territory in Public Domain

Except Detroit, and the scattered clearings 'round about, the territory was a wilderness. Only its barest outlines had been mapped. And, while the Congress had incorporated the territory in the Public Domain and had provided for surveys and sales of lands, little had been accomplished actually and the new administrators of necessity went ahead gropingly.

The Public Domain—the lands of the United States subject to sale or disposal under the then existing laws —was created with the ratification of the Articles of Confederation. These, the compact of government approved by Congress on November 15, 1777 and ratified by the several states during the next four years, secured the possession and control of all unappropriated British crown grant lands. Also, the states concurring in a Resolution of September 6, 1780, all claims to lands lying outside their immediate boundaries were ceded to the new government—the United States government, source of all land titles. S uch lands (it being the intent of the Resolution) were to be sold, the moneys received to be applied toward payment of debts incurred in the Revolutionary War.

Curiously, one of the first offers of public lands by Congress antedated the creation of the Public Domain—the promise of grants of lands to British soldiers who would forswear allegiance to the English crown to become American citizens. Private soldiers in the English command were offered grants of 50 acres, the grants increasing with rank. Colonels were offered grants of one thousand acres.

Surveys Provided For

An Act of Congress approved May 18, 1796 had provided for “the sale of lands of the United States in the Territory northwest of the River Ohio and above the mouth of the Kentucky River.” The act had provided for the naming of a Surveyor General and deputies who were to be instructed to survey the outlines of the territory “in which the title of the Indian Tribes had been extinguished.” Manner of survey of lands in the territory had been set forth also in the act, the instruction being to lay off the land in townships containing 36 sections of as “nearly as may be 640 acres each.” The pay for surveying these lands was not to exceed $3.00 per linear mile. Townships were to be designated by numbers relative to their position east or west of a meridian and north or south of a base line.

It has been remarked that the first governor of the new territory and the three judges who had been named by the president of the United States as its administrators had found, on their arrival in Detroit in 1805, that few legal titles to lands existed. Also, no exact determination of boundaries of claimed lands had been made. Inhabitants of the town of Detroit, in many instances, had no greater claims to lands they occupied than are recognized nowadays under the designation, “squatters' rights.” Settlers on the banks of streams whose claims were to frontage on water were claiming also the prior right to possession of lands extending back for indeterminate distances.

The new administrators of the territory, seeking to set up a registry of lands for which more or less valid claims were presented, went ahead with the surveys of claims and the receiving of depositions of claimants, forwarding records and transcripts of testimony with their recommendations to the Treasury Department in Washington which, in turn, issued or denied patents.

Some Early Difficulties

The task of surveying claims was made more difficult because, as yet, no meridian or base lines for the new territory had been fixed—as provided in the Act of May 18, 1796 — and no township boundaries had been marked off.

That act, as well, had authorized the adoption of a “rectangular system” of land measurement, the system which is used today.

Need for such a system was evident. Today, the location of property can be described exactly with reference to lines which mark the boundaries of townships. Then, and until the surveys provided for in

the act had been completed, lands were measured and described by “metes and bounds.”

Some method of survey or measurement of lands has been in use since the earliest times. Most frequently used has been the “metes and bounds” system — the measurement of sides between given points and determination of the direction of the sides with reference to the four points of the compass. This method of survey even now is used frequently since land parcels may be either too small or too irregular in shape to allow their describing exactly with reference to accepted land surveys. But metes and bounds surveys, to have legal status, are tied always to official markers (corners). It was the intent of Congress in the Act of May 17, 1796, paving the way for the sale of lands in the new territory, to do away with confusion in future by ordering the laying out of townships and by authorizing the “rectangular system” of land surveys.

Delays are Encountered

Thomas Jefferson had proposed the marking off of townships of 100 square miles, broken into units of one mile square. After debate, Congress had settled on the present definition of townships, containing 36 sections of as “nearly as may be 640 acres each.” In theory, a township is six miles square. It is interesting to note that not one of the 1,800-odd townships in Michigan embraces exactly 23,040 acres (36 square miles).

