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THE REFORMS IN THE
ADMINISTRATION OF THE PUBLIC
LANDS DURING THE CLEVELAND
ERA, 1885-1897

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During the Cleveland Era, 1885-1897

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I.

The National Domain includes all the land belonging to the United States, or to the several States. The Public Domain, or Public Lands, means land belonging to the United States and subject to sale or other method of disposal, thereby.¹ There was no Public Domain until New York ceded its western land to the Federal Government March 1, 1781.²

The original public domain, which was claimed by Massachusetts, Connecticut, New York, Virginia, North Carolina, South Carolina, and Georgia, was ceded to the Federal Government between 1781 and 1802. This cession was made because Maryland had refused to sign the Articles of Confederation unless the states claiming western land would agree to cede it to the Central Government.³ This original Public Domain included all the land east of the Mississippi River and north of the thirty-first parallel except the original thirteen states, Kentucky, Tennessee, and smaller private grants. There was much difficulty in establishing individual claims in this public land area and also in the original states. It was many years before it was finally settled.⁴

The first addition to the public domain after the original cession by the states was by purchase from France in 1803 and is known as the Louisiana Purchase. "This embraced as finally settled those portions of the States of Alabama and Mississippi south of the thirty-first parallel, the entire surface of the states of Louisiana, Arkansas, Missouri, Iowa, Nebraska, and Oregon,⁵ all of Minnesota, west of the Mississippi River,

1. B. H. Hibbard, History of the Public Land Policies, p. 7

2. Ibid., p. 9

3. Ibid., p. 9

4. American Historical Reports (1906) Vol. 1, p. 155.

5. Most historical writers do not include the Oregon Territory in the Louisiana Purchase, but state that this territory, 286,541 square miles, came into the possession of the United States by agreement with Great

all of Kansas except a small portion west of the one hundredth meridian and south of the Arkansas River, all of Dakota, Montana, Idaho, Washington and the Indian Territory (now a part of Oklahoma) with a portion of Wyoming and Colorado. This cost, according to the original treaty stipulations, \$15,000,000 in money and stocks; the interest on the stocks to the time of redemption \$8,529,353; claims of citizens of the United States due from France and paid by the United States \$3,738,268; a total of \$27,267,621 and added to the Public Lands 1,182,752 square miles."⁶

The next addition to the Public Domain was by purchase from Spain on February 22, 1819. "It secured to the United States the territory known as East and West Florida, now the present state of Florida, for the sum of \$5,000,000 in bonds similar to those issued for the Louisiana Purchase, the interest on the bonds at the date of redemption being \$1,489,768, making a total cost of \$6,489,768. This added to the Public Domain of the United States 59,268 square miles, including custom grants."⁷

By the Treaty of Guadalupe Hidalgo, concluded February 2, 1848, the Mexican War came to an end and as a result new lands were added to the Public Domain. "This cession gave to the Public Domain of the United States the States of California, Nevada, Utah, Arizona, New Mexico, and part of Colorado, except the Mesilla Valley, lying in Arizona and New Mexico, adding to the Public Domain approximately 522,568 square miles.
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It cost \$15,000,000."

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6. The Public Domain, by the Public Land Commission (1880) pp. 11, 12. Hibbard, op. cit., p. 14; quotes Louisiana area as 827,987 square miles and Oregon, p. 20, 286,541 square miles. This would give 1,114,528 square miles from both.
 7. The Public Domain, by the Public Land Commission (1880) p. 12. cf. Hibbard, op. cit. p. 19 gives the area as 72,101 square miles.
 8. Ibid, p. 12. cf. Hibbard, op. cit., p. 22, gives this area as 529,139 square miles.

When Texas gained its independence from Mexico, 1836, the western boundary line of Texas was not clearly established. This was still unsettled at the close of the Mexican War. In settling this line, the United States made what is known as the Texas Purchase. "The United States by the Act of Congress of November 25, 1850, purchased from Texas her claim to certain public lands, north of the parallel of $36^{\circ} 30'$, and between that parallel and 32° , and lying west of the one hundred and third meridian, now included in Kansas, Colorado, and New Mexico. This cost \$15,000,000 in 5 percent bonds, interest and cash. The lands in this purchase were estimated at 101,767 square miles!"⁹

The next addition to the Public Domain was the Gadsden Purchase. "In consideration of the concession by Mexico of the abrogation of sundry treaty stipulations in the treaty of Guadalupe Hidalgo, 1848, and the payment of \$10,000,000 by the United States to Mexico, a strip of land known as the Mesilla Valley, and lying in the present Territories of New Mexico and Arizona, on their southern border, was added to the public domain of the United States (December 30, 1853). It contained 45,535 square miles." ¹⁰

Alaska was the next addition to the public lands of the United States. "From the Empire of Russia, by purchase, known as the Alaska Purchase, under treaty made March 30, 1867, by which was ceded to the United States by Russia all her possessions on the continent of America

9. Ibid, p. 12

cf. Hibbard, op. cit., p. 19, gives this cession as 125,270 square miles.

10. Ibid, p. 12.

cf. Hibbard, op. cit., p. 22, gives this area as 23,500 square miles.

and adjacent islands. This added to our public domain 577,390 square miles and cost \$7,200,000." ¹¹

The methods, policies, and laws used in the administration and disposal of the public lands have been subject to change from time to time. The Public Land Commission in its report of 1880 described these matters. ¹² There is found methods by credit and cash sales and gifts; the laws for survey and classification of the lands; laws covering pre-emption, saline lands, swamp and overflow lands, educational land grants, land bounties for military and naval services, Indian reservations, military reservations; coral, wagon, and railroad grants; homestead, timber culture, coal lands, donation lands, the timber and stone acts, desert lands, and private land claims. Such of those laws as are pertinent to this paper will be dealt with later.

Hamilton stated his ideas for the disposal of the public lands when he said, "That, in the formation of a plan for the disposition of the vacant lands of the United States there appear to be two leading objects of consideration; one the facility of advantageous sales; the other the accommodation of individuals now inhabiting the western country, or who may hereafter emigrate thither. The former as an operation of finance claims primary attention, the latter is important as it relates to the satisfaction of the inhabitants of the western country." ¹³

11. *Ibid.*, p. 13.

cf. Hibbard, *op. cit.*, p. 21, gives this area as 590,080 square miles. cf. Hibbard in a summary table, p. 31, gives figures that do not agree with those on previous pages of the same text.

12. The Public Domain, pp. 179 to 410.

13. American State Papers, Public Lands, vol. 1, p. 4.

In the first few years of our national existence, the matter of finance was an important one with the administration for the nation was in debt and little provision had been made for raising money by taxation. Many expected to obtain enough from land sales to pay the debt and also pay the cost of running the government. On the other hand, the pioneers felt that the land was, or at least should be theirs for the taking and so were inclined to take it without paying for it. The cost of administration of the land was about equal to the amount received for it until after the need of the government had been met in other ways. When the government most needed the revenue, lands did not sell; when revenue could be raised in other ways, land sales brought in more cash. It was only in the first few years of our national life that much attention was paid to the thought of using the land as a primary source of revenue. This left the accommodation of the settlers as the main idea in the disposal of the public lands.

The public lands can only be disposed of by Congress or some agent authorized by that body. After 1776, Congress made grants of land, and created agencies through which the land could be sold or otherwise distributed. "From May 20, 1785, and after, under order of Congress, the Board of Treasury, three commissioners, the then Treasury Department, made sales of the public lands and gave certificates. April 21, 1792, Congress authorized the President to give patent to the Ohio Company and Associates. May 5, 1792, the President was authorized to grant patents for land to John C. Symmes and his associates. The money in these cases was paid direct to the Secretary of the Treasury. By act of May 13, 1796,

for the sale of lands in the Northwest Territory, now in Ohio, the Secretary of the Treasury received a set of plats of survey, kept check-books of sales, gave notice of sales, and performed other executive duties. He became the executive power or agent in the sale or disposition of the public domain, issuing patents for grants of land, et cetera, with the aid of registers and receivers of district land offices after 1810, and remained so until the organization of the General Land Office in his department." 14

In order to facilitate the handling of the public lands, the Congress^{on} April 25, 1812 created the office of Commissioner of the General Land Office and made his bureau in and subordinate to the Treasury Department, issuing patents, and performing duties formerly executed by the several departments. The Secretary of the Treasury, by a series of acts of Congress, following this, obtained supervision of the acts of the Commissioner of the General Land Office, and appeals from the action of the commissioner were made to him. July 4, 1836, the General Land Office was re-organized by law." 15 On March 3, 1849, the Department of Interior was organized and the General Land Office became and continues to be a bureau in that department.

