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PUBLIC LAND POLICIES  
OF THE  
UNITED STATES AND THE MAINLAND STATES

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## PREFACE

Much of the history of the United States has been written in land--its acquisition and disposal. Land has been used to pay for work on the public roads; land has been given away or sold at low cost in order to encourage its settlement; land has been granted to entrepreneurs in order to get railroads built; and land has been and still is used to earn revenue to support public education. The United States and its states acquired land inexpensively and frequently were liberal in distributing it, and in so doing made possible the development of the nation as we know it.

Land may clearly be employed as an effective instrument in achieving a state's objectives; but a state may usually dispose of it only once. Thus it becomes critical for Hawaii, a state with a large amount of state-owned land, to consider carefully what it wants of its lands, what it wants to use them for. In reaching such crucial and possibly irrevocable decisions, it is logical to consider the experience of the federal government and Hawaii's sister states with respect to the acquisition, disposal and management of public lands. This report, prepared at the request of the Committee on Lands of the House of Representatives, endeavors to describe the mainland experience. A subsequent report will review land policies in Hawaii during the territorial period.

The study was conducted and the report prepared by Charles S. James, Researcher, Legislative Reference Bureau, State of Hawaii, with the assistance of Tom Dinell.

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## I. LAND AND PUBLIC POLICY

Land ownership and the use which is made of land are among the most ancient and important aspects of our society. Both history and literature are replete with references to land ownership, land use, the availability of land, and other evidences of the plain fact that man is a land animal and needs land for a place to live as well as a means of satisfying practically all his needs and desires. Wars have been fought for the conquest of land, legal systems have been built upon land ownership, societies have organized largely around land tenure, and the cry of "land for the landless" has held a major position in politics throughout modern times and right up to the moment. Land ownership, at least in western civilizations, no longer has the overriding importance as a key to power and a foundation of social organization as it had even as recently as the turn of the century. It is a truism, however, to say that land use and land occupancy are still major keys to the kind of civilization we enjoy and which we will bequeath to our successors.

A capitalistic society is by definition one in which property may be, and in large part is, owned and controlled by individual persons. The relationship between a sovereign and individual citizens with respect to land ownership within a state has varied directly with the degree of commitment which that state has had to capitalistic organization. Here again the situation is considerably different from that of a century ago when the correlation between wealth and real property ownership was such that to be a landed person was the equivalent of being an aristocrat. If governments were aristocratic in form (as most of them were), land and power went together also.

Land no longer plays such a dominating role in the way we look at government, economic problems, or social relationships for it has been succeeded in importance in society by personal property. This change, the result of the forces of industrialization and urbanization that set in shortly after the United States attained independence, continues to this day. This change also is in part attributable to the widespread land ownership patterns that have existed in the United States and which are a product of the public land policies of the past.

One clear objective is discernible in the land policies of the United States. It is to make land available to individuals on terms that they can afford and under such conditions that they can reasonably be expected to make a living. True, this ideal has not always been attained, but it is important that it was the goal for well over a hundred years. Further, there was a need and desire to settle and exploit a continent and to bind it together into a workable union of communities. Public land policy was again a major, and perhaps the determining, factor in attaining this goal. Establishment and consolidation of the United States as we see it today could no more have been attained independently of land policy than it could have been without the political genius of the American people.

American land policies helped to accomplish many things, and none of them could have been accomplished if the country had not had an unparalleled land resource to use. But, given the billions of acres at its disposal, given the need of the times, and given the still-existing economic pattern of agriculture as the basic human occupation, it must be admitted that a great deal was done. Land policies played an immensely

important part in all this, but they had to be changed as the factors surrounding them changed. Today, for reasons attributable to our changing civilization, we find public land policies stressing highest beneficial public uses--a pattern consistent with current needs. For 80 years, however, the policy was dominated by the Homestead Act in the interests of developing agriculture and creating a nation. These things done, and faced with the growth of industrial cities and a nation built on money rather than land, the land policies have changed, and are unlikely to change back. Rather, land policy can be expected to continue to be designed to meet the demands of the times, and our times clearly do not require attention to the same forces that prevailed a century ago.

It is quite apparent that the American public land problem today, if such there be, is not directly an agricultural problem. It, therefore, cannot be adequately defined or discussed, and certainly not solved, by reference to "forty acres and a mule" or by egalitarian concepts of an agrarian society. Rather, public land is a special case of the larger land questions that plague our modern society in general, and most of these problems revolve around achieving the most beneficial use or uses of land as a scarce commodity.

Actually, land utilization in the public interest is a complex of many interrelated problems of varying importance and age. For example, land in general and public land in particular need to be considered in relation to food supply, population, population distribution, industrialization, and the social habits and needs of the people. Within these large areas it is necessary also to consider such matters as agricultural land as a part of the total land supply, rural uses other than agricultural



as a part of the total land supply, the requirements of urban uses for land, and a series of intangibles ranging from the concept that everyone wants land to the idea that certain lands in certain amounts "cannot and should not be opened to private exploitation. Underlying all these questions is the potential conflict (especially as to public lands) between the highest economic and the best social use of land. The land problem in its modern context, therefore, cannot be considered as a single problem and cannot be measured by any single trend or tendency. Rather, it is a part of the bigger problems, questions, and challenges that make up our life today.

## II. PUBLIC LAND MANAGEMENT

Within the general question of land, public land is destined to play a major part both in the country as a whole and in the State of Hawaii. The characteristics of public lands are such that the same general concepts of use and management applicable to private land are seldom useful. The fact of public ownership in a democracy introduces the additional question of what to do with a great and valuable asset which belongs to the people as a whole but which by its very nature can be used and enjoyed by only a fraction of its owners. It, therefore, is unwise to interpret public land policies too strictly in accordance with what is accepted as proper management of private lands.

Lands in public ownership can be managed in several ways, but the important policy decisions on such management are really confined to only a few options. Four general categories of management policies may be recognized, all of which have been or are now being used in the management of land of the United States and of Hawaii. These four categories of activities are: (1) alienation to private ownership; (2) retention in public ownership while making land available to private operators; (3) devotion of land to public purposes; and (4) what may best be referred to as land hoarding. For any of these four categories there are a number of different ways of accomplishing the general end and there are, of course, many different specific objectives which public land policy has hoped to attain within all of these categories.

### Alienation of Public Lands

Alienation of the public lands has been historically the principal means of administering them in the United States. Throughout the 19th

century and well into the 20th, governmental land policies were concerned mostly with establishing ownership by private individuals in what had originally been public domain. This policy coincided with and was a principal part of the settlement and exploitation of the frontier. Its success is in large part reflected in the continental community we have today.

Various means of alienation are possible and several have been in fact used. The first and most obvious means used was sale of the land to persons who would develop or use it. Sales could have been on either of two bases--namely, at a price that reflected the actual economic value of the property, or (and this was much more frequent) at a more or less nominal value to encourage settlement and development. By the middle of the 19th century the idea of selling land competitively was becoming less and less popular, so arrangements were made whereby persons already living on public lands had absolute preference in buying the land they actually occupied--a device known as pre-emption. Not much later (1862), the homestead law was passed. This law and its several modifications in effect provided for giving free land to persons who would qualify as settlers in one or another of several specified categories.

Disposal can, therefore, be called the most used of the possible ways of managing public lands in the United States. It should be remembered, however, that even at its heyday it was subject to severe criticism and throughout its life it was the point around which important policy arguments revolved. The principal argument was whether the public lands should be exploited for public revenue or whether they would be distributed to the people as a matter of right. Though seldom stated, the argument is still going on and its resolution is at the heart of any program which contemplates the alienation of public land to private ownership.

## Public Land Leasing

The second method of managing public lands is relatively rare in the mainland states and very common in Hawaii. It is the leasing of property to operators without conveying the title thereto. On the federal public lands this system is evidenced largely by arrangements whereby grazing licenses are awarded on public domain, minerals may be extracted by permit, and other special-use privileges are given out and charged for. In Hawaii, on the other hand, the concept of the general lease of public lands for private operation has been prominent for almost a hundred years and is still the most common practice in the management of public lands.

A long-term lease ordinarily is similar to a sale in that the owner yields all use rights over the land and differs mainly in that the owner has a reversionary right to the property at the end of the lease. However, leases may be (and with respect to federal public lands usually are) so restricted as to the use and practices that may be carried on upon the property that no substantial element of ownership is vested in the lessee, who has more of a license to do certain things than general rights of possession. The Hawaii general lease, on the other hand, is one which, subject only to certain restrictions or assumptions in the lease document itself, gives the lessee full custody and possession of the properties throughout the period of the lease.

A much less common device is casual rental of property, a system that is seldom used on public domain as such. Rather, it is used principally as a means of deriving income from property which has come into public ownership pending development for public purposes. Rentals under such circumstances are simply conveniences to both the owner and the tenant.

### Land in Public Use

All levels and units of government have need for land for their own purposes. Public purpose is perhaps epitomized by a lot upon which a city hall, fire station, school, the National Capitol, or a public hospital is erected. In recent years the demands for highway rights-of-way have grown to a degree that a significant amount of publicly-owned land is devoted to this purpose. More important than any of these from the standpoint of total amount of land required are the extensive public uses exemplified by the national parks, the national forests, Indian reservations, and military reservations. In the United States as a whole practically all of these extensive public land uses are national, but there is a growing need for and dedication of land to state forests and parks, prison camps, and similar open land uses.

In Hawaii, history has brought about many differences from practices in most other states. The Hawaii state forest system is the most extensive single use in the state, and the available lands of the Hawaiian Homes Commission are in most respects state land with no counterpart elsewhere except a distant similarity to the Indian reservations under national government control.

### Disuse of Public Land

The fourth category of public land management is perhaps an oversimplification. There may be no cases in which it can be said that land is truly being hoarded by a public owner in the United States, although it would be perfectly possible if title were vested in a royal individual or family. Nevertheless, the charge is made in some quarters that public lands are hoarded, and it is a charge that can be successfully met only by

documentation of the legitimate uses to which it is put. It is, of course, true that the use of many public lands (especially the extensive uses such as watershed protection and wildlife preservation) seem to the casual observer to be most uneconomic. Private and other public owners see in the extensive areas, and sometimes in the strategic location of tracts, the possibility of a higher economic use or a more direct beneficial impact on local residents. It is easy to generalize that a government is hoarding land and depriving those who would use it of the opportunity to do so.

Regardless of the merits of such charges, it is theoretically possible for a sovereign to hold land out of all use if he so desires, and the fact that examples are hard to find today does not mean that it is inconceivable in the future or that it has not happened in the past. As populations grow, as the economic demand for maximum utilization of land increases, as the variety of beneficial public uses becomes more apparent, and as the United States moves more fully into the world picture as a source of international rather than merely American resources, simple hoarding of land becomes more and more unjustifiable. The choices of policy-makers on public land in the future do not really include disuse--the decision must be among the methods of attaining the optimum use now and in the years to come.

#### The Problem Before Us

Within these general methods of management, a public land policy must be evolved and operated. There are many variations of all the methods, most of which have been used at one time or another, but the crucial policy decision to be made with respect to public lands is determining whether to devote the land to public use, to develop private use without alienation,

or to dispose of the land to private operators for the use of the economy generally. Once this decision is made, or once a reasonable balance is achieved among the advocates of one or the other, the details of public land policy can reasonably be developed in a consistent manner. Because these three options exist, however, and because each has its own special interest advocates, it is extremely hard to reconcile one with another. Public policy may swing from one area of emphasis to another, but it is apparent that there is widespread public awareness of the importance of public land policy and of its impact on future generations. Hence, public land policies change relatively slowly and there are always eloquent and persuasive opponents of any suggested major policy shift. The hard facts are, however, that some policy must exist. The formulation of such policy needs to occur at the highest levels.

