



Redefined Horizons
3938 Kimball Lane
Stockton, California 95206

Land Tenure
Study Notes By Landon Blake
Tuesday, April 14, 2020

Chapter 3 - Study Notes

Key Terms

Civil Code

A system of codified laws or written laws. In civil law, most rules are written down. The role of judges in a civil law system is to rule on the evidence of disputed facts and apply the codified laws to the facts. In a civil law system, laws are written and passed by legislatures (like a senate) and the law is applied by judges.

Common Law

A system of law embodied in the written decision of judges. In a common law system judges usually try to apply the laws or legal principles from previous decisions to the current dispute. Judges in a common law system have a large role in creating law when they make decisions in disputes.



Key Concepts

Land law in the United States is a mixture of civil law and common law.

- Most states in the United States have a small portion of civil law that deals with land. (For example: In California there are codes about the form and content of deeds and the recording system for real property transactions.)
- The majority of land law in the United States, including the laws that guide surveyors, are from common law. This means land surveyors have to be aware of important court decisions that guide their work. This includes court decisions from neighboring states.

History is an important part of boundary retracements surveys.

- Boundaries must remain fixed in their original location over time. This requires understanding the historical context in which the boundaries were created.
- Land tenure (the way land rights are held, or owned) is directly related to land title. Land title is related to history. (For example: In California, private land owners inside of a Mexican Land Grant own the bed of navigable rivers. Those land owners outside of a Mexican land grant only own to the high water mark.)
- Because land surveyors locate the limits of land tenure, they need to know about land title and the history of land title.

Basic Overview Of The Historic Sources Of Land Title In The United States

- The source of private land title in the original 13 colonies were royal grants from the kings or queen's of the colonial powers.
- States and territories outside of the 13 colonies but east of the Mississippi River granted their unclaimed land to the federal government when they became states.
- The public domain states (mostly west of the Mississippi River) were largely acquired from foreign colonial powers in a series of purchases or treaties. In these states, almost all the unclaimed land currently in private ownership was at one time owned by the federal government of the United States.

Unanswered Questions and Things Left Unsaid

Why is the protection of land rights so important for economic growth and the wealth of societies?

- Strong land rights give land-owners the incentive to invest in and maintain their property. In places without strong land rights, it is too risky to invest in land as your investment may be taken by the government or other private citizens. Poorly protected land rights also hinder lending. (Land is the most common collateral for commercial lending.) The lack of



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investment in societies with poor protection of land rights results in lower long-run economic productivity. This means a society produces less goods and services. (To visualize this, imagine a modern society where everyone had to live in tents and were frequently moved of any land they occupied by external forces like storms or bandits.)

What is land use intensity?

- Land use becomes more intense as density increases and the investment in physical improvements becomes for expensive. For example: It is much more expensive to build a skyscraper in an urban downtown than it is to house the same number of people in a suburban tract of single-family homes. Why? The density is higher and the cost to build the skyscraper is much more than the cost to build single family homes. The least intense land use is land in its natural state. (For example: The rolling and lightly forested grasslands of the lower Sierra Nevada Foothills of Central California.) Next up on the ladder of intensity is agricultural uses like grazing and orchards. The middle of the land use intensity ladder is suburban housing. It is followed by more dense multi-family housing, commercial uses and light industrial uses. The most intense land use is heavy industrial and urban cores (with multi-story buildings).