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"FREE HOMES FOR FREE MEN":
A POLITICAL HISTORY OF THE HOMESTEAD ACT, 1774-1863

by

Benjamin Todd Arrington

A DISSERTATION

Presented to the Faculty of
The Graduate College of the University of Nebraska
In Partial Fulfillment of Requirements
For the Degree of Doctor of Philosophy

Major: History

Under the Supervision of Professor Lloyd E. Ambrosius

Lincoln, Nebraska

March, 2012

"FREE HOMES FOR FREE MEN":
A POLITICAL HISTORY OF THE HOMESTEAD ACT, 1774-1863

Benjamin Todd Arrington, Ph.D.

University of Nebraska, 2012

Adviser: Lloyd E. Ambrosius

Focusing on national politics and America's long road to civil war, this dissertation presents a history of the "free land" idea that culminated with the passage of the Homestead Act of 1862. Using primary sources such as the published papers of notable political figures and records of congressional debates, this work presents the full political history of homesteading from before the Revolutionary War to its ultimate approval during the Civil War.

Politicians debated how best to use and distribute public lands for decades before the Civil War. While many took inspiration from Thomas Jefferson and called for the government to provide small tracts of land to settlers for free, others remained convinced that sales of public lands should be used to grow the national treasury. Beginning with the Missouri Compromise in 1820, debates about land distribution reflected the nation's growing sectional tensions. Southerners came to gradually oppose any form of free land distribution as threatening to the expansion and survival of slavery.

After the Kansas-Nebraska Act of 1854, advocates of free land distribution were among the earliest adherents to the new Republican Party. The homesteading idea was critical to providing cohesion within the new party at a time when many Republicans held differing opinions on how best to confront the South on slavery expansion.

This dissertation argues that the homesteading idea was a much more important national political issue than historians have heretofore expressed. It was a critical element to debates about the expansion of slavery into the West decades before the Civil War and, therefore, stands as an important issue that contributed more to the coming of that conflict than most historians have recognized.

By tracing the idea's earliest expressions by Jefferson to its ultimate approval by a Republican-dominated Congress and president during the Civil War, this work provides a comprehensive history of the Homestead Act's genesis, development, and impact on a century of American politics and life.

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DEDICATION

For Kristy, Natalie, and Nicholas, who deserve so much more.

ACKNOWLEDGEMENTS

Many professors, friends, mentors, colleagues, and family members deserve to have their names on this dissertation just as much as I do—and probably more. This work would never have been completed without the guidance and input of more people than I can mention or recall.

I must first thank my University of Nebraska-Lincoln doctoral committee members: Professors James D. LeSueur, Peter Maslowski, Elizabeth Theiss-Morse, and Kenneth J. Winkle. Their assistance and suggestions have been invaluable.

Special thanks must also be extended to my academic advisor, Professor Lloyd E. Ambrosius, who provided wonderful counsel and support through my long student career at the University of Nebraska-Lincoln.

Numerous scholars generously responded to my e-mails and phone calls with excellent suggestions about sources and the direction of my research. John Craig Hammond, Mark A. Lause, Matthew Mason, Richard Edwards, and James D. Muhn were very helpful. Heather Cox Richardson became a trusted friend and advisor.

I have many wonderful colleagues and friends in the National Park Service that merit special thanks, including Tom Richter, Don Stevens, Sherda Williams, Merrith Baughman, Denise Germann, Carol Hegeman, John Matzko, and others. No one in my

professional career, however, has had a more profound influence than Mark Engler, Superintendent of Homestead National Monument of America (and University of Nebraska alum). Mark encouraged my academic interests from the moment he hired me in 1999 and generously provided me the time, resources, and support I needed to balance a career, a young family, and graduate school. He was the first to suggest to me that a study like this was necessary.

I thank my parents, William H. and Carmen P. Arrington, for their bottomless well of love, support, and understanding. They encouraged me to pursue my interest in history when I was a teenager, and I hope they feel that doing so has paid at least a few dividends.

Finally and most importantly, I express my most heartfelt thanks to my wife Kristy and our children, Natalie and Nicholas. They have endured far more than they should have during the time I have pursued this degree. They have given me love, laughter, encouragement, and everything to live for. I do not deserve them, but I am thankful for them every day. It is an honor to dedicate this work to them.

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INTRODUCTION

In 1997, the now-defunct political magazine *George* published an article listing what it viewed as the ten most important legislative acts in American history. Landmark laws such as the 1964 Civil Rights Act and the G.I. Bill claimed spots on the list, as did the enactment of Social Security and the creation of the interstate highway system.

The Homestead Act of 1862 landed at number three on this list, beaten out only by the Louisiana Purchase and the Kansas-Nebraska Act.¹ This seems an appropriate place for the Homestead Act to fall on such a ranking. The United States first acquired much of the land eventually opened to settlement via the Homestead Act in the 1803 Louisiana Purchase, which more than doubled the size of the nation and claimed most of the today's Midwest as American territory.

Like the Homestead Act, the Kansas-Nebraska Act was not intended to be controversial. Rather, it merely sought to establish and administratively organize the two territories of Nebraska and Kansas. Only when Senator Stephen Douglas of Illinois inserted a measure calling for

¹ Steven M. Gillon, "Top Ten Legislative Landmarks in U.S. History." *George*, December 1997, pp. 48-50.

popular sovereignty on the slavery issue into the Kansas-Nebraska Act—thereby negating the 1820 Missouri Compromise—did it become a major event on the road to the Civil War.

Kansas and Nebraska both later saw huge numbers of homesteading settlers emigrate and settle within their borders. More importantly, however, the Homestead Act, like the Kansas-Nebraska bill before it, became politicized as North and South marched toward war. Southerners who might otherwise care little about western settlement under the Homestead Act instead came to vehemently oppose it, seeing it as nothing more than a Northern plot to populate the western territories with free soil settlers and prevent the expansion and survival of slavery. Concurrently, Northerners far removed from the West who might otherwise care little for that region's settlement and concerns came to view homesteading as a critical measure that would provide genuine opportunity to the homesteader while limiting the South's chances to expand slavery.

The provisions of the Homestead Act were relatively simple. The law offered a qualified settler the opportunity to select a piece of public land up to 160 acres in size, though claims in some prime areas were limited to 80 acres. Once selected, the prospective homesteader paid minimal administrative costs to the

government, which usually totaled about eighteen dollars, and had to take up residence on the land within six months. At least ten acres of the land had to be placed into cultivation, and the homesteader had to stay on the property for five consecutive years. Once that time had elapsed and all legal requirements of the Homestead Act were met to the government's satisfaction, title to the property was permanently transferred to the homesteader.

How and why did a relatively straightforward bill aimed at settling the nation's vast interior become political fodder for both pro- and anti-slavery forces in the years preceding the Civil War? What role did the homesteading idea play in the creation of the Republican Party and, eventually, the coming of the Civil War? These are the questions this work seeks to answer. There is no question that issues surrounding the Homestead Act played a major role in the political debates leading up to the Civil War. Most historians, however, have treated the Homestead Act as a minor sideshow to the main act of arguments about slavery. While I do not go so far as to ridiculously argue that the Civil War was actually fought over homesteading, I do propose to demonstrate that issues of land settlement, expansion, and homesteading played much larger roles in the conversations leading up to the conflict than has

previously been considered. Hence, the *George* ranking of legislative acts may very well have gotten it right. The Louisiana Purchase acquired the vast middle of the continent for the United States; the Kansas-Nebraska Act brought to the forefront the debate over whether that vast middle would be settled as free or slave territory; and the Homestead Act provided the means by which much of it was eventually settled. This work, while focused on homesteading, necessarily deals with all three acts (and many others) and demonstrates just how closely related they are. Earlier ideas and debates about various land distribution ideas are examined as well, including: cash sales; credit sales; graduation (reducing prices of public lands available to settlers based on quality); preemption (allowing so-called "squatter's rights" for those living on lands with no legal title to purchase the land outright in order to prevent anyone else from making a claim on it); and others.

The Homestead Act was also a critically important issue to the fledgling Republican Party in the 1850s and early 1860s, and I examine this aspect of the Act's history as well. Of course, this is directly related to the coming of the Civil War. As more abolitionists joined the

Republicans' ranks, more Southerners came to oppose homesteading on principle alone—guilt by association with Republicans, if you will. Early Republicans consisted of abolitionists, disaffected Whigs and Democrats, former Know-Nothings, and the castoffs of other regional parties. Homesteading, even more so than outright abolition of slavery, was one issue on which most of them agreed from the beginning. Therefore, the homesteading idea was an important one for cementing cohesion among the first Republicans.

Later, the Homestead Act became a central piece in a series of western bills Republicans rammed through Congress during the war while no Southerners were present to object. This represented Republicans taking full advantage of a prime opportunity to pass what the party viewed as important legislation, and the homestead bill was a critical law that Republicans used to determine the future of the West and the nation as a whole. Republicans used homesteading, a transcontinental railroad, new taxes, national banking, and other radical ideas to completely change the nation's financial system, settlement patterns, commerce, economy, and social structure. In fact, the Homestead Act represented a foundational piece of a

legislative agenda that had as much impact as the New Deal nearly seventy years later.

Modern politicians of both major parties are quick to claim themselves as the rightful heirs to the political traditions of such luminaries as Thomas Jefferson and Abraham Lincoln. In fact, many credit Jefferson with developing the idea that eventually morphed into the Homestead Act. The so-called "Jeffersonian ideal" hoped for America to forever remain a nation of small, independent farmers, tied to the land and personally invested in democracy's success. Later, Lincoln and his Republican colleagues saw the Homestead Act as a means by which to provide genuine opportunity to the masses while accomplishing the political goals of keeping slavery out of the West and determining the future settlement and economic success of that region.

The Homestead Act not only affected national politics, but also initiated great changes to American society. Homesteading was used to provide new levels of opportunity to many not accustomed to it. Women, still unable to own land in their own names in many parts of the country, were free to claim and own homesteads. After the Civil War and the passage of the Fourteenth Amendment making African

Americans citizens, thousands of former slaves and free blacks went west to seek homesteads. Immigrants from most areas of the world were welcomed and free to make claims.

One aspect of homesteading history that I do not examine but that is of great importance is the effect this law had on American Indian populations and cultures. I have deliberately chosen not to look at this only because my study ends with the passage of the Homestead Act. The impacts of the law on natives were, of course, not known until many years after my study ends. However, it is critical to understand that while homesteading offered great opportunity to many, it represented more land and cultural loss for American Indians. Indian displacement and removal had, of course, been occurring for decades before the homestead bill was passed, but there is no question that the Homestead Act represented yet another in a long line of acts that served to further remove natives from their ancestral homes and, eventually, force them onto reservations. Anyone wanting more information on this aspect of homesteading history can choose from a number of excellent studies, including David J. Wishart's *An Unspeakable Sadness: The Dispossession of the Nebraska Indians* (University of Nebraska Press, 1995) and Richard White's *"It's Your Misfortune and None of My Own": A New*

History of the American West (University of Oklahoma Press, 1991). David A. Nichols's *Lincoln and the Indians: Civil War Policy and Politics* (University of Illinois Press, 1978) provides a critical assessment of Abraham Lincoln's and the Republican Party's attitudes toward natives and the federal government's actions toward them during Lincoln's presidency.

What follows is a history of the so-called "free land" idea, from its earliest beginnings in the mind of Thomas Jefferson to its ultimate success a century later through the pen of Abraham Lincoln. The homesteading idea changed and evolved over time, just as the nation and its politics changed. This work seeks to explain how the homesteading idea first developed and why it remained in the forefront of so many peoples' thoughts and hopes for so long. It also hopes to demonstrate that debate over the Homestead Act was a much more important political issue in the years leading up to the Civil War than historians have previously understood or explained.

CHAPTER ONE
JEFFERSONIAN BEGINNINGS: ACQUIRING AND ORGANIZING THE
PUBLIC DOMAIN

In July 1774, thirty-one-year-old Thomas Jefferson, a member of the Virginia House of Burgesses, published a pamphlet outlining American colonists' grievances against the British crown. He titled it *A Summary View of the Rights of British America, Set Forth in Some Resolutions Intended for the Inspection of the Present Delegates of the People of Virginia, Now in Convention*. It came to be known simply as *A Summary View of the Rights of British America*, and it was the young Jefferson's first real encounter with the political fame he would maintain for the rest of his life and beyond. The Declaration of Independence would come two years later, but many of the ideas articulated in that more famous document first flowed from Jefferson's pen—and subsequently took hold in the minds of many of his countrymen—in the *Summary View*.

Amidst the complaints of various British monarchs having interfered with the Americans' seaborne trade, suspended colonial legislatures, and levied unreasonable duties on paper and tea, Jefferson included this statement:

The abolition of domestic slavery is the great object of desire in those colonies where it was unhappily introduced in their infant state. But previous to the

infranchisement of the slaves we have, it is necessary to exclude all further importations from Africa. Yet our repeated attempts to affect this by prohibitions, and by imposing duties which might amount to a prohibition, have been hitherto defeated by his majesty's negative: thus preferring the immediate advantages of a few British corsairs to the lasting interests of the American states, and to the rights of human nature deeply wounded by this infamous practice.²

Here Jefferson first articulated an argument not only against American slavery but also the African slave trade. Jefferson was, of course, a slaveowner, but it seems clear that even at this early stage of his public career he worried about the long-term political effect the institution would have upon his country.

Jefferson also expressed a worry that the crown was making it nearly impossible for American colonists to acquire new lands. He offered a brief history of the feudal system in Britain, then commented that the king's policies made acquiring lands "difficult." Jefferson wrote that, "It is time...for us to lay this matter before his majesty, and to declare that he has no right to grant lands of himself...Each individual of the society may appropriate to himself such lands he finds vacant, and occupancy will give him title" if that society's elected

² Thomas Jefferson, "A Summary View of the Rights of British America", in Julian P. Boyd, editor, *The Papers of Thomas Jefferson, Volume I: 1760-1776*. Princeton: Princeton University Press, 1950, p. 130.

representatives had not allotted the land in any other manner.³

Within the relatively brief *Summary View*, Thomas Jefferson outlined two major controversies that came to dominate the United States for nearly the next century: what to do about slavery, and how and to whom to distribute the lands of what became the public domain. These issues were somewhat intertwined from the nation's earliest days, and they grew more so as the years progressed. Jefferson and the next few generations of American political leaders alternatively argued about, ignored, and compromised over these issues until the Civil War of 1861-65. When the dust settled at the conclusion of that traumatic event, legislation was in place that theoretically solved both issues.

As evidenced in Jefferson's *Summary View*, American colonists considered land issues at least somewhat important in their dispute with King George III. The first shots of the American Revolution occurred nine months after the publication of the pamphlet and continued for the next eight years. In addition to the many writings Jefferson produced during the war articulating the colonists'

³ *Ibid.*, p. 133.

argument for independence, Adam Smith's *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776) also influenced colonial thought on the need to break from England. Smith addressed several land issues in his work, writing that, "In a fertile soil and happy climate, the great abundance and cheapness of land, a circumstance common to all new colonies, is, it seems, so great an advantage, as to compensate many defects in civil government."⁴ Many colonists looked at the seemingly unlimited vastness of North America and felt sure that a new nation could survive on the basis of "the great abundance and cheapness of land" alone. Others, including Jefferson, were confident that they could also establish a functional civil government that would guarantee individual rights, including ownership of land. In Jefferson's mind, such ownership was essential in order to create a nation of small, independent agrarians.

Like many of his cotemporaries, Jefferson was born into farming, and it was the pursuit he claimed to love above all others. "No occupation is so delightful to me as the culture of the earth," he wrote in 1811.⁵ Though he lived most of his life on plantations where slaves

⁴ Adam Smith, *The Wealth of Nations, Books I-III*, edited by Andrew S. Skinner. New York: Penguin Classics, 1986, p. 308.

⁵ Thomas Jefferson to Charles Willson Peale, August 20, 1811, quoted in A. Whitney Griswold, *Farming and Democracy*. New York: Harcourt, Brace and Company, 1948, p. 24.

performed the actual farming labor, Jefferson took a keen interest in such subjects as adapting foreign crops, livestock breeding, and agricultural technology. Later in life, he insisted on the inclusion of scientific agriculture in the curriculum at the University of Virginia, a school he founded and designed.⁶

Jefferson's interest in agriculture was not merely reflective of his personal enjoyment of it. He also strongly believed that the United States must remain an agriculturally-based society and economy. During most of Jefferson's life, approximately ninety percent of Americans farmed for a living; "To champion the people, therefore, was to champion agriculture, a political theorem no politician could deny."⁷ The common man in America during the colonial and early national periods worked the soil. Though he fancied himself a farmer, Jefferson was no common man: he was born into the Virginia aristocracy, had a college education and legal training, and owned slaves. But he saw the political and economic potential for a nation with a seemingly unlimited supply of tillable land,

⁶ Griswold, *Farming and Democracy*, pp. 24-25.

⁷ *Ibid.*, p. 25.

"...room enough for our descendants to the thousandth and thousandth generation."⁸

Many early political figures, including several of Jefferson's fellow Virginians, sought to sell unsettled land in order to raise revenue for the national government. This was especially true during the Revolution and immediately after it, when leaders recognized the crushing debt the nation incurred to shake off British rule. Even in this early period, however, Jefferson expressed his opposition to selling land to settlers. On August 13, 1776, he wrote from Philadelphia to Edmund Pendleton:

I am against selling the lands at all. The people who will migrate to the Westward whether they form part of the old, or of a new colony will be subject to their proportion of the Continental debt then unpaid. They ought not be subject to more. They will be a people little able to pay taxes. There is no equity in fixing upon them the whole burthen of this war, or any other proportion than we bear ourselves. 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.⁹

Economic issues must certainly be recognized when considering Jefferson's idolization of the small farmer. As the American Revolution approached, Jefferson and the entire colony of Virginia suffered serious economic difficulties. The widespread debt of the planter class, declining land values and tobacco prices, and the lack of

⁸ Thomas Jefferson, "First Inaugural Address, March 4, 1801," from *The Papers of Thomas Jefferson*. Princeton: Princeton University, accessible at <http://www.princeton.edu/~tjpapers/inaugural/infinal.html>.

⁹ Thomas Jefferson to Edmund Pendleton, August 13, 1776, in Boyd, ed., *The Papers of Thomas Jefferson, Volume I: 1760-1776*, p. 492.

an adequate specie supply combined to create a crisis mentality among the colony's landed aristocracy. Like many, Jefferson blamed the British colonial system for these difficulties. The English had closed off fertile western lands to American settlement, prevented Virginia from issuing paper money, and passed the Navigation Acts. These Acts gave British merchants a monopoly on the lucrative tobacco trade, which they used to force colonists to sell their crops cheaply. Combined with high prices for manufactured goods, these conditions left Virginians in perpetual debt.¹⁰

Jefferson's own lifelong struggle with debt has been well documented by historians. His own dire financial straits and those of Virginia certainly made Jefferson more open to the idea of revolting against the British. They also further convinced him of the nobility of the small farmer who owned, lived on, and tilled his own piece of ground, indebted to no one. His negative interactions with commercial agriculture made him something of an agricultural innovator, always looking for new crops, fertilizers, and equipment to make Virginian farming more

¹⁰ Richard E. Ellis, "The Political Economy of Thomas Jefferson," in Lally Weymouth, ed., *Thomas Jefferson: The Man, His World, His Influence*. New York, G.P. Putnam's Sons, 1973, p. 82.

stable and self-sufficient and less beholden to the ebbs and flows of market economics.¹¹

Jefferson served a tumultuous two years as governor of Virginia from 1779 to 1781. His election to that position was partially facilitated by his skillful leadership and eloquence in speaking about the use and future of the West during an October 1776 dispute over bills intended to divide Fincastle County, Virginia into two separate (and later three separate) counties. During this debate, according to historian Julian P. Boyd, he spoke for "...justice, for liberal land tenure, and for the use of the West for settlers and not for exploiters."¹² Boyd argued that Jefferson established a following during this debate that responded to his articulate speeches and legislative leadership, and this following helped him win the governorship three years later.

During his gubernatorial tenure, British troops invaded the state and forced Jefferson and the state government to flee the capital of Richmond. Jefferson took refuge at Monticello; redcoats eventually chased him from there as well. When his term expired, Jefferson, exhausted and stung by criticism of his actions while in office,

¹¹ *Ibid.*

¹² Boyd, ed., *The Papers of Thomas Jefferson, Volume I*, p. 569.

vowed to leave public life forever. In September 1782, his wife died following childbirth, and Jefferson descended into a deep depression. The public life he claimed to despise actually came to his rescue, and he ended up in Congress. It was also during this period that he wrote his only published book, *Notes on the State of Virginia*. Historian Merrill D. Peterson described the book as "a guide to Jefferson's mind," revealing him as a "man of science eager to possess nature for the mind, but also the man of almost romantic sensibilities enraptured by the grandeur of the American environment in his quest for useful knowledge."¹³

Notes on the State of Virginia offers a revealing glimpse into Jefferson's mind, and his thoughts on agriculture, land ownership, slavery, and political economy are on full display within its pages. The book, written in response to several inquiries from the secretary of the French legation in the then-national capital of Philadelphia, "gave voice to an incipient American nationalism" and "ensured Jefferson a scientific and literary reputation on both sides of the Atlantic."¹⁴ It also proved to be another forum for him to extol the

¹³ Peterson, ed., *The Portable Thomas Jefferson*, p. xxiii.

¹⁴ *Ibid.*, pp. xxiii-xxiv.

virtues of agriculture and education and express suspicion of industry and manufacturing.

Jefferson made clear his affinity for agriculture and distaste for industry and manufacturing. Of course, the nation followed a different path over the next two or three decades, and Jefferson eventually qualified these statements and slightly softened his stance on international commerce. However, he clearly had grand, if unrealistic, expectations for the agricultural potential of his fledgling nation and its citizens. He maintained this vision into his presidency, when he made the Louisiana Purchase and fully expected no one but small farmers to inhabit the more than 800,000 square miles bought from Napoleon.

In response to Query XIV, "The administration of justice and description of the laws,?" Jefferson sounded off on slavery, stating that "The improvement of the blacks in body and mind...has been observed by every one, and proves that their inferiority is not the effect merely of their condition of life...The opinion, that they are inferior in the faculties of reason and imagination must be hazarded with great diffidence."¹⁵

¹⁵ Thomas Jefferson, *Notes on the State of Virginia*, p. 269. Charlottesville: University of Virginia Library Electronic Text Center, accessible at <http://etext.virginia.edu/toc/modeng/public/JefVirg.html>.

Jefferson's comments must be taken with the proverbial grain of salt since he was, after all, a slaveowner his entire life and, as modern evidence suggests, may have engaged in sexual relations with at least one of his female slaves. However, his comments here, relatively early in his career, demonstrate again that he did not wholly subscribe to the theory of blacks' absolute inferiority despite their "condition of life" (slavery)—though he does offer "mixture with the whites" as the reason for blacks' "improvement." Jefferson here also seems to have presciently described the slavery issue's major role in the onset of party politics in his statement that "...many other circumstances will divide us into parties." No one suffered more at the hands of party-affiliated politicians—or played their game better—than Thomas Jefferson. Lastly, in his opinion that freed blacks cannot be "retained and incorporated into the state," Jefferson appears to endorse the idea of colonizing blacks outside the United States.¹⁶ This controversial plan for simultaneously ending slavery and removing blacks from American soil claimed a number of influential advocates from Jefferson's age to the Civil War. Abraham Lincoln once endorsed the idea on the basis that free blacks had no real future in the racially-charged

¹⁶ *Ibid.*, p. 264.

atmosphere into which they would be thrown if slavery ended.

Notes on the State of Virginia allowed Thomas Jefferson to write about a number of issues important not just to his own state but to the others as well. In it, he explained his preference for agriculture over industry and rural communities over urban ones. He clearly demonstrated his famously conflicted mind on the issue of slavery—the slaveowner who claimed to despise slavery. Questions about land distribution, agriculture, and slavery persisted for nearly the next hundred years, and Jefferson's words were never far from the minds of many political figures who attempted to answer them. Though the nation eventually urbanized and industrialized rapidly and enthusiastically, the Jeffersonian vision was a powerful and important one for decades to come. As one historian noted, "The Jeffersonian type of agricultural fundamentalism has persisted...and is still frequently pressed with great vigor, particularly by writers whose idealism outweighs their knowledge of economics."¹⁷

¹⁷ Murray R. Benedict, *Farm Policies of the United States, 1790-1950: A Study of Their Origins and Development*. New York: Octagon Books, Inc., 1966, p. 4.

At the conclusion of the Revolutionary War, the new United States of America possessed massive western land tracts outside the boundaries of the thirteen states. This included the territory east of the Mississippi River, south of the Great Lakes, and north of the modern northern boundary of Florida. These territories eventually became the modern states of Ohio, Indiana, Illinois, Michigan, Wisconsin, and parts of Minnesota, Alabama, and Mississippi. These areas became what one historian called "...the nucleus of the public domain."¹⁸ A Congressional resolution passed October 10, 1780, stated that any unappropriated lands ceded by the states would be formed into new states eventually intended to join the Union. The same resolution stated that Congress would regulate granting and settling of these lands.¹⁹ This was, according to historian William Goetzmann, "...the new government's most significant power."²⁰

The existing states of Massachusetts, Connecticut, New York, Virginia, North Carolina, South Carolina, and Georgia claimed large chunks of these western lands based on language in their original colonial charters. This meant that the remaining six original states—New Hampshire, Rhode

¹⁸ Benjamin Horace Hibbard, *A History of the Public Land Policies*. New York: Peter Smith, 1939, pp. 7-8.

¹⁹ Benedict, *Farm Policies of the United States*, p. 10.

²⁰ William Goetzmann, "Savage Enough to Prefer the Woods: The Cosmopolite and the West," in Weymouth, ed., *Thomas Jefferson*, p. 108.

Island, Delaware, Pennsylvania, New Jersey, and Maryland—had no western land claims. Led by Maryland, these six states pressed that the western lands “...wrested from the common enemy by blood and treasure of the Thirteen States, should be considered as common property, subject to be parceled out by Congress into free, convenient and independent governments in such manner and at such times as the wisdom of that Assembly shall direct.”²¹ Of these six, only Pennsylvania was considered a large state, and the smaller states must surely have feared the increased power of larger states like Virginia and New York should they be permitted to retain their western claims. Maryland even refused to ratify the Articles of Confederation until the seven states with western land claims agreed to cede them to the national government. Governor Thomas Jefferson of Virginia lobbied his state’s leaders to agree to the cession so that the Articles of Confederation could pass. In a September 26, 1780 letter to George Washington, he wrote, “I am informed the ratification of the Confederation has been rested on our Cession of a part of our western

²¹ Maryland’s instructions to its Congressional delegates, December 15, 1778, quoted in William P. Cutler, “The Ordinance of July 13, 1787.” *Ohio History*, Volume I, 1887, p 30.

Claims, a cession which...I verily believe will be agreed to if the Quantity demanded be not unreasonably great."²²

On March 1, 1781, New York became the first state to cede its western claims; Maryland signed the Articles the same day after receiving assurances that the other six states would soon follow suit. They did so at various times from 1781 to 1802.²³

New York, Massachusetts, and South Carolina made unconditional cessions of their western lands. The cessions of Virginia, Connecticut, North Carolina, and Georgia had conditions placed upon them, often intended to reserve certain western areas for possible future use by the respective states or, in the case of Georgia, an attempt to have the national government pay the state for land sales in its cession. Virginia's western land were the largest and included modern Kentucky, Ohio, Indiana, Illinois, Wisconsin, Michigan, and part of Minnesota. Virginia's initial and largest cession occurred March 1, 1784; later cessions took place as well. Connecticut ceded its western claims on September 13, 1786 with a few reservations, including an attempt to hold a piece of land located in modern Pennsylvania. On February 25, 1790,

²² Thomas Jefferson to George Washington, in Boyd, ed., *The Papers of Thomas Jefferson, Volume 3*, pg. 666.

²³ Hibbard, *A History of the Public Land Policies*, p. 9.

North Carolina made its cession with reservations "...more detailed and far reaching than those made by any other state."²⁴ Modern Tennessee was eventually created from North Carolina's cession. Georgia's aforementioned cession occurred April 24, 1802.²⁵

Historian William Goetzmann gave Jefferson a great deal of credit for convincing his Virginia colleagues to agree to the western cession, arguing that Jefferson "prevented...the Balkanization of America" and guaranteeing that "the United States would be a large, potentially powerful continental nation that could not easily be divided and conquered...The undeveloped West had made this possible...The West served as the cement of Union at a critical time."²⁶

With the western cessions held as "common property," as originally demanded by Maryland, a bond developed among all the states that played a part in holding them together since the Articles of Confederation gave little real federal power to the national government. In this manner, Goetzmann's statement that the West was the "cement of Union," while perhaps somewhat overstated, does have credence. Jefferson certainly deserves some credit for

²⁴ *Ibid.*, p. 11.

²⁵ Hibbard, *A History of the Public Land Policies*, pp. 10-12.

²⁶ Goetzmann, "Savage Enough to Prefer the Woods," p. 110.

this, as do the Marylanders who demanded fair treatment in the matter of western lands in the first place.

In 1784, Congress appointed Thomas Jefferson to two separate committees dealing with western lands. "Jefferson's thoughts were never far from the West, and now, in 1784, he sought to fix its future."²⁷ The first committee was to determine the proper governmental organization of new western territories, the second to devise a method for disposal of public domain lands. Several pressing issues made the work of these committees extremely important. Revolutionary War veterans clamored for their promised land bounties; under the Articles of Confederation, Congress had no means by which to raise revenue, and selling public land was seen as a possible way to raise money; no one was sure how best to defend the Northwest from American Indians; fear existed that Kentucky and Tennessee might fall under British or Spanish commercial control; those who wished to emigrate to the West pressured the government to hurriedly organize the various territories; and more. Congress needed to act quickly but carefully.

²⁷ Merrill D. Peterson, *Thomas Jefferson and the New Nation: A Biography*. New York: Oxford University Press, 1970, p. 279.