It is only when there is no public land that these hard decisions may be avoided, and this is almost the case in many states. Hawaii is the principal exception to the rule that states have no serious public land problems because they have no significant amount of public land. In the older states public land was systematically and deliberately alienated to private interests, which is one of the three choices Hawaii has today. Whether to follow in her sister states' pattern or to use her land resources for some other purpose is one of Hawaii's most formidable problems in the years that lie ahead.

### III. UNITED STATES PUBLIC LANDS

No real understanding of the problems of public land administration in Hawaii or elsewhere in the United States can be achieved without a review and analysis of the policies and practices of the United States government itself. There has never been any series of real estate transactions of similar scope and magnitude in the history of the world. In the period from 1783 to 1867, the United States gained title to almost 2,000,000,000 acres of land. In the period approximately from 1800 to 1930, it disposed of well over 1,000,000,000 acres. Today 24 per cent of the total land area of the 48 contiguous states and practically all of Alaska is in federal ownership--a total of about 823,000,000 acres. The story of how the public domain was acquired and disposed of is in large part the story of the settlement of the United States. The story of how the remaining vast areas are managed and controlled is a story of awakening awareness and decisive action in a democratic society.

Primarily, the term "public lands of the United States" relates to public domain. The national government gained title to this area through cession by the original states, purchase from European powers, conquest from the Indians, and international treaties. Generally speaking, the entire United States west of the present state boundaries of the 13 original states (with the exception of the states of Kentucky, Tennessee, Texas, and Hawaii), was originally national public domain. There are other lands in federal ownership today and some of these are relatively large in extent, but their acquisition has been a result of either need by federal agencies for land (as the defense agencies needed it during the Second World War) or



in fulfillment of the requirements for management of other remnants of the public domain. This "acquired land" is not only smaller in area-- it also is subject to entirely different policy questions.

#### The Era of Acquisition

The public domain was acquired in blocks and areas as shown in Table 1. The first substantial item on the table is the cession by the original states consisting of over a quarter of a billion acres of land and including roughly the present states of Ohio, Michigan, Wisconsin, Illinois, Alabama, Mississippi, and a substantial part of Minnesota. Other states, now in the original boundaries of the United States, were never public land states except for Tennessee, whose lands were first ceded by the parent state of North Carolina and then re-ceded to the new state by the federal government. Maine, Vermont, West Virginia, and Kentucky were erected from areas originally claimed by other states and not ceded.

The vast cessions of land by the states represent one of the outstanding accomplishments of the pre-constitutional American government. The ordinances of 1785 and 1787 laid the framework and over a period of some 15 succeeding years the cessions were worked out and accepted by the national government. In so doing, the theory of western expansion and the admission of the new states to the Union, as well as the idea that unsettled lands were the exclusive property of the national government, became well established. Land acquisitions thereafter and the ultimate development of such acquisitions into new states were merely logical extensions of the framework laid down under the Articles of Confederation.

The largest single acquisition of public land was the Louisiana

Purchase in 1803. The total area of 560,000,000 acres is somewhat hard to grasp but an understanding of it and of its importance in the total land picture and the history of the United States may be achieved by considering that within the boundaries of this purchase lay the entire states of Iowa, Nebraska, Missouri, and Arkansas; practically all of Oklahoma and South Dakota; the great majority of the area of Montana and Wyoming; and substantial fractions of North Dakota, Minnesota, Colorado, and Louisiana. The land endowment of the national government in 1800 was tremendous, but the acquisition of Louisiana pushed the national domain to a magnitude several times that of the then existing states of the Union. Prior to 1803 what to do with the public lands was a problem; after 1803, it became a national obsession.

Between 1803 and 1853, the acquisition of Florida, Oregon, and the areas obtained from Mexico and Texas approached in size the acquisitions by cession and the Louisiana Purchase that had preceded. By 1853, the total amount of public domain that had come into national ownership amounted to the stupendous figure of 1,462,000,000 acres, or slightly over three-fourths of the national area at that time.

Since 1853, the only addition to the public domain has been Alaska, the 375,000,000 acres which were purchased from Russia in 1867. Texas retained title to its public lands upon annexation, although the area not included in the state of Texas was sold to the national government and thereby achieved public lands status. Hawaii ceded her land to the national government, but these lands were never made subject to the federal land laws or included in the public domain.

Since the disposal of the public domain started at the same time as acquisition, federal land ownership at any one time never amounted to the total of all acquisitions. The high point of area actually owned in the

Table 1  
ACQUISITION OF PUBLIC DOMAIN OF THE UNITED STATES  
1781-1867  
(areas in millions of acres)

Area Acquired	Date	Area	Comments
Cessions from Original States	1781-1802	237	Primarily cessions pursuant to ordinances of 1785 and 1787. Included all areas between original states and Mississippi River except Kentucky and part of Ohio (Tennessee later receded by United States).
Louisiana Purchase	1803	530	Purchased from France for \$27,000,000 (\$.065 per acre). Included area between Mississippi River and Continental Divide except Texas, western Louisiana, and drainage area of Red River in North Dakota and Minnesota.
Florida Purchase	1819	46	Purchased from Spain for \$6,000,000 (\$.20 per acre). Included Florida Gulf Coast area, and western Louisiana.
Red River Acquisition	Date in dispute	30	Obtained without cost from Great Britain when 49th parallel established as international boundary. Included parts of North Dakota and Minnesota.
Oregon Compromise	1846	183	Obtained without cost from Great Britain. Included Washington, Oregon, Idaho and parts of Montana and Wyoming west of Continental Divide.
Mexican Treaty	1848	339	Obtained from Mexico at end of Mexican War at a cost of \$16,000,000 (\$.046 per acre). Included area between Rio Grande River and Pacific Ocean south of Oregon, except southern Arizona.
Texas Purchase	1850	79	Purchased from State of Texas for \$16,000,000 (\$.21 per acre). Included area north and west of State that had been part of Republic of Texas.
Gadsden Purchase	1853	19	Purchased from Mexico for \$10,000,000 (\$.685 per acre). Included extreme southern Arizona.
Alaska Purchase	1867	375	Purchased from Russia for \$7,000,000 (\$.02 per acre). Included State of Alaska.
TOTAL	1781-1867	1,837	

Source: Marion Clawson and Burnell Held, The Federal Lands (Baltimore: Johns Hopkins Press, 1957).

Note: The figures shown here do not agree either in detail or total with those appearing in B. H. Hibbard, A History of the Public Land Policies (New York: MacMillan Co., 1924; reprinted by Peter Smith, New York, 1939). They are used as being more recent and hence presumably published with knowledge of Hibbard's book.

contiguous states was reached in 1850 when, with the purchase of that part of the Republic of Texas not included within the State of Texas, the federal domain in the contiguous states amounted to some 1,200,000,000 acres. Since that time, the public domain in the contiguous states has steadily declined, but the acquisition of Alaska pushed total federal ownership to about 1,350,000,000--its all-time high. The total extent of the public domain now amounts to something over 800,000,000 acres. About 100,000,000 acres of this area are subject to selection by the State of Alaska during the next 25 years and another 60,000,000 acres are held in trust for Indian tribes under the terms of the Alaska Admission Act. Most informed opinion holds that this Alaska grant will be the last major change in federal land ownership in the foreseeable future, and that the total public land holdings will probably stabilize at somewhere around 650,000,000 acres, exclusive of Indian lands. This is little more than one-third of what the federal domain has been, but it is no inconsiderable piece of territory. It is, in fact, equal to the entire area of the 26 states east of the Mississippi plus California, the third largest state.

#### Management of Public Domain

Blessed with the incomparable assets of the public domain, the people of the United States have adopted a number of policies relative to its management. All of these policies have been enunciated by Congress under its constitutional authority to have charge of the public properties of the country. The policies of public land management have gone through three general phases. The first phase was disposal, the magnitude of which was touched on in the preceding paragraphs. The phase of disposal started with the first acquisition and continued in greater or lesser degree up until 1934. At that time the passage of the Taylor Grazing Act signalled the closing of the public domain for all practical purposes and the few disposals

since have been more in the nature of sales or exchanges for purposes of enhancing the value of the public domain itself than merely for the sake of disposing of property. The era of disposal reached its peak in the latter part of the 19th century and may perhaps become prominent again if and when Alaska lands become desirable to the general population.

The second phase of government land policy is the era of reservation. It consisted of the setting aside of public lands, usually in large blocks, either for public use or for the purpose of conserving the resources on or under the land. The first large reservation was made in 1872 when Yellowstone National Park was set aside, and park reservations continue to be made up to the present time. The reservation movement was given its greatest impetus in 1891 when the Forest Reserve Act was passed. From then until 1909 extensive reservations of national forests were carried out, and since that time small net increases have been recorded. Indian reservations are a special type, inasmuch as the land is really owned by the tribes or tribal members while held in trust and managed by the United States. Some of these holdings are now being liquidated.

The third era is referred to as the era of management. This phase is characterized by the acceptance of the fact that the public domain is here to stay and the assumption that it will neither increase nor decrease radically in size within the foreseeable future. The problem, then, is to determine the best use that can be made of the property. This has been the general burden of the administration of public lands since 1905 when the Forest Service was created and became the first agency charged specifically with the management, conservation and development of public lands.

Since 1905, the management concept has dominated federal land administration. At present three-fifths of all federally-owned land is under the

Bureau of Land Management in the Department of Interior, where it is used primarily for grazing, wild life, and similar purposes. Almost one-fourth is in national forests (used for grazing, timber culture, and recreation). Other major areas are controlled by the Bureau of Indian Affairs (principally in agricultural use), the National Park Service (recreational) and the Department of Defense (military and public improvements). Taken together, the five agencies mentioned above control over 98 per cent of federal land, and with the exception of the military, all are primarily engaged in management of land for their respective purposes.

#### The Era of Disposal

As might be imagined from the fact that the era of disposal lasted well over a hundred years and involved the alienation of an average of more than ten million acres per year, the process was not a steady application of a given policy. Rather, it was a series of policies which in part overlapped each other, in part contradicted each other, but all of which had their general objective of putting the land into private ownership. The methods of disposal may be grouped into cash sales, pre-emption sales, grants to individuals, grants to states, and grants to railroads. The best available statistics on disposal are summarized in Table 2.

In his definitive book, A History of the Public Land Policies, Benjamin Hibbard lists seven incentives for prompt disposition of the public land that were prominent before the adoption of the Constitution.<sup>1</sup> The seven are:

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<sup>1</sup> B. H. Hibbard, A History of the Public Land Policies, (New York: MacMillan Co., 1924, reprinted by Peter Smith, New York, 1939).

