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Book Review

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BOOK REVIEW

THE RAPE OF THE GREAT PLAINS—NORTHWEST AMERICA, CATTLE AND COAL. By K. Ross Toole. Boston and Toronto: Atlantic, Little, Brown and Company, 1976. Pp. 250. \$8.95.

K. Ross Toole is a Professor of Western history at the University of Montana. He is the writer and/or editor of several books on Montana and the Northern Great Plains states.¹ He writes with great love for the West and with a heartfelt indignation against the large coal companies seeking to begin or continue strip mining operations in Montana, North Dakota, and Wyoming. As the title of his book would indicate, he is in no way objective, and he makes no excuse for his subjectivity. Writing of the coal companies, he states in his introduction:

They have their forum. Their resources for giving their side are inexhaustible, and they are using those resources for blatant propaganda all over America.

Give me this small bow and this small arrow and let me fire just once in the name of the eternity they are about to steal from us.²

Toole writes at this level of passionate intensity for most of the book, but it is far from being a matter of the heart and not the mind. He has thoroughly researched and documented strip mining in the West. He makes little use of footnotes, but uses an extensive bibliography.

The book is divided into three main sections. "People and Exploiters," the first, gives a historian's view of the Northern Great Plains, with quotations from early visitors, some famous and some not so famous, such as Meriweather Lewis, Dr. Edwin James, the artists George Catlin, Charles M. Russel and others. He cites observations of the early cattlemen regarding the good grazing grass and its visible results on horses and cattle as well as the somewhat conflicting observations of Walter Prescott Webb, writing in *Harper's Magazine*, that this was a desert, surrounded by desert rim states.

Toole also treats the complex and fascinating subject of two Indian tribes, the Crow and the Cheyenne, and their struggles to pre-

1. TWENTIETH-CENTURY MONTANA: A STATE OF EXTREMES (1972); THE TIME HAS COME (1971); AN ANGRY MAN TALKS UP TO YOUTH (1970); PROBING THE AMERICAN WEST (ed. 1960); MONTANA, AN UNCOMMON LAND (1959); A HISTORY OF MONTANA (co-ed. with Merrill Burlingame 1957); HISTORICAL ESSAYS ON MONTANA AND THE NORTHWEST (co-ed. with J. W. Smutt 1957).

2. K. R. TOOLE, THE RAPE OF THE GREAT PLAINS 10 (1976).

vent exploitation of their reservations by the coal companies. He traces the tribes by origin and temperament, the Cheyenne being of a more aloof and withdrawn nature with an organized governmental structure, and the Crow being more fun loving, less structured and more friendly to whites. The Crow live on a much larger reservation than the Cheyenne, but Toole believes that the Cheyenne have become the most important tribe in America by virtue of the fact that they successfully stood their ground against the Bureau of Indian Affairs and a number of large coal companies.

The Cheyenne had, with the Bureau of Indian Affairs approval, leased coal rights to these companies at royalty rates of seventeen and one half cents per ton, as had the Crow. When plans for construction of four coal gasification plants by one of the coal companies were afoot, negotiations broke down. Finally, the Cheyenne hired a Seattle law firm which prepared a massive petition and sent it to the Secretary of the Interior, citing numerous violations of federal regulations dealing with leasing of Indian lands for mining purposes. The Secretary granted partial cancellation of the coal leases.³

Toole writes with respect and a first hand familiarity of the cattlemen, or ranchers, of the Northern Great Plains, both as an entity and as individuals. He describes cattle drives and the adaptation necessary both when the Homestead Act brought an influx of people, and when the severe weather fluctuations of prolonged blizzard and drought threatened life itself. To explain some of his admiration for the ranchers, Toole writes:

It took an enormous toll in human and animal suffering to bring about an adaptation. The years between 1887 and 1930 were extraordinarily hard ones for the rancher. Herds were reduced from twenty or thirty thousand to two or three thousand. The cowboy became a fencer, a planter and reaper of hay, a builder of sheds and corrals. And only the tough ones remained to adapt.⁴

And, writing further of the ranchers:

They know full well the land does not guarantee happiness; it more often than not guarantees misery. The rancher's relationship with it is love-hate—with a full measure of hate.⁵

3. On January 13, 1977, Secretary of the Interior Kleppe responded by letter to a lawsuit filed by the Crow Tribe of Indians against the Secretary of the Interior and the Commissioner of Indian Affairs, Shell Oil Co., American Metals Climax, Inc. (AMAX), Peabody Coal Co., and Gulf Oil Co. Kleppe directed the companies to conform to federal regulations, such as the 2,560 acreage limitation on leases, and the production of Environmental Impact Statements, and withheld approval of any further coal development until terms and conditions could be agreed upon between the tribe and the coal companies. Decision of the Secretary of the Interior Relating to Crow Tribes v. Kleppe, Jan. 13, 1977.

4. K. R. TOOLE, *supra* note 2, at 76.

5. *Id.* at 79.

