

7-1-1952

A History of Cattle Branding in Arizona

J. J. Wagoner

Follow this and additional works at: <https://digitalrepository.unm.edu/nmhr>

Recommended Citation

Wagoner, J. J.. "A History of Cattle Branding in Arizona." *New Mexico Historical Review* 27, 3 (1952).
<https://digitalrepository.unm.edu/nmhr/vol27/iss3/3>

This Article is brought to you for free and open access by UNM Digital Repository. It has been accepted for inclusion in New Mexico Historical Review by an authorized editor of UNM Digital Repository. For more information, please contact amywinter@unm.edu, lsloane@salud.unm.edu, sarahrk@unm.edu.

A HISTORY OF CATTLE BRANDING IN ARIZONA

By J. J. WAGONER *

BRANDING¹ is as old as civilization, but it was the open range system of grazing which fastened it permanently upon the cattle industry. In Arizona, as elsewhere in the Southwest, the vast public domain was roamed by cattle of many different owners. Identification of stock thus became an important phase of the spring and fall round-ups. In addition to the intermingling of herds, there was another danger which necessitated the use of brands. Two types of rustlers scoured the ranges and often made earmarks and other subsidiary marks necessary also. One kind passed as honest ranchers who, paradoxically, usually had more calves than cows; the other openly stampeded and drove away cattle in typical Indian fashion.² Though cowboys sometimes provided a limited protection against these dishonest cattlemen and thieves, the brand furnished the only proof of ownership when a dispute arose.

With a sudden influx of cattle into the Arizona Territory after the Civil War, brands and earmarks were recorded by the counties. The system which was adopted closely followed Mexican innovations. Each monogram was burned on a piece of tanned leather which was strung on a wire with others at the county courthouse, so that court decisions could be based upon coincidence of the replica with the mark on the animal in question.³ On the back of the cowhide, in script, was information which the county recorder also entered in a book entitled *Marks, Brands and Counter Brands* showing a sketch of the brand and marks, name of

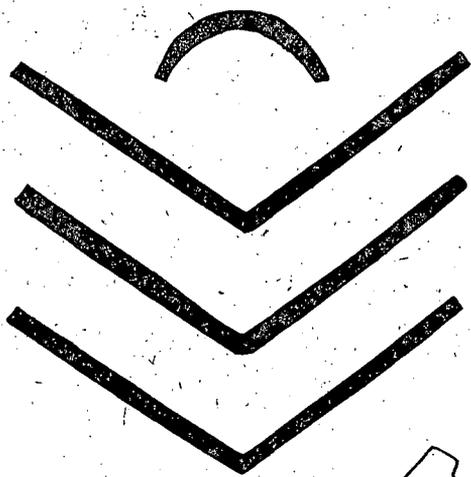
* Mr. Wagoner is a member of the faculty of the Phoenix Union High School, Phoenix, Arizona, and has contributed to earlier numbers of the NEW MEXICO HISTORICAL REVIEW.

1. "Brand" is not used inclusively in this paper but refers only to the burned monogram. Earslits, counterbrands, or other marks of identification are treated as distinct.

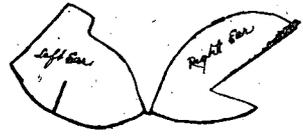
2. John H. Cady, *Arizona's Yesterday*, p. 107.

3. *Arizona Daily Star*, June 26, 1931. Many of these cowhide pieces can be seen in the Pioneer Historical Society's collection in Tucson.

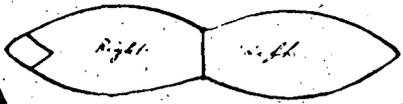
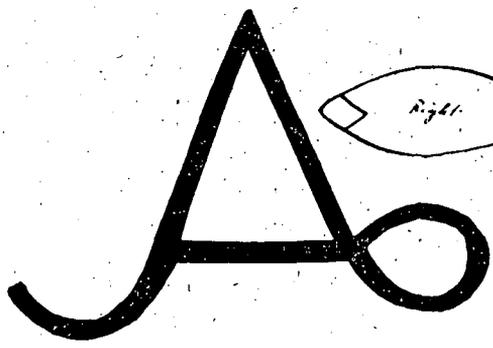
Brand & Earmarks of the Children of Alongo & Moon
and the
ear marks of Mrs A. G. Moon