But, in 1805 and for another decade, surveying of the new territory was delayed. Detroit again, for a brief period, was to become a British possession. Governor and judges, however, did what they could to straighten out land titles, moving on to the regions around St. Ignace, Sault Ste. Marie and Green Bay where they heard and passed on merits of other claims dating back to periods of French and British rule.

The new territory was establishing itself.

WHEN THE CONGRESS, in 1787, acted to set up the new Territorial government “northwest of the River Ohio” it sought to serve two ends: the raising of revenue through the sale of land, and the satisfying of land bounty claims of soldiers who had served in the Revolutionary army.

Neither end was served quickly. Not until 1805 was the capital of the new Territory of Michigan established in Detroit. And not until 1815 were surveys begun which would allow the orderly disposal of new lands.

The Surveyor General of the United States issued the order for the work to begin. Controversy had arisen concerning the dividing line between Michigan and Ohio territories and the Surveyor General warned against encroachment upon the area in the boundary dispute.

First Survey Is Undertaken

Survey of two million acres was undertaken, an area which, it was believed, would satisfy soldiers' bounty claims then pending and provide also for the anticipated demand for lands for settlement. Surveying parties pushed west across the southern part of the Territory.

One travels, now, across this area on paved highways and may have difficulty in visualizing conditions which were reported to Congress in 1817. That report suggested the selection of other lands for survey. Less than 10 percent of the lands which had been surveyed, the re port stated, were suitable for agriculture, the remainder being poor in quality, swampy or too rough.

The first public sale of lands in the new Territory was held in Detroit in 1818. As of October 1, 1821, sales totaling 71,795 acres were reported. Lands reserved or held for satisfaction of claims totaled 378,250 acres.

Factors Speeding Settlement

However, with the opening of the Erie Canal in 1825 and the introduction of steam navigation to the Great Lakes, settlement of the Territory proceeded more rapidly. Population of the Territory of Michigan in 1830 was 31,639. In 1837, with statehood acquired and admission to the Union, the population had multiplied nearly six times, being reported in that year as 187,273.

Settlement was speeded also by reductions in sizes of units of lands offered for sale. Originally, units were 640 acres—one square mile. In 1805, ten years before the survey of the two million acres was ordered, the unit had been reduced to 320 acres. It was declared to be 160 acres in 1820. Reduction to 40 acres—the present unit—in 1832 provided the greatest stimulus of all. Persons of the most limited means were able to acquire lands.

Grants of Lands to State

Increase in population and demand for home government in the Territory of Michigan had gained the attention of Congress years before the formalities of 1837 were concluded. Among important Acts of Congress, which paved the way for the Territory's recognition, was that of June 23, 1836, approving the following grants of land to the new state-to-be:

> Seventy-two sections of land for a Seminary of Learning; i.e., the University of Michigan.
>
> Five sections for public buildings.
>
> Section 16 in each township for primary school.
>
> Salt springs, not exceeding 12 in number, with six sections adjoining.

The Act provided further that five percent of the moneys received from the sale of federal lands was to be allocated to the state-to-be for construction of roads and canals.

Admission of Michigan to the Union greatly stimulated land sales. Tremendous grants of lands were placed in the hands of local agencies; federal land offices were established in a number of towns.

Speculators purchased large tracts in anticipation of public demand. A “land boom” was on.

Treaty Delays Retard Growth

One who seeks explanation of delay in opening up the new Territory to settlement — the half-century of slow-moving effort to get settlers onto the land, which ended only with the granting of statehood—must take account of the need there was to come to terms with the Indians, the original possessors of the land.

Negotiations progressed slowly. Lands in southeastern Michigan were among the first to be ceded by the Indians. Governor Cass concluded a famous treaty in 1819 which involved lands around Saginaw and the Grand River valley. Not until 1836 was a treaty signed which gave white men possession of practically all of the lower peninsula and the eastern end of the upper peninsula. A treaty of 1840, in effect, terminated Indian claims to lands within Michigan's boundaries.

It will be seen that problems of disposal of Michigan lands by the federal government and, later, by the state have fallen into four distinct categories.