Table 2

DISPOSAL OF PUBLIC DOMAIN LANDS BY THE UNITED STATES GOVERNMENT  
1787-1923  
(area in millions of acres)

Method of Disposal	Approximate Time Period	Area	Comments
Grants to Individuals - Private Claims	1787-1904	34.6	Confirmed claims under prior government; over two-thirds of these claims were in California, New Mexico, and Louisiana.
Military Bounties	1780-1907	68.2	Awards to veterans of wars prior to the Civil War; nearly all were sold by veterans to land speculators.
Total Grants to Individuals...		102.8	
Sales of Lands, including Cash and Pre-emption Sales <sup>a</sup> -			
Under Early Laws	1787-1920	19.4	Mostly credit sales, many incomplete; price (\$2.00 per acre) believed high.
Cash Prior to Pre-emption Act	1820-1841	73.9	Corrected credit problems but fostered purchase in large tracts by collusive bidding; opposed by settlers.
Sales During Pre-emption Period	1841-1891	137.0	Until 1862, this was a compromise between free soilers and sale advocates; after 1862, used widely in conjunction with Homestead Act; fostered rapid settlement and generally agreeable to settlers.
Sales Since Pre-emption Period	1892-1956	58.0 <sup>b</sup>	Transactions for various purposes not associated with settlement.
Exchanges	1941-1956	3.3	Chiefly to consolidate holdings and promote conservation.
Total Sales and Exchanges.....		291.6	

# Grants to States -

Internal Improvements	1850-1923	
Railroad Construction		37.8
Roads and Canals		7.8
River Improvements		2.3
Other		19.3
Sub-total Internal Improvements		67.2
Swamp Land Grants	1850-1922	64.7

Grants to enable states to build or subsidize various improvements; chiefly related to transportation but certain institutional grants in states admitted after 1880 are included.

Granted swamp and overflow lands to states; proceeds to be used for reclamation. Fraud characterized many transactions and the purposes of the grants were never accomplished.

Granted land for endowment of public schools and institutions of higher learning. Remnants of common school grants constitute bulk of state land today. Grants made only in public land states, except A & M grant which applied to all states except Hawaii.

Educational Grants	1803-1956	
Common Schools		77.5
A & M Colleges		11.1
Universities, etc.		5.6
Indirect Grants		2.7
Sub-total Educational Grants		96.9

Alaska Grants	1959	103.4 <sup>c</sup>	
Total Grants to States.....			332.3

# Grants to Railroad -

Corporations	1850-1871	91.2	91.2
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Grants made as subsidies to railroads to encourage trans-continental construction; some grants re-vested when corporations failed to comply; settlement of claims under Act took many years; opposed by settler groups and non-grant railroads.

# Grants to Persons<sup>d</sup> -

Homesteads	1862-1956	284.7 <sup>e</sup>	
Timber Culture	1878-1921	9.8	
Desert Entries	1877-1923	9.4	
Timber and Stone Entries	1878-1923	12.7	
Sub-total Grants to Persons.....			316.6

Free land given to settlers under several different kinds of qualifications, but typified by original Homestead Act which required improvement and five years' residence with limit of 160 acres to each person; greatest single impetus to settlement; generally successful until applied to arid and mountainous regions; certain variants (especially timber culture) never successful. Homestead era practically ended in 1934 with reservation of grazing districts.

GRAND TOTAL OF PUBLIC DOMAIN LAND DISPOSITIONS..... 1,134.4



Table 2

DISPOSAL OF PUBLIC DOMAIN LANDS BY THE UNITED STATES GOVERNMENT  
(continued)

Sources: B. H. Hibbard, A History of the Public Land Policies (New York: MacMillan Co., 1924, reprinted by Peter Smith, New York, 1939).

Marion Clawson and Burnell Held, The Federal Lands (Baltimore: Johns Hopkins Press, 1957).

Note 1: Sources do not agree on the detail of disposals, most of which are taken here from Hibbard. Total agrees with Clawson and Held after allowing for Alaska grant.

Note 2: Total public domain (Table 1) less total disposals (Table 2) gives a figure about 13 million acres less than total present holdings of the federal government.

- a Sales were made subject to minimum prices, which price was \$1.25 per acre during most of the time; auctions were used to maximize bids, but selling price seldom exceeded minimum, and all pre-emption sales were at minimum; total receipts from sales of public domain were approximately \$444,978,000 up to 1956, or an average of about \$1.55 per acre.
- b Partially estimated; actual sales from 1892 to 1923 were 54,300,000 acres.
- c Alaska has until 1984 to locate and withdraw this land from the public domain.
- d Includes some sales under modified pre-emption procedures that were authorized as a means of supplementing Homestead Act.
- e Includes stock raising entries and desert and timber entries subsequent to 1923.

(1) Congress had promised lands to revolutionary soldiers and officers and now was expected to make good on its promise;

(2) Congress had no taxing power under the Articles of Confederation and the public domain was apparently a substantial potential source of income;

(3) Settlement of the Northwest was felt to be the best possible defense against Indians;

(4) Certain western settlements such as those in Kentucky were threatening to gravitate into the orbit of Spain or England if some unifying force could not be found to bind them to the coastal states;

(5) Disposal of land and the accompanying settlement were necessary in order to establish a government and to carry out the avowed intention of erecting future states;

(6) It was felt necessary to establish a survey system and a title system so that land titles would be permanent and unclouded to the end that commerce could be carried on to the general benefit;

(7) Immigration to the West was already exerting considerable pressure for land to serve the needs of settlers.

At one time or another each of the seven factors probably carried great weight in the evolving land policies of the United States, but the two general theories that underlay the entire era of disposal were: (1) the land was a source of public revenue; and (2) land disposal was a way of satisfying the desires of the population while at the same time making continental expansion a reality.

#### Sales for Cash or Credit

At first the dominating idea was to sell the land. Initially a minimum

price of one dollar an acre was established which was later changed to \$2.00, both prices subject to reductions for the inclusion of waste land or for cash payment or for some other peculiarity of the transaction involved. These prices appear today to be ridiculously low, but at that time they were considered relatively high for wild land. Moves to reduce the price were resisted on the basis that too low a price would overstimulate emigration from the older states. By 1820, the credit system was being widely criticized so purchases were put on a strictly cash basis at a minimum price of \$1.25 an acre. No sales were made in parcels smaller than 80 acres, but no maximum acreage was set so many large areas were bought at the minimum price by speculators and developers.

Up to 1820 almost exactly 20 million acres had been sold at a total price of nearly \$50 million. The immediate impact of the imposition of cash sales was to reduce the disposition rate from about three million acres a year to substantially less than one million. Not until 1829 did sales ever reach a million acres again, but then they climbed steadily and rapidly until the great land boom of 1835 and 1836 resulted in the sale of 35 million acres in those two years. The panic of 1837 put a stop to this and land sales declined rather steadily to a level of about a million and a half acres for the next 20 years.

In 1862 the passage of the Homestead Act caused land sales to fall off to negligible amounts for a few years. As will be seen later, however, other methods of sales took their place with the result that in many years during the 80's and the early years of the 20th century, well over a million acres were sold in one way or another. All told, over 150 million acres

were sold on cash or credit prior to the passage of the Homestead Act, and well over 100 million were sold from 1863 to 1923. Subsequent sales were of smaller magnitude and generally for purposes not related to settlement or exploitation of the frontier.

#### Pre-emption Sales

For a half century sales dominated Congressional public land policy. As time went on, however, it became more and more apparent that the land auction that had typified the sales of the earlier years was not a suitable device. This unsuitability arose from the fact that only surveyed lands were auctioned and that collusion among large purchasers aggravated the ever-present speculation problem. Settlers often did not await the perfection of surveying before setting out to build themselves a place to live, and they were most anxious to be in a position to take land without having to purchase from a speculator. Hence, each new area opened up often had anywhere from a few dozen to a few thousand settlers who claimed pre-emption rights by reason of their residence on the land. This situation eventually culminated in the passage of the Pre-emption Act in 1841. This Act provided that any eligible person who had not more than 320 acres of other property could settle on 160 acres of new land and subsequently pay for it free from competitive bids at the minimum government price of \$1.25 an acre. Sales under this law (which continued in effect for many years) represent most of the sales made from 1862 to 1891, but the land records do not segregate them clearly enough to give a definite figure on transactions of this kind.

The pre-emption law was in effect for a long time and resulted in the disposal of many million acres of land. It was passed as a direct result

of the pressure of population against the western frontier and the unrest among the western settlers incurred by the tendency of direct auction sales to be controlled by speculators with ready cash at hand. The Pre-emption Act is, therefore, to be considered a transitional measure between the revenue-oriented cash sale policy of 1820 and the subsequent homestead, free-land policy. The Congress was not yet ready in 1841 to give up entirely the idea of capitalizing on the western lands, but it had through many years of unsuccessful effort come to the conclusion that competitive auctions and maximization of public revenues were figments of the imagination. It was clearly the will of the people and probably in the best national interest to put the settlers and occupants of the land in a strong competitive position. This the Pre-emption Act accomplished.

#### Homesteads

The most famous and certainly the most sweeping of the federal land acts was the Homestead Act of 1862. Its main provisions were that almost any adult could acquire title to 160 acres of public domain by filing on it, improving it, and residing on it for five years. This Act is still in effect, although there are practically no lands outside of Alaska on which homestead entry may be made today. Interestingly enough, the free land question rivaled even slavery in public interest a century ago and Congressman Lovejoy of Illinois is quoted by Hibbard as having stated that "Without the pledge of the party to support the homestead bill, the election of President Lincoln would not have been possible".

Few acts have been more sweeping in their effect than the Homestead Act and few have in the last analysis had a wider impact upon the development of the country. It (and related free-land measures) resulted in putting

over 300 million acres of public domain in private ownership, almost all of it within a period of 80 years. Homesteading was the principal means by which the area west of the Mississippi River was populated, and for all of the learned afterthoughts of today, it undeniably served the needs of the 19th century well.

The philosophy underlying the Homestead Act was simple. It was that the interest of the country lay in settling the West, that the interests of individual settlers were in locating at minimum cost and difficulty, and that no better use could be made of the apparently surplus public domain than to use it as a means of fostering a dense population, developing an agricultural economy, and thereby accomplishing the admission of additional states and the continental unification that went with it. The latter is, in the light of history, particularly important and it is interesting to note that homesteading was not seriously urged until continental expansion was realized. Further, it did not become a reality until after the nation was committed to the Civil War and therefore on its way to solving the political problems that continental expansion begot.

Homesteading, then, did accomplish its principal aims. It was a major factor in creating a landed and united agricultural population in contrast to the peasantry, tenantry, and divisiveness that had characterized all large nations in the past. This is not to say, however, that the program could be called a success in all (or perhaps even in most) individual cases. The repeated failures of homesteads and homesteaders, and hence most of the hind-sight criticism of homesteading, arose from two major factors-- timing and administration.

The Homestead Act was passed in 1862, by which time Iowa was already in the Union, Minnesota was approaching statehood, and most of the public domain lay west of the Mississippi River. Historians agree that, given the rather simple economy of the 1860's and 1870's, it was quite possible to meet all the requirements of "proving up" and to establish a permanent residence on a homestead tract, especially when, as was often the case, an adjacent 160 acres was taken by the same person as a pre-emption. This happy state implied, however, good land and a favorable climate, but as the frontier retreated farther into the semi-arid and rough areas of the great plains, both these commodities came into shorter and shorter supply. Eventually, as the really dry high plains and the rugged terrain of the Rocky Mountains were reached, homesteading as a means of making a living became impossible.

But homesteading as a habit continued at an accelerated pace. Large promotional schemes fostered the importation of thousands of uninformed families who starved or froze and then left their land in a year or two. The livestock interests, faced with loss of their unlimited range, made the best of the situation by enrolling their employees as homesteaders and then buying the land for little or nothing after title was received. There was no control possible over the tracts selected, and almost none over the fraudulent proofs submitted by homesteaders. The unhappy fact was that homesteading as originally contemplated was inappropriate to the time and place, but it was many years before this fact was faced.