Filed and Recorded Request of A. G. Moon
 September 21 - 1895 at 9 am.
 Washell
 County Recorder



Brand and Ear marks of Raphael Lopez



Filed and Recorded Request of Raphael Lopez Sept 21 - 1895 at 11 AM
 Charles Stibben
 County Recorder

the owner, the date of recording, and the signature of the recorder.⁴

Many different types of brands were recorded. Most cattlemen preferred a plain, simple brand that could be recognized at a distance. The initial letters of the owner were apparently the most common, though caution had to be exercised in selection because letters, as well as figures, were easily altered—*e.g.*, C K could quickly be changed to O R. Even brands reflecting the Indian and Mexican influence were at first numerous. And the story behind others could be traced to the owner's nativity in Texas or the Indian Territory; the "hashknife" brand in Yavapai County is the most famous of the latter.

Under the county system of recording brands, it was a frequent occurrence for cattlemen to record a brand in one county only to have another man, intentionally or accidentally, adopt the same brand in an adjoining county. Inasmuch as there was nothing to prevent animals from roaming the open range across county lines, the system was a constant source of confusion and litigation.

It is estimated that at least a dozen owners were using each of the following brands: X, F, A, N, Z and J. There were hundreds of cases where two men had the same brand in use in different counties. However, the existence of such a possibility was not so apparent until the late 1880's when heavy shipments of cattle were stimulated by improved railroad facilities. The problem of identifying cattle became more involved as inspectors were confronted with the difficult task of determining ownership.⁵

In January, 1885, a Territorial Stockmen's Association convention at Prescott made several resolutions concerning the inefficient registration of brands. First, it was considered imperative that cattle driven through the territory have a uniform brand. Second, a step toward prohibition of terri-

4. *Marks, Brands and Counter Brands*, ms., Pima County Recorder's office, I (Jan. 23, 1877-June 29, 1896), pp. 1-304; II (July 11, 1896-Feb. 24, 1897), pp. 1-29. Records were also made in similar books from 1866 to Jan. 11, 1877; see *Inventory of the County Archives of Arizona*, No. 10, Pima County, The Historical Records Survey, Works Progress Administration, p. 69.

5. *Biennial Report of the Live Stock Sanitary Board of Arizona, 1897-1898*, p. 5.

torial duplication was taken in a recommendation that there be no two brands alike in a county and a limitation of one brand to an owner. Finally, the stockmen urged the compulsory registration of all brands with the county recorder.⁶

It must not be forgotten, however, that no amount of administrative efficiency could have erased all the problems relating to marking. Altogether different monograms or characters resulted from alterations made by the rustlers. A frequently used scheme was the rebranding of "sleepers." During round-up time the thief would barely burn the owner's brand into the hair of a calf and depart as though the heal flies were after him. Later, at some convenient time, the animal was removed from the home range. A wet blanket (wrung out) was placed over the brand and a red hot frying pan pressed against it; the steam scalded the hair off, and the job was done except for rebranding after the hair grew back in a few months.⁷ The simpler process of roping and branding all unmarked cows, mavericks, with one's own brand also proved profitable to renegade cowboys and audacious cattle barons.

Nevertheless, the livestock laws of the Territory which were approved in 1887 partially met the stockmen's demands. They contained a provision to the effect that every cattle owner must have a mark, brand, and counterbrand different from that of his neighbors, and as far as practicable different from any other in the territory. One weakness of the law was its inapplicability to brands or marks already recorded in accordance with law.⁸ Yet the county system of recording was made compulsory, a two dollar fee being charged for each entry.⁹

The certificate issued was *prima facie* evidence in courts of competent jurisdiction in any action involving the ownership of an animal legally branded.¹⁰ Furthermore, there was a requirement in the law that every person selling cattle not intended for slaughter must counterbrand them on a shoulder or, as an alternative, give a descriptive bill of sale.

6. *Clifton Clarion*, February 18, 1885.

7. *Ibid.*

8. *Revised Statutes of Arizona*, 1887, par. 2785, p. 503.

9. *Ibid.*, par. 2787, p. 503.

10. *Ibid.*, par. 2788, p. 503.