Originally, the Congress created a new Territory to provide revenues from sales of lands and to satisfy soldiers' bounty claims.

Then, as the new Territory was qualifying itself for statehood, desire for revenue was subordinated to the encouragement of settlement to the end that recognition of the Territory's right to an improved status should be secured.

Exploitation and Its Sequel

Statehood attained, exploitation of the land became the end to be served. Exploitation could be made to pay handsome dividends. There was timber to be cut, ores to be wrested from the earth, fertile soil which awaited the ploughshare. The urgent need was to get the land into cultivation, into the hands of men who could cut the timber and mine the ores. Immediate returns from the sales of lands were not so important. Exploitation of the land was important. And, too, there was the comforting thought that lands, once transferred to private ownership, would continue to return revenues in the form of taxes.

And, lastly, we have the problems of today: the return to the state by forfeiture for non-payment of taxes of millions of acres of lands which were once in private ownership, and the attendant problems of wise administration of these reverted lands, with regard for the social and economic implications of vast holdings in a new Public Domain.

STATEHOOD GRANTED, there began a long period during which the disposal of lands was to be perhaps the most important concern of citizens of the new state.

Settlers, speculators, authorities—the welfare of all of these was identified intimately with land. And there evolved slowly the land policies whose consequences are our heritage.

On March 6, 1843, the Legislature, seeking “to regulate the sale of public lands,” created the office of land commissioner and established the state land office in Marshall. The Superintendent of Public Instruction, with office in Ann Arbor, became the head of the first state land office.

Washington's Difficulties

This office operated independently of the federal offices which had been set up earlier in the century for the disposal of public lands. The first of these offices had been established in Detroit in 1805; the second, a little later, in Monroe. And, as demand for land had increased, offices had been set up in Saginaw, Ionia and Reed City. Others were to follow.

But the federal government was encountering difficulties in disposing of public lands, due mainly to the distance from Washington of the Michigan offices. The federal government established the General Land Office in 1812, reorganized it in 1836 and, in 1849, transferred jurisdiction of federally-controlled lands in Michigan from the Treasury Department to the Department of the Interior.

That transfer, however, was to follow the establishment of the first state land office.

Early Grants of Lands

Reviewing, we recall that the “public lands” whose disposition was the concern of the state office were those transferred to the state-to-be in 1836 by Act of Congress: 72 sections for a University, section 16 in each township for primary schools, and various minor grants. Also, by Act of Congress of September 4, 1841 a grant of 500,000 acres was made to the state, earmarked as “internal improvements lands.”

The University lands — carefully selected parcels in the southern part of the state — totaled 46,080 acres. There were more than a million acres of primary school lands and there were the half million acres of internal improvement lands.

Prices were fixed. The best lands— the University grants—were offered at from $12 to $15 an acre.

Stipulation was made that the primary school lands should not be sold for less than $6 an acre. (The price of these lands later was reduced to $5, then to $4 an acre.) Price of the internal improvement lands was fixed at not less than $1.25 an acre.

First sale arranged by the state land office was held July 15, 1845.

"Partial Payments" Permitted

And, as inducement to speed the sale of land, a "partial payment" plan was given effect. Purchasers were allowed to make initial payments of 25 percent of the value of the land, taking immediate possession. Annual payments of interest at seven percent on unpaid balances continued them in such possession.

In this connection, it is interesting to note that Lands Division records show 64 descendants or assignees of original purchasers continue to pay only the interest on unpaid balances. Record of one sale discloses a down payment of $40, made in 1852, and interest payments made annually since that year with no reduction of principal.

On September 28, 1850, the "Swamp Land Act"—an Act of Congress—went into effect. It was to exercise immense influence on state land policies and to have far-reaching consequences.

The Act provided that lands that were "swampy and overflowed and made unfit thereby for cultivation shall be returned to the state." Proceeds from sales of such lands were to be used for internal improvements —the construction of roads, bridges and canals, the deepening and straightening of rivers; in short, the improving of means of transportation. Selection of such lands was to be based on reports of surveys filed in the office of the Surveyor General.

Ultimately, six million acres of land came into possession of the state through the operation of the Act.