"The General Land Office holds the records of title to the vast area known as the public domain, on which are hundreds of thousands of homes. Its records constitute the "Doomsday Book" of the public domain of the United States. All the business pertaining to the survey, dis-

14. The Public Domain (the Public Land Commission) 1900, p. 164.

15. Ibid., p. 164.

position and patenting of the public lands of the United States is transacted through it, or under its order and supervision. No more responsible bureau of the Government exists.

Important questions of law often arise in the various divisions of this office as to rules of evidence, as to boundaries, entries, locations, cultivation improvements, settlements, domicile, expatriation, jurisdiction of executive officers, such as the power of the Commissioner of Pensions to cancel land warrants under various circumstances after they have issued or after they have been located; as to the authority of this office to set aside or cancel patents after execution, and before delivery and after delivery; as to rights of way and water rights; as to when patents take effect; as to when patents are valid, void, or merely voidable; as to when legal title passes without patent; in construing foreign treaties and Indian treaties; as to forfeitures, abandonments, assignments; as to the rights of owners of lost instruments; as to advancements for surveys, deposits, and excess.

The laws and decisions of various states and territories have to be examined to determine who are the lawful wives, widows, heirs, executors, administrators, or guardians; to determine the jurisdiction of local courts and the validity of proceedings therein, and the legality of judicial sales.

Since the organization of the United States Government, about three thousand acts have been passed by Congress concerning public lands. Many of these laws are composed of numerous sections, and many of these sections present a number of difficult questions of construction. These

provisions are generally construed in the first instance by this office. It is often many years before a judicial interpretation is obtained, if ever. The Supreme Court has on more than one occasion declared that the construction and practice of the Department is entitled to great respect, and such construction is usually followed by the State courts. It is true that many of these acts have been repealed; but under imperfect administration in former years, titles acquired or supposed to be acquired under such repealed provisions are found to be imperfect, and necessitate an examination and consideration of the early acts of Congress and the rights of parties thereunder. In determining and in deciding these cases, careful opinions must be written deciding the questions of fact and of law, giving reasons for conclusions and citing authorities." 16

16. Ibid, pp. 166 to 167.

II.

Approximately four-fifths of the entire national domain of the United States has been public domain and as such, subject to the supervision and control of the national government. This has included lands of all possible types of classification, and suitable to all varieties of uses. The handling of this vast extent of territory has been so complex that evils were certain to develop in the administration of it. Sato said in 1884, "Recent investigations disclose shameful frauds and deceptions as prevailing in the public land entries. The nation's interest demands a fair disposition of the public domain, and the importance of the office to which is intrusted the nation's property can hardly be exaggerated." ¹⁷ "I am satisfied," said Sparks, the Commissioner of the Land Office, "that thousands of claims without foundation in law or equity, involving millions of acres of public lands have been annually passed to patent upon the single proposition that no one but the government had any adverse interest, Cleveland seemed determined that the rich should obey the law as well as the poor." ¹⁸

"The rapidity with which the continental railroads were thrust across the plains and mountains to the Pacific --- brought an unexpected strain upon the General Land Office and the Post Office Department, with the result that the latter broke down, while the Land Office needed a thorough overhauling by the successors of Arthur." ¹⁹ "The principal abuses that needed to be corrected included frauds in the homestead system, fraudulent

17. Sato, History of the Land Question in the United States, p. 127.

(In Studies in Historical and Political Science, vol. 4.)

18. F. Paxson, Recent History of the United States, p. 99.

19. Ibid., p. 61.

pre-emptions, theft of the public lands by illegal enclosures, theft of natural resources, timber or mineral, and the fraudulent attempts of the railroads to secure their land grants without complying with the terms of the award."²⁰

Speculation in public lands became an evil of much magnitude. Very early in our history we began to give land bounties as payment for military services. "Virginia as early as 1646, donated one hundred acres to the commander of the palisaded settlement at the Middle Plantation."²¹ This plan was used, with modifications, by the various colonies for military services through the entire colonial period so that, when the national government began, the same thing it was a matter of custom and was considered to be the thing to be expected. England, likewise, had given land as an inducement to service in her armies. In the beginning, these land warrants were non-assignable, that is, the one to whom they were given could realize benefit from them only by appropriating and settling the land. The result was that much land was in this way actually occupied by settlers. Later the warrants were made so that they might be transferred by sale or otherwise. This led to much speculation and graft in the distribution of lands. "An examination of the books at the state land office in Iowa shows that land warrants were used by the speculators in a thoroughly wholesale manner. Following the bounty enactments of 1847, 1850, 1852, and 1855, a few men entered many thousands of acres of land at the western land offices. Very clearly these men were specu-

20. Ibid., p. 100.

21. B. H. Hibbard, History of the Public Land Policies, p. 126.

lators as were thousands more who entered smaller tracts." ²² "The military land warrants, whatever its uses as a war measure, was a boon to speculators and helped marvelously in putting land into their hands. By these warrants, an area of land larger than the State of Oregon was taken from the public domain and made private property."²³

The dissipation of the natural resources in the matter of forests was a great evil. "The increases in forest destruction of the seventies and eighties was greatly augmented by the Free Timber Act and the Timber and Stone Act, both of 1872. --- The Free Timber Act gave the people of nine far western states the right to cut at will on mineral land for mining and domestic purposes, but it did not define originally, either mineral land or mining. In time any convenient forest anywhere was assumed to grow on mineral land, and smelting and manufacturing companies were assumed to have the miner's rights to free timber. For example, vast forest areas were burned over to cheapen the manufacture of charcoal, the enormous surplus of which, over the use for smelting, being sold in the open market as a by-produce."²⁴

Grants to railroads had been numerous and totaled a vast amount of land with consequent evils of administration. "The railroad grant period from 1850 to 1872 saw vast areas of public lands given away for the purpose of hastening facilities for transportation. Up to then, the railroads had received a grand total of 130, 944, 916 acres or 204,679 square

22. Ibid, 127.

23. Ibid, 128.

24. Robert S. Yard, Our Federal Land, p. 93.

miles of free land. Of this nearly ninety-four million acres were granted directly to ten railroad corporations including the Union Pacific, Northern Pacific, Southern Pacific, and Santa Fe. Thirty million acres went to the Northern Pacific alone."²⁵ "Grants for railroads usually consisted of the odd numbered sections of townships within ten miles on each side of the tracks. Later this was broadened to twenty miles, and then thirty miles on either side of the road bed. Some of these grants were not handled by the railroads according to the terms of the grants and the United States Government was compelled to reclaim at least a part of the grants."²⁶

That evils were present in the administration of the public lands was becoming increasingly apparent. The result was that the political parties were forced to consider it in a political way. The Democratic Platform in 1868 said, "The public lands shall be distributed as widely as possible among the people, and should be disposed of either under the pre-emption or the homestead laws, or sold in reasonable quantities, and to none but actual settlers at minimum prices established by the government. When grants of land may be allowed, necessary for the encouragement of important public improvements, the proceeds of the sale and not the land itself, shall be so applied."²⁷ The Republican Platform in 1872 said, "We are opposed to further grants of public lands corporations or monopolies, and demand that the public domain be set apart for free homes

25. Ibid, P. 31.

26. Ibid, P. 31.

27. E. Stanwood, History of the Presidency, pp. 324-325.

for the people."²⁸ The Democratic Platform of 1872 and the Republican of 1876 were practically the same as the Republican of 1872. In 1876 the Democrats said, "Reform is necessary to put a stop to the profligate waste of the public lands, and their diversion from actual settlers by the party in power, which has squandered two hundred million acres upon railroads alone, and out of more than thrice that amount has disposed of less than a sixth to actual tillers of the soil."²⁹

By 1879 the pressure had become so great for reform that Congress passed an act, March 3, 1879, providing for a commission to codify the land laws and report on the public lands in general. Hibbard says;

The United States Geological Survey was established in 1879. The same act, also provided for a commission to codify the land laws, consisting of the Commissioner of the General Land Office, the Director of the United States Geological Survey, and three civilians. They were to report to Congress, first, a codification of the present laws relating to the survey and disposition of the public lands; second, a system and standard of classification of public lands as arable, irrigable, timber, pasture, swamp, coal, mineral lands, and such other classes as may be deemed proper, having due regard to the humidity of the climate, supply of water for irrigation, and other physical characteristics; third, a system of land parcelling adapted to the economic uses of the several classes of land; fourth, such recommendations as they may deem wise in relation to the best method of disposing of the public land of the western

28. *Ibid.*, p. 347.

29. *Ibid.*, p. 372.

portion of the United States to actual settlers.

The commission consisted of James A. Williamson, Commissioner of the General Land Office, Clarence King, United States Geologist, John W. Powell, Alexander W. Britton, and Thomas Donaldson. Clarence E. Dutton, Captain of Ordnance, United States Army, was appointed Secretary of the commission. The commission made its report to Congress June 30, 1890. It had compiled a volume of over five hundred pages covering all phases of the land question up to that time. It had given the history of the acquisition, the laws, and acts of Congress, the history of the General Land Office, the methods of survey, the classification, and a very carefully compiled table of statistics covering the entire record of the public domain.