Failure to comply with the law meant that the seller could not recover an animal by virtue of his own brand.¹¹

Arizona was one of the last range states and territories to abolish the county system of brand recording. But finally, in 1897, the Live Stock Sanitary Board of three members was empowered to enforce the registration in the *Territorial Brand Book* of all range stock brands for which legal recognition was desired. For each of seven entries on a page, a facsimile of the design or figure was to be depicted along with a diagram denoting the manner of earmarking adopted by the applicant; additional information which was included consisted of the name, residence, and address of the owner plus the date of application, where the brand was to be placed upon the animal, kind or kinds of animals, a general designation of the range whereon such animals were located, and sufficient proof to the Board to verify ownership of the brand and cattle.¹²

Cattlemen who had brands on the county records could pay the county recorder twenty-five cents for a certified copy signed by both the owner and recorder.¹³ Some owners failed to avail themselves within the set time of the right to transfer their old brands, and consequently were compelled to adopt new ones in order to avoid conflict with those previously recorded.¹⁴ To illustrate the unwillingness of stockmen to comply with what they at first considered an iniquitous law, it might be mentioned that by June 15, 1897, only 250 of some 600 brands in the counties had been transferred.¹⁵

Yet many applications for both new and old brands were eventually received. When the Board was satisfied in each case that no similar brand had been recorded theretofore by any other person in the Territory (or state, by the time of 1913 revision of the law) owning range stock, a \$5 fee (now \$10) was accepted and placed in the "license and inspection fund." The process was completed with the issuance of a certificate, provided, of course, that the applicant had made affidavit that he had no knowledge of the existence

11. *Ibid.*, par. 2790, p. 503.

12. *Ibid.*, 1913, par. 3756, p. 1291.

13. *Tempe News*, April 24, 1897.

14. *Biennial Report of the Live Stock Sanitary Board, 1897-1898*, p. 6.

15. *Arizona Weekly Star*, June 24, 1897.

of a similar brand or earmark in the Republic of Mexico.¹⁶ This latter stipulation showed the good faith of the Territory in its attempt to curb the border raids of outlaws similar to those so dramatically popularized in the annals of Tombstone.

The revised 1931 law provided for advertising of new brands in some newspaper, journal, or bulletin at least once;¹⁷ originally, however, a rule of the Board itself required publishing of the application in two consecutive issues of the weekly papers in order to give cattlemen an opportunity to protest when a conflicting iron was presented. The papers used for the purpose were *The Range News* of Willcox, and *The Tucson Post* of Tucson in southern Arizona, as well as *The Coconino Sun* of Flagstaff and *The Weekly Gazette* of Phoenix.¹⁸ After 1931 the *Weekly Market Report and News Letter* contracted to print all the brands applied for. Their fifty dollars per month remuneration saved the Live Stock Board an equal amount since the newspapers had been receiving one hundred dollars. The Treasury Department added another detail to the registration procedure by requiring that a ten cent revenue stamp be placed on each certificate.

The first twenty entries in the *Brand Book* were made on March 14, 1897, by different members of the Cameron family. The information for certificate number one shows that Colin Cameron of Lochiel, Arizona, in the San Rafael Valley of southeastern Pima County, was given legal right to use the 6T brand on the left side of his cattle; the brand had been previously recorded on May 8, 1883, in Pima County.¹⁹ The entry is stamped as having been re-recorded in 1919 when the Live Stock Sanitary Board exercised its prerogative to require re-recording of all entries, thereby eliminating those not in use.²⁰

16. *Revised Statutes of Arizona*, 1913, par. 3757, p. 1291.

17. *Acts, Resolutions, and Memorials of the Regular Session*, Tenth Legislature of the State of Arizona, 1931, par. 2113, p. 98.

18. *Minutes of the Live Stock Sanitary Board*, October 16, 1902.

19. *Territorial Brand Book of Arizona*, I, p. 1. The original books are filed in the office of the Live Stock Sanitary Board in Phoenix. Also see *Marks, Brands and Counterbrands*, I, op. cit., May 8, 1883, recording.

20. *Revised Statutes of Arizona*, 1913, par. 3757-A, p. 1291.