Early modifications were attempted to fit the process to the problem. Entries were accepted under a Timber Culture Act (1873) in which cultivation of trees was the criterion for proof rather than residence. The

Desert Land Act (1876) enlarged claims to 640 acres provided irrigation was installed. The Timber and Stone Act (1878) provided for pre-emption sales of land not suitable to agriculture. None of these entries was exactly a homestead, but clearly the objective of the laws was to correct some of the problems homesteading was creating. All failed, either because the conditions simply could not be met honestly (Timber Culture Act), the conditions were both vague and impractical (Desert Land Act), or the privilege of cheap purchase was grossly abused (Timber and Stone Act).

Early in the 20th century a direct modification in the Homestead Act was attempted by introducing the enlarged homestead--first in Nebraska and later generally west of the 100th meridian. These amendments enlarged the homestead maximum to 640 acres, but many of the old problems remained. In 1916, "Stockraising Homesteads" of 640 acres were introduced but they, too, fell far short of success. Other changes, such as shorter residence requirements, easier commutations (i.e., purchase in lieu of residence) and the like were principally useful in alleviating certain hardship cases without at all facing the fact that the Homestead Act simply did not work anymore. Passage of the Taylor Grazing Act in 1934 practically ended the homestead era, and left for the criticism of our day a plan that was noble in concept and successful in the short run (until the 100th meridian was reached) and in the long run (when viewed as part of the creation of a great nation). In between (and 1960 may be one of the in-between years), the shortcomings, abuses, and wastage of the homestead era loom large.



### Other Individual Grants

Two kinds of grants not related to settlement or development were made which in the aggregate amounted to some 100 million acres. These grants were in satisfaction of the so-called "private claims", or awards as bounties for military service. Private claims arose from ownership under other governments prior to American acquisition. Of the 34 million acres to which title was awarded under such claims, over half is in New Mexico and California and about two-thirds of the remainder in Louisiana, Florida, and Oregon.

Military bounties were originally state grants in compensation for Revolutionary War service. Later, when the national domain was created, the bounties were given to veterans of all conflicts prior to the Civil War. The usual process was to award land scrip to veterans who promptly sold it for bargain prices. The whole procedure is generally considered to have been a failure. Beginning with the Civil War other benefits accrued to veterans and the land bounty system terminated.

### Grants to States

In the early days of the Republic land was easily the most plentiful and cheapest commodity available. It followed that, when the national government sought to aid the states financially, land was the medium of aid. The first major land grants to states occurred in 1803 when Ohio became the first public land state. This grant set a pattern followed in the subsequent admission of all public land states, which reached its culmination in the 1959 grant to Alaska of over 100 million acres (an area larger than the whole State of California). Alaska has not yet actually withdrawn these lands, however, so they are excluded from the following discussion.

The largest of the state land grants were made in behalf of education. Over 75 million acres were granted to the public land states as endowment for common public schools. The school grants were usually designated sections in each township in the state, which resulted in widely scattered holdings consisting of one (or sometimes two) square mile out of every 36. Some states have retained large areas of their school lands which constitute the principal existing state land areas.

Substantial grants were also made for higher education. The larger of these grants were for the establishment and operation of agricultural and mechanical colleges under the Morrill Act of 1862 and its amendments. Morrill Act land grants were made to every state except Hawaii on a ratio of 30,000 acres for each congressman. Hawaii's grant of six million dollars in lieu of Morrill Act land shows how far the country has come from the land-rich, money-scarce economy of 1862. Other higher education grants for state universities and normal schools were made to public land states on a basis similar to the common school grants.

Large grants were made under the Swamp Land Act of 1850. The grant of swamp and overflow land was intended to enable states to finance reclamation, but from the first the administration was characterized by fraud both in the selection of land by states and in its disposition. Of all the federal land disposal programs, the swamp land grant was most clearly a total failure.

Other grants were made to states from time to time to enable them to undertake internal improvements other than education and reclamation. The

largest of these was 37 million acres for railroad construction, but sizeable grants were also made for other transportation facilities.

Many states admitted in the late 19th and early 20th centuries received specific institutional grants, some of which were for educational institutions such as schools of mines or schools for the handicapped.

State grants are still important in some states but their main interest is as the forerunner of the federal aid programs of today. It is interesting to note that the same arguments against federal interference and for states rights characterized the debates over land grants that prevail today wherever extension of the grant-in-aid device is suggested. On the other hand, efforts have been made repeatedly to cede all federal land to the states in which it lies, but these efforts have been successfully resisted. The most recent effort to achieve major cessions came to naught in the early 1930's, and the passage of the Taylor Grazing Act shortly thereafter probably put the issue to rest permanently.

#### Railroad Grants

One of the most controversial ways of alienating the public domain was the granting of over 90 million acres to about a dozen railroad corporations during the period from 1850 to 1871. The intent was apparently exactly the same as it is today in making public concessions or subsidies to private corporations as incentives to locate businesses or install facilities in the interests of economic development. The main differences between the railroad grants and the devices used today are: (1) grants were to specific corporations rather than to classes of entrepreneurs; (2) land, rather than money, was the medium of subsidy; (3) the grants coincided with the heyday of corporate exploitation of the nation;

and (4) the term "economic development" had not yet been coined, let alone made respectable.

Considering the emotional appeal of these differences, it is not surprising that the railroad grants are often held up as horrible examples of what not to do with public land. This conclusion does not bear close analysis, however, for even at this late date it is impossible to see what else could or should have been done. Transcontinental railroads were one of America's soundest investments, both politically and economically, and it ill-behooves today's advocates and beneficiaries of subsidies to hold up to scorn the similar, though somewhat more obvious, practices of the past.

Abuses of course existed, and the general public temper was not improved by the intransigence of some of the railroads on matters of tract selection or conformance to conditions. The program was therefore short-lived and is now far enough in the past that railroads can make a case that their competition is being unfairly subsidized today. On general balance, however, the railroad grants accomplished their objective with negligible cost to the United States and without excessive profiteering on the part of the recipients. Hibbard holds that, at least up to 1923, the roads had disposed of most of their land at prices of \$4 or \$5 an acre and had realized a substantial part of the cost of building from land sales. At least one road, the Northern Pacific, spent much less on construction than it received from land sales, but these are remote points when value increases caused solely or chiefly by the existence of the road are considered. While the railroad grants will never be repeated, a fair appraisal of them must come to the conclusion that, while not ideal, they were tolerable in their day and beneficial in the long run.

### The Era of Reservation

For almost a century after the creation of the public domain, attention and public policy were focused on means of disposing of the land to private interests. As we have seen, this policy by and large accomplished the long-range objectives of establishing a continental nation and achieving the population necessary to sustain state and local governments in the West. At the same time, the United States was becoming one of the world's great agricultural-producing nations. The availability of land and the encouragement of people to till their own acres were consistent with what was then the American place in the world. Nevertheless, it eventually became clear that even the vast land resources of the United States were not inexhaustible. If, then, the public domain or any part of it was to be used for the general public welfare rather than merely serving its assigned place in the national economy through private ownership, some measures would have to be taken to stop or at least to retard the process of disposal. Three principal means were used, all of which consisted of reserving designated areas of the public domain for some specific use: (1) recreation; (2) preservation of natural resources; and (3) grazing.<sup>2</sup>

<sup>2</sup>

The so-called era of reservation is not to be confused with the process of reserving areas for use of the Indian tribes. Indian lands have a most complicated history, going back to the early treaties negotiated between the colonists and the surrounding tribes. As white settlement increased and as the settlers encroached upon the Indians' properties, a whole series of treaties, wars, and other actions were taken by the national government, which in effect resulted in extinguishing the right of Indians to the lands of the United States. The process of disowning the Indians, however, eventually reached a point where it was clearly evident that either the process had to stop or the Indians would have no lands upon which to live. The solution decided upon was to compromise between tribal and national ownership through creating reserve areas in which the land remained theoretically in tribal ownership but was held and managed by the United States in trust for the Indians. These reservations at one time amounted to as much as 150,000,000 acres, of which about 50,000,000 remain today. The objective of Indian reservations is to provide lands upon which Indians may live and practice agriculture, rather than to secure indefinitely to the people of the United States certain resources for their use and enjoyment. This latter theory is the one which underlies the reservation of national parks, national forests, and grazing areas.

## National Parks

The national park system is the oldest of the three major types of reservations of the public domain. The first real reservation in behalf of the people of the United States occurred in 1872 when by act of Congress some 2.2 million acres were withdrawn from entry and established as Yellowstone National Park. This remote area was not suitable for agricultural purposes and would probably not have been used for homesteads. Furthermore, it was many years before Yellowstone began to be made into a park. Nevertheless, the reservation of Yellowstone established a precedent and started the reservation era. By the turn of the century Yellowstone was improved to the point that it was actually available for public enjoyment. Its success had led to the creation of other national parks as part of the then youthful parks system.

At present the National Parks Service of the Department of Interior administers a domain of over 22,000,000 acres which includes 29 national parks, 26 national monuments larger than 10,000 acres each, 57 smaller national monuments, 65 cemeteries, historical parks and other small facilities. The timing and extent of reservations of national parks and the larger national monuments are shown in Table 3.

It will be seen from the table that the national park reservation program came substantially to an end by 1940. All but seven of the present national parks were established during the period from 1900 to 1940 and it is probable that few additions will be made. Two vast national monuments in Alaska are each larger than any national park and their designation may be changed in the future if facilities increase and sufficient use is made of the monuments. Nevertheless, it probably can

Table 3

FEDERAL LAND IN NATIONAL PARKS AND LARGE NATIONAL MONUMENTS  
BY PERIOD OF ESTABLISHMENT<sup>a</sup>  
(areas in thousands of acres)

Period	National Parks		Large National Monuments <sup>b</sup>		National Parks and Large National Monuments	
	Number	Area	Number	Area	Number	Area
1872-1900	5	4,052	-	-	5	4,052
1901-1920	12	4,571	7	3,055	19	7,626
1921-1940	10	3,778	18	5,390	28	9,168
1941-1960	2 <sup>c</sup>	704	1	505	3	1,209
Total....	29	13,105	26	8,950	55	22,055 <sup>d</sup>

Source: U. S. National Park Service, Areas Administered by the National Park Service, (Washington: Government Printing Office, January 1, 1959).

Note: National Park Service also administers 65 facilities which are neither national parks nor national monuments. They include 11 different kinds of facilities which have a combined acreage of federal land amounting to about 260,000 acres. Of these, only Cumberland Gap National Historical Park (20,000 acres), Theodore Roosevelt National Memorial Park (69,000 acres), Blue Ridge and Natchez Trail Parkways (86,000 acres total), and the National Capital Parks (39,000 acres) are more than 10,000 acres in extent.

<sup>a</sup>Areas are as of 1954 rather than as of date facility was established.

<sup>b</sup>Includes only national monuments with areas of 10,000 acres or more; 57 smaller ones have a total area of about 38,000 acres.

<sup>c</sup>Includes Virgin Islands National Park (5,000 acres), the acreage of which is excluded from other tables.

<sup>d</sup>Federally-owned land only; 354,000 acres of other land is within national park boundaries and 150,000 acres within national monument boundaries.

be said with some confidence that, barring extension in Alaska, the national park system is substantially at its ultimate size today. Park administration has shifted from reservation to management which will be further considered in the next section of this report.

