THE PROGRESS OF THE LAND PROBLEMS IN THE UNITED STATES, ESPECIALLY IN THE LIGHT OF CONGRESSIONAL DEBATES.

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Preface.

Some time previous to my departure from Japan for the United States by an official order, I made up my mind to study American land problems from the historical point of view. Having arrived in California I began investigation of the subject in the State University at the end of April, 1920. In the middle of October of the same year I removed to the University of Wisconsin, Madison, and continued my work to its conclusion.

Land problems in the United States have occupied a great part of that country's economic history, and each one of them deserves elaborate study by an able scholar. At first blush it might seem too ambitious to undertake the subject in its entirety. Indeed, one of the most eminent authorities in this field among American professors kindly advised me that it would be better to select some special phase for the sake of scientific achievement. From one point of view, I heartily agree with him. Yet, anxious to procure within a limited time, general knowledge regarding the historical evolution of land conditions in a foreign country, I have dared to enter into an investigation admittedly formidable in its scope. At the same time I thought that the results of a comprehensive, even if somewhat superficial inquiry would be more beneficial to me, as well as to my countrymen, than the microscopic examination of a small branch of the subject.

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If this little paper shall be found helpful by seekers for historical interpretation of the important land questions of the United States, my efforts will be fully rewarded.

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Introduction.

The rapid expansion of the United States is a marvel of world history. Starting from the thirteen tiny states along the Atlantic Ocean her dominion reached the Pacific Coast and at last even stretched to over-sea possessions lying in the two oceans, within less than a century and a half. Such an enormous territorial growth naturally brought with it various land problems. Land questions are based upon the relation between the land and the people. The variety of the population of this country has complicated its land problem to a high degree. With this circumstance in view, the first two chapters of this paper will treat of the problems regarding the public domain and the private lands open to the use of American Citizens, then of the questions arising from the relation between the land and the native Indians and Asiatic aliens, and at the end I shall give some account of the land question produced after the Great War in connection with returned soldiers. I have limited my study to the United States proper, not touching Alaska and insular territories.

Chapter I. Land Problems concerning the Public Land.

A. Definition of the Public Land.

Public land or public domain may be defined as the unappropriated and unreserved land which belongs to the United States and which is

to be disposed of for the use of the American people. So the land of the Federal government, if it is not subject to such disposal, cannot be called the public land, although devoted to some public use. When the Commissioner of the General Land Office reported that: "The United States held no public lands in any of the original thirteen States, except for public uses, fortifications, arsenals, light-houses, and dock-yards,"[1] he may be assumed to have made careless use of the phrase, applying it to areas outside of the proper meaning of the public land. However, the same land office in a recent year defined it properly, in my opinion, in stating that: "The term 'public domain' has been applied broadly to the entire afore-mentioned area (referring to the lands which have been added to the area included in the original thirteen states) in so far as the lands have been subject to survey and disposal by the United States."[2] Further, when we speak of public land simply, it means the national public land but not state land, and must be distinguished from such expressions as the public land of Wisconsin or Texas, etc.

B. Origin and Growth of the Public Land.

The origin of the public land of the United States may be traced back to the successive cession by seven of the original states of their claims to lands lying between the Alleghany mountains and the Mississippi River, during about twenty years from the latter part of the eighteenth century to the beginning of the last century. This action was adopted by the states for the purpose of establishing the financial foundation of the newly organized national government and at the same time stopping the land controversies between the several states. Since that time the public lands have been subject to gradual additions by purchase, treaty and conquest. Accessions to the public land in this period included the territory east of the Mississippi River except Florida and a small part of the Louisiana Purchase. The expansion of the national territory on the continent was parallel to that of the public land excepting in the case of Texas and a few others, in which states there have existed no public lands from the time of their admission.

In the above manner the central government acquired nearly

1) Annual Report of the Commissioner of the General Land Office, 1866, p. 6.

2) General Land Office, Manual of Instructions for the Survey of the Public Lands of the United States, 1919, p. 1.

2.9 million square miles or about 1.8 billion acres[1] of public land, including Alaska, as its common stock; of this area about three hundred million acres or one sixth of the total being state cessions and the balance acquisitions from foreign governments such as France, Spain, Mexico and Russia. Making up the vast area of about 760,000,000 acres or more than two fifths of all the additions, the Louisiana Purchase in 1803 was, in one sense, the most important event through the whole history of the acquisition of public lands from the first state cession by New York in 1781 down to the purchase of Alaska in 1867.

The 1.8 billion acres as mentioned before, show the total area of the public lands at different periods entered into this category, but the actual area at no time ever reached the above figure, because the public lands have from time to time been disposed of as we shall see in the following pages. Between the acquisition and growth of the public land and the activities of this country, there has existed very intimate connection from diplomatic, military, political and social, as well as economic points of view. The existence of ample public lands gave rise to the peculiar feature of the land system of the United States and sowed the precious seed of democracy, free from such feudal and aristocratic tenure as is seen in the old European countries.

C. Disposition of the Public Land and the Effects of the Various Land Laws.

A subject which has occupied, in the land question of the United States, a place of equal importance with the acquisition of the public land, is that of its disposition. The former subject involves mainly political and diplomatic phases in connection with the relations between the United States and the states or foreign countries. The principal feature of the latter question is its social and economic side, although its political aspect cannot be neglected. The manner of disposing of the public land, which was altered as varying conditions arose, reflected the spirit and demand of each successive period, and brought about various effects, economic, social and political. The land question in a narrow sense may be said to be the question of the disposition and distribution of lands, for which reason I will give fuller description to that subject in

1) The Americana, Vol. 22, p. 763.

this monograph than to the contrasting question of the acquisition of the public lands.

1. Disposition of the Public Land from the Beginning to the Passage of the Homestead Act.

The enactment of the Homestead Law in 1862 was an event so significant that by it the history of the land question of the United States can be divided into two parts. A space of time previous to its passage covering less than ninety years was the formative period of land legislation. We may distinguish two forms of the disposition of public lands during this period; first, those made for the general public and second, those for a comparatively narrow sphere of society or for the States, regardless of the area of disposed land. Land grants to railroads amounted to an enormous quantity, yet the disposition of land in this case was limited to one class of corporations, so was not general but special in character. Topics of this paper from the early land legislation to the Graduation Act (A–F) belong to the first class of disposition, and those from land bounties to British deserters to the educational land grants (G–M) belong to the second class, although there are some cases where no such clear line can de drawn.

A. LAND LEGISLATION PREVIOUS TO 1800.

There was no regular and fundamental land system in this country before the enactment of the celebrated Land Ordinance of May 20, 1785. By this act the first rules as to the survey and disposition of the public land were inaugurated. The rectangular system of surveying formed the most essential feature of the Ordinance, dividing the Western Territory into townships six miles square which were again subdivided into sections one mile square containing 640 acres. Next, the surveyed lands were to be sold at public vendue with the unit area of one township or one section alternatively, according to the location of the township offered to sale. The minimum price was fixed at one dollar the acre. Besides, there were contained provisions concerning reserved lots for the use of public schools, regulation of mineral lands and rules for the reservation of certain lands for foreign refugees and Christian Indians. Then the Ordinance of July 13, 1787 proclaimed the estimation of the liberty, rights and property of the inhabitants both whites and Indians of the

Northwest Territory and prohibited the introduction of slavery into the Territory. However, the points more deserving our attention with regard to the land are: (1) The regulation that the primary disposal of lands in the Territory was to rest with the Government free from any interference of the new States; (2) the exemption of lands belonging to the United States from taxation by the states; (3) the prohibition of taxing the land of non-resident owners higher than that of residents. It should be remembered, however, that these three principles had been already embodied in the resolution of Congress of April 23, 1784.[1]

Next came the Act of May 18, 1796, which was the first important land legislation passed by Congress under the new Government and was signed by President Washington. Its main features were as follows: (1) Provision for the appointment of a Surveyor General; (2) that one-half of the townships were to be subdivided into quarter townships and the other half into sections and to be sold at the minimum price of two dollars an acre, which was double the former price; (3) that one year credit at 6% interest on one-half of the purchase price was allowed, making a contrast to the Ordinance of 1785 which recognized no credit system.

Now let us stop a while to examine the attitude of the American Government toward the public land from the point of revenue before 1800. Since the financial condition of the Government was miserable after the Revolution, the public domain at first was looked upon as a source of national revenue and was disposed of in large tracts to private individuals and corporations as rapidly as possible. This point of revenue was made the main purpose of the Land Ordinance of 1785.[2] In December of 1787, Jefferson wrote to William Carmichael as follows:

"The sale of our Western lands is immensely successful... By these means, taxes, etc. our domestic debt, originally 28 millions of dollars, was reduced by the 1st day of last October to 12 millions, and they were then in treaty for 2 millions of acres more at a dollar private sale. Our domestic debt will thus be soon paid off, and that done, the sales will go on for money, at a cheaper rate no doubt, for the payment of our foreign debt."[3]

From the above letter we see how great stress was laid by the Government upon the proceeds from land sales. However, the area of public lands disposed of before 1800 under the laws of 1785 and 1796

1) Journals of Congress, Vol. IX, p. 109.

2) Max. Farrand, The Development of the United States, p. 176.

3) P. L. Ford, The Writings of Thomas Jefferson, Vol. IV, p. 472.

was not so great as expected by the Government. As to the condition of this period, Dr. D. R. Dewey wrote as follows:

"At the close of the Revolutionary War the federal government came into possession of an enormous domain by the cessions of claims by Eastern States to Western lands. In its early phases the subject hardly enters into a financial history, because the hope Washington and Jefferson confidently held, that the sale of land would extinguish the debt, proved a mistake. From 1785 to 1800 only a little cash was received, and but a small quantity of bonds."[1]

Coming back again to the description of land legislation, one year as prescribed by the Act of 1796 began to be considered too short a time as a credit period granted for actual settlers and their petition caused the passage of the Act of May 10, 1800, which directed one fourth of the purchase price to be paid within forty days and allowed four-year credit for the remainder, with a charge of 6% interest. It will easily be seen that the condition of credit had now become more liberal compared with the Act of four years before. Further, the minimum area was reduced to a half-section and land offices were established by the same Act of 1800. This act was the most influential land law passed up to that time, although it showed a continuation of the fundamental principle regulating the disposition of public lands.

B. CREDIT SALE OF THE PUBLIC LAND AND THE SPECULATION IN LAND.

The period from 1800 to 1820 may well be designated the period of credit sales of public lands, forming an epoch in the history of the public domain. During this time many million acres of public lands were sold by the Government. With the introduction of the credit system, sales of the public lands began to increase, especially from 1814, following the War of 1812, down to 1819. In Mississippi and Alabama the rapidity of increase of land sales became wonderful after 1816.[2] Speculation in land was spreading with such furious force throughout the western and southern territories as to create a sarcastic term "terraphobia." The extension of credit for the purchase of lands, the increased issue of bank notes and the distribution of the Yazoo land scrips may be considered as the main causes of the wild speculation in land.[3] Here it must be mentioned, however, that such a great social

1) D. R. Dewey, Financial History of the United States, p. 216.

2) P. J. Treat, The National Land System, p. 411.

3) D. D. Allison, Sales and Speculations in the Public Lands.

phenomenon as land speculation did not begin with this period, but its origin might be traced back to the time of the establishment of this country. It is even told that Washington himself was, too, a great land speculator in one sense, much more the Congressmen in those early days. When we read Washington's journal of a tour to the Ohio River in 1770 we can perceive how earnest he was to ascertain the situation and quality of his lands lying in that territory. Let us cite a passage from Old South Leaflets:

"At the close of the French war he received 5,000 acres on the Ohio, his claim as an officer for services in the war; and he possessed himself of other claims to so large an extent that at one time he controlled over 60,000 acres on the Ohio, at the outbreak of the Revolution being probably the largest owner of western lands in America."[1]

How even the members of court fell into the land mania may be seen from the following letter written to Madison, Secretary of State, in 1802, by Harrison, governor of the Northwest Territory:

"The circumstances mentioned in this letter I have considered of sufficient importance to be communicated to the President. The court established at this place under the authority of the State of Virginia in the year 1780 assumed to themselves the right of granting lands to every applicant. Having exercised this power for some time without opposition, they began to conclude that their right over the land was supreme, and that they could with as much propriety grant to themselves as to others. Accordingly, an arrangement was made by which the whole country to which the Indian title was supposed to be extinguished was divided between the members of the court, and orders to that effect entered on their journals, each member absenting himself from the court on the day that the order was to be made in his favor, so that it might appear to be the act of his fellows only."[2]

Now let us return to the credit sale period. The system not only stimulated the speculation in land, but also resulted in making debts to the Government accumulating year by year, for many of the purchasers bought land beyond their financial ability, building hopes upon the future rise in price. By the end of September, 1819, accumulated land debts reached about 22,000,000 dollars,[3] of which 12,000,000 dollars was owed for lands in Mississippi and Alabama, and 10,000,000 dollars for lands in the region northwest of the Ohio. During twenty years from 1800 to 1819 the Government sold public lands to the extent of about 17,000,000 acres for about 44,000,000 dollars, so half of the total price remained

1) Old South Leaflets, Vol. II. No. 41, p. 12.

2) Annual Report of the Commissioner of the General Land Office, 1889, p. 73.

3) P. J. Treat, The National Land System, pp. 410, 411.

in debts. Another point which deserves our attention is the fact that Mississippi and Alabama were more heavily burdened with debts on land than the Ohio territory, not only in absolute amount but also in relative number reduced to a unit area, the latter fact being apparently affected by the higher purchase price of land per acre. The purchase price per acre in the average of twenty years was 3.7 dollars in Mississippi and Alabama, contrasting with 2.4 dollars in the territory northwest of the Ohio.

After 1806[1] relief acts were passed at almost every session of Congress providing for the extension of the term for payment of the purchase price, but could not rescue the debtors from their distress. Thereupon this credit sale system which caused the deep rooted evils among the people, was finally repealed by the Act of April 24, 1820 after twenty years of existence, regardless of some objections against the abolition which mainly came from the West. By the same act the minimum purchase price was reduced to $1.25 per acre with the idea of compensating the withdrawal of the credit feature, and this unit of price has remained in force until the present day being embodied in the Homestead Law. Moreover, the minimum area of an entry was decreased to a half quarter section of 80 acres from a quarter section of 160 acres which had been adopted in 1804. Professor Treat believed this act to be the most important piece of land legislation up to that time since the Ordinance of 1785.[2]

C. REVIVAL OF LAND SPECULATION AFTER THE REPEAL OF THE CREDIT SYSTEM.

After the War of 1812 the material prosperity of the United States became remarkable. Beginning with the completion of the Erie Canal in 1825 there was ushered in an era of great improvement of transportation, leading to the canal period, soon followed by the railroad movement. As a result the population rapidly increased around the Great Lakes, that is, in Ohio, Indiana, Illinois and Michigan. The vast area of cheap lands to be obtained from the Government, much money accumulated in the market caused by the profuse issue of bank notes, and the easy terms of credit given by the local banks—all these factors combined to kindle again the spirit of land speculation about ten years after the abolition of the credit system.

1) P. J. Treat, The National Land System, p. 129.
2) Ibid., p. 140.

The scene at that time was clearly depicted by Harriet Martineau, who traveled in America about the middle of the thirties of the last century and wrote some books, from one of which the following quotations may be made:

"Chicago looks raw and bare, standing on the high prairie above the lakeshore. The houses appeared all insignificant, and run up in various directions, without any principle at all. A friend of mine who resides there had told me that we should find the inns intolerable, at the period of the great land sales, which bring a concourse of speculators to the place. It was even so. The very sight of them was intolerable; and there was not room for our party among them all....

"I never saw a busier place than Chicago was at the time of our arrival. The streets were crowded with land speculators, hurrying from one sale to another. A negro, dressed up in scarlet, bearing a scarlet flag, and riding a white horse with housings of scarlet, announced the times of sale. At every street-corner where he stopped, the crowd flocked round him; and it seemed as if some prevalent mania infected the whole people. The rage for speculation might fairly be so regarded. As the gentlemen of our party walked the streets, storekeepers hailed them from their doors, with offers of farms, and all manner of land-lots, advising them to speculate before the price of land rose higher. A young lawyer, of my acquaintance there, had realized five hundred dollars per day, the five preceding days, by merely making out titles to land. Another friend had realized, in two years, ten times as much money as he had before fixed upon as a competence for life. Of course, this rapid money-making is a merely temporary evil. A bursting of the bubble must come soon.....

"Others, besides lawyers and speculators by trade, make a fortune in such extraordinary time. A poor man at Chicago had a pre-emption right to some land, for which he paid in the morning one hundred and fifty dollars. In the afternoon, he sold it to a friend of mine for five thousand dollars.[1]

"The possession of land is the aim of all action, generally speaking, and the cure for all social evils, among men in the United States. If a man is disappointed in politics or love, he goes and buys land. If he disgraces himself, he betakes himself to a lot in the west. If the demand for any article of manufacture slackens, the operatives drop into the unsettled lands. If a citizen's neighbors rise above him in the towns, he betakes himself where he can be monarch of all he surveys. An artisan works, that he may die on land of his own. He is frugal, that he may enable his son to be a landowner. Farmers' daughters go into factories that they may clear off the mortgage from their fathers' farms; that they may be independent landowners again. All this is natural enough in a country colonized from an old one, where land is so restricted in quantity as to be apparently the same thing as wealth."[2]

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1) Harriet Martineau, Society in America, Vol. I. pp. 349-352.

2) Ibid., Vol. II. pp. 30, 31.

From the above passages we see how wild was the land speculation and how high was the esteem for the holding of land at the time of her trip. It was said that Congressmen and high officials in the land states also engaged in speculation of this kind. The Government did not fail to perceive some risk fermenting in such unrestrained speculation in land. So, by issuing the celebrated specie circular of July 11, 1836, the Government stopped receiving bank notes for the purchase price of public lands, and the purchasers were forced to pay for them in specie. By this stringent measure many of the land speculators fell into bankruptcy, which was aggravated by the general crisis of 1837, and again the corruption of the land purchasers helped to make the panic worse. The receipts of sale of the public land increased year by year from 1830 to 1836 with rapidity indicated in round numbers as follows: 1834, $5,000,000; 1835, $15,000,000; 1836, $25,000,000; while the annual proceeds from this source during the years 1810–1830 ranged between one and two million dollars.[1] In the year 1836 the Government disposed of 20,000,000 acres of public lands for the total price of 25,000,000 dollars, which surpassed the revenue from customs duties[2] for the first and perhaps last time in the financial history of the United States. Nevertheless, as soon as the year 1837 dawned the scene suddenly changed. Proceeds of land sales during this year dropped steadily: first quarter, $3,536,696; second quarter, $1,895,217; third quarter, $724,306; fourth quarter, $610,017, showing a total of $6,776,236.[3]

Thus in spite of the abolition of the credit policy the Government could not discourage speculation, which was stimulated by other great causes, and there arose the second and most strong speculation by land seekers, to form an instructive page in the history of public lands.

D. PRE-EMPTION ACT.

The settlement of land after survey having been an established principle of the land policy of the United States from the very outset, the Government prohibited intrusion upon the unsurveyed tracts, and numerous laws were passed to this effect. Under such circumstances so-called squatters were frequently evicted from their settled places as

1) D. R. Dewey, Financial History of the United States, p. 217.

2) Ibid., p 217.

3) D. D. Allison, Sales and Speculations in the Public Lands.

guilty of misdemeanor, sometimes even by force. As early as October 3, 1787, Congress passed a resolution to the effect that seven hundred troops should be stationed on the frontier to prevent the attack of the Indians and unwarranted settlement by trespassers and so forth.[1]

In spite of the high hand taken by the Government a number of the enterprising actual settlers occupied the free unsurveyed lands in the West and demanded their pre-emption rights to the lands. Anticipating that the Government would be lenient enough to grant them after a while the first chance to buy the lands occupied by them, these intruding pioneers, poor as a rule, entered the tracts as adventurous squatters. At the same time they resisted the non-resident land speculators, for the reason that the latter often bid on the lands cleared by the settlers.

A petition of David Jones was presented to Congress praying for the pre-emption right to an area in the western country but it was rejected by Congress on May 16, 1785.[2] By this incident the attention of the political circle began to be directed to the question of pre-emption. The first pre-emption act was passed on March 2, 1799, providing for granting this right to a group of settlers in Ohio who had bought some lands of the Symmes' purchase on which portion he had lost his title by failure to meet the conditions of the purchase contract between the Government and him. The sub-purchasers were granted the right to buy those lands from the Government at the legal minimum price. Before this there were passed a few acts, each granting the privilege to a certain individual as follows: to E. Kimberly in 1794, to E. Zane in 1796 and to E. Williams in 1798.[3] But the act having wider application originated in 1799 as mentioned above. This congressional action of 1799 was followed by the cases of settlers on the Louisiana Purchase and the Kahokia, Kaskaskia and St. Vincent settlers in Illinois and Indiana.[4]

Let us make the following quotation from the annual report of the Commissioner of the General Land Office:

"By act of March 3, 1807, it was made unlawful for any person to take possession of, make settlement upon, or survey any portion of the public lands, until duly authorized by law, offenders being subjected

1) Journals of Congress, Vol. XII. p. 115.

2) Ibid., Vol. X. p. 116.

3) P. J. Treat, The National Land System, p. 384.

4) Congressional Globe, 26 Cong., 2 Sess., Appendix, p. 28.

to forcible ejection and loss of all their improvements. . . .The policy of ejection of trespassers was found to be impracticable. The great western movement of our people had already commenced, and the facilities for evading the execution of the law presented resistless temptations to unlawful settlement. The number of trespassers soon became formidable, requiring a powerful and expensive effort for their ejection. Instead of rigorously enforcing the restrictions of the act of 1807, Congress avoided the difficulty."[1]

Although from the beginning to the opening of the nineteenth century the Government was hostile toward the unauthorized settlers, it was then obliged to change its restrictive policy to meet the opinion of the actual settlers in the West whose power gradually grew politically and economically. As a result, pre-emption acts were successively promulgated to relieve the settlers on the public lands. These acts were both special and temporary in their operation, to be applied only to certain specified cases of persons and places untill 1830, when a general pre-emption act was passed on the 29th of May applicable to every occupier of the public lands. But this act, too, was effective only for a limited period.

It became then very troublesome to enact law after law in order to hold the force of the pre-emption act, and moreover its application to limited persons and localities was attacked as unjust, unconstitutional and lacking uniformity. With the presidential campaign of 1840 came the "log cabin" movement in favor of the frontiersmen, and there arose a fierce struggle between the Democrats and the Whigs to win the battle. This campaign has been regarded as one of the most important in the political history of the United States, and was ended by the victory of the Whigs.[2]

Thomas Hart Benton of Missouri, most enthusiastic advocate of the pre-emption policy, introduced into the Senate a general and permanent pre-emption bill known as a log cabin bill on December 14, 1840,[3] its name coming from the fact that the act required the building of a log cabin as one of the conditions for the pre-emption. The bill met with many objections, some of which might be enumerated as follows: (1) Adoption of a new wild experiment; (2) revival of the credit system; (3) reward given to the West at the expense of the sea-board States, that is to say encouragement to the western migration of population from

1) An. Rep. of the Com. of the Gen. L. Of., 1869, p. 20.

2) G. M. Stephenson, The Political History of the Public Lands, p. 43.

3) Debates of Congress, Vol. XIV. 26 Cong., 2 Sess.

the Atlantic with the result of higher wages in the latter region; (4) too great generosity in application, not excluding foreigners; (5) inclusion of unsurveyed lands with the lands on which the pre-emption might be granted; (6) allowance of the privilege to a person too young, such as eighteen years old. Besides these objections the introduction of such a novel bill at that time was challenged as an unfair action because the end of the Administration was drawing near. When the bill was first introduced it was purely a pre-emption measure, but before its final passage it was modified by conglomerate elements embodied in a House bill. In the Senate, Crittenden expressed his intention on January 8, 1841, to move some day a distribution bill as an amendment to the bill; and immediately after him Calhoun rose to give notice of moving the cession bill as an amendment to the amendment of Crittenden. In this manner a road was paved to the great debates on the land question. Now Benton strongly attacked Crittenden with the following words:

"There was a latitude usually allowed to Senators in their amendments of measures brought before them, and when it was desired to destroy the whole bill, it was customary to move to strike out all but the enacting clause, and to substitute other matter instead; but to include in a bill incongruous matter that was entirely foreign to its object, whatever might be the object of the mover, was directly to defeat the measure. ... For the first time, a gentleman who was hostile to the bill, offers a proposition to amend, not by striking out all after the enacting clause, for that would be parliamentary, but to amend by adding to it a scheme for the distribution of the public land revenue! Could anything be more incongruous than this? The distribution of the land revenue brought up a question of the gravest kind—it involved a constitutional question of great importance....."[1]

On the 12th of January Crittenden responded to Benton, and a fierce battle began between them. On the same day Calhoun objected "both to the bill and the amendment proposed by the Senator from Kentucky (Crittenden), because, regarded as remedial measures, they were both inappropriate and inadequate."[2] Calhoun's amendment was composed of eight provisions some of which were as follows: Second, establishment of the principles of graduation of the purchase price, pre-emption to the settlers and, after a limited period, a final cession of refused lands to the States in which they lay; sixth, abolition of the regulation which exempted tax on the public lands for five years after sale; eighth, setting apart 65 % of the proceeds of land sales for the purpose of national defense.

1) Debates of Congress, Vol. XIV. 26 Cong., 2 Sess., p. 208.
2) Ibid., p. 210.

Thus the three great questions embraced in a public land policy—namely the questions of pre-emption, distribution and cession—although the latter two had been propounded by Clay and Calhoun respectively some years before—were now to undergo vigorous debate, and to be fully discussed and manipulated by such great figures in the political arena as Benton, Henry Clay, Calhoun, Webster and others. Senator Calhoun said in his speech on that occasion that one third of the time of Congress was dedicated to the discussion of questions which had direct or indirect connection with the public domain. Senator Lumpkin remarked on the 27th of January, "The subject had, in its progress, assumed a magnitude, and gathered around it an importance, rarely equalled on the floor of the Senate.....The various topics of discussion introduced here, had embraced almost the entire range of party measures, and party politics, known to our country."[1] The amendments of both Crittenden and Calhoun having been defeated, Benton's bill was passed by the Senate on February 2, 1841, with the votes 31 : 19, having Buchanan and Webster, not to speak of Benton, on the side of yeas, Calhoun and Henry Clay on the side of nays.[2] Then the bill was sent to the House where, however, it failed of being taken up.

On the other side of the Capitol, H. R. No. 4 entitled "A bill to appropriate for a limited time the proceeds of the sales of the public lands of the United States, and for granting land to certain States," containing some provisions of pre-emption, had been reported the 22nd of June from the House Committee on Public Lands and precipitated a profound confusion in the House on the 6th of July. The Congressional Globe recorded it in the following manner:

"The noise and confusion was now (in the evening) so great, and so many members were addressing the Chair at once, that it seemed as if 'chaos were come again.' More than a dozen rose at one time, exclaiming, at the utmost pitch of their voices, 'Mr. Chairman, I desire to offer the following amendment!' The Chair exerted himself to the utmost to restore order, but in vain. The uproar continued, while the rain fell, and the thunder rolled in terrific peals, and the blue lightning, glaring at intervals through the hall, appeared to be mocking the storm that raged within.... Probably a hundred other amendments were offered and rejected, but the noise was so great that they could not be heard. At ten o'clock the committee rose and reported the bill. The amendments adopted in committee were then concurred in by the House."[3]

1) Debates of Congress, Vol. XIV. 26 Cong., 2 Sess., p. 236.

2) Ibid., p. 245.

3) Cong. Gl., Vol. X. 27 Cong., 1 Sess., p. 155.

But it must be here noticed that at this time the consideration of the pre-emption system was much overshadowed by the discussion of other provisions. At eleven o'clock in the night the bill finally passed the House with the votes 116 : 108 and then was passed by the Senate the 26th of August after some important amendments; so a conference of both Houses was held and resulted in great concessions on the part of the House. It became a law on September 4, 1841, by the approval of President Tyler, with the title "An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights." By this act every settler who was the head of a family or widow or single man over twenty-one years old being a citizen or declaring his intention to become naturalized and who made actual residence and improvement upon a tract of surveyed public land, could obtain title to it up to 160 acres when he paid the price of the land at $1.25 per acre. Above is the pre-emption measure. Besides this there were embraced other important provisions in the act. Ten per cent of the receipts of land sales was to be divided between nine States and the remainder after deducting all expenses should be distributed among other States and Territories. Furthermore, each of the nine land States mentioned before was granted 500,000 acres of the public lands for internal improvements. Thus the act was a very comprehensive one, treating the three great land questions of the day;—pre-emption, distribution and cession—which meant the amalgamation of all party policies. That the act was not so popular in the country outside of the West may be seen from the following quotation:

"Speaking in the large, the West was the only section of the country which was satisfied with the distribution—pre-emption law (referring to the act of September 4, 1841).... The pre-emption law seems to have attracted but little attention except in the West. It elicited very little praise or condemnation. The reason probably is that all sections, and parties were reconciled to it as a measure of political necessity."[1]

It may be said that the act shows a transition from the cash sale system of revenue to the free homestead policy and deserves recognition as the first general law disposing of the public lands in behalf of the actual settlers. Professor Max Farrand commented on the law in the following words, "What had been a crime, or at least a misdemeanor, had grown to be a virtue."[2] Prior to this time every pre-emption law passed was

1) G. M. Stephenson, The Political History of the Public Lands, p. 66.

2) Max Farrand, The Development of the United States, p. 184.

effective only for persons who settled before the passage of the law; so retrospective in its operation. In contrast to that, the Act of 1841 was effective for the future, so, prospective in its character in addition to the feature of general application as to persons and places. It would be interesting to note here the relation between the land question and sectional interests of the country. Let us examine the votes in the House given to the following land bills.

Sectional distribution of votes on land bills[1])

	Northwest		Southwest		Southeast		Middle		New England		Total	
	yes	no	yes	no	yes	no	yes	no	yes	no	yes	no
Distribution bill of 1832	3	2	4	5	1	9	7	1	11	1	26	18
Pre-emption bill of 1840	25	1	31	5	16	31	36	10	13	17	121	64
Distribution-pre-emption bill of 1841	18	8	16	17	17	41	37	32	28	10	116	108

From the above table we may see that in the distribution bill of 1832 the votes of the Northwest were almost equally divided as 3 : 2, while New England voted "yes" with only one exception as 11 : 1. In the pre-emption bill of 1840 the Northwest had a decided vote for the bill as 25 : 1, whereas the New England votes were heavy against the bill. These figures show that the new States in the Northwest, agricultural in character, were in absolute favor of the pre-emption bill in contrast with the old manufacturing States of New England which strongly voted for the distribution bill because of having no public lands within their limits and being envious of the development of the Western frontier. When the distribution-pre-emption bill of 1841 appeared the condition changed. As to the attitude of both sections toward the bill, there was no longer any great difference discernible, for the bill was a compromise measure with the purpose of reconciling the interest of various sections. The fact that the Southwest and the Southeast, especially the latter, both having an economy based upon the plantation system, voted strongly against the bills of 1832 and 1841 differently from all other sections, might be attributed, in my opinion, to the tariff situation, which was believed to have connection with any distribution plan.

So much is about the Pre-emption Act of 1841 as it was passed. By this act the pre-emption right was limited to surveyed lands, but pursuant to the request of the Western people the Government extended the privilege to unsurveyed lands within California in 1853, and then to other States, and in 1862 it was finally made applicable to the whole

1) Carl Hookstadt, A History and Analysis of the Homestead Movement. Topic "Sectional Vote in H. R. on Land and Tariff Bills."

country. Thus the liberal provision advocated by the log cabin bill was at last completely realized.

E. DONATION ACT.

The Donation Act was passed on August 4, 1842. The purpose of the act was to protect the people and the territory of Florida against the Indians by means of planting strong, hardy pioneers along the borders. The policy of the armed settlement of the frontier line was recommended by the President, Secretary of War, Governor of Florida and inhabitants of the Territory; and during a few years before 1842 bills to this effect had been presented to Congress and passed the Senate several times.

In the Senate again, Benton introduced a bill May 16, 1842, and gave it the following explanation:

"....There were not Indians enough in the Territory to justify military operations. But there were too many to justify settlements by cultivators and others, until inducements were held out to them sufficient to justify people to incur the risk and the privations incident to such settlement. The bill proposed these inducements—namely, a quarter section of land, subsistence for one year, and arms and ammunition for such as should need them...." [1]

And he strongly appealed to the sympathy of the Senate for the unstable condition existing in Florida. The bill provided for granting 160 acres of the public land to any single man, young man or head of a family who would go to the peninsula for the purpose of settling there. Smith insisted that this plan should be an agricultural measure and never promote a permanent military settlement, and objected to the clause giving arms and rations. Benton opposed the amendment. Then Allen, favoring the granting of arms to children and females, said that "there were at least 500,000 stands of arms in the United States, distributed among the States and belonging to the Government, which were rusting and becoming worthless for the want of use."[2] Thus concerning the grant of ammunition there arose discussion between affirmatives and negatives. The original bill finally passed the Senate on the 15th of June.

On the other side the House took up a similar bill and dropped off the provision granting arms and rations and proposed to give instead of

1) Cong. Gl., Vol. XI. Part I, 27 Cong., 2 Sess., p. 618.
2) Ibid., p. 624.

those an additional 160 acres to the wife of the settler with the assumption that the introduction of wives would help a permanent settlement. A member opposed the bill as stimulating fraud and speculation on the public lands. Some one thought the bill of little effect. Another suggested that there could be found a less expensive method than passing the bill for attaining the contemplated object of removing the Indians. After adopting the amendment proposed by Mckay to limit the operation of the act to the period of one year, the bill passed the House on the 18th of July with the votes 82 : 50.

On the first of August the Senate took up the bill which came from the House as an entire substitute for the Senate bill. The House amendment changed the military feature of the bill into an agricultural one and further limited the amount of lands to be used for the purpose of the bill to 200,000 acres, while in the Senate bill there was no limitation. The grounds of objections raised against the bill in the Senate might be summarized as follows:

(1) Agrarian feature of the bill.

White remarked: "This was the kind of agrarian policy which held out a bounty to settlement, and not for military service in defense of the inhabitants of Florida..... The bill, as it went from the Senate, was a case of military inducement, embracing the object of settlement; but now it was entirely changed — the settler was not required to bear arms, and fortify himself in block houses, and protect his neighbor."[1]

(2) Destruction of the established land policy of the Government by granting settlement on unsurveyed public lands.