Report of a Plan of Government for the Western Territory was written in Jefferson's hand and submitted to Congress on March 1, 1784. Following the lead of the Congressional act of October 10, 1780, Jefferson's report recommended that "...the territory ceded or to be ceded by Individual states to the United states [sic] shall be formed into distinct states."²⁸ The report recommended the creation of ten new states and suggested boundaries and even Latin-style names for them, including Michigania, Cherronesus, Illinoia, Polypotamia, and Pelisipia.

Next, the report stated that "free males of full age" in the new states should meet to establish a temporary government, adopt a temporary constitution and laws, and establish counties or townships "for the election of members for their legislature."²⁹ Such temporary governments were to continue only until 20,000 free inhabitants lived in the state, when, subject to Congressional approval, the states could call conventions to establish permanent constitutions and governments. When a new state had obtained enough free inhabitants as the least populous state of the original thirteen, the new state would have delegates admitted to Congress.

²⁸ Thomas Jefferson, "Report of a Plan of Government for the Western Territory," in Boyd, ed., *The Papers of Thomas Jefferson, Volume 6: 1781-1784*, p. 603.

²⁹ *Ibid.*, p. 608.

The legality of both the temporary and permanent governments was subject to five conditions: that the states "shall for ever remain a part of the United States of America;" the new states would always be subject "to the government of the United states [sic] in Congress assembled;" like the original thirteen states, the new ones would be responsible for their fair share of the federal debt; all new state governments "shall be in republican forms, and shall admit no person to be a citizen who holds any hereditary title;" and, lastly and most controversially, "that after the year 1800 of the Christian era, there shall be neither slavery nor involuntary servitude in any of the said states."³⁰ This last measure proved to be a sticking point, and Congress ultimately rejected the committee's report. Jefferson amended it, dropping the slavery clause and the Latinized names for the new states, and Congress adopted it on April 23, 1784.³¹ His attempt to keep slavery out of the Northwest was a precursor to the 1787 Northwest Ordinance and an early manifestation of the "empire of liberty" to which he had first referred in the Declaration of Independence.

³⁰ *Ibid.*

³¹ *Ibid.*

Jefferson presented his second committee report, focusing on proper disposal of western public lands, on May 7, 1784. It recommended that lands be surveyed before settlement, and that surveyors be appointed by Congress. The report also stated that lands should be purchased, not seized, from American Indians. The clauses in this report seemed particularly important as the Continental Army demobilized and thousands of former soldiers demanded the land bounties promised them as rewards for service. Various factors delayed the government's ability to grant these lands, including the slowness in getting them surveyed and the continued presence in many areas of American Indians hostile to encroachment. As historian Paul Wallace Gates noted, "Many veterans swarmed into the West, especially from Virginia, North Carolina, and PennsylvaniaThey rushed across the Ohio and into Kentucky and Tennessee where Indians still claimed the land and threatened to bring on renewed warfare."³²

The designers of the Articles of Confederation had tried to place Indian affairs under the purview of the national government, but the overall weakness of the document led many states to continue to deal with natives

³² Paul Wallace Gates, *History of Public Land Law Development*. Washington, D.C.: Government Printing Office, 1968, p. 59.

however they chose. The Confederation government was unable to prevent intrusions into Indian lands "...and to show at the same time both generosity and military might to the natives."³³ Indians in many areas became more and more distressed as squatters and speculators streamed into their traditional lands. In the Ohio country, the national government had already begun the long and shameful process of negotiating and then ignoring treaties with American Indians.

The continued presence of the British at Forts Oswego, Niagara, Detroit, and Mackinaw also contributed to American difficulties in dealing with natives. The British still sought domination of the fur trade and continued to supply Indians with weapons, manufactured goods, and other items in return for furs. The presence of the British and their continued alliance with many local tribes angered American settlers as well as many in the Confederation government. Eventually, the Americans realized that only a resounding defeat of the Ohio country Indians would make settlement there safe. This defeat occurred at the battle of Fallen Timbers in August 1794. The British offered the Indian forces no assistance, and soon afterward agreed to Jay's Treaty, which called for the surrender of British posts on

³³ *Ibid.*

the American frontier by June 1, 1796. With the Indians defeated and the British gone, American settlement in the Ohio country proceeded rapidly.³⁴

Jefferson's May 7, 1784 report recommended survey before settlement and combined the two major survey systems in use in the United States: the New England and Southern systems. In the New England system, used for decades before independence, residents lay out and surveyed new areas prior to settlement. They prepared plats and recorded them with colonial officials before anyone was permitted to settle. Towns were organized based on neighborhood allotments, and no one was able to claim all the best lands for himself. As the town grew, its residents shared in divisions of unappropriated land. This system worked well in New England because it promoted tight, compact communities, which benefited all by offering protection from native attacks and mutual aid during harsh winters. As historian Benjamin H. Hibbard noted, "Little republics—townships—of convenient size were organized, placing the civil and political power in the hands of those

³⁴ Gates, *History of Public Land Law Development*, pp. 60-61.

who own the country, at the same time making provision for the moral and educational wants."³⁵

The second major survey system Jefferson incorporated into his report, and the one with which he was certainly more familiar, was the Southern system. A warmer climate, fewer native attacks, and plantation agriculture resulted in much more scattered settlements in this region than in New England. Formal surveys rarely preceded settlement; land was distributed according to the location of warrants, which granted the holder the right to select his land in any unappropriated area. As a result, many settlers simply walked into the wilderness and staked their claims, often giving themselves a monopoly on a given area's best land. Of course, without surveys, claims often overlapped and many errors occurred. However, Hibbard observed, "with all its disadvantages this practice expressed the spirit of the frontiersman and, in spite of logic, persisted as an important incident, even assuming the dignity of a policy."³⁶

Jefferson's report led to the Ordinance of 1784, which was then carried over into 1785 and sent to committee. The members reported a new and updated ordinance in April 1785;

³⁵ Hibbard, *A History of the Public Land Policies*, p. 36.

³⁶ *Ibid.*, p. 37.

Congress adopted it on May 20. This was the blueprint for the rectangular survey system still in use, with the 36-36-acre section and the township as the basic units of measurement. Jefferson recommended ten-by-ten section townships, though this was later reduced to six-by-six sections. The 1785 ordinance also reserved section 16 of each township for public schools, one section for religious purposes, and sections 8, 11, 26, and 29 "for the future disposition of Congress."³⁷ Lands for settlement under this ordinance would be sold for one dollar per acre to raise money for the general treasury. Public auctions would be held to make land available before it could be sold to individuals.

In March 1785, Congress appointed Thomas Jefferson U.S. Minister to France, a position he held until 1789. Jefferson therefore missed several important debates about land policy (as well as the Constitutional Convention). However, his friends and colleagues kept him informed of important events, and Jefferson continued in his beliefs of the moral and economic virtues of agriculture. On August 23, 1785, he wrote to Secretary of Foreign Affairs John Jay, responding to a question from Jay regarding "whether

³⁷ *Ibid.*, p. 38.

it would be useful to us to carry all our own productions [meaning manufactures], or none?" Jefferson answered:

We have now lands enough to employ an infinite number of people in their cultivation. Cultivators of the earth are the most valuable citizens. They are the most vigorous, the most independant [sic], the most virtuous, and they are tied to their country and wedded to it's [sic] liberty and interests by the most lasting bands. As long therefore as they can find emploiment [sic] in this line, I would not convert them into mariners, artisans, or any thing else.³⁸

A few months later, in October 1785, he lamented the inequality of European property distribution in a letter to James Madison. He noted that the vast majority of wealth in France was concentrated in the hands of a very few and that the poor masses owned no property. His experiences in France seemed only to strengthen his conviction that America should remain a primarily agricultural economy.

"The earth is given as a common stock for man to labour [sic] and live on," he wrote Madison. "The small landholders are the most precious part of a state."³⁹ He wrote to the Frenchman Brissot de Warville on August 16, 1786 after reading an excerpt of a book Warville was writing about commerce between the United States and France. Jefferson informed de Warville that his favorite passages in the book were those in which the author proved to Americans "that they will be more virtuous, more free,

³⁸ Thomas Jefferson to John Jay, August 23, 1785, in Boyd, ed., *The Papers of Thomas Jefferson*, Vol. 8, p. 426.

³⁹ Thomas Jefferson to James Madison, October 28, 1785, in *Ibid.*, pp. 396-397.

and more happy, employed [sic] in agriculture, than as carriers or manufacturers."⁴⁰

Jefferson watched from Paris in 1787 as the Constitutional Convention met in Philadelphia and the Continental Congress revisited one of his old projects: developing a plan for governmental organization in the West. Unlike in 1784, however, when he made recommendations for the United States' entire western territory, Congress took up only the issue as it related to the Northwest. An organized government there was critical to the successful initiation of land surveys as well as to fighting American Indians angered by unfair, dishonestly negotiated treaties.

The simultaneous meetings of the Congress debating a government for the Northwest and the Constitutional Convention is interesting. Those meeting in Philadelphia originally intended only to amend the Articles of Confederation to make the central government stronger. This was particularly important for the future of the West since the weak Confederation government could do little in reality to defend and govern the Northwest Territory. However, they soon scrapped the Articles of Confederation

⁴⁰ Thomas Jefferson to Brissot de Warville, August 16, 1786, in Boyd, ed., *The Papers of Thomas Jefferson*, Vol. 10, p. 262.

completely and turned instead to drafting a new, stronger document. As historian Jack N. Rakove noted, "Only by endowing the national government with the means to act on its intention could the Federal Convention redeem the promise that the Northwest Ordinance held out."⁴¹

Jefferson's 1784 report served as a starting point for the depleted Congress, many of whose members were at the Constitutional Convention. As Rakove observed, the primary questions that needed to be answered had to do with how the Northwest territories could be fairly integrated into the United States. "Would their residents enjoy the same political rights as their countrymen closer to the Atlantic?"⁴² Yes, according to Jefferson in 1784: "...Such state shall be admitted by it's [sic] delegates into the Congress of the United states [sic], on an equal footing with the said original states."⁴³

The role of the West came up time and again during the Constitutional Convention. Many delegates argued that new western states should not be permitted to enter the Union on equal terms with the original thirteen. Gouverneur Morris of New York worried that Congressional

⁴¹Jack N. Rakove, "Ambiguous Achievement: The Northwest Ordinance," in Frederick D. Williams, ed., *The Northwest Ordinance: Essays on Its Formulation, Provisions, and Legacy*. Lansing: Michigan State University Press, 1989, p. 13.

⁴²*Ibid.*, p. 3.

⁴³Thomas Jefferson, "Report of a Plan of Government for the Western Territory," in Boyd, ed., *The Papers of Thomas Jefferson, Volume 6*, pp. 608-9.

representatives from the West would not be "equally enlightened" as those from the original eastern states and proposed a number of plans to guarantee the old states' superiority. These plans drew sharp responses from the likes of James Madison, George Mason, and others. Madison demanded to know if Morris "determined the human character by the points of the compass."⁴⁴

Madison clearly believed that the western states' allegiance to the Union could be secured by granting them equal political rights under the new Constitution. To do otherwise—to bring new states in as inferiors—risked angering and alienating them, which was unwise at a time when the British and French still had designs on the Northwest. The Philadelphia delegates could not allow the new Constitution to drive Americans into the arms of the European fur traders, merchants, and soldiers who longed for opportunities to undermine and perhaps destroy the young American nation. Equality of the new western states was a main idea of the Northwest Ordinance, but that document would have been worthless without the political rights guaranteed by the Constitution.

Fair treatment of Native Americans was another issue for the framers of the Northwest Ordinance. In his May

⁴⁴ James Madison, quoted in Rakove, "Ambiguous Achievement," p. 14.

1784 report on proper disposal of western lands, Jefferson called for the purchase of lands from natives. The framers of the Northwest Ordinance agreed, and stated in the document's third article that Indians' "lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress."⁴⁵

By the time of the Ordinance, many tribes in the Northwest had already grown weary of Euroamerican promises and treaties and had become determined to give up no more land to the Americans. In fact, despite Jefferson's ordinances of 1784 and 1785, many of the lands affected by those laws remained in native hands in 1787. If Congress truly intended to treat natives with "the utmost good faith" and not forcibly take native lands, then the 1784 and 1785 laws could be argued to have been ineffectual at best and wishful thinking at worst. However, while the modern observer may view these laws and the Northwest Ordinance's statement on the treatment of natives as hypocrisy (or at least greatly ironic), they were quite realistic to the majority of early white Americans. As

⁴⁵ "The Northwest Ordinance: An Annotated Text," in Robert M. Taylor, Jr., ed., *The Northwest Ordinance of 1787: A Bicentennial Handbook*. Indianapolis: Indiana Historical Society, 1987, pp. 61-62.

historian Bernard W. Sheehan observed, "From the very beginning colonial authorities had assumed that European society would displace the Indians in America."⁴⁶ Many whites hoped to assimilate natives into American society; others cared little where Indians went as long as they vacated lands to make room for white settlement. Either way, "...in no case was it assumed that Indian society would remain intact and in possession of any substantial segment of the continent."⁴⁷ There was not, therefore, at least in the minds of most white Americans, any incompatibility between displacing American Indians from their lands and still treating them with "the utmost good faith" as promised in the Northwest Ordinance.

While the Northwest Ordinance was the beginning of a more philanthropic attitude toward natives, it has already been observed just how long that philanthropy lasted: until about 1794, when the Americans defeated natives at the battle of Fallen Timbers. This battle came about largely due to a shift in the attitude of the Americans, who had come to realize that most natives had no interest in being assimilated or giving up more of their traditional lands. Only military defeat and treatment of the Indians as a

⁴⁶ Bernard W. Sheehan, "The Northwest Ordinance: An Annotated Text," in Taylor, ed., *The Northwest Ordinance*, p. 62. See also Sheehan's *Seeds of Extinction: Jeffersonian Philanthropy and the American Indian*. New York: W.W. Norton and Company, 1973.

⁴⁷ *Ibid.*

conquered people would allow for the seizing of native lands and mass settlement of them by Americans. While the Northwest Ordinance may have had good intentions in how it proposed to deal with Indians, those intentions were not realistic or in line with the general American attitude about the continent's racial hierarchy.

The Ordinance's third article did not just offer lofty language about treatment of Native Americans. It also raised the issue of education in the Northwest: "Schools and the means of education shall forever be encouraged."⁴⁸ This was another area in which Jefferson's influence on the future of the West was clear. Long before he founded the University of Virginia, Jefferson articulated the need for some organized American system of higher education and governmental support of that system. In an August 13, 1786 letter to George Wythe, he wrote: "Preach, my dear Sir, a crusade against ignorance; establish and improve the law for educating the common people...The tax that will be paid for this purpose is not more than the thousandth part of what be paid to kings, priests and nobles who will rise up among us if we leave the people in ignorance."⁴⁹ Jefferson viewed education as he did land distribution and

⁴⁸ "The Northwest Ordinance: An Annotated Text," in Taylor, ed., *The Northwest Ordinance*, p. 61.

⁴⁹ Thomas Jefferson to George Wythe, August 13, 1786, in Boyd, ed., *The Papers of Thomas Jefferson*, Volume 10, p. 245.

agricultural innovation: they were means to strengthen and improve American democracy by giving his so-called "common people" genuine opportunities to improve their social and economic standing.

Jefferson, who opposed the spread of sectarianism and religious bigotry in education, regarded federal support for schools as something to encourage, as did others who felt similarly. The education clause in the Northwest Ordinance "...reminded Americans that they could ill afford to let their common commitment to republican principles and democratic procedures be undermined by sectarian rivalry and intolerance."⁵⁰ The federal commitment to education first proposed in the Northwest Ordinance eventually led to the creation of the land grant college system under the Morrill Act of 1862.

The Ordinance's sixth article is surely its most well-known and oft-debated. Again looking to Jefferson's 1784 report as a guide, the Continental Congress wrote that "There shall be neither Slavery nor involuntary Servitude in the said territory otherwise than in the punishment of crimes." The article also included a statement that fugitive slaves could be returned to their owners.

⁵⁰ Jurgen Herbst, "The Development of Public Universities in the Old Northwest," in Williams, ed., *The Northwest Ordinance*, p. 100.

An interesting and frequently ignored fact about the Northwest Ordinance is that half of the states present when it came to a vote were southern: Virginia, North and South Carolina, and Georgia. Delaware, another slave state, was present as well. Three New England states and Pennsylvania were absent. At first glance, it seems curious that Article Six made it into the final version of the Ordinance considering the supposed threat it posed to the expansion of slavery. However, the Ordinance passed with the assent of all eight states. How did a prohibition on slavery survive a 1787 vote dominated by southerners who had rejected Jefferson's 1784 suggestion to end slavery in the West by 1800?

A closer look reveals the South's possible motivations. First, Jefferson's 1784 report proposed a ban on slavery in the entire West. Article Six of the Northwest Ordinance affected only lands located north of the Ohio River, so perhaps many Southerners took comfort in knowing that slavery was still permissible south of it. Some historians have speculated that Article Six was accepted because prohibiting slavery north of the Ohio would deter the planting of crops there that would compete with important southern cash crops such as tobacco. (The climate there would have surely prohibited this regardless

of the presence or exclusion of slavery.) Others have theorized that southerners were sure that most migrants to the Northwest would come from the South, leading to a political alliance between the Northwest and the southern states that would weaken the strong states of New England, New York, and Pennsylvania. Still others have proposed the possibility that Congress and the representatives at the Constitutional Convention had a secret arrangement to protect slavery in the existing states and exclude it from the Northwest.⁵¹

Historian Paul Finkelman suggested that the South likely viewed Article Six as *strengthening* the institution of slavery, not weakening it. He agreed that the South must have been happy that the article only affected the lands north of the Ohio River but also asserted that it was actually a gain for southerners because it contained a fugitive slave cause. The Articles of Confederation contained no such clause, and one had not yet been added to the proposed Constitution being debated in Philadelphia.⁵²

Article Six also did not decree that all slaves already in the Northwest be immediately freed. It was not, in Finkelman's phrase, "...an emancipation proclamation for

⁵¹ Emma Lou Thornbrough, "The Northwest Ordinance: An Annotated Text," in Taylor, ed., *The Northwest Ordinance*, p. 73.

⁵² Paul Finkelman, "Slavery and Bondage in the 'Empire of Liberty,'" in Williams, ed., *The Northwest Ordinance*, p. 63.

the Northwest."⁵³ In fact, slavery continued to exist in parts of the Northwest for decades. Blacks were held in slavery in Indiana through the 1830s; slavery was on the books in Illinois until 1848. Though Article Six did lay the groundwork for the eventual creation of five free states (Ohio, Indiana, Michigan, Illinois, and Wisconsin), slavery did not simply disappear from the Northwest when the Ordinance was approved on July 13, 1787. Such paradoxes and complexities justify Finkelman's use of the term "an ambiguous article" to describe Article Six.⁵⁴ The adoption of the sixth article "...illustrates the difficulty of ending a powerful institution merely by constitutional dictates and without the support of legislative enactments and executive enforcement."⁵⁵

As sectional tensions rose over the decades and the nation marched toward civil war over the slavery issue, many antislavery politicians, including Salmon P. Chase and Abraham Lincoln, began to refer to Article Six of the Northwest Ordinance as some sort of sacred text. However, their perception of the article simply did not correspond to the reality of it, which was much more complex. Many of

⁵³ *Ibid.*, p. 64.

⁵⁴ *Ibid.*, p. 63.

⁵⁵ *Ibid.*, p. 64.

the issues the Northwest Ordinance raised would continue to be argued for nearly another century.

Thomas Jefferson was not part of the debates over the Northwest Ordinance or the Constitution. However, his presence and influence were felt as both important documents were conceived, written, debated, edited, and put to votes. His work, beginning with the *Summary View* and continuing forward to the 1784 and 1785 land ordinances, influenced not only legislation but also the ways in which Americans viewed land use and ownership. His views on agriculture, expansion, education, and slavery were cited as near-gospel for the next hundred years and beyond. Moreover, in 1787, the year that both the Northwest Ordinance and the Constitution were written, many of his greatest contributions were yet to come.

On December 20, 1787, Jefferson wrote to James Madison from Paris. This letter encapsulated many of Jefferson's ideas that so influenced the development and future of not only the West, but also American government, history, institutions, and character:

After all, it is my principle that the will of the Majority will always prevail. If they approve the proposed Convention in all it's [sic] parts, I shall concur in it cheerfully, in hopes that they will amend it whenever they shall find it wrong. I think our governments will remain virtuous for many centuries; as long as they are chiefly agri-

cultural; and this will be as long as there shall be vacant lands in America. When they get piled upon one another in large cities, as in Europe, they will become corrupt as in Europe. Above all things I hope the education of the common people will be attended to; convinced that on their good sense we may rely with the most security for the preservation of a due degree of liberty.⁵⁶

⁵⁶ Thomas Jefferson to James Madison, December 20, 1787, in Boyd, ed., *The Papers of Thomas Jefferson*, Vol. 10, p. 442.

CHAPTER TWO
LAND ISSUES FROM THE CREATION OF THE CONSTITUTION TO THE
MISSOURI COMPROMISE

The first Federal Congress under the new Constitution met in New York beginning March 4, 1789. Almost immediately, issues involving the public domain in the West came to the forefront. On May 28, Representative Thomas Scott of Pennsylvania rose and presented a speech explaining the situation to his colleagues and demanding that action be taken on behalf of those seeking western lands.

Scott lamented that land surveys, mandated by Thomas Jefferson's 1785 ordinance, had not yet been completed and estimated that 7,000 Americans currently lived on lands that had not yet been surveyed and for which they had therefore not yet paid the government. "There are," Scott stated, "a great number of people on the ground, who are willing to acquire by purchase a right to the soil they are seated upon." He then struck a Jeffersonian tone: "Allured by its fertility, the agreeableness of the climate, and the prospect of future ease to themselves and their families, they would not seek a change." This was the first real articulation by a Congressional figure of what came to be known as "squatter's rights:" that those occupying land,

even without legal right or title, should have the opportunity to buy that land from the government rather than be automatically evicted from it. The argument Scott began with this idea was destined to last another fifty years.

Scott also warned that if the United States government did not soon act, it was possible that other governments would. If settlers could not be accommodated within U.S. boundaries, they could move into Spanish territory, "where they are not altogether uninvited, and become an accession of power to a foreign nation forming to us a dangerous frontier." They might also simply remain on lands to which they had no title and never pay for it.

Scott argued that the current proposals for disposing of the public domain called for the lands to be sold in quantities much too large, telling the House, "It is very difficult to form a company for the purchase of a million acres." He proposed selling land in much smaller quantities and opening a federal land office to "grant the soil in such quantities as may suit the applications."⁵⁷

On July 13—the second anniversary of the passage of the Northwest Ordinance—Scott again took the floor of the

⁵⁷ Speech of Thomas Scott, May 28, 1789. *Annals of Congress, House of Representatives, 1st Congress, 1st Session*, pp. 427-429.

House of Representatives to speak about western lands and argue for the creation of a land office. He estimated the western territory he spoke of to be a thousand miles long and five hundred miles wide and capable of holding two million farms, but "...for greater caution, say it will contain one million." If each farm had an average of six people living on it, then the western territory could potentially have six million inhabitants in the future, double the number living in America in 1789.

Scott spoke of the great fertility of western soil, the excellent waterways, and a climate with "...a salubrity that accommodates it to the emigrant from both Northern and Southern States." He insisted that the nation observe and honor the treaties made with American Indian tribes, for "...if the country is settled by a lawless banditti, they will keep the nation in a perpetual broil with the savages." Scott also rather dramatically read a translation of a proclamation issued by the Governor of the Spanish posts at the Illinois, which offered free land, exemptions from taxes, civil and religious freedom, and farm implements to Americans who settled in Spanish territory:

It may be said, that Americans will not venture to live under the Spanish Government, or settle a Spanish colony. To this it may be replied, that when people, from their necessities or inclinations, are determined to em-

igrate, in order to mitigate their distresses, they think little of the form of Government; all they care for is relief from their present or approaching wants or troubles.⁵⁸

Why, Scott asked, send our countrymen into the arms of a foreign government when the United States could easily provide to them everything the Spanish could if it would simply create a land office and make western lands available for purchase? To emphasize the point, Scott explained that the government was owed nearly five million dollars for completed surveys and land purchases; \$771,310 of the sum had been paid into the treasury and \$4,165,553 was still outstanding, paying a daily interest of \$684.25. "This, gentleman, is what we actually lose every day, for want of establishing some regulations on the subject."⁵⁹ Despite that seemingly persuasive financial argument, the Committee of the Whole came to no resolution that day. However, Scott's speeches and arguments well encapsulate many of the important western land issues that faced the early Congresses and that would continue for many years to come, including Indian relations, squatter's rights, and methods of distribution.

⁵⁸ Speech of Thomas Scott, July 13, 1789. *Annals of Congress, House of Representatives, 1st Congress, 1st Session*, pp. 648-649.

⁵⁹ *Ibid.*, p. 652.

The First Congress debated a number of land issues, including whether prices should be fixed or graduated; whether to accept only cash or also credit; the number and locations of land offices; and more. However, few decisions appear to have been reached.

When a foreign national, Hannibal W. Dobbyn, applied for a contract to purchase more than 50,000 acres of western land in January 1790, Congress was unable to come to a decision on several questions. These included whether or not to sell American lands to foreigners, even though Dobbyn stated his interest in becoming an American citizen. There was also discussion of extending him credit: he planned to put one-third down immediately, another one-third down in seven years, and pay the balance within twelve years. Elias Boudinot of New Jersey, the Chairman of the House of Representatives Committee on the Whole, "...presumed that the House could not proceed understandingly in the business upon the information now in their possession."⁶⁰ Boudinot stated that someone in the Executive branch should prepare a report explaining what had already been done in the area of land sales and recommending how Congress should proceed in the future. On January 20, 1790, Congress requested that Secretary of the

⁶⁰ *Annals of Congress, House of Representatives, 1st Congress, 2nd Session*, p. 1,106.

Treasury Alexander Hamilton submit a plan for the disposition of the public domain.⁶¹

Hamilton submitted his report six months later, on July 22, 1790. His "Report of a Uniform System for the Disposition of the Lands, the Property of the United States" stated that two main objectives existed: to facilitate "advantageous sales according to the probable course of purchases" and "the accommodation of individuals now inhabiting the Western Country, or who may hereafter emigrate thither."⁶² Hamilton was a financier and the Secretary of the Treasury, so raising revenue for national use was his primary concern. However, he made clear that he was not ignorant of the need to ensure "the satisfaction of the inhabitants of the Western Country."⁶³ According to his report, it was possible to do both.

Hamilton wrote that purchasers of western lands fell into three categories: individuals and companies with money that would buy land in order to re-sell it to others; associations of people who would buy land with the intention of settling it themselves; and individuals and families either already on western lands or intending to "emigrate thither." The first two groups would always want

⁶¹ *Ibid.*, pp. 1,106-1,110.

⁶² Alexander Hamilton, "Report on Vacant Lands", July 22, 1790, in Harold C. Syrett, ed., *The Papers of Alexander Hamilton*, Vol. VI. New York: Columbia University Press, 1962, p. 502.

⁶³ *Ibid.*

large tracts of land, while the third would generally buy smaller quantities. Priority must be given, he wrote, "to obtain all the advantages which may be derived from the two first classes."⁶⁴ Hamilton recommended that the main land office be located at the main seat of the national government, where those wishing to make large purchases could most easily find agents. To accommodate those making smaller purchases, he recommended two satellite offices, one in the northwest and another in the southwest. No land was to be sold "...except such, in respect to which the titles of the Indian tribes shall have been previously extinguished."⁶⁵ The entire land sale program would be administered and overseen by a board of three commissioners.

In order to attempt to satisfy the three classes of purchasers he imagined, Hamilton also called for the establishment of three different types of land tracts. The first was to be available in increments of 500 acres or more and would be available to subscribers to the federal loan then being considered by Congress. The second type was to appeal to those seeking small family farms; these tracts would be limited to no more than 100 acres.

⁶⁴ Hamilton, "Report on Vacant Lands," p. 503.

⁶⁵ *Ibid.*

Finally, the third designation was for very large purchases of entire townships, which under this plan would be ten miles square. It was assumed that those making such sizeable purchases would subdivide them. Hamilton recommended that the lands be sold for thirty cents per acre and that no credit be extended to anyone except those falling into the third category. The law required those receiving credit to put down one-quarter of the price immediately as well as provide some other security for the balance, which was due in no more than two years. Purchasers would be responsible for the expenses of conducting government surveys, though survey before settlement was not required.⁶⁶

Hamilton's July 1790 report basically ignored the Ordinance of 1785 in a number of ways. Jefferson called for survey before settlement; Hamilton did not. The Secretary of the Treasury recommended townships of ten sections by ten sections (interestingly, the original recommendation of Jefferson) rather than the six-by-six of the Ordinance of 1785. Hamilton also made no mention of setting aside land for schools, a main tenant of the 1785 law. He inserted no public auction clause in his report. Hamilton clearly gave preference to those wishing to

⁶⁶ Hamilton, "Report on Vacant Lands," pp. 503-504.

purchase massive land tracts, while Jefferson hoped to populate the west with small family farms. Ironically, Hamilton's system, though it clearly favored speculators awash with cash, was actually more favorable to small settlers than Jefferson's. Under the 1785 Land Ordinance, land was more expensive—one dollar per acre—and the smallest parcel one could purchase was a 640-acre section. Few had \$640 to spare, and the government raised little revenue from this land system. The lack of success of the 1785 law was a prime motivation for Congress to request Hamilton's 1790 report in the first place.

It must be noted that when Congress received Hamilton's report in July 1790, it was simultaneously debating Hamilton's "Report on the Public Credit," which he had submitted in January 1790. This report was Hamilton's plan to liquidate the approximately \$50 million national debt. In it, Hamilton made clear his financial and political philosophy: that the government must take an active role in creating wealth and making sure that it was placed into the hands of those who could best take advantage of it. As historian John C. Miller observed, "Hamilton was primarily concerned with those individuals who possessed a disposable surplus of capital which could be devoted to the support of the government and to the

furthering of economic enterprise."⁶⁷ These speculators were the people Hamilton was sure would buy massive chunks of western land, especially considering the cheaper price of thirty cents per acre over the one dollar per acre charged under the 1785 law. His philosophy dictated that they be given preference just as Jefferson's agrarian-centered philosophy caused him to prefer small farms. Though at this time the two men were not yet political enemies, Hamilton's two 1790 reports certainly pointed them in that direction.