This commission made the following recommendations for reform in the administration of the public land service: "The Commission, with a view of bettering the service, would respectfully recommend the re-organization of the General Land Office shown in the following tables, which show the difference between the present and the proposed organization.³⁰" These tables showed the present office force as being 223 in number and their salaries to be \$273,220. The proposed organization would increase the office force to 229 and the salaries to \$321,020. "The commission would recommend a much larger force for one or two years, if there were room in which to advantageously place it. The room allotted to the General Land Office is not quite the worst that it could be, nor is it wholly inadequate, but it approximates both. The immense bulk of

30. Report of the Commissioner of the General Land Office, (1888), p. 102.

valuable records of the office is stored in cheap wooden cases in dark rooms and darker halls, to which clerks must constantly go for examination of files of papers and volumes of records, which, when foul, cannot, in dark or cloudy weather, be read without carrying them to windows, which may be a hundred feet away. It may be safely said that the want of more convenient and suitable room costs the government the one-fourth part annually of all money appropriated for the clerical force of the General Land Office. If there were sufficient and suitable room for the purpose, it would be both wisdom and economy to add as largely to the clerical force as might be necessary, to enable the Commissioner to thoroughly inspect the records of the office and ascertain errors, reproduce all mutilated and work out records while it may be done; but the room is not sufficient, and the best thing that can be done until room is provided is to give the maximum force that can be employed and pay salaries high enough to get good, if not the best, talent." ³¹

This agitation relative to the public lands made it necessary for the political parties to state a policy in the party platforms of 1884. The Anti-Monopoly Party, the first to hold its National Convention, resolved that "no further grants of public lands shall be made to corporations, all enactments granting land to corporations shall be strictly construed, and all land grants shall be forfeited where the terms upon which the grants were made have not been strictly complied with. The lands must be held for homes for actual settlers, and must not be subject to purchase or control by non-resident foreigners, or other speculators."³²

31. Ibid., p. 108.

32. E. Stanwood, History of the Presidency, p. 423.

The platform of the National Party of that year was practically the same as the Anti-Monopoly platform. The Republican Platform of 1884 stated that "The public lands are a heritage of the people of the United States and should be reserved, as far as possible, for small holdings by actual settlers. We are opposed to the acquisition of large tracts of these lands by corporations or individuals, especially where such holdings are in the hands of non-resident aliens, and we will endeavor to obtain such legislation as will tend to correct this evil. We demand of Congress the speedy forfeiture of all land grants which have lapsed by reason of non-compliance with acts of incorporation in all cases where there has been no attempt in good faith to perform the conditions of such grants."³³ In the Democratic Platform of 1884 was the statement, "We believe that the public lands ought, as far as possible, to be kept as homesteads for actual settlers; that all unearned lands heretofore improvidently granted to railroads by the Republican Party should be restored to the public domain, and that no more grants of land should be made to corporations or allowed to fall into the ownership of alien absentees."³⁴ The Prohibition Party in 1884 decided "That the public lands should be held for homes for the people and not for gifts to corporations, to be held in large bodies for speculators upon the needs of actual settlers."³⁵

33. Ibid, pp. 431-432.

34. Ibid, p. 437.

35. Ibid, p. 444.

III.

When the Cleveland administration started in 1836, the work of the General Land Office was in an unsatisfactory condition. Records had been improperly or incompletely made, and the work of the department was found to be years behind in some matters. The administration made an attempt to remedy these defects. The Commissioner of the General Land Office, in his annual report of 1838, said: "From the official report of Honorable W. A. J. Sparks, late commissioner for the fiscal year of 1837, it will be seen that on August 20, 1837, there were pending in the five divisions of public lands, preemptions, review, contest, and mineral, 273,670 individual cases and 14,000 unanswered letters, and besides all this immense mass an unknown volume of private land claims and nearly the entire work of the railroad land grant adjustment, and the adjustment of swamp, school, internal improvement and other Congressional grants and Indian allotments, and the work of fraudulent entry and timber trespass examination, which mass has been accumulating for years past, and only increasing with the lapse of

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time." "Your committee found that decades past plat or tract books were prepared for use in the land office, having on their backs designations of the land office, or the state or the territory wherein the land therein situated were to be entered, and generally numbered Volume 1 and upwards in each state ---- Your committee found that the proper entries under the different headings in these plat or tract books had not been made or filled in since about 1832, and that since that time there is no one record book in the office wherein all the information intended to be preserved in such plat or tract

book can now be found." 37

The committee felt that this matter of being behind was due to the fault of employees in the General Land Office, and did not hesitate to criticize them very severely for their delinquencies. They replied: "The cases on file in the Department show these derelictions of duty in the registers and receivers, and their correction causes unnecessary labor and consumption of much time on the part of the employees-----there are, in addition to the foregoing, many other kinds of omissions, carelessness, and inattention on the part of local land officers, such as variance in the description of the lands, and in writing the names of the applicants, etc., all of which cause delay and increase the labor and consume the time of the employees in the General Land Office in examining the cases, discovering the defects, and corresponding with the registers and receivers to secure revision and amendment, and unavoidable delay in disposing of such cases result." 38

The committee made two recommendations: first, "When such masses of arrears are found in any office it is certainly a business -- correct as well as legal --course to require more work by each employee to bring up the arrears, and no complaint should be made to eight hours work daily, an increase of one and a half hours daily, which should enable five clerks to do the work now done by six, and be practically the addition of one sixth to the working force; second,

37. Senate Report, 1st, Session 50th Congress, 1887-8, Vol. 3, p.222.
cf. Report of the Commissioner of the General Land Office (1887)p.100.
38. Ibid., p.222.

with the vast accumulation of arrears in the General Land Office, there should be no forbearance shown inefficient, incompetent employees on account of age, sex, condition or influence." 39

Cleveland was in favor of reform in the administration of the public land and did not hesitate to so declare himself. "The concentration of landed property in the hands of foreign capitalists, which means the introduction of British absenteeism, has been drawing attention from the public and the press. Fraudulent entries, and adventurous trespass on the public lands called forth sharp words from Mr. Cleveland in his inaugural address, to the effect that care for the property of the nation and for the needs of future settlers required that the public domain should be protected from purloining schemes and unlawful occupation. Again, justice demands the protection of the Indians in their right of occupancy from the lawlessness of the so-called boomers." 40 Cleveland was willing to do his duty regardless of criticism, and this was shown by the willingness of Cleveland to perform ungracious acts of public honesty led him to undertake reform in the administration of the General Land Office, which had been wide open since the passage of the Homestead Law, and which had been administered to the advantage of speculation and monopoly, private and corporate, rather than in the public interest." 41 Cleveland's position relative to the public land was well stated in his inaugural address when he stated that "care for the property of the nation and for the needs of future settlers requires that the public domain should be protected from purloining and unlawful occupation." 42

39. Senate Report, *op. cit.*, p. 231.

40. Shosuke, Sato, History of the Land Question in the U.S., p.6-7.

41. F. Parson. Recent History of the United States. p. 99.

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In his first annual message to Congress, December 3, 1885, President Cleveland reviewed the history of the public lands of the United States. He referred to the lands as a public trust "for the common benefit of the United States." In this message he said, in part, "But the pressure of local interests, combined with the speculative spirit, have in many instances procured the passage of laws which marred the harmony of the general plan and encumbered the system with a multitude of general and special enactments which render the land laws complicated, subject the titles to uncertainty, and the purchasers often to oppression and wrong. Laws which were intended for the common benefit have been perverted so that large quantities of land are vested on single ownerships. From the multitude and character of the laws, this consequence seems incapable of correction by mere administration ----- I therefore commend to your attention the recommendations contained in the report of the Secretary of the Interior with reference to the repeal and modification of certain of our land laws."⁴³

In his second annual message December 6, 1886, he enumerated some of the achievements of the administration and made recommendation for the repeal of the Pre-emption and Timber- culture Acts, the amendment of the Homestead Law, and the repeal of the Desert Land Law unless it could be amended in such a way that it could be enforced. He mentioned his proclamations and stated his determination to enforce the laws⁴⁴ relative to illegal fencing.

43. J. D. Richardson, Messages and Papers of the Presidents. vol. 8, p.559.

44. Ibid, p. 582.

His fourth annual message recounted difficulties that had been met in the administration of the public land. He then added, "Our dear experience ought sufficiently to urge the speedy enactment of measures of legislation which will confine the future disposition of our remaining agricultural lands to the uses of actual husbandry and genuine homes." ⁴⁵

President Cleveland seems to have been well acquainted with the business of the public lands before he became President. He certainly did not wait long to start action to remedy certain evils that were within the reach of correction by proclamation. The following proclamation, issued March 10, 1885, is given as a sample of several issued by him during his first administration.