In general it can be said that the stock law was framed not to confiscate the cattle of honest stockmen, but to stop cattle thieves. Rustlers could be more easily apprehended when all permanent brands were recorded. Accordingly, provisions for the effective enforcement of the act were included. Inspectors were to seize unbranded animals as well as those with mutilated, indistinct, or otherwise disfigured brands; freshly-branded "mavericks" were also subject to confiscation.²¹

Yet the livestock law of 1897, or "bull tick" law as it was commonly called, has been severely criticized, though perhaps unjustly, from two viewpoints. First, it was said that only owners of recorded brands were protected. However, there was a clause in the act to the effect that ownership could be established through the testimony of persons able to identify the animal independent of marks or brands.²² This provision was further strengthened by the stock law of 1903 whereby a legal procedure was established for determining the disposition of strays. Of the first 433 animals for which the right of possession was determined, 289 were condemned and the proceeds from their sale turned over to the "license and inspection" fund; but the other 144 were given to the true owners on presentation of sufficient proof of ownership.²³

But it should be explained that the chairman of the Live Stock Sanitary Board decided to whom the money should be paid. And often he was confronted with evidence presented by many claimants. In fact, numerous persons in the Territory scanned newspaper lists of strays and claimed every animal advertised for which there was a chance of getting the money. The sale of a stray steer at Ft. Huachuca in 1897 serves to illustrate the difficult decisions which faced the chairman. There were at least ten claimants; six of them had the brand recorded by transfer from county records,

21. *Ibid.*, par. 3725, p. 1278. See also *Acts, Resolutions and Memorials*, op. cit., Chap. 48, par. 2106.

22. *Ibid.*, par. 3758, pp. 1291-92. Also see *Webb vs. State*, 131 *Pacific Reporter*, 970-973.

23. *Report of the Governor of Arizona to the Secretary of Interior*, 1904, pp. 73-74.

while the remainder had unrecorded brands. Almost every county in the Territory was represented, but after considerable deliberation the money was awarded to a man residing at Huachuca whose brand had not been entered in the Territorial books.²⁴ So actually there was a measure of protection for Arizona owners without recorded brands.

On the other hand, it is true that the stockmen of the rest of the United States and Mexico had no real salvation except to pay the fee. The Secretary of the Live Stock Sanitary Board reported in 1897 that several Utah ranchers near the line were registering their brands.²⁵ Most unfortunate, however, were the New Mexico cattlemen who failed to do so. Many of their cattle were lost to Arizona rustlers who apparently were legally safe in their operations. One man who had just been released from the Yuma prison recorded a brand with the Board, went to Graham County and proceeded to accumulate cattle with that brand which strayed across the line from the neighboring state. By May, 1897, he had gathered approximately 1,100 animals as the nucleus for his ranching enterprise.²⁶ The New Mexico Sanitary Commission was becoming quite provoked, and by March, 1898, threatened to adopt stringent measures to detect cattle thieves of the above nature.²⁷

The second criticism of the 1897 law was that it protected certain brand owners who were not considered entitled to a recording. Opposition was particularly strong against permitting Mexican citizens to acquire certificates. It was argued that since no alien could secure a homestead grant or lease Territorial lands, he should not have Territorial protection in grazing the free public domain.

Many who objected to the statute for any of sundry reasons found means to circumvent it. Certain irresponsible parties, for example, were recording numerous brands for unlawful use. So on October 16, 1902, in accordance with paragraph 3025 of Title XLII, *Revised Statutes of Arizona* for 1901, the Live Stock Board instructed the secretary to

24. *Biennial Report of the Live Stock Sanitary Board*, 1897-1898, p. 7.

25. *Oasis*, June 12, 1897.

26. *Arizona Weekly Star*, May 27, 1897.

27. *Oasis*, March 12, 1898.

require each applicant to file affidavit that he was the "true and sole owner of range animals" for which a brand was desired.²⁸ The following March, however, the requirement was dropped, subsequent applications being referred to the inspector of the district in which the animals ranged.²⁹

Others attempted to flout the act outright, their actions falling under criminal provisions of the law. The use of unlawful or unrecorded brands was deemed a misdemeanor; the stock law of 1931, quite similar in most respects to those which preceded it, set as the punishment a ten to one hundred dollar fine, or ten to thirty days in jail, or both. The same law stated in essence that the obliteration, disfiguration, or changing of a recorded brand by addition of marks, figures, or characters to convert it into another brand constituted a felony; conviction resulted in imprisonment of not less than one nor more than ten years.³⁰

Provisions in the stock laws relative to slaughtering also served to protect honest cattlemen. Before an animal could be slaughtered, it had to be examined by an inspector who recorded a full description of the color and brand. The owner then was required to file the information in the county recorder's office within ten days; there it was kept for six months.³¹ When a rancher killed a beef for home consumption, he had to retain the hide in his possession pending inspection, and no alteration or disfiguration of the brands or marks was permissible.³²

