

THE PUBLIC DOMAIN AS A FIELD FOR HISTORICAL STUDY¹

“Questions of land domination and of land distribution have formed the ultimate ground of political division and debate among men ever since the human race, in the evolution of society, passed from political organization on the basis of common territory. . . . The great leading factor in the formation of our governmental polity, and in the subsequent divisions of party among us, has always been, in the last analysis, a question relating more or less directly to the distribution of the national domain considered as the source and seat of political power.”²

Such a factor in human development is of course too vast to be successfully claimed by any one of the currents of historical progress since its influence has been wide and deep upon educational, social, financial, and economic life. The public domain has engrossed the efforts of statesmen and legislators; Indian wars have grown out of it; and land grabbers, speculators, and timber thieves have feasted thereon.

In the history of the West the public domain can well be regarded as the fundamental factor. The nearness, cheap-

¹ The total area of unappropriated and unreserved lands in the United States on June 30, 1913, was 297,927,206 acres (land surface). The total area of the States (land surface), not including Alaska and our insular possessions, is 1,903,289,600 acres, and the difference between this area and the unappropriated and unreserved lands on June 30, 1913, or 1,605,362,394 acres, is the total area disposed of to and including June 30, 1913.—Letter from the Assistant Commissioner of the General Land Office, dated September 15, 1913.

² Quoted from Welling's *The Land Politics of the United States*, published by the New York Historical Society, 1888. Cf. Trimble's *The Influence of the Passing of the Public Lands* in the *Atlantic Monthly*, Vol. CXIII, pp. 755-767.

ness, and accessibility of the soil yielded that easy prosperity of life and that high standard of abundance which contrasted sharply with the crowded and restricted areas of the Old World. The public domain has given us conceptions of vastness and space as well as continental standards in viewing our national growth and its problems.³ These conceptions were continental, national, and distinctly American rather than local, sectional, or European.

From historians, it would seem, the public domain has not received the attention or at least not the emphasis which has been given to other phases of historical study. Forty years ago it was practically a dark continent to investigators. The colonization and settlement of New England lives in the works of Palfrey and Fiske; Parkman has recited the struggle for a continent; Bancroft and others have treated the constitutional period; Henry Adams has brilliantly depicted the political and diplomatic events of the administrations of Jefferson and Madison. But no Winsor or von Holst or Rhodes has exploited the public domain; and studies and researches in that field are not, as yet, commensurate in numbers or quality with the importance of the subject.

The sources on the public domain are generally accessible though not so abundant, apparently, as those on military or diplomatic history. Donaldson's *The Public Domain*⁴ (with statistics), prepared and printed by the government, is an encyclopaedia upon the subject down to December 1, 1883. Its 1302 pages teem with historical information concerning territorial acquisitions, boundary disputes, treaties, surveys, and land ordinances — from the Ordinance of 1785 to

³ Cf. Wilson's *The Proper Perspective of American History* in *The Forum*, Vol. XIX, pp. 544-559; Turner's *Contributions of the West to American Democracy* in the *Atlantic Monthly*, Vol. XCI, pp. 83-96; and Callender's *Economic History of the United States*, pp. 666, 667.

⁴ Likewise published as *House Miscellaneous Documents*, 2nd Session, 47th Congress, Doc. No. 45, Part IV.

the Homestead Law of 1862. Facts and figures concerning railroad grants, donations, military bounties, purchases and sales of lands, private land claims, Indian reservations, and mineral lands constitute an inventory of national progress and an eloquent portrayal of natural wealth.

The eight volumes of the *American State Papers, Public Lands*,⁵ aggregating over 7000 pages are an almost inexhaustible mine of historical material for the forty-eight years ending with 1837. Petitions and memorials, administrative reports, surveys, and Supreme Court decisions are printed therein; thousands of land claims are recorded; there are descriptions of lead and salt mines; the minutes of land commissioners are long and detailed; while there is other matter concerned with land policies inaugurated by Great Britain, France, or the Kingdom of Spain.

In the proceedings of Congress⁶ may be found the debates on great land policies which became crystallized into such notable statutes as the Land Ordinance of 1785, the Act of 1800, the Preëmption Law of 1841, and the Homestead Act. Webster, Foote, Benton, Clay, and scores of others have contributed their discussions to various phases of the subject. And those statesmen who believed in the "manifest destiny" of the United States express in these records their faith and hope in the public domain.

Annual reports of the Commissioner of the General Land Office⁷ from 1826 to the present time describe the manifold operations of that office from year to year. Detailed statis-

⁵ The Gales and Seaton edition is referred to, the second volume of which was printed by Duff Green.