"Whereas it is alleged that certain individuals, associations, of persons, and corporations are in the unauthorized possession of portions of the territory known as the Oklahoma lands within the Indian Territory, which are designated, described, and recognized by the treaties and laws of the United States and by the executive authority thereof as Indian lands; and

"Whereas it is further alleged that certain other persons or associations within the territory and jurisdiction of the United States have begun and set on foot preparations for an organized and forcible entry and settlement upon the aforesaid lands and are now threatening such entry and settlement; and

"Whereas the laws of the United States provide for the removal of all persons residing or being found upon such Indian lands and territory

45. Ibid., p. 795.

without permission expressly and legally obtained of the Interior Department:

Now, therefore, for the purpose of protecting the public interests, as well as the interests of the Indian nations and tribes and to the end that no person or persons may be induced to enter upon said territory, where they will not be allowed to remain without the permission of the authority aforesaid, I, Grover Cleveland, President of the United States, do hereby warn and admonish all and every person or persons as are intending, preparing, or threatening to enter and settle upon the same, that they will neither be permitted to enter upon said territory nor, if already there, to remain thereon, and that in case a due regard for and voluntary obedience to the laws and treaties of the United States and if this admonition and warning be not sufficient to effect the purposes and intentions of the Government as herein declared, the military power of the United States will be invoked to abate all such unauthorized possession, to prevent threatened entry and occupation, and remove all such intruders from the said Indian lands.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

(SAL) Done at the city of Washington, this 13th day of March, 1885,
and of the Independence of the United States of America the
one hundredth and ninth.

Grover Cleveland

By the President:

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T. F. Bayard, Secretary of State."

Similar proclamations were issued April 17, July 23, and August 7,
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 1885.

There was a difference of opinion among the public toward the land question. The fact that all the party platforms spoke of the need of reform, and made promises of some kind of action to look after the interests of the public, would indicate that the party leaders realized that the public demanded something of that nature. In the West there had grown up a group of men who defrauded shamelessly the government out of lands in the interests of large companies. Robert S. Yard says, "The Timber and Stone Act confined timber grants to 160 acres, inviting evasion because so small an area could not be lumbered economically; whereupon developed frauds of the most extraordinary effrontery and extent. Besides, since homesteading laws made no distinction between farm and forest lands, many millions of acres of the finest forests in the country were taken up under the pre-emption act, the commutation act and the desert land act by dummies acting for lumber companies; so demoralized did public sentiment become in some of the forested states that acting as dummies became practically a calling, while many nomadic operators erected temporary mills wherever conditions favored, without pretense of settlement or purchase, and lumbered until they were stopped, when they moved elsewhere."
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President Cleveland, by proclamation, had withdrawn from entry certain Indian lands that had been opened for settlement by his predecessor. This aroused much discussion relative to the misuse of Presidential power.

47. Ibid, pp. 305, 307, 309.

48. R. S. Yard, Our Federal Lands, p. 99.

The Manchester Union, Democratic, in its issue of September 23, 1888, made their position clear by stating, "In pursuance of their policy, the administration has carefully studied methods to restore the public lands to the control of the people, as far as the public faith will allow, and the result is one that must be highly pleasing to everyone who has the interests of the country at heart The results of the Democratic party gaining power in the nation are still more pleasing, for the policy of the administration has been successful in not only preventing waste but in restoring great tracts of fine land The stability and permanence of our government depends largely upon the wisdom shown in dealing with the people and the great public area that is to furnish homes for coming generations. This wisdom has been prominently shown by the present administration and it furnishes one of the strongest reasons why it should be allowed a longer lease of
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power."

The opposite attitude is shown by the Minneapolis Tribune, Republican, in its issue of September 26, 1888, when it says, "Senator Plummer of Kansas, has placed the people of the nation under obligations by arraigning the Democratic party upon its historical land policy. From the birth of the Nation, the policy of this party has been in keeping with its position upon other economic questions --- stealing the livery of the people, and, under the mask of a tender interest in the welfare of the masses, acting as the pander and go-between of every form of subsidized monopoly Mr. Cleveland himself overstepped the bounds of his legal duty to outlaw the proclamation of his predecessor, drive

thousands of honest settlers from a reservation that had been legally opened, and restore to naked savages a fertile tract of land that to their barbarism was as useless as the Desert of Sahara.....The entire land policy of this administration has been in keeping with the traditions of the party --- against the home building theories of the Republicans." ⁵⁰ They argued that the Indians were not making proper use of it and also that available good land for homesteads was becoming scarce.

At about this period, the question of the disposal of lands lying within Indian reservations became a pressing one. Public opinion was divided in reference to this matter. One group thought primarily of the interests of the white settlers and felt that these lands should be opened for settlement by the whites. Another group thought that these lands belonged to the Indians and should be continued as such. This second group considered that any disposal of the land to the whites would be an imposition upon the best interests of the Indians. The question was settled by what is known as the Dawes Severalty Act of February 3, 1887. This act provided that the President might reduce or discontinue Indian reservations by granting part of the land to the Indians and placing the remainder within the public domain and open to homesteading the same as other land. Each head of an Indian family was to receive an allotment of 160 acres, each Indian over eighteen years of age, and each orphan was to receive 80 acres, and each Indian child was to be allotted 40 acres. Each Indian to whom land was given in severalty was to be considered a citizen of the United States.

50. Ibid, p. 553.

There was little, if any, difference between the attitudes of the Senate and the House toward the public lands. The attitude of the individual members was, to rather a large extent, a personal one and influenced to a large degree by the demands of his state on his constituents. They seem to have wished to favor the interests of big business men and speculators, while trying to give the impression of helping the common people.

The administration of the forested lands may be taken as typical of the whole subject. "The fact is that appropriations for government inspection of the federal lands were so small that few frauds, compared with the many, could be prosecuted; and, because Congress repeatedly defeated bills to give the federal departments power to compel the testimony of witnesses, few law breakers were brought to trial. Cases by the thousand were thrown out of court for lack of competent proof which could have been had if it had been possible to subpoena witnesses who would not serve voluntarily. ----- Meantime, under the constant urgings of senators and representatives from forested states, the laws were constantly amended to favor the 'poor settler', who was struggling to 'keep a roof over the heads of his children', whereas the final beneficiaries⁵¹ were almost always speculators or wealthy companies."

Henry M. Feller, Secretary of the Interior under Arthur, and later United States Senator from Colorado, "construed the phrase 'adjacent to the line of road' in the Right of Way Act to mean that railroads could cut timber free within fifty miles of their track. Later he approved

51. R. S. Yari, Our Federal Lands, p. 100.

the operations of a 'logging railroad' company in Washington, which built and operated whatever except those sunk into the forests for the sole purpose of carrying timber to the market. This made the precedent for any logging company with a locomotive, track, and half a dozen flat cars to secure the vast tracks of lumber free which the law granted to great railroads."⁵³ A later Secretary of the Interior, John W. Noble, found 105,000 untried cases against land depredators accumulated in the land office which he still disposed of by still further 'liberalizing' the administrative interpretation of the law."⁵⁴

Rapidly reviewing the Acts of Congress, one is more powerfully impressed by the absence of national horizons and the paralysis of the moral sense on the part of both operators and legislators than he is by the frightful losses which the greed of quick wealth imposed on the nation.

"Each state insisted intensely on disposing as it pleased of the nation's lumber grown within its own boundaries, each lumberman and speculator grabbed strenuously all he could get while it lasted, and each legislator demanded his fullest share of political power and prestige; nearly all of them ignored absolutely the nation's interests."⁵⁴

During Cleveland's first administration there was no general land act that stands out with any prominence from the general laws that were passed in order to meet the requests of the President and the Department of Interior.

53. *Ibid.*, p. 101.