In the face of such opposition the bill passed through the Senate the same day with the vote of 24:16 and appeared as a law after three days. The provisions of the act were extended to Oregon in 1850, to Washington in 1853 and to New Mexico in 1854. The area disposed of by these special donations amounted to about three million acres[2] with some unsatisfactory result, as we see in many cases of fraudulent entries made on the donated lands in New Mexico.[3]

F. GRADUATION ACT.

The principle that the price of the public land when sold by the

1) Cong. Gl., Vol. XI. Part I, 27 Cong., 2 Sess., p. 818.
2) Van Hise, The Conservation of Natural Resources, p. 293.
3) An. Rep. of the Com. of the Gen. L. Of., 1883, p. 20[7].

Government should be proportionate to its quality—that is, the graduation idea, originated in early days. From the late twenties of last century this principle was earnestly advocated by Benton. With the abolition of the credit sale system in 1820 the poor settlers of little capital felt the necessity of measures of relief, and as one of these measures the graduation policy was inaugurated. In 1828 Benton used the following strong terms:

"The injustice of holding all lands at one uniform price, waiting for the cultivation of the good land to give value to the poor, and for the poorest to rise to the value of the richest, was shown in a reference to private sales, of all articles; in the whole of which sales the price was graduated to suit different qualities of the same article.... The new States of the West were the sufferers by this federal land policy. They were in a different condition from other States. In these others, the local legislatures held the primary disposal of the soil,—so much as remained vacant within their limits,—and being of the same community, made equitable alienations among their constituents. In the new States it was different. The federal government held the primary disposition of the soil; and the majority of Congress was less heedful of their want and wishes. They were as a stepmother, instead of a natural mother: and the federal government being sole purchaser from foreign nations, and sole recipient of Indian cessions, it became the monopolizer of vacant lands in the West: and this monopoly, like all monopolies, resulted in hardships to those upon whom it acted. Few, or none of our public men, had raised their voice against this hard policy before I came into the national councils."[1]

The Commissioner of the General Land Office made the following report in 1847, viewing the question from a different angle:

"Although it may be said, with much plausibility, that many portions of the public domain, which upon the first settlement of the country were denominated 'refuse lands,' either on account of their inferior quality, or being, from local causes, unfit for cultivation and settlement, do in process of time become to some extent saleable for useful purposes, as they are required by the increasing wants of the inhabitants; still it is not just to the States that the sales should be thus protracted, through a course of several generations, to await such a contingency, while heavy burdens are in the meantime necessarily borne by the citizens of the counties in which such lands are situated, in the support of their municipal regulations, the opening of roads and keeping them in repair, with all the other expenses incident to a well regulated society, unaided by the revenue which might otherwise be derived from such lands. By keeping up the price, and thus preventing the sale of them, the general government also loses the money they would produce at regulated rates, and

1) T. H. Benton, Thirty Years' View, Vol. I. p. 106.

is consequently compelled so long as it may be necessary to incur a public debt, to pay interest on that amount."[1]

In spite of incessant effort for the realization of the graduation policy it was unable to succeed for about thirty years. A bill introduced in the Senate during the session of 1837–'38 was very inclusive, embracing periodical reduction of price, pre-emption right, donation to indigent settlers and cession of refuse lands to States in which they lay. But such a bill was found to be too many-sided to secure the majority of votes, so it was finally reduced to an exclusive graduation bill having two grades of reduction, namely, one dollar and seventy-five cents. The bill was advocated by President Van Buren but attacked by Clay, and at last passed the Senate by the vote of 27 : 16, yet could not be taken up by the House.[2] The graduation policy increased in importance especially after 1846.[3]

When, in January of 1854, a bill was reported back to the House from the Committee on Public Lands it had been composed of two features of homestead and graduation, but afterwards the provision of homestead was stricken out. The main points of opposition expressed in the debates of the House on the 12th of April may be enumerated as these :

1. To adopt the graduation system along with the continued sales of newly surveyed lands is an absurd policy, because the unsold lands were a consequence of the over supply of public lands.

2. The graduation plan is unfair and not a safe criterion of the value because there could be found many cases where the lands which remained for many years finding no purchasers could be sold at high prices. Disney said that "it might be fair to infer from the fact that the unsold lands were not worth as much as some other lands of the Government, but certainly it is no evidence that the unsold land is not worth $1.25 per acre."[4]

3. It would be a hard work to classify the lands according to the length of time which they passed in the market.

4. It would stimulate speculation in land, with the result of placing land in the hands of land sharks instead of those of the actual settlers. Besides the above criticism offered in that day there were other

1) An. Rep. of the Com. of the Gen. L. Of., 1847, p. 31.
2) T. H. Benton, Thirty Years' View, Vol. II. pp. 126, 127.
3) G. M. Stephenson, The Pol. Hist. of Pub. L., p. 186.
4) Cong. Gl., Vol. XXVIII. Part II. 33 Cong., 1 Sess., p. 904.

objections against the graduation system in and out of Congress; for instance, the destruction of the simplicity, uniformity and harmony of the existing land policy and the reduction of the price of real estate in the country and supply of a hotbed for thriftlessness of the people. On the 14th of April the bill passed the House by 83 : 64 and on the 4th of August, the Senate. It became a law on the same day.

Sectional difference of interest toward the graduation bill may be seen from the following table:

Sectional distribution of votes on the graduation bill of 1854[1)]

	Yes	No
Northwest	36	6
Southwest	26	5
Southeast	4	18
Middle	12	23
New England	5	12
Total	83	64

The two sections, the Northwest and Southwest, where many "culled out" lands existed were distinctly in favor of the bill, making a strong contrast to the three other sections which had no such lands or little. Again, in the West, old settled regions, like Ohio, Indiana and Illinois were more favorable to the bill than the newest frontiers, from the reason mentioned above.

The law was to be applied to the tracts of public land which stood unsold for more than ten years. When a tract remained untouched in the market over ten years its price was reduced to one dollar an acre, fifteen years to seventy-five cents, and so on at the rate of reduction of twenty-five cents for every five years, reaching its last at thirty years, thence the price was to be graded to twelve and one-half cents uniformly. The defects of the act became visible soon after its passage. On November 30, 1854, the Commissioner of the General Land Office reported in the following words:

"The act of the 4th August last.... has been productive of much fraud and perjury, and proved seriously injurious to the actual settlers on the public domain. As far as possible, these evils have been remedied by construction and instructions; but the law is inherently defective if it be designed to engraft this feature permanently on our land system. The

1) Carl Hookstadt, A History and Analysis of the Homestead Movement. Topic "Sectional Vote in H. R. on Land and Tariff Bills."

privilege of purchasing at the graduated price should have been limited to pre-emptors, or made general to all. Now, it is alleged that persons take the oath prescribed by the law, with the mental qualification that the land will be required for actual settlement and cultivation at some future time. Others, it is stated, have employed men to go forward and make the affidavit, paying all their expenses, and also paying for the land; the employer agreeing to give his employes, in fee simple, a portion —say one-eighth, or a quarter, of the land so entered—retaining the balance.... The basis of this law is the length of time the lands have been in market. It has been heretofore fully shown, that from eight to twelve millions of acres have been annually brought into market, while the demand has only ranged from one to four millions. It would be absurd to suppose that all the best lands are first purchased or that all the lands first entered were of the best quality. Our people are eminently social in their habits, and, moreover, naturally congregate together for the advantages of churches, schools, and mutual assistance.. ."[1]

Such being the case, the Act was finally abolished in 1862 — the year of the inauguration of the homestead policy — after the alienation of over 25,000,000 acres of lands under the law.

G. LAND BOUNTIES TO BRITISH DESERTERS.

The disposition of public lands to a more specific circle of society played an important rôle during the period up to 1862. For the purpose of retaliating upon a recent act of the British Parliament, the Continental Congress passed a resolution on August 14, 1776, providing for the invitation of British deserters with the grant of citizenship and offer of fifty acres of land.[2]

This act was regarded by Donaldson as the first law for the disposition of public land,[3] although, correctly speaking, no public lands existed at that time.

H. LAND SALES BY THE CONTINENTAL CONGRESS.

Three large sales had taken place before the formation of the present Government. The first was that made to the Ohio Company in 1787 with a confirmed area of 822,900 acres, followed by the second to J. S. Symmes and the third to the State of Pennsylvania. All these lands were sold at the price of two-thirds of one dollar per acre. Some part

1) An. Rep. of the Com. of the Gen. L. Of., 1854, pp. 13, 14.

2) Journals of Congress, Vol. II. p. 310.

3) T. C. Donaldson, Public Domain, p. 209.

of the Symmes' purchase became a source of complication relative to the settlers' title to the tracts of land, and resulted in the origination of the pre-emption right as we treated before.

I. MILITARY LAND BOUNTIES.

The history of land grants as a military bounty may be traced back to the colonial days when such were made to reward the service men engaged in the Indian or intercolonial wars, and to encourage the military settlement of the frontiers.

In September 16, 1776, that is, about a month after the declaration of the promise of land bounty to the British deserters, the Continental Congress passed a resolution providing for grants of land in the following scales to secure the enlisting of troops for the Revolutionary War:

Colonel	500 acres	Lieutenant	200 acres
Lieutenant-Colonel	450 „	Ensign	150 „
Major	400 „	Non-Commissioned officer	
Captain	300 „	and soldier	100 „

In 1780 the land bounty was extended to the rank of General officers, with 1100 acres for a Major-General and 850 acres for a Brigadier-General. Later various acts were enacted for the purpose of rewarding the veterans of the War of 1812 and the Mexican War.

The satisfaction of the bounty was made by issuing land warrants. At first the holder of the warrant had to select his tract on the military districts set apart for this purpose. The military reservation system was planned with the object of establishing compact settlements based upon agriculture. Yet it was not successful. "The then remoteness of those districts from the great centers of population, the eastern and middle States, defeated the object", the Commissioner of the General Land Office reported about the history of the system, "leaving the patented lands to pass into the hands of speculators, or become liable to forfeiture for non-payment of State taxes."[1] Thereupon the Government discontinued the restrictive policy in 1842[2] and made it possible to locate for the warrant any land subject to private entry; and moreover exempted the warrant and land obtained by it from seizure for debt. In spite of such favor granted to the recipients, there were very few who selected tracts for

1) Ann. Rep. of the Com. of the Gen. L. Of., 1867, p. 75.
2) P. J. Treat, The National Land System, p. 255.

their warrants. By the act of 1852 the warrants were rendered assignable, and this resulted in their rapid sale by the soldiers, and speculation in warrants became prevalent. G. M. Stephenson wrote as follows:

"Many people thought this was a fitting and convenient method of rewarding those who had served their country, but it proved of little benefit to the soldier and of great injury to the West and the government. Not wishing to locate his warrant, or not being in a position to do so, the soldier disposed of it at a great discount to a speculator who used it to pay the government for the land he purchased. Of course, the more land warrants issued the cheaper they became, and the greater the speculation. . . ."[1]

The West and the friends of the homestead policy were hostile to the issue of the warrant and its assignability because the bounty system was destined to defeat the principle of the homestead measure. Besides, the issue of the warrant was opposed by the advocates of a low tariff, upon the ground that it would so reduce the national revenue as to induce the necessity of increase of customs duties.[2]

The effectiveness of the military bounty system was lost with the realization of the homestead policy, because the latter afforded free land to every person in the country. As a matter of fact the system of bounty land was not as successful as expected.

J. LAND GRANTS FOR INTERNAL IMPROVEMENTS.

As early as 1796 the United States made a grant of land to an individual named Ebenezer Zane for the laying out of a road in Kentucky. By the Act of May 17, 1796 the land granted was to be located in the northwest of the Ohio, consisting of three tracts not exceeding one mile square each. In 1802, when Ohio was admitted into the Union, it was stipulated by the enabling act that five per cent of the net proceeds of the land sold within the State should be granted for the opening of public roads leading from near the Atlantic coast to the Ohio in the said State. By the Act of 1806 a sum was granted from two per cent and three per cent funds for the making of a road from Cumberland, Maryland to the State of Ohio. This so-called Cumberland Road was the first national highway to the West and contributed greatly to the opening of the interior by conducting the immigrants through a new route into the vast Mississippi Valley.

1) G. M. Stephenson, The Pol. Hist. of the Pub. L., p. 101.
2) Ibid., p. 121.

Following the construction of roads there came an era of canals. By the act of 1824 Congress authorized Indiana to open a canal and to receive a right of way ninety feet wide on either side of the canal. But the act remained ineffective because the State did not come into action. When this bill was in the House on May 8, 1824, Call, delegate from Florida, moved to strike out the "ninety feet" proposition by inserting a clause granting one mile square of land on each side of the canal. Stewart of Pennsylvania stood on his side. Rankin, chairman of the Committee on Public Lands, opposed the amendment of Call. Representing the opinion of the Committee, Rankin remarked:

"They (Committee) duly appreciated the importance of such a canal, but were restrained, by principles on which they had always acted, from going beyond the space necessary for a canal, and for assisting the collection of tolls thereon. If Congress intended to give a grant to this canal, or any other road or canal, it was much preferable that the grant should be in money, rather than in land."[1]

Besides, the violation of the terms of the cession, the absurdity of granting too much land to the canal from the point of value, and the fear of forming a troublesome precedent, were among the objections against the amendment. Finally the original bill passed the House on May 13 and became a law on the 26th of that month.

Then the movement for the increase of the land grant pushed into Congress and appeared as a law in 1827. By this act Indiana was granted an area of land equal to one-half of five sections in width on either side of a designated canal, alternate sections being reserved in the hands of the Government. The scheme met some objections in Congress. It was held as a wild and premature project to open a canal through the wilderness, and several members believed that twenty years should pass before such a plan would be justified. Others opposed the land grant feature of the bill as the introduction of a novel experiment. After some amendments had been concurred in, the bill passed both Houses and became a law, on the same day (March 2) with the Illinois Canal bill of a similar character. These acts might be regarded as the first main laws concerning land grants in the proper sense for internal improvements. Uy to 1866 the States of Ohio, Wisconsin and Michigan were granted lands in aid of eight canals.[2]

Along with canals, land grants were also made for the improvement of

1) Annals of Congress, Vol. II. 18 Cong., 1 Sess., p. 2585.

2) Department of Commerce and Labour, The Lumber Industry, Part I, Chap. VI.

rivers, such as in 1828 (Alabama) and 1846 (Wisconsin and Iowa).[1]

The Government participation in internal improvements stepped out as a great problem before the nation in the middle twenties and there was hot discussion regarding its necessity as well as its constitutionality. On the latter point the enemies of the policy considered it beyond the power of the Central Government to give direct assistance to such works as extra-national in character because of encroachment upon State's rights. Naturally the opposition came mainly from the East.

Thus this question entered into the politics of the day of which Benton wrote as follows:

"The Presidential election of 1824 was approaching, the candidates in the field, their respective friends active and busy, and popular topics for the canvas in earnest requisition. The New York canal had just been completed, and had brought great popularity to its principal advocate (De Witt Clinton), and excited a great appetite in public men for that kind of fame.... Roads and canals were all the vogue; and the candidates for the Presidency spread their sails upon the ocean of internal improvements.... Mr. Adams, Mr. Clay, and Mr. Calhoun were the avowed advocates of the measure, going thoroughly for a general national system of internal improvement: Mr. Crawford and General Jackson, under limitations and qualifications."[2]

Benton, himself, and President Monroe were against the policy. Unfavorable opinion of land grants for internal improvements gradually yielded, chiefly owing to the pressure of the growing Northwest. When many people in those new regions came to realize the great benefit rendered by improved means of transportation they appealed strongly to the Government for aid, and finally succeeded in persuading the authorities to adopt the more liberal policy of land grant as we see in the case of canals and, in particular, railroads of which some description will be given in the following pages.

K. LAND GRANTS TO THE RAILROADS.

It is beyond question that routes of transportation constitute the controlling factors of interior development in such an immense country as the United States. So the Government from early days adopted advanced policies with respect to the improvement of roads, canals and rivers. But as soon as the steam engine was introduced, the railroad

1) Department of Commerce and Labor, The Lumber Industry, Part 1, Chap. VI.
2) T. H. Benton, Thirty Years' View, Vol. I. pp. 21, 22.

net was spread so rapidly throughout the country as to over-shadow other means of conveyance. From its infancy, the railroad was given a variety of aids by the Government, to say nothing of States and other lower political units. Up to 1850 national assistance for the building of railroads consisted mainly of such methods as the free surveying of railway routes, remission of duties on railway iron, granting of rights of way across the public land and the turning over to the railways some of the receipts of land sales through the States. Although in those days land grants were made in the form of rights of way their amounts were insignificant as a matter of course. For instance, in 1835 a right of way was granted to a certain railroad in Florida to the extent of but thirty feet in width on each side of the road, while ten acres were given at the terminus of the line.

The year 1850 may be regarded as a land mark in the history of American railroads. In that year the policy of large land grants originated, and thenceforth Federal aid to the railroads was practically limited to the granting of land. As early as 1833 Congress authorized Illinois to use the land which had been granted in 1827 to the State for the Illinois-Michigan Canal as mentioned before, as the benefit of a prospective railroad instead of the canal. But this provision was not acted upon by the State because it later opened a canal. By the act of September 20, 1850 a land grant was made to the State of Illinois to aid in the building of the Illinois Central Railroad and afterwards the company received about 2,600,000 acres of land from the State. According to its regulation alternate sections of even number were to be granted in width of six sections on each side of the road. This idea of reserving the alternate sections to the Government was derived from the Indiana and Illinois canal bills. If some of the designated tracts of land within the grant limits had been occupied by settlers, the railroad was allowed to select land in lieu thereof within fifteen miles off the road; this is known as the indemnity clause. Public lands retained within the grant limits were to be sold at the so-called "double minimum" price of $2.50 per acre, with the assumption that such lands lying near the lines would be enhanced in value by the opening of the road and by this method the Government would be able to indemnify the loss of income to be caused by the land grants to the railroads. Calhoun most heartily supported this same measure in the Senate though not in this case, by going so far as to say that the receipts from the remainder of the public lands after making grants

would be greater than those of the whole lands in the case in which there was made no grant.[1] But there were objections to the raising of the sale price of the public lands within the grant limits on the ground that it meant injustice to the poor actual settlers.

Besides, the railroad should be a public highway and must not charge for the transportation of the property and troops of the United States and must carry the mails at a fixed rate. It will be worth while to note here that in 1854 a grant was extended even to the Territory of Minnesota which had no sovereignty, but after about a month this abnormal act was repealed. Following what had begun in Illinois, land grants were made in 1852 to Missouri, in 1853 to Arkansas, in 1856 to Iowa and other States for railroad purposes.

In short, the policy of granting land for railroad construction evolved from that of the canal grant in important respects and was destined to go further on a road whether good or evil, of which we shall speak in another part of this paper.

L. GRANTS OF SWAMP AND OVERFLOWED LANDS.

There has been a great area of public lands not fitted to cultivation by reason of their marshy character of their subjection to periodical flooding. The problem of reclamation of such lands has attracted attention from early times. In 1826 a bill was introduced into the Senate granting the States of Missouri and Illinois swamp lands within their respective limits but it failed.[2] Afterwards efforts were exerted in Congress without any result.

The first congressional grant of swamp and overflowed lands to the State in which they lay was made to the State of Louisiana by the Act of March 2, 1849. The object of this legislation was to aid in the reclamation of such waste lands by constructing levees and drains from the receipts of their sale. Then the act of 1850 extended its application to the other public land States then existing, and by the act of 1860 the States of Minnesota and Oregon were newly embraced. California, which was granted swamp lands in 1866, became the last of new States entitled to grants of this sort.

The main conception of the swamp grant to Louisiana was to attain the following ends:

1) Cong. Gl., Vol. XV. 29 Cong. 1 Sess., p. 751.

2) An. Rep. of the Com. of the Gen. L. Of., 1867, p. 90.

(1) Remuneration to the State for its service rendered in reclaiming public lands within it, which action had been taken by the State in some degree for sanitary reasons;

(2) Enhancing the value of adjacent public lands by the reclamation of swamp lands, which was believed to be more fitted to the State than to the Government.

As Vinton foretold in the House on February 24, 1849, saying that "the precedent would be perfectly irresistible, and Congress could not refuse to vote these grants to all the States," the grant act for Louisiana was soon followed by the general grant act of the subsequent year.

The results of the swamp acts were far from ideal, developing these chief defects:

(1) States claiming as swamp lands other and better lands.

Again Vinton spoke on the same day in the House:

"Now, where were the swamp lands in Louisiana which were unfit for cultivation? Who was to decide what were the swamp lands unfit for cultivation? The bill did not undertake to tell...."[1]

(2) The devotion of the proceeds from the donated lands to other purposes than those intended by the acts, (3) the abuse of the indemnity provisions, and (4) slow adjustment of claims to the lands.

Let us now make some quotations about these matters. The General Land Commissioner, Sparks, asserted in 1886:

"From 1850 to 1860 it was properly held that only such land as was wholly unfit for cultivation without reclamation passed by the grant, but since that time the State selecting agents have presented claims for alleged 'low' and 'wet' lands and for 'bottom land,' notoriously the most valuable and available farming lands in the country.... There is little or no evidence to show that the lands conveyed to the states under this grant have ever been appropriated to the purposes for which the grant was made. The contemplated levees do not appear to have been constructed from the avails of the granted lands; the lands do not appear to have been reclaimed as a result of the grant; but the purposes of the grant would seem, generally at least, to have been totally defeated. In some instances the lands have been sold in bulk for a trifling consideration; and some of the states have given the grant to railroad corporations; in other cases the lands are sold to speculative purchasers in advance of selection; in still other cases contracts are entered into, by which the parties making the selections and securing the approval of lists are understood to receive a percentage as high, in some instances, as 50 per cent. of all that can be obtained from the United States, either in land or cash indemnity.... It is through such means, and not by the States themselves as sovereign commonwealths, that the

1) Cong. Gl., 30 Cong., 2 Sess., p. 591.

additional and exaggerated claims have been presented under the swamp-land grant.... The latter (indemnity claims) arise under the acts of 1855 and 1857, which give to the States the value at Government price of lands embraced in the swamp-land grant of 1850, which, after that date and prior to 1857, were sold by the United States.... Claims for cash indemnity, based upon the alleged swampy character of lands pre-empted and otherwise purchased from the United States between 1850 and 1857, have already been allowed to the amount of nearly $1,400,000, and land indemnity has further been allowed to the amount of 572,000 acres; and such claims at the present time are more freely presented and more importunately urged than at any previous period. Efforts have also been made to induce Congress to extend the indemnity provisions so as to allow indemnity for lands sold by the Government between 1857 and the present date....

As time elapses the facilities for proving the former swampy character of land increases. Witnesses appear more ready to swear to the condition of land thirty or thirty-five years ago than to facts of more recent date; at least there appears to be no difficulty in procuring persons to make the necessary swamp affidavits to almost any land.... Indemnity is now claimed for numerous tracts of land which were sold as agricultural between the years 1850 and 1857, the 'state agents' alleging recent discovery that the lands were swamp in 1850. These claims threaten substantially the mass of agricultural land sold by the United States between those dates." [1]

In the above manner the adjustment of the States' claims to the swamp lands became so increasingly difficult that it forced another Commissioner of the General Land Office in 1915 to recommend legislation aiming to stop the admission of any claims in the future; and the same Commissioner further declared that "doubtless none of the large land grants made by Congress has more completely failed of its purpose than the swamp grants." Not to pass upon the propriety of this statement, at least one thing must be remembered — that about three-fourths of the total swamp lands granted to the several States, amounting to over 60,000,000 acres, were diverted to educational purposes and especially to common school funds.[2]

M. LAND GRANTS FOR EDUCATIONAL PURPOSES.

How the United States cared for the education of her people from the beginning may be seen from the clause inserted in the first land legislation of 1785, which stipulated the educational reservation of a

1) An. Rep. of the Com. of the Gen. L. Of., 1886, pp. 36–40.

2) P. Monroe, Cyclopedia of Education, p. 377.

certain area in each township. Timothy Pickering of Massachussets, later the Secretary of State under Adams' Administration, bears the honor of being the introducer of the national policy of granting land for common school purposes. In 1783 formulating a plan to establish a State in the Ohio country for the Revolutionary soldiers, he recommended that some of the lands of the proposed State should be retained for schools and academies as well as for the construction of roads, bridges and buildings. Upon the basis of this plan, Rufus Putnam presented a petition to Congress in which he made a suggestion regarding reservations for schools and the ministry. This idea of reserving land for educational and religious purposes derived from the New England precedents was explained by J. Schafer in the following manner:

"In this projected migration of New Englanders (Revolutionary veterans) to the great West it was proposed, very naturally, to take with them the institutions with which they were thoroughly familiar and to which they had become attached. They had in mind the same system of local self-government which prevailed among them, and which was applied to their own back country; hence the township 'six miles square,' long the customary size and form of the townships granted by the New England colonial governments in their western lands. Provision for the ministry was one of the first conditions enjoined upon the proprietors of such new townships and a landed endowment for this purpose, as well as for schools had long since come to be the settled policy." [1]

Thus we could find the provision of reservation for common school purposes in the Ordinance of 1785, although the religious grant clause had been stricken out. By the Ordinance, section 16 of each township in the Western Territory was to be reserved for the use of public schools within the respective township. In 1787 the Ohio Company was granted section 16 for schools, section 29 for religious institutions in each township, and two further townships for a university; and a similar grant was extended to the Symmes purchase. Beginning with Ohio in 1802, every State admitted into the Union up to 1848 except Texas, in which existed no public lands, received the customary grant of every section No. 16 for public schools. After 1848 (Oregon) section No. 36 was added for most of the newly admitted States, while a few others received two more additions, altogether making four sections in every township.

A suggestion of land grant for higher education was made by Bland in 1783, the same year as the initiation of the settlement scheme by Pickering. Schafer wrote in this connection as follows:

1) J. Schafer, The Origin of the System of Land Grants for Education, pp. 38, 39.

"While the first proposal of Virginia was under discussion, in 1783, Col. Bland, a delegate from that state, moved in Congress to accept the cession on the terms proposed by Virginia: and that the territory to be ceded be divided into districts of a definite shape, each district to become a state on possessing 20,000 inhabitants. Some of the lands were to be given to the Revolutionary soldiers as bounties; but one tenth of them were to be reserved by Congress, the income to be 'appropriated to the payment of the civil list of the United States, the erecting frontier forts, the founding seminaries of learning, and the surplus, if any, to be appropriated to the building and equipping a navy.' Nothing came of this motion." [1]

Although the Bland motion had no effect in Congress at that time, it is noteworthy that the first land grant for universities appeared in the purchase contract entered into between the Government and the Ohio Company, as we described before. Afterwards the new public land States were given land grants for the support of universities or seminaries, in most cases two townships for each State. The policy of land grants for higher education culminated in 1862, when the Morrill Act was passed. Previous to this time the grants were restricted to the land States. As early as 1819 a resolution was introduced in Congress to the effect that 100,000 acres should be granted to each of the States, new or old, for a University, but failed to obtain any result.[2]

The movement donating land to each State for an agricultural college originated in Illinois, where the first farmers' convention for the consideration of this subject was held at Granville on November 18, 1851, and was soon followed by a series of similar meetings. Building upon the resolution of these conventions, the Legislature of the State of Illinois submitted a memorial to Congress in February, 1853. It is said that the convention of June 8, 1852, held at Springfield under the leadership of Jonathan B. Turner of Jacksonville drew up practically the same plan as that passed by Congress in 1862. From this fact E. J. James regarded him as the author of the Morrill Act.[3]

On December 14, 1857, Justin S. Morrill of Vermont introduced a bill in the House purporting the same object. Having rejected his motion that it be referred to the Committee on Agriculture, the House referred it to the Committee on Public Lands, as was usual in the case of such a bill. About the relation of Turner and Morrill in this point the following words of James might well be quoted:

1) J. Schafer, The Origin of the System of Land Grants for Education, p. 37.

2) P. J. Treat, The National Land System, p. 283.

3) E. J. James, The Origin of the Land Grant Act of 1862, p. 25.

"There is evidence that Justin S. Morrill was selected by Turner and other friends of the measure to introduce the bill because he was from an older state which had not thus far benefited by the land grant of the Federal Government. And that in this way he for the first time became connected with this bill." [1]

Let us further observe the development of this matter from congressional proceedings. On April 15, 1858, Cobb reported back that bill from the Committee on Public Lands with the recommendation that the bill should not be passed. But at the same time Walbridge of Michigan made a minority report commenting on the importance of the bill. On April 20 Morrill delivered a speech as follows:

"There has been no measure for years which has received so much attention in the various parts of the country as the one now under consideration, so far as the fact can be proved by petitions which have been received here from the various States, North and South, from State societies, from county societies, and from individuals. They have come in so as to cover almost every day from the commencement of the session.... Our agriculturists, as a whole, instead of seeking a higher cultivation, are extending their boundaries; and their education, on the contrary, is limited to the metes and bounds of their forefathers....

The teachings of European professors are of little consequence to Americans, even if they could be comprehended and instantaneously adopted, as they are rarely suited to our circumstances. Can we not have something that we may claim as our own? Young Americans should have some chance to study agriculture as a profession, and be attracted to it as to a learned, liberal, and intellectual pursuit.... Congress has long asserted the right to dispose of the public lands to establish school funds and universities, and no one now questions the soundness of such a policy. This measure is but an extension of the same principle over a wider field...." [2]

Cobb, on April 22, arose to attack the bill with such severe terms as this, "the bill proposes an inauguration of a new system, the result of which no man can foresee. Certain it is that the result will not be a good one." [3] He proceeded to point out the injustice of the bill in the method of the apportionment of lands among the States according to the number of members of both Houses who came from each State, for instance, New York would receive 700,000 acres while Iowa would be given only 80,000 acres; and he further attacked the unfairness of the exclusion of Territories from the benefit of the bill. Still more he explained the reason for his opposition to the bill in spite of his approval of the

1) E. J. James, The Origin of the Land Grant Act of 1862, p. 27.

2) Cong. Gl., 35 Cong., 1 Sess., pp. 1692–1696.

3) Ibid., p. 1740.

railroad land grant, by saying that the former would devolve no profit to the Government while the latter would bring it some revenue from the sales of land. On the same day Morrill's bill passed the House by the close vote of 105 : 100.

In the Senate the bill was reported back on May 16 from the Committee on Public Lands, without any recommendation favorable or other. In the next session it passed the Senate in February, 1859, but met with the veto of President Buchanan, the main points of whose opposition may be noted here with interest:

(1) Loss of land revenue in face of such depressed condition of finance as at present. (2) Injury inflicted upon the new States by the introduction of speculation in land. (3) Difficulty of attaining the object of promotion of higher industrial education. The veto said: "It is extremely doubtful, to say the least, whether this bill would contribute to the advancement of agriculture and the mechanic arts.... The Federal Government, which makes the donation, has confessedly no constitutional power to follow it into the States and enforce the application of the fund to the intended objects..." [1] (4) Unfair competition to be given to the existing colleges. (5) Unconstitutionality of granting public lands to every State for such purposes. In a word, the principle of the veto based upon the two points of expediency and constitutionality. The Republicans were in favor of the bill, the Democrats and the Southerners were against it.

Again Morrill pushed a similar bill into the House on December 16, 1861. This bill differed from the original bill in that the amount of land grant for each member in Congress was increased from 20,000 acres to 30,000 acres. Nevertheless the bill which passed Congress was one introduced by Wade of Ohio in the Senate on May 2, 1862, although it was drawn on the same line in essential particulars as the Morrill bill. The principal objection raised in the Senate to the college land grant bill on this occasion centered around the accumulation of the granted lands in the hands of non-resident proprietors by means of scrip. Kansas, Minnesota, Dakota, Nebraska, etc. were most afraid of encroachments upon their lands by such a methed. Lane of Kansas appealed to the Senate with the following remarks:

"It is to brand us with inconsistency in passing a homestead bill, and then passing this bill and saying to the poor white men, 'you shall have land provided you build an agricultural college in every congressional district in the United States.' There never has been a bill introduced

1) Cong. Gl., 35 Cong., 2 Sess., Part II, p. 1413.

into the Congress of the United States more inconsistent and more iniquitous so far as the western States are concerned than this bill ...." [1]

Thereupon he proposed on June 10, 1862, an amendment inserting at the end of the second section of the bill the following clause:

"And provided further, That not more than one million acres shall be located by such assignees in any one of the States. And provided further, That no such location shall be made before one year from the passage of this act." [2]

Yet some Senators held that such selection of lands by scrip holders was not evil at all but rather a favorable thing because the lands would become taxable by such action. Lane's amendment being adopted, the bill passed the Senate on June 10 by 32:7 and became a law on July 2, 1862, with the signature of President Lincoln. This law is popularly known as the Morrill Act. This is the first time that the old States shared in the grant of public land, which fact explains the reason why the Easterners cast votes for the bill. Here one thing worth while to remember is that the act resembles the provisions of the indigent insane bill which had been vetoed by President Pierce. There were two methods fixed by the Morrill Act with regard to the allotment of granted lands to several States. If the State had public lands within its limits it could select the donated area from those lands, and if it had no lands it was given land scrip which was not to be located by the State itself but to be sold to the public, and then the purchaser of scrip could locate it in any other State. Under this, or subsequent supplementary acts twenty States received 2,890,000 acres of actual land, and twenty eight other States received 8,160,000 acres in land scrip, amounting to 11,050,000 acres in total.[3] How the act contributed to the growth of the collegse for agriculture and engineering throughout the country need not be commented upon here.

2. Disposition of the Public Land from the Passage of the Homestead Act up to date.

A. HOMESTEAD ACT.

The sentiment favoring grants of land to actual settlers and consequent movement for homesteading may be said to have originated as early as the very beginning of the westward trend of population. In

1) Cong. Gl., 37 Cong., 2 Sess.

2) Ibid., p. 2625.

3) B. F. Andrews, The Land Grant of 1862 and the Land-Grant Colleges, p 58.