#### National Forests

Despite the original reservation of Yellowstone Park in 1872, the era of reservation is usually considered as beginning in 1891 when Congress authorized the President to withdraw from homesteading such timbered areas as he deemed necessary for the preservation of the resources of the country. The original reservations made under President Harrison were not extensive and when President Cleveland more than doubled these reservations during his second administration, he was subjected to severe criticism both within and without Congress. In President McKinley's first administration, reservations dropped to a rate of less than 2,000,000 acres per year. By 1901 a total of 56,000,000 acres had been so reserved. But the program, not extremely active at this time, would not have gone much farther were it not for the appearance on the national scene of the conservationist group headed by President Theodore Roosevelt.

President Roosevelt, largely at the behest and with the assistance of former Governor Pinchot of Pennsylvania, saw the forest reserve program as a means of attaining most of his objectives of securing for the people as a whole the fast-diminishing resources of the far west. As a result, almost 150,000,000 acres of forest reserve were set aside during President Roosevelt's administration, but the reaction in Congress was such that just before his leaving office, a law was passed reserving to Congress the right to make any further forest reservations. At the time of President



Taft's inauguration in 1909, the total forest reserves, which had recently been retitled the national forests, amounted to 194,500,000 acres. This is slightly more than the area of national forests today. Since 1909, forests have been created and much new land has been put into forest reserves, but other land has been taken out of reserve so the net acreage is approximately equal to that of a half-century ago. In the last 20 years or so, substantial acquisitions of privately-owned land have been made by the United States on behalf of the national forests. These acquisitions, which amount to over 25,000,000 acres at the present time, have occurred largely in the midwestern, eastern and southern states where no public domain was left to be reserved for forest purposes.

The reservation of the national forests and their current management must stand as one of the major land accomplishments of the United States. Its implications are seen in practically all activities in the western states and to an increasingly larger degree they are playing a part in the eastern part of the country and particularly in the South. Like the national parks, however, forestry has moved away from the idea of acquisition and reservation of land into the phase of management and use of the land in the public interest. The objectives of forestry management and park management are, of course, somewhat different but the same philosophy underlies them. Without these extensive reservations, the United States would be a far poorer country than it is today.

#### Grazing Districts

The last great reservation occurred in 1934 and the years immediately

following. The land in this case was by no means the kind of property that had been reserved for park or forest purposes. Rather, it was merely what was left over after the reservation of scenic and timbered sites by the national government and entry upon all really agriculturally useful land by homesteaders. In 1934, homesteading, which had become less frequent because of the poor choices available to entrymen, had progressed to a point that the surviving public domain (amounting to over 150 million acres) was not only of poor quality but also was being grossly abused by stockmen. The situation was critical inasmuch as the wasting land assets were contributing to major wastage of water, wildlife, and other natural resources.

The further reservation of the public domain was given additional emphasis by the 1930 report of a presidential commission to inquire into the use of public lands. This commission, with some exceptions, recommended the immediate cession of the unreserved public domain to the states within which it lay. Whereas this view was supposedly widely supported in the West, it never came close to Congressional adoption and was, in fact, strongly opposed by certain powerful western interests. If, then, cession to the states was impossible and if, as it was becoming more and more apparent, this remaining public domain was not suitable for homesteading, what could be done? Recourse was had to the old and tried system of reservation and under the Taylor Grazing Act of 1934 and its amendments in the next few years, 168,000,000 acres of federal land was so withdrawn from entry.

The grazing areas are organized into 57 districts lying in the 11 contiguous western states and are under the jurisdiction of the Bureau of

Land Management of the Department of Interior. The administration of the areas differs markedly from that of the parks and forests inasmuch as the grazing lands are primarily for the use of the surrounding property owners who themselves are members of the districts and who participate in their administration. Nevertheless, title to the public domain is held by the United States and the policies governing the use of the grazing lands within the grazing districts (both on federal and other land) is subject to federal control and conservation methods. The livestock raiser receives a license to use the land for grazing a specified number of animals. Under the Taylor Grazing Act deterioration of the public domain has no doubt been stopped and production from these lands has been increased. Furthermore, there are other benefits accruing to the country at large, including the conservation of water resources, the regularization of public property management, and the preservation of valuable wildlife. The Taylor Grazing Act was primarily an effort to obtain proper management of public lands rather than to conserve identifiable natural resources, but it has served both purposes.

#### Future Disposals and Reservations

With passage of the Taylor Grazing Act, homesteading has virtually ceased as this final step of reservation placed virtually all public lands in the United States in one of the categories to which private entry was barred. Considerable revision of the mining laws in the mid-1950's was a further means of retarding private acquisition of public land and it may safely be said that at this point, no major disposal is likely to be contemplated. Similarly, it is unlikely that further major reservations will be made simply because there is very little land left

to reserve. The Taylor Grazing Act does not apply to the state of Alaska and therefore the extensive resources of that state are still available to entry, but the actual use made of the laws of entry in Alaska is limited by the obvious climatic problems. It is to Alaska, however, that we must look for any future major change in federal land policies. As far as the 48 contiguous states are concerned, federal land policies are well accepted and have generally struck an agreeable enough balance that radical changes are unlikely in the foreseeable future.

#### The Era of Management

As long as the national policy was to dispose of the public lands, there was little or no need for management of the public domain other than to have it surveyed and sold or entered upon. This in itself was more than the general land office of the 19th century was able to do, let alone discharge responsibilities for business management or conservation of the lands with which it dealt. The creation of reservations, however, strengthened the idea that public use was at once a legitimate and praiseworthy objective for land policy. True, the change from neglect to management came slowly, but the point has now been reached where management of the public lands is one of the larger functions of the federal government.

#### Federal Land Managing Agencies

Today a number of federal agencies, especially in the Departments of Interior and Agriculture, are important land managers vitally concerned with land management problems. These and other federal land-holding

agencies are listed in Table 4, together with data on the acreage of public domain and acquired lands held by each. Land management for some of the agencies, such as the Army or the Atomic Energy Commission, consists principally of utilizing the land in order to accomplish their basic missions, in much the same way that they utilize other resources such as buildings, equipment, or personnel. Land management, as such, is very much a subordinate responsibility. For other agencies--the National Park Service, the Forest Service, the Bureau of Land Management, and the Fish and Wildlife Service in particular--the management of land is their fundamental task. It is, in fact, their reason for existing. Each of these agencies, however, is responsible for achieving its own objectives with respect to the management of the land. A few of the agencies--the Tennessee Valley Authority and the Bureau of Reclamation in particular--while not constituted as land management agencies, are frequently concerned with the same types of land management problems as the Forest Service and Park Service.<sup>3</sup>

#### Multiple Use of Land

Increasing emphasis has been placed in recent years by the primary federal land managing agencies on intensive use of federal land in order to achieve simultaneously several purposes rather than on the rendering of routine custodial services designed only to protect what already exists. Thus national forests are used for timber production, recreation and travel, water production, game and wildlife management, and mining. Grazing districts are utilized for grazing, mining, and for

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<sup>3</sup>The use of land made by one agency, the Bureau of Indian Affairs, as noted earlier, does not fall within one of the three above classes.

Table 4

FEDERAL LAND HOLDINGS WITHIN  
THE UNITED STATES, BY AGENCY: 1959<sup>a</sup>  
(areas in thousands of acres)

Agency	Public Domain		Acquired Lands		Total	
	Area	Per Cent	Area	Per Cent	Area	Per Cent
Department of Interior						
Bureau of Land Management	497,727	64.4	2,517	5.0	500,244	60.8
Bureau of Indian Affairs						
Trust Lands	52,236	6.8	--	--	52,236	6.3
Fee Lands	4,097	.5	537	1.1	4,634	.6
Total	56,323	7.3	537	1.1	56,860	6.9
National Park Service	17,987	2.3	4,346	8.7	22,333	2.7
Fish and Wildlife Service	13,156	1.7	2,860	5.7	16,016	1.9
Bureau of Reclamation	8,051	1.1 <sup>b</sup>	1,484	3.0 <sup>b</sup>	9,535	1.2
Other Agencies	49	--	24	--	73	-- <sup>b</sup>
TOTAL	593,303	76.8	11,768	23.5	605,071	73.5
Department of Agriculture						
Forest Service	159,983	20.7	25,642	51.1	185,625	22.5
Other Agencies	364	-- <sup>b</sup>	63	.1	427	.1
TOTAL	160,347	20.7	25,705	51.2	186,052	22.6
Department of Defense						
Army	4,122	.5	3,937	7.8	8,059	1.0
Air Force	11,127	1.4	1,832	3.7	12,959	1.6
Navy	2,068	.3	1,289	2.6	3,357	.4
Corps of Engineers	775	.1	4,074	8.1	4,849	.6
TOTAL	18,092	2.3	11,132	22.2	29,224	3.6
Other Agencies						
Atomic Energy Commission	1,198	.2	655	1.3	1,854	.2
Tennessee Valley Authority	--	--	707	1.4	707	.1
All Other Agencies	187	-- <sup>b</sup>	189	.4	376	-- <sup>b</sup>
TOTAL	1,385	.2	1,551	3.1	2,936	.3
GRAND TOTAL	773,127	100.0	50,156	100.0	823,283	100.0

Source: U. S. General Services Administration, Inventory Report on Real Property Owned by the United States Throughout the World, as of June 30, 1959, (Washington: Government Printing Office, Washington, 1960).

a Adjusted to omit holdings outside the 50 states; includes area subject to withdrawal by State of Alaska.

b Less than .05 per cent.

wildlife management. National parks and monuments, which exist primarily to preserve areas of scenic, historical, and/or scientific importance and make them available to the public, also have secondary importance in terms of watershed protection and wildlife management.

As multiple use of land increases so do the number of opportunities for conflict and competition among those uses. Multiple uses are frequently but not necessarily compatible.

#### National Parks Service

The national parks were one of the first areas to be subjected to anything other than the most custodially-minded kind of management. It was obvious that if the national parks were to fulfill their mission they had to be at once accessible and useful. Even prior to 1900, rather extensive investments were made in such parks as Yellowstone and Yosemite and after the turn of the century, major work was done along these lines. After the Second World War, the need for more intensive management of the extensive park areas became apparent with increased mobility and the generally prosperous condition of the public. There were a little over a million visits to units of the national park system in 1920, about 3 million in 1930, 33 million in 1950, 70 million estimated for 1960, and over 440 million expected in 1980.<sup>4</sup>

National parks today are clearly one of the leading recreational resources of the entire country, and certainly they hold first place among the publicly-operated recreational facilities. They owe much of

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<sup>4</sup>Marion Clawson and Burnell Held, The Federal Lands: Their Use and Management (Baltimore: John Hopkins Press, 1957), appendix table 36, p. 448.

their popularity and success to a merging of the needs of large numbers of people with the fundamental idea that a national park is a place where men and nature can meet even in the midst of the 20th century. The most heavily used areas of the most popular parks (such as Old Faithful in Yellowstone and the valley floor area of Yosemite) pose such tremendous problems of public service that the maintenance of natural beauty and solitude is extremely difficult to obtain. Nevertheless, the tasteful and imaginative treatment that has been given to park areas stands as a credit to the Service and, looking backward, it is a monument to the imagination of the public officials of the 19th century who foresaw the need even in a country where public recreation was not important and the density of population was small.

#### U. S. Forest Service

Management of the national forests is a considerably different matter from that of national parks. Originally this amounted to very little other than keeping out the homesteaders and attempting to reduce depredations in the national domain made by timber poachers. In the 20's and 30's, however, great strides were made in fire prevention, erosion control, and timber management, and the national forests are now not only an invaluable esthetic and recreational resource but also a substantial economic resource of the country.