To complicate matters further, Congress in January 1791 requested that Hamilton submit another report, this one on the state of American manufacturing. His report, submitted to Congress on December 5, 1791, put him further at odds with Jefferson on the issues of agriculture and the promotion of a farming economy in the United States. Hamilton's report was, in the words of one of his modern biographers, "...the first government-sponsored plan for selective industrial planning in America."⁶⁸ Few things could have placed Hamilton more at odds with Thomas Jefferson.

⁶⁷ John C. Miller, *Alexander Hamilton and the Growth of the New Nation*. New Brunswick: Transaction Publishers, 2004 (originally published in 1959), p. 233.

⁶⁸ Ron Chernow, *Alexander Hamilton*. New York: The Penguin Press, 2004, p. 374.

The origins of this report were actually military and strategic in nature. In his first annual address to Congress, on January 8, 1790, President George Washington told those gathered in the Senate chamber:

A free people ought not only to be armed but disciplined; to which end a uniform and well digested plan is requisite: And their safety and interest require, that they should promote such manufactories, as tend to render them independent on others for essential, particularly for military supplies...The advancement of Agriculture, Commerce and Manufactures by all proper means, will not I trust need recommendation.⁶⁹

Hamilton had served in the Revolutionary War and well remembered the Americans' scarcity of nearly everything: food, clothing, ammunition, gunpowder, and more. He noted in his report, "The extreme embarrassments of the United States during the late War, from an incapacity of supplying themselves, are still matter of keen recollection."⁷⁰ Now, as Secretary of the Treasury, he knew that reliance on foreign manufacturing would likely prove disastrous for the nation at some point in the future. In order to better prepare himself for drafting this important paper, he had U.S. marshals and customs collectors gather information and statistics on U.S. manufacturing as well as send him samples of manufactured goods to see and touch. With a

⁶⁹ George Washington to Congress, January 8, 1790, in John C. Fitzpatrick, editor, *The Writings of George Washington, from the Original Manuscript Sources, 1745-1799*. Washington: United States Government Printing Office, 1939, pp. 491-493.

⁷⁰ Alexander Hamilton, "Report on the Subject of Manufactures," in Syrett, ed., *The Papers of Alexander Hamilton, Volume X*, p. 291.

showman's flair, he laid many of these samples out in the House of Representatives' committee room for elected officials to see. As Ron Chernow noted, Hamilton proceeded "...as if operating a small trade fair, an altogether new form of lobbying."⁷¹

As he researched and prepared the report, Hamilton must have surely known that he would face great resistance from Jefferson and other agriculturally-minded politicians. Hamilton stated from the outset that he did not seek to replace agriculture but merely to add manufacturing. "In every country," he wrote, "Agriculture is the most beneficial and *productive* object in human industry. This position...applies with peculiar emphasis to the United States, on account of their immense tracts of fertile territory."⁷² However, Hamilton realized that if everyone produced farm crops, supply would soon outpace demand, and massive stocks of surpluses would create unemployment and dismal economic conditions. He also worried that the United States would face difficulties in selling its farm products abroad since most of the great European nations with which America hoped to trade had economies tightly controlled against foreign products so as to build up

⁷¹ Chernow, *Alexander Hamilton*, p. 375.

⁷² Hamilton, "Report on Manufactures," p. 231.

domestic markets. To Hamilton, all of these considerations made having the majority of the nation's populace working in agriculture a weakness, not a strength as envisioned by Jefferson. As one historian noted, "If, as Thomas Jefferson supposed, a nation of farmers was the closest approximation upon earth to paradise, Hamilton was of the opinion that the time of exodus was at hand."⁷³

Throughout his report, Hamilton took issue with the opinions of the Physiocrats, French economists who, like Jefferson (who had become acquainted with several of them during his five years in Paris), revered agriculture and resisted any governmental attempts to steer a national economy. Hamilton argued that mechanization would make manufacturing more productive and less expensive. He also proposed government support for internal improvements such as roads and canals, which would serve to unify several regional markets into a single American economy. He called for moderate tariffs, bounties on some products, patent protection for inventors, government inspection of manufactured goods, and many more regulations and incentives to make manufacturing an important aspect of the American economy. In short, the report was a call for governmental activism to stimulate and grow the nation's

⁷³ Miller, *Alexander Hamilton and the Growth of the New Nation*, p. 284.

economic diversity and power. It was a report that foresaw America's future, though it was a future that would not completely take hold until decades after Hamilton's—and Jefferson's—death.

Again sensing that Jefferson and others would oppose him, Hamilton invoked authority for his manufacturing plan in the Constitution: "The National Legislature has express authority 'To lay and Collect taxes, duties, imposts and excises, to pay the debts and provide for the *Common defense and general welfare*'..."⁷⁴

Hamilton was right: Jefferson and others of like mind were aghast at his report. James Madison lamented that Hamilton had overstepped the bounds intended by the Constitution's "welfare clause" and that if Hamilton's advice were followed, Congress would amass far too much power in deeming what was or was not appropriate for the nation's welfare. "If not only the *means*, but the *objects*, are unlimited," Madison wrote to Henry Lee, "the parchment had better be thrown into the fire at once."⁷⁵ Jefferson agreed, telling President Washington that Hamilton read the welfare clause much too broadly, which permitted "...Congress to take everything under their management which *they* should

⁷⁴ Hamilton, "Report on Manufactures," p. 302.

⁷⁵ James Madison to Henry Lee, January 1, 1792, in Dumas Malone, *Jefferson and His Time, Volume Two: Jefferson and the Rights of Man*. Boston: Little, Brown, and Company, 1951, p. 430.

deem for the *public welfare*.”⁷⁶ Fundamental and decisive differences were beginning to appear among some of the nation’s most influential and powerful political figures, and the first party system was close at hand. The differences between followers of Jefferson and Hamilton over issues such as manufacturing, agriculture, the national debt, and land distribution played key roles in the birth of American political parties. Though Hamilton’s report on manufactures was shelved and subsequently ignored by Congress, its contents and recommendations reverberated in American society and politics for years to come.

Despite Hamilton’s 1790 report on public lands made at the request of Congress, not until 1796 did that body again seriously examine the nation’s system of distributing and selling public lands. The issue remained basically the same: how could western lands best be sold to provide funds to retire at least some of the national debt but also provide for inexpensive settlement by farmers?

With a bill before Congress proposing a land office for selling lands northwest of the Ohio River, Democratic-Republican Robert Rutherford of Virginia spoke before the House of Representatives on February 15, 1796, striking a

⁷⁶ Thomas Jefferson, quoted in Chernow, *Alexander Hamilton*, p. 379.

Jeffersonian (and anti-Hamiltonian) tone in calling land speculation a "hydra" that had "done the country great harm." He called speculators "monsters" and feared that those in Europe were ready to join those in the United States to establish a land monopoly. He continued, "This tract of country should be disposed of to real settlers, industrious, respectable persons, who are ready to pay a reasonable price for it, and not sold to persons who have no other view than engrossing riches."⁷⁷ Rutherford was vehemently opposed to the proposed bill, which he felt would line the pockets of the hated speculators and do little for those who wished to settle western lands. He concluded by stating that he loved his country and all honest men and hoped the proposed bill would fail to pass.⁷⁸

On February 17, Democratic-Republican Albert Gallatin of Pennsylvania spoke at length on the proposed bill. He made clear that in his mind, no issue was of greater importance to the nation than the eradication of the public debt, and no group would gain more from retiring the debt than the country's poor. It was possible, he stated, to pay off the entire debt within ten years, but in order to do so the country must raise revenue from land sales. To

⁷⁷Speech of Robert Rutherford, February 15, 1796. *Annals of Congress, House of Representatives, 4th Congress, 1st Session*, pp. 329-330.

⁷⁸*Ibid.*, p. 330.

Gallatin, then, speculators, distasteful as they might be, had a role to play, and some large land tracts must be sold to them. "If the whole were to be divided into small tracts," he stated, "persons would choose here and there, and prevent men of property from purchasing large tracts lying together."⁷⁹ To counter domination by speculators and opposition from some of his Congressional colleagues, Gallatin also proposed that smaller tracts be available for those with little or no money to spend on land. The majority with no capital could buy on credit from those that had it. He recommended that half of the land affected by the proposed bill be sold by townships; the other half was to be sold in 640-acre sections. Though Gallatin considered himself a friend of small settlers, he advocated a land price of \$2.00 per acre, in contrast to the 30 cents per acre recommended in Hamilton's 1790 report. Gallatin appears to have worried incessantly about paying off the federal debt.

Debate on the bill continued, and on March 3, Federalist John Williams of New York suggested a settlement clause be placed into land sale contracts requiring that at least one settler be located on every quarter-section

⁷⁹ Speech of Albert Gallatin, February 17, 1796. *Annals of Congress, House of Representatives, 4th Congress, 1st Session*, p. 340.

purchased within two years of the sale. (This amendment eventually failed.) Gallatin advocated this clause, though he conceded that it would likely *reduce* the number of sales made to speculators. Gallatin now seemed to favor the government absorbing speculative profits on its own rather than having them go to the speculators themselves, and the easiest way to accomplish this was for the government to sell more land directly to settlers. Gallatin's earlier support for a minimum price of \$2.00 per acre was sure to make this difficult, and Gallatin's reversal is difficult to fully understand. As Paul Wallace Gates noted, "Gallatin seemed to be on all sides of the issues revolving around speculators and settlers."⁸⁰ Perhaps Gallatin's change of heart in favor of reducing speculation may have reflected pure political pragmatism since James Madison, then a Virginia representative and an acolyte of Thomas Jefferson, was one of those in Congress who agreed with Gallatin's revised stance. Gallatin and Madison began to work closely together on a number of issues, and when Jefferson became president in 1801, he brought both into his cabinet.

During the 1796 debate, House members favoring making land available in smaller tracts tended to be those from

⁸⁰ Gates, *History of Public Land Law Development*, p. 124.

states and specific districts closest to the actual frontier, including such districts in Kentucky, Virginia, Pennsylvania, the Carolinas, and New York.⁸¹ One powerful opponent, however, was Federalist William Cooper of New York, who owned vast tracts of land in his state and had spent years in the land business. Cooper argued against distributing land in small tracts, since "...in the States of Pennsylvania and New York, where, though land was sold in small plots, there were not twenty instances of farmers buying it."⁸² The "moneyed men," as Cooper called them—speculators—always bought the land and then sold it to the small farmers. Cooper insisted that poor men never attended land sales at which he had been present, so he found the idea of Congress debating over dividing land and selling it to small farmers to be a waste of time.

Senate records record little debate about this proposed land bill, which passed on May 18, 1796. The final version created the position of Surveyor General and a surveying corps. The rectangular survey system was retained; half of the available townships were to be divided into sections of 640 acres and sold in tracts of that size, while the other half of townships were left

⁸¹ Hibbard, *History of the Public Land Policies*, p. 62.

⁸² Speech of William Cooper, April 5, 1796. *Annals of Congress, House of Representatives, 4th Congress, 1st Session*, p. 859.

undivided to be sold in quarters. The bill established the two-dollars-per-acre price, of which one-twentieth was to be paid in cash at the time of sale. Thirty days of credit was extended for the balance of the first half; the purchaser was permitted one year of credit on the second half.⁸³

By 1800, it was clear this bill was a failure. Few sales had been made by settlers or speculators. Less than 50,000 acres had been sold over the course of four years, and in 1800 Congress realized that it had to again reassess the nation's system of distributing public lands. Another bill, commonly called "Harrison's frontier bill" after Ohio Congressional delegate William Henry Harrison, its main sponsor, passed in 1800 but also did little to increase sales. It also lacked a preemption measure, which was of great importance to many in the West. The law retained the price of two dollars per acre.⁸⁴

Those hoping for cheap western lands for farming must surely have rejoiced when Thomas Jefferson won the presidency in 1800. In his first inaugural address, Jefferson promised a "wise and frugal government" that would not "take from the mouth of labor the bread it has

⁸³ Hibbard, *History of the Public Land Policies*, pp. 67-68.

⁸⁴ Gates, *History of Public Land Law Development*, pp. 130-131.

earned" and would undertake the "encouragement of agriculture, and of commerce as its handmaid."⁸⁵

Jefferson's presidency would prove to be an important one for the history and expansion of the West for one major reason: the Louisiana Purchase. Jefferson knew that in order to ensure free American navigation of the Mississippi River the United States must acquire the city of New Orleans. At the same time, he worried over reports that Spain was considering retrocession of the Louisiana Territory back to Napoleon Bonaparte's France, a possibility Jefferson called "...an inauspicious circumstance to us."⁸⁶ The Spanish empire had long been in decline and viewed Louisiana as an expensive liability. Napoleon coveted the massive territory as a place to reassert a major French presence in North America. "There is on the globe one single spot, the possessor of which is our natural and habitual enemy," Jefferson wrote to Robert Livingston, his emissary in France. "It is New Orleans."⁸⁷

Though himself a strong Francophile, Jefferson feared a French presence on the North American continent and knew that such a presence would force him to ally the United

⁸⁵ Thomas Jefferson, "First Inaugural Address," March 4, 1801, in Peterson, ed., *The Portable Thomas Jefferson*, pp. 290-295.

⁸⁶ Thomas Jefferson, quoted in Dumas Malone, *Jefferson and His Time, Volume Four: Jefferson the President, First Term, 1801-1805*. Boston: Little, Brown and Company, 1970, p. 248.

⁸⁷ Thomas Jefferson to Robert Livingston, April 18, 1802, in Fred L. Israel, ed., *Major Presidential Decisions*. New York: Chelsea House, 1980, pp. 36-37.

States with England. "The day that France takes possession of N. Orleans fixes the sentence which is to restrain her forever within her low water mark," he continued to Livingston. "From that moment we must marry ourselves to the British fleet and nation." Acquiring New Orleans, "through which three eighths of our territory must pass to market" became imperative.⁸⁸ If he could do that, as well as acquire the Floridas, which he mistakenly believed the French controlled, he could at least temporarily avoid the need for the alliance with Britain.⁸⁹

Something had to be done. Westerners, whom Jefferson admired and who returned that admiration with political support, worried about their lands and the commerce down the Mississippi. Jefferson also worried that Federalists in Congress would soon clamor for an ill-advised war with France. War with Spain seemed a possibility as well, especially after the Spanish Intendant at New Orleans closed the right of deposit there in October 1802 in what was likely an attempt to halt American smuggling.⁹⁰

In January 1803, Jefferson sent James Monroe to France to work with Livingston and convince Bonaparte to sell New Orleans. Monroe had just completed his third term as

⁸⁸ Jefferson to Livingston, April 18, 1802, quoted in Israel, ed., *Major Presidential Decisions*, p. 37.

⁸⁹ Dumas Malone, *Jefferson the President, First Term*, p. 256.

⁹⁰ *Ibid.*, p. 265.

governor of Virginia and was immensely popular with westerners, whose rights, including the free navigation of the Mississippi and inexpensive access to farmland, he had long championed. Westerners were by and large not fond of Robert Livingston, a New York native, so Jefferson likely sought to reassure those in the West that he had their interests in mind by appointing Monroe. The appointment of Monroe was approved by Congress on January 13, 1803, though it would be three months until he set foot in Paris.⁹¹ For his part, Livingston resented Monroe's appointment and presence.

Unknown to the American negotiators, Napoleon had already given up on his dream of reestablishing France in North America. His expedition in St. Domingue (now Haiti) was a disaster due to the generalship of the rebel leader Toussaint L'Ouverture and the tropical diseases that ravaged his army's ranks. His own brother-in-law had died there of yellow fever. These setbacks led Bonaparte to believe that he should abandon Louisiana, which he now expected eventually to lose to the British, whose navy had twenty ships in the Gulf of Mexico. Better to sell it to the United States than allow the English to have it. "They

⁹¹ Marshall Sprague, *So Vast So Beautiful a Land: Louisiana and the Purchase*. Boston: Little, Brown and Company, 1974, pp. 292-293.

only ask of me one town in Louisiana," he told several of his advisors, "but I already consider the colony as entirely lost."⁹² The next morning, he summoned his minister of finance, Francois Barbe-Marbois, and told him, "I renounce Louisiana...I renounce it with the greatest regret. To attempt obstinately to retain it would be folly."⁹³ Bonaparte directed Barbe-Marbois to immediately begin negotiations with Livingston for the purchase of all Louisiana. He wanted fifty million francs for it.

That same morning, April 11, Livingston was called to the home of Charles Maurice de Talleyrand, the French minister of foreign relations with whom he had discussed the New Orleans situation for months. Livingston wrote to James Madison later that day, "M. Talleyrand asked me this day, when pressing the subject, whether we wished to have the whole of Louisiana." Livingston was shocked, of course, but also aware that he had no authority from Jefferson or Congress to negotiate for the entire Louisiana Territory. Livingston reported, "I told him no; that our wishes extended only to New Orleans and the Floridas...He said that if they gave New Orleans the rest would be of

⁹² Napoleon Bonaparte, quoted in Jon Kukla, *A Wilderness So Immense: The Louisiana Purchase and the Destiny of America*. New York: Alfred A. Knopf, 2003, p. 256.

⁹³ *Ibid.*, p. 257.

little value."⁹⁴ Over the next few days, Livingston began to realize the value of the offer. Soon he, Monroe, Talleyrand, and Barbe-Marbois defined the general outline of the purchase. The final price was 80 million francs, which included money to settle certain French debts.

The purchase treaty's third article stated that the inhabitants of Louisiana would be incorporated into the American Union as citizens as quickly as allowed by the Constitution, "and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the Religion which they profess." This article could have been written by Thomas Jefferson himself, since it included elements of both his 1785 plan for western government (that all states enter the Union as equals) and the Declaration of Independence. The treaty was dated April 30, 1803; two months passed before anyone in the United States, including Jefferson, knew of it. In a July 5 letter to his son-in-law, Jefferson lauded the treaty: "This removes from us the greatest source of danger to our peace." Of the size of the purchase, he wrote, "It is something larger than the whole U.S., probably containing 500 millions of acres, the U.S.

⁹⁴ Robert Livingston to James Madison, April 11, 1803, in Israel, ed., *Major Presidential Decisions*, p. 130.

containing 434 millions."⁹⁵ The purchase actually contained 529 million acres. The price was \$15 million, though by the time all interest was paid that figure increased to \$23.5 million, or about four cents per acre.⁹⁶

Even Jefferson's old adversary, Alexander Hamilton, thought the Louisiana Purchase a mostly positive occurrence. However, he was loath to give Jefferson any credit for it. In a July 5, 1803 editorial in the *New-York Evening Post*, he credited the climate of St. Domingue for defeating Bonaparte's army there and forcing him to rid himself of Louisiana. "The real truth is," wrote Hamilton, "Bonaparte found himself absolutely compelled by situation, to relinquish his darling plan of colonizing the banks of the Mississippi." Just to reinforce his point that Jefferson had little to do with the successful purchase, he added, "...the Government of the United States, by the unforeseen operation of events, gained what the feebleness and pusillanimity of its miserable system of measures could never have acquired." Hamilton also argued that New Orleans alone would have been plenty, since Louisiana was

⁹⁵ Thomas Jefferson to Thomas Mann Randolph, July 5, 1803, quoted in Peter J. Kastor, *The Nation's Crucible: The Louisiana Purchase and the Creation of America*. New Haven: Yale University Press, 2004, p. 35. Also quoted in Kukla, *A Wilderness So Immense*, pp. 285-286.

⁹⁶ Kukla, *A Wilderness So Immense*, p. 335.

"...not valuable to the United States for settlement."⁹⁷ How wrong he was about that. The Louisiana Territory contained the lands that eventually made up all or part of fifteen American states containing millions of acres of land for settlement and, perhaps most important to Jefferson and his followers, cultivation. Jefferson now had territory across which he could spread his so-called empire of liberty.

On November 25, 1803, the legislators of Mississippi Territory submitted a memorial to Congress on the subject of land settlement in their territory. They argued that many who might come to Mississippi could not afford to pay the two dollars per acre the government currently charged for land there and that settlement was therefore greatly retarded. To rectify the situation, they suggested that Congress should, instead of selling the lands, "...grant them in small tracts to actual settlers, who should continue to live on, and cultivate the same for five successive years." The Mississippians asked for this provision only for three years in order to "accelerate the settlement and ensure the prosperity of the territory."⁹⁸ This was one of the earliest proposals for the free distribution of land by the

⁹⁷ Alexander Hamilton, "Purchase of Louisiana," in the July 5, 1803 *New-York Evening Post*, in Syrett, ed., *The Papers of Alexander Hamilton, Volume XXVI*, pp. 129-136.

⁹⁸ "Memorial to Congress by Citizens of the Territory," in Clarence Edwin Carter, ed., *The Territorial Papers of the United States, Vol. V*. Washington, D.C.: Government Printing Office, 1937, pp. 280-281.

U.S. government. Though it would take another six decades to germinate, the seeds of the Homestead Act had been planted.

Over the next 15-20 years, the federal government experimented with various systems of land distribution, including credit and cash sales. During much of this period, sectional differences toward the administration of the public domain were quite pronounced. Northerners generally favored higher prices for western lands and slower settlement of them. Those favoring this system sought to raise revenue for the national government but also prevent too many workers—mainly young people and recent immigrants—from abandoning the North all at once.

Many Southerners, however, wanted to limit the government's power and maintain a political balance with the North. Cheap western land prices that siphoned off northerners to the West helped them accomplish these goals, so the South was happy to support low land prices that encouraged western migration. This all changed, however, with the 1819-1821 Missouri controversy. From that point forward, western land distribution became forever entwined with the political debate over the western expansion of slavery.

The United States acquired what became the territory and eventually the state of Missouri via the 1803 Louisiana Purchase. Slavery existed in the Louisiana Territory during its ownership by both the Spanish and French, and the United States government agreed in the purchase treaty to protect Louisianans' free enjoyment of liberty, property, and religion. Most assumed that "property" included slaves. When Missourians initially requested permission to begin the process of joining the Union, in April 1818, their petition to Congress said nothing of slavery. Most likely, they saw no need to mention it: slaves made up one sixth of the territory's population of 66,000.⁹⁹ Most assumed that slavery would continue to exist and prosper in Missouri, and there was little reason to believe that it would not.

Representative Arthur Livermore of New Hampshire, however, threw up an unexpected roadblock. On the very day the Missouri petition was reported, he proposed in the House a constitutional amendment prohibiting slavery in any future states admitted to the Union. This would include Missouri. "The resolution was read," according to the *Annals of Congress*, "and, on the question of proceeding to

⁹⁹ Glover Moore, *The Missouri Controversy, 1819-1821*. Lexington: University of Kentucky Press, 1966, p. 32.

its consideration, it was decided in the negative."¹⁰⁰ The issue lay dormant for the next seven months.

In November 1818, a resolution for the admission of Illinois as a state was presented to Congress. Representative James Tallmadge, Jr., of New York spoke against it on the grounds that the Illinois constitution was not sufficiently anti-slavery: "The principle of slavery, if not adopted in the constitution, was at least not sufficiently prohibited." Tallmadge argued that the 1787 Northwest Ordinance forbade slavery from the area now known as Illinois and referred to the Indiana constitution "to show how carefully and scrupulously it had guarded against slavery in any shape, and in the strongest terms reprobated it."¹⁰¹ With their insistence on legislating anti-slavery, Livermore and Tallmadge laid the groundwork for the controversy over Missouri's admission.

Speaker of the House Henry Clay presented to the House a resolution from the Legislative Council and House of Representatives of Missouri on December 18, 1818. The Missourians sought permission to adopt a constitution and form a state government. In February 1819, when the House began debate on bills to enable Missouri and Alabama to

¹⁰⁰ *Annals of Congress, House of Representatives, 15th Congress, 1st Session*, April 4, 1818, pp. 1675-1676.

¹⁰¹ Speech of James Tallmadge, Jr., November 23, 1818. *Annals of Congress, House of Representatives, 15th Congress, 2nd Session*, pp. 305-311.

form state governments, Tallmadge struck again. He moved that the bill to admit Missouri include a provision stipulating that "the further introduction of slavery or involuntary servitude be prohibited...and that all children of slaves, born within the said state, shall be free" upon reaching twenty-five years of age.¹⁰² Enraged at efforts to legislate emancipation, Georgia Representative Thomas W. Cobb thundered at Tallmadge, "If you persist, the Union will be dissolved. You have kindled a fire which all the waters of the ocean cannot put out, which seas of blood can only extinguish." Tallmadge replied, "Sir, if a dissolution of the Union must take place, let it be so! If civil war, which gentlemen so much threaten, must come, I can only say, let it come!"¹⁰³ Tallmadge's proposed amendment ignited the Missouri controversy that consumed Congress for the next two years.

The real issue over Missouri was not slavery in that state or any other, but rather whether or not Congress could prohibit slavery in certain territories. After more than a year of debate and suggestions of compromise, members of Congress agreed that it could. By restricting slavery to areas below the 36 degrees, 30 minutes line

¹⁰² Speech of James Tallmadge, Jr., February 13, 1819. *Annals of Congress, House of Representatives, 15th Congress, 2nd Session*, pp. 1,166-1,170.

¹⁰³ Thomas W. Cobb and James Tallmadge, Jr., February 13, 1819. *Ibid.*, p. 1204.

(excluding Missouri itself) Congress took an unprecedented step and allowed itself to determine where slavery could and could not exist. Though the Compromise held for over three decades, it also completely changed the North-South dynamic in Congress.

Prior to the Missouri controversy, American politics were dominated by the party system of Federalists and Republicans. However, Federalists all but collapsed after the War of 1812 and were basically extinct by the time Missouri attempted to enter the Union with slavery. As historian Robert Pierce Forbes noted, "The Missouri controversy marked the end of the old Jeffersonian alliances created to fight the centralizing and repressive tendencies of the Federalists."¹⁰⁴ The desire to combat Federalism had produced strange and often uneasy Republican alliances between southern agriculturalists and northern industrialists, artisans, and small farmers. The Missouri controversy ended these alliances, and the South knew it.

Southern Republicans complained that without the Federalist threat to unite them, their northern colleagues were more than happy to abandon them over the slavery issue. Many southern political leaders concluded that

¹⁰⁴ Robert Pierce Forbes, *The Missouri Compromise and Its Aftermath: Slavery and the Meaning of America*. Chapel Hill: University of North Carolina Press, 2007, p. 7.

slavery, so vital to their economic and social structures, was now under attack. Shrinking and limiting the power of the government was the only way to make it less threatening to the slave system. If that meant opposing measures like roads and canals that would benefit the people and commerce of the nation, so be it. "If Congress can make canals," said North Carolina's Nathaniel Macon, "they can with more propriety emancipate."¹⁰⁵ Historian Don Fehrenbacher noted that after 1820, "It became increasingly difficult for a defender of slavery to support the expansion of federal power. John C. Calhoun managed to do so for just a few more years."¹⁰⁶ Another historian, George Dangerfield, put it even more simply: "In a sense, the Tallmadge Amendment, with its train of town-meetings, pamphlets, editorials, and debates, summoned the South into being."¹⁰⁷ Sectional differences, both between ordinary citizens and members of Congress, increased in frequency and ferocity after the Missouri controversy.

Thomas Jefferson, nearly eighty and long retired at Monticello, weighed in on the unpleasantness over Missouri.

¹⁰⁵ Nathaniel Macon, quoted in *Ibid.*

¹⁰⁶ Don E. Fehrenbacher, "The Missouri Controversy and the Sources of Southern Sectionalism," in *The South and Three Sectional Crises*. Baton Rouge: Louisiana State University Press, 1980, p. 22.

¹⁰⁷ George Dangerfield, *The Era of Good Feelings*. New York: Harcourt, Brace, and World, Inc., 1952, p. 204.

He wrote to Maine Representative John Holmes on April 22, 1820:

But this momentous question, like a fire-bell in the night, awakened and filled me with terror. I considered it at once as the knell of the Union...But this is a reprieve only, not a final sentence. A geographical line, coinciding with a marked principle, moral and political, once conceived and held up to the angry passions of men, will never be obliterated; and every new irritation will mark it deeper and deeper... I regret to say that I am now to die in the belief, that the useless sacrifice of themselves by the generation of 1776, to acquire self-government and happiness to their country, is to be thrown away by the unwise and unworthy passions of their sons, and that my only consolation is to be, that I live not to weep over it.¹⁰⁸

The expansion and limitation of slavery were destined to be the preeminent, but not the only, political issue of the next forty years. Politicians, speculators, poor farmers, immigrants, and others continued to argue and debate the best ways for the government to distribute public lands (if at all). The geographic line between slave and free territories established by the Missouri Compromise was critical to these debates, as was the new post-Missouri political reality. From this point on, few southerners supported the government distributing public lands in small tracts cheaply or freely because they knew that many who claimed it would take lands north of the Missouri Compromise line, build up populations, and eventually attain statehood. Before long, the South

¹⁰⁸ Thomas Jefferson to John Holmes, April 22, 1820, in Peterson, ed., *The Portable Thomas Jefferson*, pp. 568-569.

feared, it would be far outnumbered in Congress, and surely the North would then set its sights on emancipation. No free homestead bill could be allowed to pass. Better to leave the West unpopulated and barren than permit free soil settlers into it. This remained the policy of many southern politicians for the next forty years, and for that entire period they succeeded in blocking passage of several free land bills that came before them. In the meantime, the Second Party System arose, and issues of land and improvements continued to be of great importance.

The period between the Constitutional Convention and the Missouri Compromise was an important one in the history of American land policy and the march toward the Homestead Act. It was during this period that the nation more than doubled in size via the Louisiana Purchase; millions of homesteads would eventually be claimed throughout the more than 800,000 square miles of the Purchase. Hamilton and Jefferson became arch enemies during this period as well, and at least part of their animosity toward one another came from their differing philosophies on how best to manage and distribute the public domain. With the Missouri Compromise, land distribution became forever linked with the expansion of slavery. If the Missouri controversy did,

as Dangerfield claimed, "summon the South into being," then land distribution and, eventually, the push for a homestead bill can be definitively identified as an important source of sectional tension for the next forty years and a major cause of the Civil War.