History of Land Warrants

However, there was little demand for, and few sales of, these swamp lands. Hopes of those who had expected to turn the lands into cash with which to finance the cost of improvements that were so necessary to the continued development of the new state were disappointed.

A way out was found. Contractors, road and bridge builders, expressed willingness to accept land warrants— "scrip" as they were termed—in exchange for their services. The warrants represented titles to swamp land acreages.

The history of many Michigan fortunes is linked to ownership of these lands, acquired in such fashion.

WHEN THE FIRST steamboats nosed their way into the Great Lakes in 1825, through the newly opened Erie canal, there was elation in the harbor towns of the Michigan Territory. Their link with the world outside had been forged.

That elation was not shared by settlers of the Territory who lived at any great distance from the ports. The fortunate fishermen of the lakeside towns could load their produce handily on the steamboats, to be sold in eastern markets. The farmers who had cleared and broken the soil many miles inland found it less easy to market their products. Their grunting oxen plodded slowly along scarcely marked trails. A trip to a mill 10 miles distant meant a long day's absence from their homes and their fields.

The settlers on the land wanted steam transportation, too. By 1826, the clamor for railroads on the part of settlers who had pushed west from Detroit was making itself heard.

The demands were not satisfied quickly. In fact, three decades passed before Congress on March 15, 1856, approved a grant of land to encourage construction of a railroad which would link Fort Wayne, Indiana, with Grand Rapids. Other grants were to make possible the construction of railroads running from Grand Rapids to Mackinaw City, from Flint to Pere Marquette (now Ludington), and trackage which was to link Jackson, Lansing and Saginaw.

These grants embraced the odd-numbered sections for a distance of six miles on either side of the proposed railroad routes. In all, 3,809,826 acres of Michigan lands were given to railroad builders by Congressional action. Also, prior to the war between the states, the new state of Michigan had set aside 1,695,510 acres for the encouragement of railroad construction.

And by Act of Congress on March 1, 1847, it had been provided that "geographical examination be made of the lands in the Lake Superior region." These mineral lands were to be offered at public sale at not less than $5 an acre.

There were takers for the lands. Miners began to tear the copper and the iron from the striated structures of the northern peninsula. A problem presented itself. The rapids of the St. Marys river roared menacingly as they emptied the cold waters of Lake Superior into Lake Huron. No craft, except the bark canoes of adventuresome Indians, could make their way through the churning waters.

The miners needed supplies. Only by difficult portage could the supplies be taken to them. A canal was needed. Locks would have to be built into it. There was the question of cost, and the cost was going to be more than the young state could pay.

A plan was made which was sold to Congress. To reimburse the men who had the money to defray the costs of construction of such a canal, a grant of 750,000 acres of land was made. Other grants of the kind were

voted to secure construction of the Portage Lake, Lake Superior and Lac La Belle canals. In all, 1,250,000 acres of Michigan lands were included in grants for canal construction.

In the days when Michigan was a Territory, and after statehood was a newly won status, the first obligation of those who were charged with the disposal of the lands in the Public Domain was that the land bounty claims of the veterans of the War of the Revolution and the War of 1812 against England were to be satisfied. Once these claims were satisfied, the desire was to get as much land as possible into private possession and on the tax rolls.

But as early as 1805 the more cautious among those early administrators of Michigan's public lands had begun to fear that the dumping of the lands on the open market would be an invitation to speculators to take advantage of an opportunity to enrich themselves. Some among them demanded that guarantees of possession be given the pioneering settlers who, in good faith, were moving onto the land, clearing it and establishing homes.

By 1855, the demands of these men had attained the proportions of a national campaign issue. However, nearly three score years passed before President Lincoln on May 20, 1862, affixed his name to a bill approved by the Congress which confirmed the titles of homesteaders to their lands. Cost to the homesteader, as the settler was designated, was to be a pro rata "cost of survey and transfer of title."

The guarantee covered also the homesteads acquired under Internal and Swamp Land grants.