With the creation of the original forest reserves, the Forest Service found itself confronted with a hard fact with which it still wrestles. This fact was that livestock operators in the area from the earliest times had been grazing on the national domain with impunity and included in these grazing areas were many of the reserved forests. As a



result, grazing was for many years the leading activity in the national forest and still is a substantial though diminishing use. The number of head of livestock grazed in the national forests has decreased almost without interruption from 10,755,000 in 1918 to 3,682,000 in 1959.<sup>5</sup>

During and after the Second World War, the timber resources of the national forests were first put to extensive use. The amount of timber harvested from the national domain has increased many fold in the last three decades, as shown in Table 5, and it is expected to continue its increase as time goes on. The management of the timber resource is one of the more difficult endeavors of the Forest Service, but it has also been a substantial source of revenue. The timber is sold on competitive bids and reasonable prices have been obtained for it.

The importance of the forests for recreation purposes and the protection and development of game and other wildlife has grown rapidly in the past 30 years, as illustrated by the data in Table 5. Recreational uses include hiking, camping, picnicking, hunting, fishing, winter sports, swimming, and simply general enjoyment of forest environment. The national forests are also utilized as watersheds, and the preventative or maintenance-type watershed management practiced by the Forest Service has generally been considered to have effectively preserved natural watershed conditions.

Lands originally set aside during the era of reservation are now being utilized during the era of management to produce economic and social

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<sup>5</sup>U. S. Bureau of the Census, Statistical Abstract of the United States, 1960, (Washington: Government Printing Office, 1960), table 939; and Historical Statistics, Colonial Times to 1957, (Washington: Government Printing Office, 1960), series J 41-42.

Table 5  
USE OF NATIONAL FORESTS  
1930 to 1959

Year	Timber Cut Total Volume (million board feet)	Recreation Number of Visits (thousands of visits)	Big Game Killed (thousands of animals)	
			Deer	Other
1930	1,769	6,911	-	-
1935	1,069	9,719	-	-
1940	2,066	16,163	190	26
1945	3,299	10,074	222	43
1950	3,623	27,368	305	53
1955	6,434	45,713	488	63
1959	8,525	81,521	504 <sup>a</sup>	58 <sup>a</sup>

Sources: U. S. Bureau of the Census, Statistical Abstracts of the United States, 1960, (Washington: Government Printing Office, 1960), tables 250 and 940, and Historical Statistics, Colonial Times to 1957, (Washington: Government Printing Office, 1960), series L 6-14 and H 471-474.

U. S. Department of Agriculture, Agricultural Statistics, 1959, (Washington: Government Printing Office, 1960).

a Data for 1958

products while at the same time this portion of the public domain is being preserved and enhanced. The judicious multiple use of land by the Forest Service has been one of the significant factors in the increased use of these lands in recent years.

#### The Bureau of Land Management

The present Bureau of Land Management in the Department of Interior resulted from the consolidation of the General Land Office and the Grazing Service. The Bureau is responsible for management of over 60 per cent of the land holdings of the federal government within the 50 states. Included are the lands in the grazing districts, other public domain, the Oregon and California revested lands, and the federally-owned portions of the submerged areas of the outer continental shelf. These lands are for the most part located in Alaska and the states of the West and Great Plains and consist in large measure of those portions of the public domain which remained after establishment of national forests and national parks.

The Bureau's land, even though quite different in physical characteristics from the land included in the national forests, may be and is utilized for multiple purposes. The diversity of the types of lands managed by the Bureau is reflected in the list of major sources of agency revenues--mineral leases and permits, land and timber sales, and grazing fees and leases.

Land management practices in the grazing districts, where most of the grazing on public lands occurs, have provided for control of the amount of grazing, reseeding of major areas, an orderly system of range inspection and evaluation, and the development of range management plans.

In areas where erosion has reached advanced stages, however, not even good management practices are equal to the task of stopping the erosion or restoring the vegetative cover.

The grazing districts are also useful for wildlife purposes, and the Bureau manages many areas jointly with the Fish and Wildlife Service.

Much of the land under the Bureau's management is important in terms of gas and oil production, the rights to which are leased to private entrepreneurs. The Oregon and California lands are managed for timber production. Little of the Bureau's land has been used for recreational purposes and most of it is not as desirable as that which is included in the national forests and national parks. Much has been done since the establishment of grazing districts to improve the watershed by controlling grazing and conducting special conservation programs. These activities have had some effect in reducing the amount of siltation from district lands.

The improvements which have occurred in the management of that portion of the public domain under the jurisdiction of the Bureau of Land Management have been significant. They have resulted not only in better utilization of land but in economic gain for the land users and the federal and state governments.

#### Fish and Wildlife Service

The Fish and Wildlife Service holds about 2 per cent of the total federal land within the 50 states, but approximately 6 per cent of the acquired land. In addition to managing its own lands, the Service jointly administers areas with the Bureau of Land Management and provides wildlife management services on lands held by other federal agencies and on private lands under lease and easement arrangements.

The Fish and Wildlife Service's primary mission is providing suitable habitat for various kinds of wildlife on an annual or seasonal basis. Much of its land is submarginal and not useful for forestry or agriculture. The refuges, which are habitated by waterfowl and other birds and some big game on both a transient and permanent basis, also serve as recreational areas for people interested in hunting, fishing, studying wildlife, and other similar pursuits. The refuges are more intensively used for recreational purposes than the national forests but not as extensively as the national parks and monuments. The refuges are also used for a few secondary purposes, including raising of crops, timber production, grazing, and mining, but none of these uses is significantly large. The crops are raised on a sharecropping basis with the government's share not harvested but left in the field as feed for migratory birds and other wildlife.

#### Intensive Management

All four agencies---National Park Service, Forest Service, Bureau of Land Management, and Fish and Wildlife Service---are concerned with the management of land as a limited national resource which needs to be used in such a way as to accomplish more than a single narrow goal if the nation is to receive the maximum economic and social return from its lands. Thus in the era of management, the federal government is not simply concerned with protecting what is, but in using and developing the public lands so that they may yield more timber, provide greater and more varied recreational opportunities to larger numbers of people, serve as significant sources of water, provide adequate refuges for wildlife, support livestock, and so that they may otherwise make the land a productive servant of its owners.

#### IV. STATE PUBLIC LAND POLICIES

Every state owns land, the area of which (disregarding urban properties and rights of way) varies from less than 10,000 acres in Rhode Island and Delaware to over 11,500,000 acres in New Mexico. Proportionate to their size there is an almost equally great dispersion: Nevada owns less than one-tenth of 1 per cent of its area, while Hawaii owns 37 per cent. During the next 25 years, Alaska may take free title to 103,000,000 acres now federally owned (an area larger than any other state in the union save Texas), while many other states are painfully and expensively trying to accumulate tracts suitable for modest recreational use.

The diversity of state land holdings extends into almost every area of public land administration. There are differences in the origin of the public lands, in the degree and purpose of disposals, in the use made of the land, and in current policies as to state ownership and management. It is probable that almost every conceivable kind of policy and procedure has been applied to state land somewhere sometime, including scandalous conduct in both acquisition and disposition. Generally speaking, the trend was to dispose of state lands for whatever they would bring, up to the 1930's and 1940's when some states took the lead in conserving the remaining state domains and, in one or two cases, undertook major acquisition programs. There are so many exceptions to the generality, however, that a state-by-state analysis is required.

Such individual treatment of state land policies is apparently not possible without actually visiting each state and spending an unwarranted

amount of time in study. A questionnaire sent to each state in the course of this survey elicited responses of varying definitiveness from about half the states and no response at all from the rest. Much remains unknown so the discussions below cannot be taken as exhaustive. Enough information was received, however, to make it possible to cite examples and available secondary sources will permit some generalizations.

#### Acquisition and Disposition of State Domains

It is convenient to group the 48 contiguous mainland states according to the general land situation that existed or exists in each. The groupings are essentially geographical, primarily because the source of state lands was different in different areas and because the source of these lands had a great deal to do with what was done with them as well as what is now being done.

The first group consists principally of the original 13 colonies, but includes other states erected from within non-ceded areas, such as Maine and Kentucky. In these states public land was never federal land, but the early land policies were similar to the early federal policies. By the time a different point of view prevailed, practically all the land had been alienated, but the new view of land policy is perhaps most strongly held in these states, where it has resolved itself into major acquisition and management programs.

The second group consists of the public land states; i. e., all states west of the Appalachian Mountains except Kentucky, Tennessee, and

Texas. In these states the public lands were almost all grant lands from the federal government, and so they remain. There are two major subdivisions in this large group--those states that have alienated all or most of their grants and those that have not. The former group is, generally speaking, the south, while the latter is most prominently found in the north and west. Alaska could also be counted in this group.

The total land and the amount and percentage in federal and state-owned rural lands for each of the states are listed by state in Table 6. Hawaii, as noted earlier, is first among the states in terms of per cent of total land area owned by the state but ranks twentieth in terms of state-owned acreage. No state as small as Hawaii, however, has anywhere near the same percentage of its total land area in public ownership--federal and/or state.

The third group is the State of Texas, which retained title to its lands after annexation and admission. The Texas experience is in some respects most comparable to Hawaii's because, with statehood and the re-cession of the public lands to Hawaii, this state stands in much the same position that Texas did 115 years ago. The similarity extends, of course, only to the tenure under which land is held, and the importance of land in the governmental scheme generally since quantities, climatic conditions, and historical circumstance are markedly different.

#### Eastern Non-Public Land States

There are 18 states in this group: the original colonies plus Maine, Vermont, West Virginia, Kentucky, and Tennessee. Land tenure



Table 6

TOTAL LAND, FEDERAL LAND, AND STATE-OWNED RURAL LAND BY STATES  
1949 and 1958<sup>a</sup>  
(areas in thousands of acres)

State	Total	Federal Land		Rural		Total
	Land Area	Area	Percent	State Land Area	Percent	Percentage Publicly-owned <sup>b</sup>
<u>Eastern Non-Public Land States</u>						
Connecticut	3,135	5	.2	159	5.1	5.3
Delaware	1,266	31	2.5	9	.7	3.2
Georgia	37,429	2,021	5.4	90	.2	5.6
Kentucky	25,513	976	3.8	46	.2	4.0
Maine	19,866	128	.6	183	.9	1.6
Maryland	6,324	180	2.9	109	1.7	4.6
Massachusetts	5,035	55	1.1	202	4.0	5.1
New Hampshire	5,771	696	12.1	58	1.0	13.1
New Jersey	4,814	96	2.0	172	3.6	5.6
New York	30,684	263	.9	3,107	10.1	11.1
North Carolina	31,422	1,945	6.2	333	1.1	7.3
Pennsylvania	28,829	552	1.9	2,825	9.8	11.7
Rhode Island	677	8	1.2	10	1.5	2.7
South Carolina	19,395	1,119	5.8	1,011	5.2	11.0
Tennessee	26,750	1,547	5.8	349	1.3	7.1
Vermont	5,938	252	4.2	81	1.4	5.6
Virginia	25,532	2,139	8.4	89	.4	8.7
West Virginia	15,411	943	6.1	148	1.0	7.1
TOTAL	293,791	12,956	4.4	8,981	3.1	7.5
<u>Southern Public Land States</u>						
Alabama	32,690	1,066	3.3	321	1.0	4.2
Arkansas	33,712	2,991	8.9	393	1.2	10.0
Florida	34,728	3,354	9.7	1,074	3.1	12.8
Louisiana	28,904	1,059	3.7	284	1.0	4.6
Mississippi	30,239	1,533	5.1	155	.5	5.6
Oklahoma	44,180	2,959	6.7	1,170	2.7	9.4
TOTAL	204,453	12,962	6.3	3,397	1.7	8.0
<u>Northern and Western Public Land States</u>						
Arizona	72,688	52,040	71.6	9,940	13.7	85.3
California	100,314	45,637	45.5	2,932	2.9	48.4
Colorado	66,510	24,156	36.3	3,181	4.8	41.1
Idaho	52,972	34,857	65.8	2,961	5.6	71.4
Illinois	35,798	414	1.2	101	.3	1.4