Toole does not slight the more mundane, but crucial problem of taxes. The mining companies have never borne the cost of the impact of their operations on the State of Montana. In 1917 Louis Levine, a professor of economics at the University of Montana was fired due to pressure from Anaconda copper interests for publishing a monograph to that effect. The Montana constitution of 1889 provided for a "net proceeds" tax which consisted of a levy on the value of mineral wealth as personal property after all production and operating costs had been subtracted.⁶ Such costs included "extracting, reducing, refining, improvements, and sales."⁷ The tax was then remitted to the county where the mining occurred.⁸ Net proceeds figures could easily be distorted to the company's advantage.

In 1972, Montana adopted a new constitution. The tax laws were ripe for change. Environmentalists argued that all costs to Montana "direct, indirect, and hidden,"⁹ should be covered by coal taxation. Toole describes the changes which followed the new constitution:

When the 1975 legislature convened, few prognosticators foresaw much chance for the passage of a tax on the dollar value of the coal mined. This was a gross underestimation of a new, obstreperous, fractious legislature filled with men and women who were not only angry, but well informed and young. Not only did they resist massive industrial pressure, they passed a percentage value tax which shocked the odds-makers. *The new tax provides for a 30 percent levy on the dollar value of all Montana coal sold.*¹⁰

Toole sees this as a battle won, but not a final victory. The land, water and towns are still in jeopardy. He writes of the small town bar, center of social life and business transactions, weather forecasting, and political caucusing:

That the ranchers in Forsyth, for instance, have almost entirely ceased going to the bars because of the inundation of coal construction workers is a symptom of social disruption of more than passing moment.¹¹

To demonstrate proof of the devastation of coal stripping to the quality of human life, Toole describes the towns of Gillette and Rock Springs, Wyoming, and Colstrip, Montana. Rock Springs, Toole says, "is a town probably gone beyond restoration."¹² The problems in

6. MONT. CONST. art. 12, § 3. See also K. R. TOOLE, *supra* note 2, at 81.

7. K. R. TOOLE, *supra* note 2, at 81.

8. *Id.*

9. *Id.* at 86.

10. *Id.* at 91 (emphasis in original).

11. *Id.* at 94.

12. *Id.* at 108.

those towns stem from rapid and sharp increases in population, with resultant inadequate housing, usually in the form of tents and trailers, poor schools, higher incidence of crime, and emotional problems resulting in increased suicide rates. Toole cites poor planning and lack of information as a major part of the problem.

One theme running through his book is that often, when model reports or other forms of information regarding coal development impact were available, they were not brought to the attention of those who needed to see them, or their significance was not taken seriously. An example of such a report was a detailed, massive inventory and plan prepared by the U. S. Army Corp of Engineers¹³ to help the communities involved in planned (but never constructed) building of antiballistic missile facilities. The plan included "a listing of all federal agencies to which applications for federal aid should be addressed, with instructions as to how these agencies were involved, under what title, and what factors constituted eligibility."¹⁴ This included specific recommendations regarding aid for expanding medical facilities and schools. As the ABM boom never developed due to the SALT talks, the report was never implemented, but it is the type of report Toole believes would be helpful to towns affected by coal operations.

Another theme which runs through the book is the corporate lawyer's and officer's lack of understanding of the Indians and the ranchers, their relationships to each other, among themselves, and to the land. In short, there is a lack of respect shown for traditions which are still very much alive. When the coal companies try to turn neighbor against neighbor they are violating a code of necessary interdependence and trust.

The second section of the book is "The Fragile Land." Toole here, and in other parts of his book, emphasizes that for reclamation purposes there is a need to understand and get a total grasp of the Northern Great Plains environment. Writing of drought, he says:

It converts rivers into tiled checkered roads; it makes gulches out of flats; it kills rattlesnakes. But there is one thing it does not kill; it does not kill the seeds of native grass. Those seeds lie dormant, hard as tiny pebbles, just beneath the surface of the cracked earth. They are patient. They will not sprout until the rains come again. They may not sprout for a very long time.

But exotic seeds, or domestic seeds, are dumb seeds. They can be coaxed to sprout by the most ephemeral hint

13. U.S. ARMY CORPS OF ENGINEERS, COMMUNITY IMPACT REPORT, U.S. ARMY SAFEGUARD SYSTEM COMMAND, MALMSTROM DEPLOYMENT AREA (1970).

14. K. R. TOOLE, *supra* note 2, at 105.

of time or moisture and they emerge to be seared, never to sprout again.¹⁵

The power of eminent domain, which is the condemnation of private property for public use, was taken from the coal companies in Montana by legislative action in 1973,¹⁶ but Toole points out that the ranchers fear its return. With such fears comes increased consternation over what is and is not possible in terms of reclamation. Quoting a report of the National Academy of Sciences, Toole asserts: "Surface mining destroys the existing natural communities completely and dramatically. Indeed, restoration of a landscape disturbed by surface mining, in the sense of recreating the former conditions is not possible." ¹⁷ Toole dwells at length on the climatic extremes of the plains, and the long range, long term effects of oxides of sulphur pollution from megawatt plants. He writes of the problems of scientists isolated in their specialties and of the need for a (theoretical) generalist:

The answer, of course, is obvious. We need more time. Not an acre of coal should be stripped until we have all the facts and our generalist has put them all together. That, however, is simply not going to happen.