⁶ That is, in the *Journals of the Congress of the Confederation*, the *Annals of Congress*, the *Congressional Debates*, the *Congressional Globe*, and the *Congressional Record*.

⁷ The office of Commissioner of the General Land Office was created on April 25, 1812, and became subordinate to the Treasury Department. The General Land Office was recognized by the law on July 4, 1836. Since the creation of the Interior Department (March 3, 1849) the General Land Office has been a bureau of that department.—Donaldson's *The Public Domain*, p. 164.

tics describe the work of land offices; the administration of federal statutes is explained; charges, investigations, and prosecutions are noted, and lists of grants and patents are recorded. "The General Land Office holds the records of title to the vast area known as the public domain, on which are hundreds of thousands of homes. Its records constitute the 'Doomesday Book' of the public domain of the United States."⁸

Published writings of such American statesmen as Washington, Franklin, Madison, Gallatin, and Clay contain other material. Benton's *Thirty Years View* presents many speeches on the public domain by a thoroughly western man. The census bulletins portray the growth and settlement of our public area; *Niles' Register* duplicates many of the documents and speeches of Congress; and in the thirty volumes of Thwaites's *Early Western Travels 1748-1846* are preserved the first impressions of travellers relative to surveys, purchases, grants, land companies, land offices, reserves, public sales, preëmption claims, and squatters.

But at the present time the essay, the monograph, and the volume have made a beginning of exploring and exploiting this almost untilled field. An early work (1885) is Adams's *Maryland's Influence upon Land Cessions to the United States*;⁹ Sato's *History of the Land Question in the United States*¹⁰ is a preliminary survey of the subject; the Bureau of Education has issued several circulars descriptive of land grants for educational purposes; while in 1910 there appeared Mr. Payson J. Treat's *The National Land System 1785-1820*.

To write the history of the public lands in a middle western Commonwealth like Iowa would be to exhibit in miniature a considerable portion of the history of the public

⁸ Donaldson's *The Public Domain*, p. 166.

⁹ Printed in *Johns Hopkins University Studies*, Third Series, No. I.

¹⁰ Printed in *Johns Hopkins University Studies*, Fourth Series, Nos. VII, VIII, IX.

domain of the United States. The story of the various Indian cessions—treaties, diplomacy, annuities, and removals—is an unfinished portion of history for Iowa. Much more remains to be written concerning the military defense and protection of the region and concerning the constant pressure of population against the Indian hunting grounds.

After the army men and the treaty-makers came the Surveyors-General—unless indeed these were outrun by the westerning squatters. Much information was recorded at the Dubuque office, where such men as A. G. Ellis, George W. Jones, George B. Sargent, and C. H. Booth served as Surveyors-General. Their reports mention the superior quality of the soil,¹¹ the mineral lands, and water power; while diagrams and plats of lands showing the progress of the surveys were recorded, as well as information concerning the migrations of settlers.

But where are the biographies of the surveyors whose works abide in the roads and lines which mark the limits of townships and the bounds of Iowa homes? These surveyors, chain carriers, and axemen were pioneers. Equipped

¹¹ "Between the base and first correction line, and west of the line dividing ranges 34 and 35, one hundred and one townships have been placed under contract for subdivision. In this portion of the State, the soil is unsurpassed in the world for richness and fertility, and the only drawback is the deficiency of timber. Many of these townships are settled to some extent, and this settlement is rapidly increasing. The district adjoining the Missouri river is almost entirely claimed by actual settlers, and in some localities these claims are valued at from two to three thousand dollars. There are several respectable towns and villages in the above named tract, among which are Trader's point, Coonsville, Indian town, Kaneshville, and Carterville. Twenty-three saw and grist mills are in operation, some of them very fine and worked by steam. Fields and farms cover the surface of the country. In the single township 75, range 44, there is a population of at least four thousand souls. The country bears every evidence of industry and prosperity, and has, in many places, the appearance of a country settled for years."—From the report of George B. Sargent, Surveyor-General of the Dubuque Land Office, to J. Butterfield, Commissioner of the General Land Office, dated October 24, 1851, and printed in *Senate Documents*, 1st Session, 32nd Congress, Vol. III, Part 1, pp. 67-77.

with horses, camp furniture, compass, chains, talley-pins, hatchets, whetstones, pens, ink, paper, and field-books, they marked and blazed the way for the land hungry homeseekers.¹² Long marches over unmarked courses, hunger, heat, and cold may have fallen to the lot of these surveyors, but such hardships were not always recorded in the reports sent to the Surveyor-General's office.¹³

Twenty-five contracts dated between May 4, 1837, and July 3, 1838, were made by the Surveyor-General for surveying in the Territory of Iowa. The surveyors with their assistants worked from four to seven months and covered courses of varying lengths at \$2.75 per mile. Among the names of these surveyors are those of Thomas Cox and Moses M. Strong; one Andrew Porter surveyed seven townships, while William A. and Alvin Burt made a return for 1341 miles.¹⁴ Between October 29, 1844, and September 26, 1845, Surveyor-General George W. Jones let twenty-four contracts for surveys in the Iowa Territory.¹⁵ Such men marked off millions of acres and their pioneer work in the founding of the Commonwealth is worthy of the historian's labors.