CHAPTER THREE
THE NATIONAL HOMESTEADING DEBATE EMERGES

As the 1820s began, Jefferson's old Republican Party had succeeded in ousting the Federalists from power and becoming the nation's only truly national party. However, despite this period being labeled "the Era of Good Feelings," factionalism and sectionalism in Congress had never been more pronounced. Disagreements over land policies and distribution played major roles in producing and prolonging these conflicts. Though the recently reelected President James Monroe extolled "the prosperous and happy condition of our country,"¹⁰⁹ in 1820 definite battle lines were being drawn over a number of issues important to the future of federal land policies.

Hamiltonian attitudes regarding several land-related issues made a brief comeback in the 1820s, mainly in the form of Henry Clay's so-called American System of internal improvements. Clay and his Whig allies sought to build up manufacturing interests and create a home market for the agricultural products of the South and the burgeoning West. One important aspect of this system was a protective tariff to shield manufacturers from foreign competition, and one

¹⁰⁹ President James Monroe, quoted in Roy M. Robbins, *Our Landed Heritage: The Public Domain, 1776-1970 (Second Edition)*. Lincoln: University of Nebraska Press, 1976, p. 35.

passed Congress in 1824. The passage of this tariff and the beliefs and influence of notable political figures like Secretary of State John Quincy Adams gave credence to the rising strength of Hamiltonian forces. Adams viewed the public domain as a great national resource from which profits should flow for the benefit and education of Americans. Elected as president, he noted in his First Annual Message to Congress in 1825 that "The purchasers of public lands are among the most useful of our fellow citizens...The tide of wealth with which they replenish the common Treasury may be made to reflow in unending streams of improvement from the Atlantic to the Pacific Ocean."¹¹⁰ Adams's belief that proceeds from the sale of public lands should be distributed among the states for educational purposes found support in state legislatures, especially in the eastern states that expected to receive the largest shares.

Adams also believed, however, that lands in the West should be distributed without causing any economic injury to the real estate and manufacturing interests of the East. "The bee that robs the hive of his neighbor," he stated, "becomes idle and improvident—and is never known to profit

¹¹⁰ John Quincy Adams, *First Annual Message*, December 6, 1825, available at <http://www.presidency.ucsb.edu/ws/index.php?pid=29467>.

even by the flowers in his own garden, and the outrage usually results in the death of the robber and the robbed."¹¹¹ Here Adams demonstrated that he and his allies wished to make maximum profits from western land sales but use those profits to benefit the manufacturing interests of the East. This angered those in the West who believed that any profits from selling land in their region should be used to benefit their own agricultural interests, not eastern capitalists. Adams's stance also angered the South, which received no real benefit from the high protective tariff Adams and his allies supported. With no major manufacturing interests to speak of, the South bore the burden of the protective tariff without receiving any advantages from it. During the argument over the tariff that eventually passed in 1824, Virginia Representative John Randolph angrily exclaimed, "If...you draw the last shilling from our pockets, what are the checks of the Constitution to us? When the scorpion's sting is probing us to the quick, shall we stop to chop logic?"¹¹²

Many from the South and West agreed with Randolph, and a powerful alliance of those two regions arose to oppose Adams, Henry Clay, and the political faction of Republicans

¹¹¹ John Quincy Adams, quoted in Robbins, *Our Landed Heritage*, p. 37.

¹¹² Speech of John Randolph, April 1824, in *Annals of Congress, House of Representatives, 18th Congress, 1st Session*, p. 2,362.

that eventually became known as Whigs. This alliance organized itself during Adams's presidency and eventually became the new Democratic Party. Andrew Jackson became the Democrats' first national hero, based largely on his standing as a popular military commander and his 1824 electoral defeat at the hands of John Quincy Adams despite Jackson's victory in the popular vote. Agricultural interests and disagreements over federal land policies played a major role in the rise of Jacksonian democracy and the short-lived return of Hamiltonian policies championed by Adams and Clay.

In the long and constant struggle over the direction of federal land policies, Senator Thomas Hart Benton of Missouri became one of Congress's foremost authorities on and advocates for liberal land distribution. He was highly regarded by his colleagues and his constituents, and he spoke on western issues as a westerner who understood and represented his region's economic and social interests.

While the controversial tariff was debated in Congress in 1824, Benton proposed a bill calling for graduation in the price of land. He thought it unfair that \$1.25 per acre was the set price for the purchase of any acre of the public domain, regardless of the land's quality. "It is

unjust to the people," he said, "because it prevents them from getting the inferior land at a fair price; unjust to the states, because it checks their population and deprives them of their right of taxation; unjust to the nation, because it prevents the public treasury from receiving the money which such land is worth and for which it would sell."¹¹³ Benton's bill established 50 cents per acre as a minimum price for poorer lands and gave away the worst lands to people willing to live on and cultivate them. Though the bill received little attention amidst the furious tariff debate, it was notable for establishing in Congress the possibility of distributing public land for free.

In the four years between 1824 and 1828, the South and West brought forward several measures to counter President Adams's proposal to distribute profits from land sales among states for education and internal improvements. These proposed measures included graduation, donation, and preemption (giving "squatter's rights" to those living on land they did not own). All of these ideas greatly concerned the conservatives of the North and East. Adams recorded in his diary on December 31, 1828 that he had

¹¹³ Speech of Thomas Hart Benton, April 1824, in *Annals of Congress, Senate, 18th Congress, 1st Session*, p. 583.

spoken with Henry Clay, who expressed "great concern...[over] the prospects of the country—the threats of disunion from the South, and the graspings after all public lands, which are disclosing themselves in the Western States."¹¹⁴

Eastern newspapers published editorials lamenting Congress's agrarian tendencies and the perceived rush to distribute public lands. The *Canal of Intelligence* of Norwich, Connecticut, called for "a little Yankee management" of the situation, adding that the government should "make fair bargains, give credit only where payment can be reasonably expected, and then hold the parties to strict accountability."¹¹⁵

Some in the East agreed with agrarian sentiments, however. A major labor newspaper, *The Mechanics' Free Press*, implored Congress to make all public lands immediately available to the people by right of a title of occupancy only. "The present state of affairs must lead to the wealth of the few," an editorial read. "All men have a natural right to the soil, else they will be deprived of life, liberty, and the pursuit of happiness."¹¹⁶

Despite the East's misgivings about agrarianism and the West's growing political influence, the alliance

¹¹⁴ John Quincy Adams, quoted in Robbins, *Our Landed Heritage*, p. 42.

¹¹⁵ *Canal of Intelligence* (Norwich, Connecticut), January 2, 1828.

¹¹⁶ *The Mechanics' Free Press*, October 28, 1828.

between the South and West made possible the rise of the new Democratic Party. This party elected Andrew Jackson president in 1828, and the East had no choice but to recognize the importance of the West. By 1830, when approximately one-third of Americans were westerners, their priorities increasingly shaped the nation's agenda. The region's population and influence were growing, and its residents' opinions about land distribution and agrarianism could no longer be ignored or denigrated by the politicians of the East. In the words of historian Frederick Jackson Turner, Jackson's 1828 electoral victory and the rise of the new Democrats "meant that an agricultural society, strongest in the regions of rural isolation..., had triumphed for the moment over the conservative, industrial, commercial, and manufacturing society of the New England type... A new, aggressive, expansive democracy...had come into control."¹¹⁷

Issues of land availability and distribution were necessarily important to the West, which had no major manufacturing interests but possessed great agricultural potential and the ability to accommodate countless new settlers. Westerners and those interested in seeing the

¹¹⁷ Frederick Jackson Turner, *The United States, 1830-1850: The Nation and Its Sections*. New York: Henry Holt and Company, 1935, p. 30.

public domain made available for settlement and cultivation had reason to expect that the newly-elected Jackson would look favorably upon them. As Thomas Hart Benton stated, "The manufacturers want poor people to do the work for small wages; these poor people wish to go to the West and get land; to have flocks and herds—to have their own fields, orchards, gardens, and meadows—their own cribs, barns, and dairies, and to start their children on a theater where they can contend with equal chances for the honors and dignities of the country."¹¹⁸

Many Southerners recognized that both the South and West opposed the economic policies of the East, albeit for different reasons. Westerners desired low prices and liberal access to public lands for the purposes of settlement and cultivation. Southerners wanted a low tariff, opposed by many easterners because it meant increased foreign competition and a likely reduction in profits. Senator Robert Y. Hayne of South Carolina recognized these differing motivations and suggested that the South and West work together based on their common enmity toward the East. Though such a partnership would become inconceivable later as the spread of slavery into

¹¹⁸ Thomas Hart Benton, quoted in Raynor G. Wellington, *The Political and Sectional Influence of the Public Lands, 1828-1842*. New York: Riverside Press, 1914, p. 28.

the West became the South's main concern regarding public lands, that aspect of sectionalism was not yet fully ingrained into the minds of most in the South or the West.

Ultimately, Hayne's proposed partnership between southerners and westerners accomplished little besides infuriating politicians of the North and East, including Senator Daniel Webster of Massachusetts. In an attempt to defend New England's position, Webster answered many of Hayne's statements in a long Senate debate that captivated many but produced no real solution. Benton's graduation bill passed the Senate in May 1830 but was allowed to die in the House of Representatives. Every senator from the East voted against it. Though the West-South partnership succeeded in pushing it through the Senate, it was not strong enough to ensure the bill's passage.

Removal of American Indians from western lands was another critical land issue on which those living in the West demanded action. This was also an issue in some southern states and therefore represented another opportunity for partnership between those two sections. Being of both the West and the South and a former Indian fighter to boot, Andrew Jackson sought to quickly and decisively remove Indians from lands on which they had

lived for generations but, in his mind, would better serve white American farmers. Many in Georgia, the Carolinas, Florida, Alabama, and even Illinois implored Jackson to act. They had waited for years for federal lawmakers to deal with their perceived "Indian problems," and they sensed an opportunity with Jackson in the White House.

With many states, especially Illinois, threatening to deal directly with removal of natives, Jackson became convinced that something must be done immediately. He noted in his Annual Message to Congress in December 1829 that federal policies toward natives had largely failed. Indians making way for whites by heading to new lands "should be voluntary," he stated, "for it would be as cruel as unjust to compel the aborigines to abandon the graves of their fathers and seek a home in a distant land. But they should be distinctly informed that if they remain within the limits of the states they must be subject to their laws."¹¹⁹

Jackson's administration offered Indians no real opportunity to remain "within the limits of the states." Forcible removal became the federal government's policy, and it was largely accomplished by the mid-1830s. The

¹¹⁹ Andrew Jackson, quoted in Jon Meacham, *American Lion: Andrew Jackson in the White House*. New York: Random House, 2008, p. 122.

areas between Lake Michigan and the Mississippi River and eastern Iowa were cleared of Indian title, resulting in millions of acres of land suddenly opened to settlers and the creation of Iowa and Wisconsin Territories. Countless acres in several southern states were cleared of natives and opened to white farmers as well. The West and South considered Indian removal a major victory and the accomplishment of a goal both had long sought. For the Indians, of course, it was another in a long line of travesties at the hands of the U.S. government. The new "Indian frontier" in the far west (much but not all of it in what is now Oklahoma) was supposed to be permanent, but one wonders how many of those removed truly believed that the United States would honor its promise to leave them alone "as long as the grass shall grow and rivers flow." Once the removal of Indians was considered complete, strong demand arose for rapid surveys of the newly acquired lands so that they might be opened for immediate settlement.

In March 1832, while Indian removal was still ongoing, public land policy came to a head in Congress. Western and southern allies in the Senate referred measures on tariffs and public lands to the Committee on Manufactures, chaired by Henry Clay. Their goal was to secure a reduction in the

price of public lands. Clay was immediately suspicious: "A majority of the Senate referred a resolution concerning public lands to the Committee of Manufactures! Can you conceive a more incongruous association of subjects?" Clay suspected that he was being set up and that this move by his opponents "was to affect me personally by placing me in a situation in which I must report unfavorably to the western and southwestern states which are desirous of possessing themselves of the public lands."¹²⁰ If his enemies could not accomplish their goals through legislation, they would try to shame Clay into giving them what they wanted.

Clay did not take the bait. His committee reported that a price reduction was not advisable and that the current pace of land sales proved that the price of public land was not prohibitively high. To reduce prices would only result in acquisition of more land by speculators, which would be no help to those hoping to settle in the West. He called for a system of distribution of land revenues among the states according to their number of representatives in Congress. The states would be free to apply this money to education, internal improvements, debt reduction, or other purposes.

¹²⁰ Henry Clay, quoted in Robbins, *Our Landed Heritage*, p. 55.

Thomas Hart Benton was outraged and became convinced that Clay and his allies cared only for increasing the federal government's power over the individual states. Benton and his Committee on Public Lands immediately challenged Clay's findings and objected to the Committee on Manufactures' right even to examine questions dealing with the public domain. (On this point, Benton might have actually agreed with Clay, who wondered the same thing.) Benton argued for a reduction in public land prices in order to make more land accessible to more settlers. The public domain, he argued, should be used as a means of building up individuals and communities, not a source of revenue to the federal government or the individual states.

Andrew Jackson finally weighed in on this controversy in his December 1832 Annual Message to Congress. "The wealth and strength of a country," he wrote, "are its population, and the best part of that population are the cultivators of the soil. Independent farmers are everywhere the basis of society and the true friends of liberty." Jackson went on to state that he believed that the public domain should cease to be a revenue source for the government and that residents of the West had paid more than their fair share of taxes and land fees for which they had thus far received little in return. Jackson also

reiterated his opposition to any federal funding for internal improvements.¹²¹

Despite Jackson's message, Clay's distribution bill passed the Senate in December and eventually passed the House of Representatives as well. Jackson pocket vetoed it on the grounds that distribution in reality equaled federal funding for internal improvements, no matter how indirectly it proponents wished to characterize it.¹²² Clay called Jackson's veto unconstitutional and offered his opinion that the president had "despotically" pocket vetoed the measure.¹²³

About five weeks after Martin Van Buren became the eighth president, every bank in New York City stopped specie payments, and the Panic of 1837 ensued. Whigs were quick to blame Jacksonian policies such as the denial of re-chartering the Bank of the United States. "The Hero of the Hermitage," wrote Clay, "has lived to hear himself cursed as bitterly and as lowly [sic] as any of his Class of whom History treats."¹²⁴ Van Buren called Congress back

¹²¹ Andrew Jackson, *Fourth Annual Message to Congress*, December 4, 1832, available at <http://www.presidency.ucsb.edu/ws/index.php?pid=29474&st=&st1=>.

¹²² Andrew Jackson, *Veto Message, December 4, 1833*, available at <http://www.presidency.ucsb.edu/ws/index.php?pid=67041&st=&st1=>.

¹²³ Henry Clay, December 5, 1833, in *Register of Debates: Senate, 23rd Congress, 1st Session*, p. 15.

¹²⁴ Henry Clay to Christopher Hughes, June 18, 1837, in Seager and Hay, eds., *The Papers of Henry Clay, Volume 9*, p. 49.

to Washington for a special session to deal with the nation's financial difficulties.

The panic was particularly felt in the West, where banks crashed and the few ongoing internal improvement projects ceased. Several state legislatures passed laws increasing taxes on lands, which caused many speculators to sell quickly and cheaply. In this way, settlers may have actually benefitted from the nation's financial chaos by having an abundance of cheap lands made suddenly available. Most of the settlers who acquired land at this time were already in the West. Despite the opinions of Horace Greeley and others that the panic would actually spur migration to the West, very few easterners could afford to buy transportation there or, once arrived, the necessary equipment and implements to establish a farm.

In Congress, the panic led to more sectional battles about land distribution. Thomas Hart Benton reintroduced his graduation bill to reduce the price of public lands proportional to how long they had been on the market. Clay opposed this, fearing it would drive land values down even further. Senator John C. Calhoun of South Carolina presented a plan under which all federal land laws would remain unchanged, the federal government would receive 12.5 percent of the proceeds of all state land sales, and all

states would be required to receive congressional approval before lowering the prices of their lands. None of these plans went anywhere in Congress.

Senator Robert J. Walker of Mississippi introduced a preemption bill before the Senate on January 25, 1838. He argued that allowing preemption for actual settlers on public lands would serve to increase the value of other unsold property. The bill was designed to "confine the settler to the space he occupies, giving him preference in the purchase, at the Government price, over the speculator."¹²⁵ Providing this right to those living on lands to which they had no legal title would add value to nearby lands because, Walker said, "It is population in the immediate neighborhood that gives value to the public lands, which would otherwise bring little or nothing."¹²⁶ He decried the dishonest practices of speculators and linked preemption with western expansion, stating, "God grant they (settlers) may go on adding to this glorious Republic State after State, until we have one long line of States to the Pacific."¹²⁷

Walker's bill disgusted Clay, who viewed preemption as a reward for breaking the law. "The whole preemption

¹²⁵ Speech of Senator Robert Walker, January 25, 1838, in *Congressional Globe: Senate, 25th Congress, 2nd Session*, p. 136.

¹²⁶ *Ibid.*

¹²⁷ *Ibid.*

system is a violation of all law," he told the Senate the day after Walker introduced his bill, adding that the bill was "an encouragement to persons to go on the public lands and take the choicest portion of them."¹²⁸ Van Buren's and Benton's support for the bill only made Clay's opposition more rigid and his belief that they were merely seeking political popularity in the West more entrenched in his mind. Horace Greeley wrote in the June 23, 1838 issue of *The Jeffersonian* that the preemption bill appeared to him to be "calculated to set our western people hunting after sudden fortunes in making a claim upon some choice tract of land...instead of striving to improve their circumstances by regular and patient industry. It looks like a premium on thriftlessness and gambling adventure."¹²⁹

The debate over preemption grew so contentious that the Senate eventually dropped the Walker bill and elected instead to concur in the passage of a watered-down version that came out of the House of Representatives. The passage of this bill was an overwhelming victory for the Democrats; even some western Whigs broke ranks and supported it. Preemption continued to be debated for the next few years in Congress, and everyone could see that western land

¹²⁸ Speech of Henry Clay, January 26, 1838, in *Congressional Globe: Senate, 25th Congress, 2nd Session*, p. 142.

¹²⁹ Horace Greeley in *The Jeffersonian*, June 23, 1838, quoted in Robbins, *Our Landed Heritage*, p. 76.

issues would be of great importance in the upcoming 1840 presidential campaign. In 1838, John C. Calhoun predicted that the 1840 census would show the West had sufficient population to control approximately five-twelfths of the Electoral College. If that were to be the case, according to Calhoun, the candidate who best catered to the West during the campaign would surely win the presidency.¹³⁰

William Henry Harrison was that candidate. The hero of Tippecanoe was a former Democrat who had authored the Land Bill of 1800, which had reduced the minimum amount of land that could be purchased in the old Northwest, thereby making more land available to more settlers. Harrison played to his western audience during the campaign by reminding them of his role in devising the bill "which had for its object to snatch from the grasp of speculation all this glorious country which now teems with harvests under the hands of honest, industrious, and virtuous husbandmen."¹³¹

Harrison portrayed himself as a hearty frontiersman and his Democratic opponent, President Martin Van Buren, as a wealthy eastern snob living richly at public expense. Few were aware of Harrison's own personal wealth; his "log

¹³⁰ John C. Calhoun, quoted in *Ibid.*, p. 77.

¹³¹ William Henry Harrison, quoted in *The Log Cabin* (Whig newspaper), September 26, 1840.

cabin" image fascinated the public and helped him connect with those suffering in the nation's poor economy, which the Whigs predictably and effectively blamed on Van Buren. Harrison cruised to an electoral victory, proving the validity of Calhoun's earlier prediction about the growing importance of the West.

In 1846, Representative Jacob Thompson of Mississippi, during a speech on public lands issues, explained Harrison's appeal and the real reason for his victory in 1840:

No one fact of circumstance had so powerful a control over the minds of the great masses in the Mississippi Valley in winning their affections to General Harrison as that he had been a pioneer himself, a settler, in the western sense of that term, had lived in a log cabin, and had favored all of the laws which had tended to the protection and security of the squatter. Here was the consideration which threw confusion into the ranks of the Democratic party. This was the lever by which the Whig party raised themselves from a hopeless minority into an unexpected and triumphant majority. The supposed sympathy of General Harrison, and the reputed aversion of Van Buren for the poor man, for the humble citizen, is the true secret of the great and tremendous political revolution of 1840.¹³²

Thompson considered the 1840 election a "revolution" because it represented what many believed would be the culmination of two decades of sectional struggle over public lands issues. Conservative easterners tended to look at the western states and territories as something akin to colonies and treat them with paternalistic

¹³² Speech of Jacob Thompson, July 9, 1846, in *Congressional Globe: House of Representatives, 29th Congress, 1st Session*, p. 777.

condescension. They also preferred to view western lands as sources of revenue for the national government. Those living in the West, however, wanted no part of a system that viewed their region as good for little more than raising money for the U.S. Treasury. Land was the one thing the West had in abundance, and westerners sought legislation from Congress that would put that land into the hands of settlers, not speculators. Therefore, westerners tended to favor enactment of a preemption system. Their most vocal champion during the 1830s and 1840s was Thomas Hart Benton.

Easterners, however, feared that preemption would result in massive population losses for the old states if young men and their families bolted for cheap western lands. These same easterners also feared the potential agricultural power of the West, which could threaten the farms and farm products of the Atlantic states. They tended to favor the distribution system, which disavowed preemption, continued the sales of public land, and then distributed the proceeds among all states according to the numbers of their congressional representatives. This was Clay's preferred system, and his support of it brought him no small measure of grief from westerners.

Many inhabitants of the West believed their moment had arrived with the election of Harrison. Land debates, however, would only increase in frequency and intensity during the decade. Calhoun opposed Clay's distribution system because he feared it would mean the return of a high tariff, always political anathema to the South and other proponents of states' rights. Calhoun presciently foresaw that the election of 1840 was not even close to the end of the rancorous debates over distribution of public land. "I regard the question of public lands, next to that of the currency, the most dangerous and difficult of all which demand the attention of the country and government at this important junction of our affairs," he told the Senate on January 12, 1841.¹³³

President Harrison's death after just one month in office complicated land matters further. Vice President John Tyler of Virginia assumed office upon Harrison's death. Like so many vice presidential candidates, Tyler had been selected to provide geographic balance on the ticket in 1840. Neither Harrison nor anyone else expected the former Democrat Tyler ever to occupy the White House.

¹³³ Speech of John C. Calhoun, January 12, 1841, in Clyde N. Wilson, ed., *The Papers of John C. Calhoun: Volume XV, 1839-1841*. Columbia: University of South Carolina Press, 1983, p. 423.

In fact, according to historian George M. Stephenson, "The victory of the Whigs proved to be their undoing."¹³⁴

Tyler was an extreme proponent of states' rights who had little in common with Harrison and other northern Whigs except opposition to Martin Van Buren. He had been placed on the ticket merely to appeal to those Whigs who had been so horrified and frustrated by what they viewed as the monarchical attitude of Andrew Jackson and his successor, Van Buren. Like Harrison, Tyler had said little about public land issues during the campaign. In fact, the Whig party seemed to have no real plan for public lands. What Harrison had said about them during his presidential run had been geared specifically toward the audience he addressed. No one really knew what course Harrison would pursue toward the public lands as president. When he died and Tyler assumed office, most said the same of Tyler. Fellow Whig John Quincy Adams thus assessed Tyler's fitness for office and likely course of action: "Tyler is a political sectarian, of the slave-driving, Virginian, Jeffersonian school, principled against all improvement,

¹³⁴ George M. Stephenson, *The Political History of the Public Lands, 1840-1862*. Boston: Richard G. Badger, 1917, p. 44.

with all the interests and passions and vices of slavery rooted in his moral and political constitution."¹³⁵

When Tyler sent his first message to Congress and came out in favor of distribution, most Democrats assumed that Henry Clay—whom many referred to as the "Acting President"—was calling the shots for Tyler. Tyler, however, was not so easily influenced by Clay, with whom he sometimes agreed but just as often disagreed. Several times Tyler vetoed bills Clay supported. When westerners again began to force the issue of a stronger preemption bill, Clay naturally assumed that the Congress's Whig majority would follow his lead and oppose it.

However, proponents wisely and shrewdly combined the preemption bill with a distribution amendment, which included a proviso that the distribution law would be suspended when the rate of tariff duties was above twenty percent. Though westerners were the only group universally pleased, Tyler signed the bill into law. It provided settlers the opportunity to purchase land on which they lived without legal title before it was offered for public sale. The distribution provision stated that after December 31, 1841, ten percent of the proceeds of public

¹³⁵ John Quincy Adams, April 4, 1841, in Allan Nevins, ed., *The Diary of John Quincy Adams: 1794-1845*. New York: Longmans, Green and Co., 1929, p. 520.

land sales in Ohio, Indiana, Illinois, Alabama, Missouri, Mississippi, Louisiana, Arkansas, and Michigan would be returned to those states. The remainder of public land proceeds (less the expenses of surveys and administration) would be divided among the other states and territories according to representation in Congress.¹³⁶

In August 1842, both houses of Congress passed a tariff measure raising the duties to about the twenty percent level, effectively killing the distribution side of the combined preemption-distribution bill. Hence, only the preemption law remained active. This was a major and somewhat unexpected victory for the West. Under the 1841 preemption bill, an individual was free to move onto a tract of surveyed public land up to 160 acres in size and stake a claim that, so long as he paid the government minimum price of \$1.25 per acre, no one else could take or purchase out from under him. The preemptive settler had to be at least twenty-one years old or, if younger, the head of a family, and had to be either a U.S. citizen or have filed a declaration of intention to become a citizen. The settler was not permitted to own more than 320 acres of land in any state or territory.

¹³⁶ Stephenson, *The Political History of the Public Lands*, p. 64.

The Preemption Act of 1842 recognized four general principles that later came to be associated with the Homestead Act: settlement of the public domain was more preferable than public lands generating revenue; Congress intended that the benefits of the law apply to those who had little or no land already; small farms were preferable so that as many as possible could benefit from the law; and settlers should be free from intrusion and have sufficient time to gather the required sum to purchase the land (or, later, make improvements to it).¹³⁷

The Preemption Act did not, of course, end the debate over land distribution. If anything, it hardened the resolve of politicians from various sections of the country to either expand or destroy it. The law was, however, something of a victory for the West over the traditionally conservative interests and political figures of the East. It was, at the time, the most important, far-reaching land law Congress had passed in the history of the country. Almost immediately, though, westerners began to sense their own power and began clamoring for more: specifically, a law that would grant public land for free.

Shortly after the passage of the Preemption Act, many easterners sensed and feared the West's growing power and

¹³⁷ Robbins, *Our Landed Heritage*, p. 91.

influence. In an effort to check this development, some Whigs attempted to bring back their distribution plan, which had been automatically repealed in 1842 when the tariff was raised above twenty percent. *New York Tribune* editor Horace Greeley, a loyal Whig, attempted to ensure that the land issue would be at the forefront of the upcoming 1844 presidential election. In his words, distribution was "a measure of strict justice to the states, of relief to the impoverished and bankrupt, and of encouragement to education and internal improvement." He feared that the next Congress would "feel the influx of an enormously increased proportion of Representatives of the squatter interest, clamorous for spoliation of the Old States altogether, by measures of graduation, loose preemption, or direct cession of these lands."¹³⁸

Greeley also worried that "one year of prosperous industry will lead to heavy purchases of public lands; then comes an excessive revenue, next a reduction of the tariff in the midst of good prices, next excessive importations followed by derangement, bankruptcy and distress. Friends of American industry! Stand by the land distribution! It is the sheer anchor of our safety!"¹³⁹ To Greeley and many

¹³⁸ Horace Greeley, *New York Weekly Tribune*, July 9, 1842.

¹³⁹ *Ibid.*

other Whigs, going against distribution would clearly lead to a slippery slope of moves that would eventually result in the destruction of the American economy. Democrats, including Van Buren, believed that income from the public domain would be better used for the benefit of the entire nation if placed into the general treasury. Southerners naturally agreed with Van Buren since this would ensure a lower tariff.

Senator Robert J. Walker of Mississippi introduced another graduation bill in the Senate on December 11, 1843. Walker had, in 1838, also proposed a preemption bill. In his 1843 measure, he sought to graduate the price of public lands in order to aid settlers and cultivators, making public land prices dependent upon the land's quality rather than making all land available at the same price per acre regardless of its suitability for cultivation. Still hoping to make land policy a large issue for the 1844 campaign, Horace Greeley responded: "We must watch and foil the demagogues who are incessantly trying to squander the public lands by reducing their price... The public lands are the great regulator of the relations of Labor and Capital, the safety valve of our industrial and social engine; and woe to this people should they by any cheating

pretense of favoring 'poor settlers' be alienated, or suffered to be absorbed by the few."¹⁴⁰

Public land policy did not ultimately become a major issue in the 1844 campaign, though western expansion did. Perhaps most notably, Walker of Mississippi, nearly as vocal an advocate for graduation as Thomas Hart Benton, was named Secretary of the Treasury in the new James K. Polk administration. President Polk, a southern Democrat, was also an outspoken supporter of reducing land prices. In his December 1845 message to Congress, he stated that, "By adopting the policy of graduation and reduction of prices these inferior lands will be sold for their real value, while the States in which they lie will be freed from the inconvenience, if not injustice, to which they are subjected in consequence of the United States continuing to own large quantities of the public lands within their borders not liable to taxation for the support of their local governments."¹⁴¹

Horace Greeley responded in his newspaper's pages. "If ever there was a scheme," he wrote of Polk's stance on graduation, "full of mischief and injustice, this is one. It ought to be entitled 'A bill to discourage and prevent

¹⁴⁰ Horace Greeley, *New York Weekly Tribune*, February 3, 1844.

¹⁴¹ James K. Polk, *First Annual Message to Congress*, December 2, 1845, available at <http://www.presidency.ucsb.edu/ws/index.php?pid=29486>.

all payment for the public lands, and enable speculators to get them ultimately for a song.'"¹⁴² Greeley's strong stance against graduation or any price reduction on public lands makes his eventual support for homesteading—giving those lands away for no monetary cost—curious and subject to charges of being either politically expedient or politically brilliant.

