

Chapter 13

HACIENDAS COMUNERAS
(Possessions in Common)

Reader, if you are not interested in the science of land surveying, nor the problems that can arise by many successions of tenure of unsurveyed communal land, you may skip this chapter. On the other hand, if you are a student of land surveying, you will find here problems never published in any textbook, and the most complicated system, if you can call it a system, of succession of joint land tenure ever devised by the mind of man, and it was not devised by any one man, but like Topsy in "Uncle Tom's Cabin", it just grew.

First, a little historical background:

The American Standard Encyclopedia says that Cuba was discovered by Christopher Columbus on his first voyage, October 28, 1492. It neglects to say at what point. The first colony was established at Baracoa in 1511, on the northeast shore. The second was at Santiago—a beautiful, land-locked harbor on the south coast, in 1514. The why of these two locations is quite evident. The third was at Bayamo in 1515. Why it was established where it is, at that early date, is one of the puzzles of all time. After crossing the ocean from Spain, they sailed more than two hundred miles farther west along the south coast of Cuba to Cape Cruz. They rounded the Cape and sailed another sixty or seventy miles northeast to the mouth of the Cauto River, then up that some thirty odd miles as a crow flies, but much farther by the bends in the river, to the mouth of the Bayamo River. They went up that as far as their ocean-going boats could navigate and finished the journey by rowboat. Had it been a few years later, they would have been eminently justified to escape the raids of the Buccaneers and Pirates that scourged the

Spanish Main. But at that time they had not yet appeared on the stage of action.

When I surveyed the North Coast Railroad, at Punto Pastelillo, a peninsula that juts out far into Nuevitas Bay, I found ruins of brick houses with brick walks, patios and cisterns where Puerto Principe had once been. It was raided so often that the inhabitants picked up bag and baggage and fled some fifty miles inland to an Indian village named Camaguey, and took the Spanish name with them. The bay remained without a port for many years, till the pirates were driven from the sea. Then, another port was built, not at the old site, but a few miles around the bay toward the city fifty miles away. Puerto Principe became the capital of the Province and remained inland. The new port was named Nuevitas (New life, or resurrected one). After the Spanish American War, the Cubans said the inland city's name was a misnomer. It was not a port and Cuba had no Princes, so they changed back to the Indian name of Camaguey, but the port remains Nuevitas.

Wherever the Spaniards went, they were looking for plunder. In Mexico they found great quantities of silver. In Peru it was gold. In Cuba they found neither. Holguin is the only place in Cuba where gold was ever found in paying quantities, and that was not discovered until much later. They did find iron, copper, and manganese, but all low grade ores. They worked the mines and shipped the ore to Spain; but, since it was low grade ore, it didn't turn out the money as they hoped it would. Seeing millions of acres of fertile land, they decided to get what money they could out of the land and the people. They grabbed the land by force; sold it to Spanish individuals; and enslaved the original owners.

The enslaving of the Cuban Indians produced one of the paradoxes of religious history. Las Casas, a Catholic priest, came to Cuba as a missionary to convert the Indians to Christianity. The Cuban Indians didn't

make good slaves. Under the Spanish lash, they died by the thousands. To avoid the lash, whole tribes committed suicide. Las Casas' heart went out to them. He had been somewhere that they had Negro slaves, and remembered that the Negroes stood up much better under brutal treatment than these Indians did, and did not commit suicide. So he introduced Negro slavery into Cuba as a humanitarian gesture to save the Indians. It didn't work out that way. The Spaniards had two races of slaves instead of just one. Between the Spanish lash and suicide, the Indians as a race have been exterminated. I think I am justified in saying there is not a pure blood Indian on the island today, tho you do find a lot of people with Indian features. Soon after I went to Cuba, I saw two people who claimed to be pure-bloods, and was told that there were a few more near the head waters of the Mayari' River. I never went up to see, and the two I knew were married to non-Indians, so the pure race ran out right there.