Table 6

TOTAL LAND, FEDERAL LAND, AND STATE-OWNED RURAL LAND BY STATES  
1949 and 1958<sup>a</sup>  
(areas in thousands of acres)  
(continued)

State	Total Land Area	Federal Land		Rural State Land		Total Percentage Publicly-owned <sup>b</sup>
		Area	Percent	Area	Percent	
Northern and Western Public Land States (continued)						
Indiana	23,171	335	1.5	198	.9	2.3
Iowa	35,869	127	.4	72	.2	.6
Kansas	52,549	383	.7	61	.1	.9
Michigan	36,494	3,259	8.9	4,403	12.1	21.0
Minnesota	51,206	4,090	8.0	5,507	10.8	18.7
Missouri	44,305	1,692	3.4	274	.6	4.4
Montana	93,362	33,201	35.6	5,498	5.9	41.5
Nebraska	49,064	765	1.6	1,659	3.4	4.9
Nevada	70,265	61,868	88.1	58	.1	88.1
New Mexico	77,767	33,762	43.4	11,503	14.8	58.2
North Dakota	44,836	2,814	6.6	1,820	4.1	10.3
Ohio	26,240	205	.8	240	.9	1.7
Oregon	61,642	32,991	53.5	1,609	2.6	56.1
South Dakota	48,983	8,288	18.4	2,525	5.6	24.0
Utah	52,701	38,804	73.6	3,027	5.7	79.4
Washington	42,743	15,284	35.8	2,942	6.9	42.6
Wisconsin	35,011	2,168	6.2	531	1.5	7.7
Wyoming	62,404	32,108	51.5	3,647	5.8	57.3
TOTAL	1,236,894	429,248	34.7	64,689	5.2	39.9
Texas						
Texas	168,648	2,640	1.6	3,280	1.9	3.5
TOTAL, Contiguous States	1,903,786	457,806	24.1	80,347	4.2	28.3
Non-Contiguous States						
Alaska	365,500	261,093 <sup>c</sup>	70.9	103,350 <sup>d</sup>	28.3	99.1
HAWAII	4,117	290	7.0	1,499	36.4	43.9
TOTAL	369,617	261,383	70.1	104,869	28.4	98.5
GRAND TOTAL, 50 States	2,273,403	719,189 <sup>c</sup>	31.5	185,216 <sup>d</sup>	8.2	39.7
48-STATE AVERAGE			24.1	4.2		28.3
50-STATE AVERAGE			31.5	8.2		39.7
HAWAII'S RANK			47	40		19
				20		1
						11

Table 6

TOTAL LAND, FEDERAL LAND, AND STATE-OWNED RURAL LAND BY STATES  
1949 and 1958<sup>a</sup>  
(areas in thousands of acres)  
(continued)

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Sources: Marion Clawson and Burnell Held, The Federal Lands, (Baltimore: Johns Hopkins Press, 1957); U. S. Department of Agriculture, Federal and State Rural Lands, 1950, (Washington: Government Printing Office, 1952); U. S. Congress, House Committee on Government Operations, Federal Real and Personal Property Inventory Report, as of June 30, 1959, (Washington: Government Printing Office, 1960); and Hawaii state land records.

<sup>a</sup>Figures are as of 1959 for federal land, and as of 1949 for state land; federal land figures include Indian trust lands.

<sup>b</sup>Total percentage publicly-owned may differ from the sum of per cent federal land and per cent rural state land by one-tenth of a per cent because of rounding.

<sup>c</sup>Excludes federal lands subject to withdrawal by State of Alaska.

<sup>d</sup>Includes federal lands subject to withdrawal by State of Alaska.

during the early colonizing days varied from place to place, according to the status of the colony under the crown, but with the formation of the Union each state took full possession of the unsettled lands within its borders and, in every case, set about disposing of them.

The experience reported by Pennsylvania and Maine seems to be fairly typical of what happened to the public lands in most of the original states. In Pennsylvania, all land originally was granted personally to William Penn in 1682, who sold some in England and later sold and granted more after his removal to Pennsylvania. His heirs

continued both practices, but when Pennsylvania became an independent Commonwealth in 1776, all remaining unpatented land was vested in the Commonwealth. Then came a period of grants to Revolutionary War veterans, followed (after 1813) by sale by lottery to the general public.

Maine acquired title to its lands in 1820 by the "Articles of Separation" which split the state off from Massachusetts. By that time crown grants and sales by Massachusetts had already alienated large areas in Southern Maine, but nevertheless a state land agent was promptly appointed who set about disposing of the remaining land. By 1891 all land had been disposed of, save only 1,000 acres reserved in each township for school purposes. These reservations, amounting to some 85,000 acres, plus about 200,000 acres of purchased or donated recreational lands constitute the Maine state lands of today.

There is some evidence concerning the policies followed in disposition of lands in these states. For example, all seem to have granted land to veterans of the Revolution, some or all gave free land to bona fide settlers as a means of filling up the frontier, and Maine, at least, paid the men working on her roads in land rather than money. This latter practice may be the ultimate example of a theme that runs constantly through the history of public land management in the United States, namely, that land was cheaper and more plentiful than money and hence was used in lieu thereof.

There is little doubt, however, that most of the early state land dispositions were for revenue purposes. No data are available as to how well these purposes may have been served, but it is clear that

eventually the source dried up completely. It is also unclear as to the purposes for which the revenues were spent, but most of these transactions occurred prior to the development of "perpetual funds" such as those that exist in the public land states so it may be fairly assumed that the funds went for operating expenses. If that were in fact the case, these 17 states never got anything of fiscal value out of their public lands except somewhat lower taxes in the early 19th century. The measurement of their success in land management must lie elsewhere--in the creation of a civilized community in the wilderness and in the fostering and promotion on a state level of the great national design of settlement, expansion, and exploitation.

#### Public Land States

State lands in areas west of the Appalachians were derived from federal grants. In this there was a profound difference from the older states because the lands granted were limited in area and because practically all grants were made with strings attached. Furthermore, most grants were in widely scattered locations so there never was a state domain in the sense of a large, contiguous body of land available for state use or disposal.

The largest, and in many ways the typical land grant, was that made for the support of common schools. In area these grants amounted to roughly three per cent of the area of the older states to over ten per cent of New Mexico and Utah. Today, common school grant lands constitute almost two-thirds of all state lands in the states in this group.

In dispersion they were uniformly scattered as the idea seems to

have been to provide for local common schools, predicated on the assumption that townships (6 x 6 miles) would become the basic unit of local government. Therefore, in the older states section 16 (the approximate center square mile) was granted, apparently as both an asset and a future school site. States west of the Minnesota-to-Louisiana line were also granted section 36 as compensation for the poor quality of land, while New Mexico and Utah also received sections 2 and 32 for a like reason. In most cases, therefore, the school sections were five miles apart in each direction, and even in the western states they were about three miles apart.

As to the conditions of the grant, the school lands went through considerable evolution. Originally, the lands could not be sold, so various lease and rental arrangements were tried, but competition with free land was so severe that this was altered (first state-by-state and later generally) to permit sales, provided the proceeds were devoted to education. By 1875, a minimum price of \$2.50 per acre was set, and six states admitted in 1889 and 1890 were required to sell at not less than \$10.00 per acre. Similarly, from 1875 on the proceeds of land sales were required to be set aside in "permanent funds" and the earnings spent solely on schools.

As a result of these characteristics, states have taken considerably different steps with respect to their school lands. Nationally, about fifty-five per cent of the school grants are still in state ownership, but over one-third of this retained acreage is in the states of Arizona, Montana, and Wyoming. Five other states have retained most of their school land and seven more still have over a quarter of their

original endowment. At the other extreme, six states have apparently disposed of all school lands, and ten others have only relatively minor remnants. While any generality as to the reason for these variations is bound to be subject to many exceptions, one explanation suggests itself. This is simply that in some states the land was too high-priced to sell during the great days of disposal, and especially in competition with free federal land. All of the states that still have as much as half of their school land were subjected to minimum pricing by Congress, and all but Colorado had to charge at least \$10.00 an acre. Conversely, all of the states which have disposed of all their land could do so at any price they chose. An extreme example is posed by Arizona (admitted in 1912) which has retained ninety-nine per cent of its school lands and adjoining Nevada (admitted in 1863) which has less than one-half of one per cent of its land remaining.

The tendency to dispose of land whenever possible was given impetus by the scattered areas given to the states. Management of these holdings was and is well-nigh impossible so the opportunity to convert real estate into cash which was amenable to management was considerable. The states with large remaining school land areas are still faced with this difficult problem.

State land grants other than for public schools have been largely dissipated--again with the exception of certain western states where college or specific institutional grants may still be in state ownership. One of the largest grants (38 million acres for railroads) was never really in state control at all, as the states operated largely

as trustees to oversee the transfer of the land to the railroads. Other public improvement grants also found their way into private ownership within a very few years. The swampland grants were virtually all sold, with many states diverting the revenues therefrom to education. The greatest grant of all, Alaska's 103.5 million acres, has not yet been withdrawn by the state, and its disposition or use is still to be determined.

### Texas

The story of public land in Texas almost parallels that of the federal lands, and for a similar reason. The Republic of Texas acquired title to well over 200 million acres of land when it attained independence in 1835, exclusive of some 25 million acres already patented under the Spanish and Mexican governments. The existence of this tremendous patrimony immediately became a problem, and this problem was severely aggravated when Texas sought admission into the Union. The first annexation treaty proposed that the United States would pay the debts of Texas up to \$10,000,000, and that in return Texas would surrender title to all its public lands. This treaty was defeated in the Senate in June, 1844. In a classic understatement, the Texas Land Commissioner's report of 1959 states, "Texas was fortunate that this treaty was not approved because only a small part of the land that she would have traded for ten million dollars has since put more than 625 million dollars in the Permanent School and University Funds." Early the next year a new treaty, under which Texas was to keep both its lands and its debts, was approved, and the State of Texas was admitted into the Union in December, 1845, still in possession of its land.



The first large "disposition" of Texas land occurred in 1850 when the state sold the area outside its present boundaries to the United States for a total of \$16,000,000—considerably more than total relinquishment of land would have given it six years earlier. The United States apparently had been under the impression that it had already acquired this land (parts of what is now New Mexico, Kansas, Colorado, and Wyoming) under the terms of the Treaty of Guadalupe-Hidalgo terminating the Mexican War. Texans, however, disagreed so the result was a transaction in Texas land that would have done credit to the Yankee David Harum.