54. R. C. Earl, *Our Federal Lands*, p. 103.

William Sparks, Commissioner of the General Land Office, in his annual report for 1885, gives information relative to methods pursued to correct errors of administration. "Twenty eight special agents have been employed during the year in the investigation of fraudulent entries and in attendance at hearings before registers and receivers in cases previously investigated and reported to this office." ⁵⁵ Twenty three special agents have been employed during the year, at an average length of service of little less than eight months each, in the investigation of trespasses on public timber and assisting in prosecutions for recovery of damages to the government. Three hundred and ninety six cases have been reported, involving a market value of timber unlawfully cut amounting to nearly \$3,000,000." ⁵⁶ In this report for 1886, we are told; "At the outset of my administration, I was confronted with overwhelming evidences that the public domain was being made the prey of unscrupulous speculation and the worst forms of land monopoly through systematic frauds carried on and consummated under the public land laws. My predecessor had for three years called the attention of Congress to the extent and magnitude of fraudulent appropriations of public lands As a measure, as it appeared to me, of indispensable precaution, I notified the several divisions of this office that final action should be suspended upon entries made in states and territories in which the greater degree of fraud had been developed, and where the larger disposable area of public lands remained..... The result of this action has been salutary, and has, when fully understood, met with the hearty approval

55. United States Land Office Report (1885), p. 64.

56. Ibid, p. 81.

of bona fide settlers....This notification or order was not expected to be acceptable to those whose purpose is fraudulently and falsely to acquire title to public lands, nor to those whose profitable vocation was to promote the speedy obtainment of patents for compensation or fees. It was a public measure in the public interest, and was intended to check, and not to facilitate, conspiracies against the government."⁵⁷ In the protection of public lands from fraudulent appropriations during the past year, forty-two special agents have been employed for the aggregate period of service equal to about twenty-five agents for twelve months each.....Three thousand two hundred and twenty-seven cases have been acted upon in this office during the year, eleven hundred and sixty-eight have been finally cancelled, embracing about 175,000 acres of land misappropriated by fraudulent entries, which have thus been restored to settlement. Fourteen hundred and eighty-five cases, involving 225,000 acres, have been held for cancellation."⁵⁸ Three hundred and seventy five cases of unlawful inclosures of public lands, containing an area of some 6,410,000 acres, have been brought to attention up to the present time. Proceedings to compel removal of fences have been brought or recommended in eighty-three cases, involving 2,250,000."⁵⁹ Twelve hundred and nineteen cases of depredations or timber trespasses have been reported, involving a value in timber products amounting to \$9,339,679, recoverable to the United States."⁶⁰

In the report of the Commissioner of the General Land Office for

57. Ibid, (1336), p. 43-45.

58. Ibid, p. 79.

59. Ibid, p. 97.

60. Ibid, p. 101.

1887, is found similar records of the appointment of special agents and their work. "As a result of their investigations, 2,312 entries, covering 370,000 acres, were held for cancellation; 1153 entries, covering about 130,000 acres, were cancelled for fraud." ⁶¹ In the report for 1888, we are told "During the past fiscal year ending June 30, 1888, the General Land Office patented or otherwise passed title to and conveyed 8,605,194 acres of public domain." ⁶² This involved land in twenty-seven states and territories. The largest amount was in Dakota, 2,692,718 acres, the smallest amount was in Indiana, 160 acres. "The sales, entries, and selections of public lands under the various acts of Congress relating thereto made during the past fiscal year embraced 24,130,734 acres, being a decrease of 1,372,204 acres from the fiscal year of 1887." ⁶³ "The total amount of land actually restored to the public domain from March 4, 1835 to June 30, 1888 was 83,158,990 acres and the amount the recovery of which was recommended was 65,020,533 acres, a total of 148,179,523 acres." ⁶⁴

The achievements of the administration may best be summed up in the words of President Cleveland. In his second annual message, December 6, 1886, he said; "The energies of the Land Department have been devoted during the present administration to remedy defects and correct abuses in the public land service. The results of these efforts are so largely in the nature of reform in the processes and

61. United States Land Office Report, (1887) p. 51.

62. Ibid, (1888) p. 3.

63. Ibid, p. 12.

64. Ibid, p. 17.

method of our land system as to prevent adequate estimate, but it appears from the records that 2,750,000 acres have been restored to the mass of public lands; that 2,370,000 acres are embraced in investigation now pending before the department or the courts, and that the action of Congress has been asked to effect the restoration of 2,790,000 acres additional; besides which 4,000,000 acres have been withheld from reservation and the rights of entry thereon

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maintained." In his fourth annual message, December 3, 1888, he summed up the work of the department in these words, "It is gratifying to know that something has been done at last to redress the injuries of our people and check the perilous tendency of the reckless waste of the public domain. That over eighty million acres have been arrested from illegal usurpation, improvident grants, and fraudulent entries and claims, to be taken for homesteads of honest industry--although less than the greater areas thus unjustly lost--must afford a profound gratification to right feeling citizens. Our dear experience ought sufficiently to urge the speedy enactment of measures of legislation which will confine the future disposition of our remaining agricultural lands to the uses of actual husbandry and genuine homes."

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65. J. D. Richardson, Messages and Papers of the Presidents. vol. 8, p. 521
 67. Ibid, p. 795.

IV.

The Democratic platform of 1863 naturally praised the Cleveland administration for the reforms of that period. The platform contained the following statement referring to the Democratic party, "It has reversed the improvident and unwise policy of the Republican Party touching the public domain, and has reclaimed from corporations and syndicates, alien and domestic, and restored to the people nearly one hundred million acres of valuable land to be sacredly held as homesteads for our people."⁶³ The Republicans did not agree with the Democrats in relation to the restoration of public lands either as to the amount, or to whom the credit belonged. They claimed that the movement had originated in the Arthur administration and that Republicans shared with the Democrats the credit for the reforms of the Cleveland administration. Their platform of 1883 stated, "We re-affirm the policy of appropriating the public lands of the United States to be homesteads for American citizens and settlers, not aliens, which the Republican Party established in 1862 against the persistent opposition of Democrats in Congress, and which has brought our great western domain into such magnificent development. The restoration of unearned railroad land grants to the public domain for the use of actual settlers, which was begun under the administration of President Arthur, should be continued. We deny that the Democratic party has ever restored one acre to the people, but declare that by the joint action of Republicans and Democrats about fifty million acres of unearned lands, originally granted for the construction

63. E. Stanwood, *The History of the Presidency*, p. 461.

of railroads, have been restored to the public domain, in pursuance of the conditions inserted by the Republican Party in the original grants. We charge the Democratic administration with failure to execute the laws securing to settlers titles to their homesteads, and with using appropriations made for that purpose to harass innocent settlers with spies and prosecutions under the false pretense of exposing frauds and vindicating the law."⁶⁹ The Union Labor Party in 1888 affirmed that "land monopoly flourishes as never before and more owners are daily becoming tenants ----- We believe that the earth was made for the people, and not to enable an idle aristocracy to subsist, through rents upon the toil of the industrious, and that corners in land are as bad as corners in food, and that those who are not residents or citizens should not be allowed to own lands in the United States."⁷⁰ The United Labor Party in 1888 said, "We see access to farming lands denied to labor except on payment of exorbitant rent or the acceptance of mortgage burdens, and labor thus forbidden to employ itself, driven to the cities, ----- We trace our evils to a fundamental wrong, -- the making of land on which all must live the exclusive property of but a portion of the community. To this denial of natural rights are due want of employment, low wages, business depression, that intense competition which makes it so difficult for the majority of men to get a comfortable living, and that wrongful distribution of wealth which is producing the millionaires on one side and the tramps on the other."⁷¹

69. Ibid., p 473.

70. Ibid., p 481.

71. Ibid., p 483.

Harrison's land policy is as well determined from his messages as in any other manner. These seem to point to two closely related ideas, first, a criticism of the administration of the previous administration, this was by suggestion rather than by direct, open statement of errors; second, an announced plan to administer the work in such a manner that the ease of entry and patent would be increased. In his first annual message he stated these two ideas in the following language, "In the administration of the land laws, the policy of facilitating in every proper way the adjustment of the honest claims of individual settlers upon the public lands has been pursued. The number of pending cases had, during the preceding administration, been greatly increased under the operation of orders for a time suspending final action in a large part of the cases originating in the West and Northwest, and by the subsequent use of unusual methods of investigation. Only those who are familiar with the conditions under which our agricultural lands have been settled can appreciate the serious and often fatal consequences to the settlers of a policy that puts his title under suspicion or delays the issuance of his patent. While care is taken to prevent and to expose fraud, it shall not be imputed without reason. The manifest purpose of the homestead and pre-emption laws was to promote the settlement of the public domain by persons having a bona fide intent to make a home upon the selected lands. Where this intent is well established and the requirements of the law have been substantially complied with, the claimant is entitled to a prompt and friendly consideration of his case; but where there is a reason to believe that the

claimant is the mere agent of another who is seeking to evade a law intended to promote small holdings and to secure by fraudulent methods large tracts of timber and other lands, both principal and agent should not only be thwarted in their fraudulent purpose, but should be made to suffer the full penalties of our criminal statutes. The law should be so administered as not to confound these two classes and to visit penalties only upon the latter."⁷²