Neither the King of Spain, nor his Military Governor in Cuba were land surveyors nor mathematicians. They didn't do as the U. S. did with its Public Domain—have it surveyed into sections, townships and ranges. They wanted to get all the money they could out of the land, just as quickly as possible, and with a minimum of effort on their part. So they announced that they would sell haciendas for so much each, and for twice as much they would sell an hato. The hacienda consisted of all the land within a league of the purchaser's house or center—roughly fourteen thousand acres. The hato consisted of all the land within two leagues of his house. It had twice the radius of the hacienda, so they figured it was just twice as large. Actually, it is four times as large and has approximately fifty-six thousand acres. The next thing was his boundaries. That was the purchaser's problem. The Government surveyed nothing. The boundary would be a circle. I could be

mistaken; but I very much doubt if there was ever in Cuba, up to the American Intervention, a surveyor who knew how to survey a circle of that size, or a surveyor's instrument of sufficient accuracy to survey it with. It is more than likely that most of them had sufficient land that they didn't worry about their boundaries. Those who were interested, operated on the then prevalent theory that a league is the distance you can hear a horn blow. They set one slave up at the house to blow a horn and put the others to cutting lines radiating out from the house like spokes in a wagon wheel. Every cutter had orders to keep cutting just as long as he could hear the horn, then set a hard-wood post. That was a point on the boundary line. They took no account of the fact that time of day and wind direction and velocity have a lot to do with how far you can hear a horn; nor that one man's hearing is much more acute than another's. I imagine that some of those circles would have been quite lopsided, had the land ever been cleared; but, as a matter of fact, there was ample time for most of those posts to rot out before the jungle was ever cleared. Since all these centers were taken along the Indian trails, you would have thought that the purchaser would at least have taken care to see that his center was the proper distance from his neighbor. As a matter of fact, very few, if any, of them did. Consequently, there were some gaps between haciendas, called realengoes, but far more overlaps. The situation was much more acute in both gaps and overlaps where centers were taken on different roads.

Whether it was a Spanish law, or just the general interest in the equitable distribution of his property, practically every one who had any property in those days made a will. To subdivide unsurveyed land was really a problem. Then someone hit on a solution and it took like wildfire. He appraised his hacienda and gave his children their proportionate shares in "Pesos de

Posesion" (Dollars of Possession). They owned the estate in partnership, but so that each one could have land for his use, he assigned each one so many cordeles (chords) of front on the highway, and extending back to the boundary, until such time as they could get the whole hacienda surveyed. It never occurred to anyone that those having land farthest from the center would have much more land than those near the center. But in the long run it really made very little difference, since very few of them ever cleared or used more than a small patch along the front. If any of the boys didn't want to live on the land, or the girls married and went elsewhere to live, he gave them "Pesos en Yermo", and divided the highway frontage among those who stayed on the farm. The pesos en yermo showed that the possessors owned a part of the hacienda, but did not have possession of their share until such time as the whole hacienda should be surveyed and subdivided.

From the founding of Bayamo in 1515, till the time I went to work on the survey in 1907, was 392 years. More than 50 years longer than from the landing of the Pilgrim Fathers in 1620 till the present day in 1957. In all those years, no action had ever been taken to get the land surveyed. At that time, good unsurveyed land with markers around it, which meant it could be held until it was surveyed, which for anything anybody knew might be another two or three hundred years, was selling at from one to five dollars an acre. Had we had what everybody told us we were entitled to, our farm would have cost us \$2.50 an acre; our trouble was we only had two corners, not four. As a consequence of these things, owners of pesos en yermo were becoming very much discouraged, and were willing to sell "for a song". It turned out that this was the low point in their value, for as the survey progressed many people discovered they had more land than they were entitled to and began looking for pesos en

yermo. Many who had owned them either lost their deeds or threw them away as being of no value, and lost their rights.

