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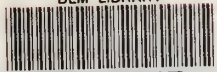
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# THE HOMESTEAD LAW

A Brief Sketch in United States History

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UNITED STATES

# DEPARTMENT of the INTERIOR

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J. W. Powell, Secretary

## BUREAU OF LAND MANAGEMENT

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*"The Homestead . . . was the outgrowth of a system extending through nearly eighty years, and now, within the circle of a hundred years since the United States acquired the first of her public lands, the Homestead Act stands as the concentrated wisdom of legislation for the settlement of the public lands. It was copied from no other nation's system. It was originally and distinctively American, and remains a monument to its originators."*

The Public Domain, 1884  
Thomas Donaldson

Thomas Donaldson's volume, written and compiled some twenty years after enactment of the Homestead Act, identified the 160-acre land program as American in birth and the particular creature of the United States Congress. This year, the centennial of the Homestead Act of May 20, 1862, seemed an appropriate time to trace the birth of the free land dream and determine the role and impact of the Congress on this land law, through which more than 1,600,000 persons gained small tracts of land. This study, by Charles Plante, an employee of the Bureau of Land Management, assays the role of the Congress, and concludes Donaldson was well justified in attributing to Congress the conception and development of the homestead program.

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The Bureau of Land Management

# 1.



The idea or hope for free land in America is as old as our Republic. The roots of this concept can be found in the minds of thousands of land hungry Europeans who received word from friends and relatives in America of the great, almost unbelievable quantities of fertile, vacant, Government-owned land.

For many who immigrated to the United States, plentiful and fertile land was the prime consideration for undertaking the uncertain and perilous journey across the Atlantic. Commonly accepted as true was an international fallacy that in America a parcel of land could be obtained merely by settling on it. Perhaps, in that very rudimentary presumption was the genesis and foundation of the free land concept in the United States.

For those wide-eyed immigrants and restless Americans who swept through and beyond the Appalachian Mountains,

vast and unpopulated land only validated the wondrous stories they had heard told over and over and encouraged squatting as well as requests for free land. Somewhere underfoot as these people moved westward was the beginnings of the agitation in and out of Congress for free land during the first half of the 19th Century.

The boundless expanses of uncultivated and seemingly ownerless land invited preemption, or as it was often called—squatting. This became a customary means of establishing a prior right to a parcel of land by thousands of settlers. As early as 1776, in writing about squatters, Thomas Jefferson prophetically observed:

The people who will migrate to the Westward...will be a people little able to pay taxes ... By selling the lands to them you will disgust them, and cause an avulsion of them from the common union. They will settle the lands in spite of everybody,—I am at the same time clear that they should be appropriated in small quantities. <sup>1</sup>

During this early period Congress recognized the rights of the “ancient inhabitants” of the old Northwest and other parts of America settled by citizens who did not have clear title to the land. This was a very early recognition of the rights of squatters.

Between 1801–1854, Congress, recognizing the difficulty of controlling squatters, passed a series of laws legalizing preemption on public lands. In each successive law the regulations concerning squatting became progressively more liberal, until in 1854–1855 preemption was even allowed ahead of survey. The laws did require an eventual payment of the minimum prevailing statutory price for the land. Inherent in the settlers' locating on the land without a title, however, was the fact that many assumed a natural right to a part of the unlimited supply of fertile land, and felt that only by squatting could they hope to raise enough money to make the required payment for the land. This premise that the land belonged to the people and that they had every right to a small parcel was one of the principal arguments later used in advocating passage of a Homestead Act.

Also a part of the early history of the free land concept in America were the various petitions to Congress for donations of land. In 1797, a body of citizens in Ohio asked the Congress for an outright grant of land. In exchange they would agree to settle, cultivate, and improve it.<sup>2</sup> This became a rather popular, but not always successful, method of attempting to obtain free title to land, particularly between 1797 and 1840.

On October 2, 1799, a group of citizens from Natchez, Mississippi Territory, petitioned the Congress for a sizable grant of free land. They wrote:

We ... Pray that the Honorable Congress will be pleased to pass an act confirming to the citizens of this Territory all grants of land legally, fairly, and justly, obtained, prior to the final ratification of the late Treaty with Spain—and that a reasonable portion of the land as to your honourable Body shall deem proper be granted to all occupants, actual settlers, as well as immigrants since the Treaty, as those long settled by permission of the Spanish Government—on the law and easy terms of the customary fees of office and survey—.

The Natchez petition is especially important for an understanding of the growth of the homestead concept, because the residents of that unsettled territory presented two arguments which would often be used in later years in defense of the "free land" legislation. The "Natchez" argued that a grant of land would be of special benefit to the Nation. Secondly, they asserted, the availability of free land would act as an incentive to settlement in that unsettled region, and that settlement would in turn assure to the Nation the necessary manpower to protect the terri-



tory against Indians as well as foreign attacks. Both arguments were meritorious and logical at that particular moment in American history.

There did exist an Indian problem on the frontier. Further, Spain held the area west of the Mississippi which we would one day acquire by the Louisiana Purchase. Its presence was generally looked upon as a constant, if latent, threat to the bordering States and Territories. Within one year after the Natchez petition, France was injected into our expansion and internal affairs picture when Napoleon obtained Louisiana from Spain. President Jefferson and others foresaw the possibility of a British invasion of Napoleon's province, and to evade such an issue we bought Louisiana, doubling the size of the U. S. territory at once.

Petitions similar to the Ohio and Mississippi pleas were frequently sent to Congress. Alabama was notably persistent in requests for land donations. Arkansas sent a rather elaborate petition to Washington in 1833 spelling out in some detail the wisdom of free land grants. They informed Congress:

Believing, as we do, that a dense population is the most efficient barrier against a savage foe, we will suggest the utility of making donations of land to actual settlers who have or may remain for the

term of five years ... This would be a means of drawing to our border large numbers of hardy pioneers ... (and) obviate the necessity of keeping up the military posts on our frontier ... A dense population on our frontier that would be permanent, will greatly enhance the value of the adjacent lands, and, indeed add much to their value throughout the Nation. <sup>4</sup>

It is ironic that during the 1830's the southern States which would later oppose free land legislation, most frequently petitioned Congress for land donations.



## 2.



In the early 1840's Congress eventually recognized the value of giving free land as an incentive to settlement and made liberal donations first in Florida, then at later dates in Oregon, Washington, and New Mexico.

From time to time during the thirty years following the Revolutionary War, Congress gave free grants for specific purposes to individuals. Such was the case in grants to General Lafayette, Lewis and Clark, Daniel Boone, and others. Land, not medals, was the Nation's recognition of its heroes. The individual grants generally were given as a reward for outstanding service to the Nation. These early practices of the Congress would be the precedents for those proponents of the homestead law who would argue that land should act as a reward to those risking the uncertainties of the wilderness frontiers in opening the country to settlement, and eventually developing the area for the common good of the whole Nation.

Each of the early free grants of land had numerous underlying factors. But the very fact that they were given during a period when the public land was primarily considered as a source of revenue foreshadowed the possibility that a universal law for free land distribution would some day come about.

A petition to Congress from citizens of Ohio might well be used to sum up the feelings of a growing number of Americans in the post Revolutionary War period. The petition noted:

“we are poor and suffering while thousands of acres of land the property of the United States are lying unoccupied.”<sup>5</sup>

This simple plea - whether true or not, whether extensive or in self interest - expressed a feeling countless thousands of landless citizens throughout the Nation would share. The great expanses of unoccupied land stood as an unexplainable phenomenon that seemed to demand an answer to the question: ‘why can't I settle on the unbroken land and make it productive?’ It was a question elected officials found difficult to answer. To immigrants, who experi-

enced the scarcity of land in Europe, the thought of allowing the fertile soil to remain uncultivated seemed wrong. Of course, the questions went unanswered and the settlers contended themselves with preemption and free land petitions.