As the population and political influence of the West began to grow, the Whig view of the proper use of public lands looked more and more unrealistic. Jacob Thompson of Mississippi pointed this out in a speech in the House of Representatives on July 9, 1846. He blasted the Whigs in general and Henry Clay in particular. Clay's stance "always lost him the vote of the new states, and it must and will be the fate of all those who follow in his footsteps." Easterners would "never learn that distribution of the proceeds of the sales of the public lands among the States is an exploded, an 'obsolete idea,' condemned by the people, unauthorized by the Constitution, and founded in injustice and a false economy." According to Thompson, Clay's boldness and eloquence should have won him the loyalty of westerners, but his stands against

¹⁴² Horace Greeley, *New York Weekly Tribune*, December 13, 1845.

preemption and for distribution made them "turn away with odium and disgust."¹⁴³

Another graduation bill came before Congress in the summer of 1846, passing the Senate by a party-line vote but being tabled in the House of Representatives. Greeley, for one, saw the writing on the wall and finally seemed to admit that the Whig view of the public lands would never pass and had to change. There was, he stated, "but one hope left. That rests on the principle of *freedom of the lands* in small tracts (not over 160 acres) to actual settlers only, each paying the sum adequate to the cost of survey, etc. for the right of occupancy only... [and] inalienable except by the free consent of the holder, and not alienable then except to one who possesses no other land."¹⁴⁴ In this passage, Greeley had not only outlined the skeleton of the eventual Homestead Act but had essentially challenged the Whigs to consider and adopt a completely new way of thinking about the public lands. The real question was whether or not they would accept that challenge.

¹⁴³ Speech of Jacob D. Thompson, July 9, 1846, in *Appendix to the Congressional Globe, House of Representatives, 29th Congress, 1st Session*, p. 777.

¹⁴⁴ Horace Greeley, *New York Weekly Tribune*, July 18, 1846.

The mid-1840s through the end of that decade witnessed a flurry of congressional activity on a number of homestead measures. Representative Felix McConnell of Alabama presented a bill in March 1846, and Andrew Johnson of Tennessee attempted to introduce another just three days later. Illinois Representative Orlando Ficklin presented a bill that provided for homesteads of eighty acres and made the land inalienable for debt for ten years. To Greeley, this was a positive step forward but one that did not go far enough. None of these bills went very far, and the matter was temporarily shelved during the 1846-48 Mexican-American War.

During and especially after the war, those seeking land reform turned their attention to the upcoming 1848 presidential campaign. Many, including Greeley, were disappointed in the candidates of both major parties. The Whig, General Zachary Taylor, was an avowed expansionist who had played a major military role in acquiring vast new territories during the recent war. Many feared the South intended to attempt to populate those new territories with pro-slavery settlers. Senator Lewis Cass of Michigan, the Democratic nominee, had in the past speculated extensively on land in the West.

The Free Soil Party nominated former president Martin Van Buren. This pleased Greeley, despite that party's platform not containing a plank supporting homesteads. "If I could make Van Buren president tomorrow, I would," wrote Greeley. "I do like the principles he now embodies—Free Soil and Land Reform... The Free Soil party is the only live party around us." Greeley also pointed out, however, that the Free Soilers, in their lack of stated support for homesteading, "missed a great opportunity of drawing in a large western vote."¹⁴⁵ Eventually, however, Greeley returned to the Whigs, who needed his public and vocal support in the pages of *The New York Weekly Tribune*. He likely realized privately that no third party had a real chance of winning, and the Whigs made it hard for him not to return to the fold when they nominated him to fill an unexpired congressional term.

As the 1840s came to an end, vast economic and industrial changes were taking place in America that would eventually increase public support for the "free land" idea. Immigration, especially from Ireland and Germany, provided a labor supply for eastern manufacturers. The growing factory system allowed for increased production and

¹⁴⁵ Horace Greeley, quoted in Stephenson, *The Political History of the Public Lands*, p. 138.

wider, more diverse markets. Canals and railroads linked together the East and West like never before. All that remained was to increase the number of farms and farmers in order to maximize agricultural production, and the huge expanses of the West presented the opportunity to do just that. "Every smoke that rises in the Great West marks a new customer to the counting rooms and warehouses of New York," Greeley wrote in an effort to link western agriculture to the economic success of the East.¹⁴⁶ "Even to those workers who will never migrate, free land at the West would be a great and lasting benefit."¹⁴⁷ Finally, Greeley appealed to his readers' religious sensibilities, quoting the book of Leviticus: "The land shall not be sold forever; for the land *is* mine; for ye are strangers and sojourners with me."¹⁴⁸ In other words, selling the land as a mere commodity was not only bad policy, but also a sin.

Thanks to the Whigs who wanted *The New York Weekly Tribune* on their side during the 1848 campaign, Greeley became a member of Congress during the short session that convened in December 1849. He immediately announced his intent to introduce a homestead bill, which he did, but the bill went nowhere and died in February. Because of his

¹⁴⁶ Horace Greeley, *New York Daily Tribune*, March 9, 1849.

¹⁴⁷ *Ibid.*, May 6, 1852.

¹⁴⁸ *Ibid.*, March 9, 1849.

brief tenure in office, this was the extent of Greeley's efforts to make homesteading a legislative priority for Congress.

In the Senate, luminaries such as Stephen A. Douglas, Sam Houston, and William Seward introduced their own bills designed to distribute free land to citizens. Even Daniel Webster put forward a measure that pleased many, including Greeley. However, none of these came close to having the support needed to pass.

In the House, Andrew Johnson, never able to get the Committee on Public Lands to endorse his homesteading vision, issued a report from his Committee on Public Expenditures that seemed to do just that. The House refused to take up the measure, however, noting that it had nothing to do with public expenditures. He tried again on February 25, 1850, reintroducing a homestead bill and again seeing it referred to the Committee on Public Lands, which meant the bill's certain death. He introduced it yet again on June 4, and maneuvered it to the Committee on Agriculture, which reported it favorably and thus allowed it to be debated. Still it went nowhere, facing opposition from such old states as Virginia and Pennsylvania, whose representatives argued that they had equal rights in the

public domain that the bill all but forfeited to the newer western states.¹⁴⁹

Senator Isaac Walker of Wisconsin introduced a version of the homestead bill in January 1852. It was voted down, which brought a strong rebuke from Greeley and *The New York Weekly Tribune*: "Land Reform was slapped in the face...by that illustrious body, the United States Senate, among whom only seven members could be found to sustain Mr. Walker's proposition to give a quarter section to each landless improver and occupier...Of course, after voting that the settlers *shouldn't* have land free, the Senate proceeded to vote that the speculators in Bounty Warrants should go at it with a perfect looseness henceforward."¹⁵⁰

Johnson was still undaunted, and in March 1852 his homestead bill again passed through the Committee on Agriculture and came up for debate on the House floor. Among those speaking in support of his measure was Galusha Grow of Pennsylvania, who stated that, "The two fundamental rights of man are Life and Happiness... For the only true foundation of any right to property is man's labor. That is property, and that alone which the labor of man has made such. What rights, then, can the Government have in the

¹⁴⁹ Robbins, *Our Landed Heritage*, pp. 113-14.

¹⁵⁰ Horace Greeley, *New York Weekly Tribune*, January 24, 1852.

soil of a wild and uncultivated wilderness?"¹⁵¹ Grow was emerging as an articulate and consistent pro-homesteading voice.

Still, many old-state representatives continued to oppose the homestead measure. New York Democrat Josiah Sutherland feared that the bill would "take labor from the manufacturing states to the land states—from the manufactories of the East to the farms of the West—and thereby increase the cost of labor and the cost of manufacturing."¹⁵² Again Johnson answered, telling his colleagues that opposing the bill based on Sutherland's arguments was essentially telling people, "Do not go away; stay here in your poverty; do not go and settle upon the new, rich, fertile lands of the West, but stay here, linger, wither, and die in your poverty...where the only inheritance you can leave to your children is your poverty."¹⁵³

Fayette McMullen of Virginia summed up the concerns of many from the North and East: "They fear that the laborers—the manufacturing hands—will leave the manufacturing districts and go to the West, and that, in consequence of the diminution of laborers, the wages of labor will advance

¹⁵¹ Speech of Galusha Grow, March 30, 1852, in *Congressional Globe Appendix, House of Representatives, 32nd Congress, 1st Session*, p. 426.

¹⁵² Speech of Josiah Sutherland, April 29, 1852, in *Ibid.*, p. 530.

¹⁵³ *Ibid.*

among them... Sir, I say let these men go to the West, and emigration invited from abroad to fill their places—the foreigners will take their positions in the manufacturing districts of the North.”¹⁵⁴ Many of McMullen’s fellow southerners still had reservations about the homesteading idea, however, due to concerns that free land meant less money for the treasury and a correspondingly higher tariff. Richard Bowie of Maryland, a Whig, estimated that at least one twenty-fifth of government revenue would disappear if the homestead measure became law.¹⁵⁵

The homestead measure passed the House in May 1952. Historian Roy M. Robbins observed that, “The cleavage between the old and new states was clearly portrayed, but it is impossible to estimate the effect of the slavery issue...since the South Atlantic States would be opposed to free land on either basis.”¹⁵⁶ For his part, Greeley noted that more southerners voted for the bill than against it, but Robbins raises an interesting question: “Should Tennessee, Arkansas, Alabama, Louisiana, and Mississippi be classified at this time as ‘Southern’ or were they still ‘Western?’... The South Atlantic States could hardly have

¹⁵⁴ Speech of Fayette McMullen, April 29, 1852, in *Ibid.*, p. 519.

¹⁵⁵ Speech of Richard Bowie, April 26, 1852, in *Ibid.*, p. 481-82.

¹⁵⁶ Robbins, *Our Landed Heritage*, p. 116.

failed to sense the rising alliance between the Upper Mississippi Valley and the North Atlantic States."¹⁵⁷

This version of the bill, which came before the Senate in August, was negatively reported by the Committee on Public Lands. Nothing was done. In the next Congress, debates over free land regularly drifted into arguments over the questions related to Kansas and Nebraska.

As the 1850s progressed and sectional arguments over slavery became more pronounced, there could be no doubt that states like Tennessee, Louisiana, and Mississippi considered themselves "Southern." Sectionalism—old states versus new, North against South—held sway over the political debate on homesteading for decades. As the years advanced and the slavery issue became the nation's primary concern, the sections hardened their stances on the distribution of free land.

The national debate on land distribution emerged in the 1820s and was a major issue in Congress for the next three decades. The arguments shifted and matured over the years, and as the nation's politics moved toward civil war, a new party, emerging from the ashes of the old Whigs, embraced both the restriction of slavery and the

¹⁵⁷ *Ibid.*

implementation of homesteading. The decades-long fight over land distribution, then, can be said to be a prime reason behind the creation of the Republican Party and, eventually, the onset of the Civil War.

CHAPTER FOUR
FREE SOIL, FREE LABOR, FREE MEN:
RISE OF THE REPUBLICANS

"The Republicans," stated Carl Schurz in May 1860, "stand before the country, not only as the anti-slavery party, but emphatically as the party of free labor." A few weeks later, Illinois Republican gubernatorial candidate Richard Yates declared that, "The great idea and basis of the Republican party...is free labor....To make labor honorable is the object and aim of the Republican party."¹⁵⁸

Republicans often made such lofty statements during the party's early days, regularly extolling the virtues of free labor and free soil. To Republicans, the best labor was so-called "free labor," which equated to an independent worker reaping the benefits of his own toil, be it at an industrial vocation or a farm. Support for free labor naturally coincided with support for free soil, which called for the establishment of farms to be worked by landowners, not slaves. It was only natural, then, that those favoring free labor and free soil would eventually ally themselves with the Republican party.

But how and why did the Republicans form in the 1850s, and what role did their support of a homestead measure play

¹⁵⁸ Carl Schurz and Richard Yates, quoted in Eric Foner, *Free Soil, Free Labor, Free Men: The Ideology of the Republican Party before the Civil War*. Oxford: Oxford University Press, 1995, p. 11.

in their rapid rise to national promise? To understand this, it is important to look back to the land reform movement and Free Soil party of the 1840s and early 1850s, the collapse of the Whigs, and the national debate over slavery expansion.

The year 1854 opened with Senator Stephen Douglas of Illinois introducing a bill to organize the Nebraska Territory, which later was divided into the two territories of Kansas and Nebraska. Many southern Democrats were already angry with the Franklin Pierce administration's friendly overtures toward northern free soil Democrats, and they told Douglas that they would not support a Nebraska bill that barred slavery from that territory. Douglas acquiesced and used his influence with Pierce to ensure the administration's support for a bill that amounted to a repeal of the Missouri Compromise. Northern Democrats and free soilers were understandably upset, seeing this as their own party establishing a litmus test on slavery. Gideon Welles, a Connecticut Democrat, complained that, "The administration has identified itself with this new test and, wielding the power and patronage of the

government, it assumes an attitude of open hostility to any democrat who does not conform to its views."¹⁵⁹

Another Democrat, Montgomery Blair, saw the repeal of the Missouri Compromise as just another example of the South dominating both the Democratic party and national politics. If the Democrats could not obtain votes based on their ideas, they would acquire them by forcing northerners who sought higher office to cater to southern demands. Blair also foresaw the political storm the repeal would cause: "We are to have a renewed contest for the ascendancy of slavery over freedom."¹⁶⁰

While most Whigs were naturally disaffected with the Kansas-Nebraska bill, the issue also drove many northern Democrats from their own party. "We have submitted to slavery long enough," wrote an Ohio Democrat. "I am done catching negroes for the South." A Republican later asserted that, "Radical and Jackson Democrats...were the first to aid in organizing the Republican party, especially in the West."¹⁶¹

On January 19, 1854, several abolition-minded members of Congress printed a manifesto containing the seeds that soon sprouted into the Republican Party. *The Appeal of the*

¹⁵⁹ Gideon Welles, quoted in Foner, *Free Soil, Free Labor, Free Men*, p. 156.

¹⁶⁰ Montgomery Blair, quoted in *Ibid.*, p. 157.

¹⁶¹ *Ibid.*

Independent Democrats, as it became commonly known, implored readers to take heed of dangerous developments in Congress pertaining to the West. The specific bill in question focused on the proposed Kansas and Nebraska Territories: "...a new Nebraska bill has been reported by the Senate Committee on Territories, which, should it unhappily receive the sanction of Congress, will open all the unorganized Territories of the Union to the ingress of slavery."¹⁶² Published under the heading, *Shall Slavery be Permitted in Nebraska?*, the *Appeal* listed a number of arguments against the extension of slavery to the western territories. By permitting popular sovereignty on the slavery question in the new territories, many northerners feared the bill would repeal the Missouri Compromise and potentially open the West to the possibility of slavery.

In addition to a condensed history of American westward expansion, the document also touched on a number of western issues that proved important to Republicans over the next decade and beyond. The *Appeal* dealt with the population and agricultural potential of the West, proposed mainly by a homestead bill: "If slavery be allowed there, the settlement and cultivation of the country must be

¹⁶² "Appeal of the Independent Democrats," in *The Library of Original Sources* (Editor's Edition), edited by Oliver J. Thatcher. New York: University Research Extension, 1907, pp. 144-52.

greatly retarded...The homestead law, should Congress enact it, will be worthless there."¹⁶³ The document also mentioned the negative impacts of territorial slavery on the proposed transcontinental railroad: "What will be the effect of this measure...upon the proposed Pacific Railroad?...The enhanced cost of construction, and the diminished expectation of profitable returns, will present almost insuperable obstacles to building the road at all."¹⁶⁴

The *Appeal* concluded by asking readers to consider the geographical consequences of allowing slavery in Nebraska: "We beg you...to observe that it will sever the East from the West of the United States by a wide slaveholding belt of the country, extending from the Gulf of Mexico to British North America. It is a bold scheme against American liberty, worthy of an accomplished architect of ruin...The first operation of the proposed permission of slavery in Nebraska will be to stay the progress of the free States westward, and to cut off the free States of the Pacific from the free States of the Atlantic."¹⁶⁵ Thus was encapsulated an argument against the expansion of slavery

¹⁶³ *Ibid.*, pp. 150-1.

¹⁶⁴ *Ibid.*, p. 150.

¹⁶⁵ *Ibid.*, p. 151.

and for the improvement of the West that would soon lead to the creation of the Republican Party.

Of course, many who would become Republicans did not claim to be abolitionists; rather, they hoped to see slavery contained in the South instead of eliminated altogether. The January 20 edition of the *New York Daily Times* called the Nebraska bill "so clearly regardless of Northern sentiment, and so bare-faced a bill for Southern votes that it must disgust a large portion even of those who are supposed to be especially benefited by it."¹⁶⁶ Fearing that approval of the bill would drive northern moderates to become abolitionists, however, the same article speculated on "a storm of indignation in the North" that would "give that section completely into the hands of GIDDINGS, GERRITT SMITH, CHASE, SUMNER, and their political friends."¹⁶⁷ Claiming that "the cause of human freedom is the cause of God," Giddings, Smith, Chase, and Sumner all signed the *Appeal of the Independent Democrats*, along with Representatives Edward Wade of Ohio and Alexander DeWitt of Massachusetts.¹⁶⁸ All, including the westerners Chase, Giddings, and Wade, eventually became Republicans.

¹⁶⁶ "From Washington: Special Correspondence of the N.Y. Daily Times. *New York Daily Times* 1851, January 20, 1854; ProQuest Historical Newspapers, The New York Times (1851-2004), p. 4.

¹⁶⁷ *Ibid.* (Representatives Joshua Giddings of Ohio and Gerritt Smith of New York and Senators Salmon P. Chase of Ohio and Charles Sumner of Massachusetts were all vocal abolitionists.)

¹⁶⁸ Thatcher, ed., p. 152.

By mid-1854, the need for a new political organization to combat the extension of slavery was obvious. Southerners dominated the Democratic Party, and the Whigs hovered perilously close to dissolution and were unable to mount any meaningful response to the proposed Kansas-Nebraska bill.¹⁶⁹ The passage of the bill and subsequent approval of it by President Franklin Pierce in May 1854 "obliterated old party lines in the North completely, and left disorganized groups of anti-Nebraska Whigs, anti-Nebraska Democrats, Free-soilers, Abolitionists, and Know-Nothings, all of whom represented every extreme of the Northern view of slavery."¹⁷⁰ As one Free Soiler-turned-Republican put it, "The dispersion of the old parties was one thing, but the organization of their fragments into a new one on a just basis was quite a different thing."¹⁷¹

John D. Long, an early historian of the Republicans, called the Kansas-Nebraska Act and the upheaval it unleashed "a new phase of an old subject."¹⁷² There is little dispute among historians that the idea of slavery's extension into unsettled American territories necessitated the creation of the Republican party. However, the

¹⁶⁹ George W. Platt, *A History of the Republican Party*. Cincinnati: C.J. Krehbiel & Co., 1904, p. 8.

¹⁷⁰ *Ibid.*

¹⁷¹ George W. Julian, quoted in Lewis L. Gould, *Grand Old Party: A History of the Republicans*. New York: Random House, 2003, p. 5.

¹⁷² John D. Long, *The Republican Party: Its History, Principles, and Policies*. New York: The M.W. Hazen Company, 1888, p. 33.

evidence also shows that as early Republicans fought to exclude slavery from the West, they simultaneously pursued an aggressive agenda designed to rapidly settle, improve, populate, and manage the western states and territories. In short, the Republican party was, from its earliest days, a party of the West and westward expansion.

The selection of the name "Republican" was no accident. Organizers purposely chose the moniker to connect themselves to the political tradition of Thomas Jefferson: "Tying the new party to the framer of the Declaration of Independence underlined the commitment of northerners to doctrines of political equality and expanding economic opportunity."¹⁷³ (These early Republicans must have chosen to overlook Jefferson's status as a slave owner.) Even in 1854, Americans revered Jefferson, so Republicans must have recognized that claiming to be his political descendants would lend weight to their cause and organization as well as help recruitment.

Though he never traveled beyond the Alleghenies, the West had fascinated Jefferson. The third president was long dead before states like Wisconsin and Michigan existed, but the first Republicans were aware of his

¹⁷³*Ibid.*

interest in their part of the country. This may have given them additional motivation to connect their new movement to him.

Jefferson's influence on the West was undeniable. In 1785, he co-authored the bill creating the rectangular survey system.¹⁷⁴ Many also considered him the intellectual originator of the free land idea that eventually culminated in the Homestead Act of 1862 (driven through Congress by the Republican Party). "Whenever there is in any country uncultivated lands and unemployed poor, it is clear that the laws of property have been so far extended as to violate natural right," Jefferson wrote on August 13, 1776. "The small land holders are the most precious part of a state."¹⁷⁵ Finally, Jefferson was also an early proponent of peaceful displacement of American Indians in order to make room for American settlers and farmers. Historian Stephen E. Ambrose wrote: "In Jefferson's view, the trans-Mississippi western empire could serve as a vast reservation for Indians displaced from east of the river. There they could learn to farm and become civilized, so that they could be incorporated into the body politic."¹⁷⁶

¹⁷⁴ Paul Wallace Gates, *History of Public Land Law Development*. Washington, D.C.: Government Printing Office, 1968, pp. 59-63.

¹⁷⁵ Thomas Jefferson to Edmund Pendleton, quoted in *Ibid.*, p. 62.

¹⁷⁶ Stephen E. Ambrose, *Undaunted Courage: Meriwether Lewis, Thomas Jefferson, and the Opening of the American West*. New York: Simon & Schuster, 1996, p. 57.

Later, both during and particularly after the Civil War, politicians and soldiers, many of them Republicans, became advocates of forcibly removing or exterminating Indians to make room for homesteaders and other settlers. They would have done well to remember Jefferson's 1785 statement, "I believe the Indian then to be in body and mind equal to the white man."¹⁷⁷

After the party's somewhat humble beginnings in Michigan and Wisconsin, Republicanism began to spread. While some national political figures of several different parties—many of them abolitionists—immediately converted, others held back their support until they could gauge the party's chances of success. Experienced politicians had seen a number of regional antislavery parties rise quickly and disintegrate quicker. No one with any serious political ambitions wanted to have a record of jumping from party to party for their opponents to exploit. Abraham Lincoln was among those that resisted immediately jumping to the Republicans. As historian Lewis L. Gould noted, "Until Lincoln and men like him were sure that the Whigs were indeed doomed, they kept their political options open."¹⁷⁸

¹⁷⁷ Thomas Jefferson, quoted in *Ibid.*, p. 55.

¹⁷⁸ Gould, *Grand Old Party*, p. 16.

Salmon P. Chase of Ohio was one who almost immediately cast his lot with the Republicans. He was also one who had belonged to seemingly every antislavery party that had risen and fallen over the years. He had been an abolitionist since at least the mid-1830s and had over the years been a Whig, a member of the Liberty Party, and a Free-Soiler.¹⁷⁹ Later in life, he was a Democrat as well. (Chase yearned to be president of the United States and was willing to ally himself with nearly any party whose presidential nomination he thought he could capture.) A Free Soil party U.S. Senator in 1854, he fiercely opposed the Kansas-Nebraska Act and became an organizer of Ohio's Anti-Nebraska party, which soon morphed into the Republican Party. In July 1855, Chase became the Republicans' candidate for governor of Ohio. In his acceptance speech for that nomination, he stated, "The spread of slavery, under all circumstances and at all times, must be inflexibly resisted. Slavery in the Territories must be prohibited by law....Side by side with all men who are willing to unite with me for the defense of freedom, I am ready to contend to the last for the rescue of the

¹⁷⁹ Doris Kearns Goodwin, *Team of Rivals: The Political Genius of Abraham Lincoln*. New York: Simon and Schuster, 2005, pp. 60-169.

Territories from slavery. I would do no injustice to the slave states."¹⁸⁰

Like many early Republicans, Chase was a native easterner who early in life migrated west and came to identify with western issues and concerns. As a Whig during his early political career, he championed a national bank and internal improvements. During his 1849-1855 Senate term, he even introduced a bill to construct a transcontinental railroad. In commemoration of the groundbreaking on the Union Pacific line in Nebraska Territory in late 1862, he wrote, "It is among my most pleasing recollections of service as a Senator from Ohio, that the first practical measure looking to the construction of a Pacific Railroad, which received the sanction of Congress, was moved by me."¹⁸¹

George Washington Julian of Indiana was another early western convert to the Republicans. Julian had been an anti-slavery Whig until 1848, when his party's presidential nomination of slaveholder Zachary Taylor led him to abandon the party. He then joined the Free Soilers and was their vice presidential nominee in 1852. He wrote of "the sacredness of the bargain of 1820" and described efforts to

¹⁸⁰ Salmon P. Chase, quoted in J. W. Schuckers, *The Life and Public Services of Salmon Portland Chase*. New York: D. Appleton and Company, 1874, pp. 166-67.

¹⁸¹ *Ibid.*, p. 158.

repeal it as "the cold-blooded conspiracy to spread it (slavery) over an empire of free soil."¹⁸² Julian also favored passage of a homestead law and wrote of "the need of great highways to the Pacific."¹⁸³

Like his fellow Ohioan Salmon P. Chase, Benjamin Franklin Wade was born in the northeast but moved west as a young man, leaving Massachusetts for Ohio in the early 1820s. By the upheavals of the mid-1850s, he was a Whig member of the U.S. Senate and was recognized as the leader of a small but very vocal anti-slavery group. He lobbied against the Kansas-Nebraska Act and in favor of both a homestead bill and a land grant college policy. Opposing slavery and slaveholders, however, became his life's work in the Senate. During the slavery debates of the 1850s, members of Congress from North and South denounced one another's views and engaged in particularly vicious personal attacks. At one point, Wade and two other like-minded northerners created, "A league by which we bound ourselves to resent any repetition of this conduct by *challenge to fight*, and then, in the precise words, the compact to '*to carry the quarrel into a coffin.*'"¹⁸⁴

¹⁸² George W. Julian, *Political Recollections, 1840-1872*. Chicago: Jansen, McClurg, & Company, 1884, pp. 136-37.

¹⁸³ *Ibid.*, p. 217.

¹⁸⁴ Benjamin F. Wade, quoted in Albert Gallatin Riddle, *The Life of Benjamin F. Wade*. Cleveland: William W. Williams, 1886, p. 215.

Born and raised in Indiana, James Henry Lane served as a colonel in the Mexican-American War. He was then a Democratic lieutenant governor of Indiana and a member of the House of Representatives during the Thirty-third Congress (1853-55). While in the House, he voted for the Kansas-Nebraska Act, a vote that was to haunt him the rest of his political life. An early biographer wrote, "Was he a pro-slavery man? The ultra-abolition type of agitators regarded him in that light....He was, however, no more pro-slavery than Pierce, Buchanan, Douglas, Logan, and Grant. He believed in what they called the 'compromises of the Constitution.' He was no more a pro-slavery man than Henry Clay, who said he would rather be instrumental in relieving his country of the great stain of slavery than to be a conquering hero."¹⁸⁵

After finishing his congressional term in 1855, Lane migrated west to Kansas Territory. He arrived in the midst of the struggle between pro- and anti-slavery forces to dominate the territorial government and determine if the Kansas constitution would allow or prohibit slavery. Though never an overt abolitionist, Lane allied with the free state forces and was eventually recognized as an

¹⁸⁵ John Speer, *Life of General James H. Lane, "the Liberator of Kansas," with Corroborative Incidents of Pioneer History (Second Edition)*. Garden City, Kansas: John Speer, Printer, 1897, p. 13.

impassioned, radical leader. When Kansas finally obtained statehood without slavery in 1861, the legislature rewarded his leadership by electing him one of the new state's first U.S. senators.

In contrast to Lane, Kansas's other initial senator lived and worked most of his life in the east and returned there later in life. Samuel Clarke Pomeroy was born in Southampton, Massachusetts, attended Amherst College, and later moved to New York to teach school. He returned to Massachusetts and served in the state's legislature in 1852-53. He was also active in the New England Emigrant Aid Company, an organization formed to transport emigrants to Kansas to ensure the territory's new government would be of an anti-slavery persuasion. Of his desire to go to Kansas, he wrote, "I am anxious to have the right impetus given to its early settlement. That the best principles of our resting fathers, may be transplanted there! And that thus our untold domain may be saved from the blighting-withering-deadening-damning-influence of American slavery!"¹⁸⁶ Pomeroy traveled to Kansas in 1854, settling in Lawrence and eventually moving to Atchison. After serving as mayor of Atchison in 1859 and as a Republican

¹⁸⁶ Samuel C. Pomeroy in a July 27, 1854 note to "Sir," assumed to be Edward Everett Hale, a founding member of the New England Emigrant Aid Company. Kansas State Historical Society, New England Emigrant Aid Company Collection, No. 624, Box 1, Folder 3.

convention delegate in both 1856 and 1860, the free soil legislature he had helped organize selected him to serve in the U.S. Senate in 1861.

James W. Grimes was born in New Hampshire but later moved west to Iowa. He twice served in the territorial legislature (1838-39 and 1843-44) and was the state's Whig governor from 1854 to 1858. In 1859, he was selected to serve as one of Iowa's U.S. Senators. He was by then a Republican. His Iowa Senate colleague, James Harlan, was a native of Illinois and a former member of the Free Soil party. Harlan served in the Senate as a Free Soiler from 1855 to 1857 before being ejected for "irregularities" in the process that elected him. He ran as a Republican in 1859 and was re-elected to the Senate.

Abraham Lincoln of Illinois was a lifelong Whig and had served in the Illinois legislature in the 1830s and '40s. On March 3, 1837, he co-authored a protest of slavery to the Illinois House of Representatives in which he and his co-signer, Dan Stone, agreed that "the institution of slavery is founded on both injustice and bad policy, but that the promulgation of abolition doctrines tends rather to increase than to abate its evils."¹⁸⁷ He

¹⁸⁷ Roy P. Basler, *The Collected Works of Abraham Lincoln, Volume One*. New Brunswick: Rutgers University Press, 1953, p. 75.

was a one-term member of the House of Representatives in 1847-49. He was little-noticed during that single term except for his scathing critique of President James K. Polk's rationale for pursuing war with Mexico from 1846 to 1848. "The war with Mexico was unnecessarily and unconstitutionally commenced by the President," Lincoln told the House on January 12, 1848.¹⁸⁸ He also called Polk, "a bewildered, confounded, and miserably perplexed man."¹⁸⁹

Like many future Republicans, Lincoln was enraged by the passage of the Kansas-Nebraska Act. "It is argued that slavery will not go to Kansas and Nebraska, in any event. This is a *palliation*—a *lullaby*. I have some hope that it will not; but let us not be too confident....Equal justice to the south, it is said, requires us to consent to the extending of slavery to new countries. That is to say, inasmuch as you do not object to my taking my hog to Nebraska, therefore I must not object to you taking your slave. Now, I admit this is perfectly logical, if there is no difference between hogs and negroes. But while you thus require me to deny the humanity of the negro, I wish to ask whether you of the south yourselves, have ever been willing to do as much?"¹⁹⁰

¹⁸⁸ *Ibid.*, p. 432.