So far as I was ever able to learn, either the King of Spain, (maybe they had a new king), or the governors of the provinces farther west, decided that the system of land disposal used in Oriente Province was not quite all that was to be desired, so they invented another system that was less complicated. In addition to the difficulties that would naturally arise in passing unsurveyed and undivided land down from father to son, over a period of nearly four hundred years, and ten to fifteen generations, there were several other contingencies. There were two major wars and several small wars in the meantime. Many people were killed or died of hardship and exposure. Many fled to Spain or the United States. Deeds for pesos of possession were not recorded. The original deed was filed in the Government Archives and a copy given to the purchaser. To complicate things even more, during the War of 1868, commonly known as the Ten Years War, the city of Bayamo was burned, including the Government Archives. If, when a man fled his home, he was lucky enough to take his deed with him, he was all right. In some cases he was even more than all right, for when a man sold a part or all of his land, the notation was made on the original deed in the Archives, but not on his deed unless he brought up the deed and asked to have the notation put on. So this deed showed him as owning all the land of his original purchase, regardless of how much he had sold off of it. If he didn't take his deed with him, there was no record whatsoever that he ever owned any land, and much of the land was completely abandoned. To care for landowners who had lost their deeds, a law was passed that if he could present sufficient proof that he owned a certain piece of land the Government would give him an "expediente posesorio", a kind of conditional deed.

Many men who had never owned any land took advantage of this law, and grabbed unoccupied land. Three or four of these land grabbers would go before the court together, each swear that the others were land-owners, and all would get expediente posesorios. Many men who did have deeds, if there was unoccupied land joining him, would clear and fence in a lot of it, and there was no way on earth that the rightful owner could dislodge him. His deed called for pesos of possession, and as the land had never been surveyed, there wasn't a court in Cuba that could tell how much land he was entitled to. There is an old saying that possession is nine points in law. It was a full ten points there.

At the end of the Spanish American War, General Leonard Wood was appointed Military Governor of the Island. One of his first orders was that until repealed by direct military decree, the laws in the Spanish Codigo Civil would continue to be the law of the land. Then he set about looking for places where those laws could be improved. Someone called his attention to the awful mess the land titles in Oriente Province were in, and he appointed a committee to investigate them and make recommendations for a law to straighten them out. I must say that when you consider the mess that existed, his committee did a pretty good job and he promptly proclaimed their recommendations into law.

In brief, the law provided that anyone who owned pesos of possession in an hacienda comunera could move its survey, and the Court would call a meeting of all available owners. They would elect a Sindico, or business manager, to take over the affairs of the hacienda. The Court also called for all deeds or evidence of ownership to be presented within a given time, and appointed a committee of lawyers to go over them and decide which were authentic and which were spurious. With so much time elapsed, and the Archives burned, there were a lot of both kinds presented. They really needed a Solomon to distinguish

between the two kinds. Many a man who had a legitimate claim lost his land because he had lost his deed. The original had been burned, and he didn't live on the land. Others who had never owned any land got expediente posesorios by false witnesses and presented them as genuine. Neither was the fault of the law, but of circumstances.

Another provision of the law: The hacienda with the oldest Primo Real (Royal Grant) got all the land called for. Those with later title lost all the overlap. Many of the Primo Reales had been lost or destroyed and it threw a lot of responsibility on the judge and his corps of lawyers to scrape up evidence and decide which hacienda was older. If the judges were dishonest, as many of them were, a little graft often influenced their decisions. Another provision was that all land should be appraised. If a man held more than he was entitled to, he could continue to hold up to ten percent more by paying for it at the appraised valuation. Above that must be surrendered. If he had less than he should have, he either got land from someone who had too much, or was paid in cash at appraised value.

I have mentioned some of my land troubles in a previous chapter. About the time I was working on the railroad survey to Holguin, my partner, Sylvester Jones, had a vacation coming up and wanted some money to go to the States. He proposed that we sell our land. I told him that land values were going up and I would rather buy than sell. We agreed on a price and I bought him out. Then I gave my friend, McCracken, my power of attorney to move the survey. I was busy just then and didn't need the land; but it was mine and I wanted to know how much I had and where it was.

As there were no sections, townships nor ranges to describe land by, every farm was named, but that didn't help much with a legal description. I had a deed to the

"Finca Naranja" (Orange Farm), consisting of four dollars and ninety cents of possession in the Hacienda Comunera of Manantiales and bounded on the north by the Camino Real from Holguin to Victoria de las Tunas; on the east by the land of Joaquín Amador; on the south by lands of the Hacienda Comunera of El Canal; and on the west by the farm of Enrique Diego. Many deeds told how many cordeles of front the owner had on the Camino Real, but mine did not. Everyone there told me that there were a thousand caballerias in Manantiales, and only five hundred pesos of possession, so that would give me 325 acres of land instead of the 30 or 40 that Enrique Diego and the Alcalde were going to let me have. I wonder how such rumors get started, and why they are so universally believed. There was no record, that I could find, of the date this particular hacienda was first sold, but probably it had been somewhere around three hundred and fifty years before we bought into it. That is a long time, and almost anything can happen in that length of time.