1797 Congress received petitions from the frontier settlers asking to be afforded opportunity for obtaining free land upon condition of three years' residence. In 1828 Benton recommended the donation of land to actual and indigent settlers. "I resolved," he said, "to move against the whole system, and especially in favor of graduated prices, and donations to actual and destitute settlers." [1] On the other hand, George Henry Evans began in 1828 to advocate the free land policy.[2] Then Andrew Jackson, the first President from one of the pioneer States, declared in his message of 1832 that the future policy toward the public land should be the settlement of the country and not land revenue. The movement gradually ripened at last, becoming interwoven into American politics after 1844, when Evans commenced earnest agitation for his principle through the medium of the Workingman's Advocate, the People's Rights and the National Reform Association. In the same year Robert Smith of Illinois introduced the first resolution regarding the homestead. On March 9, 1846, Felix G. McConnell of Alabama introduced in the House "A bill to grant to the head of a family, man, maid, or widow, a homestead not exceeding one hundred and sixty acres of public land." [3]

This is the first homestead bill ever introduced in Congress, and the air of the House was against the bill. Three days later Andrew Johnson of Tennessee requested the House to introduce "A bill to authorize every poor man in the United States, who is the head of a family, to enter 160 acres of the public domain, without money and without price", but was obliged to withhold it by reason of the objection of some member. On March 27, he succeeded in introducing his bill. Horace Greeley's bill, which was introduced in the House in December 1848 and reported back from the Committee on Public Lands in February of the following year, contained some peculiar features. Here is his own description of the measure:

"....It respects the pledges solemnly made of the proceeds of our public lands to secure the payment of our Mexican war loans..... Its material provisions are as follows: 1. Every citizen or applicant for citizenship is authorized by this bill to claim and settle upon any quarter-section of the public lands subject to private entry at the minimum price, receiving a certificate of right of pre-emption thereto for seven years, thereafter. 2. At any time during those seven years, upon giving due proof that he has improved, cultivated, built a dwelling upon, and now actually

1) T. H. Benton, Thirty Years' View, Vol. I. p. 103.

2) G. M. Stephenson, The Political History of the Public Lands, p. 114.

3) Cong. Gl., 29 Cong., 1 Sess, p. 473.

inhabits that quarter-section, and is the owner or claimant of no other land whatsoever, he (or she) shall be entitled (if a single person) to a right of unlimited occupancy to forty acres of said tract, or (if the married head of a family) to a like right of occupancy to any legal subdivision of eighty acres thereof, to be his without payment, and to pass to his heirs or assigns, who are owners or claimants of not more than one hundred and sixty acres of land, this included. 3. The balance of the one hundred and sixty acres covered by pre-emption, as aforesaid, may be purchased by the legal occupant at any time within the seven years' existence of the pre-emption, at the present minimum price of one dollar and a quarter per acre, with legal interest thereon from the date of pre-emption. If not so purchased, it will be open to pre-emption or purchase by any other person, as aforesaid. 4. Any person may purchase, at the present legal minimum, any quantity of the public lands, making affidavit that he requires the same, and the whole of it, for his own use and improvement; but any person failing or neglecting to make and file such affidavit, shall be charged, and shall pay, for whatever land he may buy, the minimum price of five dollars per acre." [1]

Greeley's bill was not acted upon. In March, 1850, Senator Chase submitted a memorial of fifteen hundred citizens of Cincinnati asking the abolition of traffic in the public lands, division of the latter for the free use of landless citizens and the cession of the public lands to the States and Territories in which they lay with the above object. In the same year Senators Webster and Houston each presented resolutions regarding the adoption of the homestead law, and in the House a bill was introduced by Johnson. Some objections came on the ground that (1) congress had no right of disposing of public lands while they were remaining as a pledge for public debt, and (2) such propositions were nothing but vote catching measures.

Now homestead propositions one after another began to pour into Congress. Johnson said in the House:

"In fact, there seems now to be quite a struggle going on among many of the most prominent men in the country as to who should take the lead in this important measure. In the other end of the Capitol, we find that Senators, possessing the tallest interests, occupying and commanding a large space in the public mind, have entered the list of competition. In this end of the Capitol, there has been a corresponding zeal, manifested by the introduction of many resolutions and bills, all for the purpose of carrying out the provisions of the project now under consideration."

Again on December 10, 1851, Johnson introduced a bill in the House, and on May 12, 1852 it passed the House by a vote of 107 : 56 [2]

1) Cong. Gl., 30 Cong., 2 Sess., p. 605.
2) Cong. Gl., 32 Cong., 1 Sess., p. 1351.

but was buried in the Senate. This is the first time that any homestead bill came to a vote in the House. During the debates in the House, Galusha A. Grow of Pennsylvania, the Speaker at the time of the Civil War, delivered his maiden speech in March 1852 on this question as follows:

"The bill under consideration, though it only provides for granting to every head of a family 160 acres of land on an actual settlement and cultivation for five years, still it involves the entire question of the proper disposition to be made of the public lands. With a domain of fourteen hundred and two thirds million acres of unsold and unappropriated land, it becomes a grave question what is the best disposition to be made of it.... Whether to cede it to the States in which it lies, to be disposed of as they think proper, or for internal improvements and school purposes, or to grant it in limited quantities to the actual settler at a price barely sufficient to cover the cost of survey and transfer, with such limits and restrictions as will prevent its falling into the hands of speculators.... While the public lands are exposed to indiscriminate sale, as they have been since the organization of Government, it opens the door to the wildest system of land monopoly.... one of the direst, deadliest curses that ever paralized the energies of a nation, or palsied the arm of industry." [1]

Sutherland of New York attacked the bill most exhaustively as, (1) unjust in excluding foreigners from the benefit of the bill, (2) improper in limiting an entry to 160 acres, (3) injurious to the railroads and to the rights of property in general, (4) agrarian in its character.

In the Senate the bill was struck at as a party measure. "It has come a part of the history of the day," said Mason, "that the Senator (Hale) who makes this proposition has been nominated for tho Presidency of the country by a party called the Abolition party, the Liberty party, the Free-Soil party, or in whatever other name they may happen to rejoice.... That party, it seems, has adopted this bill as a means of buying up popular votes at the presidential election." [2]

On December 14, 1853, Dawson from Pennsylvania introduced a bill in the House. Dent of Georgia opposed the bill, saying that the free grant of public lands might reduce the Government income and lead to heavy duties which would affect the interest of his State, moreover the condition of five year residence was too severe to receive the approval of Georgians. He said: "No, sir, they (Georgians) are too proud—too high-spirited to accept the gift with any such reservation or restriction." [3] Smith of New York, too, opposed the bill as an inducement to the accumulation of land by the method of collusion of capitalists and homestead applicants.

1) Cong. Gl., 32 Cong., 1 Sess., pp. 424–427.
2) Ibid., p. 2267.
3) Cong. Gl., 33 Cong., 1 Sess., p. 460.

On March 6, 1854, Grow proposed an amendment striking out the restrictive clause, which applied the benefit of the bill only to the immigrants just then arrived, excluding the future immigrants, but the amendment failed, and the Dawson bill passed the House by a vote of 107 : 72 on the same day. The bill was again defeated in the Senate, which passed the Hunter substitute proposing the graduation of price.[1] "After a few more attempts to shelve the homestead bill", wrote Stephenson, "the Southern leaders decided to introduce a new bill under the guise of a homestead bill, but in reality no homestead bill at all. This was Hunter's substitute." [2]

In February, 1856, Grow introduced a homestead bill in the House. Later when the bill was taken up for consideration, Branch of North Carolina attacked it as, (1) a most gigantic scheme of agrarianism and confiscation, (2) a favor given to foreigners in sacrifice of native Americans, (3) the seed of communism and socialism, (4) an obstruction to the improvement of old farms, (5) an unconstitutional measure in attempting the exemption of debt from payment, (6) destructive of the value of bounty warrants, (7) an infringement of the States' rights. When he spoke as follows he may well be said to have represented the full length of Southern sentiments :

"My constituents, Mr. Chairman, do not want western land. Thank God ! they have realized the folly of leaving even their poor country to go to one that may be worse. But they are greatly in want of negroes to improve the homestead where they are .... This would be the longest stride yet taken in a system of legislation in the management of the public lands, hostile to the old States, destructive of their prosperity, and utterly regardless of their rights." [3]

In 1860 the Houses of Congress had come to wide difference from each other on the subject of homestead legislation, and three committees of conference were appointed before they reached a basis of compromise. The main points of difference between the two bills were : (1) The House bill did not confine its beneficiaries to the head of a family, while the Senate bill did, (2) the House bill covered all pre-emptors then entered upon the public land and granted them a quarter section at the price of ten dollars after five years' residence on it, while the Senate bill excluded the pre-emptors, (3) the House bill was applied to all lands subject to pre-emption, while the Senate bill confined its operation to the lands subject to private entry, (4) the Senate bill proposed the cession of the public lands to the States in which they lay after they remained thirty

1) Cong. Gl., 33 Cong., 1 Sess., p. 1843.
2) G. M. Stephenson, The Political History of the Public Lands, p. 180.
3) Cong. Gl., 34 Cong., 1 Sess., pp. 1516, 1519.

years in the market, while there was no such provision in the House bill. It will easily be seen that the Senate bill was much stricter than the other. The conferees of both sides finally became reconciled comparatively in favor of the Senate measure, and on June 19, the conference report was accepted by the House 115 : 51,[1] by the Senate 36 : 2.[2]

President Buchanan vetoed the bill on June 22, and the next day in the Senate, Harlan attacked every point of the veto message in the following manner:

(1) Unconstitutional in making an absolute gratuity to the States (veto). This is nothing but the abandonment of such land to the States as having no value to the Government, so cannot be called any gift (Harlan). (2) Unequal and unjust in allowing the new settlers to secure the land at a nominal price without any regard to the interest of the old settlers who paid the Government a higher price for their lands (veto). Quite ridiculous to make Congress liable to refund the difference of price in such a case (Harlan). (3) Injurious to the ex-soldiers who had bounty warrants (veto). It is no responsibility of the Government to prevent the depreciation of such assignable warrants (Harlan). (4) Unequal and unjust to favor only one class of society, that is the farmer (veto). If some persons do not want to receive the benefit of the bill, it comes from their free will and is not the fault of the law, because the bill was made up to be applicable to all classes of people (Harlan). (5) Equal to the premium given to the new States at the expense of the old States inducing emigration from the latter (veto). Such sectional objection cannot be stood, because the new homes of the descendants of the old States will be provided for by such a law (Harlan). (6) Concentration of land in the hands of capitalistic speculators as seen in the case of the Graduation Act (veto). It would be no good business for speculators to invest their capital in such an expensive scheme of planting farmers upon the new lands under arrangement of dividing the entered area (Harlan). (7) Diminution of public revenue (veto). This point is not much to be feared, because most of the settlers would buy their lands within five years prescribed in the bill (Harlan). (8) Destruction of the resort of the nation in the time of hardships (veto). This argument is not strong because financial depression used to accompany the diminution of land sales, but generally speaking decrease in the revenue from land would not be accelerated by the passage of the bill, as said before. Besides these, the veto pointed out the unpropriety of the

1) Cong. Gl., 3 Cong., 1 Sess., p. 3179.
2) G. M. Stephenson, op. cit., p. 212.

bill in that existing pre-emptors could obtain land at 62.5 cents per acre while future pre-emptors would have to pay the minimum price of $1.25, and Harlan answered the dispute.[1]

After the veto the effort to introduce bills was repeated until July 8, 1861, when Aldrich introduced a Homestead Bill in the House. Meanwhile Lovejoy of Illinois and Grow spoke in behalf of the bill and on February 28, 1862, it passed the House by an overwhelming vote of 107:16[2] and on May 6, passed the Senate, 33:7[3], after some amendments. The House opposed the Senate amendments and there was appointed a conference committee, whose report was soon agreed upon by both Houses. The bill was approved by President Lincoln on May 20 of that year.

It must be remembered that homestead legislation and sectionalism were intimately connected. The adoption of the homestead policy meant the expansion of the power of free States in the West; so the South vehemently opposed the bill as distinctly shown in the following table:[4]

		House bill of 1859	House bill of 1860
Northwest	Yes	47	48
	No	6	0
Southwest	Yes	3	1
	No	30	34
Southeast	Yes	0	0
	No	38	30
Middle	Yes	44	42
	No	2	2
New England	Yes	26	24
	No	0	0
Total	Yes	120	115
	No	76	66

In the bill of 1860 the sectional interests may be seen to have been more clearly separated than in the former upon the homestead question. The Northwest, the Middle States and New England are decidedly in favor of the bill, making a sharp contrast to the Southwest and the Southeast.

At the same time the attitude of political parties toward the Homestead Bills was also divided; the Republicans advocating anti-slavery were

1) Cong. Gl., 36 Cong., 1 Sess., pp. 3263-3271.

2) Cong. Gl., 37 Cong., 2 Sess., p. 1035.

3) G. M. Stephenson, The Political History of the Public Lands, p. 242.

4) C. Hookstadt, A History and Analysis of the Homestead Movement, Chap. III.

for and the Democrats predominant in the South were against the bills. Of 120 affirmative votes cast for the bill of 1859, 82 came from Republicans, 38 from Democrats and of 76 negatives, 60 came from Democrats, 15 from Americans and 1 from Republicans.[1] The easy passage of the last homestead bill in 1862 is to be attributed to the withdrawal of Southern members from Congress.

This act underwent some amendments after its passage and the essence of the existing law is as follows: Any American citzen or any person who has declared intention to become naturalized, being the head of a family or having arrived at the age of twenty-one years, may acquire 160 acres or a less quantity of the public domain by paying a small amount of fee and commission, complying with the condition that said person should inhabit the land within six months and cultivate it for three years with residence thereupon. The period of residence required had been five years until 1912, when it was reduced to three years. The exclusion from the benefit of the law of foreigners who declared intention of becoming citizens, was for some time opposed. For instance, Senator Chase's amendment to a homestead bill, proposing to cover such foreigners, was lost in the Senate in 1854.[2] Such a restrictive idea will be seen to have revived in later years when the General Land Commissioner in 1887 said this: "It would appear that the time has arrived when the privilege of *appropriating* public lands should be confined to citizens of the United States."[3]

One of the conspicuous features of the act was the exemption of the homestead land from liability for the satisfaction of any debt which had been contracted before the patent to the land was issued. After the panic of 1857 many people of the new region became so short of capital as to make it difficult to pay even for the pre-emption right. When we know that this fact was a great factor in the latest homestead movement we will perceive the insertion of such clause as a natural course, even if not considering the existence of precedents in several States.

In the act there has been embraced a very important provision known as the commutation clause which formed an exception to the general rule of the law. According to the provision any entryman could complete the title to his land after the residence thereon of fourteen months by paying the legal *minimum* price for the land and was freed

1) G. M. Stephenson, The Political History of the Public Lands, p. 193.
2) Ibid., p. 177.
3) An. Rep. of the Com. of the Gen. L. Of., 1887, p. 86.

from the obligation of residing for full three years. This feature, which retained the cash sale principle in the past, was devised to meet the demand of the settler who wanted to secure title to the entered land as fast as possible in order to borrow money upon the security of his land. How this clause answered the desire of the homestead settlers may be seen from the following report by the Secretary of the Interior:

"It is estimated that from forty to fifty per cent of persons who have so claimed the privilege of the homestead law will prefer to make payment, and thus secure title before the expiration of the period when it would otherwise vest." [1]

In 1891 the commutation period was lengthened from six months to fourteen months as it now exists, because the former period of six months was too short to cover a whole agricultural season and consequently could not attain the main object of the law requiring the cultivation of land before the acquisition of title to it.

Besides, under the act any person who had engaged in the military service of the United States, even under twenty-one years of age, was entitled to apply for a homestead and the period of service was to be credited to the time required for the residence upon the land. It seems to me that such favor was granted in consideration of compensating the loss which would be caused to the holders of bounty warrants by the passage of the Homestead Act and attracting to the Western land ex-soldiers to be returned from the Civil War in the future. It was also directed that in applying the law there should be no discrimination by reason of race or color. This fair regulation was added in 1866 as a probable consequence of the Civil War. However excellent the purpose of the homestead laws might be, they could not be free from defects, most of which came from the commutation clause. Now let the official reports speak of these abuses.

"A vast proportion of homestead entries have been fraudulently made by men of wealth and prominence. Several owners of iron works and lumber mills have furnished money to their employés, many of them ignorant and lawless men, to enter the lands in the vicinity of the furnaces and mills for the sole purpose of acquiring the timber thereon. In one instance, nearly ten sections of public land were thus entered by an iron company. In the Gulf States, where there is such ready access to the shipping ports, especially Pensacola, the greatest lumber exporting port in the country, the depredations upon the public timber are very extensive." [2]

1) An. Rep. of the Com. of the Gen. L. Of., 1865, p. 111.

2) Ibid., 1880, p. 171.

"The commutation feature of the homestead law is open to the same abuses as the pre-emption law. The alleged commutation settler is frequently a person employed at so much a month to sign entry papers and hold the claim long enough to enable his employer to secure title by commutation." [1]

"Frauds under homestead laws are largely perpetrated in connection with entries in which the parties allege settlement prior to the date of entry, and at the time or soon after give notice of their intention to make final proof; thus being enabled to secure title earlier than in ordinary homestead entries, and in some instances before the discovery of the fraud. In many cases investigated, it is shown conclusively that no improvement has ever been made, the premises showing no evidence of residence or cultivation." [2]

"The principle of commuted homesteads is the same as the pre-emption, and its uses are the same. The difference between the two is that commuted homesteads are the more universally fraudulent, this form of entry being more advantageous to corporations and large operators in coal, timber, and water entries than pre-emption, because the homestead entry is esteemed a segregation of the land, and is held to work its absolute reservation.... I think it has seldom or never been reported upon examination than an original settler has been found living on a six months commuted homestead claim." [3]

"One significant fact brought out by the investigation is that a large portion of the commuters are women, who never establish a permanent residence and who are employed temporarily in the towns as school teachers or in domestic service, or who are living with their parents. The great majority of these commuters sell immediately upon receiving title, the business being transacted through some agent who represents his clients in all dealings and prepares all papers.... It is probable that lax interpretation and enforcement of the provisions of the law regarding residence is responsible for more fraud under the homestead act than all other causes combined." [4]

"The records of some of the counties examined show that ninety per cent of the commuted homesteads were transferred within three months after acquisition of title, and evidence was obtained to show that two-thirds of the commuters immediately left the State. In many instances foreigners, particularly citizens of Canada, came into this country, declared their intention of becoming citizens, took up homesteads, commuted, sold them, and returned to their native land." [5]

There happened also cases of very curious evasion of the Homestead Act, of which the General Land Commissioner reported in 1885 as follows:

"Our land officers are largely to blame for abuses of the land laws

1) An. Rep. of the Com. of the Gen. L. Of., 1883, p. 7.

2) Ibid., p. 207.

3) Ibid., 1885, pp. 70, 71.

4) Ibid., 1905, p. 47.

5) Ibid., p. 46.

in general, and the homestead law is no exception. It seems to me there should be some way to distinguish between a fire guard of a few furrows plowed around a quarter section and a cornfield — some way to determine whether a description of a house '14 by 16' referred to inches or feet square; whether the floor was bored or board, and whether the 'shingle roof' meant more than two shingles, one on each side.

"This may sound ridiculous, and yet the statement has been made to me that these simple evasions have been very successfully employed in acquiring homestead entries in Dakota and elsewhere. I have found one land office where the rules were so lax that a house six by eight feet, built of unbattened boards, was accepted as a 'comfortable residence' in latitude 46 degrees north...." [1]

Thus the frauds under the homestead laws having become apparent, the Land Office recommended in 1883 the extension of the commutation period to two years and two years later argued even the abolition of the commutation feature. In 1909 it again recommended either the repeal of the commutation clause or the extension of the commutation period to three years.

In spite of the existence of such a dark side as mentioned above, the great merit of the liberal homestead acts in building up a class of healthy and independent farmers upon the virgin land of the West, accompanying the marvelous development of natural resources, should be fully appreciated.

B. ENLARGED HOMESTEAD ACT.

Important progress was realized toward the homestead principle by the act of February 19, 1909, known as the Enlarged Homestead Act. After amendment several times since its passage, the substantial provisions of this law, as it now stands, are these: Any qualified person may acquire 320 acres of non-irrigable public land in the States of Arizona, California, Colorado, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming. Under the act no commutation is allowed and rules are laid down as to the yearly cultivation of the land and the requirement of residence, but the latter restriction can be released in some particular cases.

Let us now trace the development of this question, especially in Congress. The idea of enlarging the area of homestead entry began to arise with the shifting westward of the frontier line to the less fertile soil, and was embodied in the Kinkaid Act in 1904. Then in the report of 1907 the General Land Commissioner recommended the 640 acre plan as the enlarged homestead, but both branches of Congress were against it

1) An. Rep. of the Com. of the Gen. L. Of., 1885, p. 52.

as too large. Catching this point, Smoot from Utah reduced the area to half, and introduced a bill in the Senate on March 16, 1908. Gallinger opposed the bill, saying "on first blush it looks to me like a very dangerous innovation, and that the bill ought not to be passed without full consideration."[1] Further, he feared that no assurance could be made regarding the impossibility of the opening of irrigation projects in the localities to be affected by the bill. After saying that "There never was a more important bill before this Senate than the one that is now under consideration,"[2] Heyburn remarked he desired more people settling upon the land rather than the larger size of homestead, which was evidently antagonistic to the former. On April 15 the bill passed the Senate and was sent to the House. In the House Mondell eulogized the bill in the following words:

"This is the most perfect homestead bill that an American Congress has ever considered, and if it becomes a law we shall have on the statute books for the first time a real homestead law."[3]

Howland held the same ground with Senator Heyburn when he said that "it is bad policy for the Government, as the area of the public land subject to the homestead entry is rapidly decreasing, to increase the number of acres to be taken by the homesteader."[4] Some Representatives attacked the bill as injurious to the undertaking of Government irrigation projects or as inducing speculation in land. It must be remembered here that the bill was not looked upon with favor by the Eastern members. After amendment the bill passed the House on May 11 by a vote of 141 : 74 and conference committees were appointed from both Houses. In the House, Douglas objected to the bill reported from the conference committee on the ground that the bill was intended to put in cattle rather than settlers upon the semi-arid land in the West, pointing out the contradiction of policy in not requiring residence on the homestead.[5] Thus the House rejected the conference report and after some complications ensued further conference was held and the bill finally passed Congress and became a law on February 19, 1909.

The purpose of the Enlarged Homestead Law has been to promote so-called dry farming in the region of little rainfall which also is hopeless for irrigation. That the area of an entry under this act was fixed so high as double the amount of the ordinary homestead might be attributable,

1) Cong. Rec., Vol. 42. Part 5, p. 4214.
2) Ibid., p. 4100.
3) Cong. Rec., Vol. 42. Part 7, p. 6893.
4) Ibid., p. 6094.
5) Cong. Rec., 60 Cong., 1 sess., p. 6835.

in some degree, to the fact that in most of those dry lands only one half of the area could be utilized for crops, yielding to fallow every other year. After the passage of this bill a large proportion of the homestead entries were made under this legislation until the enactment of the Stock-raising Homestead Act. About the benefit of the act in question the General Land Commissioner reported as follows:

"As long ago as 1909 Congress recognized that the 'dry farming' period had come, and provided for 320-acre homestead entries; most of the homestead business since that time has been under that act. It has accomplished wonders in some sections. Great areas in Montana, Wyoming, Colorado, and Idaho, which only a few years ago were open cattle range, now support prosperous farming communities. They are producing much grain and as a rule more meat than when these sections were open cattle range. This activity has resulted in the taking up of practically all the good crop lands." [1]

C. STOCK-RAISING HOMESTEAD ACT.

This act was devised to utilize the grazing land having no salable timber and not susceptible of irrigation, for the purpose of stock raising. Under this law every qualified applicant is entitled to secure 640 acres of such land upon liberal terms concerning the cultivation of the tract.

After unsuccessful presentation of his grazing homestead bill in 1914, Harvey B. Fergusson from New Mexico again introduced a similar bill in the House in January, 1915, aiming to restore the grazing capacity of the Western lands. Stafford of Wisconsin attacked the bill on the ground that the time had not come to extend the area of homestead entry from 160 acres to 640 acres, and also feared that the water courses necessary for grazing might be occupied by shrewd homesteaders. Mondell from Wyoming argued for the passage of the bill. Within the same month the bill passed the House and was sent to the Senate. In spite of the favorable recommendation of the Senate Committee on Public Lands, the bill was buried in the Senate on account of the shipping bill and other important measures pending there. It is to be noticed that when the stock-raising homestead proposition had been referred to the House Committee on Public Lands there arose fierce objections against the bill, protesting that it would induce speculation in a vast area of land and injure the interest of stockmen.

In December 1915, Ferris introduced an identical bill in the House. Several members representing the large cattle and sheep raisers opposed

1) An. Rep. of the Com. of the Gen. L. Of., 1918, p. 78.

it on the ground that it would prevent the free use of the open range by the latter. Some others, too, disagreed with the bill who feared that it might bring the result of consolidating the entered tracts of homesteaders in the hands of the large stock growers, or might decrease the number of stock. The regulation allowing entry before designation was another point which met with opposition. In January, 1916, the bill passed the House and was sent to the Senate, where it was severely criticized. Although in September it finally passed the Senate with some amendments and was soon returned to the House, the latter could not take it up, because there was no time left before adjournment. Then in December the House disagreed with the Senate amendment and there was appointed a conference committee which faced severe complications and risked unauthorized action in order to find a point of compromise between both sides. Senator Clark said: "I have never seen, Mr. President, a conference report that so frankly exceeded, by the admission of the conferees themselves, the authority of conferees in any bill that ever came from a conference committee into the Senate." Smoot said: "I know that there have been great changes made, but I do not remember any conference report since I have been in the Senate where a whole section of a bill has been stricken from it and no substitute offered in its place." Borah said: "I believe it (the bill) will prove a failure to the bona fide home builders." [1)]

Encountering such strong opposition, the conference report finally passed the Senate in December, and the next day it was passed by the House without great debates and the bill was approved by the President on December 29, 1916.

One thing more may be said in connection with the congressional history of this act, that the Senate was more liberal toward the construction of the bill than the House, and further this law was recommended by the late Franklin K. Lane, Secretary of the Interior. The question how to dispose of the grazing lands in the West appealed to the consideration of thoughtful people from early days. With regard to the enlargement of the farm unit to be adopted in respect to pasturage lands, J. W. Powell, then in charge of the United States Geological Survey, has been looked upon as the greatest authority. In his report of April 1, 1878, he wrote as follows:

1) Cong. Rec., 64 Cong., 2 Sess., p. 644.

"The grass is so scanty that the herdsman must have a large area for the support of his stock. In general a quarter section of land alone is of no value to him; the pasturage it affords is entirely inadequate to the wants of a herd that the poorest man needs for his support. Four square miles may be considered as the minimum amount necessary for a pasturage farm, and a still greater amount is necessary for the larger part of the lands; that is, pasturage farms, to be of any practicable value, must be of at least 2,560 acres, and in many districts they must be much larger."[1]

Then appeared the Kinkaid Act of April 28, 1904, applicable to a certain portion of Nebraska which is arid in character and susceptible of no irrigation. This was the first trial of the extension of the homestead entry in the grazing country. Kinkaid, author of the act, delivered the following speech in Congress in January, 1915, during the discussion of the Stock-raising Homestead Act:

"Substantially the same provisions have now been in operation in Nebraska for more than ten years.... The one-quarter section unit for the most part of the area of our State, where the remaining public lands were then to be found, had proven inadequate in size for the support of a family, and the result was that the most of the entries made were commuted and sales and transfers of title were made so soon as title had been perfected, and the lands fell into the hands of speculators or large ranchmen.... The fact is the measure is now about universally agreed by all the different interests and elements of Nebraska to have brought the greatest benefit to the State of any law that has ever been passed...."[2]

The Stock-raising Homestead Act of 1916 may be considered as the further evolution of the principle of the Kinkaid Act which showed some success as an experiment. Large stockmen opposed the stockraising homestead proposition and insisted upon the leasing system in lieu of it, whilst the homesteaders backed the former measure as a means of developing the pasturage lands. Finally the idea of the homestead settlers gained the victory by the passage of the act of 1916.

As to the immediate result and importance of the law, the following quotations may be referred to:

"The immediate activity under this act in the way of applications and filings was unprecedented in the history of public-land legislation. In round numbers, within four months after the law had been enacted gross filings to the number of 60,000 had been made, embracing an area of some 24,000,000 acres.... On the whole, while there are bound

1) J. W. Powell, Report on the Lands of the Arid Region of the United States, pp. 21, 22.

2) Cong. Rec., 63 Cong., 3 Sess., App. p. 526.

to be difficulties in the administration of this act, and while during the period of readjustment there may be some decrease in the meat production, I believe that ultimately this legislation will prove beneficial and lead to a better and fuller utilization of the remaining public domain . . . ." [1] "In fact, it marks a very important epoch in the public-land legislation of this country, more even than the passage of the enlarged homestead law, or the enactment of the three-year homestead law." [2]

D. DESERT LAND ACT.

According to the first Desert Land Act of March 3, 1877, such public land as contained neither timber nor minerals and would not raise some agricultural crop without irrigation was allowed every entryman in an amount not more than 640 acres upon payment of the price at $1.25 per acre under the condition of reclaiming the land by irrigation and so forth. The act was to be applied to California, Oregon, Nevada, Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico and Dakota, that is, covering the greater part of the West. By the amendment of March 3, 1891, the upper limit of the area of an entry was lowered to 320 acres, and the investment for irrigation and improvement of one dollar per acre for each of three years and the cultivation of one eighth of the land were required; moreover the State of Colorado came under the law. Thenceforth a number of amendatory acts were passed, among others one granting extension of time for final proof.

On January 6, 1877, a desert land bill passed the House, and then the Senate Committee on Public Lands made a favorable report of it. Senator Chaffee opposed the bill with these words: "I am opposed to the passage of this bill, first, because it introduces an innovation into the land system of the United States which, in my judgment, is already sufficiently complicated without this bill." [3] Morrill pointed out the defects of the bill saying that "this bill does not limit the minimum amount which may be taken. A party may take ten acres and have it all a narrow margin on a stream." [4] Then an amendment proposed to confine this act to California and Oregon was defeated and the bill with some amendments passed the Senate on February 27. The Senate's amendments were rejected by the House. The bill passed after coming from a conference committee. It was signed by the President on the third

1) An. Rep. of the Com. of Gen. L. Of., 1917, pp. 30, 31.
2) Cong. Rec., 64 Cong., 2 Sess., p. 688, Speech delivered by Representative Taylor in December, 1916.
3) Cong. Rec., Vol. 5. part 3 and App., p. 1965.
4) Ibid., p. 1966.

of March. Just as the stock-raising homestead act was derived from the Kinkaid act, this desert land act was evolved from the Lassen County bill of 1875 which was to be applied in that county of California lying east of the Sierra Nevada Mountains. At an early date there arose opposition to the desert land act especially from the side of the Land Office, which attacked the law in the annual report of the year of its passage.[1] Regarding the abuses of this act let us make some quotations from official reports:

"They (entrymen) make the first payment as required by law; sink a well or two etc., in the meantime cutting and removing what timber or wood there is, and then they abandon the entry." [2]

"It has been represented that desert land entries have largely been made for speculative purposes, in violation of the restrictions of the act, and in many instances upon lands naturally productive; and the lands are held fraudulently under the entry without attempt or intention of reclamation, but are occupied or leased for grazing and other purposes. Investigations so far made of alleged entry under the desert-land act tend to confirm these allegations .... The practical operation of the desert-land law has heretofore been to enable land to be purchased without settlement, and in quantities in excess of the limit established by the settlement laws, thus resulting in the encouragement of monopoly rather than the encouragement of reclamation." [3]

In June, 1884 Holman of Indiana proposed in the House the insertion of a clause repealing the Desert Land Law into the bill aiming the abolition of Timber Culture and Pre-emption Acts, and the amendment was adopted. But in June, 1886, when the repealing measures were taken up again, Representative Henley opposed the abolition of the act, though he would not resist the amendment of it. In 1905 the General Land Commissioner recommended the reduction of the area of an entry under this act to 160 acres or even less quantity where intensive farming was possible, and at the same time the requirement of two years' residence upon the land. Also, President Roosevelt was induced to suggest radical amendment of the law in his message.

C. TIMBER CULTURE ACT.

By the Timber Culture Act enacted on March 3, 1873, Congress was authorized to give any applicant 160 acres in addition to the same area which had been granted under the Homestead Law, if he would

1) An. Rep. of the Com. of the Gen. L. Of., 1877, p. 33.

2) Ibid., 1881, p. 377.

3) Ibid., 1883, p. 8.

plant ten acres of his entered land with trees and maintain them for ten years. The first bill acted upon was introduced into the Senate by Hitchcock on February 20, 1872. The original bill required the cultivation of timber for five years before securing title to the land, which period was held by Harlan to be too short to effect the object of the law, and he proposed a ten year period. His amendment was accepted, and the bill passed the Senate on June 10, the House passing the Senate bill on March 3, 1873, by a vote of 88 : 37.

The intention of the law to promote forestry on the western prairies by private initiative could not be well answered, and rather opened the way to speculation and fraud in connection with entries, so the act met the fate of repeal on March 3, 1891, with other laws. Official observations concerning abuses of this law will be cited as follows :

"The utility of the timber culture law as an inducement to the cultivation of trees that would not otherwise be planted has sometimes been questioned, since settlers under the homestead law in treeless regions find it one of the necessities of the situation to set out and cultivate trees, and their interest to do this is a usual guaranty that it will be done." [1]

"In my last annual report I called attention to the abuses flowing from the operations of this act. Continued experience has demonstrated that these abuses are inherent in the law, and beyond the reach of administrative methods for their correction. Settlement on the land is not required. Even residence within the State or Territory in which the land is situated is not a condition to an entry. A mere entry of record holds the land for one year without the performance of any act of cultivation. The meager act of breaking five acres, which can be done at the close of the year as well as at the beginning, holds the land for the second year. Comparatively trivial acts hold it for a third year. During these periods relinquishments of the entries are sold to homestead or other settlers at such price as the land may command. My information leads me to the conclusion that a majority of entries under the timber-culture act are made for speculative purposes and not for the cultivation of timber....

"My information is that no trees are to be seen over vast regions of country where timber-culture entries have been most numerous. Again, under the operation of the pre-emption, homestead, and timber-culture laws, any one may enter 160 acres in each class of entry, making a total of 480 acres which may be taken by one person. The power to acquire that quantity of public land by single individuals, while so many of the citizens of the country are landless, is contrary to the general spirit of the public land laws, and, I think, not in consonance with approved public policy." [2]

1) An. Rep. of the Com. of the Gen. L. Of., 1882, p. 13.
2) Ibid., 1883, pp. 7, 8.

"Within the great stock ranges of Nebraska, Kansas, Colorado, and elsewhere, one quarter of nearly every section is covered by a timber-culture entry made for use of the cattle owners, usually by their herdsmen who make false land office affidavits as a part of the condition of their employment. The reservation of the land prevents a new entry from being made until the former one is contested or removed, and, the ranches being inclosed by fences or defended by force, contests are very generally prevented if not often made entirely impossible." [1]

Although in some localities the law proved a success, as in the treeless prairies of Kansas, its general demerits became so obvious as we see in the above reports, that as early as in the beginning of the eighties its repeal was proposed in Congress.