In his second annual message, December 1, 1890, he said, "The policy outlined in my last annual message in relation to settlers upon the public domain has been carried out in the administration of the Land Office. No general suspicion or imputation of fraud has been allowed to delay the hearing and adjudication of individual cases upon their merits. The purpose has been to perfect the title of honest settlers with such promptness that the value of the entry might not be swallowed up by the expense and extortions to which delay subjected the claimant. The average monthly issue of agricultural patents has been increased about 6,000."⁷³ In the third annual message, December 9, 1891, he said, "Early in this administration a special effort was begun to bring up the work of the General Land Office. By faithful work the arrearages have been rapidly reduced. At the end of the last fiscal year, only 84,172 final agricultural entries remained to be disposed of, and the Commissioner reports that with the present force, the work can be fully brought up by the end of the next fiscal year."⁷⁴

72. J. D. Richardson, Messages and Papers of the Presidents. Vol. 9, p.49.

73. Ibid., 117.

74. Ibid., p. 203.

In his fourth annual message, December 6, 1892, President Harrison summed up the work of the Land Office as follows: "The report of the Secretary of the Interior shows a very gratifying state of affairs as to the condition of the General Land Office. The work of issuing agricultural patents, which seemed so hopelessly in arrears when the present secretary undertook the work of his office, has been so expedited that the bureau is now upon current business. The relief thus afforded to honest and worthy settlers upon the public lands by giving to them an assured title to their entries has been of incalculable benefit in developing the new States and Territories."⁷⁵

The Commissioner of the General Land Office in his annual report for 1889 stated, "that fraudulent filings under the different acts of Congress have been made and may hereafter be made it is unnecessary to deny but, so far as I am advised, such cases are confined to organizations, corporate and other, operating in the interest of aggregated capital. Special agents appointed by authority of Congress have been so instructed and located under your administration that these embryo frauds, it is believed, will be vigilantly watched, detected, and successfully thwarted."⁷⁶

At about this time, special land claims growing out of the grants given, or supposed to have been given by Spain to subjects in the area formerly owned by Mexico gave considerable trouble. They demanded the investigation of foreign archives in order to determine their exact

75. J. D. Richardson, Messages and Papers of the Presidents, vol.9, p.325.

76. General Land Office Report for 1889, pp. 9-10.

validity. The nature of these claims can be determined by the following quotation from former reports. The Secretary of the Interior in 1883, in reference to claims arising in the territory ceded by Mexico stated that "the obligations of treaty stipulations are apt to be magnified into a recognition of property rights that had no existence under Spanish or Mexican law, and into the support of speculative schemes to dispossess the United States of its own property. The time has come when, in my opinion, the rights and interests of the United States should be faithfully and vigorously defended against unjustifiable assaults under cover of pretended foreign titles."⁷⁷ As an illustration was the instance of a claim originally for a square league of land in Mexico which was later assigned and whereby the transferees made a claim for more than one hundred square leagues.⁷⁸ Such illustrations show something of the work that had to be performed at this time in connection with these private land claims.

The outstanding piece of legislation in relation to the public lands during Harrison's administration was the passage, March 3, 1891 of the act repealing the Timber Culture Act. This Act had been found to be of little value and its repeal had been considered for some time. The repeal did not have its main importance as much in the fact of the repeal itself as in the fact that a rider was attached to it which allowed the President to designate certain lands to be set aside as forest reserves. The act provided, "That the President of the United States

77. Report of Secretary of Interior (1883). vol. i, p. 169.

78. Ibid, p. 170.

may from time to time set apart and reserve in any State or Territory having public lands bearing forests, in any part of the public lands wholly or in part covered with timber or underbrush, whether of commercial value or not, as public reservations; and the President shall by public proclamation declare the establishment of such reservations and limits thereof." ⁷⁹ Yard, in speaking of this rider says, "It was not a separate act, but passed in 1891 as a rider added to another bill in conference. No special agitation led up to it. The fact is that its tremendous importance was not appreciated, nor the prompt and sweeping use which would be made of it suspected. But as an independent bill it could not possibly have passed any Congress of that period!"⁸⁰

Working under the provisions of this act, President Harrison created fifteen reservations during the balance of his term. These reservations totalled more than twenty thousand square miles.

Another important piece of land legislation, which may be considered either as a reform or an evil, depending upon one's point of view was the separation of lands from Indian reservations in order to open it up to white settlement. This was done by treaties with the Indians. These treaties were usually brought about by allotting to the Indians certain pieces of land to be held in severalty, and paying them for the remainder. In each of his messages to Congress, President Harrison spoke of these Indian lands and in his third annual message summed up the amount of land as follows: "Since March 4, 1889, about 25,000,000 acres have been sep-

79. Congressional Record. vol. 22, part 4, 51 Congress, 2 Sess. pp. 3011 and 3694.

80. R. S. Yard, Our Federal Lands, p. 169.

erated from the Indian reservations and added to the public domain for the use of those who desire to secure free homes under our beneficent laws. It is difficult to estimate the increase of wealth which will result from the conversion of these waste lands into farms, but it is more difficult to estimate the betterment which will result to the families that have found renewed hope and courage in the ownership of a home and the assurance of a comfortable subsistence under free and healthful conditions. It is also gratifying to be able to feel, as we may, that this work has proceeded upon lines of justice toward the Indian, and that he may now, if he will, secure to himself the good influences of a settled habitation, the fruits of industry, and the security of citizenship."⁶¹

One section of the general land law for the repeal of the Timber Culture Act established a Court of Private Land Claims. Referring to this section, President Harrison in his third annual message said, "The small holdings intended to be protected by the law of March 3, 1881, are estimated to be more than 15,000 in number. The claimants are a most deserving class and their titles are supported by the strongest equities. The difficulty grows out of the fact that the lands have largely been surveyed according to our methods, while the holdings, many of which have been in the same family for generations, are laid out in narrow strips a few rods wide upon a stream and running back to the hills for pasture and timber. Provision should be made for numbering these tracts as lots and patenting them by such numbers and without reference to section.

61. J. D. Richardson, Messages and Papers of the Presidents, vol. 9, p. 203.

lines."⁸² In his fourth annual message, President Harrison makes a report relative to the work of this Court of Private Land Claims. He says, "The Court of Private Land Claims, established by Congress for the promotion of this policy of speedily settling contested land titles, is making satisfactory progress in its work, and when the work is completed, a great impetus will be given to the development of those regions where unsettled claims under Mexican grants have so long exercised their repressive influence. Then to these results are added the enormous cessions of Indian lands which have been opened to settlement, aggregating during the administration nearly 25,000,000 acres, and the agreements negotiated and now pending in Congress for ratification by which about 10,000,000 additional acres will be opened to settlement, it will be seen how much has been accomplished."⁸³

82. Ibid., p. 203-4.

83. Ibid., p. 225-6.

V.

That the public land question was still one of importance at the opening of Cleveland's second administration is shown by the party platforms of 1892. The Republican platform stated, "We favor cession, subject to the homestead laws, of the arid public lands to the States and Territories in which they lie, under such Congressional restrictions as to disposition, reclamation, and occupancy by settlers as will secure the maximum benefits to the people."⁸⁴

The Democratic platform gave their position as follows, "The Republican party, while professing a policy of reserving the public lands for small holdings by actual settlers, has given away the people's heritage till now a few railroads and non-resident aliens, individual and corporate, possess a larger area than that of all our farms between the two seas. The last Democratic administration reversed the improvident and unwise policy of the Republican party touching the public domain, and reclaimed from corporations and syndicates, alien and domestic, and restored to the people, nearly one hundred million acres of valuable land, to be sacredly held as homesteads for our citizens, and we pledge ourselves to continue this policy until every acre of land so unlawfully held shall be reclaimed and restored to the people."⁸⁵

The Prohibition Party platform asserted, "Non-resident aliens should not be allowed to acquire land in this country, and we favor the limitation of individual and corporate ownership of the land. All unearned

84. E. Stanwood, *History of the Presidency*, p. 497.

85. *Ibid.*, p. 500.

grants of land to railroad companies or other corporations should be reclaimed." ⁸⁶

The Peoples Party gave the following as their position: "The land, including all the natural sources of wealth, is the heritage of the people, and should not be monopolized for speculative purposes, and alien ownership of land should be prohibited. All land now held by railroads and other corporations in excess of their actual needs, and all land now owned by aliens, should be reclaimed by the government and held for actual settlers only." ⁸⁷ While the Socialist-Labor platform stated: "The public land should be declared inalienable. Revocation (should be made) of all land grants to corporations or individuals, the conditions of which have not been complied with." ⁸⁸

Cleveland's care for the welfare of the public lands is also shown in his veto message of January 17, 1894. In his veto message addressed to the House, he said, "I return without ^{my} approval House bill, Number 71, entitled 'An Act for the Relief of Purchasers of Timber and Stone Land under the Act of June, 1878.'"

This bill permits the proofs and affidavits which under present statutes parties desiring to acquire certain public lands are required to make before the registers and receivers of land offices within which such lands are located to be made before any commissioner of the United States Circuit Court or before the judge or clerk of any court of records of the county or parish in which the land is situated.