While I was living at Omajá, and looking everywhere for work, I heard that Maguino, the hato, usually referred to as an hacienda despite its greater size, that lies between Omajá where I was living, and Manantiales where I owned land, was about to be surveyed. I was very much interested and immediately started an investigation. The survey had been moved, and the legal work done to the point where the Court had ordered the outside boundary surveyed, and the roads traversed. The Sindico had awarded the contract to do the engineering to Atanascio Riancho, the busiest engineer in Holguin, and he had already started work. I went to Mir, where they told me he was working, but he was gone. I followed him to Rioja, and eventually caught up with him in his home in Holguin. I am not quite sure which of us was the gladder to see the other. This was a very big and a very profitable job, and he had just discovered

that he simply could not do it and all of his other work, too. Furthermore, he was a typical Cuban engineer; didn't like to get his feet wet nor fight mosquitoes, and the rainy season was coming on. I wanted a job and really needed it.

We made a deal and I went home for a change of clothes and met him out on the job just as soon as we could both get there. My work was very much like running the transit party on a railroad survey. Just cutting a survey line through the jungle. We traveled light, lived in tents, slept in hammocks, and moved camp with pack horses. It was the rainy season so we got lots of rain. Usually got two baths a day. One from the grass and bushes as we went to work in the morning; the other as it came down from heaven in the afternoon. Most of the land was rolling, so in spite of the rainy season we only had a normal contingent of mosquitoes. The Salado River Valley is wide and subject to overflow, so we were afraid we might get caught in a flood if we tackled it in the peak of the rainy season. There is usually a let-up in the rains during the month of August, so we worked on higher ground till the rains slackened, then made a run through the valley. The river had overflowed, just as I feared it would, and every little depression had held water after the flood had receded, and bred mosquitoes.

I have traveled around quite a bit in my lifetime and have seen mosquitoes in Kansas, Nipe Bay, Manati Bay, La Gloria, The Zapata Swamp, and Florida; but never have I seen them so numerous nor so ferocious as they were through that valley. The jejene is a biting gnat so small he can crawl right through ordinary cheesecloth. We had to make our mosquito bars of light calico. His size and his bite bear no relation to each other. The bite burns like fire and raises great welts on some people. The ruador is a big gnat. He can't crawl through cheesecloth, and they were not one tenth as plentiful as

the jejenes, for which we were very thankful, for when he bites it not only hurts, but he raises a blood blister that stays with you for days. I have seen men as speckled as guinea eggs from their bites. Next in size comes the flaquito, a very slender mosquito that breeds in the air plants that hang in the trees. He can crawl through ordinary mosquito bars, but not through cheesecloth.

Next in size came the ordinary mosquito that everybody knows. They were in untold millions. Then the jaguey, a big black mosquito with a bill so long he could reach through the mosquito bar, hammock, sheet and shirt and bite you. We had to put sticks through the ends of our hammocks in such a way they would prop the mosquito bars out so they would not touch our bodies. The alazan was a twin brother to the jaguey in size and voraciousness, but he had a yellow stripe down each side. The corosi' is the granddaddy of them all for size. He is much larger and fleshier than the others, and of a deep yellow color. I have never seen either the alazan nor the corosi' anywhere else, but the others are pretty well scattered over the lowlands of Cuba.