Some politicians recognized a political value in the increasing demands for land by the citizens, and built a political career on the cry for a liberal land policy. Perhaps no man in public life during the first half of the 19th Century, with the exception of Andrew Johnson, devoted himself more consistently to the question of a graduation in the price of the public land and free homesteads than did Thomas Hart Benton of Missouri.

Benton, constant in his efforts for a liberalization of the United States land policy, became the champion of the western land-conscious electorate. In this respect he was the first member of Congress to advocate legislation similar to the Homestead Act of 1862. During his thirty years in Congress, he laid the foundation for the popular acceptance of the idea of free land.

In the late 1820's three plans for the disposition of the public lands were introduced in Congress. Their sponsors: Henry Clay of Kentucky, John Calhoun of South Carolina, and Benton.

Henry Clay - by birth a frontiersman, and by inclination a friend of the industrial east - tenaciously asked Congress to consider and pass a plan for the distribution of the proceeds to the States from the sale of the public land. While Clay was successful in obtaining passage of a distribution plan in 1841, President Jackson's "specie circular" of 1836 had for all practical purposes destroyed any hope of obtaining a profit from public land sales.

John Calhoun, who opposed distribution of the revenue, and price graduation, advocated cession of the public land to the States for whatever purpose they would deem practicable and in the interests of the Nation. Calhoun was never successful in obtaining passage of his cession plan. Like Clay, and Benton, he was a victim of the growing sectionalism that was becoming a part of the national political scene; a sectionalism that was to play a significant role in the course of affairs in public land legislation in general and the homestead movement in particular.

To all three, for different reasons, the public land was extremely important. Calhoun best expressed what obviously must have been the sentiment of the three men when he said, "I regard the question of the public lands next to that of the currency".<sup>6</sup> Each of the three might have been charged with attempted use of the public land as a political lever.



Calhoun, at one time was willing to vote with the West for a liberalization of the land laws in turn for support of a low tariff. Clay compromised certain of his earlier demands in successfully pressing the important land Act of 1841 through Congress. The West, while in the minority, enjoyed the rather enviable position of holding the balance of power in Congress over the two older established sections.

Of the three, it perhaps was Benton who most influenced the course of events leading up to the passage of the Homestead Bill. In his autobiography, Benton wrote:

I do not know how old, or rather, how young I was, when I first took up the notion that sales of land by a Government to its own citizens, and to the highest bidder, was a false policy; and that gratuitous grants to actual settlers was the true policy, and their labor the true way of extracting national wealth and strength from the soil. It might have been in childhood when reading the Bible, and seeing the division of the promised land among the children of Israel: It might have been later, and in learning the operating of the feudal system in giving land to those who would defend them; it might have been in early life in Tennessee, in seeing the fortunes and respectability of many families derived from the 640-acre head-rights which

the State of North Carolina had bestowed upon the first settlers . . . And when I came to the then Territory of Missouri in 1815 and saw land exposed to sale to the highest bidder, and lead mines and salt springs reserved from sale, and rented out for the profit of the Federal Treasury, *I felt repugnance to the whole system and determined to make war upon it whenever I should have the power.* <sup>7</sup>

Benton secured the necessary power when he was elected to Congress in 1820. Five years later he introduced a resolution asking the Committee on Public Lands to consider investigating the possibility of granting free land to settlers. In his resolution of inquiry Benton suggested that land which the Government had put on the market and which remained unsold for a certain number of years should be granted to settlers. He also informed the Congress that he intended to introduce a bill to the same effect.

This he did in March 1826, 36 years before the Homestead Act was passed. In introducing this bill he told Congress:

The bill which I have introduced, embraces two principles - sales upon fair terms, and donations to actual settlers. They are intended to accomplish the double purpose of paying off the public debt, and increasing the population and wealth of the country.

The approbation of these principles, though rapidly advancing upon the public mind, is not yet universal. Some objections are . . .

1. That the settled States will be depopulated
2. That speculators will be encouraged
3. That monopolies will be created
4. That former purchases will be injured
5. That it is better to wait for a rise (in price of land)
6. That the lands are pledged to the public creditors.<sup>8</sup>

Benton's bill called for a graduation in the price of land in proportion to the amount of time it had remained on the market and unsold. He proposed the remaining unsold lands should then be given to settlers. In his speech he answered each of the six objections to free land, but they are not so important as are the list of objections, because by and large these same six remained as the principal

reasons the opponents of free land legislation used in blocking passage before 1862.<sup>9</sup>

The bill aroused little or no interest in Congress and with the exception of merciless criticism by his fellow Senator, Thomas Barton of Missouri, the Benton bill went almost unnoticed. Barton, in a Senate speech, flayed the Benton plan and called it "a compound of electioneering and speculation".<sup>10</sup> He was successful in ordering that the bill be laid aside.

While Congress exhibited little interest at the time in the Benton proposal, it caught on outside of Washington and several States notified Congress of their support. Missouri, apparently siding with Benton rather than Barton, was quick to forward a formal document from the State legislature strongly supporting the bill. Rather pointedly Missouri informed the Federal legislature:

"This General Assembly assures your honorable body that the passage of such a law would, in their opinion, not only promote the strength and prosperity of this frontier State, but the happiness of thousands who from want of pecuniary means are compelled to remain in an anti-republican state of dependence on rich landlords . . ."<sup>11</sup>

Those in favor of price graduation and land donations were further encouraged in 1828 when the House Public Lands Committee favorably reported Benton's earlier resolution. The Committee recommended:

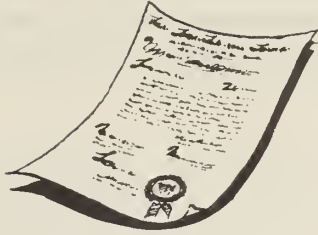
That small tracts of eighty acres be given to the heads of such families as will cultivate, improve, and reside on the same for five years. This proposition has recommended itself to the consideration of your committee by a knowledge of the fact that there are many families who are neither void of industry nor of good moral habits, who have met with the usual share of the difficulties always accompanying the settlement of a new country, and who, living very remote from market, never expect to see the day arrive when they will be enabled to save enough, with all their efforts, from their means of support, to purchase a farm and pay for it in cash. Besides, your committee believes that such small earnings applied to the improvement and cultivation of small tracts, scattered through the public domain, would be as advantageous to the public as though they should be paid directly into the treasury. No axiom in political economy is sounder than the one which declares that the wealth and strength of a

country, and more especially of a republic, consists not so much in the number of its citizens as in their capability of bearing arms, and of sustaining the burdens of taxation whenever the public exigencies shall require it . . . <sup>12</sup>

The Committee, some thirty years ahead of the times recommended, in essence, what was later to become the Homestead Act. The report, while not accepted by the Congress, did much to encourage further action on the part of those in favor of free land.



### 3.



During the early 1830's, Clay, Calhoun, and Benton intensified their duel over the public land question. However, in spite of the widespread opposition to graduation and donations in Congress, there was considerable popularity among the electorate of the Western States, in labor circles, and among various groups scattered throughout the East.

Indicative of the subdued but relentless interest in a more liberal Federal land policy was President Jackson's message to Congress in 1833. The Presidential recommendations on the public lands embraced an old idea. It gained stature now because never before had it been publicly espoused by a President of the United States. Jackson suggested:

It seems to me to be our true policy that the public lands shall cease, as soon as practicable, to be a source of revenue, and that they be sold to settlers in limited parcels, at a price barely sufficient to reimburse to the United States the expense of the present system and the costs arising under our Indian compacts . . .