F. TIMBER AND STONE ACT.

On June 3, 1878, the Timber and Stone Act was promulgated, which allowed the people in the mountainous regions to procure 160 acres of timber or stone land at the price of $2.50 an acre within the four Western States of California, Oregon, Nevada and Washington. By the subsequent act of August 4, 1892, its application was extended to cover all the public land states. The purpose of the law was to provide for actual settlers an opportunity of getting the necessary supply of timber and stone for their individual use.

The Timber and Stone Bills passed twice in the House and once in the Senate previous to the taking up of the last bill introduced into the Senate on March 14, 1878, by Sargent. His bill was passed by the Senate on April 25 and by the House on May 11 with a few amendments, and within a month it became a law. That there were no methods for Western settlers of purchasing timber under the existing land laws, and that, moreover, by the initiation of the proposed measure both the frauds with regard to entries which threatened the morale of the people and the occurrence of forest fires might be prevented, was the main ground occupied by the supporters of the bill. Senator Kelly spoke on one occasion:

"It has been too frequently the case that persons desiring to cut timber on the public lands will take either a pre-emption or homestead claim, go upon it, cut down and sell the timber, and never pay for or enter the land. The purpose of this bill is to do away with those trespasses upon the public domain." [2]

1) An. Rep. of the Com. of the Gen. L. Of., 1885, p. 72.

2) Cong. Gl., 41 Cong., 1 Sess., p. 1100.

On the other hand, the opponents of the bill held that its effect would be to concentrate timber land in the hands of the railroads, and the timber and mining companies of the West, and pointed out the danger of granting title to corporations or associations of persons. How the spirit of this law was evaded may be seen from the following:

"The restrictions and limitations of the act are flagrantly violated. Information is in my possession that much of the most valuable timber land remaining in the possession of the Government on the Pacific coast is being taken up by home and foreign companies and capitalists through the medium of entries made by persons hired for that purpose. I have found it necessary to suspend all entries of this class and to direct an investigation in the field with a view to the procurement of evidence in specific cases to authorize the cancellation of illegal entries and the prosecution of guilty parties." [1]

"The fundamental defect of the law is the policy upon which it is projected — the hasty transfer of the title of the United States to the public forests and woodlands; its frailty lies in the practically uncontrolled method provided for obtaining such transfers." [2]

"There is no doubt that the land in a very large proportion of such entries was not desired on account of the stone which it contained, but for the purpose of obtaining control of water or to add to other holdings." [3]

"Many transfers of land patented under this law are made immediately upon completion of title, often on the same day, to individuals and companies .... Under the existing rules and practices of the courts it is difficult to prove this collusion, except in cases of open fraud, and it is therefore practically impossible to secure conviction. Furthermore, under bona fide compliance with the actual provisions of the law, the effect is almost equally bad. The law itself is seriously defective." [4]

As early as 1883 the General Land Commissioner, perceiving the dark side of the law, proposed the reservation of timberland from ordinary disposal and its sale according to the appraised value, but enabling the actual settlers to satisfy their demand for timber for individual use. In the beginning of the present century the Land Office frankly recommended the repeal of this act. In his message President Roosevelt, too, denounced the law in these acute terms:

"The timber and stone act has demonstrated conclusively that its effect is to turn over the public timber lands to great corporations. It has done enormous harm, it is no longer needed, and it should be repealed."

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1) An. Rep. of the Com. of the Gen. L. Of., 1883, p. 9.

2) Ibid., 1885, p. 73.

3) Ibid., 1904, p. 54.

4) Ibid., 1905, p. 45.

G. ABOLITION OF THE PRE-EMPTION AND TIMBER-CULTURE ACTS AND OF THE PUBLIC SALE OF LAND.

By the act of March 3, 1891, two land laws and public sale practice were altogether abolished. Let us examine the progress of the bills to that effect in Congress. When in the House a bill to repeal all laws providing for the pre-emption of the public lands and the laws allowing entry for timber-culture was taken up for consideration, Nelson, on June 7, 1884, insisting upon the amendment of both laws instead of their total repeal, said:

"All over the Western States are many poor men who have exhausted their homestead rights, and are to-day landless and without homes. By repealing the pre-emption law you cut them off altogether from any opportunity of obtaining any portion of the public lands upon which to make homes." [1]

The bill passed the House on June 24 by a vote of 149 : 40. In the Senate, Slater, on February 11, 1885, opposed the repeal of the pre-emption act with such bold expression as the following:

".... But as great as they (frauds perpetrated under the pre-emption act) have been, as numerous as they have been, the evils that come from that source cannot exceed the evils that will come to the people from their repeal." [2]

On the next day the bill passed the Senate by a vote of 26 : 20 with the amendment repealing the public sale proposed by Sherman of Ohio. In the House on February 26, Valentine enumerated as follows the sources of the shout for repealing the two acts under discussion:

"1. It has come from the great railroad corporations of the West, who desire to sell their lands but cannot do so at a price beyond $1.25 an acre so long as the Government permits the actual settler to go there and enter land at that price .... 2. It is desired by the great 'cattle-kings' of this country. There is a fight going on to-day in my State and in fact in all the Western States, between the actual settlers and the 'cattle-kings' for supremacy. When we go upon the frontier and under the timber-culture act plant 10, 20, 30, or 40 acres with timber whereby we reclaim those lands and make them agricultural, the 'cattle-kings' turn out upon those lands their herds to eat the trees as they sprout from the ground. These 'cattle-kings' are anxious to have this law wiped out, that their cattle may roam over those prairies undisturbed by the settler." [3]

Again a new, similar bill passed the House on June 7, 1886, and the Senate passed a substitute for it on June 24. A conference committee was appointed but could not agree to a compromise, and prior to February, 1887, second and third conferences were held, but in vain. In

1) Cong. Rec., 48 Cong., 1 Sess., p. 4893.
2) Cong. Rec., 48 Cong., 2 Sess., p. 1522.
3) Ibid., p. 2206.

the House on March 18, 1890, a similar bill to the preceding was called up from the Committee on Public Lands by Payson. After debates it passed the House on March 22, and the Senate passed the amendment of the House bill on September 16. The House disagreed to the Senate amendment, so that a conference committee was again appointed. Finally its report was acquiesced in by both Houses and the bill became a law on March 3, 1891. By this bill the commutation period in the Homestead Act was extended from six to fourteen months. This was thus a typical omnibus bill, covering many subjects, that is, the repeal of the Pre-emption and Timber Culture Acts and of public sale, amendment of the Homestead and Desert Land Acts, and the origination of the forest reservation system and so forth. The bill was backed by the laboring classes. Bills to repeal the pre-emption law had been up several times in Congress since the early eighties and met with strong opposition from some quarters. Although the Pre-emption Act was the first general land law for the benefit of actual settlers, it began to survive its usefulness after the passage of the Homestead Law in 1862, because the latter contained the commutation clause; and the co-existence of these two acts manifested the disadvantage of a double system; moreover speculation and fraud found their way into the pre-emption system, so that public sentiment turned to the repeal of this measure. It will be of some interest to note that the above bill containing the provision repealing the Pre-emption Act was a large bill, embracing numerous other important subjects, and that it caused hot discussion in Congress, just as in the case of the bill fifty years before by which the pre-emption system had been inaugurated. The only difference is that the former bill was constructive, while the present one was mainly destructive in its character. This fact shows that the Government attitude toward the disposition of the public land had begun to change from a liberal policy to a somewhat restrictive one.

H. LAND GRANTS TO THE RAILROADS.

The movement for the building of the Pacific railroad which began to increase in strength about the time of the settlement of the northern boundary of the United States by the treaty of 1842, reached a new era upon the introduction into the House on January 28, 1845, of the memorial of Asa Whitney, who asked for the granting of public lands for the construction of a railroad from Lake Michigan to the Oregon Territory. His memorial said:

"Your memorialist begs respectfully to represent further to your honorable body, that he can see no way or means by which this great and important object can be accomplished for ages to come, except by a grant of a sufficient quantity of the public domain .... Your memorialist believes that this road will be the great and desirable point of attraction; that it will relieve our cities from a vast amount of misery, vice, crime, and taxation; that it will take the poor unfortunates to a land where they will be compelled to labor for a subsistence .... Therefore, in view of all the important considerations here set forth, your memorialist is induced to pray that your honorable body will grant to himself, his heirs and assigns, such tract of land...." [1]

He prayed for the appropriation of public land sixty miles in width on the railroad line to be constructed. This memorial stirred up the movement for the Pacific railroad, which was further intensified by the admission of California in 1850 and culminated in 1862. By the act of July 1, 1862, land grants were made to the Union Pacific Railroad. This is the first time that the Government granted land directly to a railroad without the medium of States. The action of incorporating a company by the Government was denounced as unconstitutional encroachment upon State right, on the ground that Congress had no power to create any corporation in a State without the consent of the State. This deviation from the accustomed policy of the Government was compelled to be taken from the necessity of building a great trunk line of railroad through the vast stretches of the wilderness. Excepting this point there were no substantial changes in the principle of land grant, the grant in this instance being increased by the act to ten square miles for every mile of road built, five alternate sections of odd numbers on either side of the road being granted.

Previous to this time there was a fierce sectional struggle as to the location of railroads, but the disappearance of the Southerners from the seat of Congress, occasioned by the Rebellion, made it possible to get a consensus of opinion in aiding the construction of the central route.

After the passage of the Union Pacific Railroad Bill a large number of laws were successively enacted for the same purpose until the year 1871, when came the end to the land grant policy, which had continued about twenty years. That the public land gradually decreased in the face of the growing necessity of settling homesteaders and on the other side the economic progress of the country was so great that the further building of railroads could be left to private enterprises without any aid of public land were the main reasons for the abolition of the land grant

1) Cong. Gl., 28 Cong., 2 Sess., p. 218.

policy. When the Government gave a large amount of public land to the various railroads, there appeared some companies which failed to build roads within the time prescribed as a condition of land grants, with the result that some of the latter remained unused in the hands of railroads. Such being the case, the repeal of a portion of the land grants became a topic of the day and it began to be practised even when grants were still being made to other corporations.

In 1870, the land grant made to Louisiana for the New Orleans, Opelousas, and Great Western Railroad was forfeited. This was the first case hinging on this principle. It was followed by a bill passed in 1876 authorizing the forfeiture of the unearned lands of a certain railroad. After a number of other special acts a general law was enacted on September 29, 1890, which ordered the forfeiture of such parts of all land grants made to any State or corporation as were not earned. After about 1875 the question of the forfeiture of unearned land grants began to be fully discussed, and in 1884 the Democratic National Convention made the following declaration in its platform:

"We believe that the public land ought, as far as possible, to be kept as homesteads for actual settlers; that all unearned lands heretofore improvidently granted to railroad corporations by the action of the Republican party should be restored to the public domain." [1]

Meanwhile bills providing for general forfeiture were introduced into Congress and that measure became a great object of public concern and political struggle. Representative McAdoo made the following remark in July, 1890:

"I well recollect that there was no public issue which so much aroused the constituencies in the large industrial centers of the United States as the policy of taking back from railroad companies the lands which belonged to the people; and I take it that the result of the election which brought into being the Democratic majority in the 48th Congress was largely owing to the failure of the 47th Congress to forfeit the public lands which had been granted to the railroad companies." [2]

We may distinguish three grades of forfeiture, namely: 1. Forfeiture of all land grants irrespective of whether they are earned or unearned, in the case of non-compliance with any condition of the granting acts. This was the most advanced thought. 2. Forfeiture of the grants along railway lines which had not been completed within the time prescribed in the law. This way of interpreting the term forfeiture was held by the House and the Democrats. 3. Forfeiture of the grants along every line which

1) Cong. Rec., 51 Cong., 1 Sess., Sept. 25, 1890.
2) Ibid., p. 7129.

had not been completed at the time of the enactment of the forfeiture act. This was the most liberal interpretation, and was adopted by the Senate and the Republicans.

There thus existing a gap between the attitude of both Houses toward forfeiture, bills which had been passed by the House in the 48th, 49th and 50th Congresses failed in the Senate. Upon the advent of the 51st Congress, Senator Plumb introduced a forfeiture bill on February 20, 1890, which passed both Houses after being reconciled by a conference committee. It was approved by the President on the 29th of September.

Some opponents of the bill attacked it as a corporation bill which would only serve to confirm the title to the unearned land under disguise of forfeiture, and others pointed out the danger and injustice of the general application of the bill whilst the situation of every railroad differed from that of any other. "What is the bill before us?", said Representative McAdoo, "A bill to compound a felony with railroads which have stolen the public lands." "This is a bill to confirm the title to lands that are liable to forfeiture," said Senator Morgan, "rather than a bill to forfeit lands." That the inner aim of the bill as held by some advocates of it, was not mere forfeiture of unearned lands, but the restoration to the Government of as large an amount of land as possible, might be seen from the following remark by McAdoo:

"The cry was raised in the Congress that we were carrying this policy too far; that in the meantime the companies were being alarmed and were building their roads with a view to meeting the substantial requirements of the grants. We were told that there would be less acres for us to forfeit in the next Congress and we had better make a compromise such as that held out to us now...." [1]

During a few years after the passage of the general forfeiture act of 1890, acts were successively enacted to give liberal treatment to settlers on the forfeited lands.

From the beginning there was opposition to the policy of granting land to railroads. The opposition took the following position:

(1) It infringed State rights by assuming on behalf of the Government, the duty of making internal improvements.

(2) It would cause monopolies of land. In fact the three great timber holdings in the United States originated from the railroad land grants, as we see in the case of the Southern Pacific, the Northern Pacific and the Weyerhaeuser Timber Company.

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1) Cong. Rec., 51 Cong., 1 Sess., p. 7129.

(3) It induced frauds with regard to the indemnity lands and the certification of the excessive land grants.

(4) Railroads sold their land grants at high prices.

The General Land Commissioner reported in 1916 as follows:

"For a time it (a railroad) did sell lands in bodies of 160 acres, at the price fixed in the grant; it soon, however, withdrew its lands from market on the terms imposed by the grant, and only sold them to timber purchasers, in large bodies, at a price far in excess of that authorized by the grant." [1]

(5) Railroads abused the forest lieu land measure.

"It was possible for a railroad, any of whose lands fell within the boundaries of the national forests, to retain such as were valuable, and at the same time to relinquish to the Government such as were worthless or low value, and select in lieu an equal area of well-timbered land outside of the national forest boundaries." [2]

(6) Land grants were often combined with political corruption.

(7) They sometimes induced so rapid construction of railroads as to break the balance of the economic world.

The defects of the railroad land grant policy were thus many-sided, and moreover, by breach of the conditions of granting acts vast areas were forfeited so that some people came to doubt the merit of the policy.

Representative McAdoo remarked in 1890:

"Perhaps the worst piece of legislation which ever went upon our statute-books was the original grant of lands to the railroad companies. I have always held, and every day increases my convictions, that it would have been very much better if we had appropriated money outright to build these transcontinental railways than to have given them the public lands. It was an awful crime against the American people to give these roads about 155,000,000 acres of the people's land." [3]

In the same year Senator Plumb said:

"It (land grant system) has not always been wise. If we were looking back on the system and on the years that have intervened, considering the subject in a critical way, we might say, perhaps, that it would have been better if it had never been adopted." [4]

Notwithstanding the fact that the railroad land grant policy had some serious faults, its contribution to the development of the Great West must not be neglected. Railroads in the Southwest and on the Pacific Coast endeavored to attract settlers upon their lands by means of advertising the tracts or reducing fare, with the main purpose of

1) An. Rep. of the Com. of the Gen. L. Of., 1916, p. 47.
2) Dept. of Commerce and Labor, The Lumber Industry, Part I. Chap. VI.
3) Cong. Rec., 51 Cong., 1 Sess., p. 7129.
4) Ibid., p. 1004.

increasing the earning power of the roads by the traffic of the products of settlers, while obtaining proceeds from the land sales at the same time.

I. CAREY ACT.

On August 18, 1894, the so-called Carey Act was enacted, incorporated in the sundry civil appropriation act. The act in question gave any State in which desert lands were found, the right to select less than one million acres of such lands on condition that said State would bring them under irrigation and cause one eighth of each quarter section tract to be cultivated by actual settlers within ten years. By the subsequent acts an additional million acres became available to each of the States, Idaho, Wyoming, Nevada and Colorado; and the time limit for the reclamation was extended five years.

The most conspicuous feature of the act is that four participants — Government, State, irrigation company and settlers — were combined by the band of contracts; that is, contracts were to be entered into between the Government and State, State and company, company and settlers respectively. So far the process of administration of the law is the most complicated ever provided for in the public land laws. The Government would not give up the control of the lands until the applying State could comply with the condition of donating lands; this sagacious precaution has been believed to have been taken lest the failure of the Swamp Land Act might be repeated. Some of the States which asked for the segregation of the lands had a newly created Carey Land Act Board for the disposition of the affected lands, while others treated the subject in the old State Board of Land Commissioner. These State agencies fixed the stipulations regarding cultivation and residence and so forth, but these conditions were not always strictly enforced, so that different classes of people such as artisans, professional and business men, entered upon the Carey Act land, which fact may be well compared with the State land settlement of California. Contract between the State and the construction company used to be liberal on the side of the latter, in order to attract capital from outside.

The insertion of the construction company within the Carey Act mechanism is a peculiarity of the act, and this was devised to secure to the irrigation company the water rate which was to be paid by the settlers. The Desert Land Act, although having the same purpose of reclaiming desert lands, did not function in this respect. Then the Carey Act was launched to meet the demand. Although the act attained

a good deal of success in the technical point of view, irrigation companies often met with financial difficulties which came from almost the same sources as in the case of the Federal reclamation work to a description of which we will come soon. Guy Ervin wrote in 1919 as follows:

"The building of the necessary works and the reclamation of a large acreage of desert land under the provisions of the Carey Act has been a notable achievement, and benefits will accrue to the entire country and the Western States in particular. Viewed solely from a financial standpoint, however, this type of enterprise has been an almost complete failure. Of the 100 or more Carey Act projects that have been undertaken in the five States under consideration, not more than three or four have returned profits to the men who have financed them." [1]

J. RECLAMATION ACT.

As the population increased and moved steadily to the West to find room, vast fertile plains once conceived to be practically inexhaustible were found to have been taken up. So the American people, especially the Westerners and the National Government, have begun to direct their attention to the utilization of arid lands which remained as *the only assets of the public domain.*

However, such lands needed an ample artificial supply of water for their development. For some years, indeed, the desert land and Carey acts were working for the same purpose of reclaiming arid public lands, but could not be said to be greatly successful. Thereupon a new vigorous movement for the opening and settlement of those lands by the bona fide farmers was ushered in with the closing of last century, and finally resulted in the passage of the act of June 17, 1902, commonly known as the Newlands Act, after the name of the author of the law in the House. Above is a mere outline of the reclamation movement; we must now trace it in some detail.

Irrigation in some arid regions now belonging to the United States, for instance, southern Arizona and some parts of New Mexico and California, had been undertaken by prehistoric inhabitants. Then the Spaniards came and pursued irrigation practice in a limited area. The beginning of irrigation by British Americans was made by Brigham Young and the Mormons who settled in the Salt Lake Valley of Utah in 1847. Since then irrigation schemes have gradually gained vogue in the arid West, and there arose a period of irrigation mania in which risks were

1) Guy Ervin, Irrigation under the Provisions of the Carey Act. (U. S. Dept. of Ag. Circ. 124.).

incurred by construction companies, this being followed by the era of reaction, which condition not be recovered from until the dawn of the present century. The first momentous suggestion concerning the necessity of Government participation in the reclamation work was made by Powell in his report of 1878, in the preface of which he said:

"To a great extent, the redemption of all these lands (arid and swamp lands) will require extensive and comprehensive plans, for the execution of which aggregated capital or co-operative labor will be necessary. Here, individual farmers, being poor men, cannot undertake the task. For its accomplishment a wise prevision, embodied in carefully considered legislation, is necessary." [1]

In 1888, that is ten years later, a resolution was passed by Congress providing for the investigation of the practicability of constructing reservoirs in arid regions, and within the same year an appropriation of $100,000 was made for this purpose, this being followed by another increased appropriation in the next year. Such legislation, however, met with the opposition of large stock raisers, and no further appropriation was made for irrigation surveys. How intense became the public interest in the irrigation problem from time to time, may be seen from the fact that a national irrigation convention was held almost every year from 1891 to 1900. In 1893 an international irrigation convention was held in Los Angeles, California. It must be remembered that several of these conventions including the first, disclosed a favorable attitude toward the cession of the arid lands to the States and Territories in which they lay. Now the importance of irrigation work was unquestioned but most of the construction agencies could not meet the expectations of the public by reason of their financial weakness. Thereupon many people of the country became convinced that the practice of irrigation work on a large scale in those unfavorable lands was beyond the reach of private enterprises seeking immediate profit, so the responsibility of initiating such work of national interest should be assumed by the Federal Government. Listening to the popular sentiment, two great political parties made the following declarations in their platforms of 1900. The Republican party declared:

"In further pursuance of the constant policy of the Republican party to provide free homes on the public domain, we recommend adequate national legislation to reclaim the arid lands of the United States, reserving control of the distribution of water for irrigation to the respective States and Territories." [2]

The Democratic party declared:

1) J. W. Powell, Report on the Lands of the Arid Region of the United States, p. VIII.
2) Cong. Rec., 57 Cong., 1 Sess., p. 6676.

"We favor an intelligent system of improving the arid lands of the West, storing the waters for the purposes of irrigation, and the holding of such lands for actual settlers." [1]

We will find some cautious expression in the Republican platform regarding the control of waters, purporting to make it clear that they would esteem the State rights.

President Roosevelt in his first message of December, 1901, said:

"The western half of the United States would sustain a population greater than that of our whole country to-day if the waters that now run to waste were saved for irrigation. The forest and water problems are perhaps the most vital internal questions of the United States .... Their (great storage works) construction has been conclusively shown to be an undertaking too vast for private effort. Nor can it be best accomplished by the individual States acting alone .... It is as right for the National Government to make the streams and rivers of the arid region useful by engineering works for water storage as to make useful the rivers and harbors of the humid region by engineering works of another kind. The storage of the floods in reservoirs at the head waters of our rivers is but an enlargement of our present policy of river control, under which levees are built on the lower reaches of the same streams ...." [2]

Now let us describe briefly the congressional career of the reclamation bill. Francis G. Newlands, Democratic Representative from Nevada, introduced the bill several times in 1900 and 1901, and strenuously fought for it in the House. But the bill which passed Congress was introduced by Senator Hansbrough of North Dakota on January 21, 1902, and referred to the Senate Committee on Public Lands. It passed the Senate on March 1, and the House on June 13 by a vote 146 : 55, and the Senate at last agreed with the House amendment on the next day. The measure was approved by President Roosevelt on the 17th of the same month.

The reasons of opposition advanced against the bill in Congress may be analysed as these:

(1) Enormous expenditure to be risked by the National Government. (2) Lack of any accurate reliable estimate as to the final cost of the reclamation plan. (3) Fierce competition from the farm products of the Western irrigation projects. This was the strongest objection, and came from States east of the Mississippi, excepting Iowa, such as New York, Pennsylvania, Illinois and Ohio. Representative Ray of New York remarked: "But, in my judgment, the time has not come when the taxpayers and

1) Cong. Rec., 57 Cong., 1 Sess., p. 6677.

2) First Annual Report of the Reclamation Service, pp. 42, 43.

farmers of the East can properly or legitimately be called upon to contribute to the development of farms and farm lands in the great West."[1] The supporters of the bill retorted to this opposition, taking the ground that the agricultural products raised on the irrigated lands generally differed from those raised in the East, and that even in the case of the same kind of products the surplus would be exported to Asiatic countries and leave no fear of over-production. (4) Giving of excessive power to the Secretary of the Interior in the disposition of arid public lands. (5) Probable appearance of defects in the reclamation fund within a few years. Representative Ray predicted it in the following words:

"You inaugurate in this bill a scheme which within five years will bring Senators and Representatives of all these States named in this bill clamoring in the halls of Congress for an appropriation of money for the purpose of completing these works." [2]

(6) Prejudicial favor given to railroads in enhancing the value of their lands, much of which would fall into the reclamation projects. (7) Unconstitutionality of the Government irrigation work.

Besides the above objections there were some members who advocated the cession of arid lands to the States or Territories in which they are situated. Representative Cannon, the chairman of the House Appropriation Committee was among the supporters of this view. At the end one word need be added that the bill was favored in Congress by most Democrats and opposed by Republican leaders. Now I shall explain some of the principal provisions of the national irrigation law in its existing form.

(1) *Automatic plan for carrying out the work.*

Expenditures of the reclamation works are supplied from the so-called reclamation fund created from the proceeds of the sales of the arid and semi-arid public lands in the States and Territories subject to the act. Receipts from the disposal of the irrigated lands, once reclaimed by the fund, again return to the original source, thus making the latter a revolving fund. By this means the work was supposed to be able to proceed without receiving any outside aid, though the fact proved otherwise afterward.

This was proposed by Newlands, and has formed the most ingenious and essential feature of the law. But for this provision it would be doubtful whether the bill would ever have passed through Congress because the reclamation plan itself seemed to be disfavored by the Easterners as a scheme conceiving sectional interest. By the original act, the major

1) Cong. Rec., 57 Cong., 1 Sess., p. 6682.
2) Ibid., p. 6683.

portion of the proceeds of land sales in any state or territory were to be expended within that section, the remaining portion of the fund being allowed to be freely used for reclamation works elsewhere. This idea of retaining the minor portion of the fund for free use came from the fact that the sections needing extensive investment were the sections which obtained small receipts from the land sales. This provision was repealed by the act of June 25, 1910, for the purpose of enabling the Government to undertake any reclamation projects which were deemed most feasible by the authorities. Afterwards by the act of 1917, receipts from potassium deposits, and by the act of 1920 some parts of the receipts from minerals, oil and gas were transferred to the reclamation fund.

The most important amendment to the Reclamation Act was made by the act of June 25, 1910, which gave the Secretary of the Treasury the right to advance to the reclamation fund, a sum not exceeding 20,000,000 dollars; and he, at the demand of the Secretary of the Interior, has been authorized to issue the certificates of indebtedness of the United States to acquire the necessary funds for this purpose. The sum thus transferred to the credit of the reclamation fund must be repaid to the Treasury from the fund. Further, the use of this appropriation was limited to the existing projects which had undergone a strict official examination of their works, and never permitted to any new projects. Prior to that date, the Secretary of the Interior could begin any irrigation project at his discretion, but the act under discussion made it necessary to receive approval by the President of the Secretary's recommendation before any project could be begun. It will be interesting to note in this connection that William E. Smythe, in the same year that the reclamation law was passed, recommended an annual appropriation of not less than $10,000,000 to be continued at least for ten years, on the ground that the existing system of limiting the fund to the proceeds of sales of arid public land would not be efficient.

(2) Withdrawal from entry of those parts of public lands which are required for irrigation work.

Section 3 of the reclamation act said:

"... the Secretary of the Interior is hereby authorized, at or immediately prior to the time of beginning the surveys for any contemplated irrigation works, to withdraw from entry, except under the homestead laws, any public lands believed to be susceptible of irrigation from said works...."

The above provision was devised to prevent speculation in land. Smythe said:

"The immediate withdrawal of all land from settlement pending

the adoption of the new policy is absolutely essential as a means of preventing its absorption by speculators seeking to forestall the action of the Government and to realize profits from the subsequent sale of the property to actual homeseekers." [1]

(3) Limit of the area of an entry.

Since the purpose of this law was to furnish homes for bona-fide settlers by preventing monopolistic holdings, the area allowed for an entryman was fixed as low as 40 to 160 acres. By the act of June 27, 1906, the minimum area was reduced to 10 acres, in order to meet the natural and economic conditions of the different localities affected by the law. Such small tracts were available for reclamation projects where intensive farming such as the growing of fruits and vegetables prevailed. Newlands proposed an eighty acre limit in his bill, in explanation of which he said:

"The bill also provides that no man shall be entitled to enter more than 80 acres, and that a less amount may be prescribed by the Secretary of the Interior, according to the character of the land — its richness, fertility, and adaptability to certain forms of intense cultivation." [2]

Smythe, recommending the forty acre limit, argued in 1902 as follows:

"Land entries upon the irrigated public domain to be limited to 40 acres, and permitted only to actual settlers who will agree to make certain improvements within a specified time. Subsequent transfers to be surrounded by all reasonable safeguards to prevent speculation and consolidation of small tracts into large estates." [3]

In the reclamation act the maximum area remained unchanged as a quarter section, yet the minimum was gradually lowered to conform with the view of the sponsors of the irrigation system. The Reclamation Service held the opinion that even twenty or ten acres were not too small a unit in many cases.[4] It must be remembered that the creation of such small tracts was first tried in the history of public land laws of the United States.

(4) Term of payments of the construction charges.

By the act of August 13, 1914, commonly known as the Reclamation Extension Act, which forms an important amendment to the original law, the period of payments of construction charges was extended from ten to twenty years, for the purpose of relieving settlers of their distress. But this liberal treatment accompanied, on the other hand, strict regulations as to the practice of paying charges.

1) W. E. Smythe, Irrigation in the West. Review of Reviews, 1902, Vol. 25, p. 79.
2) Cong. Rec., Jan. 30, 1901.
3) W. E. Smythe, op. cit., p. 79.
3) An. Rep. of the Recl. Serv., 1911-1912, p. 11.

(5) Regulations concerning the improvements and utilization of the entered land.

In the above act there are inserted some minute rules under this heading to assure the development of the irrigation projects by actual settlers.

Section 8 reads as follows:

"The Secretary of the Interior is hereby authorized to make general rules and regulations governing the use of water in the irrigation of the lands within any project, and may require the reclamation for agricultural purposes and the cultivation of one-fourth the irrigable area under each water-right application or entry within three full irrigation seasons after the filing of water-right application or entry, and the reclamation for agricultural purposes and the cultivation of one-half the irrigable area within five full irrigation seasons after the filing of the water-right application or entry, and shall provide for continued compliance with such requirements. Failure on the part of any water-right applicant or entryman to comply with such requirements shall render his application or entry subject to cancellation."

(6) Annual appropriation of the cost of reclamation work.

By the extension act no expenditures were allowed to be made for any reclamation works except from annual appropriations fixed by Congress, and at the same time the Secretary of the Interior was charged with the duty of submitting to Congress estimates of the expenditures necessary for carrying out the contemplated reclamation works. Such scrutinous supervision of works by Congress arose from the fear of extravagant investment in the reclamation projects.

(7) Short labor hours and the racial discrimination of laborers to be employed in the reclamation work.

An eight hour day and the exclusion of Mongolian laborers were ordered in all construction works by the original reclamation law. The law aimed that the settlers on the projects might have opportunity of earning wages on the irrigation works before their lands could be irrigated. This was held as the great reason for the exclusion of Asiatic laborers.

(8) Establishment of the community center.

By the act of October 5, 1914, an area was to be reserved as the community center on each irrigation project. This must be regarded as a significant social arrangement introduced into rural districts. As early as 1859 Grow suggested the benefit of close living of settlers in the following words:

"By the lands being held by non-residents, the actual settlers are of necessity thrown further apart, thus making it more difficult to have

schools and churches, and to surround their homes with all the adjuncts of a nobler and better civilization. Let the land system be so fixed that the actual settlers can take from the Government these lands as a homestead, by paying the expenses of the land office, or at the Government price as pre-emptors, and they are secured thereby in the means of making compact settlements, opening and constructing public roads, and building schoolhouses, and churches, and even railroads, and of supplying all the wants of a thriving people and growing civilization." [1]

Powell made a similar statement about the pasturage land. He said:

"That the inhabitants of these districts may have the benefits of the local social organizations of civilization — as schools, churches, etc., and the benefits of co-operation in the construction of roads, bridges, and other local improvements, it is essential that the residences should be grouped to the greatest possible extent . . . ." [2]

While Grow urged mainly the necessity of close settlement on the fertile plains of the Mississippi Valley, and Powell had grazing lands in view, the Reclamation Act tried to realize the advantage of compact settlement in the irrigated lands of the arid West by the reduction of farm size and the creation of community centers. This principle has well been embodied in the State colonies of California of which description will be made in another place.

Above are the main features of the Reclamation Act. Now we come to show, as a conclusion, the practice and results of the national irrigation work. The Government projects encountered numerous kinds of obstacles, which may be classified into two varieties — the one technical the other financial. Technical difficulties arose from the following facts: (1) Irrigation work on a large scale was a novel thing with no such standard plans to be relied upon as in the case of other engineering tasks. (2) The transportation of materials was often very hard, because of the remoteness of the working place from market. (3) Labor was scarce and sometimes it was necessary to introduce laborers from Chicago, Omaha, Kansas City, etc. Moreover the retension of these laborers was difficult because of the attraction of other works. (4) There happened instances of lack of water supply and frailty of earth work. (5) The Government sometimes was obliged suddenly to take up works abandoned by private contractors who failed to observe provisions of their contracts by reason of their low bids for the work. (6) Not a small proportion of the once reclaimed lands were destroyed and came to require extensive drainage after several years of water application.

1) Cong. Gl., 35 Cong., 2 Sess., p. 613.

2) J. W. Powell, Report on the Lands of the Arid Region of the United States, pp. 22, 23.

In spite of these difficulties the reclamation works have succeeded from the technical point of view, and some of them, indeed, might be classed with the marvelous engineering feats of the world. Regarded from the financial side, the history of the work was not so even as to be compared with that of the engineering side. In early days the hardships were almost confined to the engineering elements; however, the weakest point of the work shifted later to the financial side, in which the main difficulties may be enumerated as follows:

(1) High cost of labor.

This was the greatest factor of financial troubles of the work. The building of the new Pacific railroads contributed greatly to the want of labor; moreover the enactment of the eight-hour law decreased the effectiveness of labor with the consequent result of swelling expenses for labor. An official report commented on this matter as follows:

"It has not been found that the same amount of rock can be excavated, or earth can be moved, or concrete placed, in an eight-hour day as in one of nine or ten hours. But the laborer expects to earn as much in eight hours on Government work as he does in a longer day in a railroad camp, and he drifts away whenever there is material difference in the amount of the daily wage. It has not yet become evident that the enforced additional leisure is appreciated." [1]

(2) High cost of materials.

The construction of the transcontinental railways and the great fire of San Francisco raised the cost of materials in those days. The Government estimates, compiled upon the basis of the low standard of price which had prevailed for some years immediately before the passage of the Reclamation Act, were found to have become insufficient to meet the demands of the construction work.