As stated above, we were in that valley in August, yet I had to wear two shirts, two pair of pants, leather gloves, and a calico mosquito bar over my hat. Many times I have watched the mosquito on my gloves trying to bite through, then move along and keep trying till he found the holes where the gloves were sewed, and put his bill through. The Cubans put them all in one class and call them "La Plaga" (The Plague). They aren't far wrong. It sounded like we were in a beehive twenty-four hours a day, and we only lifted our mosquito bars to eat, and if possible we built a smudge before we did that. At that time, there were very few fences in Cuba and livestock ranged at will, so I was very much surprised to see so much luscious pasture and no animals. The mosquitoes were so bad they even drove the animals out. Our

horses were fat when we went in there. We were there only about a week, and they were quite thin when we came out. I have no doubt but that we would have lost some of them from loss of blood had we stayed very long. The only wild animals we saw there were wild hogs. Don't mosquitoes bite hogs? I can't answer that; but would say from the evidence that they certainly don't get much blood out of them. Our cook shot one. He was nice and fat and was very good eating.

Before I finished surveying Maguano, the Sindico and lawyer of Manantiales brought that up to the surveying stage too, and gave the contract to Riancho. So I had the satisfaction of running the outside lines of our hacienda, and got early knowledge of how much land there was in it, and consequently about how much land I was likely to get. As I remember it, there were four hundred and forty-eight caballerias instead of the one thousand that there was reported to be, and some six hundred and fifty pesos had already been presented out of the five hundred that were supposed to be in existence, and there was still time to present more if anybody had them to present.

Sometime in the past, long before the Spanish American War, the owner of the land right across the road from me had grabbed all the land that wasn't nailed down; cleared it; fenced it and planted it to grass, and had the biggest and finest cattle ranch in that whole valley. When the war came on, they stole his cattle, burned his buildings, and tore down his fences. After the war, the owner at that time put it on the market, and my friend, Z. L. Martin, bought it at the same time Sylvester bought mine. From the size of other farms, and the current rumors of two caballerias for a peso of posesion, Martin knew that he had a lot more land than he could possibly hold if it was ever surveyed. So he started in to buy all the pesos en yermo he could find. With this new definite shrinkage of the land in a peso, and

the imminent subdivision of the hacienda he needed a lot more pesos, so he offered to buy me out land, cattle and all. He said he would keep my man on and continue to operate just as I had until the land was actually surveyed, then he would surrender my farm rather than a part of his ranch. I sold to him; and, as neither hacienda was ready to subdivide, and might not be for a long time, I looked for another job, found it and left that part of the Island. I am appending a rough sketch of the haciendas in our neighborhood.

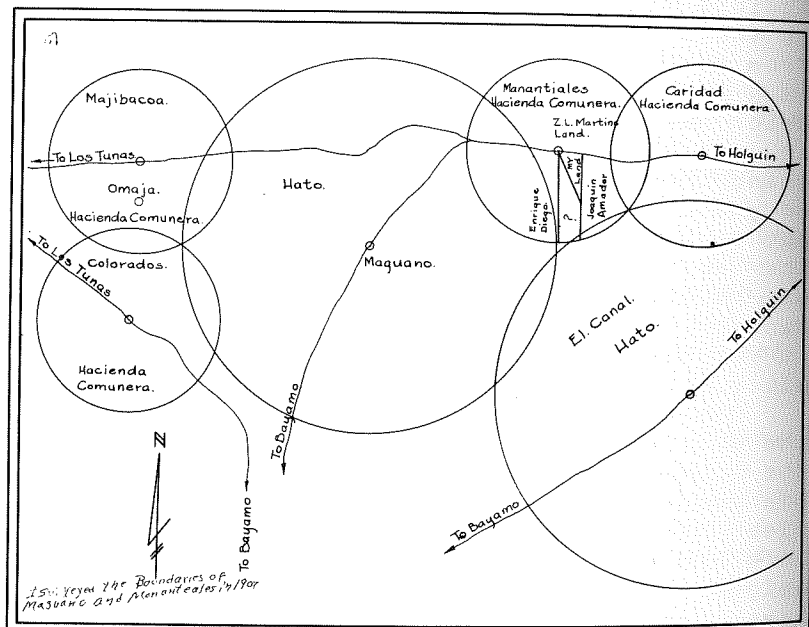
In connection with these surveys, an amusing incident comes to mind. I had no part in it but just happened to be associated with others who did. Two threads of the story came to me from two apparently unrelated sources, two Provinces apart geographically, and twelve years apart historically. I spliced the two threads together to get the story.