¹⁸⁹ *Ibid.*, pp. 441-42.

¹⁹⁰ Basler, *Collected Works, Volume Two*, p. 264.

While members of Congress, Whigs, Democrats, Free Soilers, and, eventually, Republicans, made arguments both for and against homesteading on the House and Senate floors, in the press, and in political gatherings, an organization called the National Reform Association (NRA) sought agrarian reforms, including homesteads, amongst the public and in the press. The NRA had actually existed for decades by the time the homesteading argument reached its fever pitch in the 1850s. In fact, the NRA was a critical factor in bringing together groups of homestead seekers, abolitionists, and laborers and convincing them to work together for their common interests. These interests eventually culminated with the creation of the Republican Party.

The NRA was born of trade unions and related workingmen's associations in eastern cities such as New York, Boston, and Philadelphia. These groups were responsible for a great deal of labor organizing among the eastern working classes beginning in the 1840s. They appealed to both skilled and unskilled workers, landless laborers, and even small-scale farmers.¹⁹¹

¹⁹¹ Mark A. Lause, *Young America: Land, Labor, and the Republican Community*. Urbana: University of Illinois Press, 2005, p. 2.

Members of the NRA (and other similar organizations) believed that the republic's health and success depended on the broadest possible distribution of land ownership among various classes of people. The NRA had a three-point plan for accomplishing this. First, they urged state governments to end the seizures of land for debts in order to defend the small family farm and decrease speculation and concentrations of land ownership. Next, the NRA advocated a homestead measure to permit the free and wide-scale settlement of the public domain. Lastly, NRA members sought to limit the amount of land any individual could own, arguing that limitless ownership of a finite resource actually reduced the number of property owners.¹⁹²

The NRA headquartered itself in New York City, and its leaders found a sympathetic and influential friend in Horace Greeley of the *New York Weekly Tribune*. His newspaper columns spoke often of the need for agrarian reform and allowed the NRA's ideas to reach a very large audience. He explained the organization's principles as such in an 1852 edition of the *Tribune*:

Land reformers do *not* complain of the present minimum price of Public Lands as too high. On the contrary, if they are to be sold evermore to whoever shall see fit to locate and pay for them we would far sooner see the price enhanced than reduced....What we *do* ask...is simply that our Public Land System be so modified that *every person needing Land may*

¹⁹² *Ibid.*, p. 3.

take possession of any quarter-section not previously located, and that none other than a person needing land shall be allowed to acquire it at all....No public Lands to be sold to a Speculator. This is the essential matter—all else is but subsidiary....We are confident the Government would permanently increase its Revenue by giving a modicum of wild land to everyone who requires it, and looking to Duties on Imports alone for Revenue. Every new clearing in the West, every new wheat- or corn-field cut out of the Prairies, is a new source of Federal income. Every breaking-up team is a feeder to the Custom-house....It should be the policy of a wise government to encourage the settlement of new farms by every means in its power. The fact that a man wishing unappropriated wild land is unable to pay for it affords the very best reason for letting him have it.¹⁹³

The leaders of the NRA were mostly disgusted with the inaction of both major political parties on land distribution issues. Alvan Bovay, the group's secretary, slammed Congress by saying that "both parties are in favor of selling the fertile soil to mercenary wretches who might as well traffic in the life's blood of the poor....The right of man to the soil is so obvious and clear a right.... Probably the discovery will soon be made that if a man has a right to life, he has, by inevitable consequence, the right to the elements of life, to the earth, the air, and the water."¹⁹⁴

Many among the NRA's membership feared the United States had an oversupply of labor in the East and sought to encourage emigration to the West in order to reduce the strains of overpopulation and unemployment. This thinking

¹⁹³ Horace Greeley, *The New York Weekly Tribune*, January 24, 1852.

¹⁹⁴ *The Workingman's Advocate*, September 14-21, 1844.

eventually led to the idea of the West being the nation's "safety valve," an area that could be opened to free homesteading for those seeking to leave the East to escape overcrowding, poverty, and poor work opportunities. (It is important to note that many historians of the West, including Paul Wallace Gates and others, have questioned this "safety valve" theory and debated whether or not it actually made any significant impact on reducing unemployment and labor surpluses in the East. However, it was a popular and predominant theory among the NRA's membership and other land distribution advocates in the 1840s and 1850s.) By the end of the 1840s, the NRA had grown influential enough to see over two hundred newspapers endorse a homestead bill.¹⁹⁵

During the late 1840s and early 1850s, the NRA also found itself drawn into antislavery politics. In October 1847, the Massachusetts chapter of the NRA held its state convention, during which it approved a platform that advocated both land reform and abolition. The platform called slavery "a crime against Humanity...to be abolished immediately" and urged all who agreed to "adopt the Measures and Political Action that shall secure to every disenthralled slave, whatever their complexion...the

¹⁹⁵ Lause, *Young America*, p. 3.

peaceable and immediate possession of a sufficient quantity of Land to enable them to procure the necessary means of subsistence whenever their liberation is achieved." The NRA here took the radical step of endorsing not only abolition, but also black land ownership. "If some solicit your aid in the protection of the rights of the *white* man— if others ask your assistance in alleviating the oppressions of the *colored* man—we entreat you to cooperate with US in the protection and security of *all men* in the full possession and free exercise of every *natural* right."¹⁹⁶

In New York in 1847, the NRA made nominations for state offices in common with organized abolitionists. Statewide, NRA-backed candidates won nearly 2,000 votes and outpolled Whigs in a few areas. The Independent Liberty, Antirent, and National Reform tickets statewide polled over 15,000 votes.¹⁹⁷ The confusing jumble of small parties served to deny Democrats and Whigs majorities in a number of races but, more critically, demonstrated that a fusion of agricultural reformers and abolitionists, if properly organized, could make a legitimate impact in electoral politics.

¹⁹⁶ National Reform Association (Massachusetts), "National Reform Meeting," October 29, 1847.

¹⁹⁷ Lause, *Young America*, pp. 90-91.

The 1848 presidential election served as the first real test of the NRA's power in a national contest. Strongly allied with the National Industrial Congress (NIC), the National Reform Association's members argued among themselves about their candidate of choice. Some favored a practical choice that might actually influence the election's outcome, while others wished for a candidate with ideological purity above anything. The so-called "Liberty League" had already nominated Gerritt Smith and Elihu Burritt; the NIC eventually agreed with Smith's nomination but substituted William S. Wait for vice president. Eventually, both Burritt and Wait declined their respective nominations, and Michigan's Charles C. Foote, a vocal abolitionist, became the vice presidential candidate.

The wild card, however, was the emergence of the Free Soil party and its nomination of former president Martin Van Buren. While some NRA members grudgingly supported the Whig candidate Zachary Taylor (and a few the Democrat, Lewis Cass), the Free Soilers sought to bring NRA members into their fold. Though many NRA proponents expressed dissatisfaction with Van Buren's candidacy, NRA members attended the Free Soil convention in August 1848 as delegates from Massachusetts, New York, New Jersey, Ohio,

Illinois, Indiana, Vermont, Wisconsin, and Pennsylvania. Van Buren did not win the presidency, of course, but the Free Soil party gained about five times more votes than the earlier Liberty Party had ever received by attracting and mobilizing those who believed that "free soil" meant both land reform and antislavery.¹⁹⁸ Many Whigs who were inclined to agree with the Free Soilers' stance on several issues remained loyal to their original party, however, and backed Taylor. Included among these were many future Republican leaders like William H. Seward and Abraham Lincoln.

Even among vocal antislavery politicians, party loyalties often took priority over their antislavery ideals. When the Free Soil party captured about fourteen percent of the popular vote in 1848, many enthusiastic antislavery men hoped this new party would become a dominant political force in the North, especially considering that even the staunchest Whigs by then recognized their party was significantly weakened by its inability to develop a cohesive national position regarding slavery.

The hoped-for rise of the Free Soilers did not occur. Like Seward and Lincoln, too many northern abolitionists

¹⁹⁸ Lause, *Young America*, p. 94.

still preferred to fight for slavery restriction and land reform within the confines of the existing parties. Another important reason for the fall of the Free Soil party was the fact that most of its power was concentrated in New York, and many Democratic "barnburners" there had bolted to the Free Soilers more to defeat their political rivals than to truly serve the antislavery or homesteading causes. Once the rival faction was defeated, many barnburners, led by Martin Van Buren's son John, simply returned to the Democratic fold.¹⁹⁹

Both parties—the Whigs and Democrats—faced a quandary. To win nationally, they both needed Free Soil support in the North but also proslavery support from the South. But how could they cultivate one without alienating the other? Put simply, they could not. Any hope of avoiding a purely regional party alignment all but evaporated by the national election of 1852. Franklin Pierce of New Hampshire, elected president that year, was the last pre-war presidential candidate to win the popular vote in both sections. He was a nationally (albeit slimly) elected president, trouncing the Whig Winfield Scott in the Electoral College as well.

¹⁹⁹ David M. Potter, *The Impending Crisis: 1848-1861*. New York: Harper and Row, 1976, p. 228.

But if the Democrats were relatively united behind Pierce in 1852, the Whigs were just as divided. They were leery of Scott, a southern-born military hero like Zachary Taylor in 1850. Southern Whigs did not fondly remember Taylor, a slaveholder who southerners felt sure would protect their interests as president. When Taylor turned out to be too independent for their taste and threatened to personally lead the army against them to enforce the law, southern Whigs became enraged. They feared that nominating Winfield Scott would lead to another politically disappointing Whig presidency.

It was an unfounded concern. Scott carried only four states in November 1852: Vermont, Massachusetts, Kentucky, and (barely) Tennessee. The Whigs lost twelve governorships; they won less than a third of seats in the House of Representatives. Even before the election, Charles Francis Adams had lamented, "The moral tone of the Free States never was more thoroughly broken."²⁰⁰ After the election, William H. Seward was asked by a prominent New York Whig, "Was there every such a deluge since Noah's time?"²⁰¹

²⁰⁰ Charles Francis Adams, quoted in *Ibid.*

²⁰¹ Henry Raymond, quoted in Sean Wilentz, *The Rise of American Democracy: Jefferson to Lincoln*. New York: W.W. Norton and Co., 2005, p. 665.

Scott had made a minimally respectable showing in the North, but the results from the South troubled the Whigs. While Zachary Taylor had garnered about half of the popular vote in the Deep South in 1848, Scott only received about 35 percent and carried just two slaveholding states. Southern Whigs were in trouble, and the 1852 election resulted in a nearly solid Democratic South. Even more critically, the 1852 results led to increased southern dominance of the Democratic party. These factors, plus the June and October deaths of Whig giants Henry Clay and Daniel Webster, respectively, did not bode well for the Whig party's survival. Conversely and just as importantly, however, the Democratic party was reduced to a minority in the North.

Disaffected Whigs, Free Soilers, Democrats, Know-Nothings, and independents formed the Republican party in 1854 as a direct response to the Kansas-Nebraska Act. As members of the new party began meeting across the country, they continued to rail against the expansion of slavery but began discussing other issues as well. Among these were free labor and land distribution, two issues near and dear to many of them and especially to Horace Greeley.

In Greeley's mind and his conception of free labor, every worker's goal was to acquire capital and, eventually, economic independence. He vigorously opposed strikes by industrial workers on the grounds that they halted production and prevented other laborers from working. If a worker viewed his pay as too low, Greeley encouraged him to either take another job or move to the West. (In all likelihood, this is the basis for the attribution to Greeley of the phrase, "go west, young man.") Homestead legislation was needed, however, to allow such workers to settle in the West, and Greeley's *New York Weekly Tribune* became a powerful advocate for free land beginning in the 1840s and continuing into the Civil War. "Unappropriated, unimproved Public Land," Greeley wrote in 1852, "is by the law of Nature and of Social Right the portion of those who, claiming no other portion of Man's heritage, are willing to improve and cultivate."²⁰²

Favoring homesteading and opposing speculation were in line with Greeley's other ideas of social equality and justice, but such positions were also somewhat politically mainstream by the 1850s everywhere except the South. Providing land to the landless and keeping it out of speculators' hands appealed to many people's sense of

²⁰² Horace Greeley, *New York Weekly Tribune*, July 31, 1852.

fairness but also harkened to Jeffersonian and Jacksonian nostalgia. Suspicious of high finance, land monopolies, and speculation, those favoring a homestead bill could claim complete faith in the yeoman farmer—the backbone of the Jeffersonian ideal of small, independent landowners.

Like many National Reform Association members before them, new Republicans clung to the “safety valve” theory that the West could relieve overcrowding in the East if only some measure to freely distribute western lands could pass Congress.

The Panic of 1857 only increased Republican support for homesteading, allowing Republicans to blame the lack of a free land law for massive urban poverty and unemployment. There was, according the *Cincinnati Gazette*, “an abundance of land to be possessed” in the West.²⁰³ Orville Browning of Illinois agreed, telling a gathering of Republicans, “In many of the free states, population is already pressing hard upon production and subsistence, and new homes must be provided, or the evils of an overcrowded country encountered.”²⁰⁴

²⁰³ *Cincinnati Gazette*, October 26, 1857.

²⁰⁴ Orville H. Browning, *Speech of Hon. O.H. Browning, Delivered at the Republican Mass Meeting, Springfield, Ill., August 8th, 1860*. Quincy, IL, 1860.

The homestead issue became increasingly sectional in the 1850s as the country argued more regularly and violently over anything that could be even peripherally related to the expansion of slavery. Republicans came to see homesteading as not only a necessity for their conceptions of free labor, but also as a way to create a western bulwark against slavery expansion. In fact, by 1860, the Republican Party was so dedicated to the idea of homesteading that it inserted a plank into its national platform calling for immediate passage of a homestead act. Conversely, fearing that a homestead bill would forever end the possibility of slavery in the West, southerners became increasingly opposed to any form of homesteading.

The 1850s, rising sectional tensions, and the creation of the Republican party were all major milestones on the road to the Civil War. Land distribution in general, and homesteading specifically, played large roles in all of these events and therefore must be considered when assessing the North's and South's actions and motivations in the decades before the war.

CHAPTER FIVE
SOUTHERN OPPOSITION TO THE HOMESTEAD ACT

Land policy was one of the early republic's most persistent arguments. From the differences between Hamilton and Jefferson to the differences of the Jacksonian era, debates over how best to distribute the federal government's land were common in the halls of Congress. Like other issues of the day, disagreements over land policies eventually assumed a sectional dimension. Northerners, southerners, and westerners all had different ideas about which land policies would best serve the nation's interests—and their own. This was particularly true starting in the 1820s and moving forward.

Beginning then, the West sought accelerated development and a liberal land policy. The Northeast hoped for expanding markets for its goods, so it maintained an interest in a high tariff and cheap labor. The South, meanwhile, wanted a low tariff and therefore maximum revenue from sales of the public domain. The tariff was one of the major issues of the day and therefore drove the arguments over which land policies the federal government should pursue.

Beginning in the early 1840s, however, it became clear that the government was moving away from trying to raise

revenue from western land sales and toward some policy that would result in actual western settlement. Though a few major political figures still argued for policies that would theoretically create revenue from western land sales, most began instead to lean toward policies that would make western lands more available to real settlers. A homestead bill was among these policies.

The homestead idea came into its own in the mid-1840s. The idea was not new or even exclusively American; both the French and Spanish had at various times offered free land to stimulate settlement. Many had already sought such a measure for years. The bill introduced on March 9, 1844 by Alabama's Felix G. McConnell was the first American legislation to specifically call for land grants to settlers who had performed no governmental service. Its leading advocates were westerners, of course, and eastern workers, most of whom had accepted the conventional wisdom that western lands served as a safety valve to reduce the oversupply of eastern workingmen by encouraging emigration to the West. Many also supported it because it required actual labor on the land and not merely cash on hand. It would also theoretically limit the amount of land one person (or speculator) could acquire. Despite these attributes, however, McConnell's bill never left committee.

In fact, the legislation languished for several more years, superseded by other concerns.

Representative Andrew Johnson of Tennessee wrote a homestead bill in 1852 that managed to pass the House but never reached a vote in the Senate. Johnson tried again in 1854, and a southern majority in the Senate suppressed the bill, which again never received a floor vote. Galusha Grow of Pennsylvania tried again in 1859, and his bill passed the House but was defeated in the Senate by the tie-breaking vote by Vice President John C. Breckenridge of Kentucky. Why did the South so consistently oppose homestead legislation?

Southern members of Congress had many reasons for opposing the passage of a homestead bill. They of course considered the effects of such legislation on their constituents—many of them (but certainly not all) slaveholders. Later, though, southern opposition to the bill seems to have been grounded more on ideological grounds than practical ones. Simply put, homesteading became intertwined with sectional disputes over the expansion of slavery into the western territories and, eventually, the differing northern and southern views of the right course for the nation's future. Most southern

congressmen eventually came to believe that the approval of homesteading would be counterproductive to the interests of slaveholders—and, therefore, their own interests in remaining in office and securing the survival of the South's "peculiar institution." This came about largely due to the rise of political parties that supported homesteading legislation—Free Soilers, Free Soil Democrats, and, eventually, Republicans.

One major problem slaveholding southerners foresaw was just how little land would be available to them to carry slavery westward. Plantation agriculture simply could not thrive on the 160-acre farms envisioned by the homestead bill. Senator James Mason of Virginia acknowledged as much on April 10, 1860, when he stated that the North's true aim in permitting homesteading in the West was "planting a population there from the free States, and excluding the slave population."²⁰⁵

It is accurate to state that many southern reasons for opposing a homestead bill had much to do with the survival of slavery. While a relatively small percentage of whites in the South owned slaves, a large percentage of southern whites did view as sacred the RIGHT for whites to own

²⁰⁵ Speech of Senator James Mason, April 10, 1860, in *Congressional Globe, Senate, 36th Congress, 1st Session*, p. 1,635.

slaves. Historian Roy M. Robbins wrote that eventually, "the slavery issue had gained the ascendancy over agrarianism and over protection (tariff) and had become the most important of the new conditioning arguments against homesteading."²⁰⁶ Historian Benjamin Horace Hibbard went a step further than Robbins, pointedly stating that "free homesteads became a part of the anti-slavery struggle...Had it not been for this complication, the South would evidently have favored it."²⁰⁷

Regardless of whether abolitionists created the homesteading idea, the South feared that passing a homestead bill would lead to marked increases in free western farms. Simply, slavery would be given little opportunity to expand. Free land meant free soil. Free soil meant southern opposition. By 1850, the South had become openly hostile to the image of the yeoman farmer promoted by homestead advocates because that image was being used to combat the spread of slavery.²⁰⁸ The brave, bold yeoman on a small farm in a western territory like Kansas or Nebraska would not be a practitioner of slave-driven plantation agriculture and was therefore an enemy to the politicians of the South.

²⁰⁶ Robbins, *Our Landed Heritage*, p. 175.

²⁰⁷ Hibbard, *History of the Public Land Policies*, p. 358.

²⁰⁸ Henry Nash Smith, *Virgin Land: The American West as Symbol and Myth*. New York: Vintage Books, 1950, p. 165.

By 1850, congressmen from both North and South judged most legislation on its possible effects on slavery. Many southerners may well have supported a homestead bill had it not by then become so strongly intertwined with abolitionism. The idea that homesteading meant more free western states and territories and, therefore, eventually a minority in Congress, made it completely unpalatable to the South. One Arkansas Senator went so far as to refer to homesteading as a bonus designed to induce settlers "to emigrate to the Territories on condition that aid societies will pay their expenses to get there."²⁰⁹

Much of the South's opposition came from its distaste for the new Republican Party, whose overt support of free soil equaled support of the homestead bill. Before the Republicans existed, Free Soil Democrats had included a pro-homestead plank in their 1852 platform. By the mid-1850s, many former Free Soil Democrats allied themselves with the Republicans. When the Republicans ran their first national ticket in 1856, they did not include a pro-homestead plank in their platform. However, the party made a concentrated effort to expand its agrarian appeal (and therefore attract more immigrants, especially Germans), and

²⁰⁹ Speech of Senator Robert W. Johnson, April 5, 1860, in *Congressional Globe, Senate, 36th Congress, 1st Session*, p. 1,551.

incorporated a call for a homestead bill in its 1860 platform.

In the context of the continuing debate over slavery, homesteading became an important campaign issue during the 1860 election cycle. The homestead bill became one of many so-called "Black Republican" ideas demonized by the South; many in the North praised homesteading as a way to build a buffer against southern encroachment into the West. Never before had the homestead bill been so openly and frequently discussed and debated, both in the halls of Congress and in the press.

The anti-homesteading stance of the southern states, however, far pre-dated 1860 and was more than merely guilt by association with the Republican Party. The successful passage of a homestead measure would unquestionably lead to a major increase in the number of free farms while providing little opportunity for slavery to expand. "Southern leaders," noted historian Henry Nash Smith, "were eventually forced to recognize that the notions of the course of empire and of the coming dominance of the West were implicitly free soil."²¹⁰

To slaveholders, the main problem with homesteading was that the bill would open very little land to which they

²¹⁰ Smith, *Virgin Land*, p. 171.

could emigrate with their slaves. Senator Robert W. Johnson of Arkansas openly acknowledged this problem during a homestead bill debate in 1854, noting that as long as the Missouri Compromise remained effective, southerners could carry no slaves into new territories. Therefore, in Johnson's mind, the homestead bill had to be delayed until passage of the Kansas-Nebraska Act, which would effectively repeal the Missouri Compromise and open the door for slavery's expansion westward.²¹¹

Regardless of the Missouri Compromise, however, the South faced a number of limitations on expanding its slavery-based agricultural empire. Foremost among these was a lack of good land to which southerners could emigrate. Much of the best land in the Southwest "had been taken up by 1837, and it was now a process of consolidating the holdings into cotton or sugar plantations."²¹² The massive state of Texas contained no public domain lands because it had not been formed with federal land. Due to climate, land acquired from Mexico was clearly not fit for plantation (i.e., slave) agriculture.

Even had there been abundant arable land in the Southwest, the small quarter-section (160 acres) farms

²¹¹ Speech of Senator Robert W. Johnson, May 8, 1854, in *Congressional Globe, Senate, 33rd Congress, 1st Session*, pp. 1,125-26.

²¹² Robbins, *Our Landed Heritage*, p. 185.

envisioned under the Homestead Act were simply not sufficient for the plantations that dominated the southern agricultural system. Therefore, in the minds of many northerners and southerners alike, the free farms offered by the Homestead Act constituted a very real barrier to slavery's expansion. Republicans recognized this and used it as a selling point for their support of the Act. In 1859, the party published a circular entitled "Lands for the Landless" that bluntly stated that "slavery cannot exist at the same time with a system of small freeholds."²¹³

Virginia Senator James Mason acknowledged that a homestead law would prevent slavery from moving into the West, calling it "a scheme...for the purpose of planting a population there from the free States, and excluding the slave population."²¹⁴ By the early 1850s, in fact, the South was openly hostile to the Jeffersonian ideal of small, independent, yeoman farmers since that very symbol was by then being used by antislavery forces to combat slavery's western expansion. Since homesteaders would not engage in slave-driven plantation agriculture in the West, a homestead bill had to be opposed by southern congressmen.

²¹³ "Lands for the Landless," published by the Republican Association of Washington, D.C., 1859, p. 1. Available at http://openlibrary.org/books/OL13498317M/Lands_for_the_landless.

²¹⁴ Speech of Senator James Mason, April 10, 1860, in *Congressional Globe, Senate, 36th Congress, 1st Session*, p. 1,635.

The South's greatest (and justified) fear was that an influx of homesteading farmers to the West would eventually lead to the creation of more free states that would obviously send antislavery representatives to Congress. Southerners realized they would soon be overwhelmed in Congress and feared that a large Northern majority would eventually legislate slavery out of existence. "Do not let the Government destroy us of the South," said Congressman James Letcher of Virginia in 1854, "by holding out stimulants to the encouragement of northern Territories, the propagation of northern sentiment, and the multiplication of northern representatives here and in the Senate."²¹⁵

Many southerners also opposed the immigration to the United States they feared a successful homestead bill would cause. While some of this opposition may have been nativism for its own sake, southerners also realized that Republicans were tailoring their agricultural message specifically to encourage Germans, Irish, and other Europeans to come to America to seek free homesteads. Logic led the South to fear that a great number of immigrants receiving homesteads would become Republicans

²¹⁵ Speech of Representative James Letcher, May 3, 1854, in *Congressional Globe, House of Representatives, 33rd Congress, 1st Session*, pp. 1,079-80.

and populate free territories that, with sufficient population, would eventually become Northern states with antislavery congressional representatives. Southern newspapers like the *Richmond Enquirer* helped many readers come to this conclusion with fiery anti-homestead articles and editorials. The *Enquirer* summed up the Southern argument well in 1854, when it stated that a homestead bill would be "an extraordinary stimulus to immigration and would speedily subject the South to the irresistible preponderance of the North."²¹⁶

Another southern concern was the effect the Homestead Act might have on non-slaveholding whites in the South. Though a relatively small percentage of whites owned slaves, it was critical for non-slaveholding whites to support the slave system. Many in the South feared a homestead bill would entice whites without slaves to flee the South for the freesoil West. Comments from northerners like Senator James Doolittle of Wisconsin served to justify these Southern fears and encourage opposition to any homestead measure. Doolittle praised the homestead bill as a law that would "allow poor nonslaveholding men of slave states to escape."²¹⁷

²¹⁶ *Richmond Enquirer*, July 25, 1854, p. 2.

²¹⁷ Speech of Senator James Doolittle, April 10, 1860, in *Congressional Globe, Senate, 33rd Congress, 1st Session*, pp. 1,634-35.

Rather than directing American expansion westward, some in the South preferred to spread further south. Many prominent southerners envisioned a tropical Atlantic empire in places like Cuba, where the climate favored agriculture and crops similar to those in the southern states. The famous Ostend Manifesto of 1854 was part of this southern plan to expand southward. The manifesto was an American diplomatic document that formally explained the United States' desire to acquire Cuba. The manifesto expressed a desire to purchase Cuba from Spain but also a willingness to take the island by force if Spain refused to sell.

Ironically, the Ostend Manifesto listed as one reason the U.S. must own Cuba as this: "...humanity may in vain demand the suppression of the African slave trade in the island.... The Spanish government at home may be well disposed, but experience has proven that it cannot control these remote depositaries of its power."²¹⁸ Better to let the United States (and, especially, the South) control the importation and uses of slaves to Cuba from North America.

The *Richmond Enquirer* agreed wholeheartedly. "If we hold Cuba," read an 1854 editorial, "in the next fifty years we will hold the destiny of the richest and most

²¹⁸ "The Ostend Manifesto, Aix-La-Chapelle, October 18, 1854." Available at <http://xroads.virginia.edu/~hyper/hns/ostend/ostend.html>.

increased commerce we can hold. Give us this, and we can make the public opinion of the world."²¹⁹ Here was the South attempting to turn the old idea of an American "Manifest Destiny" on its head. Since the South could not take slavery from the Atlantic to the Pacific, it would instead take its "peculiar institution" to the Gulf of Mexico and the Caribbean. Northerners and abolitionists cried foul; Wisconsin's James Doolittle called the Ostend Manifesto and southern expansion into the tropics a "fanatical solution."²²⁰

Southerners faced a perfect storm in 1859 when a Cuba annexation bill and homestead bill were simultaneously before the Senate. Many feared that the long-argued homestead measure would overshadow debate about expansion to the tropics. Robert Toombs of Georgia revealed that southern anxiety when he asserted that the homesteading ideal of "'Land for the Landless' most exercises the patriotic bosoms of Free Soilers...the very moment that a question comes up which they [are] afraid to meet."²²¹ In other words, Toombs argued that many supposedly pro-homestead northerners used debate on the homestead bill as a means of avoiding debate on other issues. Various

²¹⁹ *Richmond Enquirer*, quoted in Smith, *Virgin Land*, p. 176.

²²⁰ James Doolittle, quoted in *Ibid.*, p. 175.

²²¹ Speech of Senator Robert Toombs, February 25, 1859, in *Congressional Globe, Senate, 35th Congress, 2nd Session*, p. 1,353.

homestead acts had been proposed and debated for decades; apparently, Toombs and other southerners speculated that northerners cared little for the bill on its own merits but brought it up for debate anytime a bill that could benefit the South and slavery expansion came before Congress. To Toombs and many of his southern colleagues, debate on the homestead measure was simply a delaying action.

Benjamin Wade of Ohio thundered a response. "When you come to niggers for the niggerless," he said, "all other questions sink into perfect insignificance." Wade railed against the purchase of Cuba, asking his southern colleagues, "Are you going to buy Cuba for land for the landless? What is there? You will find three quarters of a million niggers, but you will not find any land; not one foot, not an inch."²²² Wade seemed to understand that the South's true interest in Cuba was to continue and expand slavery, not provide land for actual settlers (unless they happened to be slaveholders).

Along these lines, it can be definitively stated that the net effect of the Kansas-Nebraska Act on southern attitudes about homesteading was to encourage further opposition to the "free land" idea. While passage of the Kansas-Nebraska bill eased Arkansas senator Johnson's fear

²²² Speech of Benjamin Wade, February 25, 1859, in *Ibid.*, p. 1,355.

that the Missouri Compromise would prevent slaveholders from benefiting from the homestead measure, it also ended any efforts to avoid strict sectionalism that many members of Congress made after the Compromise of 1850.²²³ In fact, after passage of the Kansas-Nebraska Act, sectionalism became much more pronounced and overt in Congress.

According to historian Roy M. Robbins, this was understandable because, "For the first time, the slaves states west of the Appalachians joined with the South Atlantic States in the attempt to open up the West to slavery... All of the important interests of the North, incongruous as they may have been, were immediately arrayed against the slavocracy."²²⁴

Like many northerners, Horace Greeley was enraged by the Kansas-Nebraska Act. Unlike most of his like-minded brethren, however, Greeley had the power of the press behind him. Shortly before the act came to a vote in Congress, Greeley attempted to rally his antislavery readers, writing "If slavery is determined upon the conquest of free territory it will inevitably be resisted and paid in kind... Let but the sentiment gain foothold, and seize and appropriate whatever it can wrest from the hands

²²³ Thomas B. Alexander, *Sectional Stress and Party Strength*. Nashville: Vanderbilt University Press, 1967, p. 77.