There is one rather inadequate alternative. It is to stall and delay while we search out more facts and, in the meantime, to be obdurately skeptical of easy solutions.¹⁸

Although he states that his book is not one of statistics, Toole cites several studies on proposed plans for generating plants and the subsequent, critical, effect they will have on Montana's water supply because of the vast quantity of water such plants use in operating. The existence of a clear and present danger of a vast loss of the state's water caused the 1973 legislature to pass the Montana Water Use Act of 1973.¹⁹ This Act enables the Department of Natural Resources "To provide for the administration, control, and regulation of water rights, and establishment of a system of centralized water rights."²⁰

Power lines are another source of pollution involving "corona discharge" to the atmosphere. Corona discharge occurs when too much voltage is jammed into a given wire and electrons shoot from

15. *Id.* at 138.

16. Ch. 311, § 1 [1973] Mont. Laws —, — (codified in MONT. REV. CODES ANN. § 93-9902.1 (Supp. 1976)).

17. K. R. TOOLE, *supra* note 2, at 150.

18. *Id.* at 157-58.

19. Ch. 452 [1973] Mont. Laws — codified in MONT. REV. CODES ANN. §§ 89-865 to 89-8-102.2 (Supp. 1976)).

20. Ch. 452, § 2 [1973] Mont. Laws —, — (codified in MONT. REV. CODES ANN. § 89-866(2) (Supp. 1976)).

the wire into the atmosphere, changing the structure of the atmosphere and producing ozone.

Toole recounts events in Hamilton, Montana, where there was a confrontation between the Montana Power Company and the townspeople over a proposed power line. The power company alleged a serious power shortage in Hamilton. The people of Hamilton investigated and discovered generating plants at nearby Colstrip. The power company had plans to build a line from Colstrip, through Hamilton, and on to the Pacific Coast. The townspeople lost their case in court.

Section three of the book is "A National Sacrifice Area?" Here, Toole compares coal mining in the East and West. He cites studies which indicate that eastern coal may be lower in sulphur content than Great Plains coal. He also asserts that more coal can be reached by deep mining than by surface mining, and points to Appalachia as an example of failure in reclamation efforts. He discusses the expense and delay involved when deep mines which are not exhausted lie idle, as they may in the East during periods of extensive strip mining in the West.

He also considers the obstacles faced by the private citizen concerned with the problem of strip mining in the Northern Great Plains states. The great oil companies are entrenched in the coal business, and they are enormously powerful. Furthermore, there is often a maze of federal bureaucracy involved, and agencies so involved may not be primarily concerned with serving the public interest.

The heightened environmental concern and legislative action in Montana is compared to that in North Dakota. Toole attributes the difference to be caused by the fact that in 1972 Montana adopted a new constitution, while North Dakota's proposed constitution went down to "ignominious defeat."²¹ Article IX of the new Montana constitution, a strong environmental provision, calls for a healthful environment to be enforced by the legislature, reclamation, and water for public use. Section 9 of Article II provides for open legislative hearings, giving environmental groups a new forum in Montana.

Toole also discusses the activities and origins of the Northern Plains Resource Council, an effective environmentalist group. The NPRC was formed by ranchers, and is described as "'a coordinating umbrella for affiliate organizations,'"²² with each organization having a member on NPRC's board. It publishes a monthly newsletter and maintains a fulltime, paid lobbyist in Washington, D. C.

The final two chapters are lyric in Toole's expression of his be-

21. K. R. TOOLE, *supra* note 2, at 2.

22. *Id.* at 221.

lief that there is a heritage in the Northern Great Plains which is, unlike the musty artifacts in museums, alive and linking us to our past and our future. Throughout the book Toole gives brief profiles of individuals, or of moments in their lives. His final description is of his own son, angered by the nearby blast of Westmoreland Coal Company breaking up the overburden. His son's fists are clenched and he says, "They've got no right, they've just got no right."²³ Toole's response is:

No, they've got no right. And I have no right to tell my son to give it to them. I have no right to say to the ranchers, what the hell, sell and get out. My son is eleven, most of the holdout ranchers are in their seventies. The difference is more than half a century. My son must be fighting as hard sixty years from now as they are today. Above all, my son. He has the right to his time on a whole earth—and whatever our time may be, so do we all.²⁴

Toole offers an informative, concerned, very human look at the dangers of strip mining. For those of us who may have forgotten, he speaks of the quality of our own way of life and of our responsibility to guard against its destruction.

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23. *Id.* at 247.

24. *Id.* at 247-48 (emphasis in original).

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