86. Ibid, p. 506.

87. Ibid, p. 512.

88. Ibid, p. 514.

A similar bill was passed by the Fifty-Second Congress and was disapproved by the Commissioner of the General Land Office and the Secretary of the Interior. "The successors of these officers oppose the present bill on the ground that in its operation it would open the door to fraud and to a perversion of the intentions of the Government in relation to the public land. It is difficult, with the most scrupulous care, to guard the alienation of our public lands from fraud and illegal practices. It is perfectly plain, however, that the prospect of accomplishing this result is better under present laws, which require the necessary proofs to be made before land officers who are appointed for that purpose and who are under the control of the General Land Office and amenable to its regulations, than it would be by substituting other officers over whom the Land Office has no control.

"Certain rules and orders of the Land Office are now in force which regulate the taking of the necessary proofs and permit all examinations by registers and receivers. These regulations are of the utmost importance if our land laws are to be justly and honestly administered.

"I fully concur in the objections made to this bill by the officers having charge of the public lands in the last Administration and by their successors who are now charged with that responsibility. I am convinced that such a relaxation of our existing land laws as is contemplated by the bill under consideration would not be in the interests of good administration."⁸⁹

On March 3, 1891, the Timber Act having been amended read in part,

89. J. D. Richardson, Messages and Papers of the Presidents, vol. 9, p. 480.

"suits by the United States to vacate or annul any patent heretofore issued shall be brought within five years of the passage of this act, and suits to vacate and annul patents hereafter issued shall only be brought within six years after the date of the issuance of such patents." 90

Cleveland's watchfulness over the welfare of the public lands is shown by the message that he sent to Congress on January 17, 1896 saying, "I wish to invite attention to the necessity of prompt legislation in order to remove limitations of the time within which suits may be brought by the Government to annul unlawful and unauthorized grants of the public 91 lands."

This provision would make it necessary for the United States to start recovery suits before March 3, 1891. Any proof of fraud that might appear after March 3, 1896, would have no effect upon the validity of the claim. In arguing for this legislation, Cleveland remarked, "Legislation establishing limitations against the right of the Government to sue is an innovation not entirely consistent with the general history of the rights of the Government, for it has uniformly been held that time did not bar the sovereign power from the assertion of its rights. The early adjudication of Land Department construed the grants with a degree of liberality toward the grantee, which later decisions of the courts and the department have not sustained. It seems clear that further progress of adjustments will develop facts and transactions in connection with these land grants which ought to be subject to legal examination and scrutiny before they are allowed to become final and

90. Congressional Record, 51 Cong. 2 Sess., vol. 22, part 4, p. 3611.

91. House Document, Number 151, 54 Cong. 1 Sess.

Cf. J. D. Richardson, Messages and Papers of the President, vol. 9, pp. 660-661.

conclusive. The Government should not be prevented from going into the courts to right wrongs perpetrated by its agents or by other parties, and by which much of the public lands may be diverted from the people at large to corporate uses. In these circumstances, it seems to me that the act of 1891 should be so amended as not to apply to suits brought to recover title to lands certified or patented on account of
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railroads or other grants."

The messages of President Cleveland during his second administration did not deal as definitely with the matter of reform as those of the first administration, but were more general in their content. His first message, December 4, 1893, stated: "The vast area of land which but a short time ago constituted the public domain is rapidly falling into private hands. It is certain that in the transfer, the beneficent intention of the Government to supply from its domain homes to the industrious and worthy homeseekers is often frustrated through the speculator, who stands with extortionate purpose between the Land Office and those who, with their families, are invited by the Government to settle on the public lands, it is ^adespicable character, who ought not to be tolerated, yet it is difficult to thwart his schemes. The recent opening to settlement of the lands in the Cherokee Outlet, embracing an area of 6,500,000 acres, notwithstanding the utmost care in framing the regulations governing the selection of locations and notwithstanding the presence of United States troops, furnished an exhibition, though perhaps in modified degree, of the mad scramble, the

92. J. D. Richardson, Messages and Papers of the Presidents, vol. 9, p. 662.

violence, and the fraudulent occupation which have accompanied previous openings of public land.

I concur with the Secretary in the belief that these outrageous incidents cannot be entirely prevented without a change in the laws on the subject, and I hope his recommendations in that direction will be favorably considered.

I especially commend to the attention of the Congress the statements contained in the Secretary's report concerning forestry. The time has come when efficient measures should be taken for preservation of forests from indiscriminate and remediless destruction." ⁹³

The last annual message of President Cleveland, December 7, 1896, was brief in relation to the public land and not very suggestive of the need of reform. In it he remarked, "Our public lands originally amounting to 1,340,000,000 acres, have been so reduced that only about 3000,000,000 acres still remain in Government control - excluding Alaska. The balance, being by far the most valuable portion, has been given away to settlers, to new States, and to railroads or sold at a comparatively nominal sum. The patenting of land in execution of railroad grants has progressed rapidly during the year, and since the fourth day of March, 1895, about 25,000,000 acres have thus been conveyed to these corporations.

I agree with the Secretary that the remainder of our public lands should be more carefully dealt with and their alienation guarded by

better economy and greater prudence."

In the early part of Cleveland's second administration, he created two forest reservations. There was little objection to these, but on February 22, 1897, upon the recommendation of the committee of the National Academy of Sciences, he created thirteen others having an area of thirty three thousand square miles.

"These reservations locked up specially important forests, and Senators Allen of Nebraska, Carter of Montana, Clark of Wyoming and others introduced bills to revoke them, which they backed with western vehemence and stirring eloquence. The President was denounced by many in unmeasured terms. Dr. Charles D. Wolcott undertook to steer the storm-ridden bark of conservation into safer waters by persuading Senator Pettigrew of Dakota to introduce a bill authorizing grazing, timber sales, and free timber for actual settlers within the reserves. The bill also provided for exchanging existing claims on land within the reserves for patented land elsewhere. This bill passed, damaged by amendments, to be sure, but it saved the reserves and defined the sure path ahead."

The Commissioner of the General Land Office in his report for 1893 made the following recommendations:

"(1) Recommendation that a law be enacted to create the office of United States Surveyor General for Alaska, with provision for the compensation of a Surveyor General for the necessary clerical service, and

94. Ibid, p. 734-735.

95. Robert C. Yard, Our Federal Lands, p. 111-112.

for the rent and contingent expenses of his office.

(2) Recommendation that a law be enacted for placing the business connected with the leasing of Oklahoma school lands under the control of the Territorial authorities.

(3) Recommendation of proper legislation for the segregation of timber lands from agricultural and other lands of the public domain, and the proper disposal of the land and the timber under the direction of the Secretary of the Interior.

(4) Recommendation of the providing by law of adequate means for the protection and management of forest reservations established under the existing law.

(5) Recommendation that a law be enacted for compulsory attendance of witnesses at land-office hearings.

(6) Recommendation that existing laws be so modified that the Commissioner of the General Land Office may authorize, when deemed expedient, surveys and resurveys at a reasonable compensation by the day, instead of by the mile, and when surveys are required involving only a small expenditure that the said Commissioner may authorize the same to be made for a specified sum for the entire work."

The report for the year of 1894 made the following recommendations:

"(1) Commissioner again recommends that a law be enacted for the compulsory attendance of witnesses at hearings in contests before the district land offices.

(2) Recommends that at least fifty thousand dollars be appropriated to

be expended annually for similar examinations necessary for establishing forest reservations and for the protection of such reservations already existing.

(3) For the purpose of the special services division of this office, recommends that an appropriation be made for at least six attorneys, to supervise and direct the proceedings of the special agents operating in as many districts to be designated.

(4) Recommends reconsideration of legislation relative to the public timber.

(5) Referring to a desirable change in the manner of surveying the public lands, that it may be through the Geological Survey, earnestly urges Congressional action.

(6) Commissioner recommends reconsideration that a law be enacted creating the office of surveyor-general of Alaska.

(7) Recommends that an appropriation of \$25,000 per year be made, and continued for such time as he is necessary, for the employment of 60 copyists for transcribing the press-copy records of the office into permanent record books.

(8) Recommends that promptly upon the re-assembling of Congress a law be enacted by which the settlers on the lands in the state of Michigan, Minnesota, and Wisconsin, which have been recently revisited by fire, be allowed to protect their claims by commutation to cash purchase, and such further provision for the relief of such settlers as Congress may deem proper." 97

In the other reports of the Commissioner of the General Land Office similar recommendations were made.

VI.

In the study of the administration of the public lands during the Cleveland Era, there was a struggle on the part of the Government to overcome such evils as fraudulent entries, trespass on the public domain, alien ownership and timber stealing. The public lands were^{so} widely distributed that the work of administering them had to be done by a very large force of people scattered throughout the nation. These officials were confronted by local conditions and demands which often conflicted with the technical interpretation of the land laws enacted by Congress. Whenever this conflict of local interests and national law became sharp, then violations of the law were certain to occur.