Furthermore, every butcher was required to slaughter at a fixed place to which the inspector had access at all times. By the 1903 law, each butcher was compelled to secure a license costing from thirty to one hundred and fifty dollars, depending on the size of the town; and in order to obtain the license, he must present proof of "good moral character."³³ Thus butchering on the range and the vending of

28. Minutes of the Live Stock Sanitary Board, October 16, 1902; *Revised Statutes of Arizona*, 1901, par. 3025, p. 793.

29. *Minutes of the Live Stock Sanitary Board*, March 18, 1903.

30. *Acts, Resolutions, and Memorials*, op. cit., par. 2113, p. 102.

31. *Revised Statutes of Arizona*, 1913, par. 3747, p. 1288.

32. *Ibid.*, par. 3745, p. 1288.

33. *Ibid.*, p. 3741, pp. 1286-87; *Messages of Governor George W. P. Hunt to the Secretary of State Allowing Bills to Become Laws without Executive Signature*, March 15, 1927.

meat by irresponsible parties, for the most part, has been effectually checked. But means of evasion were devised, and the courts, having little sympathy for so-called cattle barons, often times sentenced few violators. In 1931, to show the general situation, Mr. Carlos Ronstadt wrote that the Southern Arizona Cattle Growers' Association had secured its first conviction in twenty years. The thief could hardly escape as they saw him rope a calf, kill it, remove the brand, and haul the carcass to Phoenix where it was sold to a butcher.³⁴

For the purpose of securing revenue to enforce the stock laws, the twenty-second legislative assembly passed a new measure including a brand tax of \$2.50 per annum on all range brands and marks that were used in the Territory. Though some 2,414 receipts were issued in the 1903-04 series, the primary importance of the act did not turn out to be the production of revenue. The tax made it possible to determine at all times whether a brand was being lawfully used. Sometimes the Board would remunerate the claimant to a stray only on condition that he pay his delinquent brand tax.³⁵ The profit of the rustler was curtailed because inspectors seized all freshly-branded stock encountered with brands upon which the tax was not paid, and reported the seizure to a court of competent jurisdiction.³⁶

Perhaps the improvement in the brand inspection system can best be understood through a typical example of its earlier operation. In the summer of 1897, sufficient facts were revealed to show that certain unknown parties were stealing large numbers of cattle in Pima County and driving them to the Salt River Valley for sale or shipment. During May some seventy head with several different brands had been seen accidentally in a corral near Casa Grande; the two men in charge represented that they had purchased the cattle from Indians in the Baboquivari Mountains at four to six dollars per head, and were driving them to Tempe for feeding purposes. As two investigators sent by the Pima County Cattle Growers' Association discovered, however, the animals were actually taken to Phoenix and shipped.

34. *Weekly Market Report and News Letter*, February 24, 1931.

35. *Minutes of the Live Stock Sanitary Board*, April 7, 1908; April 6, 1909; July 14, 1909.

36. *Report of the Governor*, op. cit., 1904, p. 74.

Apparently the inspection required at the shipping point was one in name only. The cattle had been vented and re-branded, but the inspector failed to report the original brands so that the former owners might be notified.

In their tour of the Tempe pastures, the representatives of the Pima County organization found a number of cattle which had been stolen by Indians and sold to the ranchers. Seventeen head belonging to Zepedas of El Plomo, Sonora, had been smuggled across the line; later, when the owner identified them and paid the duty, he received the remuneration from their sale but the holders lost the amount paid the Indians. Other cattle which the investigators found in the vicinity belonged to the Arizona Land and Cattle Company (L. Zeckendorf and Company) and the Wakefield Brothers.³⁷ Obviously the livestock inspection had not been thorough before 1903.

In certain other respects the 1903 law was no more effective than the one it replaced. By July of 1908 there had been 11,566 brands recorded in the *Territorial Brand Book of Arizona*.³⁸ With that large a number (though many of these were deficient for failure to pay the brand tax), duplications were unavoidable. The greatest difficulty which faced the Territory, however, involved a reversal of the border situation of a decade before, a condition which no Arizona law could directly arrest. Stockmen of the Territory were now losing cattle to Sonorans who used identical brands. The Boquillas Land and Cattle Company of Cochise County, for example, in 1900 had purchased a brand and a large number of cattle bearing the brand from William Miller and recorded the same in Phoenix as well as in the state of Sonora. But without their consent Marion Williams, residing in Cananea, Sonora, purposely adopted the same brand, though not in violation of the laws of the Republic of Mexico. The Live Stock Sanitary Board protested, but without immediate success.³⁹

By 1931 the number of recorded brands had risen to approximately 13,000. Many were obsolete, making it diffi-

37. *Oasis*, July 10, 1897.

