

# Homestead Act

The Homestead Act of 1862 was a landmark in the evolution of federal agriculture law. Passed by Congress during the Civil War, it had an idealistic goal: it sought to shape the U.S. West by populating it with farmers. The law's Northern supporters had pursued a vision of taming the rough frontier for several decades, as a means both to create an agrarian base there and to break the institution of SLAVERY that was entrenched in the South. To achieve this end, they engineered a vast giveaway of public lands. The Homestead Act provided 160 acres of land for a small filing fee and a modest investment of time and effort. The overly optimistic law failed in several ways. Most important, it was exploited by railroads and other powerful interests for profit. After making basic changes to it Congress finally repealed the law in 1977.

The Homestead Act arose from the struggle between the North and the South that culminated in the Civil War (1861–65). During this struggle, the nation followed two competing paths of agricultural development: the industrialized North favored giving public lands to individual settlers, while the South clung to its tradition of slave labor. From the early 1830s, Northern proponents of the free distribution of public land, organized around the Free-Soil party and later in the REPUBLICAN PARTY, had their ideas blocked by Southern opponents. The secession of Southern states in 1861 cleared the way for passage of the Homestead Act in 1862, against a backdrop of other important legislation that would define national agriculture policy for the next century: the Morrill Land-Grant College Act, the PACIFIC RAILROAD ACT, and the creation of the AGRICULTURE DEPARTMENT. The Homestead Act went into effect on January 1, 1863, just as President ABRAHAM LINCOLN signed the EMANCIPATION PROCLAMATION freeing slaves.

In this context of controversy and war, the Homestead Act offered a simple plan to achieve the goals of the North. As yet not fully settled, western states would be populated with a flood of homesteaders—individual farmers whose hard work would create a new agricultural industry. On its face, the law was generous. Anyone who was at least twenty-one years of age, the head of a family, or a military veteran was qualified to claim land; moreover, citizens and immigrants alike were entitled to participate. They paid a small filing fee in return for the temporary right to occupy and farm 160 acres. The land did not become theirs immediately; the law stipulated that it had to be improved, and only after living on and maintaining it for five years would the homesteader gain ownership.

Between the passage of the Homestead Act of 1862 and the year 1934, more than 1.6 million homestead applications were filed by settlers such as this family in Custer County, Nebraska (c. 1870–89).

Proponents viewed the law with an almost utopian fondness: through the federal government's largesse, a new West would be created.

In actual application, the act did not achieve this happy outcome. Although the East offered sufficient rainfall, the West was unforgiving. There, harsh land and arid conditions made farming 160 acres a dismal prospect for the settlers, who lived in houses usually made of sod. Often, they simply needed more acreage in order to succeed. In addition, homesteaders seldom had the best land. By bribing residents who bought the land for them, or simply by filing fraudulent claims, speculators managed to reap the lion's share of land at public expense. It is estimated that only a quarter of the trillion acres made available through the Homestead Act ever served their intended

purpose. The bulk of this land went to corporate interests, particularly in the railroad and timber industries, rather than individual settlers.

The Homestead Act left a complicated legacy to U.S. law. Its passage was a triumph for Northern states in their decades-long battle to control the destiny of national agricultural policy. But its limitations and its exploitation meant that the vision of those states could scarcely be realized. Congress made changes to the law during its 105-year history—chiefly, modifying the limits on acreage that it made available—but these amendments did little to alter the act's net effect on the course of national agricultural policy. The law was finally repealed in 1977. Popularly romanticized during the nineteenth century and even into the twentieth, the Homestead Act is now widely viewed by scholars as a failed experiment and a lesson in the contrasts between the intentions and outcomes of law.

Read more: Homestead Act of (1862) - Law, Land, Agricultural, Acres, Agriculture, and Settlers  
<http://law.jrank.org/pages/7400/Homestead-Act-1862.html#ixzz0yseFDKTz>

## **Morrill Act (1862)**

Sponsored by Senator Justin Morrill of Vermont, “An Act Donating public lands to the several States and [Territories] which may provide colleges for the benefit of agriculture and the Mechanic arts” marked the first Federal aid to higher education. But the government’s recognition of its obligation to provide schools for its future citizens dates from the beginning of the republic.

“Knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.” So wrote the Continental Congress in the Northwest Ordinance of 1787. With this ordinance, Congress established a precedent for the support of public education that would grow to substantial commitments in later years.