The adventurous and hardy population of the West, besides contributing their equal share of taxation under our import system, have, in the progress of our Government, for the lands they occupy, paid into the Treasury a large proportion of forty millions of dollars, and, of the revenue received therefrom, but a small part has been expended amongst them. When, to the disadvantage of their situation in this respect, we add the consideration that it is their labor alone which gives real value to the lands, and that the proceeds arising from their sale are distributed chiefly among States which have not originally any claim to them, and which have enjoyed the undivided emolument arising from the sale of their own lands, it cannot be expected that the new States will remain longer contented with the present policy, after the payment of the public debt. To avert the consequences, which may be

apprehended from this cause, to put an end forever to all partial and interested legislation on the subject, and to afford to every American citizen of securing an independent freehold, it seems to me, therefore, best to abandon the idea of raising a future revenue out of the public lands.” 13

A year before Jackson’s startling policy proposal, the Commissioner of the General Land Office, Elijah Hayward, in a statement to Congress on donations of land, noted that more than 224,000 acres had been granted to individuals. This was but a fraction of 1 percent of the total public lands held by the Federal Government. 14 He told the Congress that the lands had to be considered as more than a revenue agent for the Treasury; there was every indication that he was in favor of the “development” concept in public land administration. This concept was simply one, whether in the form of donations to individuals for settling on and improving the land or to private corporations for internal improvements, which would use the lands as an incentive to development of the unpopulated western part of the Nation.



## 4.



American labor, in the process of organizing, joined in the demand for free land. One of the first signs of labor’s interest in free land legislation appeared in a short booklet by a utopian labor leader, Thomas Skidmore. In a volume entitled: *The Rights of Man to Property for its equal Transmission to Every Individual of Each Succeeding Generation, on Arriving at the Age of Maturity*, Skidmore recommended a free land distribution theory, much of which was later to be used extensively by the organized labor. It was the first of a series of books, circulars, and pamphlets distributed by labor asking for free land. Combining their voice with that of the western settlers, labor was able to give the question national political prominence in the middle of the 1840’s in the form of the Free Soil party.



Under the leadership of George Evans, and with the editorial encouragement of Horace Greeley's newspaper, the free land question irrevocably was thrown into the halls of Congress. Legislation was to be introduced in 1846 and each year thereafter.

The labor movement was able to fan the smouldering question by circulating leaflets, such as the following: "Are you an American citizen? Then you are a joint owner of the public lands. Why not take enough of your own property to provide yourself with a home? Why not vote yourself a farm?

Are you a party follower? Then you have long enough employed your vote to benefit scheming office seekers. Use it for one to benefit yourself: Vote yourself a farm. Are you tired of slavery, of drudging for others--of poverty and its attendant miseries? Then, vote yourself a farm ..."<sup>15</sup>

Their appeals at that particular time were especially effective, because the Nation was only then recovering from the panic of 1837 which, in part, had been caused by the reckless speculation in public lands. In times of industrial urban uncertainty, there was a reason for laborers to look to the public lands for new hope. It was

in this period that the much discussed "safety valve" theory in American public land history was first expounded. The theory was built around the idea that in times of depression or recession, the public lands could be offered to the unemployed and thus create earning power during times when money was not in circulation. It also advanced the idea that the land would lessen the crowded conditions of the cities and provide a labor outlet to areas where a labor surplus existed.

In 1842, Congress indicated an awareness to develop certain regions through free land grants. In that year Florida was given 200,000 acres of land for 160-acre homesteads to "any settler willing to settle and defend that parts of the peninsula called East Florida."<sup>16</sup>

Thomas Hart Benton, in arguing for free land as an incentive to the settlement of East Florida, told the Congress:

I assume it then as a point granted, that Florida cannot be given up--that she cannot be abandoned--that she cannot be left in her present state. What then is to be done? Raise an army of ten thousand men to go there to fight. When, the men who are there now can find nobody to fight!

It is two years since a fight has been had; it is two years since we have heard of a fight. Then men, who will avoid surprises and ambushes, can now go from one end of Florida to the other. As warriors, these Indians no longer appear, it is only as assassins, as robbers, as incendiaries, that they lurk about. The country wants settlers, not an army. <sup>17</sup>

The Donation Act for Florida allowed:

That any person, being the head of a family, or single man over eighteen years of age, able to bear arms, who has made, or shall, within one year from and after the passage of this act, make an actual settlement—shall be entitled to one quarter section of said land . . . <sup>18</sup>

The Act also stipulated:

That settlers shall erect thereon a home fit for habitation of man and shall clear, enclose, and cultivate at least five acres of said land, and reside thereon for the space of four years . . . <sup>19</sup>

The general provisions of the Florida Act eventually were extended to cover Oregon, Washington, and New Mexico Territories. In each case the Acts were passed for the armed occupation of the regions. <sup>20</sup> They, however, had other underlying factors.

In the congressional debates, those in favor of the Donation Acts argued since there was an unlimited supply of land, a part of it should be given to people who would actually settle and improve it, thus hasten development and benefit the whole Nation through increased production and consumption. In the case of Oregon, in particular, they argued such free grants would expand the Nation from ocean to ocean and assure to future generations of Americans all the benefits of United States dominion over the region.

The Donation Acts spelled out in actual free land grants what Thomas Hart Benton has been advocating for many years. The Acts did accomplish—settlement, stability, military security, and increased rather than decreased revenue to the Nation.



## 5.



It was at that particular moment that the Commissioners of the General Land Office often were advocating the development concept in public land laws. In 1845, Commissioner Shields told Congress he was in favor of the graduation of the price of land and while not specifically recommending free grants he did indicate that they could be the logical solution to the problem of settling the West.<sup>21</sup> In 1847, Commissioner Richard Young praised the Florida Donation Act and recommended an extension of the idea as a possible means of encouraging settlement.<sup>22</sup> In 1849, Commissioner Justian Butterfield, in advocating the passage of a Donation Act for Oregon Territory told the Congress:

These governmental acts are but preliminary, and look to further legislation, such as is now required, in order to extend over the Territories the machinery of our land system. That a proper and definitive adjustment may be had of the rights of property, it will be necessary not only to respect right under treaty, but to recognize all old bona fide settlement claims, to secure the owners in their improvements, to give them a fee title in their lands, and to invite emigration by liberal donations to those who will make that country home; thus opening to enterprize and taking a sure means for developing its boundless agricultural resources as well as its mineral wealth.<sup>23</sup>

The Commissioners did not explicitly recommend that a free land Homestead Act be passed, but most certainly did indicate an unusual degree of sympathy. Generally speaking, in the disposition of the public lands, the General Land Office was not unwilling to recommend the granting of huge tracts of land. Because it was controlled by the political party in power, the General Land Office often mirrored its sentiment.

In the 28th Congress, Robert Smith, a Congressman from Illinois, introduced a petition he had received from a

group of his constituents in which they asked for land donations to pioneers willing to settle and improve the land. The resolution, as subsequent events were to prove, reopened the question of a universal application of the free land. The Illinois petition, unlike many previous requests, did not ask for a specific donation, but rather advocated that it become a general policy of the Government. The petition requested:

“That the Committee on Public Lands be instructed to inquire into the expediency of the passage of the law donating eighty acres of land to every actual settler being head of family—and not now owner of land, and who, through misfortune or otherwise, is unable to purchase; said land to be selected from lands belonging to the Government, which have been in market and subject to entry not less than ten years . . .”<sup>24</sup>

In appealing to Congress to consider his constituent's request, Smith asked his colleagues to “lay aside all local and sectional interest or feeling . . .” and consider the petition on its merits. He noted the millions of acres of unselected land would be “dearer as a gift”, than if sold as a nominal price.<sup>25</sup> Smith's speech was followed by a free land bill in every Congress until 1862.