²²⁴ Robbins, *Our Landed Heritage*, p. 174.

of free labor, and the banner of reclamation will be raised."²²⁵

The passage of the Kansas-Nebraska Act had two major implications on the homestead question. First, by increasing sectionalism, it became much more difficult for southerners in Congress to consider any homestead bill on its own merit. From 1854 forward, most southerners refused even to entertain thoughts of approving a homestead measure and began simply to vote with their section against the bill. Secondly, it brought together the laboring interests in the East and the agricultural interests in the West to form the Republican party.

Powerful southerners clearly saw how detrimental to their own interests a homestead bill would be, including in the rapid build-up of free soil interests in the West. Admission of new free states, paired with the expected rise in immigration a homestead bill would bring, would increase the North's—and the Republican party's—political power. This was dangerous to the existence of slavery because a Republican majority might very well attempt to outlaw bondage.

In addition, the South feared that increased northern power would have economic consequences by making potential

²²⁵ Horace Greeley, *New York Weekly Tribune*, January 13, 1854.

slave buyers less confident about the institution's future and therefore more conservative with their purchases of slaves. In other words, the value of the South's massive stock of human capital would be decreased.

Andrew Johnson, by then a rare pro-homestead southerner, argued that western expansion under the Homestead Act would increase demand for southern goods and, therefore, actually create northern dependence on slavery and a de facto endorsement of the South's institution. "The time will come," stated Johnson, "when the Northern man will see it to be his interest to stand by the institution of slave labor [and] the Southern man will see it to be his interest to stand by the Union, to stand by the agriculturists, and by the manufacturer."²²⁶ This reasoning is questionable at best and likely reflects Johnson's desire to have his cake and eat it too, by having both slavery and a successful homestead bill.

Apart from slavery interest, however, southern members of Congress had other reasons for opposing the homesteading idea. Many of these additional reasons went far beyond the explanations that continually recurred in debates and were at least partially intended for public consumption by their

²²⁶ Speech of Senator Andrew Johnson, May 20, 1858, in *Congressional Globe, Senate, 35th Congress, 1st Session*, p. 2,272.

constituents. In fact, southern opposition to homesteading was often a case of many major political figures concealing their true motivations from one another and their constituents. Two of these focused on the questions of equity and constitutionality of the homestead bill. These were important and powerful arguments in their own right as well as rationalizations that many southerners came, over time, to believe.

The question of equity constituted many different factors but basically boiled down to a fear that the homestead measure would reward the undeserving and speculators. The *Richmond Enquirer* agreed when it stated in 1854 that a homestead bill "asserts it to be the duty of the government to supply the wants of the lazy and improvident."²²⁷ The Senate Public Lands Committee in 1850 issued a report describing the homestead bill as an unfair tax on those who could not move west and take free land and an unwarranted help for the undeserving. The report also expressed a fear that homesteading would reduce land values.²²⁸

²²⁷ *Richmond Enquirer*, July 25, 1854, p. 2.

²²⁸ George M. Stephenson, *The Political History of the Public Lands*, pp. 142-43.

Some press organs of the Democratic party also allied themselves against homesteading based on the equity argument. The *New York Courier and Enquirer* called the measure a philanthropic bill, not a political one, and stated that the South was right to oppose it since the North and West "embrace nine-tenths of the needy population.... The South...to our mind correctly denounces it as a fraud, and as a scheme that could proceed from no other source than demagogism [sic] itself."²²⁹

Many considered free gifts of land (or anything else) to the poor to be damaging to the "national morale." Others worried that homesteading would create a thriftless population that expected the government to provide them everything they needed to thrive on their free farms. Finally, many considered that providing free homesteads constituted discrimination against earlier settlers who had paid full price for their lands and against railroads and veterans who had received land bounties. The legendary sense of southern chivalry may have at least partially contributed to the South's desire for fair play and its distaste for gifts to those deemed undeserving. Southern pride may have contributed to that region's image of itself as being above the need for governmental charity. However,

²²⁹ *New York Courier and Enquirer*, quoted in Hibbard, *History of Public Land Policies*, p. 366.

it is difficult to imagine these abstract concepts contributing but so much to sectional unity during votes in Congress.

The same might be said of southern opposition to the Homestead Act based on hatred of land speculators. There is no doubt that speculation was a major problem in the West. Many worried that a homestead measure might very well encourage, not reduce, speculation by permitting "a rich millionaire to pick out of the gutters men who could be induced to take up land on the share-basis" and then sell it to a speculator for a small sum.²³⁰ Southern opponents of homesteading were bolstered by an 1852 report by the Commissioner of the General Land Office that called homesteading wasteful and likely to foster speculation.

Despite these arguments, it is difficult to see how a homestead bill could have been any worse in regard to speculation than was the existing system. Speculation was already rampant in the West, and speculators could buy nearly unlimited numbers of acres with discounted warrants. Ironically, many of the largest and most successful speculators were, in fact, southerners. The southern land speculation tradition extended back to George Washington and beyond.

²³⁰ Representative William Dent (Georgia), quoted in Robbins, *Our Landed Heritage*, p. 177.

Based on these factors, it seems likely that southern opposition to homesteading based on the fear of land speculation was, in sectional terms, an argument that was deployed after the main battle lines had already been drawn. Fear of speculation does not seem to have had quite as much bearing on how and why those lines were drawn in the first place.

Many southerners also objected to the homesteading idea based on issues of constitutionality, particularly questioning Congress's power to give away lands and, more generally, the government's power to deal with the public lands at all. The latter argument was based in large part on the increasing states' rights sentiments of the 1850s. Many in the South, including Texas senator Louis T. Wigfall, feared that a homestead bill would make settlers indebted to the federal government for their lands and livelihoods, thus weakening the power and rights of the individual states. The states, according to Wigfall, should manage their own public lands.²³¹ Debate on this perspective of homesteading seems to have been more concerned with the merits or detriments of centralized

²³¹ Stephenson, *Political History of the Public Lands*, p. 201.

government than with the actual constitutionality of a homestead bill.

The former issue, however—Congress's authority to grant free public land to settlers—was a genuine constitutional question. The real problem was in reconciling two principles that produced opposite conclusions when applied to the homesteading idea. Congress had an explicit constitutional right to dispose of the public domain. The general belief existed, however, that Congress had no such right to give away money, and this led many to imply that as long as public lands generated even minimal revenues, Congress had no right to dispose of them.

Senator Andrew Johnson, a southerner, saw a difference in Congress's powers regarding appropriation of land as opposed to money:

The Congress of the United States has power to lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare. I believe it has the power to lay and collect duties for these legitimate purposes; but when taxes have been laid, collected, and paid into the treasury, I do not think it has that general scope or that latitude in the appropriations of money that it has over the public lands.... I am very clear on this point, that in the disposition of the public lands they should be applied to national purposes. If we grant the public lands to actual settlers so as to induce them to settle upon and cultivate the public lands, can there be anything more national in its character? What is the great object of acquiring territory? Is it not for settlement and cultivation?²³²

²³² Speech of Senator Andrew Johnson, May 20, 1858, in *Congressional Globe, Senate, 35th Congress, 1st Session*, p. 2,266.

President James Buchanan disagreed, vetoing a homestead bill sponsored by Johnson in 1860. Buchanan argued that Congress held the public lands as a trustee for the American people, and he considered the payment of twenty-five cents per acre (a feature of Johnson's bill) much too low to constitute a sale. Buchanan believed that giving away land purchased with tax dollars was no different—and no less unconstitutional—than giving away tax revenues.²³³

Congressional authority to grant free land was also challenged on the basis of the original state land cessions to the federal government. Many southerners argued that their states had ceded lands after the Revolution for the common good of the states. Virginia, according to the *Richmond Enquirer*, gave land for the purpose of raising revenue and would “prefer less tilt in favor of settlement.”²³⁴

Southern leaders succeeded in raising a somewhat plausible constitutional objection to homesteading. Whether or not their true opinions centered on the bill's constitutionality or other motives is unclear; they likely chose to view the Constitution from whatever perspective

²³³ James Buchanan Veto Message, June 22, 1860, available at <http://www.presidency.ucsb.edu/ws/index.php?pid=68441>.

²³⁴ *Richmond Enquirer*, September 9, 1854.

necessary to ensure a bill they feared went against their interests would not pass. Historian David Potter noted a similar case in which Texas (unconcerned about homesteading since it had no public lands within its borders) suddenly became a vocal proponent of preserving Indian land claims in order to prevent approval of a northern route for a transcontinental railroad.²³⁵

Southerners' motives for raising constitutional objectives to the homestead measure were certainly insincere, especially considering that region did not oppose liberal land policies that helped it. While the unconstitutionality of a homestead law provided a southern argument against homesteading, it was likely not a real or major reason for opposition. Rather, it provided southerners a way of arguing against a homestead law without admitting publicly or privately that their objections had everything to do with the expansion and survival of the institution of slavery.

Closely related to the constitutional argument was the assertion that homestead bills were class legislation. President Buchanan argued in his 1860 veto message that the bill discriminated in favor of farmers, calling it "a boon exclusively conferred upon the cultivators of the soil....

²³⁵ David Potter, *The Impending Crisis*, p. 151.

There should be no new legislation which would operate to the injury or embarrassment of the large body of respectable artisans and laborers."²³⁶ Others felt the homestead bill too heavily favored urban laborers by providing them a means to escape the drudgery of life in eastern cities by moving westward to start over as farmers. Andrew Johnson rebutted, arguing that the bill was not agrarianism but should be supported as a means to prevent cities from controlling the federal government and reduce poverty, saying of paupers: "Interest them in the country; pin them to the soil, and they become more reliable and sustain themselves, and you do away with the pauperism in this country."²³⁷ Johnson's statements aside, the rural South continued to oppose homestead bills, often labeling them as socialist.

Certainly any homestead bill would affect workers in the urban East by providing them with an option to move westward rather than continue on in their respective cities. Some historians have speculated that free land laws actually did nothing to assist eastern laborers because most could not afford transportation to the West and did not possess the initial capital required to make a

²³⁶ Buchanan Veto Message, June 22, 1860, available at <http://www.presidency.ucsb.edu/ws/index.php?pid=68441>.

²³⁷ Speech of Senator Andrew Johnson, May 20, 1858, in *Congressional Globe, Senate, 35th Congress, 1st Session*, p. 2,267.

new homestead operational. While these assertions are certainly somewhat correct, it cannot be said that all eastern laborers were unable to take advantage of any homestead law. Small artisans, for example, whose businesses were declining, could travel west rather than becoming part of the working class, increasing poverty and putting downward pressure on wages. Easterners could also look for opportunities to assume ownership and control of small farms in Midwest states like Ohio and Indiana when those farms' original owners went farther west to claim homesteads. Either way, it is important to avoid making blanket statements that a homestead bill would have no real effect on eastern workers. The important fact here is that any homestead bill was viewed by many as a benefit to those urban workers and was therefore opposed by many as being class legislation.

Class arguments understandably resonated with eastern capitalists that relied on poor workers for labor in their factories. However, why did the homestead idea arouse such ire in the rural and elite populations of the South? As time went on, one reason might have been not so much what homesteading truly was, but rather who supported it. For example, the National Reform Association (NRA), with outspoken leaders like George Henry Evans and Horace

Greeley, vocally favored homesteading. The NRA and Greeley's newspaper were both identified with "isms" the South considered very dangerous: unionism, socialism, and particularly abolitionism. Conservative southerners were not above opposing anything advocated by "radical" groups like the NRA.

It is possible that much of the South's opposition to the homestead bill was, in fact, largely a reaction against change in general. Antebellum southern society was somewhat backward-looking. While northern capitalists sought the building of a vast economic empire founded on western agriculture and eastern industry bound together by railroads and canals, southern planters often reminisced about the bygone days of Washington, Jefferson, and plantations along the Potomac. The cotton empire was at its peak in the 1850s, and many southerners saw no need for change. This mentality—and their concerns over slavery's future and expansion—led them to oppose homesteading long after many in the North conceded that it was all but inevitable.

The social upheavals of the 1840s also increased resistance to change in the South and other regions. Changes to land policies had to overcome a great deal of inertia in any case because, in historian Benjamin Horace

Hibbard's words, "inertia works just as powerfully in keeping a force in operation as in holding a body at rest."²³⁸ In other words, many sought to implement homesteading to bring about change while others fought against it to prevent any change from occurring. Many southern planters and politicians resisted any homestead law because it threatened to change their stable way of life. When coupled with real and exaggerated claims about the bill's threat to slavery, southern opposition to it became as inevitable as many in the North thought a homestead act to be.

Another factor contributing to southern opposition to homesteading was the reason historically most important to southern hostility to liberal land policies in general: concerns about tariffs. Besides slavery, the tariff was perhaps the most important and persistent political issue of the second half of the nineteenth century. Tariffs often had profound influence on federal land policies. The South was an active exporter and a tax-bearing importer with no real manufacturing sector a tariff could protect. This meant the South received little benefit from a high tariff but bore most of its burden. Since tariffs and land sales made up two principal sources of government revenue,

²³⁸ Hibbard, *History of Public Land Policies*, pp. 547-48.

southerners (and others who supported low tariffs) regularly pushed for maximum land sale revenue to decrease the need for higher amounts of tariff revenue.²³⁹ The homestead measure was the ultimate example of low land sale revenue, and many believed that even if land given away under the bill would not have been sold, it could still have been put to better use by being held to guarantee the public debt.

If the tariff issue was still important to southerners in the 1850s, then the land sales revenue argument may well have been quite influential in forming southern opposition to homesteading. Many historians, however, have minimized the tariff's role in the political environment encountered by proposed homestead bills. For example, two preeminent historians of federal land policies, Benjamin Horace Hibbard and Roy M. Robbins, agreed that the goal of obtaining revenue from public lands gave way to the goal of settlement of public lands as early as the 1841 passage of the Preemption Act.²⁴⁰ Others argued that by the time of the Preemption Act, the South was complacent about the tariff and viewed land policies strictly through the lens of the extension of slavery.

²³⁹ Robbins, *Our Landed Heritage*, p. 171.

²⁴⁰ Hibbard, *History of the Public Land Policies*, pp. 136-38; Robbins, *Our Landed Heritage*, pp. 236-37.

However, such absolute judgments are difficult to make. Since slavery and tariff concerns pulled in the same direction with respect to land policy, it is impossible and incorrect to select a specific date on which one became more important than the other. Surely many southerners still had legitimate concerns about the tariff throughout the 1850s, even as slavery expansion became the nation's preeminent issue and the source of public friction between North and South. Whether southern tariff concerns at this late period were rooted in decades-old habits or because the South was relatively prosperous during the 1850s, it is ludicrous to claim that the issue no longer mattered. President Buchanan touched on the issue in his 1860 Homestead Act veto, decrying the unfairness of the loss of revenue the bill would mean for the older states.²⁴¹ Though the tariff issue was certainly less important by the 1850s than it had been in previous decades, and the slavery factor was correspondingly more important, it was still an active component of southern opposition to homesteading.

Many homestead law opponents also feared that homesteading would not only financially harm land grant recipients in new states, but would lower land values in

²⁴¹ Buchanan veto message, June 22, 1860, available at <http://www.presidency.ucsb.edu/ws/index.php?pid=68441>.

old states as well. If the theory that a homestead measure would lead to emigration from old states to the West proved true, then a lower rural population in the old states would mean less demand for land and declining land values in the East. A homestead law's potential effects on the values of their own lands was something property owners in many areas of the country had to consider, and this was another issue Buchanan addressed in his veto, stating, "The offer of free farms would probably have a powerful effect in encouraging emigration especially from states like Illinois, Tennessee, and Kentucky, to the west of the Mississippi, and could not fail to reduce the price of property within their limits."²⁴² Fear of lost land values and revenues could be a very powerful factor in homestead opposition.

The negative effect on land values may have been even more so in the South if a homestead measure had expanded cotton lands. The South had such a large share of the world's cotton production that international cotton prices were determined there. Also, the West and South were bulk exporters. Increased food production in the West meant higher international freight rates; these increased shipping costs were not offset by lower food prices because the South was mostly self-sufficient in food production.

²⁴² Ibid.

Therefore, even apart from its potential harm to slavery's existence and expansion, southerners believed that western homesteading had the potential to cause them great economic harm. Southern pride and prestige were on the line as well, since many saw the rising fortunes of the West as resulting in declining importance for the South. One historian even went so far as to speculate that much of the South's opposition to homesteading flowed from outright feelings of jealousy and helplessness.²⁴³ The South, stated historian George M. Stephenson, feared isolation from the Union's main economic, cultural, and demographic flows. The North and East did not have such fears since they would always be connected to the West by investment and market ties.

In other words, the West was linked with expanding capitalism and development, not decaying plantations and morally questionable domestic institutions. East-West connections grew stronger as railroads developed, and western trade shifted over time from flowing south on the Mississippi to New Orleans to heading directly west via canals and, later, railroads. If southern prestige was a contributing factor to that region's opposition to a

²⁴³ Stephenson, *Political History of the Public Lands*, p. 173.

homestead law, then a trade shift away from New Orleans was surely another blow to that prestige.

Inferiority complexes aside, the South clearly had a number of reasons to oppose any homestead law. Though concerns about the equity and constitutionality of the measure appear to have been more talking points than actual factors that could lead to unified southern opposition, general southern conservatism and resistance to social and economic change did contribute to anti-homestead feelings below the Mason-Dixon Line. The view of homesteading as class legislation that would benefit the urban poor played into southern fears. Other economic concerns, especially the fear that homesteading would lead to higher tariffs and lower land values in the older states, also set many in the South against the "free land" idea. Apprehension that expansion to the West meant decreased economic opportunities and southern prominence were prevalent as well.

These considerations, when combined with the preeminent fears of what homesteading would mean to the backbone of southern life and economy—slavery—led many southerners to fight tooth and nail against any homesteading measure. For decades, the South successfully

prevented any homestead act from advancing in Congress. When one finally made it through the national legislature to the White House in 1860, a northern-born president who feared angering the South over any issue because he did not want a civil war to erupt during his administration vetoed the measure. Only after the North-South relationship had broken down completely and that war began could the Republican party advance the Homestead Act of 1862 and place it on the desk of a much more sympathetic president than James Buchanan.

That North-South relationship was always strained, but it deteriorated quickly during the 1850s. Politicians in both sectors but especially the South began to adopt sectional rather than national outlooks during this decade. Many in the South began to view their region as united on every major issue (including homesteading) and having a purpose and destiny apart from the North's. Southern prospects of any meaningful alliance with the West diminished as economics and transportation bound that region with the North and East. Southerners had realized for years that if they could not expand their trading routes and opportunities with the West, that region would become tied to the North. When this occurred, the South had little choice but to retreat into arguing against land

distribution laws that would lead to expanded settlement in the West and increased political and economic power for the North. The homesteading issue, then, was clearly a factor in the South's adoption of a "states' rights" and constitutional minority rights mentality.

There is no doubt that southerners had many of what they viewed as legitimate reasons for opposing the free land idea that eventually culminated in the Homestead Act. Those reasons may all be boiled down to the simple fact that many southerners believed that a homestead bill would run counter to the interests of slaveholders and cause economic ruin to their region. Anything that threatened the existence, expansion, and future of slavery was a potential economic disaster for the South since that institution was the backbone of the southern economy. That the homestead idea was eventually championed by the hated Republican party merely confirmed to southerners that free land was an abolitionist scheme meant to harm the South politically, socially, and economically.

When viewed from the South's point of view, opposition to homesteading was completely rational because it threatened the very fabric of southern society. The idea of a homestead measure existed in the world of politics, and in that world, those in power must look after their own

interests and those of their constituents. Though many poor, non-slaveholding southerners may very well have benefited from homesteading, they did not hold political power. Southern politicians opposed homesteading for years based on their own understanding of what was good for the South and would guarantee that region's economic and political survival.

CHAPTER SIX
REALIZATION: 1860-1863

On February 29, 1860, Pennsylvania Representative Galusha A. Grow gave a lengthy speech on the House floor extolling the virtues of a homestead bill. He provided a short history of federal land policies back to the Revolution and rejected outright the notion that the government should forgo a homestead law because of any sizeable revenue generated by land sales. Comparing the present system of land distribution to "feudalism," Grow sounded downright Jeffersonian when he portrayed man's right to farmland as a gift from God: "Since the hour of the primal curse, 'In the sweat of the face shalt thou eat bread,' man has been forced to the cultivation of the soil to obtain subsistence for himself and the means of promoting the welfare of the race." What right did the government have to prevent man from tilling the soil when the directive to do so came from God? In Grow's view, the government had only to make the country's abundant land available to those willing to farm it.

Building on his characterization of the existing system as feudal in nature, Grow launched a scathing attack on land speculation and speculators. He portrayed them as preying on poor settlers who wished only to have a small

farm and a home and blasted his congressional colleagues for perpetrating a system that favored the strong over the weak. "It is a struggle," he dramatically stated, "between the bones and sinews of man and dollars and cents." In Grow's estimate, many poor farmers paid speculators three or four hundred percent for a piece of land. He concluded: "Why should not the legislation of the country be so changed as to prevent for the future the evils of land monopoly, by setting apart the vast and unoccupied territories of the Union, and consecrating them forever in free homes for free men?"²⁴⁴

Grow's support of homestead legislation is telling for a number of reasons. First, he was a Republican. As shown in previous chapters, the young Republican party sought a homestead bill from its earliest days and, in fact, formed in the West as a coalition of those who hoped to restrict the spread of slavery and make land available to settlers. As Grow made his speech, the party was less than three months away from its nominating convention, at which it would write its 1860 national platform and select its presidential candidate. The party would surely debate homestead legislation at its Chicago convention and seek to

²⁴⁴ "Free Homes for Freemen: Speech of Hon. G.A. Grow of Pennsylvania, in the House of Representatives, February 29, 1860." University of Michigan *Making of America Books*, <http://name.umdl.umich.edu/AJC3496.0001.001>.

include a plank favoring it in its platform. The candidate selected would have to demonstrate support for a homestead bill or, at the very least, be able to live with running his campaign based on a platform that included advocacy of such a bill.

Grow's speech is also noteworthy in that it demonstrated how his party's vision of homesteading had evolved over the years. In its earliest days and, to some extent, even at the beginning of the 1860s, Republicans viewed homesteading strictly as a critical tie to their own—and the nation's—Jeffersonian past. Later, they added the incentive of providing free lands as a cure-all for urban poverty and overcrowding. Now, however, their argument had evolved into an attack against land monopolies and speculators. As historian Heather Cox Richardson stated, "Republicans believed that speculators blocked settlement, as well as squeezed capital from settlers."²⁴⁵

Passage of a homestead bill helped Republicans promote agriculture in the Jeffersonian tradition while building a national system of capital and commerce. It was no coincidence that Republicans sought simultaneously to advance homesteading, a transcontinental railroad, land grant colleges, new taxes and tariffs, and a national

²⁴⁵ Richardson, *The Greatest Nation of the Earth*, p. 142.

banking system. While the benefits and virtues of farming for its own sake were real enough to Republicans, they regarded as critical to the country's advancement the construction of a truly national system that would provide for commerce, communications, education, agriculture, and finance. In this way, Grow and his fellow Republicans saw the homestead bill as not only a long-cherished goal, but also as a critical piece of building the nation and securing its future success.

Galusha Grow's longtime support of homesteading legislation was based on his own personal history and geography. His life began in a poor farming community in Connecticut. His father died when Grow was young, leaving the family in dire financial straits. The family moved west to Pennsylvania for better opportunities and prospered there. Grow had personally seen how transformative westward migration and access to prime farmland could be, and he sought to extend that opportunity to all via homesteading. Many early pro-homestead Republicans had similar life histories of westward movement. These experiences likely influenced their advocacy of homestead legislation.²⁴⁶

²⁴⁶ *Ibid.*, p. 141.

Just a week after Grow's impassioned speech, Representative Owen Lovejoy of Illinois, himself a strong believer in the homestead idea, reported another piece of homesteading legislation from the House Committee on Public Lands. Six days later, after surprisingly little debate, the House passed the bill by a 115 to 65 vote. Just one negative vote came from a free-state representative; just one positive vote came from a slave-state representative.²⁴⁷

Senator James Mason of Virginia made clear that opposition to the homestead bill was a sectional issue, saying that Republicans supported the bill because "the great feature of this policy is...by means of the gratuitous distribution of the public lands, to preoccupy the Territories by population from the free States, and thus incidentally, but of necessity, to exclude slavery."²⁴⁸ Mason and many other southerners saw homestead legislation as an overtly political ploy by Republicans to keep slavery out of the territories.

In this assessment, he was not necessarily wrong. While many Republicans truly believed in the virtues and advantages of a homestead bill, their party had, in fact, been founded on the single-minded purpose of prohibiting

²⁴⁷ Hibbard, *A History of the Public Land Policies*, pp. 376-77.

²⁴⁸ Speech of Senator James Mason, April 10, 1860, in *Congressional Globe, Senate, 36th Congress, 1st Session*, p. 1,634.

the spread of slavery to the western territories. A homestead act was one way to do just that. If it pleased the many advocates of free land among their ranks and made them more loyal Republicans, so much the better.

Despite the protests of Mason and other southerners, a compromise homestead bill passed both houses of Congress in May 1860. It was not the perfect bill for which many advocates had so long argued. It provided land only to household heads and imposed an up-front price of 25 cents per acre. For those who saw no constitutional right for the government to distribute free land, this provision assuaged their concerns by requiring settlers to pay at least something for the property.

In the Senate, future vice president and president Andrew Johnson was a key player in securing passage of this compromise. In the pages of the *New York Daily Tribune*, longtime homestead advocate Horace Greeley offered measured praise: "The House of Representatives has finally consented to take a half loaf rather than no bread with regard to the Free Homesteads.... We do not object to taking this as an installment.... But, understand that this half loaf is accepted only for what it is, and that the friends of the Free Homesteads principle will not rest till their whole

object is attained."²⁴⁹ Greeley saw the compromise bill as a better-than-nothing proposition that would still reduce land prices and take important steps toward reducing land speculation.

Despite homestead advocates' joy at finally passing a bill through both houses of Congress, they were well aware that President James Buchanan, a Pennsylvania Democrat, was unlikely to sign it. The Senate version of the legislation went to the president on June 19; he returned a veto message on June 22. In it, he expressed his personal doubt that Congress had the constitutional power to grant free land to settlers. Despite the nominal land price listed in the bill, Buchanan characterized the law as "an absolute and unqualified gift."²⁵⁰

He also worried that homesteads would prove injurious to veterans holding military land bounties and provide farmers with an unfair advantage over those in other lines of work. "The mechanic who emigrates to the West and pursues his calling must labor long before he can purchase a quarter acre of land, whilst the tiller of the soil who

²⁴⁹ Horace Greeley, *New York Daily Tribune*, June 21, 1860.

²⁵⁰ President James Buchanan Veto Message, June 22, 1860. John T. Woolley and Gerhard Peters, *The American Presidency Project* [online]. Santa Barbara, CA. Available from World Wide Web: <http://www.presidency.ucsb.edu/ws/?pid=68441>.

accompanies him obtains a farm at once by the bounty of the Government."²⁵¹

Finally, Buchanan worried that land speculation would increase exponentially, not decrease, when lands were available for just 25 cents per acre. "Men will not pay \$1.25 for lands," he wrote, "when they can purchase them for one-fifth of that price." He concluded his message by stating his belief that homestead legislation would go far toward undermining American individualism and its "noble spirit of independence" and lead to "pernicious social theories which have proved so disastrous in other countries."²⁵² Though he never mentioned slavery or sectional concerns, many felt sure he issued the veto in deference to his southern allies in the Democratic party.

Horace Greeley and other longtime homestead supporters were enraged but not surprised. "The Northwest was already so unanimously averse to him that he could only intensify its dislike into hatred; but that seems an object worthy of his ambition," Greeley wrote three days after the veto. "So the last hope of obtaining any good from this Congress or this administration has vanished. Shall we ever see their like again?"²⁵³

²⁵¹ *Ibid.*

²⁵² *Ibid.*

²⁵³ Horace Greeley, in *New York Daily Tribune*, June 25, 1860.

Republicans met in Chicago in May 1860 to select their presidential candidate and write their campaign platform. Sectional concerns ruled the convention, and issues of land distribution in the West, though secondary, received much attention as well. Many Republicans stood firm in their desire to pass homestead legislation and viewed it as a way to keep southerners from carrying slavery into the West.

Republicans also rejected any characterization of settlers taking advantage of a homestead bill as beggars or paupers. Many homestead opponents had publicly stated over the years that anyone looking to obtain free land under a homestead act must be poor or lazy. Republicans instead chose to view those willing to journey onto the frontier to establish small farms as rugged, noble yeoman in the tradition of Thomas Jefferson. When the delegates completed the party's platform, the thirteenth plank affirmed: "That we protest against any sale or alienation to others of the Public Lands held by actual settlers, and against any view of the Homestead policy which regards the settlers as paupers or supplicants for public bounty; and we demand the passage by Congress of the complete and

satisfactory Homestead measure which has already passed the House."²⁵⁴

The platform also contained measures supporting federal creation of a transcontinental railroad and national funding of harbor and river improvements. In this platform, the Republican party reached back to its Whig roots to support internal improvements, promote commerce, and create agricultural opportunities. They rejected outright anyone's right to extend slavery into the western territories. Plank eight asserted that "the normal condition of all the territory of the United States is freedom.... We deny the authority of Congress, of a territorial legislature, or of any individuals, to give legal existence to Slavery in any Territory of the United States." The platform also condemned the reopening of the African slave trade, demanded immediate admittance of Kansas as a free state, and called the Democratic belief that the Constitution provided for slavery in the territories "dangerous political heresy."²⁵⁵ Finally, the Republicans selected Abraham Lincoln as their presidential candidate.

²⁵⁴ "Republican National Platform, adopted at Chicago, 1860."
<http://alpha.furman.edu/~benson/docs/repplat6.htm>.