(3) The large scale of the works which were permanent in character, contrasting with the private enterprises, coupled with the high cost of labor and equipments, much exhausted the reclamation fund which had been accumulated, and finally led to the enactment of the law of 1910 contemplating the advancement of twenty million dollars from the Treasury. Addition to the reclamation fund has come from two sources, besides the advances from the Treasury,— these being the proceeds of sales of arid public lands, and the sums resulting from the disposition of the reclaimed lands. As the receipts from the sales of raw lands gradually diminished, causing a parallel decrease in the total fund, there arose ques-

1) 5th An. Rep. of the Recl. Serv., (1906) p. 36.

tion as to the desirability of replenishing the fund by the method of charging some price, say $1.25 an acre, for all public lands to be disposed of under the homestead laws. Such an idea meant the revival of the cash sale system.

(4) Depreciation of the irrigation bonds.

This was the result of the unsuccessfulness of the Government works. In April, 1914, an Irrigation Conference was called at Denver, Colorado, by the Secretary of the Interior for the purpose of working out relief measures for the financial distress which affected the Government as well as settlers. There were present about 400 delegates from various classes, including ten governors, many Federal and State officers, and some private persons. The Reclamation Extension Act was passed in August of the same year.

So much for Government difficulties experienced as the irrigation scheme continued the march of its work. Now we may survey the result — that is, the social side of the work, which was, of course, the ultimate object of the reclamation law. Let us begin with those details in which the outcome fell short of expectations.

(1) Slowness of land entry.

This point must have betrayed the expectation of the law. The Eleventh Annual Report of the Reclamation Service (1911-1912) said:

"But perhaps most important of all, it was not anticipated how difficult it would be to secure the right kind of farmers to handle the reclaimed land, and utilize it to advantage. It was assumed that as soon as land was brought under irrigation there would be a rush of men who would immediately cultivate every acre and begin the production of large and valuable crops. On the contrary, experience has shown that this is perhaps the most difficult part of the problem — far more so than the building of great structures. Most of the large enterprises, whether built with public or private funds, have been in this respect a disappointment, because of the slowness with which the lands have actually been utilized."[1]

Not only the demand for the reclaimed lands was small, but also many of the first settlers who entered upon the tracts could not succeed in the farming business, by reason of the want of adequate means of rural credit, and of an efficient marketing organization, and by reason of their personal lack of agricultural knowledge. The fact that there was no way under the Reclamation Act to control the physical or financial qualification of the applicants for lands accounted for the attraction of many incompetent settlers.

1) 11th An. Rep. of the Recl. Serv., p. 3.

(2) Opportunity open to speculation in land.

Although the great aim of the law was the prevention of land speculation, Government effort in this line was not always recompensed.

The Report cited above contains the following description:

"Nearly every settler desires to obtain as much land as he can, because of the hope of obtaining the unearned increment in value of his land. As a consequence, nearly everyone attempts to hold at least 160 acres and to scatter his improvements over the entire area. He even tries to hold additional lands in the name of some near relative or friend .... In fact, if any errors have been made in the past, they have been more apt to be on the side of liberality in the size of the units. In few, if any, instances, have these proved to be too small, even when set at 20 or 10 acres .... One of the desirable safeguards is that of requiring at the outset an advance payment for the water right — say a tenth — sufficient to demonstrate the good faith of the applicant."[1]

The Reclamation Act induced the splitting of large holdings by allowing none of their owners the use of water for more than 160 acres. But this provision was criticized as a favor offered to the land speculators, on the ground that the latter endeavored to gain as large profit as possible from the process of the division of their holdings, to the detriment of actual settlers who would buy their lands.

(3) Increase in the price of irrigated land.

Although this often showed on one side, the hopeful prospect of the reclamation work, yet it was apt to move in the direction of fancy prices exceeding largely the real values. This phenomenon was a great handicap to the buyers of land at such inflated prices, and resulted in their bankruptcy.

Notwithstanding the existence of some undesirable effects, it cannot be denied that the reclamation work carried out a great thing in the development of the arid West.

The Reclamation Record of June, 1918, said:

"The summation of the activities of the Service (Reclamation Service) to date shows that work is under way on 30 projects in 15 States. These projects embrace approximately 3,112,000 acres, or 60,000 farms. Including the Indian projects, water is now available for 1,750,000 acres on 37,000 farms, and the construction of the necessary works to reclaim the balance is proceeding as rapidly as the limited funds will permit."

The same report of June, 1920 observed:

"A summation of the work of the Reclamation Service to December 31, 1919, shows that the projects now under way or completed embrace approximately 3,200,000 acres of irrigable land divided into about 67,500

1) 11th An. Rep. of the Recl. Serv., pp. 11, 16.

farms of from 10 to 160 acres each. During the year, water was available from Government ditches for 1,935,278 acres on 41,836 farms, and the Government was under contract to supply water to approximately 1,690,000 acres. The available reservoir capacity at this time was approximately 9,432,000 acre-feet." [1]

Up to 1919 about $120,000,000 had been expended for those above cited works of storage and distribution of water supply, and the value of crops raised on the projects for 1918 was about $80,000,000. The average size of the irrigated farm was below 50 acres in 1919. Such a small size farm indicates the practice of intensive cultivation on the reclamation projects.

One of the most important and beneficient features of the irrigation work is the fact that it has encouraged the co-operative system among the settlers, for instance, live-stock selling associations. This system of co-operation has greatly developed in the Durham colony of California. How Federal reclamation has remained as a living question before the nation will be seen from the platforms of the two great political parties at their national conventions in 1920.

Declaration of the Democratic party:

"By wise legislation and progressive administration we have transformed the Government reclamation projects, representing an investment of $100,000,000 from a condition of impending failure and loss of confidence in the ability of the Government to carry through such large enterprises, to a condition of demonstrated success, whereby formerly arid and wholly unproductive lands now sustain 40,000 prosperous families and have an annual crop production of over $70,000,000, not including the crops grown on a million acres outside the projects supplied with storage water from Government works.

We favor ample appropriations for the continuation and extension of this great work of home building and internal improvement along the same general lines, to the end that all practical projects shall be built, and waters now running to waste shall be made to provide homes and add to the food supply, power resources, and taxable property, with the Government ultimately reimbursed for the entire outlay."

Declaration of the Republican party:

"We favor a fixed and comprehensive policy of reclamation to increase national wealth and production.

We recognize in the development of reclamation through Federal action, with its increase of production and taxable wealth, a safeguard for the Nation.

We commend to Congress a policy to reclaim lands and the establishment of a fixed national policy of development of natural resources in relation to reclamation through the now designated Government agencies."

1) Reclamation Record, June, 1920, p. 271.

K. THE ORIGIN AND PROGRESS OF THE CONSERVATION MOVEMENT.

Even in the United States, which had once been considered as the rare country favored with inexhaustible natural wealth, as a result of the marvelous settlement of land and the accompanying misuse of natural resources, fear that the day would arrive when Nature's bounty in America might not be able to accommodate the whole mass of the inhabitants began to be felt among thoughtful people, especially the class of scholarly men. Charles R. Van Hise said in his book:

"The first decade of this twentieth century has been a time of unrest, such as has not been witnessed since the days of the Civil War. In legislation this unrest has expressed itself by a large number of remedial laws. The question naturally arises as to the underlying conditions which have led people to a deep feeling of dissatisfaction expressed by this outburst of remedial legislation. During the eighteenth and nineteenth centuries the continent was being conquered and occupied. The forest was an enemy. Our resources seemed illimitable. If a man failed at one place he moved to the West and began again. Opportunity was open to all. Under these circumstances it was natural that the resources of the nation should be given freely to any individual or corporation that would exloit them.... But at the beginning of this twentieth century we have for the first time taken stock of our resources and find that they are not inexhaustible. Not only are our resources limited, but they have mainly passed from the ownership of the government to individuals and corporations. No longer can a man have for the asking a forest or a mine.... The era of remedial legislation already mentioned is a direct growth of the limitation and the private possession of the natural resources of the country. The eighteenth and nineteenth centuries, during which the natural resources of the country were being taken possession of, were naturally times of intense individualism.... In short, the period in which individualism was patriotism in this country has passed by; and the time has come when individualism must become subordinate to responsibility to the many." [1]

The first thing which attracted the attention of American mindful of the conservation of natural resources was that their forests were undergoing reduction with great rapidity. The same author said again:

"The great question of conservation has been more forwarded by the rapid reduction of our forests than by any other cause. The forests are the one natural resource which has been so rapidly destroyed that in the early seventies it began to be appreciated that, if existing practice were continued, the end was not in the far distant future." [2]

On March 3, 1891, a law was passed providing for the establish-

1) C. R. Van Hise, The Conservation of Natural Resources in the United Satets, pp. 375-377.

2) Ibid. Topic "History of the Conservation Movement."

ment of the national forest reservation. This was the first step toward the conservation movement in the United States, although European countries such as Germany, France and Austria had followed a policy of this kind for some years. The initiation of this national reserve system in the United States is largely owing to the recommendation of the American Association for the Advancement of Science.

About ten years later there was opened a great new era of conservation with the installment of President Roosevelt. On October 22, 1903, he appointed the Public Lands Commission, whose reports offered many suggestions on the subject under consideration. In the same year the President delivered before the Society of American Foresters a remarkable speech on the topic of conservation, which served to enlighten the mind of the general public on the question. Then, in his speech before the National Editorial Association, made on June 10, 1907, the conservation problem was presented in more definite shape. He said:

"In utilizing and conserving the natural resources of the Nation, the one characteristic more essential than any other is foresight.... Yet hitherto as a Nation we have tended to live with an eye single to the present, and have permitted the reckless waste and destruction of much of our National wealth. The conservation of our natural resources and their proper use constitute the fundamental problem which underlies almost every other problem of our national life. Unless we maintain an adequate material basis for our civilization, we cannot maintain the institutions in which we take so great and just a pride; and to waste and destroy our natural resources means to undermine these material bases.... So much for what we are trying to do in utilizing our public lands for the public; in securing the use of the water, the forage, the coal, and the timber for the public." [1]

On March 14, 1907, President Roosevelt appointed the Inland Waterways Commission, consisting of a Representative and various experts of geology, engineering, forestry, irrigation and so forth. In accordance with the advice of this commission the President summoned the Conference of Governors on May 13–15, 1908. At this Conference there were present, besides the Governors of States, representatives of national organizations interested in the maintenance of natural resources, scientists in these matters, Senators and Representatives, members of the Cabinet and the Supreme Court and the Inland Waterways Commission.

The reason why the conference was planned on so large a scale, assembling all of the Governors for the first time in American history, was that the President considered it imperative for the success of the

1) Proceedings of a Conference of Governors, 1908, p. VI.

conservation movement to induce co-operative action by the several States.

As a consequence of this Conference the various States began to follow in regard to conservation the example of the Federal Government. On the 8th of June, within a month after the Conference, the President appointed the National Conservation Commission, consisting of Senators and Representatives, Government members, scientists and business men for the purpose of making inquiry into the situation of natural resources and taking united action with the State conservation commissions. This commission was divided into four sections, dealing respectively with minerals, waters, forests and lands.

The first Conference of Governors was soon followed by the second one, December 8–10 of the same year, for the purpose of receiving the report from the above commission; and this report, which contained much useful information relating to natural resources, was unanimously accepted by the Conference. The report is said to be the first inventory of natural wealth ever made in the United States. Until the opening of the second conference there were created 33 conservation commissions by States and Territories and the number increased to 36 by January, 1919; and besides these, the conservation committees appointed by the different national organizations reached 41 in number by the latter date, among others being special committees created respectively by the National Lumber Manufacturers' Association, the American Academy of Political and Social Science and the National Board of Trade. In his special message transmitting the Report of the National Conservation Commission, President Roosevelt made his attitude toward conservation clear in the following words:

"The policy of conservation is perhaps the most typical example of the general policies which this Government has made peculiarly its own during the opening years of the present century .... If we allow great industrial organizations to exercise unregulated control of the means of production and the necessaries of life, we deprive the Americans of to-day and of the future of industrial liberty, a right no less precious and vital than political freedom .... When necessary, the private right must yield, under due process of law and with proper compensation, to the welfare of the commonwealth .... The underlying principle of conservation has been described as the application of common sense to common problems for the common good .... In this stage of the world's history, to be fearless, to be just, and to be efficient are the three great requirements of national life .... This administration has achieved some things: it has sought, but has not been able, to achieve others; it has doubtless made mistakes; but all it has done or attempted has been in the single,

consistent effort to secure and enlarge the rights and opportunities of the men and women of the United States .... The unchecked existence of monopoly is incompatible with equality of opportunity. The reason for the exercise of government control over great monopolies is to equalize opportunity ...." [1]

On February 18, 1909, the North American Conservation Conference was called in Washington by President Roosevelt. Invitations were extended to Lord Grey and President Diaz and heartily accepted by them. Thus the Governors of Canada, Newfoundland and Mexico, and the representatives of the United States attended the Conference. In the declaration of principles adopted by the Conference, the latter dealt with the conservation problem from various sides, such as public health, forests, waters, lands, minerals, and the protection of game, and suggested much legislation to meet existing evils. Finally a recommendation was made, and accepted by President Roosevelt, to assemble a World Conservation Conference under the auspices of the President of the United States.

In spite of his eagerness for the framing and realization of the conservation policy, the President did not greatly succeed in securing support from Congress. That the advanced and somewhat radical policy of Roosevelt often encountered opposition from outside may be seen in his special message heretofore referred to. Max Farrand said: "Mr. Roosevelt accomplished much, but, especially with a reluctant and even hostile Congress, he could not accomplish everything." [2]

Such being the case, the continuation of the work of the National Conservation Commission was no longer financed by Congress. After that event the direction of the conservation movement was turned over to the unofficial body called the Joint Committee on Conservation, until the fall of 1909, when the National Conservation Association was formed. This association was active in the conservation propaganda, persuading the public to take action for the prevention of the monopoly of forests and water powers, and of the waste of natural wealth, and the restoration of soil fertility. Nevertheless it was a drawback to conservation work that the National Conservation Commission was not supported by Congress.

Roosevelt was a man of action. He had already begun the creation of the national forests before such conferences and organizations as mentioned above were initiated. But land speculators and lumber companies opposed the further reservation of forests, and their pressure finally resulted

1) Report of the National Conservation Commission, Feb., 1909, Vol. 1. pp. 3, 4.
2) Max Farrand, The Development of the United States, p. 314.

in the passage of a law, in 1907, prohibiting the formation of any forest reserve within the States of Oregon, Washington, Idaho, Montana, Colorado and Wyoming. California was added in 1912. The iron hand of the President will be seen in the fact that before he signed the bill of 1907 he had ordered forest reserves embracing many million acres, in those States designated in the law.

Besides, he directed his attention to the treatment of coal and mineral lands and open ranges. In his message of February 3, 1907, Roosevelt pointed out the waste of minerals and recommended a law aiming at the separation of title to the surface of land from that to the underground mineral contents. Such a measure was proposed in order to prevent the removal of a large quantity of minerals, which practice had been carried on under the disguise of agricultural use of the land. With the advent of the administration of President Taft the above recommendation was realized by the act of June 22, 1910, by which the tracts of land fitted to agriculture may be offered for entry whilst the mineral content must remain the property of the nation. Such treatment of mineral land has already been adopted by many European countries. In the face of some objections, Roosevelt carried on fearlessly his determined policy, and in 1909, the year of the end of his administration, the total area of the reserved national forests reached about 200,000,000 acres,[1] and besides these forest reserves, he withdrew from private entry a great many acres of coal, oil, and phosphate lands. He also inaugurated the Federal reclamation work, which may be regarded in one phase as a part of the conservation system. So much in review of the administration of President Roosevelt, in which the culmination of the conservation work was reached.

On March 1, 1911, the Appalachian Forest Reserve Law was passed providing for the purchase of a large area of land in that mountain range to protect the water sheds of navigable streams. This shows a deviation from the ordinary conservation policy, in that the new forest reserve was created outside of the public lands. In recent years a further step has been taken by the Government on the reserved lands. Potassium land became susceptible of lease by the act of October 2, 1917, and lands containing deposits of coal, phosphate, oil, oil shale, gas and sodium were also opened to lease by the act of February 25, 1920.

On June 30, 1918, the area of national forest lands showed

1) Cyclopedia of American Government, Vol. 1. p. 399.

155,927,568 acres,[1] including the White Mountain and Appalachian area (552,966) and Alaska (20,868,259); each of the Western States of California, Idaho, Montana, Colorado, Oregon, and Arizona contained forest reservation of over ten million acres within its boundaries.

Federal conservation of natural resources has been criticized upon the following grounds:

(1) Invasion of State rights.

Perpetual retension of the jurisdiction of the Central Government upon lands within the State was held by some to be an infringement of State rights.

(2) Burden on the States.

It often occurred that the States must open roads through the forest reserves. This was an undue burden borne by the States or counties where the reserves lay. The small amount of remuneration made by the Government was far from being satisfactory.

(3) Impediment to the development of land.

When the public lands were locked up for a long time there would be no opportunity of developing the country by settlers. Even when the lands were disposed of by the leasing method the result was not comparable with the case of ownership. At the Seventh Conference of Governors, held at Madison, in November, 1914, Governor W. Spry of Utah remarked:

"The West protests against a most hurtful policy with respect to its public lands and appeals to the fair-minded in the older states to afford relief from the operation of a policy that is causing retardation in development, and which is being foisted upon it in the name of conservation.... The Presidents, on ill-advised recommendations, based on hasty field examinations have exercised their authority in extensive withdrawals that are most seriously retarding development in the very sections of the country that stand most in need of the vestment of the public domain in the hands of the home-builder and those who are willing to develop it on the most liberal terms."[2]

At the Eighth Conference, held at Boston, in August, 1915, ex-Governor Ellias M. Ammons of Colorado spoke:

"Yet they have established these forest reserves over practically our entire metalliferous area, and are laying down all sorts of restrictions for the mineralized territory of that state — such restrictive regulations that they have driven practically every prospector out of the country. Not a single important discovery has been made in that territory since the reservations were thrown down like a wet blanket on our mining

1) Yearbook of the Department of Agriculture, 1918, p. 718.

2) Proceedings of the Seventh Meeting of the Governors of the States of the Union, pp. 72, 79.

industry. Not a single one of those restrictive rules would have a particle of value to the administration of the forest reserve. We have had some of those restrictions removed, or had them softened, but they have not gone far enough yet." [1]

On the same occasion Governor Earnest Lister of Washington said:

"I do not desire to be understood as advocating the immediate disposal of all the lands now under federal control. But I do feel that the time has come when the federal government should accept and be governed by the correct definition of the term conservation. Conservation means 'preservation from loss, decay, injury'. It does not, however, as applied to natural resources properly mean withdrawal from use; it is simply a wise use with the avoidance of waste, and also the avoidance of ownership monopoly. I feel that such lands as are suitable for agricultural purposes, ought to be placed in the hands of the actual settlers, so that the State will be assisted in its development instead of being held back as is the case of the present time in many parts of the State of Washington, under the federal policy." [2]

(4) Abuse of forest lieu selections.

There appeared earnest efforts on the part of landowners to abuse the provision for forest lieu selections by praying to include their inferior lands within the forest reserves. The General Land Commissioner said in 1901:

"The extent of future lieu-land transactions may be realized when it is known that there are now on file in this office petitions and recommendations from various sources seeking the creation of numerous reserves and aggregating 54,000,000 acres." [3]

Such being the case, the General Land Commissioner recommended in 1905 the repeal of the measure pertaining to lieu-land selections.

(5) Introduction of leasing system which is incompatible with the American spirit.

At the Second Conference of Western Governors, held at Denver, in April, 1914, Governor Oddie of Nevada said:

"I am opposed to leasing that land; I should very much prefer seeing some system adopted which would enable settlers to buy that land outright. I am opposed to the leasing of land, because it is too much like the old serfdom system that existed so many years in Europe." [4]

Thus the objections to the national conservation policy from the West seemed to be pretty strong. It may also be conceived that Roosevelt, who stood upon the principle of new nationalism and the destruction of every kind of monopoly, stepped out too far in the prosecution of his conservation policy. But it must be recognized that his daring

1) Proceedings of the Eighth Meeting of the Governors of the States of the Union, p. 29.
2) Ibid., p. 209.
3) An. Rep. of the Gen. L. Of., 1901, p. 114.
4) Proceedings of the Conference of Western Governors (2nd Conference), p. 67.

and far-seeing policy contributed to the morality of the nation and the restoration of the material wealth of this country. Public sentiment toward the conservation problem may be judged from the principle of political parties. The Republicans declared about this matter in their National Convention of 1920, held in Chicago, as follows:

"Conservation is a Republican policy. It began with the passage of the reclamation act signed by President Roosevelt. The recent passage of the coal, oil and phosphate leasing bill by a Republican Congress and the enactment of the water power bill fashioned in accordance with the same principle, are consistent landmarks in the development of the conservation of our national resources .... The Republican party has taken an especially honorable part in saving our national forests and in the effort to establish a national forest policy.

"Our most pressing conservation question relates to our forests. We are using our forest resources faster than they are being renewed. The result is to raise unduly the cost of forest products to consumers, and especially farmers, who use more than half the lumber produced in America, and in the end to create a timber famine. The Federal Government, the states and private interests must unite in devising means to meet the menace."

3. Conclusion.

We have traced the various methods of disposing of the public lands from the foundation of the United States to the present time. Public lands have formed the greatest national assets, and the question of their disposition covered the most part of the land problems of the United States. Since the Federal policy concerning these questions made its appearance through the channel of Congress, I have devoted much of my time to the study of congressional proceedings relating to land laws.

In the course of a century and a half there happened some changes in the Government policy toward the disposition of public lands, of which history various classifications were proposed. Some one divides it into three periods, namely: 1st period, when large tracts of lands were disposed of for the purpose of obtaining the largest possible revenue from them; 2nd period, when the consideration of the settlement of land had more weight than returns; 3rd period, when the idea of encouraging settlement of the country by actual farmers became quite predominant. Another proposed division recognizes five periods — (1) the period of large sales (1783–1800), (2) the credit period (1801–1820), (3) the period of cash sales (1821–1840), (4) the pre-emption period (1840–1862), (5) the homestead period (1862 —).

Professor Treat described the public land policy in the following order: (1) Origin of the national land system (1785–1800), (2) credit sale period (1800–1820), (3) cash sale period (1820–1841), (4) land grant period (1841–1862), (5) period of rapid disposal (1862–1880), (6) proposed reforms (1880–1909), (7) conservation of land (1901–1910).[1] One of the briefest classifications ever proposed is the division into two periods, the fiscal period (1783–1840) and the social period (1840 —).

I have followed none of these classifications, and without giving any designation to the periods I have tried to treat the question under the two stages divided by the passage of the Homestead Law, finding this to be a very convenient method. Although there are many marks by which the history of the disposition of public lands may be divided, some of the most characteristic inclinations relating to this feature through the whole period are: (1) Gradual shifting from a liberal and indifferent land system to a restrictive and paternalistic one in accordance with the diminution of public lands, (2) successive decrease in the size of entry allowed by the land laws, viz. the minimum area reduced in a regular manner as follows:

Prior to 1800	it was	640	acres
In 1800	it reduced to	320	,,
In 1804	it reduced to	160	,,
In 1820	it reduced to	80	,,
In 1832	it reduced to	40	,,

(3) Recent tendency toward complication of the land system as seen in the passage of numerous legislative enactments. This was for the purpose of meeting the varied conditions of land in the West. It must be remembered that the disposition of public lands accompanied sectional struggles, especially envy of the West shown by the East from the first Congress to the present time. We have fully perceived these sectional struggles in the debates of Congress.

The following table will tell in what ways the once public lands were disposed of.

Disposition of the public domain (June 30, 1918)[2]

	Million Acres	%
A. Total area of the United States	1,903.3	100.0
B. Territory at no time part of the public domain	461.1	24.2
C. Territory at some time part of the public domain	1,442.2	75.8
D. Area disposed of	1,015.0	53.3
1. State grants	177.1	9.3
For common schools	77.5	4.1
Swamp lands	65.0	3.4

1) Cyclopedia of American Government, Vol. III. p. 93.
2) B. MacKaye, Employment and Natural Resources, p. 43.

	For all other purposes	34.6	1.8
2.	Land patented under railroad and wagon road grants	126.9	6.7
	State grants for benefit of railroad corporations	37.8	2.0
	Corporation grants (direct)	85.9	4.5
	Wagon roads	3.2	0.2
3.	Disposed of in designated ways	292.4	15.3
	Early private sales	45.4	2.4
	Homestead entries since passage of law in 1862	178.3	9.3
	Desert-land entries „ „ „ „ 1877	7.9	0.4
	Timber-culture entries „ „ „ „ 1873	9.9	0.5
	Timber and stone entries „ „ „ „ 1878	13.4	0.7
	Coal-land entries „ „ „ „ 1873	0.6	0.0
	Indian land allotments	36.9	2.0
4.	Otherwise disposed of	418.6	22.0
E.	Area remaining in the United States ownership	427.2	22.5
1.	National forests	134.5	7.1
2.	National parks and monuments	6.1	0.3
3.	Indian lands (unallotted)	34.2	1.8
4.	Withdrawals and reservations (estimated)	30.0	1.6
5.	Unreserved and unappropriated	222.4	11.7

From the above table we may deduce the fact that about 70% of the total area of once public lands — that is, about one billion acres — has been disposed of. The acreage entered under the homestead laws shows the highest figure, closely followed by the State grants and then by the railroad grants. Of the rest of once public domain, the area reserved as national forests leads others, while unallotted Indian land shows a considerable amount. Thus the public land now open to entry comprises about two hundred million acres, which consist mainly of the land of unfavorable conditions.

There is no doubt that the present material progress of the United States is greatly owing to the appropriate disposition and settlement of the public domain in the past.

Chapter II. Land Settlement Problem.

A. Public Land Settlement.

Equitable enjoyment of economic benefits by all the members of society is a most desirable thing for social harmony. But the marvelous increase in production nowadays has caused accumulation of wealth in the hands of capitalists and there exists unequal distribution of goods among the social classes, forming an ever widening gap especially between the employers and employees, with the result of the fierce class-struggle now prevailing in every advanced nation.

In early times people thought mainly of how to increase the total sum of products, yet now we must pay much more attention to the problem of how to bring about the fair distribution of material gains between the members of society, particularly between the two prominent clasess of

capitalists and wage earners. However, uneven division of wealth is not confined to the manufacturing society. The non-resident landlords, possessing thousands of acres of land, are facing the small farmers who are gaining but a poor livelihood by the cultivation of restricted patches. While there lies a vast area of idle land yielding no production, we have on the other hand some localities too much crowded by farmers. Further, we can easily perceive the fact that the balance between the agricultural and urban population is breaking year by year. The congestion of cities and towns at the expense of the open country is a world-wide tendency and is viewed with alarm by all economic students and thoughtful persons.

The public land settlement movement was born out of hostility to the social and economic evils arising from excessive disproportion in the distribution of land and from too much growth of city population. By land settlement we mean the work of placing agricultural population upon the land under certain systematic plans. The land to be selected for this purpose is usually private property and must be bought before the beginning of the work by the public authorities or private concerns. The former case belongs to the public land settlement or colonization and the latter to private land settlement or colonization. Now, let us begin with the public colonization.

The sort of land policy had long been practised by many other countries, such as Germany, the United Kingdom, Denmark, Australia, and New Zealand, yet it was adopted in the United States neither by the Federal Government nor by the States until a few years ago. That Americans had ample public land is the strong reason why they did not feel the necessity of hastening the adoption of such an intensive system. But with the rapid settlement of the West the acquisition of free good land became more and more difficult, and a number of American farmers began to be attracted to Canada and Australia; so the farseeing people opened their eyes to find out a new way of affording opportunity for land seekers. In the United States, California has the honor of being the pioneer State in the public land settlement movement.

REASON WHY THE PUBLIC COLONIES HAVE BEEN LOCATED IN CALIFORNIA.

California found the best means of inducing the emigration of American farmers from the eastern and middle portions of the United States. Public and private organizations in that State united in their efforts to

attain this end, using all possible methods, such as advertising the richness of her natural resources, and the reduction of fares by railroad companies. Then many farmers hastened to the State, but most of them met with failure and moved into cities or towns. These failures may be attributed to several causes, especially to (1) the high prices of land as a result of speculation; (2) the high rate of interest; (3) shortness of the repayment period of loans; (4) settlers' lack of the necessary knowledge relating to the peculiar natural features of California, and (5) want of proper public aid and direction.

Outside of such distress there remained the land monopoly as before. Prof. Elwood Mead said: "The greatest menace to economic democracy in California is the great landed properties carved out of these Spanish and railway grants. In this State, one railroad owns 5,000,000 acres, and 310 men own 4,000,000 acres of fertile farming land. In Kern County, four syndicates own over one million acres, which is more than half the farming land held in private ownership." [1]

How the harm of land monopoly alarmed Californians may be seen from the insertion of the following clause in chapter seventeen of the State Constitution:

"The holding of large tracts of land, uncultivated and unimproved, by individuals or corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property."

California was at last awakened to take measures against such grievous phenomena as mentioned above, and appointed a commission pursuant to the act of May 17, 1915, to investigate and report to the forty-second session of the legislature on the desirability of adopting a system of land colonization and rural credits.

As a result of the report a statute was enacted on June 1, 1917, "creating a state land settlement board and defining its powers and duties and making an appropriation in aid of its operations" and commonly known as the "land settlement act" or the "Breed Bill," after the name of the Senator by whom it was introduced.

Although some opposition to this bill came from private colonizers, the public opinion was so favorable that it was passed.

It will be interesting to note that the adoption of this new policy of land settlement in California was hastened by the success of the similar system in the Australian States and New Zealand. Under the land

1) Elwood Mead, Rural Institutions, p. 15.

settlement act there arose two state colonies, as will be traced hereafter.

DURHAM STATE LAND SETTLEMENT.

As the first experiment in public land settlement work in the United States, Durham, in the Sacramento Valley of California, was selected by the State Land Settlement Board. There the Board began its work in the spring of 1918, with an appropriation from the State of $260,000. The Board bought 6219 acres of land in two tracts, one belonging to Stanford University and the other to a private individual. Both tracts had been farmed for the preceding twenty years by tenants and laborers under non-resident owners. The highest payment for the purchased tracts was $100, and the lowest $10 per acre. The purchase of these tracts was made by a selection among forty offers.

After such preliminary works as soil and contour surveys, subdivision and valuation of the land were carefully carried on, the tracts were thrown open to the public. Upon some of the tracts offered there were already growing crops planted by the Board.

The demand for the offered land was great, and about 5,000 acres were soon settled by the farmers and farm laborers. Another 360 acres have been leased for three year periods and about 700 acres have remained unsold, for the reason that the latter are situated too high to be irrigated. The selling price of unimproved farm allotments was generally from $7,000 to $11,000, while some were contracted for at sums of from under $5,000 to over $14,000. Farm laborer's allotments were averaged at about $400.

Now, 91 farms and 26 farm laborers' allotments have been taken up by the settlers. More than half of all the farms have been committed to the management of men who were farmers before coming there, and the remainder of the farms have been entered by men of various former occupations, for instance, engineers, auditors, bank clerks, agricultural instructors, machinists, college professors, moving-picture operators, street-car conductors, and so on. Farm laborer's allotments have been held by men who formerly were common laborers, carpenters, miners, farmers, or who followed occupations other than that of farming.

ESSENTIAL FEATURES OF THE DURHAM STATE LAND SETTLEMENT.

1. When the act was passed on June 1, 1917, it aimed simply to

promote closer agricultural settlement, having no relationship to war measures; but the act was amended in 1919 to the effect that its object was the creation of homes for ex-service men. This was the result of the entrance of the United States in the World War. By the provisions of this act as it was amended, preference over civilian applicants is to be given to returned fighting men, especially to California soldiers and sailors.

No matter whether the land settlement will be used by the ex-soldiers or civilians, the real object of this scheme is to afford an opportunity to qualified poor persons of acquiring allotments of land from which they may gain a livelihood, wholly or partially as the case may be.

2. The land settlement work contemplates the creation of community life by the establishment of town sites, roads, schools, churches, a civic center, and other public institutions, and by the co-operative system of buying and selling. Such a system of rural social development has been planned in the Federal reclamation work, as we stated before.

Settlers in the Durham colony who intended to breed livestock were required by the Board to form a co-operative stock breeders' association. In this manner the Board endeavored to introduce into isolated villages some organized and well planned system and to make country life more cheerful as well as economical. Great stress has been laid upon the development of the rural community, and for this purpose accommodation for one hundred families was held as the minimum size of a settlement.

Dr. Mead said: "The experience of other countries has been that attempts to finance individual settlers on farms scattered throughout rural communities have been failures. The overhead expenses of management after settlement are too great. Economy and efficiency require that there be at least one hundred farms in each community. It needs that many to create a real community spirit, to provide for co-operative buying and selling organizations, to establish any definite kind of agriculture, and to create a morale needed to bring the undertaking to a successful end." [1]

3. Public aid to the work.

a. Material assistance.

The State of California at first appropriated to the Board 260,000 dollars, of which 250,000 dollars was to form the "land settlement fund," and to be repaid within fifty years. In 1919, on the recommen-

1) Elwood Mead, Placing Soldiers on Farm Colonies, pp. 7, 8.

dations of a committee of the State Legislature, the State made an appropriation of $1,000,000 to the Board. Since the land settlement work stands upon a self-supporting business-like principle, like the national reclamation work, the Board requires every settler in the colony to pay as the price of the tract, an amount of money sufficient to cover the outlay made by the Board.

The Board receives from the State an appropriation to be returned with 4% interest; this the Board advances to the settlers, charging 5% interest, the balance of 1% thus helping the settlement work. Besides, ten thousand dollars from the State treasury was granted to the Board for use in preliminary expenditures which sum needs no reimbursement.

b. Relation of this work to the various public institutions.

Dr. Elwood Mead, present chairman of the Board, is a Professor of the University of California. Besides him there are several members of the faculty of that University who are assisting the work. As to the preparation of soil maps, methods of crop production, animal husbandry, etc., many valuable contributions have been made by these professors. Moreover, the planning of the drainage, irrigation, farm houses and methods of administering the work were helped by the Federal or State agencies.

4. When it was deemed necessary to do so by the Board, the latter was to make the allotments ready for immediate production by the construction of roads, buildings, drains, irrigation systems and even by planting certain crops on the tracts before their offering. But on the other hand, the maximum amount to be expended by the Board on such improvements was fixed by the act both for any one farm and for each farm laborer's allotment, lest the settlers be too much burdened later, in paying the price of land as a result of lavish expenditure by the State.