In February 1845, Congressman Thomasson of Kentucky submitted a homestead type of bill as an amendment to the price graduation bill then before Congress. He asked that 40 acres be given to heads of families.<sup>26</sup> While Thomasson was the first to introduce actual free land legislation, it remained, however, for men like Andrew Johnson of Tennessee, and Gulasha Grow of Pennsylvania to carry the battle in Congress for free land.

On January 9, 1846, Mr. Alexander McConnell of Alabama introduced a bill to “grant to the head of a family, man, maid, or widow, a homestead not exceeding one hundred and sixty acres of public land.” It appears McConnell was the first Member of Congress to actually use the word “homestead” in legislation referring to free land.<sup>27</sup>

Two months later, on March 27, 1846, Andrew Johnson, later to become President, introduced the first of a succession of free land bills he was to offer. He asked:

That every poor man in the United States, who is head of a family, to enter one hundred and sixty acres of public domain, without money and without price.<sup>28</sup>

Johnson, like Benton in the earlier period, often made impassioned appeals for homestead legislation and eventually became floor manager when homestead legislation was before the Senate.

In the late 1840's the idea was kept alive in Congress mainly through Johnson's persistent effort. For lack of a militant following with sufficient power to force the issue, no progress was made in Congress during this period. The question, unfortunately, was often associated with other public land problems such as grants for internal improvements, railroad grants, and military bounties for the Mexican War veterans, and as a result the homestead legislation was used as a political bargaining tool.

While the public land question did appear at various times during the presidential campaign of 1848, the Nation was more concerned with pressing international problems. The year 1848, however, was to be the last presidential election year in which the candidates could or would elude the question. In 1856, the Republican party made a strong bid for the votes of free soil advocates in making homestead legislation a part of their platform. In 1860, in spite of the heavy war clouds over the Nation, the question was debated with a great deal of interest. The Republican party made it one of their principle campaign promises. The Democrats, badly split with the sectional question, did

not use the question as extensively and often as did the Republicans.

Andrew Johnson opened the 1850's with an eloquent speech in behalf of a homestead bill introduced in the Congress by Congressman T. R. Young of Illinois. Johnson, the former bondsman and tailor, made what might be considered one of the finest speeches of his public career. In his opening remarks that future President of the United States said:

This bill, or one similar in substance, had been introduced now some five years ago. At that period of time it was looked upon as wild and visionary; but since the proposition was first submitted to the United States, the public mind has, to some extent, been directed to it, and in the same proportion its impracticability seems to have given way; for many now, who then stood off and refused to give the measure their aid, are among its ablest and warmest supporters . . .<sup>29</sup>

In his summation, he made a stirring appeal for passage in telling his colleagues:

*He would rather have the honor and the credit of being instrumental in the accomplishment of this great scheme, than to be President of the United States forty times.*<sup>30</sup>



Then the future President implored:

Pass this bill, (said Mr. Johnson) or some one containing its principles, and you will make many a poor man's heart rejoice. Pass this bill, and their wives and children will invoke blessings upon your heads. Pass this bill, and millions now unborn will look back with wonder and admiration upon the age in which it was done. Pass this bill, and you strengthen the basis of Christianity. Pass this bill, and you will enlarge the sphere of true philanthropy. Pass this bill, and every member when he returns to his constituents, can announce to them the glad tidings of great joy—that the way is made open and the day of deliverance is at hand. Pass this bill, and as regarded his humble self, he would feel that he had filled the full object of his mission here, and he could return home to his constituents in quiet and in peace.<sup>31</sup>

Unfortunately, the measure went the way of previous bills, but with optimism, the champions of homesteads continued to introduce legislation.

Perhaps no one question retarded the progress of the homestead legislation more during the 1850's than did the slavery issue. The South would now oppose the free land

idea after long years of active support.

In the 31st Congress, George Julian of Indiana, to the dismay of many in Congress, attached the slavery question to the bill and thereby alienated many of the Southern members. While before this date, there had been certain individuals from the South in favor of free grants, Julian's speech did much to solidify southern opposition and thus kill any chance of passage when a majority of the southern votes were needed.<sup>32</sup>



## 6.



In 1852, a homestead bill passed the House of Representatives. Among those in favor of the bill was Galusha A. Grow, a freshman Congressman from Pennsylvania. Grow, who has often been called the father of the homestead bill, played a key role in the legislative history of the bill in the House of Representatives. Grow, in an emotion filled appeal, told Congress in his maiden speech:

“In a new country the first and most important labor, as it is the most difficult to be performed, is to subdue the forest, and convert the lair of the wild beast into a home for civilized man. This is the labor of your pioneer settler. His achievements, if not equally brilliant with those of the plumed

warrior, are equally, if not more, lasting. His life, if not at times exposed to so great a hazard, is still one of equal danger and of death. It is a life of toil and adventure, spent upon one continued battle-field unlike that, however, on which martial hosts contend—for there the struggle is short and expected, and the victim strikes not alone, while the highest need of ambition crowns the victor. Not so with your hardy pioneer. He is oft called upon to meet death in a struggle with fearful odds, while no herald will tell to the world of the unequal combat. Startled at the midnight hour by the war-whoop, he wakes from his dreams to behold his cottage in flames; the sharer of his joys and sorrows, with perhaps a tender infant, hurled, with rude hands, to the distant council-fire. Still, he presses on into the wilderness, snatching new areas from the wild beast, and bequeathing them a legacy to civilized man. And all he asks of his country and his Government is, to protect him against the cupidity of callous capital, and the iron grasp of the speculator. Upon his wild battlefield these are the only foes that his own stern heart and right arm cannot vanquish. While, then, the shield of this Government is thrown over the moneyed interests of the country, fostering, by your protec-

tive laws, its associated capital, withhold not justice from the men who go forth, single-handed and alone, to subdue the forest, tame the savage and the wild beast, and prepare, in the wilderness, a home for science and a pathway for civilization.”<sup>33</sup>

While the House passed the bill, the Senate refused to act on the measure postponing it until the next session and then failing to take it under consideration. Then in 1854, for the first time since homestead legislation had been introduced in Congress, bills passed both the House and Senate.

In attempting to iron out the difference between the House and Senate versions, a conference committee was appointed. After a prolonged battle in which neither the House nor the Senate would concede certain points, the idea of sending the bill to the President was abandoned. In spite of the numerous amendments that watered down the bills and the inability of the two Houses finally to agree, the homestead idea thereafter was a national issue.

It was during this same session of the Congress that the Kansas-Nebraska bill was passed allowing one slave and one free territory to come into the union. It more than any other issue of that particular time illustrated the

growing and deep seeded fear existing in the South about the extension of the frontier. They feared that the opening of the lands and the possible exclusion of slavery in the territories would further destroy what power they enjoyed in Congress. The fact that the Senate and House in conference could not and would not agree on the homestead legislation before the Congress in 1854 is directly related to the controversy over the passage of the Kansas-Nebraska Act.

It was also that session of Congress that passed and signed into law Thomas Hart Benton's price graduation concept. The law, much the same as Benton had advocated for over 20 years, allowed the lowering of the minimum price of land which remained on the market for a certain number of years from \$1.25 per acre down to 12½ cents. The bill had been closely allied with the free land concept for years. Its passage, however, was looked upon with as a blessing by homestead advocates.<sup>34</sup> They felt it could be used as a tool against actual free grants by those who might claim it would satisfy the needs of the landless.



