

**CONGRESSIONAL
GRANTS OF LAND IN
AID OF RAILWAYS**

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Congressional Grants of Land in Aid of Railways by John Bell Sanborn

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BY
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A THESIS SUBMITTED FOR THE DEGREE OF DOCTOR OF PHILOSOPHY,
UNIVERSITY OF WISCONSIN, 1899.



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1899

and corporations to which they were granted disposed of them. But the materials on this question were too scanty to allow of any certainty in the conclusions reached, although I have thought it advisable to embody such tentative results in the form of an appendix. I hope that further treatment of this subject may be given in general railroad histories of the different states and that my work may be of assistance to those investigating this subject.

In the library of the State Historical Society of Wisconsin have been found most of the materials from which this monograph has been prepared, and I wish to express my appreciation of the unfailing courtesy of the officers of that society and of the members of the library staff. Some additional materials were found in the Chicago Public Library, The Newbury Library and the library of the Chicago Historical Society.

During my work on this monograph I have been under constant obligation to Professor F. J. Turner, who has given not only advice but actual assistance at every point in my investigation and in the preparation of my work for the press. Professor C. H. Haskins has read the proofs and made many valuable suggestions, while Professor W. H. Hobbs has also given assistance in the proof-reading.

Madison, Wisconsin, August, 1899.

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INTRODUCTION.¹

Questions relating to land tenure, and particularly to the management and disposal of lands held by the state, have always occupied a large place in the history of nations. In the case of the United States the public domain has been a most important factor in the national development. Aside from the diplomatic and military struggles involved in the acquisition of the soil, and the relation of the slavery struggle to the public domain, the position of the government as landed proprietor has been profoundly important. Even in colonial days the management of the vacant lands by the crown, the proprietors or the corporations who governed the colonies, had important effects in political, economic, and social development. There, as later, land grants were used for political purposes as well as to promote immigration and industrial development. Colonial history affords precedents for the use of land as bounties for soldiers, for education, and for internal improvements. The question of the devolution of the crown lands after the declaration of independence, became one of the most influential factors in the history of the Revolution and the Confederation, and was only settled by the cessions of the claimant states and by the passage of the Ordinance of 1787. The vast political influence of the land question upon the politics of the Confederation has frequently been pointed out, but it cannot be too strongly urged.² The acquisition of the public domain

¹See Sato, *History of the Land Question in the United States*, Johns Hopkins University Studies, IV, nos. 7, 8, 9.

²"And just here lies the immense significance of this acquisition of the Public Lands. It led to the exercise of National Sovereignty in the sense of eminent domain, a power totally foreign to the Articles of Confederation." Adams, *Maryland's Influence upon Land Cessions to the United States*, Johns Hopkins University Studies, III, no. 1, p. 44.

was the first great step toward national unity—the disposal of this domain was to be one of the most important factors in the new national life.

When the Constitutional Convention met it found the public land question settled for the time. Little attention was paid to the power which Congress should have over the lands which the government then owned or which it might afterward acquire. The subject was touched in two provisions of the Constitution, the first that "New States may be admitted by the Congress into this Union," and the second that "The Congress shall have the power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States."³ The latter of these was not discussed in the convention and the discussion on the former was not such as to throw any light on what property rights the government had in the territory from which these new states were to be formed or on the question whether the acquisition of new territories was contemplated. Madison's discussion in Number 43 of the *Federalist* is not more satisfactory, the only point touched being the prohibition against the division of states without their consent.

It is unfortunate that as regards both the acquisition and the disposal of territory the Constitution is not more specific, and that a contemporaneous explanation of the powers of Congress does not seem to have been made. But, wherever in the Constitution the right to acquire territory is found, the public domain has grown rapidly. Originally amounting to 258,504,129 acres, by the various purchases and cessions it has been increased to over 1,800,000,000 acres.⁴ Of course the actual amount of land

	Acres.
*Art. IV, Sec. 3.	
*State cessions	258,504,129
Louisiana purchase, 1803	750,686,855
Florida purchase, 1819.....	35,264,500
Mexican cession, 1848	329,623,253
Texas purchase, 1850	62,266,953
Gadsden purchase, 1853	29,142,400
Alaska purchase, 1867	369,529,600

Total, 1,835,017,692
Message and Documents, Abridgment, 1897-98, 589. The figures are only estimates, as much of the territory has not been surveyed.

in the possession of the government at no time amounted to this. Exclusive of Alaska there have been 741,702,365 acres of land appropriated and 132,441,774 acres reserved, leaving 591,343,953 acres vacant at the present time.⁵

The influence, from the earliest times, of the comparatively small public domain was fundamentally important; the influence of these new and vaster areas which came into the possession of the government, and particularly their influence upon the development of the West, was quite as marked.

Some consideration of the methods by which this land passed out of the hands of the government must first be given. Of these various methods, that of cash sales has disposed of over two hundred million acres. The different grants to states, except those in aid of railroads, have taken more than one hundred and sixty million while grants to railroads and homestead entries are next on the list with a little over one hundred million each. This proportion is, however, only a temporary one, as homestead entries are constantly being made and many of the railroad grants are incomplete, while sales and state grants are steadily decreasing.⁶

During the first part of the present century the object of the administration of the public lands was to obtain as large a revenue from them as possible. In 1796 an act was passed providing for public sale of the lands in the Northwest Territory at prices not less than two dollars an acre. Credit on the purchase price could be given. This system continued with some modification up to 1820, when the credit feature was abolished and the price

⁵ Ibid., 591.	
*Cash sales	214,414,395
Homesteads	102,280,228
Timber-culture acts	16,118,228
Military bounty-land warrants	60,252,790
Script locations	3,008,516
Indian allotments	560,780
Donations	3,006,128
Railroad, wagon-road, canal and river improvement grants to states and corporations	106,584,898
State grants, general and special	165,476,402
Private land grants	70,000,000
Total	741,702,365
⁶ Ibid., 592.	