5. Appraisal of the tracts of land to be offered for entry was carried out with great care, warned by the failure of the Victoria settlement on this point.

6. Maximum entry allowed for each kind of allotment was fixed by the value of the land and not by its acreage. This is a peculiar feature of the act in contrast to the United States public-land laws, and closely resembles the method of the land settlement of Victoria.[1]

This provision aimed to render the area changeable according to

1) Elwood Mead, Helping Men Own Farms, p. 68.

the quality of the specified tract to be disposed of. It must be mentioned here that the Reclamation Act which gave a wide range between the maximum and minimum area of entry had the same intention as this, although different in the form of standard. The area of the allotment suitable for intensive agriculture like raising fruits and vegetables should naturally be smaller than that for extensive farming like the cultivation of grains. In practice, usually 40 acres or so have been allotted for a farmer and two acres for a farm laborer in the Durham settlement.

7. The least amount of capital which any applicant farmer should have at the time of his application was fixed at $1,500 or its equivalent, a policy similar to that followed in the State settlement of Victoria.[1] No agricultural laborers were required to have any capital. At first this provision was attacked as a too severe condition, but other countries which are trying the same work have adopted such a measure in order to secure the settler from financial failure. A similar requirement was urged for the Reclamation Act after its passage. Besides, great care was taken by the Board in scrutinizing the personal fitness of the applicant to the farming business, after the manner in vogue in Denmark and Australia.[2]

8. Strict regulations were made pertaining to the time of commencement and duration of actual residence for the approved purchaser, as in the case of the Homestead Law.

9. Every approved purchaser of an allotment must observe the rules laid down by the Board concerning the manner of cultivation of the land and maintenance of the various buildings and permanent improvements.

10. As to the repayment of loans, the settler must pay to the Board in cash 5% of the purchase price of the land and 40% of the cost of the improvements. The balance must be repaid in semi-annual payments within 40 years in the case of land, within 20 years in the case of improvements, together with interest at the rate of 5% per annum. Loans made on live stock or implements must be paid within 5 years.

The period of reimbursement of loans on the land was twice as long as that in the Reclamation Extension Act and Farm Loan Act. This long period of repayment must be very convenient to the settlers. The usual term in California was only about five years. Land settlement works in

1) Elwood Mead, Helping Men Own Farms, p. 71.
2) Ibid., p. 184.

various other countries fixed the repayment period at over thirty years; in some it extends to fifty, sixty or even more than seventy years. In this point the land settlement of New Zealand and the Australian States draws more closely to that of the California State Colony. Prof. Mead claimed [1] that the payment period should not be shorter than twenty years, and thirty-six years would be better in some cases.

One of the most important factors in the success of agricultural colonization is believed to be the giving of careful consideration to the credit requirements of the settlers.

From the descriptions here furnished we find peculiar analogy between Durham State settlement and the agricultural colonies of some European countries as well as of Australia and New Zealand, especially those of Victoria. Prof. Mead, founder and present chairman of the California Land Settlement Board went to Australia some years ago in the capacity of chairman of the State Rivers and Water Supply Commission of Victoria and stayed there several years. During that time he obtained useful knowledge regarding the problem of colonization, especially in the irrigated districts. He also visited European countries. On the other hand, California and Victoria have had common features in the agricultural conditions and the character of the inhabitants. If we now recollect these two facts, that is, the career of the father of the State colonies of California and the existing similarity of these two States, the reason for the resemblance of their respective settlement systems will be understood.

DELHI STATE LAND SETTLEMENT.

In 1919 the State legislature of California granted $1,000,000 to the Board for the creation of another colony of a similar nature, and a bond issue of $10,000,000 was authorized for soldier settlements.

For the establishment of the second State colony and the first soldier settlement in the United States, the Board selected land at Delhi, Merced County, in the San Joaquin Valley. The settlement contains about 9,000 acres, and was bought by the Board from a large land owner. Unit No. 1. (1,191 acres) was opened in May, 1920, Unit No. 2. (2,832 acres) and Unit No. 3. (1,540 acres) were to be opened in September, 1920 and January, 1921 respectively. This colony was planned to form within it an agricultural town, and other features of the colony

1) Elwood Mead, Placing Soldiers on Farm Colonies, p. 10.

are to be analogous to the Durham settlement, excepting grant of preference to the ex-soldiers. That both of the public colonies are situated in such localities as the Sacramento and San Joaquin Valleys, where the Oriental farmers are numerous and prosperous, might be assumed to have some meaning. Prof. Mead said, "More effective laws are needed to protect rural civilization from the impending menace of alien ownership." [1]

He further said:

"Americans will do any kind of farm or garden work if there is back of it sufficient stimulus to their pride, interest and ambition. The State Land Settlement Act, if sufficiently extended, will settle the problem of intelligent, dependable, American labor on the farm. It is the most direct and effective way of mitigating if not ending the menace of alien land ownership and of creating communities that do not amalgamate, and of subjecting this state to the menace of racial antagonisms." [2]

The late H. E. Easton, Honorary Secretary of the British Immigration and Land Settlement League, said:

"It (the Land Settlement Act) was passed because the rapid growth of alien tenantry was causing political and social unrest." [3]

South Dakota passed an act providing for the California system of land settlement, and Kansas, Georgia, Washington, and other States, are preparing to follow her example along this line. Such is a brief statement of the public land settlement work in California. It would be premature to try to judge results from an experience of only a few years. However, when we see the fact that the applicants in the Durham colony covered almost every class of people and many of the settlers were persons whose former employment was quite different from agriculture, for example engineers, bank clerks, moving-picture operators, we cannot help conceiving some fear that there may be hindrance to the success of the work. Further, in order to wield a powerful influence as a land policy, its scale should be extended more and more. Finally it must be conceded that, by the adoption of this land measure, the United States has proved herself old enough and wise enough to follow the narrow and safe path of European countries.

B. Private Land Settlement.

By private land settlement, or private colonization, we mean the

1) Elwood Mead, Helping Men Own Farms, p. 213.

2) State Board of Control of California, California and the Oriental, p. 123.

3) H. E. Easton, The Durham Settlement. Journal of Agriculture, University of California, Jan. 1920, p. 11.

somewhat systematic settlement of land conducted by private individuals or by corporations. This is usually a commercial undertaking, and its most important exemplification is furnished by the class of corporations known as land companies. There are two descriptions of land on which private colonization may be planned — one is land bought from or granted by the government; the other is land which is originally private. The older type of private colonization, such as was illustrated in the case of the Ohio Company, belongs to the former; the modern type belongs to the latter with the single exception of the settlement of railroad grant lands which has continued up to the present time. The Catholic Colonization Society of the United States, which aims to give prospective settlers useful information and assistance, but neither owns, buys nor sells any land itself, cannot properly be called a colonizer, but is a powerful promoter of the private colonization movement.

In spite of its many defects and failures, it cannot be denied that private colonization has played a very important rôle in the settlement of land in the United States. Land speculation promoted by private colonizers attracted many immigrants from every corner of that country and foreign countries, with a pretty good result. Some advantages of private initiative may be perceived here in connection with land settlement, as in the case of other economic activities. When in California the first public land settlement bill in the United States appeared, in 1917, the measure met with strong objections from some quarters.

Charles H. Kendrick opposed the bill as follows:

"In discussing the Land Settlement Bill, which seems to be a piece of extraordinary and expensive legislation, and which at best is only an experiment, I am not going to argue against the bill as presented, nor against the benefit which may accrue to a few selected land buyers through its operation, but rather I will attempt to prove that the bill fills no real need in this State, is not for the general welfare of all the people, and that it is founded on certain features of the land settlement report made to the Governor which I believe to be incorrect....

First let me state that it is very difficult, indeed, for one — even a land operator like myself — to be long in contact with agricultural development without having a great desire to see agriculture fostered and expanded, aside from any personal gain to oneself, and I am positive that practically all men engaged in the land business come under the influence of these sentiments. It seems, therefore, most unfortunate that the recent land settlement investigation has, judging by its newspaper propaganda, had in view, as a definite purpose, the discrediting of land agents and destruction of the land business of California, both of which have done much in the past for the state's development. Broadcast

statements have been made of demoralized agricultural conditions and sensational articles have been printed of great loss and suffering on the part of farm buyers and almost complete failure of practically all California colonists. A wild statement has been published throughout the country that 90% of the farmers in California have failed, and that colonization has come to a standstill because of the practices of land speculators and land agents, and because of the consequent unprecedented high prices of California farm land. All this has been highly unnecessary and most harmful, and has done serious injury to the state. It has been a far more important factor in limiting immigration than have all the objectionable acts of land operators for many years past. That land conditions in California are far from being perfect, and that some sort of state supervision should be had over the land business, is without question. Land men were conscious of this necessity long before the present campaign was inaugurated, and have for several years attempted to get before the legislature a bill licensing land salesmen, in an endeavor to prune out from this class of business men who are unworthy and undesirable .... It is my opinion that any forced land settlement operation, which would be in advance of the normal growth of the entire state, would be disastrous, as most farm products raised in this state must depend on home consumption .... Another feature of the report and of the various newspaper articles which accompanied it, was the indication that the present inactivity in colonization is a condition which exists in California only, and no reference has been made to the well-known fact that this same static condition exists in almost every state in the Union and in Canada as well. The real facts are that in 1913-14 general business depression and poor crops caused all rural enterprises to suffer heavily, and finally the complete stoppage of immigration at the opening of the war in 1914 practically paralyzed colonization work throughout America. The great outstanding feature of the land settlement report, however, is the statement that land prices in California are higher than elsewhere in the world .... The report fails to advise that in all land projects examined, the buyers almost invariably carefully selected the choicest pieces, and these pieces were naturally the most expensive .... I think I have shown that so far as the actual facts are concerned there is no apparent reason why this bill should be put into operation .... I would like to add further that colonization in California under private enterprise is far from being as hopeless as the settlement report might lead one to believe." [1]

Norman Lombard attacked the bill with these words:

"The bill is fundamentally unsound from a governmental and sociological point of view, because first, it puts the government into business in competition with the citizen and at the citizen's expense, and a second, it interferes with the economic balance which automatically determines by demand and supply just what proportion of the population shall be farmers." [2]

1) The Land Settlement Bill 1917, p. 6.

2) Ibid., p. 24.

We have enumerated in the above only two of the opinions against the California Land Settlement Bill. They all united at the same time on the point of supporting private colonization within the State. A considerable part of these remarks, I think, may be applicable to the whole of America. Land speculation has been supposed very often to be one of the most serious evils of the private land settlement system, but in not a few cases it has rendered a great service in opening the agricultural resources of the United States.

W. A. Beard, in a public speech, observed:

"Land speculation may or may not be of itself a desirable thing. There is a strong prejudice against it. I am here, however, to deal in facts, and the fact is that land speculation as an institution or practice, so far from being a detriment to land settlement, has been one of the main factors in promoting land settlement, not only in this state (referring to California), but throughout the United States, from the time civilization began to cross the Alleghany Mountains. Kentucky was a speculation." [1]

Concerning Canada, Thomas Adams wrote in his book as follows:

"In a new country a certain amount of speculation is inevitable, and is not an unmixed evil. It draws out and stimulates energy and enterprise that might otherwise lie dormant; it accompanies a spirit of optimism that is needed to blaze trails into new regions and overcome the obstacles that confront pioneers. Canada has been largely developed by speculators of the right type." [2]

Although private colonization has produced remarkable results in the settlement of land, as shown above, it has not been free from defects. We shall now trace some of these shortcomings.

(1) Private colonizers are apt to induce settlers to purchase their land by means of exaggerated advertisement. Railroad or land companies have been accused in this respect. Any extravagant statement concerning land is dangerous to the colonists and hinders the sound development of colonies in the future. Hector MacPherson[3] insisted upon the formation of some central authority with the object of preventing incorrect information about land in the market. Land business has been considered to be a profession somewhat low in the ethical scale. Such being the situation, the adoption of the license system for real estate men, higher education in their business, and the advancement of their moral conceptions, have become very important topics in these days. Some states have passed a license law and others are

1) The Land Settlement Bill of 1917, p. 40.

2) Thomas Adams, Rural Planning and Development, Chapter V.

3) Marketing and Farm Credits, 1916. Topic "Distribution of Accurate Information."

now preparing for such legislation. With regard to the land companies it would be necessary that investigation by public authority of the plan of their enterprise and the condition of their finances be required. Because of the difficulty of judging the quality of soil in the raw land, it has been recommended that settlers be given upon request a soil certificate issued by public authority.[1]

(2) Private colonizers often do not care much for the future of the settlements, hoping to gain their profit in the first payment made by the colonists. In fact, however, it is a key to the success of private colonization to give appropriate assistance to start the settlers. By providing for ready-made farms or furnishing the necessary equipment to the settlers colonization work can be greatly promoted. Some of the land companies have practised such a policy. Almost always, credit is given to the settlers for the purchase price of land under the method of payment by installments. The period of credit must accord with the need of the settlers. The existing land companies of the United States usually demand cash payment of one fourth to one tenth of the purchase price, and allow a credit period of five to ten or fifteen years for the balance, a ten year period being most common. There are even some companies demanding no cash payment whatever, for instance the Wisconsin Land Holding Company. Some concerns grant a certain period of credit to the settlers during which the payment of capital or both capital and interest is exempted. The prevailing rate of interest is 6 % per annum. From the above description we see that the period of loan in the private land settlement is very short compared with that of the California State Colonies. While Professor Richard T. Ely wrote, "Earnings are higher in the United States, and thirty-five years is a sufficiently long term in northern Wisconsin, perhaps too long if present prices continue,"[2] it will be noticed that the longest period of credit in the private land settlement hardly reaches half of the period cited above. The present rate of interest in the private colonization schemes is 1 % higher than that of the public colonization.

The fact that even in the early days some land holders paid much attention to the preparation of land and the credit requirement of settlers may be seen from Professor B. H. Hibbard's statement:

"The only possible means by which a speculator could dispose of any quantity of his land until about 1850, when desirable government

1) *Marketing and Farm Credits*, 1916. Topic "*Make Geological Surveys available to Settlers.*"
2) Richard T. Ely, Private Colonization of Land, p. 14.

land began to be scarce, was to offer some inducement to the purchaser better than a cash sale at a dollar and a quarter, and this was attempted in many ways other than actually cutting the price. The most usual inducement was an offer to sell on time, which to the numberless home seekers without means was a strong point, but not a conclusive one while the opportunity to "squat" on vacant land remained. Another expedient of the poor speculator was to make some sort of improvement to tempt the prospective purchaser; a house of some sort was put up, or a few acres of breaking was done. The latter improvement was of particular consequence to those arriving in the spring with barely time for planting corn and potatoes, or sowing a little buckwheat."[1]

(3) The difficulty of community development must be one of the weakest points of the private land settlement. This is due to the small size and dispersion of lands belonging to the various colonizers. Therefore, only by the formation of larger land companies may the realisation of community development be expected. The advancement of the community principle should always be the motto in private as well as in public land settlement. Professor Ely recommended 50,000 acres as the best extent of a colony in northern Wisconsin, while he thought a colony of less than 20,000 acres too small for its purpose. To create large private colonies like that it is necessary to consolidate the properties of several land holders. Some of the land companies have demonstration farms in order to aid the community development. This may be said to be one of the prominent features of private colonization in modern times. Almost all of the above are responsibilities which must be borne by the colonizers. But it is imperative for the success of private colonization work that the interest of both the seller and buyer of the land shall be in a state of perfect harmony. To find settlers having both ability for farming and capital enough to ensure their success, and to make them enter the land as soon as possible, are the most important factors of the prosperity of the land sellers. If there should be introduced improvements in the present system of private land settlement outlined above, the public would be benefited.

The Redlands Realty Company in Colorado is modeled after the California State colonies to minute points, for instance: (1) Creation of both farms and farm laborer's tracts, (2) supply of ready-made farms, (3) advising the formation of a co-operative buying and selling association among the settlers, (4) granting of land to the settlers upon a small cash payment and payment of the balance in semiannual

1) Benjamin H. Hibbard, The History of Agriculture in Dane County, Wisconsin, 1904.

installments during thirty-five years with the annual rate of interest of 5%, (5) assistance and supervision of the company as to the improvements on the land, (6) scrutinizing the qualification of the intending settlers. Thus we perceive wonderful similarity between the colonization system of this company and that of the public settlements in California.

Recently the attention of many students of land policies in this country has been directed to public colonization. Yet private colonization in the improved form is likely to be the controlling factor in land settlement for a considerable time in the future.

Professor E. Dana Durand wrote:

"Without any radical interference with what are commonly considered private rights, large land holders might be influenced to pursue a policy better calculated to promote agricultural development than that which they usually pursue. In fact, a policy beneficial to the public interest would probably serve also the private interests of such land holders. If large land holders would adopt such policies with reference to the preparation of their land for sale, the granting of credit for improvement, and the promotion of community settlement, as have been suggested as desirable with respect to state lands, they could do even more than the states in promoting the development of the lands of these northern regions." (referring to northern Minnesota, Wisconsin and Michigan)[1]

In fact, for example, there may be found many old and good land companies in Wisconsin.[2] Such private enterprises must be fostered and utilized. Lastly let us cite the words of Professor Ely:

"However far we may be inclined to go in favoring public ownership of land and public colonization, we must acknowledge that for a very long time to come we must rely chiefly on private initiative, private enterprise, and the stimulus of a reasonable private profit for the settlement of the land; and public colonization, for the time being at any rate, must be planned largely for purposes of demonstration. And when we come to think of it, it is just as logical to have demonstration land-platting and development fostered by government as it is to have experiment stations conducted by the nation and the states. And the writer is not prepared to say that at the present juncture it is not equally important."[3]

New investigation of the private land settlement problem in the United States has been recently started by Professor Ely and others. Such a study is also going on in Arkansas, Kansas, Ohio and Washington.

Wisconsin was among the first States that paid attention to private colonization. The following suggestion was made in February, 1919, to the Wisconsin State Legislature by the Special Legislative Committee on Reconstruction:

1) Marketing and Farm Credits, 1916, p. 124.
2) Richard T. Ely, Land Speculation, p. 134.
3) Richard T. Ely, Private Colonization of Land, pp. 2, 3.

"Land Settlement. We should lend hearty co-operation to the effort now being made by the federal government to establish a national land settlement policy. We recommend the following plans as calculated to bring about land settlement that will provide homes not only for our returning soldiers but also for our industrial workers.

"Regulating Private Colonization Projects in the Interest of the Settler. 1. Every returning soldier and every industrial worker who desires to secure a farm home should be able easily and safely to do so. The purpose to be accomplished is to give the proposed settler neighbors, roads, buildings, machinery, cattle and some cleared land to start with; opportunity to obtain community stores, schools, elevators, creameries, etc., when needed, and to be able to secure these things without the necessity for paying out all his capital at the start .... This object can be accomplished by the creation of a State Land Settlement Commission, appointed by the Governor, by and with the advice and consent of the Senate, consisting of the State Immigration Agent, one competent and successful farmer and one successful business man.

"Companies desiring to colonize lands should be required to incorporate for the purpose under Wisconsin Statutes and to obtain a license from said commission. These licenses should be based upon a written application filed with the Commission containing a careful survey of topography and soil, giving definite, reliable and scientific reports as to productivity, character of soil, rainfall, transportation and marketing facilities and such other information as might be required by the commission. The application must show a paid up capital of not less than $100,000 and an ownership of not less than 5,000 acres of reasonably contiguous land, with convenient access to roads leading to market.

"It must also contain an undertaking by the Company to establish roads, community stores, elevators, warehouses, pickle stations, creameries and other agencies of distribution; to furnish the colonist with fresh tuberculin-tested cows and a good grade of seed at reasonable cost; to furnish necessary community machinery for land clearing and working and to care for the crops of any colonist when necessary during illness, at reasonable cost under such reasonable rules as may be prescribed by the land settlement commission and an agreement that reasonable credit will be given to the colonist by the colonization company, at any of the stores and other service agencies created by it and that the land will be sold and all commodities and service will be furnished at reasonable prices to be fixed by the land commission.

"The application must also show a certain number of acres cleared on each proposed farm, with a comfortable set of buildings, a well, and a portion of the land fenced ready for occupancy by the colonist..... The act should require that land be sold to applicants under contract for a deed which should provide for a small payment down and stated gradual annual payments thereafter, without interest for the first year, a very small payment the second year, and such graduated payments thereafter as shall be provided by the commission and that no taxes should be paid by the settler except pro-rata on his interest in the property.

The colonization company upon receiving its license, should have the right to deposit any contracts made by it with settlers and approved by the commission, with a designated trust company or a state land bank, if one be organized, as collateral security, and to issue bonds bearing the same rate of interest as the land contracts, up to 75% of amount due on said contracts. The bonds should be issued as authorized and approved by the State Land Settlement Board of the States of Wisconsin. When the colonist has paid 50% of the amount due under his contract, he shall receive a deed, giving a mortgage back at the same or less rate of interest than his contract drew. Owners of land shall not be compelled to organize as colonization companies unless they so desire." [1]

Although there may be found too minute regulations imposed upon the land corporation, we must acknowledge the eagerness of Wisconsin to promote the solution of this problem.

Chapter III. Question of the Indian Land.

Among the domestic policies of the United States especially during the century of its infancy, an important rôle was played by the Indian problem, and again the latter centered upon its land question, which, however, may be traced far back to the colonial days.

From the very beginning of the settlement of this country the controlling authorities of the American continent have paid deep attention to the treatment of the native Indians. As early as 1658 Virginia passed the following act:

"Whereas, many complaints have been brought to this Assembly touching wrong done to the Indians, in taking away their land and forcing them into such narrow straits and places that they cannot subsist either by planting or hunting; .... this Assembly have therefore thought fit to ordain and enact, and be it hereby ordained and enacted, that all the Indians of this colony shall and may hold and keep those seats of land which they now have, and that no person or persons whatsoever be suffered to intrench or plant upon such places as the said Indians claim or desire, until full leave from the Govérnor and council or commissioners for the place." [2]

Pennsylvania enacted in 1700 the following law against buying lands of the Indians:

"Be it enacted, that, if any person presume to buy any land of the natives within this province and territories, without leave from the proprietary thereof, every such bargain or purchase shall be void and of no effect." [3]

The importance of the question finally led to the issuance of the famous Proclamation of October 7, 1763, by George III, governing Indian

1) Report of Special Legislative Committee on Reconstruction, p. 22.
2) J. B. Dillon, Oddities of Colonial Legislation in America, p. 137.
3) Ibid., p. 136.

affairs, the essential principles of which are as follows:

(1) Acknowledgment of the Indian title of occupancy.

(2) The Government right to exclude European squatters from Indian lands.

(3) No right of purchasing Indian lands to be granted to any one except the Government.

(4) The Government right to regulate commerce and license traders. We can imagine from the above doctrine that the Indian lands were ostensibly protected from white intruders, but no Indians were entitled to the ownership of the lands held by them, the only right recognized being that of occupancy.

After the Independence of the United States there was observance of most of the predecessor's principles regarding Indian affairs. The clear and ultimate title was held in the hands of the National Government, while the Indian's right of occupancy was fully observed unless the Indians desired to concede their own right to the Government. Article 3 of the celebrated ordinance of July 13, 1787, providing for the administration of the Northwest Territory, reads as follows:

"The utmost good faith shall always be observed towards the Indians; their 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; but laws founded in justice and humanity, shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them." [1]

Thus the Indian tribes were treated, on the face of the law, as quite independent; but no sooner did the immigrant tide of white population become high, and the consequent demand for land intensely felt, than the Indians were pressed by treaties to cede their lands on the East to the whites and retreat to the wilderness west of the Mississippi. However, here it must be mentioned that there occurred some cases where the financial hardship of the Indians themselves caused the spontaneous cession of their lands. In his special message of January, 1808, Thomas Jefferson wrote as follows:

"The Choctaws, being indebted to certain mercantile characters beyond what could be discharged by the ordinary proceeds of their huntings, and pressed for payment by those creditors, proposed at length to the United States to cede lands to the amount of their debts (about 5,000,000 acres), and designated them in two different portions of their country . . . ." [2]

1) Journals of Congress, Vol. XII. p. 58.

2) Richardson, Messages and Papers of the Presidents, Vol. I. p. 434.

Excepting a few such cases Indian cessions were forced by the American Government. As early as 1803, President Jefferson conceived the propriety of removing the Indians to the newly acquired Louisiana. "Upon the first acquisition of Louisiana — within three months after the acquisition — (Jefferson) proposed it for the future residence of all the tribes on the east of the Mississippi," Benton said, "and his plan had been acted upon in some degree, both by himself and his immediate successor."[1)]

In order to meet the pressure of land seekers and at the same time to lessen the friction between the two races the Federal Government prepared resorts in the unsettled portion lying to the West for such Indians as were going to leave their old territories. Although this system of the removal of Indians was practised in some degree after Jefferson's administration it was first definitely declared as an established policy by Monroe in his message of 1825. It will be of some interest to note the fact that the slave system was to be given room for expansion by the removal of Indians to the West. The latter measure was urged by Calhoun, Secretary of War, in charge of Indian affairs under Monroe, and the most influential supporter of slavery. The removal policy was followed by Adams and Jackson and completed before 1840. The annexation of Texas, the settlement of the Oregon question, the treaty of Guadalupe Hidalgo, and the discovery of gold in California, all these happened in the latter half of the forties, and caused a rush of people across the Indian country. After that time the Indian land problem gained increased importance. When Indian hostility was increased after the Civil War there arose a conflict between militarists and civilians about the treatment of Indians, and the peace policy triumphed with the inauguration of General Grant as President in 1869. Grant adopted the policy of placing the Indians upon reservations where they received rations from the Government. This system of so-called Indian reservations reached now the state of its fullest development, although the origin of the system, in a wide sense of the term, may be said to have been simultaneous with that of the removal policy. One object of this policy was to enable the Indians to begin a quiet settled life pursuing grazing or cultivation within the limits of their reservations and at the same time to render the white men's settlements free from the attacks of the Indians by confining the latter within definite bounds. But another and

1) T. H. Benton, Thirty Years' View, Vol. I. p. 28.

great object was to open the surplus of Indian lands by reducing the area necessary for the support of the Indians. This ration system exerted an enervating effect upon the Indian race.

Francis E. Leupp said:

"In compensation for their confinement on reservations, and in view of the scarcity of wild game, most of the stronger tribes drew from the Government a stipulation for food-rations for an indefinite period, a provision which resulted in wide-spread idleness, vice and pauperism among a once hardy and self-respecting people."[1]

It is interesting to note in this connection that the success of the reservation policy was due greatly to the thinning out of the bison, which had thitherto been the principal game of the Indians. The growing difficulty of procuring their means of subsistence forced the Indians to turn from a roaming life to a settled one. Max Farrand wrote thus:

"The Union Pacific Railroad, completed in 1869, divided the bison into the northern and southern herds. According to the great authority on the subject, Mr. W. T. Hornaday, between 1872 and 1874 the whites killed over three million and the Indians over five hundred thousand of the southern herd; and the northern herd was exterminated in a similar way after the building of the Northern Pacific Railroad. Cutting off one of the greatest sources of their food supply forced the Western Indians into submission, and reservations became the accepted arrangement."[2]

It is also evident that the construction of the railroads weakened the resisting force of the Indians.

The idea that separation of the whites and the Indians should be effected by setting a definite boundary was nourished for a long time by the Americans. Such an idea was derived from the British precedent and culminated in the reservation system. The Indians in the reservations had only the right of occupancy to those lands and were not allowed to sell them except to the Government. After the Civil War, the westward trend of population was appalling, and its overflow encroached upon the Indian reservations. Under various disguises white intruders took up parts of the Indian lands. Sometimes it required military help to stop the invasion. The Annual Report of the Secretary of the Interior dated November 15, 1879, contained this passage:

"On the 20th of April last the President issued a proclamation warning all persons who were intending then to invade the Indian Territory against attempting to settle on any lands therein, and those who had already so offended, that they would be removed, if necessary, by

1) Cyclopedia of American Government, Vol. II. p. 167.

2) Max Farrand, The Development of the United States, p. 257.

military force. At the same time corresponding instructions were given to the Army, and with the diligent assistance of the military force in the Territory the invasion was speedily checked and the intruders removed."

To answer the plea of such urgent need for land by the whites, as well as to bring in enlightenment among the Indian tribes, an act was signed by President Cleveland on February 8, 1887. This act is known under many names as the Severalty Law, the General Allotment Act, and the Dawes Act, after the name of the late Senator from Massachusetts, its official title being "An Act to provide for the allotment of lands in severalty to Indians in the various reservations, and to extend the protection of the laws of the United States and Territories over the Indians and for other purposes."

Prior to this date Indian lands were held as common properties of the Indians, but from that time on those lands were to be divided among the individual Indians, and each of them could secure title to the allotted land. Nevertheless, lest the allottees should lose their lands by reason of their improvidence, the Government stood as a guardian of the allottees and took those allotments under its control for at least twenty five years, during which period no allottees were allowed to engage in business upon equal footing with the white men. After the lapse of that period the Government would deliver the lands with a full title to said allottees and thenceforward the latter should be subject to the same laws as the white citizens and allowed to manage their affairs on the same footing as other civilized Americans. Moreover, no allotted lands were liable to seizure for any debt contracted before the issue of the patent to the land.

Now let us study the process of the severalty measure to its realization. As early as the middle of the seventeenth century such a scheme had been tried by Elliott but in vain. The Annual Report of the Secretary of the Interior in 1882 observed:

"This claim (for severalty of Indian lands) was made for the Indians in the year 1646, and Elliott, the apostle of the Indians, procured the allotment of land and the settlement of the Indians on such allotments; but they did not remain on them, and the system was for a time abandoned. It has been renewed at various times, and very large numbers of treaties made with the Indians have contained provisions for such allotment on the request of the Indians. Very few Indians have availed themselves of this privilege, and those who have done so have in most cases disposed of their lands as soon as they could."

In his annual message of 1816 President Madison stated:

"I am happy to add .... that the facility is increasing for extending

that divided and individual ownership, which exists now in movable property only, to the soil itself, and of thus establishing in the culture and improvement of it the true foundation for a transit from the habits of the savage to the arts and comforts of social life." [1]

Although the idea of severalty in Indian land evolved, no concrete proposition was made until 1869, when the Board of Indian Commissioners appointed by President Grant made a report on this question, urging the division of their common lands among the Indians, dissolution of tribal bands, retension of title by the Government for definite years, and the grant of citizenship to the Indian allottees.[2]

In 1879,[3] ten years after the report, Dawes introduced into Congress a bill looking toward the above object, and since then every Congress saw similar bills presented. After passage several times in the Senate, a successful bill was introduced by Dawes on December 18, 1885. Objections against the bill on this occasion were as follows:

(1) Irrationality of excluding civilized tribes from the law. Some held that the very tribes to whom the severalty principle should be first applied must be these civilized tribes, so the intention of the bill was simply preposterous.

(2) Too small area of allotment for the Indians who desired to support their life upon grazing.

(3) It was too early to give citizenship to Indians as soon as they received allotted lands. They needed to be educated to that qualification before they were allowed citizenship. Senator Maxey criticized the bill in the following words:

"Here are people who but a few years ago were wild tribes roaming upon the prairies, engaged in raiding upon the settlements of the white people with the tomahawk and scalping-knife; we have gathered them up into reservations; and now, because we put them on separate tracts of land, we are to say to them, 'You may become citizens of the United States.' It is too soon." [4]

(4) Unwillingness of the Indians towards the bill from fear of encroachment upon their allotted lands by the whites. Entertainers of this fear referred to the example of the Seminoles, Creeks and Cherokees who were among the most civilized tribes and never desired to become citizens by allotment of their land. Representative Holman attacked the bill in such strong terms as these:

1) Richardson, Messages and Papers of the Presidents, Vol. I. p. 576.
2) H. J. Blust, Allotment of Indian Lands-in-Severalty, p. 6.
3) Ibid., p. 14.
4) Cong. Rec., 49 Cong., I Sess., p. 1632.

"I think in many instances, in fact I am certain, judging from the past history of these tribes, (Indian tribes in general), that it will be absolutely fatal to the Indians to have these patents issued and lands acquired in absolute fee." [1]

(5) For the Indians more weight must be first laid upon grazing than agriculture as the means of living. Representative Throckmorton said:

"The first thing we ought to do is to give them grazing lands, and then give them agricultural lands. Give them grazing lands and give them also agricultural lands. You will not induce these people to become agriculturists until they become herders." [2]

Notwithstanding some oppositions like the above, the bill passed the Senate on February 25, 1886, and the House, December 16, and after negotiation by the conference committee of both Houses the bill passed Congress and became a law on February 8, 1887. By this law the allotment became a matter of general application excepting as to the five civilized tribes, while the same measure previous to that date was of special character in its operation. The same may be said of grants of citizenship to Indians. We may recognize that this severalty policy aimed to promote individuality and civilization among the Indians by the dissolution of tribal bands and the commitment of their members to competitive surroundings. At the same time we must not miss another important phase of this allotment system. The Secretary of the Interior with the approval of the President was authorized to purchase from the Indians such reservation lands as were not needed by the Indians, whenever the latter agreed to sell the same. This step was supposed to have been devised for the purpose of satisfying the pressing need for land on the part of the white outsiders. Since the object of the allotment policy was to serve the Indians as well as the American citizens, we will observe this measure from both sides.

Savage tribes opposed the allotment measure in the belief that the division of tribal land to each individual for the exclusive use of himself was a crime from the moral point of view, and the advanced tribes repulsed the measure as offering their allotted lands to white invasion. Such opposition continued from before the passage of the general allotment act. Now let us trace the effects of the law of 1887 upon the Indians. The Annual Report of the Secretary of the Interior in 1888:

"Many of the tribes and bands do not yet look with favor upon this law for taking their lands in severalty, and while a large portion of

1) Cong. Rec., 49 Cong., 2 Sess., p. 224.
2) Ibid., p. 192.

them are not sufficiently prepared for it by the necessary training to the habits of industry to warrant the taking of any steps for appling its provisions to them, many others are as well fitted now to make the effort to maintain themselves by their own labor upon a separate estate as they will probably otherwise become at any time in the near future."

But this year would be too near to be used for judging the merit of the law. Then let us take the report of 1894, which said:

"I do not question the advisability of allotting land to Indians in severalty, but I do most seriously question the propriety of this course before the Indians have progressed sufficiently to utilize the land when taken."

The report of 1907 said:

"It is not surprising that in the great majority of cases the Indians object to the opening and to the allotment of individual tracts. It is impossible for the Indians to suddenly or even in a few years, discard the training of generations and accept the idea of individual ownership of land, which the white race has developed after hundreds of years of civilization."

