

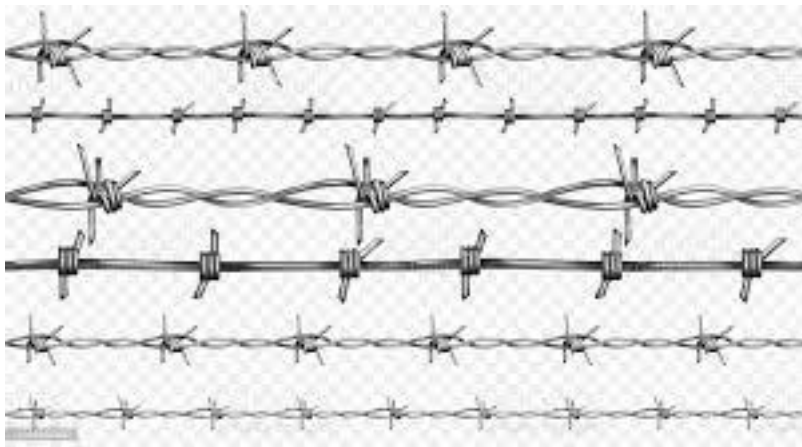
The Laws Concerning Use of the Range vs the Homestead Acts

(The following is adapted almost entirely from the Wikipedia website:

See: The Open Range and The Homestead Act)

The Western open-range tradition originated from the early practice of unregulated grazing in newly acquired western territories, which was codified in the laws of Western US states as they developed written statutes. Over time, as the Western lands became more developed (railroads, mining, farming, etc.) the open range laws started to be challenged and were significantly curtailed, but they still exist in certain areas of most western states.

Unlike the eastern United States, the western prairies of the 19th century were vast, undeveloped, and uncultivated, with scarce, widely separated sources of water. Until the invention



of **barbed wire** in the 1870s, it was more practical to fence the livestock out of developed land, rather than to fence it in. As the United States government acquired western

territories, land not yet placed into private ownership was publicly owned and freely available for grazing cattle.

The invention of barbed wire in the 1870s allowed cattle to be confined to designated areas to prevent overgrazing of the range.

In the north (where *Shane* is set), overgrazing stressed the open range, leading to insufficient winter forage for the cattle and starvation, particularly during the harsh winter



of 1886 – 1887, when hundreds of thousands of cattle died across the Northwest, leading to collapse of the cattle industry. By the 1890s, barbed wire fencing was also standard in the northern plains, railroads had expanded to cover most of the nation, and meat packing plants were built closer to major ranching areas, making long cattle drives from Texas to the railheads in Kansas unnecessary. Hence, the age of the open range was gone and large cattle drives were over. This is the context in which the film *Shane* is set.



The **Homestead Acts** were several laws in the United States by which an applicant could acquire ownership of government land or the public domain, typically called a homestead. In all, more than 160 million acres (650 thousand km²; 250 thousand sq. mi) of public land, or nearly 10 percent of the total area of the United States, was given away free to 1.6

million homesteaders; most of the homesteads were west of the Mississippi River.

An extension of the homestead principle in law, the Homestead Acts were an expression of the Free Soil policy of Northerners who wanted individual farmers to own and operate their own farms, as opposed to Southern slave-owners who wanted to buy up large tracts of land and use slave labor, thereby shutting out free white farmers.

The first of the acts, the Homestead Act of 1862, opened up millions of acres. Any adult who had never taken up arms against the Federal government of the United States could apply. Women and immigrants who had applied for citizenship were eligible. The

1866 Act explicitly included black Americans and encouraged them to participate, but rampant discrimination,



systemic barriers and bureaucratic inertia slowed black gains.

Obviously, as homesteaders moved in and fenced the land for their own exclusive use the amount of land on the open range was reduced. Moreover, farmers would usually claim land as close as possible to the sources of water on the range to make irrigating their crops easier. In some cases, cattle on the open range would be fenced off from the water they needed to survive. Conflict over the use of the land and water was inevitable. In many of the areas where these conflicts occurred there might be no courthouse, marshal or sheriff for hundreds of miles. These conflicts were part of the “range wars”. Violent disputes over land and water use continue to this day in parts of the Western United States.