7.



In 1857, another homestead bill was introduced and debated, but never brought to a vote. The majority chose rather to postpone action until the next Congress.<sup>35</sup>

By this time the homestead legislation had become so deeply enmeshed in the slavery, transcontinental railroad grants, and numerous other issues that the simple question could no longer be considered on its merits alone. Sectionalism had split the Congress. When the postponed 1857 bill was finally taken up in 1859, the opponents managed to delay action by motions to lay the question on the table, and as a result no progress was made in that Congress.<sup>36</sup> However, it became apparent that the issue could not be delayed forever, and in 1860 the question was again raised in the halls of Congress.

The House of Representatives which had traditionally favored the passage of a homestead bill quickly passed the 1860 version.<sup>37</sup> It was in the Senate, however, that the bill again met strong opposition.

The year 1860 was an election year, one of particular importance in American history. The Nation had been rocked by a series of events that had in fact shaken the very foundations of the Constitution. The affirmative vote in the House of Representatives illustrated the great break that had taken place between the North and the South. The bill introduced by Grow of Pennsylvania in February was taken to a final vote in March. The South in a solid block, with the exception of one Missouri vote, voted against the bill.

In the Senate Andrew Johnson had also introduced a bill. By the time the Senate decided to consider his measure, the House bill had been sent over for the Senate's decision.

The two bills differed considerably. Johnson's bill held to his idea of granting 160 acres to heads of families, while Grow wanted the land made available to all citizens over 21 years of age. The Senate finally agreed to consider

the Grow bill and set theirs aside for the moment. The South attempted to have the question postponed but Johnson and those in favor were successful in keeping the question before the Senate.

The Senate was badly split on the two measures. The western Senators were not happy with Johnson's version calling for entry on alternate sections and only on land subject to private entry. Johnson, realizing the possibility of losing western support, withdrew his original bill and substituted another hoping to satisfy the opponents.<sup>38</sup> Various amendments and legislative maneuvering were again injected and at times it appeared that the Senate would not consider the Johnson bill. Finally, on May 10, 1860, the log jam was broken and the Senate passed the bill 44 to 8.<sup>39</sup>

In conference, the two Houses, unlike in 1858, were able to agree to a compromise bill. After successfully ironing out their internal differences Congress sent the bill to President Buchanan.

But, Buchanan, holding to the theories he had set down in the vetoing of the Land Grant College Act, declared the law unconstitutional and spelled out his objections to the Congress:

1. This state of the facts raises the question whether Congress, under the Constitution, has the power to give away the public lands either to States or individuals. On this question I expressed a decided opinion in my message to the House of Representatives of the 24th February, 1859, returning the agricultural-college bill. This opinion remains unchanged.
2. It will prove unequal and unjust in its operation among the actual settlers themselves.
3. This bill will do great injustice to the old soldiers who have received land warrants for their services in fighting the battles of their country. It will greatly reduce the market value of these warrants.
4. This bill will prove unequal and unjust in its operation, because from its nature it is confined to one class of our people.
5. This bill is unjust to the old States of the Union.
6. This bill will open one vast field for speculation.
7. We ought ever to maintain the most perfect equality between native and naturalized citizens. They are equal, and ought always to remain equal, before the laws.
8. The bill creates an unjust distinction between



persons claiming the benefit of the preemption laws.

9. The effect of this bill on the public revenue . . .
10. This bill lays the ax to the root of our present admirable land system. The public land is an inheritance of vast value to us and to our descendants. It is a resource to which we can resort in the hour of difficulty and danger.<sup>40</sup>

In the next Congress, one burdened with a Civil War and one in which the South was no longer a factor, a homestead bill was overwhelmingly passed by the House.<sup>41</sup> The measure was sent to the Senate. With a minimum of debate it was passed May 6, 1862, by a vote of 33-7.<sup>42</sup> Fourteen days later, May 20, 1862, President Lincoln signed the bill into law.<sup>43</sup>

The law was a refinement and in some respects a compromise of the early homestead legislation. As time was to indicate, in its broad application, it was one of the great laws enacted in the 19th Century.

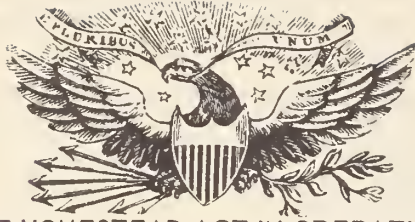
The Homestead Act allowed:

“... any person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the

United States, and who has never borne arms against the United States Government or given aid and comfort to its enemies, shall from and after the first January, eighteen hundred and sixty-three, be entitled to enter one quarter section or a less quantity of unappropriated public lands . . .”



## 8.



### THE HOMESTEAD ACT IN OPERATION

**T**he Homestead Law went into operation January 1, 1863. From that date to the present over 1.6 million persons have claimed homesteads on 270.2 million acres of public land. Each of these 1.6 million homesteaders who braved the uncertainties of a new life in the unsettled West played an important role in the building of modern America.

The story of the Homestead Act in operation is one as difficult to tell as would be a portrayal of the emotions and experiences of each of a million people watching a Shakespearean drama. Like Shakespearean characters, the homesteaders had moments of devastating tragedy as well as climatic moments of great success and victory. In a broad,

general manner of speaking, the Homestead Act in operation has been basically a saga of individuals seeking out a home and adapting their habits to the social economic, and climatic conditions of their new mode of life. Each family had particular adjustments to make. Many were able to make the necessary transitions—others could not and moved back east or further west to make another attempt. The 1.6 million who stayed and “proved up” their homesteads became the instruments of a number of remarkable economic, political, and social changes in American life.

With the movement of settlers westward to their new land came the need for implements designed to meet the particular soil and climatic conditions of the Trans-Mississippi West. The settlers accustomed to the farming methods utilized in the settled east or in Europe found that they could not be conveniently transplanted to their new environment. Once the homesteaders started producing wheat, oats, corn, and other farm products in quantities never before known in the United States, new and faster methods had to be developed to sow and harvest the fields, and to transform the crops into food. American industry accepted and met the challenge and out of it grew some of the largest industrial firms in the world. The almost unbelievable growth of the farm implement, milling, meat packing, and barbed wire industries after 1862 can be in

part attributed to the Homestead Law.

Perhaps no one industry was more directly affected and in a more significant manner than was the farm implement industry. Prior to 1862 in the settled eastern portions of the Nation the average farm was about 50 acres, and a sizeable amount of that did not lend itself to tilling. The common mode of farming was—one man—one plow—and one animal. After 1862, the manner of farming and the size of the farm unit was radically changed. With the 160 acres allowed in the Homestead Act, it was no longer possible to farm profitably with—one man—one plow—one animal. The generally flat nontimbered western lands were particularly adaptable to mechanization.

New plows were designed, developed and produced by the millions to turn the heavy virgin soils. The new plows were made to go deeper and produce a larger furrow.

The McCormick reaper was ideally suited to the western farming practices. In the fall with time short and as much as 100 acres to be harvested it was necessary to cut and shock the crop as quickly as possible. The reaper invented and developed in the east but of little value there found a "tailor made" market in the west.

Other developments in the farm implement industry such as the twine binder, threshing machine, and finally tractors and trucks were made primarily for the large farm units of the West. With the great demands for machinery, the farm implement industry grew from a small business status in 1860 to one of the Nation's major industries by 1900. For example, corn, wheat and oats production for the Nation in 1860 was 11 billion bushels. In 1900 the Nation's farmers were producing 43 billion bushels per year and the implement industry was furnishing the tools with which to do it.<sup>45</sup>

Within 25 short years after the Homestead Act was passed, the United States became the greatest producer of farm products in the world. The Homestead Act was one of the instruments of this change.