The report of 1909 said:

"A large proportion of allottees have not become attached to their allotments, but have continued their hereditary practice of roaming from place to place and securing their livelihood by hunting and fishing. This is partly accounted for on the ground that in the allotting work the personal preferences of the Indians have not heretofore been taken into consideration.... Another reason for many of the Indians not living on their lands is that they have not advanced sufficiently in civilization to abandon their tribal practice of living in a communal manner, and have not adopted the idea of separate ownership in lands."

The report of 1910 said:

"To change the characteristics of a race such as the Indian and compel the surrender of his traditions, customs, and impulses, is a matter of generations rather than of years. This is more particularly realized when we contemplate the stubborn resistance which the full-blood Indian asserts against the efforts of the Government to transform him into a farmer, with fixed habitation, or to interest him in the trades or common vocations of life."

From the above official statements it will be seen that the settling of the Indians on allotted lands and the encouragement of agriculture among them have fallen short of yielding perfectly satisfactory results. The Severalty Act was subjected to great modification by the Burke Law of May 8, 1906, which provided that citizenship was not to be granted until patent in fee simple to the allotment was secured, yet any allottee might be entitled to citizenship within the trust patent period if he proved his competency. This was a very important amendment to the original

law. But judgment of the competency of every applicant was not an easy task, because of the lack of an ideal criterion for ascertaining the ability of individuals. It is amusing to learn that some one assumed short hair to be the best proof of competent Indians. The Burke Law, though excellent in its spirit, was considered not free from defects. The Annual Report of the Office of Indian Affairs, dated September 15, 1909, said:

"During the past year it was found that on many reservations where land speculation was active, Indian allottees had been importuned to make applications for patents in fee, and in many instances the Indians were defrauded out of a large portion of the value of their lands."

On April 17, 1917, a most advanced step was taken in the treatment of Indians. After that date any Indian who had one-half or more white blood, or who had more than one-half Indian blood but was proved to be competent, or who was a student over twenty one years of age graduated from some Government school, could get rid of the Federal guardianship and dispose of his land and other properties in whatever manner he pleased. In the general allotment act of 1887 the Five Civilized Tribes were excluded from its provisions touching citizenship. Afterward by the Indian appropriation act of March 3, 1893, a commission was appointed to pursuade those tribes to throw open their tribal lands and introduce severalty in land, and on March 3, 1901, the allotment system was extended to them, together with citizenship.

Now let us turn our eyes to the leasing of Indian lands, which system showed the relation between the Indians and the whites. By the act of February 28, 1891, any Indian allottee who was unable to operate his own land by reason of age or other physical or mental defects, might lease the land for a period less than three years for farming or grazing and ten years for mining purposes. In 1894 a new condition "inability" was added as an excuse for lease. Here the term "inability" meant incapacity of the allottee to work upon his own land because of the lack of knowledge or equipment. In 1897 the term "inability" was stricken out, and in 1900 "inability" was again restored.[1] With the alternation of these periods the term of lease was always changed. Such curious play with the law may perhaps be characterized as among the most remarkable eccentricities in the history of land legislation in the United States. Besides providing for the leasing of tribal lands and their purchase by the Government, sale of the lands of decreased allottees by their heirs was recognized. Such methods, together with the passage

1) An. Rep. of the Sec. of the Inter., 1900, p. 7.

of the Noncompetent Act, opened opportunity of access by the whites to the Indian lands.

How the Allotment Act met the demand for land by the American people will be seen from the fact that in 1891, 900,000 acres of ceded Indian lands were opened to settlement in the Territory of Oklahoma and that vast area was taken up in a single day.[1] Although the allotment policy showed beneficial effects upon the white land seekers, it could not bring its expected result to the Indians, and caused a fresh complication of Indian affairs.

The Annual Report of the Commissioner of Indian Affairs in 1915 stated:

"We have undoubtedly been overhasty in individualizing tribal lands and other tribal property and in breaking up tribal organization, while at the same time overdoing paternalism toward the restricted Indian by failing to throw sufficient responsibility upon him in the handling of his own property and in the matter of local-government. Laws relation to Indian affairs have rapidly multiplied as individualization has increased, Congress assuming more and more responsibility in legislating for particular tribes, while the volume of work, the difficulties of proper administration, and the natural confusion resulting from lack of continuity of policy have increased proportionately."

Chapter IV. Land Problem in Connection with Aliens.

At the present time there lies a great problem before the United States, especially in the State of California, concerning the treatment of Orientals, in reality, Japanese. This is nothing but the question of land holding by Japanese. The restriction of land holding is the culmination of the anti-Japanese movement, which has begun to spread steadily from California to other western States of the country. The subject has now become much complicated, embracing serious phases of political, economic, racial, social and diplomatic import, and is destined to evolve from a local question to one of national and international interest. In order to make clear the attitude of California toward the problem under discussion we must trace the development of the general features of anti-Japanese agitation from its beginning. Shortly after the passage by Congress of the Chinese Exclusion Act in 1882, the Japanese came in to fill up the gap in labor supply. Though a record of the number of Japanese immigrants was first made as early as the latter half of the sixties, it did not reach high figures until the appearance of the anti-Chinese legislation. Then the building of the Pacific railroads was at its

1) Richardson, Messages and Papers of the Presidents, Vol. IX. p. 203.

height, and on the other hand the large landowners in California were deprived of farm laborers and obliged to leave idle a vast area of land as a result of the above act. These two great factors combined to attract the Japanese immigrants thither. Furthermore, just about this time California agriculture entered a state of transition from the extensive to the intensive method, applied especially to fruit and vegetable growing, in which the Japanese were welcomed as expert hands.

From the annexation of Hawaii in 1898 up to 1908, there was no material increase in Japanese arrivals direct to the continental United States, although Japanese arrivals in the Hawaiian Islands showed a considerable gain. In October, 1906, the San Francisco Board of Education ordered the segregation of Japanese pupils from public schools. Such discriminating treatment brought the first trouble between Japan and America, but through the efforts of President Roosevelt the matter was at last peacefully settled. It has been often charged that the labor unions were responsible for the rise of this question, though some expressed doubt regarding the truth of this charge. In January, 1909, a bill of the same nature was passed by the California Legislature, and within a few hours after its passage President Roosevelt telegraphed to then Governor, J. N. Gillett, the following strong words:

"This is the most offensive bill of all, and in my judgment is clearly unconstitutional, and we should at once have to test it in the courts. Can it not be stopped in the Legislature or by veto?" [1]

Thereupon the Governor sent to the Legislative Senate and Assembly a special message, in which he said:

"Believing that there should be a further and more careful consideration of Assembly Bill No. 14, which provides that boards of school trustees shall have the power to establish separate schools for children of Japanese and that thereafter they shall not be admitted into any other public school, ... I most respectfully request you to reconider the vote by which said bill was passed and take the matte up for further and most careful consideration ...." [2]

In February, the Committee on Executive Communications, to which the above message had been referred, made a recommendation against enacting the anti-alien law at that session.

The following is from the committee's report:

"We firmly believe that legislation of this nature is a menace to the welfare of our country. It is true that our population is composed

1) Journal of the Senate, California, 38 Sess., p. 477.

2) Ibid., p. 477.

of people from all nations of the globe. To single out any one particular nation would bring us into conflict with the Constitution of the United States, and render ourselves ridiculous in the eyes of the nation." [1]

Thus the bill was buried.

With the dawn of the present century the Japanese entrance to the continent was greatly augmented by their migration from the Hawaiian Islands. For the purpose of preventing this stream the so-called "gentlemen's agreement" was concluded in 1909 between the two countries. This was no formal treaty, but simply a series of informal notes exchanged between the Secretary of State and the Japanese Ambassador at Washington. The actual text of the agreement has not been made public, but its essence is generally understood to be as follows: Japan would agree not to issue passports to any Japanese laborers desiring to go to the continental United States and at the same time would recognize the right of the latter to refuse the migration of Japanese laborers from Hawaii, the Philippines, Canada and Mexico. Moreover, they agreed that the qualification of admissible Japanese would be left to the free judgment of the Japanese Government.

As the result of the working of the "gentlemen's agreement" the number of Japanese immigrants to the continent fell off to such a low level as about two and a half thousand in each of the yers 1909 and 1910, showing much lower figures than in the seven years preceding those dates. But after 1911 the immigration grew again and has continued steadily to do so, though in a less extent, up to the present day, in contrast to the preceding period, when the fluctuation was great, as seen in the table below.

Year	Japanese arrivals to the continental United States [2]
1902	5,145
1903	6,923
1904	7,674
1905	3,639
1906	4,784
1907	9,361
1908	9,544
1909	2,432
1910	2,598

1) Journal of the Senate, California, 38 Sess., p. 387.

2) California Farmers Co-operative Association, Japanese Immigration and the Japanese in California.
Japanese Association of America, Statistics relative to Japanese Immigration and the Japanese in California.

Year	Japanese arrivals to the continental United States
1911	4,282
1912	5,358
1913	6,771
1914	8,462
1915	9,029
1916	9,100
1917	9,159
1918	11,143
1919	11,404

Although the number of Japanese immigrants to the United States has not shown any astonishing tendency of increase since the beginning of this century, yet the majority of the new-comers have entered California, and again no small proportion of them have settled in the open country of the State and begun to earn their living as farm hands, tenants or landowners.

Instigated by the labor unions and other political interests, certain Californians became alarmed over this phenomenon, and engaged to agitate ill feeling against Japanese farmers, succeeding to the extent of passing the Alien Land Law on May 19, 1913, under the signature of Governor Hiram W. Johnson. This time a fierce fire was raised in the Sacramento Valley where many Japanese had settled. In December 1911, the Elk Grove Board of Trade passed the following resolution:

"Resolved, That we, as a body and as individuals, do now and at all times utterly condemn the practice of selling land to Japanese in this vicinity, and, be it further Resolved. That we shall at all times urge all citizens of this community to use their best endeavor to keep this vicinity free of Japanese residents." [1)]

"A similar resolution was adopted by the Elk Grove Grange. In order to secure the realization of their doctrine the inhabitants of that locality drew up an agreement and signed it. Their agitation proceeded so far as to request the passage by the Legislature of a law to that effect. Catching this popular sentiment, the Democratic State platform of 1912 made the following declaration.

"We favor the passage of a bill that will prevent any alien not eligible to citizenship from owning land in the State of California." [2)]

In this Cemocratic campaign Hugh B. Bradford of Sacramento was elected from the Assembly district including Elk Grove, and at the opening of the session he introduced an anti-alien land bill which was

1) Anti-Alien Legislation in California, p. 15.

2) Ibid., p. 16.

supported especially by the Assemblymen from districts high in anti-Japanese feeling, such as San Joaquin and Vacaville. The bill passed the Assembly on April 15, 1913, by a vote of 60 : 15, to the disappointment of the Board of Directors of the Panama-Pacific International Exposition and others. This event suddenly attracted national and international attention, and met with protest from Japan.

On the other side of the Legislature, Senator Birdsall from Placer County introduced a similar bill, which passed both branches, as the Webb bill, after some amendment. Before its passage the State Legislature was heavily loaded with petitions for and against the bill, those favoring the measure being predominant. Labor organizations of every kind in Oakland, Alameda, San Joaquin, Stockton, San Jose, Santa Clara, Fruitvale and Los Angeles, and the Aryan Pure Race Society of America were among the petitioners for the passing of the bill.

Besides the Exposition authorities, the Standing Committee of American Workers among Orientals, the Interdenominational Peace Committee of Pacific Coast Churches, Chinese associations, Chambers of Commerce in Portland and Stockton, citizens of Santa Monica Bay and Fresno County, and the Delta Land Association of California, the San Francisco *Chronicle* and others, attacked the bill, to mention nothing of individual opponents.

A special meeting of the board of trustees of the Stockton Chamber of Commerce held in May 1913, adopted a resolution having the following preamble :

".... Whereas, a large area of fertile land in San Joaquin County and throughout the delta region is tilled by aliens, and by reason of the nature of the soil and the products grown it is impossible to secure other than alien tenants for such lands...." [1]

A mass meeting of Fresno County citizens passed the following resolution against the Webb anti-alien land bill :

"Resolved, That we do here and now request our Legislature — First, to enact a law which will apply to all aliens alike; second, which will not disturb settled land titles; third, which shall make citizenship the basis of land ownership; fourth, which shall apply to agricultural lands only; fifth, which shall not drive capital from our State." [2]

It will be worth while to notice here that the above resolution recommended a law applicable to all aliens without discrimination. The same opinion had been already expressed by the President when he telegraphed to the Governor of California about this question.

1) Journal of the Assembly, California, 40 Sess., p. 2401.
2) Ibid., p. 2463.

Now let us turn our eyes to the attitude of the Government toward this question. When the Government found the bill grew ripe, it became aware of its seriousness, and President Wilson sent William J. Bryan, then Secretary of State, to California, for the purpose of persuading her to refrain from the passage of the bill. Governor Johnson made the following remark before the joint legislative conference which Bryan attended:

"Is there anything that is contemplated by the Legislature of the State of California that should give and would give to any nation logically looking at the problem just offense?

If there be just offense given, none of us desires that shall be so; but if it be a fact that offense is taken where justly it ought not to be taken, then we are justified in proceeding with our legislation in the State of California." [1]

Seeing that the total suppression of such a measure would be impossible, Bryan suggested that the Legislature delay the bill for two years, but failed to secure this concession on account of the almost unanimous opposition of the Progressives in spite of support from most of the Democrats.

In a letter to Bryan dated May 14, 1913, after the passing of the bill, Johnson wrote as follows:

"For many years, a very grave problem, little understood in the East, has confronted California; a problem, the seriousness of which has been recognized by statesmen in our nation, and has been viewed with apprehension by The People of this state.... Of late years our problem from another angle has become acute, and the agitation has been continuous in the last decade in reference to our agricultural lands, until finally affirmative action in an attempted solution became imperative. This attempted solution is found in the action of our Legislature in the passage of the Alien Land Bill.... I voice, I think, the sentiment of the majority of the Legislature of this state, when I say that if it had been believed that offense could justly be taken by any action to the proposed law, that law would not have been enacted.... You have suggested to me delay; but this question was very earnestly and fully presented by you to our Legislature, and the Legislature determined to proceed .... The vote in the Senate was thirty-five to two and in the Assembly seventy-two to three. With such unanimity of opinion, even did I hold other views, I would feel it my plain duty to sign the bill, unless some absolutely controlling necessity demanded contrary action. Apparently no such controlling necessity exists. It is with the highest respect for yourself and the President, that I feel my duty to my state compels me to approve the action of the Legislature." [2]

A few days after writing to Bryan, Governor Johnson at last signed the bill.

1) Anti-Alien Legislation in California, p. 18.
2) Ibid., pp. 6-8.

By this law any aliens not eligible to American citizenship, or any corporations including such aliens who held a majority of either members or capital stock of said corporations were allowed to own or lease lands in California only in the way prescribed by the treaty existing between the United States and the country of said aliens. This meant, as a matter of fact, to disqualify the Japanese from the ownership of land; and at the same time the law prohibited the lease of land for a period longer than three years. As to the term of lease, a group in favor of one year was at first powerful in the Legislature, but after the request of Japanese leaders who insisted on a five year period, a three year lease was adopted by way of compromise.

Here one thing needs to be noticed. In the original bill the term "ineligible to citizenship" was openly used to designate Japanese, but afterwards these words were stricken from the text and the intention of the bill was attained by roundabout phraseology, as in the first section, which fixed the right of all aliens eligible to citizenship, and in the second section, which defined the right of aliens except those mentioned above in the following manner:

Section 2. All aliens other than those mentioned in section one of this act may acquire, possess, enjoy and transfer real property, or any interest therein, in this state, in the manner and to the extent and for the purposes prescribed by any treaty now existing between the government of the United States and the nation or country of which such alien is a citizen or subject and not otherwise, and may in addition thereto lease lands in this state for agricultural purposes for a term not exceeding three years.

There are found no terms bearing any negative meaning. Such style of provisions is perhaps one of the most delicate and polished wordings in the laws of the United States. If we know that the effacement of the words "ineligible to citizenship" was most earnestly suggested by Wilson we will be able to visualize the character of the President.

Since 1907 a great number of anti-Japanese bills, including land bills, were introduced into the State Legislature without success.[1] One of them provided for the limitation of ownership of real estate by aliens to five years. This legislation of 1913 marked the first time that the anti-Japanese agitation was embodied in State law.

School questions in San Francisco had, of course, no relation to the problem of land holding, and the next step of the gentlemen's agreement had only indirect connection with the agricultural land in the

1) Journal of the Senate, California, 38 Sess., p. 279.

point where it aimed to stop further immigration of Japanese laborers. Yet the law of 1913 may be called a pure land law purporting to put a bar in the way of the acquisition or use of land by the Japanese. Since then the land problem has become the center of the anti-Japanese movement, and consequently the character of this movement has become solid and deep in contrast to the previous one.

Under the Alien Land Law some of the ineligible Japanese either bought farm lands for their American born children and controlled those lands as guardians, or sought to attain the same object by forming agricultural corporations, of whose capital stock a majority was held by American citizens. On January 1, 1920, there existed 320 such corporations controlled by Japanese with a capital of $9,171,500 holding land to the extent of 47,781 acres [1] owned or under purchase contract. How these corporations increased in number after the enactment of the law, and how they were carrying on, may be seen from the following statement:

"Prior to the passage of the California Alien Land Law in 1913, there existed very few corporations controlled by Orientals and those that were in existence were principally commercial corporations. After the passage of the Alien Land Law, ownership of land by individual Orientals who were ineligible to citizenship was prohibited. Orientals, thereafter, for the purpose of avoiding the limitations of the Alien Land Law, formed corporations and bought or leased land in the corporate name.

"In order to comply with the provisions of the law relating to corporations having alien stockholders, the majority of the capital stock is issued to some American citizen or citizens to act as trustee. These corporations, however, are in equity owned, controlled and operated, practically exclusively by Orientals. More recently, the Orientals, especially the Japanese, have resorted to the formation of corporations whose principal stockholders are the minor children, American-born of Japanese parents, the corporations in reality being operated by trustees who are of lawful age." [2]

By the above methods ineligible Japanese or their minor children acquired the real power over the lands. The purpose of the Alien Land Law of 1913 was to cut off the opportunity of utilization of farm lands by Japanese, and consequently to stop the tide of their immigration. However, not only the number of Japanese immigrants increased after the passage of the law but also the influence of Japanese upon the lands strengthened contrary of the intent of the law. The inefficacy of

1) State Board of Control of California, California and the Oriental, p. 133.
2) Ibid., p. 133.

the law had been predicted by Brown in his speech before the Assembly. He said:

"I voted for Senate Bill No. 5, because I recognize that there is a strong popular demand in California for the passage of a law of this character. At the same time, I recognize the futility of a state passing a law of this kind that can have any beneficial effect, owing to the fact that existing treaties with Japan, and the laws of Congress, supersede all state laws, and are paramount thereto. I am satisfied that the people of this State must look to the Federal Government for the solution of this question, and to obtain the relief desired; that the relief can be attained only through treaties with Japan, or through appropriate legislation by Congress. But as an expression of this Legislature, which will largely reflect the opinion of the people of the State, and as a demand by this Legislature upon the National Government that it shall take action as soon as possible, to relieve the people of this State from the evil which exists, I think it good policy to pass this anti-alien land law." [1]

After the Panama Pacific International Exposition of 1915, in which Japan played a brilliant rôle and her countrymen had much opportunity for intimate intercourse with influential Americans, up to 1918, the feeling between America and Japan was very friendly. The entrance of both nations into the Great War against common enemies, the contribution of California Japanese to the supply of food during the war, their subscription to liberty loans and assistance in the work of the Red Cross Society became a great source of revival of good feeling in California towards the Japanese residing in the State. In this temper, the extension of the period of lease of farm lands for Japanese began to be favorably discussed even among Californians who had been against the Japanese a little time before. However, early in 1919 a sudden change was noticed in America's feeling toward Japan, especially by reason of the rise of the Shantung problem and reports of the intention of Japan to introduce the claim of race equality into the Peace Conference. To these direct causes there was added a jealous and uneasy sentiment in America aroused by the distinguished development shown by Japan during the Great War. An American statesman said that he had never before seen so abrupt a change take place in the feeling between any two countries.

On March 7, 1919 Senator James D. Phelan of California published his anti-Japanese feeling through the press, indicating and exaggerating the so-called "picture marriage", smuggling of Japanese from the Mexican boundary, rapid increase of the birth rate of Japanese in California, and

1) Journal of the Assembly, California, 40th Session, p. 2495.

the invasion of California lands by Japanese farmers; and he insisted upon the adoption of legislation prohibiting Japanese immigration in his State.

This was the first big shot aimed at the mark. His alarm was strongly endorsed by several State Senators, and on April 1, Senator John M. Inman requested permission to introduce his bill prohibiting the lease of farm lands by Japanese. On the next day the Committee on Rules reported back the request with recommendation that the permission should not be granted because of the untimeliness of introducing such a bill. At the same time Senator Duncan made the same request for his bill purporting to forbid the landing of Japanese picture-brides. On April 3, the State Senate sent the following cablegram to Robert Lansing, Secretary of State, at that time in Paris:

"Will the introduction or the enactment into law of such bills (of Inman and Duncan) embarrass the President and other representatives of the United States at the Peace Conference? The Senate awaits your reply."[1]

The following cablegram, dated April 8, Paris, came from Lansing to the Senate:

".... In view of the present situation in international affairs here in Paris, it would be particularly unfortunate to have these bills introduced or pressed at the present time. There are other problems which would make such action very embarrassing. I sincerely hope that.... no legislation such as that proposed will be introduced or considered at this time...."[2]

Thereupon Inman finally withdrew his bill on April 10. The cablegram sent to Lansing from the Senate on the same day was as follows:

"Notwithstanding great public demand that legislation such as mentioned in our cablegram be enacted, solely in deference to earnest plea on the part of the President, such legislation will not be introduced or considered by the Senate at this session. We earnestly petition that such action be taken by the President on the Oriental immigration question as shall make future state legislation on such subjects unnecessary."[3]

On the following day Duncan, too, withdrew his bill.

In this manner the agitation within the State Legislature could be soothed for a time by the pressure of environment. However, outside of the Capitol the anti-Japanese movement continued to become higher and higher with the drawing near of the Presidential election. So the

1) Journal of the Senate, California, 43 Sess., p. 1065.
2) Ibid., p. 1277.
3) Ibid., p. 1317.

Japanese Government awakened to the seriousness of the situation, and endeavored to abate America's feelings against Japan, particularly her subjects in California, by stopping the issuance of passports of picture brides after March 1, 1920. Yet the agitation went on so far that a more drastic measure was proposed and passed in the form of an initiative act which sought to make the provisions of the Alien Land Law more stringent.

The initiative petition circulated from the spring of 1920 to obtain sufficient signatures from the electors of the State was filed on August 3 with the Secretary of State, bearing about 85,000 signatures. The valid signatures having reached the number legally required, the initiative measure was placed on the ballot at the general State election held on November 2, 1920, and adopted, though with a considerable number of opponents. The California Oriental Exclusion League, California Farm Bureau Federation, Native Sons of the Golden West, Labor Unions, American Legion of California, California Federation of Women's Clubs, James D. Phelan, John M. Inman, also Dr. David P. Barrows, President of the California University, and V. S. McClatchy, publisher of the *Sacramento Bee*, were among the proponents of the measure; and the American Committee of Justice, Dr. David Starr Jordan, Chancellor Emeritus of Stanford University, Prof. Payson J. Treat, Dr. H. H. Guy, Sidney L. Gulick, Colonel John P. Irish, as also Americans in Tokyo, Yokohama and Kobe and ministers of several churches in California, were among the opponents of the measure.

Of the text of this land act, some of the principal amendments of or additions to the provisions of the Alien Land Law of 1913 from which this act grew, may be enumerated as follows:

(1) Japanese are deprived of the right of leasing agricultural land.

(2) No Japanese may be permitted to become members or stockholders of land companies.

(3) No Japanese may be appointed as guardians of the real properties of their minor children born in the United States.

(4) Strict supervision is laid by the State upon the condition of property held by trustee.

(5) Punishment follows any violation of this act.

It will easily be seen that this law is of a stringent nature. Especially the prohibition of any lease and of forming land companies have been regarded as very exacting conditions of the act.

An even more radical idea looking toward limitation of the agricultural development of Japanese was advanced by President Barrows of the University of California, who made a speech in April, 1920, suggesting a policy of buying up by the State at their appraised value of all lands once fallen into alien possession.[1] Such a step was too advanced to gain many supporters, but not new in its thought. Several years ago there appeared in the State Legislature of California a bill containing a clause which proposed to force Japanese farmers to sell their lands within a year.[2]

When the initiative movement grew intense through California the gravity of the matter attracted the attention of Washington, and a party consisting of the members of the House Committee on Immigration and Naturalization including Albert Johnson, chairman of the Committee, visited the Western coast and began investigation of the Japanese situation on July 12, 1920. The started the hearings in California and then moved to other Pacific States. After the journey Johnson confessed that he found the fear of Japanese invasion of land was not hysterical.[3] Bainbridge Colby, then Secretary of State, also made an inspection trip to the Pacific coast.

Since the matter had assumed the aspect of an international issue, conversations were initiated near the end of August between Colby and Japanese Ambassador Shidehara to exchange opinions upon the status of the Japanese in California and the general question of Japanese immigration, with a view to the drafting of a new commercial treaty between the two nations. At that time Governor Stephens of California met with Colby in Washington. Morris, American Ambassador to Japan, consulted with Ambassador Shidehara. With the inauguration of the Harding administration the negotiations extended to the general American Japanese question covering the whole sphere of Yap, Shantung, immigration and alien land problems. However, neither the investigation of the Immigration Committee nor the negotiations between the State Department and the Japanese Embassy have borne any visible fruit as yet.

So much is the outline of the progress of the anti-Japanese movement, especially the land controversy, in the United States. Now let us study the grounds upon which such unfavorable feelings have arisen. If we try to do so it will be found that the main grounds are of racial and

1) The Japanese American News, April 17, 1920.

2) S. L. Gulick, The American Japanese Problem, p. 188.

3) The San Francisco Chronicle, October 16, 1920.

economic nature. The question which of these two would be preponderant is difficult to answer, because some persons support the racial ground and others the economic one. Many Americans used to attack the Japanese as an unassimilable race, but on the other hand most Americans oppose such a high degree of assimilation as to cause intermarriage. Such contradiction of thought is the best proof of the existence of racial prejudice among Americans.

Attorney-General Webb, spoke on one occasion in 1913 as follows:

"The fundamental basis of all legislation upon this subject (anti-Japanese problem), State and Federal, has been, and is, race undesirability. It is unimportant and foreign to the question under discussion whether a particular race is inferior or superior. The simple and single question is, 'Is the race desirable?'...." [1]

Gregory Mason, writing recently in the Outlook, in an interesting passage entitled "The 'Possum and the Dinosaur", said:

"The Japanese question is not an economic question at all; it is entirely a racial question.... But this economic competition is only a secondary matter; the fundamental difficulty is the barrier of racial prejudice." [2]

Chester H. Rowell said:

"The bitterest anti-Japanese agitator in California has never once suggested that they are an inferior race. They are of a different and physically unassimilable race; that is all." [3]

Dr. Guy made a speech on October 12, 1920, before the debate on the anti-alien land law amendment. The San Francisco *Chronicle* described it as follows:

"Dr. Guy announced that he was speaking for himself personally, not substituting the ideas of any one else nor those of any associations. He said the real problem is that of race and is neither social nor industrial...." [4]

Above are some of the opinions of those who held that the anti-Japanese feeling came from the racial side.

Then, what would be the economic interpretation of the subject? The recent development of the Japanese all over California as landowners, tenants and farm hands has been so great that their number in 1918 reached the high figures seen in the table below:

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1) S. L. Gulick, The American Japanese Problem, p. 189.
2) The Outlook, June 16, 1920, p. 319.
3) The World's Work, June, 1913, Vol. 26, No. 2. p. 199.
4) San Francisco Chronicle, October 13, 1920.

AGRICULTURAL POPULATION OF JAPANESE IN CALIFORNIA, SEPTEMBER, **1918**.[1]

Farmers	7,973
Farmers' wives	4,560
Farmers' boys under 16 years	3,396
Farmers' girls under 16 years	3,114
Farm hands	15,794
Farm hands' wives	1,663
Farm hands' boys under 16 years	771
Farm hands' girls under 16 years	737
Total	38,008

The rural population of Japanese in California includes 55% of the total of Japanese in the State (68,982),[2] and from the above table the following facts may be derived:

(1) The number of Japanese farmers together with all their families is practically equal to that of the farm hands together with all their families.

(2) The number of farm hands is twice as great as that of farmers and the relative number of farmers' wives to that of farmers is about 60% making sharp contrast to the case of farm hands' wives and farm hands, whose percentage is only about 10.

LAND CULTIVATED BY JAPANESE IN CALIFORNIA AT THE END OF **1918**.[3]

	Number of farms	Acreage
Owned	527	29,105
Leased	5,936	336,721
Total	6,463	365,826

It will be seen from this table that at the end of 1918 both the number and the area of leased farms were more than ten times those of farms operated by the owners. Besides these individual enterprises there were about 13,000 acres[4] held by corporations controlled by Japanese. Cultivation by such corporations has been carried on mainly in rice fields and vineyards.

From the above table we may deduce the fact that the average area of an owned farm is about 55 acres, while that of a leased farm is 57 acres. These figures are very low if compared with the average

1) Japanese Assoc. of Am. Statistics relative to Japanese Immigration and the Japanese in California, p. VI.

2) Ibid., p. V.

3) Ibid., p. VII.

4) Ibid., p. VII.

acres per farm in California as a whole, which amounted to 316.7 acres[1] in 1910. However, exact comparison cannot be made in this case, because the year in which the respective statistics were gathered is not the same. Such difference in size of farms between those of Japanese and of Californians mainly came from the character of the agriculture conducted, the one being much more intensive than the other.

Having observed the rapid acquisition of farm lands by Japanese, McGovern, vice-president of the Japanese Exclusion League, declared in October, 1920, that if this tendency should continue with the present rate all lands in California would fall into the hands of Japanese within a century. However, it must be remembered that the recent haste of Japanese toward land possession was largely due to the fear of passage of a most rigorous land law.

Let us examine the geographical distribution of farms operated by Japanese.

DISTRIBUTION OF FARM LANDS CULTIVATED BY JAPANESE, COMPARED WITH THOSE CULTIVATED BY OTHER ORIENTALS, DEC. 31, 1919.[2]

	Japanese		Chinese		Hindus	
Counties	Owned	Leased	Owned	Leased	Owned	Leased
Alameda	1,150	2,640	—	80	—	—
Alpine	—	—	—	—	—	—
Amador	—	147	—	—	—	—
Butte	4,943	10,840	91	800	775	4,220
Calaveras	—	—	—	—	—	—
Colusa	145	22,290	820	17,610	—	10,240
Contra Costa	705	5,681	—	1,153	—	1,212
Del Norte	—	—	—	—	—	—
El Dorado	—	337	—	—	—	—
Fresno	14,005	15,905	1,065	460	190	540
Glenn	—	14,095	—	960	—	13,915
Humboldt	—	—	—	—	—	—
Imperial	803	33,479	—	80	—	32,380
Inyo	—	—	—	—	—	—
Kern	2,381	—	40	—	—	—
Kings	1,067	8,650	560	2,560	—	1,000
Lake	—	—	—	—	—	—
Lassen	—	—	—	—	—	—
Los Angeles	1,616	42,911	19	2,130	—	—
Madera	1,080	440	160	—	60	80
Marin	—	—	—	—	—	—
Mariposa	—	—	—	—	—	—

1) Statistical Report of the California State Board of Agriculture for the year 1918, p. 14.

2) State Board of Control of California, California and the Oriental, p. 48.

Counties	Japanese		Chinese		Hindus	
	Owned	Leased	Owned	Leased	Owned	Leased
Mendocino	—	5	—	—	—	—
Merced	8,720	2,090	10	—	—	—
Modoc	—	—	—	—	—	—
Mono	—	—	—	—	—	—
Monterey	107	9,462	23	2,270	—	—
Napa	34	—	—	—	—	—
Nevada	300	—	543	—	—	—
Orange	250	15,921	50	90	—	—
Placer	2,638	12,610	40	1,033	—	—
Plumas	—	—	—	—	—	—
Riverside	99	866	5	—	—	600
Sacramento	1,550	46,096	1,705	12,905	75	2,529
San Benito	136	4,769	—	—	—	—
San Bernardino	88	63	—	—	—	—
San Diego	85	1,756	102	—	—	—
San Francisco	—	—	—	—	—	—
San Joaquin	17,796	51,884	5,703	16,125	423	3,898
San Luis Obispo	—	13,647	—	—	—	—
San Mateo	33	1,615	—	15	—	2,000
Santa Barbara	—	2,759	40	10	—	—
Santa Clara	843	4,284	—	—	—	—
Santa Cruz	343	—	—	—	—	—
Shasta	—	—	2	—	—	—
Sierra	—	—	—	—	—	—
Siskiyou	—	—	—	—	—	—
Solano	678	10,865	359	1,920	—	—
Sonoma	1,887	850	—	—	—	—
Stanislaus	2,947	5,755	—	—	—	—
Sutter	790	16,691	—	752	443	6,901
Tehama	—	1,296	—	220	—	—
Trinity	—	—	—	30	—	—
Tulare	5,306	1,794	562	180	131	20
Tuolumne	—	—	—	—	—	—
Ventura	1,944	2,356	177	—	—	—
Yolo	109	7,537	—	640	—	—
Yuba	171	10,910	—	3,158	—	6,800
Totals	74,769	383,287	12,076	65,181	2,097	86,335

We may perceive from the above table that the farms operated by Japanese, either owned or leased, are scattered over the State of California, but are especially numerous in the counties of San Joaquin, Sacramento, Los Angeles, Imperial, Fresno and Colusa, in this order, and the areas of farms, owned and leased combined, in these six counties surpassed 200,000 acres.

San Joaquin county, having Stockton in its central part, is leading

the others in this regard, with farm lands of about 70,000 acres cultivated by Japanese.

The total area of lands occupied by Japanese individuals and corporations is 458,056 acres, constituting more than 73% of the total area occupied by all Orientals, and again this acreage represents nearly 12% of the total irrigated area in California, this latter comparison being taken for granted because almost all farms cultivated by Japanese are under irrigation. This fact of the formation of Japanese colonies everywhere within the State has been criticized by Californians whom it alarms.

When John S. Chambers, State Controller of California, once used the following expression, he was quite out of reason: "So the Japanese plan the conquest of California by colonization now, and later, if necessary and advisable, by force."