Land was the key to the Federal Government’s early involvement, for this was the most readily available resource in the unopened continent. As public lands were surveyed into 6-mile square townships, a 1-square-mile section in each township was reserved for the support of public schools. The land itself was rarely used for school construction but rather was sold off, with proceeds used to fund the school program. The system invited misuse by opportunists, and substantial portions of the educational land-grants never benefited education. Nevertheless, land-grant support became a substantial factor in providing education to most American children who could never hope to attend private or charity-supported schools.

The Morrill Act committed the Federal Government to grant each state 30,000 acres of public land issued in the form of “land scrip” certificates for each of its Representatives and Senators in Congress. Although many states squandered the revenue from this endowment, which grew to an allocation of over 100 million acres, the Morrill land grants laid the foundation for a national system of state colleges and universities. In some cases, the land sales financed existing institutions; in others, new schools were chartered by the states. Major universities such as Nebraska, Washington State, Clemson, and Cornell were chartered as land-grant schools. State colleges brought higher education within the reach of millions of students, a development that could not help but reshape the nation’s social and economic fabric.

(Information excerpted from *Milestone Documents* in the National Archives. [Washington, D.C.: National Archives and Records Administration, 1995], p. 57.)

## The Pacific Railway Act July 1, 1862

(U. S. Statutes at Large, Vol. XII, p. 489 ff.)

An Act to aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean. . . .

Be it enacted, That [names of incorporators]; together with five commissioners to be appointed by the Secretary of the Interior... are hereby created and erected into a body corporate... by the name... of "The Union Pacific Railroad Company"... ; and the said corporation is hereby authorized and empowered to lay out, locate, construct, furnish, maintain and enjoy a continuous railroad and telegraph... from a point on the one hundredth meridian of longitude west from Greenwich, between the south margin of the valley of the Republican River and the north margin of the valley of the Platte River, to the western boundary of Nevada Territory, upon the route and terms hereinafter provided...

**Sec. 2.** That the right of way through the public lands be... granted to said company for the construction of said railroad and telegraph line; and the right... is hereby given to said company to take from the public lands adjacent to the line of said road, earth, stone, timber, and other materials for the construction thereof; said right of way is granted to said railroad to the extent of two hundred feet in width on each side of said railroad when it may pass over the public lands, including all necessary grounds, for stations, buildings, workshops, and depots, machine shops, switches, side tracks, turn tables, and water stations. The United States shall extinguish as rapidly as may be the Indian titles to all lands falling under the operation of this act...

**Sec. 3.** That there be... granted to the said company, for the purpose of aiding in the construction of said railroad and telegraph line, and to secure the safe and speedy transportation of mails, troops, munitions of war, and public stores thereon, every alternate section of public land, designated by odd numbers, to the amount of five alternate sections per mile on each side of said railroad, on the line thereof, and within the limits of ten miles on each side of said road... Provided That all mineral lands shall be excepted from the operation of this act; but where the same shall contain timber, the timber thereon is hereby granted to said company...

**Sec. 5.** That for the purposes herein mentioned the Secretary of the Treasury shall... in accordance with the provisions of this act, issue to said company bonds of the United States of one thousand dollars each, payable in thirty years after date, paying six per centum per annum interest... to the amount of sixteen of said bonds per mile for each section of forty miles; and to secure the repayment to the United States... of the amount of said bonds... the issue of said bonds... shall ipso facto constitute a first mortgage on the whole line of the railroad and telegraph...

**Sec. 9.** That the Leavenworth, Pawnee and Western Railroad Company of Kansas are hereby authorized to construct a railroad and telegraph line... upon the same terms and conditions in all respects as are provided [for construction of the Union Pacific Railroad].... The Central Pacific Railroad Company of California are hereby authorized to construct a railroad and telegraph line from the Pacific coast... to the

eastern boundaries of California, upon the same terms and conditions in all respects [as are provided for the Union Pacific Railroad].

**Sec. 10** ...And the Central Pacific Railroad Company of California after completing its road across said State, is authorized to continue the construction of said railroad and telegraph through the Territories of the United States to the Missouri River... upon the terms and conditions provided in this act in relation to the Union Pacific Railroad Company, until said roads shall meet and connect...

**Sec. 11.** That for three hundred miles of said road most mountainous and difficult of construction, to wit: one hundred and fifty miles westerly from the eastern base of the Rocky Mountains, and one hundred and fifty miles eastwardly from the western base of the Sierra Nevada mountains... the bonds to be issued to aid in the construction thereof shall be treble the number per mile hereinbefore provided... and between the sections last named of one hundred and fifty miles each, the bonds to be issued to aid in the construction thereof shall be double the number per mile first mentioned...