The cattle ranchers of the West saw great stretches of open land lying unused and they naturally appropriated it for grazing purposes. After land had been thus used for several years, a feeling of ownership grew up and the land consequently was illegally inclosed. With the westward movement of the agrarian settlers, there was a demand for the breaking up of these inclosed areas into small farms, hence conflicts arose over the rights of ownership. Such questions had to be settled by the Administration and they were usually settled to the disadvantage of the great cattle owners and in favor of the settlers. When the decisions were unfavorable to the large ranchers, attempts were made to retain the possession of the desired lands by methods having semblance of legality. The ranchers induced a number of men to purchase, under government regulations, areas of land and then transfer their holdings to them. This led to a considerable violation of the spirit of the law and had to be checked and remedied by the Government. During Cleveland's

first administration, attention was called to the need of reform in this matter and steps in this direction were taken. Cleveland proceeded by the appointment of special investigating agents who examined actual settlements and records. They, in turn, reported to the General Land Office and the abuses were corrected by department action or court decisions.

The records show that similar evils arose in connection with the attainment of titles to mineral lands. The report of the special agent from Duluth, Minnesota, stated that "The favorite method of obtaining title to the pine and mineral land of this section has been to hire men for a stipulated amount to pre-empt on homestead the most valuable tracts, the same to be conveyed immediately by warranty deed upon making final proof."⁹⁸ This procedure was equally true for arid lands.

The report from the register and reviewer at Tucson, Arizona, reported: "One of the methods whereby large cattlemen acquire title to land enough to control all the water in a large area is the placing of their employees here and there at the different waters and acquiring title⁹⁹ through them."

The original forests upon the public domain possessed great value. The timber areas were so extensive that not much thought was given them, in the early history of the country. Millions of acres of valuable timber had been lost before the Government became aware of the need of care in order to check eventual depletion. Those who were interested in timber or timber products were ruthless in their destruction and re-

98. Land Office Report (1885), p. 54.

99. Ibid., (1886), p. 59.

sorted to various schemes in order to profit by the commercialization of the timber. The Government tried in two ways to preserve timber for future generations, the first was by the Timber Culture Act of 1874, revised in 1878, which provided for the planting of trees upon homesteads as one of the requirements for final proof. This measure was for the purpose of increasing the timber acreage. It failed completely because so many conditions of fraud arose. The act was repealed in 1891. The second means was the provision of the repeal of the Timber-Culture Act which gave permission to the President for the creation of forest reservations. These reservations demanded the organization of a new division in the General Land Office to attend to the surveying, patrolling, and general supervision of forest reservations. It also had to attend to the leasing of land for grazing purposes and to the cutting of timber. The latter duty was provided for by acts of Congress in 1897-1898.

Both Harrison and Cleveland made use of the forest reservation clause in the creation of areas reserved for the growth of timber. About thirty areas, comprising a total of nearly fifty thousand acres, were set apart for this purpose. Cleveland was the only President before Roosevelt to take serious measures to retain public lands or to recapture lands that had been entered illegally. This established a precedent which was to be followed by succeeding administrations, the development of a national conservation program.

In an attempt to develop the western country, the United States Government granted large tracts of land to various railway companies.

These lands were to be used to help the railroads finance their construction. Certain conditions were, in each case, attached to the grants of land to the railroads. By the opening of the Cleveland era, many of these grants had been enlarged by department interpretations of law, and thereby land had been claimed far beyond the limits of the original grants to the road. At the same time, the railroads had often failed to live up to the time limits of the grants. The effect was that the Government was losing possession of public lands by not insisting that the railroads comply with the provisions of the grants. Such was the case of the Atlantic and Pacific Railway Company in 1885. Toward the close of the Arthur administration, the Government started to investigate these irregularities and under the Cleveland and Harrison administrations, this program was continued. The result was that millions of acres were reclaimed from the railway grants and were added to the public domain. Thus additional lands were made immediately available to actual settlers as homestead entries. The effect was to hurry settlement and to reduce the cost to the usual homestead fees, instead of paying a set price to the railways.

When good agricultural lands began to get scarce for homesteads, the question of breaking up the Indian lands arose. The Dawes Severalty Act was an attempt at the solution of this troublesome problem. Its provisions seemed to be a good thing from the standpoint of the whites. The Indians were making little agricultural use of their lands. They valued it largely for the purposes of hunting and fishing. The whites thought that better use should be made of it. They added to this the

thought that the Indian could be made a citizen and so have an inducement to make material progress. Those who studied the situation from the Indian's point of view believed that the red man did not care for the white ways of living and, further, that he was inherently unqualified to live such a life. They also thought that the Indian had the right to use his own property as he wished so long as he did not interfere with the rights of others. Since opinion was divided upon this issue, it is likely that there was some truth in both sides of the question, and that some other solution, or some modification of the Dawes plan might have worked more satisfactorily. The experience of the national administration of the Dawes Act to 1906 (Burke Act) has confirmed this opinion.

It is to be noted that since 1863 the political parties have paid attention to the question of the public lands and have tried to gain votes by incorporating public land planks in their platforms. These planks had been similar in both claims and demands. The public land continued to be a prominent question until after 1892, when other issues superseded it. The two leading parties each claimed credit for the reforms and accused the other of being responsible for the evils. It is evident that both credit and blame were due to both of the great parties. As the situation is now viewed, it appears that our Government was too ready to dispose of its land. The result is that practically no desirable arable land remains today for the homesteader. If all of the land, that was obtained from the Government by fraud, could have been retained, it would have permitted many additional acres for homesteads. The re-

cord shows that the actual work of the Cleveland Administrations was more conducive to the public welfare than that of the Harrison period. This is indicated, first, by the very careful investigation and correction of all kinds of land entry frauds; second, by more closely examining the private land claims; third, their demands upon the railway corporations were more strict than those of the Harrison period insofar as the railways were obliged to conform to the terms of their grants.

The Democratic Administrations made it harder to gain final possession of public lands than under the previous Republican Administrations. This is shown, first, by the fact that the railroad grants were made by Republican Administrations and largely regained by the Democratic; second, a larger number of individual land claims were held up under Cleveland's Administration than under any previous administration. Most of those that were still unsettled at the close of Cleveland's first term were rather quickly passed to patent during Harrison's term; third, the special land claims, especially those in the territory acquired from Mexico were subjected to close scrutiny under Cleveland, but passed quickly under Harrison. Further proof is found in the claims of the Democrats that they remedied illegal entries, and the corresponding charge made by the Republicans that the Democrats caused much distress to honest settlers by delay in the completion of their entries.

Cleveland and Harrison were not especially interested in the public land question until it arose in the regular discharge of their duties as President. They had not had any occasion for making a care-

ful study of the problem in their tasks previous to their election to the presidency. Thus, to a large extent, they had to be directed and advised by those into whose authority they had placed the public land administration. During this era, the need of public land administration changed greatly; desirable agricultural land disappeared; the Pre-emption and Timber-Culture Acts were repealed; much of the railroad grant land was reclaimed; and likewise, the evils and abuses of entry were greatly reduced. As a whole, the work of the General Land Office was reduced, although the question of reclamation, irrigation, national parks, national monuments, and forest reservations together with the added question of the public lands of Alaska have been added or enlarged. Each of these has brought about new problems and these are certain to change with the passage of time.

The Cleveland Era found the administration of the public lands centered in the General Land Office. This office was improperly housed at Washington. There was not sufficient room space to accommodate the necessary force of employees who attended to the vast and complicated amount of work. Records in the past had been improperly and incompletely kept. Storage room was so inadequate and poorly arranged that the examination of records was difficult if not completely impossible. During this period, the office space was enlarged, the personnel was increased and the individual efficiency placed upon a higher level. Business that had been far in arrears was brought up to date so that the work of the office finally came to be the business of the current year. The evils of improper entry and patent had been largely overcome, because they

were checked at once.

Much credit should be given to ^{the} Secretary of the Interior, L. Q. C. Lanier, and Commissioner W. A. Sparks of the General Land Office, for initiating the reforms during Cleveland's first term. They were the first men to really sense the need of increased attention to the proper administration of this work. Then, too, they had the courage to undertake the task earnestly and established a record that was emulated by such men as Secretaries Morton and Hoke Smith. Much credit should be given to Congress, for its members were found generally responsive to the recommendations of the executive department for new legislation, or the repeal of the old measures. It is evident that in some cases, there was considerable delay in their action because the same recommendations were often made several years in succession. In this matter, Congress was within its rights when it delayed action in order to investigate the need for such legislation. In most instances deliberation was a better policy than hasty action.

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