When the war between the states had dragged to its weary end there remained comparatively little land that had been in the Public Domain which could still be secured. The better farm lands were in cultivation. Timber cruisers had ranged every "forty" in the northern counties and knew how many board feet of lumber it would scale. The sound of axes biting into pine echoed across the state. The midwest, particularly, was demanding the straight, clear grained pine of Michigan — lumber which went into houses and barns and fences.

The majestic pines of Michigan's northern counties went crashing down. Sawmills crowded close to each other along the banks of the Saginaw, at the mouths of the Manistee and the Muskegon, 'jacks brawled in the streets of the river towns when the drives were over. And, by the mid-Eighties, the maximum annual cutting of timber had been reached and many of the lumbering towns were on their way to becoming ghost towns.

Timber gone, cut over lands laid idle, taxes accumulated, fires were frequent, no profitable use of the denuded acres was made, and the return to state ownership of these lands became an ever-increasing necessity—nay, certainty.

Ultimately the state came again into possession of one in every seven acres of the millions of acres within its boundaries.

"In paying taxes the citizen contributes his just and ascertained share to the expense of the government under which he lives." Black on Tax Title—3.

IT IS ONE THING to distribute generously the seemingly illimitable lands of a new state when such distribution secures the construction of needed canals and railroads, provides educational facilities and spurs the exploitation of natural resources that return a measure of prosperity to its people.

It is another thing to oil the wheels of a state's governmental economy, once they are set in motion.

The men who guided Michigan's affairs during the early, years of statehood, the men who had approved or aided in the distribution of lands for such purposes, knew where to look for the oil that was needed.

The tax dollar is an efficient lubricant.

Shortly, all lands which were not publicly owned or specifically exempted from taxation had been placed on the tax rolls.

Penalty Is Imposed

Collection of taxes is a painful process at best. Dim antiquity shrouds the labors of the first tax collectors. And the early fashioners of Michigan's destiny had the experience of the centuries upon which to draw.

An axiom of the tax collector is that a penalty ought to be imposed if the tax is not paid.

Most drastic penalty for such failure to pay the tax on lands, imposed by legislative enactment in Michigan, is the one which exacts the forfeiture of lands to the state for tax delinquency.

The demand that land be forfeited for non-payment of taxes was not new. Application of the time tested penalty under conditions then obtaining in Michigan was to produce unforeseen results, however.

Scores of thousands of acres of virgin pine and hardwood were to be logged off by operators who had been able to acquire timber lands at nominal prices. Practically no opposition to such transfers of title had been voiced. There was an insistent local and out state demand for Michigan timber products. Those who cooperated in the felling of Michigan's immense stands of timber found additional justification of their activity in the premise that the cleared acres could be prepared the sooner for the uses of agriculture.

Early Optimism Ill Founded

Their optimism as concerned the later uses of the denuded timber lands was ill founded. The lands, in the main, were poor and little suited to agriculture. Desultory attempts to turn them into farming lands mostly failed.

The timber logged off, original owners of the lands—the timber operators—had sold acreage when they could do so to optimistic tillers of the soil. In many cases logged off lands which could not be sold were abandoned, the original owners declining to pay taxes levied on their tracts. And disillusioned farmer purchasers of the cut over lands often abandoned them in turn.

Consequently, as early as 1880, the tax books of many northern Michigan counties showed heavy arrears in unpaid taxes.

The state's founding fathers had not foreseen that the problem of tax delinquent lands might prove to be a poser. They had set up machinery for the auctioning of lands on which taxes went unpaid for too long a time. And they were generous. The owner of record who had failed to pay his taxes was to be permitted to redeem his property from the tax title purchaser within a reasonable time limit. Failing to do so, the tax title buyer was to be given complete title. But the early law makers who had not comprehended that soils of northern counties were good for little else than to nourish pines and hardwoods apparently knew almost as little about human nature.

"Land Office Business"

Prior to 1882, in which year the then existing statutes pertaining to land tax delinquency were stiffened, tax sale proceedings were mere formalities. Some owners of large tracts of logged off lands purposely held back from paying taxes on their holdings. They looked to legal counsel to establish their claims that such lands had been assessed improperly. They had reason to expect favorable rulings from courts which were rendered practically impotent by lack of adequate statutes for the enforcement of tax collections.