When we went to survey the Holguin railroad, in 1905, Mr. Houser, my chief, had just come off a survey down on the Cauto River, for Sir William Van Horne. He told me all about it, but asked me to be very careful not to talk about it around Camaguey where word could get back to Sir William, for it was a very sore spot with him. Sir William had a deed to a whole ható of land, 1684 caballerias. It had come down from the original purchaser intact. It had never been messed up with pesos of possession nor subdivisions. Houser spent more than a month, and ran many miles of survey, looking for that ható, and all he ever found was sixteen caballerias, or just about one per cent. When we went to enlarge the Lugareño Sugar Mill in 1917, the manager was Alcides Betencourt, a Cuban lawyer of French extraction who had been educated in the U. S. and was a very brilliant man. He was studying in the U. S. when the Revolution of 1896 broke out. Being young, full of pep, adventurous, and

knowing both languages, he went to one of the big newspapers in New York and got them to send him to Cuba as a war correspondent. When Sir William went to build his railroad through Cuba, Alcides took his credentials with him, made application for the job of securing the right-of-way for the railroad, and got it. Sir William knew that after the road was built, the price of land would go up a great deal, so instructed Alcides that where owners would sell for a reasonable price to buy their entire holdings. Where their price was too high, to dicker for just the right-of-way. If they held him up too much, condemn. While Alcides was on one of his extended trips buying land, Sir William bought a whole ható, a way down on the Cauto River, miles from the railroad. When Alcides got back and found out about it, he went into the air. Sir William had him employed as a lawyer, and as his business agent to look after his land affairs. Why hadn't he let him handle the matter and examine the title before closing the deal? Alcides was out of town and very likely would be for several days. The man was a long way from home and in a hurry. (He was on horseback; there was as yet no railroad.) The price was very cheap so Sir William bought it. Alcides assured him there must be something wrong somewhere or he could not have bought it so cheaply. The argument got so hot that it became quite a sore spot between the two, and just as soon as Sir William got his railroad completed he hired Marx and Windsor, disinterested engineers, to survey it for him so he could put Alcides in his place.

Apparently what had happened was that the original purchaser had come late onto the scene. He picked out his center and got his grant from the King; but when he went to clear his land, if he ever did, his neighbors had put the squeeze on him, just as my neighbors had put the squeeze on me, so he never got actual possession of enough land

to subdivide or put into pesos of possession. The title had passed down intact from father to son with very little, if any, actual possession. When General Wood's law went into effect, the owner at that time saw that on account of the late date of his Primo Real, whatever hopes he may have had of someday getting more land, had vanished. When he learned that Sir William was buying so much land, he traveled all the way to Camaguey; put his price away down; played Sir William for a sucker; and won. When the survey was completed, Alcides had the pleasure of telling Sir William "I told you so", but that didn't heal the sore spot. Nobody likes to have it proven to him that he has been made a sucker.



RESIDENT ENGINEER

I reported to Palma Soriano as ordered, but my boss, McKie, didn't show up till twenty-four hours later. He was heavy-set, about forty years old and had just come from a harbor construction job at Guadalajara, Mexico. He may have been a good harbor engineer, but we soon discovered that he didn't know any more about railroad location than I did—which wasn't much at that time. He said that our first job would be to make out a list of what we would need in the way of camp equipment, and buy it. He said that some people thought that engineers should skimp themselves and get along with just as little as possible, but they have to spend many years of their lives in camps and are entitled to some of the comforts of life just the same as other folks. So he bought about twice as many tents as we actually needed, folding chairs, spring cots with mattresses, china cups, saucers, plates, soup plates, knives, forks, tablespoons, spoons, tea-spoons, a factory-built table, linen table-cloths and napkins, and a big kitchen range to cook on. There was so much of it that we couldn't get it on an ox cart and had to hire a pack train to take the rest. The railroad had already been located to the Contramaestra River, some twenty miles to the west and we were going to set up our camp there.

In other camps where I had worked, we used enamel cups and soup plates without saucers or flat plates. We did have knives and forks for the first table, but let the Cubans eat very much as they were accustomed to eat at home. Every Cuban carried a knife at his belt, fingers were made before forks, and spoons took care of all other needs. Two planks with removable legs made a table, and the cover was oil cloth. The engineers