Likewise the land offices with the Registers and the Receivers of Public Moneys still await adequate treatment from the historians. In the records of the thirteen land

¹² Cf. Woodard's *The Public Domain, its Surveys and Surveyors in the Michigan Pioneer and Historical Collections*, Vol. XXVII, pp. 306-323.

¹³ "During four consecutive weeks there was not a dry garment in the party day or night. The labors of the party invariably commenced with the earliest light, and through the long days of June and early July, in that latitude continued without a moment's cessation until dark."—From report of Deputy Surveyor Henry A. Wiltse (for Wisconsin Territory) to Surveyor-General George W. Jones, dated August 20, 1847, and printed in *Senate Documents*, 1st Session, 30th Congress, Vol. II, Doc. No. 2, pp. 94-97.

¹⁴ From report of Surveyor-General E. S. Haines printed in *Senate Reports*, 3rd Session, 25th Congress, Vol. I, Doc. No. 27, pp. 42-44.

¹⁵ *Senate Documents*, 1st Session, 29th Congress, Vol. III, Doc. No. 16, pp. 60, 61.

offices¹⁶ of Iowa may be found thousands and thousands of names which form a wonderful picture of migration and settlement. It was at these offices that the land officers conducted the public sales in the presence of settlers and speculators gathered from nearly every State of the Union.

When the public bidding at the Burlington office began on November 19, 1838, great numbers of settlers were on hand. On that day Lewis Benedict, a speculator from Albany, New York, bought 960 acres. Richard F. Barret of Sangamon County, Illinois, and Lyne Sterling of Franklin County were present with their coin for speculation and later invested in thousands of acres.

In this land district the first purchase was made on October 1, 1838, under the preëmption act of the preceding June. John H. Murphy of Des Moines County was the purchaser and the records say that "the applicant could not tell what the middle 'H' in his name stood for." Receipt number 232 was for \$98.71 paid for 78.97 acres by Claibourne Lea, of Highland County, Ohio. In two weeks the public sales at Burlington amounted to \$295,495.61.¹⁷

These land sales furnished an interesting and picturesque scene.¹⁸ For days prospective buyers, impatient for the opening of the sale, had thronged the hotels and lodgings. New acquaintances were made, and hope and anxiety might have been seen written on the faces of many who had brought all their worldly goods with which to buy a home. Dining-rooms, wagons, and bar-rooms were made to do service as bed-rooms. The suburbs were like a military camp and dinners were eaten from tables or stumps. Stim-

¹⁶ These were located at Dubuque, Marion, Burlington, Fairfield, Iowa City, Chariton, Des Moines, Kaneshville, Council Bluffs, Decorah, Osage, Fort Dodge, and Sioux City.

¹⁷ These names and figures are taken from the records of the Burlington land office. These for many years were preserved at Des Moines, Iowa, until they were finally removed to Washington, D. C.

¹⁸ Newhall's *Sketches of Iowa*, pp. 57, 58.

ulated by the buzz and excitement of the throngs the land officers were hurrying to prepare plats, to appoint township bidders, and to receive preëmption claims. And who can doubt that it was a great event for Lemuel Green Jackson, when on November 19, 1838, he was the successful bidder for 80 acres of land at \$1.25 per acre? Title, property, home, and the future, all were now assured.

For some historian to revive the public bidding, the excitement, the joys, and the disappointments witnessed by the fifteen land offices of Ohio would be to reconstruct a segment of the history of the Old Northwest. The establishment and later the discontinuance or removal of land offices measured in a way the flow and ebb of settlement as well as the gradual absorption of the public lands. And who will say that the operations of the land office at Marietta or at Zanesville are less worthy of the work of the historian than are events like the taking of Fort Ticonderoga or the battle of Bunker Hill?

Federal land grants in Iowa for educational purposes have already been treated by the investigator.¹⁹ The seventeen railroad grants made for Iowa between 1856 and 1864 still await adequate historical investigation. The operations of the Homestead Law, under which there were over 8000 final entries in Iowa between 1862 and 1880, remain an unwritten chapter in the settlement of Iowa.