The barbed wire industry was a child of the homestead movement. As farmers moved into their 160 acres, it soon became apparent that the old methods of fence building were not feasible. In the East it was possible to construct a rail or stone fence because of the availability of materials and the relatively limited area to be enclosed. On the frontier, wood was not readily available and prohibitively

expensive. Stone, because of its weight, was impractical for an 160-acre farm. Also in the West a fencing material was needed to keep the cattle out of the crop lands. Barbed wire was introduced and within less than five years became the fencing material of the West.

The barbed wire industry was a struggling infant in 1874 when only 10,000 pounds of wire was sold. Just six years later, in 1880, the amount sold had increased to the almost unbelievable figure of 80 million pounds. One historian in analyzing the role of barbed wire in winning the West claimed it "made settlement of the West possible"<sup>46</sup>.

These in turn accelerated the growth of other related industries. The steel and iron industry was significantly influenced by the increased demand for their product as a result of increased implement production. In turn the coal industry was expanded. This in turn brought more immigrants to our soil to meet the increased demands of labor. Food production then had to be increased and the number of food processing and distribution houses expanded. The unparalleled economic growth in the United States during the last half of the 19th century can in part be traced to the significant role of homesteaders in the opening and winning of the West.

American industry indeed met the technical needs of the homesteaders and as a result made life on the frontier much easier, but there were many problems that could not be solved by anyone but the settler and his family and, even then there were the intangibles of mother nature.



## 9.



**H**ousing was a unique problem. One of the common “temporary” homes was the sod house. It was usually a small one room structure made from squares of sod stacked to form four walls. While not perfect by anyone’s standard, the sod house provided a surprising amount of insulation against the winter winds and the summer heat.

Mother Nature taxed the resourcefulness of every family. People came to expect by preparation drought, fires, grasshopper plagues, and long extended bitterly cold winters. There was no sure way of preparing against these, but the settlers did lay up food, plow fire lanes around their homes, and prepare for winter by stacking enough wood and buffalo chips to outlast the longest and bitterest of winters.

Indians were not one of the major problems of the homesteaders, for they did not visit the settlers as often as did drought and grasshoppers, nevertheless, the settlers had to be prepared to fight for their lives with a “Sharps” rifle or one of the many other varieties brought to their new home from the East. The gun was, of course, used principally for hunting purposes.

It was with a Herculean effort that most of the settlers mastered the land and were able to make their entry for final certificate—the final step toward obtaining patent.

There was an unsavory side of the Homestead Act - a facet that plagued the friends of the Act and provided a tool for the opponents in their attempts to discredit the legislation - fraud, deceit, and perjury.

Those settlers who were the first to file under the Act of May 20, 1862, were sincere and honest in their undertakings, for the most part. It was not until later years, when the land booms brought speculators into the homestead program, that fraud and deceit began to show. Land Office agents often had as much as 20,000 square miles to oversee, and their inability to investigate every claim made any fraud possible.



There was an abundance of fraud, larceny, and heart-breaking honesty in those years gone by. Men who had to swear they had built houses made the official statement, but all they had erected in some instances were forked sticks six feet in height over which they had piled brush and grass. They certified they had built homes measuring 20 by 30, but they meant inches, for they had built toy houses rather than homes in their effort to get the land.

The legislative history of the changes in the original Homestead Act were closely allied to these individual successes and failures, because many of the revisions came about as a result of the success or lack of it by homesteaders.

Most of the homesteaders up to 1890 settled in the area east of the 100th meridian where the soil and climatic conditions were better for 160-acre farms. During these early years of the Homestead Act, settlers encountered few difficulties in meeting the residency requirements of the Act and making a satisfactory living from the 160-acre limitation and as a result there were few important changes in the law.

It was only after 1890 when the majority of the homesteads were patented west of the 100th meridian that dif-

iculties developed which demanded major revisions of the original Act. Climatic and soil conditions in that region once called "the Great American Desert" were not always suited to 160-acre farms. Often the agrarians needed more land and special considerations had to be written into the law for cattle ranchers.

#### THE LAW IN OPERATION 1863-1904

In June 1866, Congress set aside all public land in Alabama, Arkansas, Mississippi, Louisiana, and Florida for homestead entry only. These States had limited quantities of public land and as a result it was determined that the remaining acreage should be reserved for homesteading rather than disposed of by lease or sale.<sup>47</sup>

In 1871, Congress amended the law to allow preferential rights to veterans making homestead applications.<sup>48</sup> Prior to the passage of the Homestead Act, Congress rewarded veterans for service to the Nation through military free land bounties. The revisions of the Homestead Act favoring veterans made it simple for them to comply with the homestead residency requirements, by reducing the amount of time before final patents could be obtained.

At various times, particularly during periods of drought, flood, or depression, Congress made special provisions for settlers who were in danger of losing their homesteads. Such was the case in 1874 when Congress allowed settlers in Minnesota and Iowa temporarily to waive the residence requirement because of the drought conditions.<sup>49</sup>

While the revisions of the Act of 1862 were few and generally of a minor nature before 1900, there was a growing tempo of suggestions and recommendations for revisions of the law. The Annual Reports of the Commissioners of the General Land Office illustrate this trend.

In 1877, Commissioner James Williamson of the General Land Office told the Congress "a prudent writer might be expected to approach the subject of any change in these laws with a diffidence if not with fear." The Commissioner without heeding his own warning then proceeded to note the need for land classification and the reservation of certain land from homestead entry. "I recommend", the Commissioner said, "that the homestead and preemption laws be so amended as to be applicable only to arable agricultural lands, and in no case to land chiefly valuable for the timber growing upon it."<sup>50</sup>

One year later in a report to the Secretary of the

Interior, J. W. Powell of the Geological Survey who had made a thorough study of the arid lands of the United States, suggested legislation allowing special regulations for homesteads on arid and semi-arid lands. He reported, "the homestead and preemption methods are inadequate to meet these conditions". He suggested that a farm unit should be increased to not less than 2,526 acres and in so doing made it clear the homestead principle of 160 acres was not practically suited to semi-arid regions.<sup>51</sup>

In 1883, Commissioner Noah McFarland made a far reaching, if not entirely successful, recommendation to the Congress. He noted that the law allowed settlers on unsurveyed land who maintained a residence for five years to make entry and give notice of final proof simultaneously after survey. "Parties who desire to obtain large quantities of land", the Commissioner reported, "employ men to make entry on newly surveyed land alleging residence long anterior to entry."<sup>52</sup> He suggested that a period of not less than six months, after a settlement claim had been placed on record, be required before final proof could be admitted irrespective of alleged time of residence.

Then in 1885, Commissioner William Sparks suggested the commutation clause of the Homestead Act be abolished,

claiming it was “more advantageous to corporations and large operators in coal, timber and water entries ...” The commutation clause of the Act allowed settlers six months after filing homestead applications, to pay the regular price for the land. Sparks in condemning the clause said, “I think it has seldom or never been reported upon examination that an original settler has been found living on a six-months commuted homestead claim”.<sup>53</sup>

The demands for revision of the 1862 Act were not, of course, limited to the Commissioners of the General Land Office. Various groups and members of Congress were taking a close look and in so doing saw weaknesses in the law. The Commissioner’s recommendations are cited to illustrate the trend developing, particularly after 1880.



## 10.



The recommendations for revisions of the Act were considered theoretical, if considered at all, by the thousands and thousands of people moving westward to a homestead. This indifference on the part of the homesteaders was possible because there still was sufficient “good” farming land available during the last half of the nineteenth century. They had not yet encountered the radically different conditions beyond the 100th meridian.