Texas land records show that practically all of the rest of the area was disposed of in the ensuing 50 years. The means and approximate acreages of these dispositions are shown in Table 7. A small part of the land granted for education remains in state ownership, but Texas' total state land today amounts to only about 3 million acres, or perhaps 1.5 per cent of what it was originally. The vast oil resources of educational land, however, and the reservation of mineral rights on certain other land and off-shore areas give Texas one of the world's great sources of educational endowment.

Study of the disposition table reveals that revenue was a relatively minor consideration in the disposition of Texas land. Three-fourths of the dispositions were by means of grants to individuals or educational institutions, and over four-fifths of the rest went for internal improvements. Only 3 million acres were actually sold, although another 3 million given in return for construction of the State Capitol Building were used as if they were revenue. For the rest, Texas devoted its lands to the settlement and improvement of its vast areas, and to the education of the sons and daughters of the Lone Star State.

Table 7

DISPOSITION OF THE PUBLIC DOMAIN OF TEXAS UNDER  
SPAIN, MEXICO, THE REPUBLIC, AND AS A STATE  
IN THE UNITED STATES

	Acres	Per Cent
Grants to promote citizenship and to induce immigration -		
By Spain and Mexico.....	26,280,000	
Headrights and bounties.....	36,876,492	
Colonies (Peter's, et al).....	4,494,806	
Homesteads (Pre-emptions).....	<u>4,847,136</u>	
	72,498,434	43
Donations to veterans -		
San Jacinto veterans (Acts of 1879 and 1881).....	1,169,382	
Confederate veterans (Acts of 1881).....	<u>1,979,852</u>	
	3,149,234	2
Sold to pay public debts by Republic.....	1,329,200	
50 cents Sales Scrip Act of 1879 and \$2 Sales Scrip Act of 1887.....	<u>1,660,936</u>	
	2,990,136	2
Internal improvements.		
Irrigation, drainage, canals, industrial, highways, etc.....	4,088,640	
Grants to railroads.....	<u>32,153,878</u>	
	36,242,518	22
State Capitol Building	<u>3,025,000</u>	
	3,025,000	2
Education -		
University of Texas.....	2,329,168	
Public Schools.....	42,561,400	
County Schools.....	4,229,166	
Eleemosynary Institutions.....	<u>410,600</u>	
	49,530,334	29
Total surveyed land.....	167,435,656	
Less conflicts (estimated at 1/2 of 1%).....	<u>837,256</u>	
	166,598,400	
Net acreage in original surveys.....	166,598,400	
Excesses (estimated at approximately 1.1%).....	1,747,600	
River beds and vacancies (estimated).....	1,091,000	
Submerged coastal area to 3-league limit.....	<u>4,145,674</u>	
Total.....	<u>173,682,674</u>	

Source: Texas General Land Office, History of Texas Land, (Austin, State of Texas, 1959).

### Recent Developments in State Land Administration

The foregoing paragraphs have described the general patterns by which states acquired and disposed of lands. There is more than a remnant in most states today, however, and their policies for managing the 80-odd million acres they own are significant elements in the determination of what course Hawaii should follow in making its future land decisions.

#### Acquisitions of Land

Most states are today gradually increasing their land holdings, and some have made relatively large acquisitions in the recent past. This trend was brought about by two developments: tax delinquency, particularly during the great depression, and the growth of conservational and recreational programs at the state level.

There seem to be no general data available on the amount of land that reverted to public ownership for tax delinquency during the '30's. The amounts were, however, considerable and reference can be found to the "millions of acres" so acquired in the states of Michigan, Minnesota, and Wisconsin. The problem was certainly aggravated in those states because of the wide expanses of cut-over timberland that, having lost their economic value, were simply abandoned. In some states (Arkansas is an example) this land was simply sold back to the highest bidder to become delinquent again. In the three states named above, however, and even earlier in New York, state programs for the rehabilitation and use of this land were undertaken.

The acquisition of state land by sale or exchange has also attained major proportions in a few states. All states, of course, acquire land

periodically for highway rights-of-way or building sites, but reference here is to acquisition of rural land for recreational or conservational use. Exchange is a common device in the public land states where there is a good deal of state land, but most holdings are badly scattered. Other states have relied on outright purchase, an outstanding example again being New York, which purchased over half a million acres for these purposes between 1929 and 1956. One of the leading "exchange" states is Minnesota, which has used this device to strengthen its holdings in strategic recreational areas while divesting itself of agriculturally-valuable lands.

#### Use of State Lands

The considerable state land holdings today are put to a variety of uses. As measured by area, agricultural use (chiefly grazing) is by far the largest amounting, in 1950, to some 55 per cent of the total state rural lands. This use is largely confined to the western states that have extensive remaining school and other grant lands. Most of this land is on short-term rental agreements or sharecrop arrangements with nearby farm operators. A considerable area is within the federal grazing districts, a somewhat smaller amount in national forests, and a little in national parks. When so included, the lands actually pass from state control, with little or no revenue accruing to the state from their use.

Nowhere has evidence been found of a "general lease" of state land to private operators, at least in this century. In the early days of the school grants some states did make general leases but the administrative problems connected therewith were one reason for the early pressure on Congress to permit sale of the land. Today the typical situation is a

license for grazing or extraction of a resource limited in amount and usually for no more than a single year, although renewals are the rule. Land used for production of crops is frequently rented on shares, or less often on an annual cash rent basis. Given this unanimity of action by every state, and the lease rental or licensing arrangements that characterize private use of federal lands, it is understandable why Congress historically shied away from the long-term general lease so typical of Hawaii's public lands.

The last comprehensive tabulation of state-owned rural lands was made in the early 1950's by the U. S. Department of Agriculture and covered the 48 mainland states.<sup>6</sup> At that time the states owned a little over 80 million acres as the data in Table 8 indicate. Lands in use amounted to about 22 million acres, or 28 per cent of total holdings. Of this amount, nearly two-thirds was in forests, about one-fifth in wildlife reserves, one-tenth in parks, and practically all the rest in institutional sites. The preponderance of forest use and the concentration of state forests in certain northern states are such that slightly over half of all land in state use in the 48 contiguous states is devoted to forests.

The growth of state forest and other conservational uses, particularly in the eastern and lake states, has been an important development in recent years. Another trend has been the cessation or reduction of disposal of state lands. This trend is even reversed, insofar as conservational and

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<sup>6</sup>U. S. Department of Agriculture, Federal and State Rural Lands, 1950, (Washington: Government Printing Office, 1952).

Table 8

STATE-OWNED RURAL LAND  
CLASSIFIED BY DOMINANT USE FOR SELECTED  
MAINLAND STATES, THE 48 CONTIGUOUS STATES, AND HAWAII  
1949  
(areas in thousands of acres)

State	Forest		Parks and Wildlife		Institutional Sites		Not in Public Use <sup>a</sup>		Total State-Owned Rural Land	
	Acres	Per <sup>b</sup> Cent	Acres	Per <sup>b</sup> Cent	Acres	Per <sup>b</sup> Cent	Acres	Per <sup>b</sup> Cent	Acres	Per <sup>c</sup> Cent
<u>States with state land principally not in public use:</u>										
Arizona	-	-	38	.4	3	- <sup>d</sup>	9,899	99.6	9,940	13.7
Colorado	-	-	32	1.0	15	.5	3,134	98.5	3,181	4.8
Utah	-	-	65	2.1	7	.3	2,955	97.6	3,027	5.7
<u>States with state land principally in conservational uses:</u>										
Connecticut	120	76.0	21	13.3	13	8.2	4	2.5	158	5.1
Michigan	3,640	82.7	716	16.3	47	1.0	-	-	4,403	12.1
New York	2,897	93.2	195	6.3	15	.5	-	-	3,107	10.1
<u>States with a high portion of state lands in institutional use:</u>										
Illinois	10	10.0	60	60.0	30	30.0	-	-	100	.3
Kentucky	4	8.7	14	30.4	28	60.9	-	-	46	.2
Virginia	2	2.2	38	42.7	45	50.6	4	4.5	89	.4
<u>States with state land balanced among public uses and private use:</u>										
Wisconsin	273	51.5	84	15.8	13	2.4	161	30.3	531	1.5
Minnesota	2,002	36.4	1,396	25.4	40	.7	2,068	37.5	5,506	10.8
Oregon	665	41.3	91	5.7	18	1.1	834	51.9	1,609	2.6
48 States	14,022	17.5	7,145	8.9	1,065	1.3	58,115 <sup>e</sup>	72.3	80,347	4.2
HAWAII	836	55.8	6	.4	10	.7	647 <sup>f</sup>	43.1	1,499 <sup>g</sup>	36.4

Sources: U. S. Department of Agriculture, Federal and State Rural Lands, 1950, (Washington: Government Printing Office, 1952); and Hawaii state records.

<sup>a</sup>Includes small areas in miscellaneous public uses.

<sup>b</sup>Per cent of state-owned land.

<sup>c</sup>Per cent of area of state.

<sup>d</sup>Less than .05 per cent.

<sup>e</sup>Footnote to original table states that about 44 million acres (75 per cent) of this land is in agricultural use; no state breakdown available.

<sup>f</sup>Includes 611,000 acres (94 per cent of this item) under general lease or used by Hawaiian Home Lands Department, and presumably in agricultural use.

<sup>g</sup>Rural land only—excludes transportation, county, and similar uses.

recreational lands are concerned, although there are movements in the large public land states designed to put unused land into private ownership.

The use to which an estimated 14 million acres of state lands (about 17 per cent) is put is not accounted for in available statistics, though presumably this large area is mostly idle. This acreage is included in the column headed "Not in Public Use" in Table 8. A good share of it may be tax forfeited lands that will be returned to private ownership. Little is actually known of these areas, and efforts to compile information by questionnaire proved unsuccessful.

Finally, a word should be said concerning off-shore areas controlled by the states. These areas are extensive and, in some cases, extremely valuable. The best-known and most important use of off-shore lands is for the extraction of petroleum, but the harvesting of certain sea foods (particularly oysters) is a major use in some states. Reclamation of off-shore areas is not reported by other states, but it may fairly be considered at least a potential use of great value in a few areas where the values of reclaimed land will support the cost of reclamation.

Four different categories of land-using states are shown in Table 8, and data for selected states in each group included for purposes of illustration. The first group consists of states with state land principally not in public use and is composed primarily of large land-holding western states. The second group consists of states with state land principally in conservational uses and includes a number of the older states with large portions of their total state-owned acreage in forests, parks, and

wildlife reserves. In many of these states the percentage of publicly-owned land is not high. The third category includes a few states which devote a high portion of their state-owned lands to institutional uses. These states own very little land. In the fourth group are those states in which state lands are used for both public and private purposes. A few of the states in this group hold significantly large amounts of land. Hawaii could be included in this class.

#### Hawaii's Distinct Position Among the States

There are major differences between Hawaii and the older states. These differences are, in large part, differences in time. Hawaii stands today, with respect to her public land, about where the eastern states stood in 1800 and Texas in 1860 or 1870. Relatively large areas remain in state ownership, but selection by private owners has taken most of the better land and more valuable locations. The other states uniformly plunged ahead from this point to achieve virtually total disposal. Now many of them are actively acquiring additions to their state's domains. Hawaii, of course, still has some choice in the matter. Its public lands are relatively intact. Having achieved statehood, its policies with respect to land are no longer subject to the restrictions of the Organic Act nor to the approval of a distant Congress. Hawaii, unlike most mainland states, has the opportunity to determine just what it wants of its land and how it wishes to use them to shape its future. Hawaii, in making these decisions, can know better than any other state has ever known what the likely economic and social impact of its decisions will be on the growth of the state and the future history of its people.