38. *Brands and Marks of Cattle, Horses, Sheep, and Hogs* as they appear in the office of the Live Stock Sanitary Board in Phoenix, issue of July 13, 1908.

39. *Minutes of the Live Stock Sanitary Board*, April 8, 1908.

cult to devise new and distinctive brands which would not conflict with those previously accepted. For that reason Governor George W. P. Hunt recommended a clarification of the situation by the elimination of unused brands.⁴⁰ The Tenth Legislature accordingly passed a law providing for a recording every ten years. Each owner was given until December 31, 1931, to make application to the Board for a certificate.⁴¹ The procedure resembled that of the original recording, with the exception that the fee was only two dollars since no advertising was necessary.⁴²

The result of the 1931 and 1941 re-recordings was the elimination of hundreds of defunct brands. The availability of additional emblems was fortunate because today there are again nearly 13,000 registered brands, an increase of about 2,000 in ten years. Stockmen have long realized that a brand is unchallengeable evidence of ownership and, therefore, a trouble saver. But the recent increase is due to the division of ranches among heirs and the adoption of brands by dairy operators and dude ranchers. From time to time a decrease is observed with the consolidation of holdings by purchase or lease. Though many cattlemen retain the brands of absorbed smaller outfits (gubernatorial candidate James Smith of Graham County, for example, now owns twenty-six such brands), most marks of this type are relinquished as a main brand is burned on all offspring.

The brands, once approved, are classified in the *Brand Book* as the square, triangle, diamond, circle bar, cross, heart, Mexican, miscellaneous, or in the various alphabetical and numerical categories. To avoid duplication, almost every possible design has been adopted. The most common is a combination of one of the above symbols with a letter or number. The hearts are still popular, with fifty-five variations on record this year; the old Empire Ranch heart brand is perhaps the most famous:

40. *Message of Governor George W. P. Hunt to the Tenth State Legislature*, January 21, 1931, p. 44.

41. *Acts, Resolutions, and Memorials*, op. cit., par. 2114, pp. 98-101; *Weekly Market Report and News Letter*, XIX, No. 48 (December 10, 1940).

42. *Arizona Daily Star*, June 26, 1931.

There are also numerous character brands classified as miscellaneous. A few of them are the rocking chair, umbrella, tepee, wagon rod, coffee pot, pitcher, duck decoy, cow's head, horse, violin, anvil, hatchet, hammer, half moon, key, rising sun, hats, flame, and pair of dice. Many of these have some social or geographical significance. The pair-of-dice brand, for example, is used in Paradise Valley. But most of them are only a means of identification; otherwise the two swastika brands on record probably would have been dropped.

Perhaps the difficulty of obtaining a brand sufficiently intricate to prevent rustling and yet fascinatingly ornate can best be illustrated. Recently a stockman, whose initials are L. L. O., made application for a brand consisting of two concentric circles. His request was denied for three reasons: (1) no more "O's" can be obtained, (2) enclosed markings are no longer acceptable, and (3) the "O" brands are objectionable to cattle with "C" identifications because of possible nefarious alteration. His second choice of some combination of two "L's" was also rejected.

After several other suggestions reflecting whimsies incrustated with western lore, the applicant grudgingly permitted the recorder to select his distinguishing coat of arms. He acquiesced to a discarded rafter-lazy-five,  being informed that his registration of that brand would forestall any subsequent record of an A-over-lazy-five. Thus it is readily understandable why strictly sentimental or commemorative brands are not rarely patterned. The only modern irons indicating much individuality are the Mexican and Indian manifestations which actually more nearly resemble the hieroglyphics of the ancients; but there are less than one hundred and fifty in the Arizona book.

In spite of the limited possibilities for capricious designs and the diminishing importance of the brand as a romantic replica of honor, the burning of monograms is permanently established as the only sure method for assuring uncontested ownership of livestock. There will be brands as long as there are ranches.