In 1868, Michigan had 485 final entries for a total of 61,403 acres of land. Minnesota had 913 final entrymen who claimed over 113 thousand acres. The total final entries for that year were 2,772 for 355 thousand acres. Ten years later there were 22,469 final entries for 2.6

million acres. Minnesota alone had as many entries in 1878 as the whole Nation had in 1868. People were rushing westward to establish a homestead. In the first 15 years of operation, nearly 18 million acres had been claimed with a minimum of difficulty.<sup>54</sup>

The effect of the Homestead Act upon the activity of the General Land Office after the first few years was tremendous. The workload doubled, then tripled, then became staggering. The number of land offices increased tremendously between 1862 and 1900. The budget for the Commissioner's Office in Washington in 1870 was \$178,000. He had 136 employees, and 77 District Land Offices spread across the Nation. In 1900, the budget was in excess of \$500,000, there were 451 employees, and 120 District Land Offices.<sup>55</sup> It was during this period that new meaning was given to the phrase "doing a land office business".

The full realization that the Homestead Act of 1862 could not meet all the soil and climatic conditions of the country in the same manner was graphically illustrated as homesteaders poured into the semi-arid regions. They found it difficult to exist in this region where rainfall was erratic, soil conditions sometimes poor, and 160 acres insufficient for a profitable farm operation.

It was the immigration into the Dakotas, Montana, Wyoming, and other parts of the Great Plains States that the homestead law ran into trouble.

The many shortcomings of the Act, in these semi-arid regions, brought about major revisions of the law.

The revisions were proposed to make the Homestead Act conform to the needs of the time and the land offered. If there was a mistake in the Homestead Act, it was that no one law could fill all conditions in the United States.

#### THE HOMESTEAD ACT AFTER 1900 *The Kinkaid Act*

In 1904, the so-called Kinkaid Act passed Congress. It was passed specifically for western Nebraska and allowed entry on 640 acres in that semi-arid region. The Act was designed to meet the localized situation in the Nebraska sand hills by allowing entry on 640 acres of land in this region where production was jeopardized by marginal rainfall and substandard soil. In addition to allowing entry on 640 acres, the Kinkaid Act substituted the cultivation improvement section of the original Act for a clause that allowed improvements of \$1.25 per acre.<sup>56</sup>

This law was generally thought of as an experiment, being the first major revision of the 1862 Act. Population statistics for the 31 counties, stipulated for entry indicate that the Kinkaid Act was reasonably successful. The population of the 31 county area was 107,000 in 1900 while ten years later it had increased over 50%.<sup>57</sup> While it was called an experiment by the General Land Office, many western representatives in Congress asked that the Kinkaid concept be extended to other States and Territories.

In the Congress following the passage of the Kinkaid Act, Congressman Dixon of Montana asked that 640 acre homesteads be permitted in his State.<sup>58</sup> The proposal to extend the Act to South Dakota won popular support in both the Senate and House Public Land Committees. The measure was eventually brought to a vote and passed by the House of Representatives. The measure, however, failed to pass the Senate.<sup>59</sup>

Over the years after Dixon first introduced the extension idea, numerous attempts were made to push legislation through Congress, but without success.

Then in 1908, Senators Dixon of Montana and Reed Smoot of Utah introduced legislation for an Enlarged Homestead. It passed the Senate, but then failed in the House. Smoot and Dixon laid the ground work for the passage of the

Enlarged Homestead Act the next year, February 19, 1909.

### *The Enlarged Homestead Act*

The Enlarged Homestead Act as passed applied to the States of Montana, Wyoming, Colorado, New Mexico, Arizona, Utah, and Nevada. It allowed entry on 320 acres half that allowed under the Kinkaid Act. The land subject to entry could not be "susceptible to irrigation at a reasonable cost." Under the provisions of the Act is reintroduced the cultivation principle as set down in the 1862 Act, but omitted in the Kinkaid legislation.

The new law also allowed settlers who had previously claimed 160 acres under the original Act to make application for a 320 acre homestead under the provisions of the Enlarged Act.<sup>60</sup>

### *The Three Year Homestead Act*

Another significant revision of the original Act was made when Congress passed the Three Year Homestead Act in 1912. In this legislation, Congress amended the law to allow homesteaders to make final application for title or patent in three rather than five years. It permitted the homesteader to obtain final entry after seven months



residence each year for three years, or a total of 21 months instead of the 30 months required in the original Act.<sup>61</sup> It was a particularly important law because the Homestead Act, seemingly on the wane and less adaptable to the remaining lands, was made more attractive to settlers. It also practically eliminated the need for the commutation, thus solving that long standing problem. It, along with the Kinkaid Act and the Enlarged Homestead Act, greatly accelerated homestead applications. From 1904 up to the passage of the Stockraising Act in 1916, more than 67 million acres were claimed by over 400 thousand homesteaders.

#### *Stock Raising Homestead Act*

In 1916, the Stock-Raising Homestead Act was passed. The Commissioner of the General Land Office called it "Probably the most important and far reaching land legislation that has been enacted for many years ..." In praising the legislation, the Commissioner outlined its general provisions. He noted:

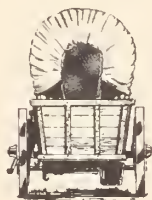
"Briefly, the law provides for a 640-acre stock-raising homestead on lands theretofore designated by the Secretary of the Interior as chiefly valuable for grazing and raising forage crops, do not contain merchantable timber, are not susceptible of irriga-

tion from any known source of water supply, and are of such character that 640 acres are reasonably required for the support of a family ... residence and a habitable house are required the same as any other homestead, but permanent improvements to the value of \$1.25 per acre are required in lieu of cultivation. The Act provides for additional entries of land contiguous to the original up to 640 acres for both provided both consist of designated lands; such additional entries may be made before or after patent on the original. The Act also provides for a second entry within 20 miles from the original, the area of both entries not to exceed 640 acres, and if insufficient land of the required character is available adjoining or within 20 miles of the original entry same may be relinquished or reconveyed to the Government and a new entry made in the same and district. The Act further provides for preference rights to enter the lands adjoining by those who already have entries of less than 640 acres of designated lands."<sup>62</sup>

The Stockraising Homestead Law was the last of the major revisions of the 1862 Act. For a few short years after 1916, as a result of the four acts passed in the 20th century, Homestead final entries averaged 32,000 per year and the number of acres approximately 8 million annually.

With the advent of the 1920's entries started dropping off considerably until in 1934, when the Taylor Grazing Act established a land classification system. One year later, as a result of the classification section of the Taylor Grazing Act, a Presidential Order temporarily stopped indiscriminate homesteading until the public lands could be classified according to the widest and best possible use. After that date, the number of entries was insignificant in comparison to earlier figures.

After the second World War, there was considerable interest in homesteading in Alaska. This region appeared to be a new frontier to settlers anxious to establish a homestead. Unfortunately, many who made homestead applications in Alaska found the cost of "proving up" the land was often prohibitive. The numerous difficulties encountered by settlers in Alaska has made any widescale application of the law impossible in that State.



## SUMMARY

The Homestead Law was often riddled with fraud, evasions and numerous other infractions. Likewise, it did not conveniently apply to the regions west of the 100th meridian in the same manner in which it did east of that line. The semi-arid regions of the Great Plains bear the scars of thousands upon thousands of homesteaders who never received title to their claims. The revisions of the law in the Kinkaid Act, the Three Year Homestead, and the Stockraising Homestead Act never completely answered the needs of the farmer or cattleman in many semi-arid regions.

Quite obviously, a law allowing free land appealed to the experienced and inexperienced alike and as a result the drive for a piece of free land brought to the semi-arid regions thousands not equipped to survive the climate, soil and erratic market conditions.