Also in those early days the purchasers of tax titles had little support in law and perforce resorted to threats of ejectment to enforce any possible liens conveyed by tax deeds.

With new statutes on the books, the authorities during the early Eighties conducted auctions of huge acreages of cut over lands which had reverted to the state during prior years. The sales were largely attended and lands were bid in for almost unbelievably low sums—as little as five cents for 40 acres. The expression "land office business" in the vernacular of the day described the crush of business around any bargain counter.

Michigan's land tax statutes have been revised considerably since the early Eighties, as changing conditions have presented new problems of tax collection and land utilization. A period of trial and error after 1882 and of attacks on provisions in the law during that period in lower courts and the supreme court of the state was ended with the placing on the statute books in 1893 of Act 206, a general tax statute which was expected by its proponents to solve for all time the land tax problems which had proved so vexing to local, county and state governments.

The "Tax Homestead" Lands

Section 127 of that Act provided for the deeding to the state of Michigan of lands, abandoned by their owners, upon which taxes were delinquent for more than five years. The Act provided also for the keeping in the State Land Office of the records of lands so deeded.

These lands, or a considerable part of them, were to become known as "tax homestead" lands. The aforementioned Act of 1893 provided that such reverted lands could be claimed by homesteaders—persons who would settle on them, remain on them a stipulated number of years and improve them.

A subsequent arrangement provided for outright sale of such lands in parcels not exceeding 240 acres. Appraisal values on the basis of which such sales were consummated were low, rarely exceeding a dollar and a half an acre, although some small parcels commanded much higher prices. Usually the price of an acre of reverted land was less than a dollar and a half.

The applications of homesteaders, the bids of bargain seekers, failed to keep abreast of the flood of tax title deeds to reverted lands which threatened to swamp the State Land Office. By 1899, reverted lands which had not been returned to private ownership bulked so large that the legislature approved a new measure, Act 227, which set up a permanent commission charged with the task of determining methods of administering the thousands of acres then in state ownership and of putting them to some practical use. The commission's duties were defined as the instituting of "inquiry into the extent, kind, value and condition of the timber lands of the state . . . also as to the condition, protection and improvement of denuded, stump, swamp and overflowed lands . . ." Michigan's vast conservation plan had its beginnings in the work of this commission. By 1909, in spite of the fact that a half million acres had been disposed of at auction, the state was in possession of more acreage than had again passed into the possession of homesteaders and buyers.

Mineral Rights Reserved

In that year, 1909, the legislature approved Act 280, Section 8 of which reserved to the state “all mineral, coal, oil and gas” in deeds covering tax homestead lands.

Since 1909, other laws have been placed on the statute books, but they have been generally of an amendatory nature, calculated to meet changing conditions. The general tax statute of 1893 which provided for the deeding to the state of lands upon which taxes had not been paid for more than five years and the 1909 statute reserving “mineral rights” to the state have been the fundamental structure of Michigan's land policy.

During more recent years the practice of turning over to homesteaders those lands which have reverted to the state, particularly in northern counties, has been canceled, the probabilities of homesteader success having proved too uncertain.

With the passing years, more and more acreage has reverted to the state. Decline in upper peninsula mining activity after 3929 resulted in considerable tax delinquency. The thin soils of northern counties cannot support a profitable agriculture in a time when the problems of farmers more fortunately situated engage the attention of economists. Reduction of the tax rate, by constitutional amendment, to 15 mills has proved to be no palliative. A tax moratorium afforded a breathing spell only.

Michigan has now some live million acres in public ownership. Certainly other millions of acres will be added to the total in future years.

Michigan's Problems

These millions of acres present problems of land use which the state's early administrators could not have foreseen—problems of fire protection, of reforestation, of fullest development of recreational values.

As these problems are understood, and faced, and solved, Michigan can hope to exchange the burden of tax delinquency for a waiting heritage of forested hills, of enchanting vistas, an out of doors which will be an ever present joy to those fortunate ones who live in the state, a lodestone which will attract visitors from afar.