²⁵⁵ *Ibid.*

The Democrats, meanwhile, met in Baltimore a few weeks after the Republicans and adopted a platform that did not address the homestead issue. Democrats expressed support for a transcontinental railroad and called for immediate acquisition of Cuba. They agreed to abide by any future Supreme Court decision on the right to carry slaves into the territories and called the actions by several state legislatures to avoid enforcing the Fugitive Slave Law "subversive of the Constitution and revolutionary in their effect."²⁵⁶

As the sectional crisis worsened during Lincoln's campaign, Republicans paid less attention than usual to the homestead issue. Lincoln himself never mentioned it in any writings or speeches after he became his party's nominee. Yet some continued to raise the issue. Horace Greeley kept the push for a homestead bill at the forefront in the *New York Daily Tribune*, and some notable Republicans mentioned it in speeches and letters. Carl Shurz, a prominent German immigrant soon to become a Union general, addressed a St. Louis crowd and pointedly linked the slavery and land distribution issues in the mocking voice of a southerner: "We want the Negro in the territories.... Slavery cannot

²⁵⁶ "Democratic Party Platform, June 18, 1860." Yale Law School Lillian Goldman Law Library: The Avalon Project, Documents in Law, History, and Diplomacy. http://avalon.law.yale.edu/19th_century/dem1860.asp.

exist except with the system of large farms, and your homestead bills establish the system of small farms with which free labor is inseparably connected. We are, therefore, obliged to demand that all such mischievous projects be abandoned."²⁵⁷

Although the homestead bill received less attention during the 1860 campaign than it might have otherwise due to rising sectional tensions, the decades of agitation both for and against it contributed to those very tensions. Lincoln's election to the presidency and the subsequent disappearance of southern Democrats from Congress seemed to guarantee that a new homestead bill would sail through the national legislature and be quickly signed into law. In reality, it was not quite as easy as many Republicans assumed it would be. However, as historian Benjamin Horace Hibbard noted, "The project of free land was, after March 4, 1861, in the hands of its friends."²⁵⁸

President Lincoln called Congress into special session on July 4, 1861 to deal with the secession and rebellion of southern states. During that special session, Republican Representative Cyrus Aldrich of Minnesota introduced yet

²⁵⁷ Speech of Carl Schurz, quoted in Emerson D. Fite, *The Presidential Campaign of 1860*. New York: Macmillan, 1911, p. 250.

²⁵⁸ Hibbard, *A History of the Public Land Policies*, 383.

another homestead bill, which the House quickly referred to the Committee on Agriculture. No further action was taken on it until the start of the next session of the 37th Congress. Aldrich's introduction of the bill during the special session called specifically to discuss raising troops and destroying the rebellion demonstrates just how serious many Republicans and westerners were about the issue. They simply would not let such an optimal moment pass—one in which their party firmly controlled Congress and the presidency and during which no real southern opposition was present to block the legislation.

On December 4, 1861, just two days after the second session began, Owen Lovejoy reported the homestead bill from the Committee on Agriculture to the full House of Representatives. According to House procedure, he did so erroneously and improperly. Several members of the House, including the "Copperhead" Clement Vallandigham of Ohio, called him on it. Vallandigham served on the Committee on Public Lands, which was also at that moment crafting its own homestead measure. While Lovejoy was in the wrong when he claimed to present the bill on behalf of the Agriculture committee, Vallandigham likely opposed him specifically to give his own committee more time to draft a bill to its liking. Lovejoy may, in turn, have acted as he did to

stall Vallandingham's bill. Lovejoy and his ally in the homestead movement, Galusha Grow, now Speaker of the House, worried that Vallandingham and his committee would allow in their bill cash bounties for military members instead of the opportunity to claim homesteads after the war. This would surely be unpopular with congressmen who worried about the government's already shaky financial status and might make them less likely to approve homesteading legislation.

Vallandingham called for Lovejoy's bill to be referred to the Committee on Public Lands for further consideration. Naturally, Lovejoy objected. He demanded that the House vote on the bill immediately. Representative John Potter of Wisconsin, a Republican who was also a member of Vallandingham's committee, publicly scolded Lovejoy: "I am surprised that the gentleman from Illinois should have taken the course he has, and I hope that any motion to refer the bill to the Committee on Public Lands prevails."²⁵⁹ As a last-ditch effort, Lovejoy proposed that the bill be returned to his Committee on Agriculture, but he did not succeed. The proposed legislation was instead sent to the Committee on Public Lands.

²⁵⁹ Speech of Representative John Fox Potter, December 4, 1861, in *Congressional Globe, House of Representatives, 37th Congress, 2nd Session*, p. 14.

A week later, Potter reported the bill from the Public Lands Committee. It was nearly identical to several that had passed the House in previous years. The bill offered 160 acres of unappropriated public land worth \$1.25 per acre (or less) or 80 acres in areas where land was worth \$2.50 per acre. Small administrative fees aside, the land was cost-free. The claimant needed only to stay on it and improve it for five years to obtain title to the land from the government. Additionally, homestead lands could not be considered assets against any of the claimant's debts until the title was earned.

As Lovejoy, Grow, and others feared, however, the bill included the cash bounty provision for military service, offering \$30 to any man who served three months or more during the rebellion crisis.²⁶⁰ Lovejoy rose before the House on December 10 to ask Potter once more to substitute the old bill for the new, noting that the old version was the true bill the Republicans supported and "without being pledged to which, the Republicans never could have elected their President."²⁶¹ Potter refused, and the Speaker of the House ended the debate.

²⁶⁰ Leonard P. Curry, *Blueprint for Modern America: Nonmilitary Legislation of the First Civil War Congress*, p. 103.

²⁶¹ Speech of Owen Lovejoy, December 10, 1861, in *Congressional Globe, House of Representatives, 37th Congress, 2nd Session*, p. 39.

The issue arose again on December 18 when Representative William S. Holman of Indiana spoke in favor of land bounties for soldiers rather than the cash bounties guaranteed them in the Potter version of the Homestead Act. Ohio's Vallandingham, a Democrat, voiced his opposition to Holman's idea and demanded immediate action on the current version of the bill. "The effect of the homestead policy may, indeed, be to diminish the sales of those lands, and thereby the revenue," Vallandingham told the House. "But the answer to that is that the settlement of the lands increases their value, brings in a larger population, extends the basis of taxation, gives greater wealth, and thereby increases the resources of the state, and in this way returns to the Treasury, a much larger sum than would otherwise be received from the sale of the land."²⁶² Surprisingly, Vallandingham sounded positively Republican as he urged a vote on the bill.

Holman, Vallandingham, and others entered into a lengthy discussion about the bill on the House floor. The Ohioan expressed opposition to offering both land and monetary bounties to soldiers and worried that, as often happened with soldier land warrants, speculators would gobble them up from military members who had no intention

²⁶² Speech of Clement Vallandingham, December 18, 1861, in *Ibid.*, p. 134.

of ever actually living on the granted land and instead would be happy to unload them for a price. Vallandingham noted that ex-soldiers selling bounty warrants would be lucky to receive twenty cents per acre from speculators, while those same lands would increase in value ten times or more for taxation purposes if homesteaded. "Let them have their bounty in money," Vallandingham argued, "and then, also in common with every citizen, a free homestead in land."²⁶³

Justin Morrill of Vermont rose to speak and proposed postponing the entire homesteading debate. Morrill still viewed the public domain as a potential source of income for the federal government and was not willing to see that source given away just yet. "It must be admitted," he stated, "that here at home...the public lands are a resource that is relied upon as a security for the payment of our public debt, and of the interest thereon.... It will be very disastrous to our public credit to part with any portion of our means at the present time."²⁶⁴ Morrill was the long-time champion of a land grant college bill, and many believed he spoke against the homestead measure because he

²⁶³ *Ibid.*, p. 135.

²⁶⁴ Speech of Justin Morrill, *Ibid.*, p. 136.

thought its approval threatened the chances of his pet legislation passing Congress.

While some surely agreed with Morrill, the argument that the public lands were an important revenue source for the federal government was largely discredited or ignored by the early 1860s. As evidenced in the arguments of several House members and senators, Republicans in particular felt sure that the public domain's real value was in future tax revenues, not the few dollars per acre settlers initially paid for the lands. When coupled with the Republicans' strong interest in populating western lands with anti-slavery homesteaders, it is clear why the Homestead Act became a policy objective of the Republican-dominated 37th Congress.

Representative George Julian of Indiana rose to counter Morrill's argument: "It is shown by the report of the Secretary of the Interior that these public lands have paid but a few dollars more than the expense of keeping up the land system. And I believe it is true that, during the last twelve or thirteen years, these lands have ceased to be of any practical or substantial benefit to the country as a source of revenue. Our purpose is, or ought to be, to have them settled and improved, and thereby made the subject of taxation and the sources of wealth to the

Government."²⁶⁵ Julian expressed the views of most, but certainly not all, Republicans. He urged immediate action on the bill.

Others who purported to favor homestead legislation worried less about the bill's provisions and more about its timing. John Covode of Pennsylvania argued that the bill should not go into effect until one year after the end of the Civil War. He feared that passing the law immediately would "give the persons who decline to go into the service of the country an undue advantage over those who are now in the service. They would have the opportunity to occupy the choice land, while the soldiers now engaged in the service are not in a position to avail themselves of the same privilege."²⁶⁶

Thomas M. Edwards of New Hampshire worried about weakening public credit in the midst of the war: "In the present condition of the country, there is...a question which takes precedence of this and of all other questions, and that is, the question of finance. That question, as it controls the whole expenditure of money in this country today, so it should control, in my judgment, any disposition which should be made of the public domain... If

²⁶⁵ Speech of George W. Julian, *Ibid.*, p. 136.

²⁶⁶ Speech of John Covode, *Ibid.*, p. 134.

we do not fight the battles of the country and maintain the integrity of the country and the continuance of the Government, we shall have no lands to bestow upon anybody."²⁶⁷

Both Samuel C. Fessenden of Maine and William D. Kelley of Pennsylvania fretted over disposing of public lands which they thought might prove profitable at some point in the future. New York's Roscoe Conkling wanted more time to ponder a land bounty system and cash bounties. "I think it will require an argument dexterous and strong to convince this House or the country that the way to improve our credit is to give away our property," Conkling said. "I believe, sir, that land is the basis of credit, and I believe...that at a period later than this we can judge better than we can judge now what it is prudent to do, if anything, in regard to the public domain."²⁶⁸

John J. Crittenden, a Kentucky Unionist, advocated for abandoning the homesteading debate altogether until the successful conclusion of the war: "We are now engaged in a war, the greatest war the world ever saw. It is better for these very men whom you desire to benefit that you should reserve these lands and apply every dollar they can yield,

²⁶⁷ Speech of Thomas R. Edwards, *Ibid.*, p. 135.

²⁶⁸ Speech of Roscoe Conkling, *Ibid.*, p. 137.

and make them yield as many dollars as you can, for the benefit of the Army. They will be more benefited by that than by any such measure as this."²⁶⁹

Justin Morrill rose again and formally suggested postponing debate on the homestead bill until February 1862. Wisconsin's John Potter was incredulous. "I must confess my surprise," he stated, "at the apparent change which has taken place upon the part of some gentlemen who have hitherto supported the homestead policy." In Potter's mind, many of those now raising questions about the bill had in the past concurred that homesteading was a wise policy to adopt. Why, he wondered, was the policy wise before but not so now? "Pass this measure now," he argued, "and before February next tens of thousands of these acres...may be occupied and made to contribute thereby to the aggregate wealth of the country from which the revenues of the Government are derived."²⁷⁰

Like Potter, Owen Lovejoy, who had labored so long for passage of a homestead bill, was distraught. He despaired that postponing the bill would be its "final defeat." He accused the opponents of proposing the bounty amendment for that very purpose and seeking to be "courteous to kill it

²⁶⁹ Speech of John J. Crittenden, *Ibid.*, p. 138.

²⁷⁰ Speech of John F. Potter, *Ibid.*, p. 136.

indirectly than vote it down directly." To those with concerns about the effects the bill might have on the public credit, Lovejoy proclaimed that "everyone knows that cultivated real estate is a better basis of credit than uncultivated, and we shall derive more by that means than we can hope for from the sale of the lands if this bill is voted down."²⁷¹

The House voted on Morrill's postponement motion. To the dismay of Potter, Lovejoy, and others, the motion carried, 88 to 50. Congress shelved further debate on the Homestead Act until February 1862.

Almost all of the Representatives seeking to amend the homestead bill or avoid voting on it altogether were eastern Republicans, yet all worried over various aspects of approving homestead legislation. Any Republicans who felt confident that their domination of Congress and control of the presidency would make passage of a homestead bill easy were clearly mistaken. While many House members agreed with Potter, Lovejoy, and others that immediate passage of the homestead bill was good policy for the nation, they must also have worried about the political consequences of the delay. If the bill could be pushed aside in the name of concentrating on the war, it was

²⁷¹ Speech of Owen Lovejoy, *Ibid*, p. 138.

conceivable that it could be postponed indefinitely—or at least until the Union won the war. Once the war ended, would a homestead bill be a high priority for a rebuilding nation? By putting off the bill, were the Republicans squandering the advantage they held in Congress? If homestead legislation could not pass now, could it ever? Why did a surprising number of Republicans oppose the bill?

The House of Representatives resumed consideration of the Homestead Act on February 21, 1862. House Speaker Galusha Grow, a longtime champion of the bill, took an unprecedented and dramatic step: he summoned Elihu B. Washburne of Illinois to the Speaker's chair and descended to the House floor to speak in favor of the bill. Grow reminded his colleagues that the bill had been discussed for years and approved by many different groups, including both houses of Congress, state assemblies, and national conventions. "There has never," he stated, "been a measure before Congress so emphatically approved by a majority of the American people.... I am aware that it was never very popular with the Representatives of that portion of the people now in rebellion."

To defuse the argument of those who still sought profit from the public domain, Grow quoted the Secretary of

the Interior as saying that the public lands no longer generated significant revenue for the government. He also attempted to counter those seeking a bounty provision for soldiers, noting that Congress had already legislated cash bounties of one hundred dollars for Union troops at the end of their service. "Whatever benefit the Government would confer upon the soldier, let it be made in a way to be a substantial advantage to him without being of lasting injury to anyone else."

Finally, Grow compared the noble yeoman farmer to the Union soldier in the field, calling them "the grand army of the sons of toil, whose lives, from the cradle to the grave, are a constant warfare with the elements, with the unrelenting obstacles of nature, and the merciless barbarities of savage life. Their battlefields are on the prairies and wilderness of your frontiers; their achievements...smoothing the pathways of science and cultivation in their march over the continent." Would it not serve the best interests of the nation, Grow argued, to make as much of the public domain as possible available to these hearty souls that would simultaneously create millions of acres of new farmland as well as millions of acres of taxable property, saving them from "the grasp of speculation?"

Grow's brief but dramatic speech concluded with a final plea on behalf of those would-be homesteaders. "I submit...that the best disposition that can be made of the public domain is to set it apart and consecrate it forever in homes for freemen relieved from the burdens of unjust legislation, and secure in all their earnings with which to develop the elements of a higher and better civilization."²⁷² Here he harkened back not only to his own pro-Homestead Act speech from February 1860, but also to Thomas Jefferson's statements on the nobility of yeomanry from nearly a century before.

With his grand gesture of descending from the Speaker's chair and his evoking of Jeffersonian vision, Grow undoubtedly hoped to inspire other members of the House to support the homestead bill when it came back up for debate. His words must surely have been aimed particularly at fellow Republicans who had wavered in their support two months before. Grow would only have to wait a week to determine the effect of his words and years of labor in the service of the homestead movement.

The House resumed consideration of the bill on February 28. Indiana Democrat William Holman immediately

²⁷² Speech of Galusha Grow in *Congressional Globe, House of Representatives, 37th Congress, 2nd Session*, pp. 909-10.

rose and spoke at length about the lack of a land bounty provision in the current version of the bill. He pledged his "unqualified support" of the homesteading idea but still felt compelled to speak up for the bounty provision as a just reward for those defending the Union on the battlefield. He viewed soldier bounties as an investment in the future survival of liberty, saying that the children of those granted bounty lands "will become the noblest defenders of the Republic, because the soil on which they were reared was the gift of the Republic as the reward of the patriotism and valor of their fathers."²⁷³

In this speech, Holman also did a passable job of summing up opposition to homesteading of the southerners who were no longer in Congress to argue against it: the Homestead Act would bring "new States into the Union, founded on the idea of free labor, and thus increase the preponderance of that form of labor in the control of the Federal Government, and because the revenue derived from the public lands diminished the duty on foreign imports, which the South, as a producing people, regarded favorable to their interests."²⁷⁴

²⁷³ Speech of William S. Holman in *Ibid.*, p. 1,032.

²⁷⁴ *Ibid.*, p. 1,031.

Another Indiana representative, James A. Cravens, also spoke in favor of the bounty amendment for soldiers. Like Holman, Cravens professed his support for the homesteading idea: "A homestead bill, well guarded, I think is a measure which involves more the prosperity of the western country than any measure that can be adopted by this House.... In southern Indiana...they believe that to be the wisest policy...which will bring into settlement and cultivation at the earliest practicable period all the uncultivated lands of the West."²⁷⁵ Like Holman, Cravens professed to believe that those serving in uniform for the Union deserved some extra measure of consideration above the liberal provisions of the current version of the Homestead Act.

William Windom of Minnesota responded to Holman and Cravens with a lengthy speech detailing the long and tortured history of the homestead bill in Congress. He rejected the logic behind the soldier bounty amendment. He pointed out that the current version of the bill made homestead lands available to both citizens and soldiers, and that those in military service for the Union would also receive a cash bounty of either thirty or one hundred dollars, depending on when and for what duration they

²⁷⁵ Speech of James A. Cravens, *Ibid.*, p. 1,032.

enlisted. Therefore, according to Windom, the government was already pledged to "giving to all our soldiers a farm of one hundred and sixty acres, and the means of going to it and partially improving it."²⁷⁶

Providing additional bounties or warrants to soldiers was, in Windom's assessment, unwise. Most soldiers would likely seek to sell their warrants, and the current rate for such lands was usually less than fifty cents per acre. "What will they sell for when you issue 100,000,000 acres more?" Windom asked rhetorically. With little or no additional demand and an increased supply of over one thousand percent, the warrants would rapidly lose value, and the soldiers to whom they were issued would get nothing for them. Windom argued that this would help no soldiers, but only speculators. "I am not willing," he declared, "for the sake of making a pompous *show* of regard for the soldier, thus to inflict upon him an actual injury."²⁷⁷

Windom spoke at length and quoted numerous statistics to show that adopting a homestead policy without any additional land warrant or bounty provisions would actually increase the funds in the federal treasury more than sales

²⁷⁶ Speech of William Windom, *Ibid.*, p. 1,033.

²⁷⁷ *Ibid.*

of public lands ever could. He finished with a dramatic flourish worthy of Thomas Jefferson and Galusha Grow:

Beyond the Mississippi—stretching away toward the setting sun, lies the most magnificent public domain on earth. Slumbering in its bosom is a giant energy of productiveness, which, if roused by the hand of industry, would pour the wealth of empires at our feet. In our own country and among the oppressed of Europe are millions with strong arms and brave hearts, who would gladly perform this task for you. They need your lands, but have not the means to purchase them. Your lands demand their industry, and the Government wants the wealth which their toil would produce. Remove the barrier which a mistaken policy has interposed, and a wilderness transformed into teeming farms and thriving cities, a Treasury replenished, and the gratitude of loyal millions will be your reward.²⁷⁸

Wisconsin's John Potter took the floor after Windom and offered his agreement with the Minnesotan's sentiments. Potter expanded on the issue of the homestead bill's potential appeal to European immigrants and argued for the most liberal version of the bill possible, which he hoped would "induce the emigrant to seek a home here, and invest his capital and direct his labor to the development of the now unproductive resources of the country."²⁷⁹

The House of Representatives then voted on the current version of the Homestead Act, which included the thirty dollar cash bounties for soldiers, and approved it by an overwhelming majority of 105 to 16. Every single House

²⁷⁸ *Ibid.*, p. 1,034.

²⁷⁹ Speech of John F. Potter, *Ibid.*, p. 1,035.

Republican voted "yea." Those voting "nay" were either Democrats (seven) or Unionists (nine).²⁸⁰

After the February 28 vote, the House version of the bill went to the Senate on March 3. There it was referred to the Committee on Public Lands. James Harlan of Iowa chaired that committee, which also included Andrew Johnson of Tennessee, a longtime supporter of homestead legislation. The bill seemed sure to sail through the committee and head to the full Senate for a vote. However, President Lincoln soon appointed Johnson as military governor of Tennessee, so a sure "yea" vote disappeared. Unionist Senator Joseph Wright of Indiana replaced Johnson on the Committee on Public Lands.²⁸¹

The Senate committee held onto the bill for three weeks and appears to have heavily debated the cash bounty provision. When the committee reported the bill to the full Senate on March 25, the soldier bounties had been deleted. The Senate took no action on the bill until April 30, when Benjamin Wade of Ohio moved that the bill be considered immediately. However, after realizing that Senator Harlan, chair of the Committee on Public Lands, was

²⁸⁰ Roster of votes in *Congressional Globe, House of Representatives, 37th Congress, 2nd Session*, p. 1,035.

²⁸¹ Curry, *Blueprint for Modern America*, p. 106.

not present, Wade suggested postponing the debate until Harlan could attend.²⁸²

The Senate took up debate on the bill on Friday, May 2. The bill was read, and the members approved several minor amendments affecting the wording of the legislation that the Committee on Public Lands recommended. It was here that the provision was inserted preventing anyone who had borne arms against the United States from taking advantage of homesteading. The full Senate also agreed to the Committee's recommendation for removing the thirty dollar cash bounties for soldiers.²⁸³

Unionist Senator John S. Carlile of Virginia then took the floor to oppose the homestead bill. "I am opposed at all times," he said, "and particularly at a time like the present, to disposing of the public domain of this country without adequate consideration. I do not think it wise, when we rely upon loans for the means to defray the expenses of the Government, that we should dispose of any of the available property...out of which means could be had to enable us to repay those loans." Carlile worried that disposing of the public domain would eventually lead to tax increases on Americans.²⁸⁴ He clearly counted himself among

²⁸² *Congressional Globe, House of Representatives, 37th Congress, 2nd Session*, pp. 1,871.

²⁸³ *Ibid.*, p. 1,915.

²⁸⁴ Speech of John S. Carlile, *Ibid.*, p. 1,916.

those who believed that land sales still amounted to a significant amount of the federal government's income.

Republican Samuel Pomeroy of Kansas requested time to speak on the homestead bill, which he received on Monday, May 5. Pomeroy began by acknowledging the feeling among some of his fellow senators (not to mention House members) that it was not an opportune time to give away public lands due to the revenue they supposedly generated for the government. He quickly eschewed that notion and noted that the funds the government generated from land sales were not even sufficient to cover the operating expenses of the land offices. "What has been will be, as a general rule," he told the Senate, and argued that the public domain would not in the future produce any significant profits for the federal government. Besides, he argued, he did not believe the government should make profit from selling land any more than it should from "a sale of the air, or the sunshine."²⁸⁵

As Pomeroy continued, he railed against the speculators who sprang from indiscriminate land sales and called non-resident and non-occupant owners of lands "the greatest curse to a new country." The Homestead Act, he argued, would transfer land to actual settlers and

²⁸⁵ Speech of Samuel C. Pomeroy, *Ibid.*, pp. 1,937-8.

therefore discourage and prevent speculation. "With one hundred and sixty acres of God's free earth under a man in his own right, and genial skies above him, he shall not want."²⁸⁶

Pomeroy then turned his attention to the place of slavery in the homesteading debate, something that few of his counterparts in either the House or Senate had done during this round of debate on the bill. Coming from Kansas, Pomeroy was uniquely situated to discuss this aspect of the bill's potential impact on American life. He lamented the Kansas-Nebraska Act of 1854 and its implicit repeal of the Missouri Compromise: "We soon witnessed a country containing land enough for an empire of itself, and as rich as the valley of the Nile, having been consecrated to freedom for more than thirty years by positive law, at once opened to the blighting influence of human slavery."

Like many of his Republican colleagues, he idealized the yeoman farmer and his role in the settlement of Kansas. "Freedom was secured in Kansas," he told the Senate, "by being planted in the soil, set to growing upon each quarter section of land that we were able to hold... Hence it is said that I would rather have the 'free homestead bill' as a measure to secure freedom to the Territories than the

²⁸⁶*Ibid.*

reestablishment of the compromise line of 1820, or even the ordinance, reenacted, of 1787." Finally, after a long speech, he concluded. "Having been occupied almost exclusively with matters pertaining to the war, I think we should not be insensible to the requirements of peace!"²⁸⁷ In Pomeroy's view, opening the public domain to homesteading was one such requirement.

The next day, Tuesday, May 6, the Senate voted on the Homestead Act and passed it by a margin of nearly five to one. As in the House, all Republican members voted for it. Just four Democrats and three Unionists voted against it. The Senate sent its version of the bill back to the House, where it was opened for debate again on May 12.

Potter of Wisconsin moved that the House refuse to concur with the Senate's amendments to the bill and called for a conference committee with the Senate. Speaker of the House Galusha Grow placed Potter himself, Republican Cyrus Aldrich of Minnesota, and Unionist Edwin Webster of Maryland on the conference committee. The Senate agreed to the committee, and President Pro Tem Solomon Foot named Republican Senators Harlan of Iowa, Daniel Clark of New Hampshire, and Unionist Joseph A. Wright of Indiana to the committee. After three days of meetings, the committee's

²⁸⁷ *Ibid.*, pp. 1,938-9.

recommendations were reported to Congress. Nearly all of the Senate's stated changes—including the deletion of the soldier cash bounties—remained.²⁸⁸ Both houses agreed, and Congress finally passed the Homestead Act.

President Abraham Lincoln signed the Homestead Act into law on May 20, 1862. It was the culmination of nearly a century of debate and agitation. Strangely, for all of the newspaper ink spilled over those many decades arguing either for or against it, the bill's passage attracted little attention from the national press. Dispatches from the battlefields of the eastern and western theaters of war dominated the news as usual. Many Republicans in Congress quickly moved on to other pressing business and spent no time gloating over the victory or even thinking much about the bill one way or the other. Little could they know just how strongly their approval of the Homestead Act would affect the future course of the nation in ways both good and bad.

The Act went into effect the following January 1 and remained active for the next 123 years. Few pieces of legislation ever passed by Congress have lasted as long or impacted so many people and aspects of American life.

²⁸⁸ Curry, *Blueprint for Modern America*, p. 108.

Historians today continue to debate the positive and negative aspects of the Homestead Act, as well as its overall success as a national policy. However, while few consider it unimportant in American history, until now even fewer have recognized it as a major issue in the decades-long sectional disputes that culminated in the Civil War.

CONCLUSION

Neither Abraham Lincoln nor any of his Republican colleagues had any idea how long the Homestead Act would remain in effect or how influential it would be. In fact, on January 1, 1863, when the Act became effective, it was barely front page news. Instead, the long-awaited enactment of the Emancipation Proclamation dominated news coverage that day, as did continued casualty lists from the recent Union defeat at Fredericksburg. The Emancipation Proclamation changed the course of the Civil War and American society, formally establishing the abolition of slavery as a Northern war aim. Its importance cannot be understated, either in 1863 or in the nearly 150 years since.

The Homestead Act, while perhaps less newsworthy at the beginning of 1863, remained in effect for the next 123 years, ending only with the 1976 passage of the Federal Land Policy and Management Act. (The law included a special 10-year extension on homesteading in Alaska.) Thirty of the nation's fifty states eventually had homestead lands within their borders. According to U.S. Department of the Interior figures, homesteaders made two

million claims and acquired 270 million acres of land.²⁸⁹ This equals the settlement of about ten percent of the total land area of the United States.

The Homestead Act represented unprecedented opportunity in many different ways. It meant land and farms for the poor that could not afford them otherwise. It represented small steps toward social equality for women (who could acquire and own land in their own names under the law) and African Americans, be they former slaves or not. Immigrants from nearly anywhere could come to the United States and acquire homestead lands even before becoming American citizens.

Of course, the Homestead Act was not perfect. It openly discriminated against Chinese immigrants and, initially, American Indians. Congress eventually amended the law to open homestead lands to natives, but doing so basically constituted just one more way to force them to become white Christian farmers and take back reservation lands. The Homestead Act was a lose-lose for American Indians.

Still, the Homestead Act has gotten a bad rap over the years. Historians have almost universally called it a

²⁸⁹ "Homesteads," booklet published by the Bureau of Land Management, U.S. Department of the Interior, 1962.

failure based simply on the fact that only about forty percent of those who claimed homesteads completed the five-year process and earned title to their land. Does the success rate of homesteaders constitute the only measure of the Act's success? This is purely subjective. Did more than half of all homesteaders fail to "prove up" on their claims? They did. Did the law fail to meet some of the Republican Party's settlement and political objectives? It did. Did homesteading represent yet another in a long line of lies and disappointments to American Indians? It did.

The Homestead Act succeeded in other ways, though. It was an issue around which early Republicans could coalesce at a time when they did not always agree on the proper course to deal with slavery. Later, when Republicans held both Congress and the White House, they viewed the Act as a way to direct the future course of settlement in the West and, in tandem with other legislation, forever alter the American economy, development, education, and commerce.

As demonstrated in this work, the idea of free land distribution by the United States government existed from the nation's earliest days. It had been a major political issue since the American Revolution. Ideas about the proper way for the government to distribute land changed and evolved as the country acquired more territory and

began to discuss and disagree about slavery. Homesteading eventually became a key component of Republican ideology, though Southern secession was required to finally ensure the passage of the bill. This is fitting since the debate over homesteading had caused so much contention in the halls of Congress over the years and had become so linked with the arguments about the westward expansion of slavery.

From the time of the Missouri Compromise forward, land distribution, slavery expansion, and homesteading were all related and debated simultaneously. These debates increased over the next forty years, until blood was finally shed. The Homestead Act's role in bringing about the Civil War has been mostly ignored or downplayed until now. However, it can no longer be denied that the "free land" idea was a contributor to the long national debate about slavery, the creation of the Republican Party and, consequently, the onset of the Civil War.

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