We should know how those lands occupied by Japanese are now being utilized.

KIND OF CROPS CULTIVATED BY THE JAPANESE, END OF 1918.[1]

Product	Acreage by Japanese	Total Acreage	Per cent of Japanese to total acreage
Berries	5,968	6,500	91.8
Celery	3,568	4,000	89.2
Asparagus	9,927	12,000	82.7
Seeds	15,847	20,000	79.2
Onions	9,251	12,112	76.3
Tomatoes	10,616	16,000	66.3
Cantaloupes	9,581	15,000	63.8
Sugar beets	51,604	102,949	50.1
Green vegetables	17,852	75,000	23.8
Potatoes	19,830	90,175	20.8
Rice	16,640	106,220	16.0
Hops	1,260	8,000	15.7
Grapes	47,439	360,000	13.1
Beans	77,107	592,000	13.0
Cotton	18,000	179,860	10.0
Corn	7,845	85,000	9.2
Fruits and nuts	29,210	715,000	4.0
Hay and grain	15,753	2,200,000	0.0

What attracts our attention in glancing at the above table is:

1) Statistics relative to Japanese Immigration, p. VIII.

1. The cultivation of berries aud of such vegetables as celery and asparagus, which need much care and intensive management, is practically monopolized by Japanese farmers. So the near-sighted alarmists cry out as if the Japanese were absorbing all the land in California. In fact these kinds of farming are especially suited to Japanese who were accustomed to such delicate treatment of land in their country, but not so suited to white farmers. So it may well be said that necessity created such a condition of farming practice.

Miss Alice M. Brown hit the point in saying this:

"The Japanese are fitted for the ceaseless labor of raising strawberries; carloads and carloads are shipped from here (Florin) as evidence of their success. The whites cannot do this work. If any thinks so, let him try hoeing or picking for just one week, and he will be a wiser man." [1)]

2. Only a little attention will reveal the fact that the acreage dedicated to such crops as are suited to the Japanese is negligible compared with the whole cultivated area in the State. The alarmists missed this great fact ignorantly or knowingly.

Dr. Sidney L. Gulick said in his book:

"In the case of land holding the situation is exactly the reverse. Here, instead of dominating anything, the Japanese are practically a negligible quantity .... These figures .... are relatively insignificant in a state which has single holdings of millions of acres. All the Japanese farms in California owned or leased, could be located on the Miller and Lux ranches and be lost in the shuffle." [2)]

3. We find that Japanese farmers are utterly powerless on the corn, hay and grain fields, which are suited to extensive farming. When we contrast this point with the success of the Japanese in vegetable gardening we may easily understand the characteristics of Japanese agriculturists.

4. The main reason why the orchards, belonging also to the category of intensive farming, are not much carried on by Japanese seems to be that they are not fitted for leasing for short periods.

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1) A. H. Brown, Japanese in Florin, p. 7.

2) S. L. Gulick, The American Japanese Problem, p. 185.

ACREAGE AND VALUE OF CROPS RAISED ON THE FARMS OPERATED BY THE JAPANESE, 1909 AND 1919[1]

Kind of Crop	Acreage		Value of Products	
	1909	1919	1909	1919
Berries	4,587	5,949	$729,831	$3,629,400
Celery	—	3,518	—	1,105,400
Asparagus	—	10,027	—	1,804,860
Seeds and nursery	652	16,847	206,770	3,369,400
Onions	—	9,883	—	3,459,050
Tomatoes	—	7,916	—	1,068,660
Sugar beets	5,653	51,224	271,050	4,800,360
Cantaloupes	—	13,481	—	2,822,150
Green vegetables	33,467	44,188	2,517,160	10,997,000
Potatoes	—	17,663	—	5,298,900
Hops	273	1,260	46,000	743,400
Grapes	9,657	54,246	435,350	8,136,900
Beans	—	41,500	—	2,525,000
Fruits and nuts	23,139	46,930	1,753,210	8,457,400
Hay, grain, and corn	910	43,984	28,530	2,611,100
Rice	—	24,000	—	3,600,000
Cotton	193	13,000	17,100	1,950,000
Miscellaneous	4,722	3,011	230,955	766,750
Unimproved	—	18,402	—	—
Totals	83,253	427,029	$6,235,856	$67,145,730

The value of the farm products raised by Japanese in 1919 constitutes 13% of that of all California farm products, which aggregated $507,911,881.[2] This cannot be called a low percentage. But a more remarkable phenomenon is the rapid development of agricultural lands occupied by Japanese farmers and the value of their products during the ten years, 1909–1919. By the end of this period the acreage had increased to more than five times and the value of products to more than ten times the former figures. Such rapid and enormous progress of Japanese farming in California, particularly in the value of its products, began to be feared by many Americans, who rang the bell to awake their people. This is the economic aspect of the anti-Japanese movement.

Attacking the Japanese on the ground of low wage demands and low standard of living (though these two facts have now really disap-

1) The State Board of Control of California, California and the Oriental, p. 49.

2) *Ibid.*, p. 49.

peared) and on hours of labor, and field work of women, came mainly from the economic reason, in other words, economic competition.

Governor Stephens of California in his report to the Secretary of State of the United States discussed the subject as follows:

"The Japanese in our midst have indicated a strong trend to land ownership and land control, and by their unquestioned industry and application, and by standards and methods that are widely separated from our occidental standards and methods, both in connection with hours of labor and standards of living, have gradually developed to a control of many of our important agricultural industries.... So that it is apparent without much more effective restrictions that in a very short time, historically speaking, the Japanese population within our midst will represent a considerable portion of our entire population, and the Japanese control over certain essential food products will be an absolute one." [1]

When he uttered these words he must have realized the economic importance of expelling the Japanese from the agricultural land. William Thum wrote in his book as follows:

"Her (California's) land problem is inseparable from our Japanese question. In fact the latter is for the present the most serious feature of her land problem, as the Japanese excel not only in physical endurance but in farm management." [2]

In the San Francisco *Chronicle* of July 3, 1920, we read the following:

"Purely from an economic point and nothing else are we fighting for legislation against the invasion of the Japanese."

James W. Mullen, editor of the Labor Clarion, organ of the California Federation of Labor, wrote:

"The objection of the American to the Japanese was not based upon racial grounds, but upon economic grounds; the racial aspect has since been injected into the issue by designing persons." [3]

We have above traced in some detail the racial and economic interpretation of the anti-Japanese feeling. These two most powerful factors have been wound up with other incidental or personal causes. Political issues have been inseparably interwoven with the anti-Japanese questions to command the direction of the movement. At every crisis there have appeared on the scene a number of so-called politicians who were eager to employ the subject for the purpose of attaining their own political ambition.

Governor Stephens wrote in 1920 to Representative Harold Knutson of Minnesota, using the following language:

".... A broad and intelligent handling of this question (Japanese

1) The State Board of Control of California, California and the Oriental, p. 8.
2) W. Thum, The Coming Land Policy, p. 52.
3) Quoted in Joseph Blaine McAndrew, What is the Cause of the Movement to exclude the Japanese?

on the Pacific Coast) has been complicated by those who have been agitating it for selfish political purposes. This handicaps us in enlisting support in other states and also in getting our case fairly before the National Government . . . . " [1]

Such being the case the real status of the Japanese in California is apt to be misunderstood by the American public.

There remains still one factor which has helped the recent anti-Japanese movement in its background. Without knowing what it is we might not be able to appreciate the essence of this question. It is neither economic, racial, social nor political in character. It is nothing but the patriotic spirit revived since the Great War.

America learned from the War that its national construction was not so compact as supposed ; so it has begun to tighten the national unity by the consolidation of the citizens. Colonel Theodore Roosevelt stood foremost in the campaign and played the most conspicuous rôle. He wrote on the matter in his last message to the public as follows :

" There must be no sagging back in the fight for Americanism merely because the war is over. There are plenty of persons who have already made the assertion that they believe the American people have a short memory and that they intend to revive all the foreign associations which most directly interfere with the complete Americanization of our people. Our principle in this matter should be absolutely simple. In the first place, we should insist that if the immigrant who comes here does in good faith become an American and assimilates himself to us, he shall be treated on an exact equality with every one else ; for it is an outrage to discriminate against any such man because of creed or birthplace or origin. But this is predicated upon the man's becoming in very fact an American and nothing but an American. If he tries to keep segregated with men of his own origin and separated from the rest of America, then he is not doing his part as an American. There can be no divided allegiance at all. We have room for but one flag, the American flag, and this excludes the red flag, which symbolizes all wars against liberty and civilization just as much as it excludes any foreign flag of a nation to which we are hostile. We have room for but one language here, and that is the English language ; for we intend to see that the crucible turns our people out as Americans, of American nationality, and not as dwellers in a poly-glot boarding-house : and we have room for but one sole loyalty, and that is loyalty to the American people." [2]

Thus originated by the outburst of the Great War and stimulated by the distinguished figure of Roosevelt, the strong movement of Americanization and assimilation spread all over the United States.

1) The San Francisco Chronicle, July 10, 1920.

2) New York Times, Jan. 7, 1919, p. 2. or Hanson H. Webster, Americanization and Citizenship.

The Republican party in its national convention of 1920 declared as follows:

"There is urgent need of improvement in our naturalization laws. No alien should become a citizen until he has become genuinely American and tests for determining the alien's fitness for American citizenship should be provided for by law.... Whenever Federal money is devoted to education, such education must be so directed as to awaken in the youth the spirit of America and a sense of patriotic duty to the United States."

Just at this time the Japanese were diagnosed by Americans as an unassimilable and undesirable race, and moreover some development of Japan's relation to China entered in, so the fire of the anti-Japanese agitation burned with ever-increasing force.

Moved by the prevailing sentiment of the Americans on the Pacific Coast, the Democratic party declared in its National Convention of 1920 as follows:

"The policy of the United States with reference to the non-admission of Asiatic immigrants is a true expression of the judgment of our people and to the several states whose geographical situation or internal conditions make this policy and the enforcement of the laws enacted pursuant thereto of particular concern, we pledge our support."

But many Californians not being satisfied with the prohibition of the further immigration of Japanese endeavored to pass more stringent measures to render impossible the agricultural development of the Japanese already there.

We have supplied an outline of the origin and progress of the anti-Japanese movement in the United States, practically in California. We have learned that the movement in the last decade was directed towards the Japanese on agricultural lands and its severity steadily increased. It may be interesting to note here that almost all of the white land owners who were leasing their lands to Japanese did not welcome the initiative measure, though they, except some bold men like Colonel John P. Irish and others, dared not openly oppose it. Their pro-Japanese attitude came mainly from the economic consideration which outweighed the spirit of racial discrimination in this instance.

Now let us conclude this chapter. There can be no Americans who do not recognize the contribution of the Japanese to the development of natural resources in California, which meritorious activity has eventually resulted in a supposed menace to Americans. Although the remarkable increase in leases by Japanese has been watched with cautious eyes by Americans and regarded as a dreadful encroachment upon their agricultural

lands, it must not be forgotten that the recent development was largely attributable to the European War, which fact even Governor Stephens recognized when, in his letter to Representative Knutson cited before, he wrote as follows:

"The shortage of labor supply, intensified during the war, is in a large measure responsible for the remarkable expansion of leasing (by Japanese) that we have experienced."

If his opinion is fair Japanese tenants must be praised for their merit instead of being reproached. Land owning farmers, too, would deserve the same commendation. Further, an official document of California recognized these things some years ago:

"In some intances, too, he (the Japanese) has worked successfully where the white man could not work at all. For instance, in the delta of the San Joaquin and Sacramento Rivers where the white man could not compete with unhealthy nature, the Japanese came in, survived year after year, raised a better potato crop than the white man could raise, graded it better, sold it better, and has all but taken entire possession of the land."[1]

As the contribution of Japanese farmers to the wealth of California was valuable in the past, it would not be just to check their development in the future by a discriminatory land law. I hope that by the conclusion of a new treaty between the two countries the right of leasing and owning farm lands will be restored to the present Japanese residents of California to enable the latter to continue peacefully their intensive farming on the lands which need such treatment, side by side with Americans who may engage in large-scale farming on the vast field to which their natural character seems to be better fitted.

Chapter V. Ex-Soldiers of the Great War and the Land Problem.

Land questions which arose in connection with the European War may be observed in two phases. In order to meet urgent demands for food in the extraordinary emergency, the opening of new lands and more intensive cultivation of old farms were earnestly advocated and practised by the warring countries. This is the productive side of the land question. Then with the close of the War every country was obliged to face the serious question of how to restore the disbanded soldiers and sailors to the industrial field, in order to bring the most satisfactory effect upon them and the nation as a whole. The advent of peace was feared as a

1) Anti alien Legislation in California, 1913, p. 14.

probable cause of crisis consequent upon disturbance in the labor market, and this menace of unemployment seemed to be aggravated by the great mass of ex-service men returning from the front. Therefore to prevent the occurrence of such a grave condition as well as to increase the settlement of bona fide farmers upon the open country, various plans were proposed and some of them have been adopted in several countries, looking for the settlement of the land by the returned soldiers and sailors. This is the social side of the land question. Now, view the effect of post-war conditions in the United States upon the land question.

The United States enjoyed for a time unrivaled economic prosperity consequent upon the outbreak of the Great War, yet thoughtful people began to conceive the apprehension mentioned above regarding the future readjustment of industrial order. So numberless plans of soldier settlement policy were proposed as remedies of the menacing evils. Perceiving the necessity of immediate action along this line, the late Franklin K. Lane, then Secretary of the Interior, wrote a letter to President Wilson on May 31, 1918, arguing in a convincing manner as follows:

".... Every country has found itself face to face with this situation at the close of a great war. From Rome under Caesar to France under Napoleon, down even to our own Civil War, the problem arose as to what could be done with the soldiers to be mustered out of military service. At the close of the Civil War America found a somewhat similar situation, but fortunately, at that time the public domain offered opportunity to the home-returning soldiers. The great part the veterans of that war played in developing the West is one of our epics. The homestead law had been signed by Lincoln in the second year of the war, so that out of our wealth in lands we had farms to offer the million of veterans. It was also the era of transcontinental railway construction. It was likewise the period of rapid, yet broad and full, development of towns and communities and States.

"To the great number of returning soldiers land will offer the great and fundamental opportunity. The experience of wars points out the lesson that our service men, because of army life, with its openness and activity, will largely seek out-of-doors vocations and occupations. This fact is accepted by the allied European nations .... The questions, then is, 'What land can be made available for farm homes for our soldiers? We do not have the bountiful public domain of the sixties and seventies. It has been officially estimated that more than 15,000,000 acres of irrigable land now remain in the Government's hands .... Under what policy and program millions of these acres could be reclaimed for future farms and homes remains for legislation to determine. The amount of swamp and cut-over lands in the United States that can be made available for farming is extensive....

"The failure of this land to be developed is largely due to inadequate method of approach. Unless a new policy of development is worked out in co-operation between the Federal Government, the States, and

the individual owners, a greater part of it will remain unsettled and uncultivated .... The experience of the world shows without question that the happiest people, the best farms, and the soundest political conditions are found where the farmer owns the home and the farm lands ....

"The adoption by the United States of new policies in its land development plans for returning veterans will also contribute to the amelioration of these two dangers (drift to farm tenancy and to urban life) to American life. A plan of land development, whereby land is developed in large areas, subdivided into individual farms, then sold to actual bona fide farmers on a long-time payment basis, has been in force not only in the United States under the reclamation act, but also in many other countries for several years. It has proved a distinct success .... One of the new features of this plan is that holders are aided in improving and cultivating the farm. In a word, there is organized community development ....

"I therefore desire to bring to your mind the wisdom of immediately supplying the Interior Department with a sufficient fund with which to make the necessary surveys and studies .... We should know what it will cost to buy these lands if they are in private hands. In short, at the conclusion of the war the United States should be able to say to its returned soldiers: 'If you wish to go upon a farm, here are a variety of farms of which you may take your pick, which the Government has prepared against the time of your returning' ....

"This plan does not contemplate anything like charity to the soldier. He is not to be given a bounty .... The work that is to be done, other than the planning, should be done by the soldier himself .... This is not a mere Utopian vision. It is, with slight variations, a policy which other countries are pursuing successfully."[1]

By this letter Secretary Lane fully expounded the importance of a great plan of soldier land settlement work, and further urged: (1) co-operation between the Central Government, the States and the individual landowners, (2) community development and (3) no admission of the element of charity. On November 20 of the same year Secretary Lane again made the following report to the President, based upon the principle outlined in the above letter:

".... Why not say to this inquiring soldier man: America offers you a farm if you will help in its making and pay for it out of what you make out of it. This can be done, and, if it were, it would solve, or tend largely to solve, several problems:

1. That of the immediate job for the man himself.

2. That of protecting the labor market against any possible collapse by being swamped with a surplus of labor.

3. That of providing for many lines of reestablished industry an immediate demand for their products.

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1) Annual Report of the Department of the Interior, 1918.

4. That of staying the movement toward the cities, and thus more completely decentralizing our population.

5. That of affixing to our soil a large number of the best proved Americans.

6. That of setting up throughout the land the most modern pattern of farm settlement in which the social side of human nature is given consideration.

7. That of bringing into use those great areas of our land which now lie neglected and of no value to the world.

All of these objects, I apprehend, will be deemed worthy, desirable, and of great concern to the Nation. The questions that arise in the mind will not involve the value of doing these things, but the practicability of such a program....

Four things are the essence of this program—that there shall be work ready for the men on their return, that this work shall be for the making of America, that the money expended shall be returned with interest to the Government which advance it, and that the land shall be platted so as to be a part of an organized community...." [1]

In this report the aim of the soldier land settlement work was more concretely indicated than before. At the same time the Secretary prepared a draft of the Soldier Settlement Bill and sent copies to the several States with recommendation that a plan something like that which it embodies be adopted by them. The substance of the draft was as follows:

1. The essence of this act was the co-operation between the States and the Central Government.

2. There were proposed two alternatives in the act. According to the first scheme the lands needed for the work were to be furnished by the State, the expenditures for the land reclamation and other improvements being borne by the Federal Government. The second plan demanded that the State make the expenditures to the extent of not less than 25% of the total outlay for the settlement work including the cost of both the land and all reclamation and improvements on it.

3. No application for entry was allowed when the applicant would become a proprietor of land having a value of more than $15,000 altogether, after acquisition of land under this act. From this provision we know that the act aimed at the creation of small farmers while preventing the concentration of lands in the hands of large holders.

4. Every approved applicant must enter the land within six months and reside upon it yearly for at least eight months, for a period of five

1) Annual Report of the Department of the Interior, 1918.

years. This regulation is more stringent than that of the existing homestead law but somewhat milder than that of the California Land Settlement Act.

5. There was a provision relative to the agricultural training of the soldier. Such work had already begun in Canada.

It must be noticed that there are several provisions contained in the draft, resembling those of the California State Land Settlement Act. For example, (1) establishment of the Soldier Settlement Board, (2) creation of the Soldier Settlement Fund, (3) fixing of the maximum amount of the cost of farm improvement to be expended on the allotment before offering to the soldier, (4) minimum capital which every applicant shall have, (5) repayment period for the cost of the land, reclamation, improvement and equipment on the allotment, (6) division of the farm allotment and the farm laborer's allotment.

On the whole we can easily perceive the striking similarity between the draft and the California State Land Settlement Act. California being the pioneer in this line, its system, indeed, was adopted as the model of the draft.

On May 19, 1919, a National Soldier Settlement Bill providing employment and rural homes for ex-soldiers was introduced in the House by Mondell and referred to the Committee on Public Lands. This bill had been drafted by the Interior Department. Before the Committee extensive hearings were held from May 27 to June 28, in which every class of society attended, including soldiers, farmers, laborers, lawyers, statesmen, sociologists and managers of the Mormon settlement. During the hearings a variety of objections to the bill were presented, some of which may be cited here.

1. Praise of the scattered settlement of the American system and opposition to the community plan advocated by the bill.

The provoked retort from the supporters of the bill. Tillman said:

"Now, is not that (French system of living in villages) preferable to the American system under which farmers live far removed from one another? Does not the French system in a large measure solve the school problem, the transportation-to-school problem, the church problem, and other social problems that we in America have suffered from for many years by reason of living so far apart? .... The farmers up there (Dakotas) have 640-acre farms, and they tell me that many of the farm women go insane because they have no means of associating with their neighbors."[1]

2. Injury to the farmers in other regions.

This opposition came from the fear of competition. A resolution

1) Homes for Soldiers, p. 50.

adopted by the annual meeting of the National Grange held at Syracuse, New York, was brought in on that occasion by the opponents of the bill to prove their view. The resolution read as follows:

"Farms for soldiers: We oppose the proposed plan of reclaiming swamp and arid lands for returning soldiers as unsound, impracticable, and detrimental to the interests of the Nation and agriculture. There is an abundance of untenanted farms near market centers to supply all soldiers who may wish farm land. The Government should meet this need in this way so that they may become self-supporting and useful without waste and delay."[1]

3. Preposterous in giving the first place to the reclamation proposition instead of the soldier measure. William R. Wood of Indiana said:

"It occurred to us that the Mondell bill is primarily a reclamation project and, so far as it interests the soldiers, that is only secondary. There have been projects of reclamation for many years, and individually I am in favor of reclamation projects, but I believe, and I think I voice the sentiment of our delegation, that a reclamation project should not be made the basis of furnishing homes to returning soldiers.... I do not think it could be done in our section of the country, and I do not think it can be done in any of the States that are now thickly settled."[2]

4. Unjust in confining the law to the returned soldiers.

Western Starr, representative of the Farmers' National Single Tax League, said on this point:

"You are providing for the uniformed soldier solely; I maintain, and I think I can show, that unless you make it apply to everybody, with such distinctions in favor of the uniformed men as gives them a preference, your bill will amount to nothing in results....

"Now, most of the men who went from the city to the Army, young men with city training and development, are not going to the farm; and I want to say to you that more than half of the men who went from the farm into the Army, unless they were married men and had families living in the country, are not going back to the farm, and when they do go, they are not going out into the wilderness to take cut-over lands and develop them for the purpose of making a farm."[3]

5. Inexpedient in disbursing great sums for the work in a time of financial embarrassment.

6. Impropriety of Government assumption of responsibility of the work.

Some one insisted that the work should be rather left to the States and an appropriation should be distributed among them in proportion to

1) Homes for Soldiers, p. 70.
2) Ibid., p. 531.
3) Ibid., pp. 206, 207.

the number of their soldiers recruited to the Great War.

7. Measure for gaining vote of the soldiers.

Western Starr made the following frank speech:

"What I am trying to get at is here—you will pardon me, and I hope the committee will not misunderstand me when I make this statement—it has already been stated by men who are close students of affairs and of social philosophy and of political activity, that this bill is not intended as a genuine bill to help anybody except a few politicians who wish to capitalize the soldier vote."[1)]

His remark precipitated the utmost confusion, and some of those present pressed him to give the names of the persons who uttered such words.

So much regarding the principal views unfavorable to the bill which were pronounced before the hearings.

On August 1, 1919, the House Committee on Public Lands reported back the bill with almost unanimous support after a few amendments. The main drift of the bill is as follows:

1. Purchase of private lands by the Government and their subdivision to the size fitted for the support of a family.

2. Creation of farm workers' tracts at the discretion of the authorities.

3. If necessary, the preparation of the land for immediate cultivation.

4. Provision for necessary improvements through agreement with the soldier.

5. Giving credit of a definite amount to the soldier.

6. Regulations concerning residence and cultivation.

7. Repayment of the cost of the land within a period of 40 years at 4% interest per annum.

8. Arrangement of the things necessary for the completeness of community life.

9. Appropriation of $500,000,000 for this work.

Contemporaneously with the submission of the report of the Public Lands Committee there was presented a minority report of the Committee, which opposed the bill as unfair in that it discriminated against many soldiers who would miss the opportunity of entering land and that it imposed undue burdens upon taxpayers.

The main grounds of objection to the bill in the House were as follows:

1. Restriction placed upon laboring hours during the preparation of the soldier settlement.

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1) Homes for Soldiers, p. 207.

White of Kansas said:

"They will be reclaimed by labor that will be controlled by the union-labor organization and its rules absolutely. The lands will be reclaimed by labor paid on a schedule fixed at eight hours per day.... No man that wants to do anything for his own advancement or that of his family should be prohibited from working to the full limit of his power to achieve (applause)." [1]

2. Danger of settling a soldier colony, which would be only experimental.

3. Infamous motive of the scheme.

Representative Scott uncovered the dark side of the plan with following words:

"It is a burning shame that greed and avarice will not stay its activities even when the future welfare of the American soldier is under consideration.... Gentlemen of the House, do you need a high-priced press agent, hired by the Southern Land and Development Organization, to tell you what the returned soldier wants or needs? I for one wish to consult the soldier himself rather than press agents of private corporations...." [2]

The above citations are from the debates upon the question in the House. That this bill met with strong disfavor in some quarters will be seen from the fact that when White began his speech with the following words, "I want to say here that I am against this proposition from start to finish," there arose applause.

It should be remembered that among the opponents of the national soldier settlement measure other than the Eastern farmers there were bankers and money lenders [3] who feared decrease of demand for their capital as a consequence of the adoption of a bill providing easy credit to the soldier.

Notwithstanding the bill was advocated by the Secretary of the Interior, the veterans, American Federation of Labor, chambers of commerce, boards of trade, owners of the swamp, cut-over or arid lands and numerous newspapers, the bill has been buried deep in Congress without being taken up.

Recently, on May 12, 1920, Republican Senator Borah introduced into Congress a Soldier Relief Bill making a $300,000,000 loan to the ex-warriors for the coming ten years. There were proposed two alternative plans of loan. One was to furnish a long-time loan for the purchase of

1) Cong. Rec., 66 Cong., 1 Sess., p. 4375.

2) Ibid., p. 4378.

3) Ibid., p. 4377.

suburban homes or farms, and the amount of loan was limited to $3,000 to each applicant. The other authorized the Secretary of the Interior to create drainage or irrigation districts in which discharged uniformed men were to be employed. The veterans would then acquire at a reasonable price the land from the accomplished projects where they worked. The price of the land must be repaid within forty years at the rate of interest of 5.5% per annum. Moreover, each of these veterans was to be entitled to a short-time loan of $2,000. However, nothing came of this bill.

Why has the United States been inactive contrasted with European nations in the work of placing ex-soldiers on the land since the War, in spite of the great number of returned soldiers? The clearest reason may be found in the flourishing economic condition of this country during that time. But with the visit of international depression the United States, too, has begun to decline in its prosperity, and a demand for land by ex-service men has become discernible. Regarding this point the San Francisco *Chronicle* said on August 26, 1920:

"Within the last few months hundreds of returned soldiers have taken up homesteads and other public lands. Although immediately after the armistice there was a great effort made to induce discharged service men to join a back to the land movement, few of the former doughboys took kindly to the notion. 'Now there seems to be a reversal in the feeling toward farm life,' said Mrs. Genevieve D. Reid, receiver of the land office, yesterday. 'Soldiers are flocking in to file on Government lands. I think the women are responsible for the young men deciding to settle down to a pastoral life.'"

That the national soldier settlement problem was not obliterated from the public mind may be seen in the plank of the Democrats in the National Convention of 1920, which treated this question as follows:

"We believe that no higher or more valued privilege can be afforded to an American citizen than to become a freeholder in the soil of the United States, and to that end we pledge our party to the enactment of soldiers' settlement and home aid legislation which will afford the men who fought for America the opportunity to become land and home owners under conditions affording genuine Government assistance unencumbered by needless difficulties of red tape or advance financial investment."

Nevertheless, whatever efforts may be made hereafter for the encouragement of settling soldiers upon the land, remarkable results are not to be expected, because the public domain, which welcomed veteran soldiers from the Revolution down to the Civil War, has become very small, and at the same time the attraction of city life is growing intense economically as well as socially.

Conclusion.

In the above several chapters we have traced the evolution of the American land problem. First we treated of the acquisition and disposal of the public domain, dedicating to it the greater part of this paper, because it formed the nucleus of the land question. Secondly we described agricultural colonization on State or private lands. Lands on which public land settlement has been practised, it appears, had formerly been private lands which were bought by the settlement authorities for the work. It must be said, therefore, that both methods of colonization, public and private, were based upon private lands.

Next we came to the question of Indian land, then to that of alien land holding. These two questions form a peculiar feature of the American land question in that they are concerned with people having no citizenship and of different races. In the last chapter we touched the land problem with regard to the veteran, to know the recent tendency of public sentiment toward the land, though the problem itself was temporary in character.

Now let us study in what manner the land question has shifted in the past and what will be its future.

(A) Shifting of the land question.

From the beginning of the country up to date those questions relating to the public domain constituted the most important part of the American land problem, and this was especially so in former days, though the relation of Indian tribes and land possession was no small concern. But with the opening of the public domain and the consequent increase of private land, and with a growing demand for private land by reason of increasing population, new problems have arisen in relation to private land; for instance, concentration of land, land ownership versus tenancy, single tax, agricultural colonization, the alien land controversy and so forth. In a word, land problems of former times mostly ended with the process of disposal of the public domain, but now they have extened to the private lands which have been created from the public domain. In such manner the land problem has begun to move gradually from the sphere of the public domain to that of the private land.

Again, some changes have taken place in the public land policy as follows:

1 Change from revenue doctrine to homestead principle.

With the passage of the Pre-emption Law in 1841 the principle of allotting land to the actual settler without any regard to the revenue of the Government was adopted. This principle has continued to the present day embodied in the Homestead Laws since the abolition of the Pre-emption Act.

2. Change from the motive of national defense to that of peaceful settlement.

Sometimes the public domain was disposed of for the partial purpose of protecting the borders from invasion, as seen in the case of the Donation and Oregon Acts of 1842 and 1850 respectively. Yet to-day this accessory element has vanished, and the disposition of the public land has been made solely with a view to peaceful settlement.

3. Change from laissez-faire principle to restrictive system.

With the dawn of the present century the public land policy entered upon a restrictive and paternalistic stage. The conservation of natural resources and the reclamation of arid lands were typical embodiments of the policy.

4. Change from the segregated farm unit to the compact settlement.

The subject of close settlement was discussed as early as the debates on the homestead bills, and recently appeared again in the case of the National Soldier Settlement Bill. From such discussions a change in public sentiment towards the subject will be discovered. The reclamation projects have been carried on under this principle of encouraging compact settlement. By the act of October 5, 1914, the reservation of the public lands for community centers in the reclamation projects was authorized.

5. Change from special to general application of land laws.

It will be interesting to note that the Desert Land Act applicable to most of the Western States evolved from the Lassen County Act applicable only to one county of California, and that the Stock-raising Homestead Act was derived from the Kinkaid Act. In the same manner the Pre-emption, Forfeiture and Severalty Acts originated from special laws respectively.

(B) Stationary features of the land question.

While the evolution of the land problems has been outlined in the above some features remained unchanged throughout the whole period.

Some of them will be enumerated here.

1. Sectionalism.

The land problem had inseparable connection with sectionalism from the beginning of the disposition of the public domain, through the time of the passage of the Pre-emption, Graduation and Reclamation Acts down to the recent discussion of the National Soldier Settlement Bill, the East very often being opposed to the West. Yet the enactment of a number of important legislative measures aiming at the development of the West shows the latter's growth in power.

2. Constitutionality.

The great problems of the public domain almost always accompanied the question of constitutionality or State rights. Since the early debates on internal improvements, through the Morrill and Homestead Acts and conservation policy, up to the National Soldier Settlement Bill providing for the purchase by the Government of private lands, the question of constitutionality has been raised without fail.

3. Struggle between the public authorities and the land seekers.

Earnest efforts of land seekers to acquire as many acres of land as possible, even through unauthorized means, are as old as the history of the United States and are still prevailing. Now allow me to make an interesting quotation relating to an event which occurred toward the end of the eighteenth century. Representative Scott remarked in the House on May 28, 1789:

"There are seven thousand souls waiting for lands; they will have them here or elsewhere; .... if they cannot be accommodated within the boundaries of the United States, they will do one of two things: either move into the Spanish territory, where they are not altogether uninvited, ... or they will take this course, move on the United States territory, and take possession without your leave. What then will be the case? They will not pay you money. Will you then raise a force to drive them off? That has been tried: troops were raised, and sent under General Harmer, to effect that purpose. They burnt the cabins, broke down the fences, and tore up the potato patches; but three hours after the troops were gone, these people returned again, repaired the damage, and are now settled upon the lands in open defiance of the authority of the Union...."[1]

The constant struggle of the Government to check land frauds was not always successful. The revelation of human ingenuity in evading the provisions of land laws will furnish interesting material to the psychologists. It must be remembered here that the attitude of the Government towards illegal action of the people often wavered with the change of Administration.

1) Abridgment of the Debates of Congress, Vol. I. p. 100.

4. Desire of the States for the cession by the Government of public lands within their limits.

Since the land grants to the States for internal improvements in 1841, and the swamp land grants of 1849 and subsequent years, through the Morrill Act of 1862, up to the time of the irrigation conventions, the idea favoring the cession of public lands to respective States has been active.

(C) Future of the land problem.

Among the main topics of the American land problems treated in this essay, the Indian land question is now practically closed by the realization of the Severalty Law, and the land question concerning the ex-soldiers also is almost out of date. Questions with regard to the public domain, inner colonization and alien land holding remain as the vital questions. What will become of these three questions and the private land problem as a whole in the future? Although the public domain has been greatly reduced there is still a vast area of reclaimable land. The next question to come, following the conquest of the arid West which is now in progress, must be the development of swamp and cut-over lands. In colonization, public land settlement is a quite novel thing to American soil, but it is still in the experimental stage. It will be interesting to watch its future development. The alien land question will create some international complications, yet opportunity for further expansion of this problem is not wide open under the existing pressure of public sentiment in California. As the most important questions concerning general private land in the future, we expect, among others, those relating to ownership against tenancy, and the size of farms.

The following tables show the general inclination of the status of land management in the past.

Percentage of the number of farms operated by tenants[1]

1910	37.0
1900	35.3
1890	28.4
1880	25.6

Average acres of land per farm[2]

1910	138.1
1850	202.6

1) United States Census.

2) Ibid.

From the above statistics it will be seen how rapidly the farms operated by tenants have increased in relative number, and how the absolute size of farms has been reduced with the growth of intensive utilization of land. It will be interesting to observe to what extent and with what rapidity this tendency will proceed in the future in conformity with European precedents and lose its American characteristics, and in what manner the restoration of abandoned farms in the Atlantic coast will be realized.

Although the investigation of the present situation of American land questions and conjectures as to their future tendency may be instructive it is out of my present study. In this paper I must be satisfied with the historical analysis of land problems in the United States mainly from the side of legislative treatment.

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