Nevertheless, in any final evaluation of the Homestead Acts one cannot ignore the significant basic fact that by its provisions 1.6 million Americans were able to obtain and receive title to 270.2 million acres of free land.

The day of the covered wagon with water barrel, of the enterprising pioneer and his family searching for a home in Lincoln's "wild lands" is indeed gone forever, except in the pages of American History. Indeed for all practical purposes homesteading is a thing of the past on our public lands.

William Jennings Bryan, in his "The Victories of

Peace" address in Beatrice, Nebraska, in 1907 gave one of the most meaningful tributes ever paid to the homesteaders when he said:

"The pioneers endured hardships and made their homes on the lonely prairie. They were men and women who gave the world more than they took from it."





## Footnotes

<sup>1</sup> Paul Ford (ed.), *The Works of Thomas Jefferson*. (New York: Putnam and Sons, 1904–1905) Vol. II, pp. 239–240

<sup>2</sup> Clarence Carter (ed.), *Territorial Papers of the United States*, (Washington: Government Printing Office, 1937), Vol. II, pp. 590 and 630

<sup>3</sup> *Ibid.*, V, 83–84

<sup>4</sup> *Public Land, Act of Congress Respecting Sale and Disposition of Public Lands*, Vol. VI, p. 623. Hereafter cited *Public Lands*.

<sup>5</sup> Carter, *Territorial Papers*, II.

<sup>6</sup> *Congressional Globe*, 26th Congress, 2nd Session (Appendix) p. 52 et seq

<sup>7</sup> Thomas Hart Benton, *Thirty Years View*, (New York: Appleton Company 1863), Vol. I, pp. 102–104. Hereafter cited Benton *Thirty Years*.

<sup>8</sup> *Congressional Globe*, 19th Congress, 1st session, p. 730

<sup>9</sup> *Annals of Congress*, 20th Congress, 1st session, p. 23 et seq

<sup>10</sup> *Ibid.*, p. 483 et seq

<sup>11</sup> *Public Lands*, IV, pp. 694–695

<sup>12</sup> *Ibid.*, V, p. 447–449

<sup>13</sup> James Richardson, *Messages and Papers of the Presidents*, (Washington: Government Printing Office, (896) Vol. II, p. 601 et seq

<sup>14</sup> *Register of Debates*, 22nd Congress, 1st Session, p. 477

<sup>15</sup> Harris, *American Labor*, (New Haven: Yale University Press, 1947), p. 49

<sup>16</sup> U. S., 5 *Statute* 502

<sup>17</sup> Benton, *Thirty Years*, II, p. 170

<sup>18</sup> U. S., 5 *Statute* 502

<sup>19</sup> *Ibid*

<sup>20</sup> There were only minor differences in the various Donation Acts. See Statutes-at-Large.

<sup>21</sup> *Annual Report* General Land Office, 1845

<sup>22</sup> *Ibid.*, 1847

<sup>23</sup> *Ibid.*, 1849, p. 32

<sup>24</sup> *Congressional Globe*, 28th Congress, 1st session, p. 103

<sup>25</sup> *Ibid.*, 28th Congress, 2nd session, p. 69 et seq

<sup>26</sup> *Ibid.*, p. 241

- <sup>27</sup> *Ibid.*, 29th Congress, 1st session, p. 573
- <sup>28</sup> *Ibid.*, p. 573
- <sup>29</sup> *Ibid.*, 31st Congress, 1st session, p. 950
- <sup>30</sup> *Ibid.*, p. 952
- <sup>31</sup> *Ibid.*, p. 952
- <sup>32</sup> *Ibid.*, 31st Congress, 2nd session (Appendix), p. 135 et seq.
- <sup>33</sup> *Ibid.*, 32nd Congress, 1st session, p. 428
- <sup>34</sup> U. S., 10 *Statute* 574
- <sup>35</sup> *Congressional Globe*, 35th Congress, 1st session, p. 2426
- <sup>36</sup> *Ibid.*, 35th Congress, 2nd session, pp. 725-727
- <sup>37</sup> *Ibid.*, 36th Congress, 1st session, p. 502
- <sup>38</sup> *Ibid.*, p. 1649
- <sup>39</sup> *Ibid.*, p. 2043
- <sup>40</sup> Richardson, *Messages and Papers of Presidents*, V, p. 608 et seq.
- <sup>41</sup> *Congressional Globe*, 37th Congress, 2nd session, p. 376-377
- <sup>42</sup> *Ibid.*, p. 1951
- <sup>43</sup> U. S., 12 *Statute* 392
- <sup>45</sup> U. S. *Census Report*, 1900
- <sup>46</sup> Walter P. Webb, *The Great Plains* (Boston: Ginn and Company, 1931), p. 270

- <sup>47</sup> *Annual Report*, General Land Office, 1867
- <sup>48</sup> *Ibid.*, 1871
- <sup>49</sup> *Ibid.*, 1875
- <sup>50</sup> *Ibid.*, 1877
- <sup>51</sup> J. W. Powell, *Report on the Lands of Arid Regions* (Washington: Government Printing Office, 1879) p. 23-24
- <sup>52</sup> *General Land Office Report*, 1883
- <sup>53</sup> *Ibid.*, 1885
- <sup>54</sup> Bureau of Land Management "Homesteads", 1962
- <sup>55</sup> *General Land Office Reports*, 1870 and 1900
- <sup>56</sup> U. S., 33 *Statute* 547
- <sup>57</sup> U. S. *Census Reports*, 1900 and 1910
- <sup>58</sup> *Congressional Record*, 58th Congress, 3rd session, pp. 48, 1499
- <sup>59</sup> *Ibid.*, p. 3774
- <sup>60</sup> U. S., 35 *Statute* 539
- <sup>61</sup> U. S., 37 *Statute* 123
- <sup>62</sup> *General Land Office Report*, 1917

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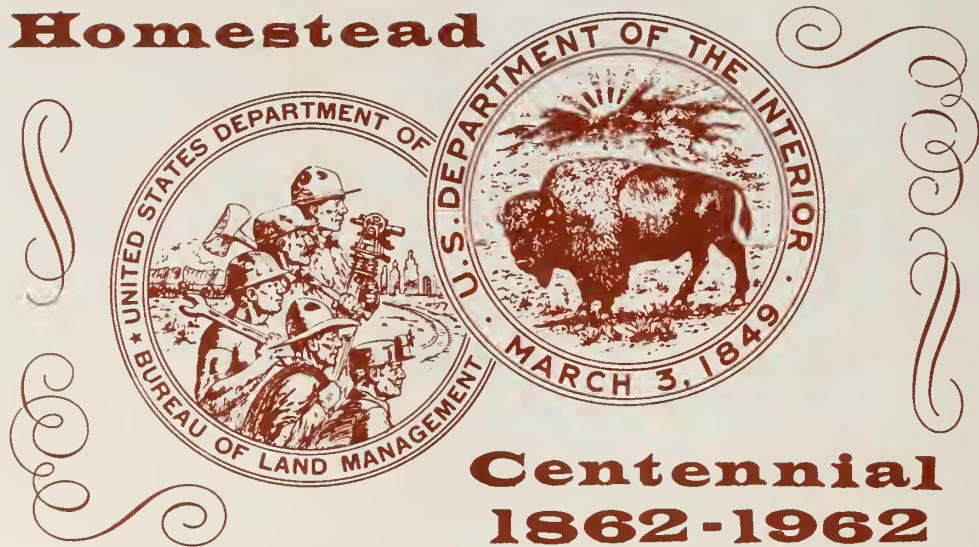
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