Fourteen States besides Iowa shared in the swamp land acts. "The amounts realized by the different States and the prices paid to them by individuals and corporations for these lands (many as low as ten cents per acre, and now the best agricultural land in some of these States), would be an interesting chapter. Such grants are always fertile fields for schemes."²⁰

To the histories that could be written concerning scores of

¹⁹ Buffum's *Federal and State Aid to Education in Iowa* in THE IOWA JOURNAL OF HISTORY AND POLITICS, Vol. IV, pp. 554-598.

²⁰ Quoted from Donaldson's *The Public Domain*, p. 221.

special grants in various States the moralist can add his censure or praise. Fifty acres were offered by Congress in 1776 to every deserter from the British army; grants have been voted to refugees from Canada and Nova Scotia, to the French settlers at Gallipolis, to La Fayette, to the members of the Lewis and Clark expedition, to the New Madrid earthquake sufferers, and to Polish exiles. For over a hundred years the public domain has been the target for the hopes and designs of schemers. But with jealous care able men have generally been placed at the head of land committees in Congress. Such statesmen "have combated and driven off more than twenty thousand propositions involving grants of lands for all conceivable objects,— for starting goat-farms, dairies, voyages around the earth, trips of exploration to the Arctic regions, schools of a hundred varieties, scientific purposes,— demanding thousands of acres to be sold for the benefit of their schemes."²¹

A chapter on land grants for military and naval services in our foreign wars has already appeared.²² Attention can be further directed to hundreds of bounties granted by special acts of Congress. The lead mines of Missouri further invite the investigator. Large gaps in the history of the public domain would be filled by monographs on the workings of the various preëmption acts, the graduation law, the distribution acts, and federal statutes upon coal and mineral lands. Some day worthy themes for historical study will be found in the irrigation and reclamation policies of the Far West. In human significance and interest the history of the administration of the Carey Land Act should at least be equal to that of a New England parish or village.

Historical excursions into the Spanish policies and administration relating to the public domain in Lower Louisiana would give additional chapters to the story of the

²¹ Quoted from Donaldson's *The Public Domain*, p. 22.

²² Treat's *The National Land System 1785-1820*, Chapter X.

Province. These would consider the powers of Spanish officials, the liberal grants to encourage settlement, relations with the Indians, and the disposition of mineral sites. Likewise much history would be written in the story of the "Bastrop Grant", the Maison Rouge Claim, the Houmas Grant, and the New Orleans Batture.²³

To scan the index of Donaldson's *The Public Domain* suggests other topics capable of more extended treatment. The "Erie Purchase", legislation on desert lands, the Public Land Strip, the Perdido claim, military wagon roads, sailors' and soldiers' homesteads, and the Yellowstone National Park are subjects that have possessed human interest and have been matters of legislation.

Far from complete is an historical analysis of the effects of this occupation and conquest of the land upon social life and the spirit of democracy. Loose political coherence and a rather structureless economic system are some of the reappings from this conquest. "To-day we cannot tear down a slum, regulate a corporation, or establish a national educational system, we cannot attack either industrial oligarchy or political corruption, without coming into contact with the economic, political, and psychological after effects of the conquest."²⁴

Ideals of personal worth and individualism grew out of the quickly conquered public domain; and an advancing and sometimes receding frontier type measured the rate of absorption of the free public lands.²⁵ But ideals of public welfare and social needs have grown to oppose the former

²³ Donaldson's *The Public Domain*, pp. 373, 374.

²⁴ Weyl's *The New Democracy*, pp. 23, 24.

²⁵ "Up to and including 1880 the country had a frontier of settlement, but at present the unsettled area has been so broken into by isolated bodies of settlement that there can hardly be said to be a frontier line. In the discussion of its extent and its westward movement it can not, therefore, any longer have a place in the census reports."—*Compendium of the Eleventh Census: 1890; Part I, Population*, p. xlvi.

ideals of individualism, liberty, and equality. "Social institutions have been subjected to strain, stress and processes of modification and adaptation, and have thus been carried a long way on the road of social evolution."²⁶ Democracy now demands coal lands for posterity, rather than for the present-day plutocracy; timber, mines, and water power sites for the future, and, either by Nation or by State, the conservation of the unappropriated wealth of our public domain.

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²⁶ Quoted from Hill's *The Public Domain and Democracy*, p. 233, in *Columbia University Studies in History, Economics and Public Law*, Vol. XXXVIII, No. 1. This stimulating monograph is one of the best that has appeared upon the subject.