



Nebraska History posts materials online for your personal use. Please remember that the contents of *Nebraska History* are copyrighted by the Nebraska State Historical Society (except for materials credited to other institutions). The NSHS retains its copyrights even to materials it posts on the web.

For permission to re-use materials or for photo ordering information, please see:

<http://www.nebraskahistory.org/magazine/permission.htm>

Nebraska State Historical Society members receive four issues of *Nebraska History* and four issues of *Nebraska History News* annually. For membership information, see:

<http://nebraskahistory.org/admin/members/index.htm>

Article Title: Homesteading in Nebraska, 1862-1872

Full Citation: William H Beezley, "Homesteading in Nebraska, 1862-1872," *Nebraska History* 53 (1972): 58-75

URL of article: <http://www.nebraskahistory.org/publish/publicat/history/full-text/NH1972Homesteading.pdf>

Date: 2/27/2015

Article Summary: The Homestead Act lured settlers to Nebraska, but other statutes also encouraged settlement and enterprise. The railroad bill, land sales, grants to states, and the Morrill Act all affected the growth of the frontier.

Cataloging Information:

Land Office Locations: Omaha (later West Point), Brownville (later Beatrice), Nebraska City (later Lincoln), Dakota City, Grand Island, Lowell (later Bloomington), North Platte

Keywords: Homestead Act (1862), double minimum land, commutation clause, land office, entryman, public domain, surveys, land agent, scrip

Photographs / Images: J D Finley family and homestead, Custer County, 1886 (Solomon Butcher photograph); Phineas W Hitchcock; George Greenwalt's sod house, Custer County, 1887; Oran Peck farm near Shelton (Butcher photograph)

Table I: Fees and Commissions for Homestead Claims

Table II: Number and Acreage of Homestead Entries and Final Homestead Entries, 1863-1872

Table III: Acres in Homestead Entries at the District Land Offices, 1863-1872

Table IV: Land Disposition in the Omaha Land District, 1863-1872



The homestead improvements and the family of J. D. Finley of rural Sargent, Custer county, were photographed in 1886. (Solomon D. Butcher Collection, Nebraska State Historical Society)

HOMESTEADING IN NEBRASKA 1862 - 1872

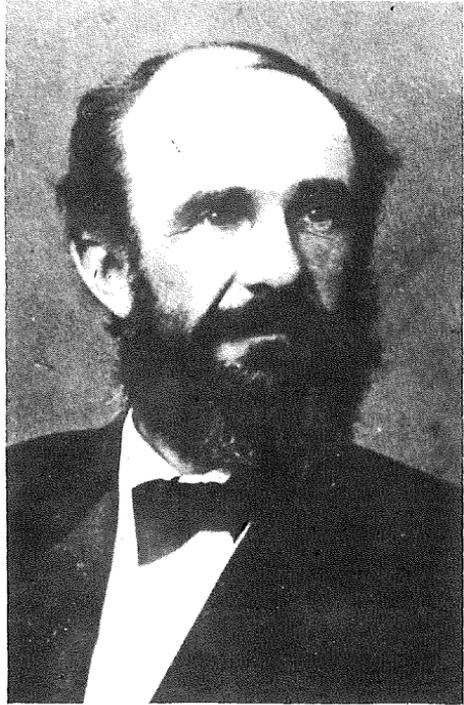
By WILLIAM H. BEEZLEY

The opening of Nebraska to settlement in 1854 initiated the vigorous search for political, social, and economic advancement that characterized America's frontier experience. In frenetic undertakings, alternately called enterprise and speculation, farmers and merchants, newspapermen and politicians did not rely on their own abilities alone, but sought the aid of the federal government. Territorial opinion particularly championed free homesteads from the national domain; Nebraska's governors directed that sentiment by calling repeatedly on the legislature to memorialize the Congress for a homestead bill. Governor Mark Izard proposed that settlers, after living in the territory for two years, receive land donations like those given in Oregon and Florida.¹ A successor, Governor Alvin Saunders, in the best rhetoric of the nineteenth century, foretold: "With such a law, enabling the industrious, with limited means to secure homes for their dependent families, a very few years only will roll around before the rich valleys of the Platte, the Loup, the Elkhorn, the Nemaha, the Niobrara, and other streams in the territory, will be made to bloom as the rose."² Political pressure reached a false climax when Congress passed, but President Buchanan vetoed, a homestead act in 1860. Settlers deserted their Democratic allegiance and were rewarded for supporting the Republican Party when President Abraham Lincoln, its first successful candidate, signed into law the Homestead Act on May 20, 1862.³

Congress designed the act of 1862 to provide free farms "to actual settlers on the Public Domain" who would obtain a fee simple title after improving their claim during five years of residence. The offer extended to all citizens of majority age, to heads of families, and to immigrants who had declared their intention to be naturalized. Passed during the Civil War, Congress excluded anyone who had taken up arms against the United States and made a special concession that any Union veteran of two weeks or more might obtain a claim without consideration of his age, his nationality, or his familial status. Qualified persons could claim as much as 160 acres of public land valued at \$1.25 per acre, or 80 acres assessed at \$2.50 per acre (the so-called double minimum land—the even-numbered sections inside railroad land subventions). The act freed the homestead from liability for debts contracted before the issue of a final title. The well-known commutation clause allowed an entryman to acquire final title by purchase after living on his claim for six months. The terms of the act provided only one opportunity; if a settler failed in his first attempt, legally he was no longer eligible to homestead.⁴

During the first decade, 1862-1872, Congress modified the original legislation, increasing consideration of military men. In 1864, an amendatory act permitted men on active duty to file entries before their commanding officers or allowed wives to act as proxies before local land officials, and then in 1870 a provision enabled veterans who had served at least ninety days in the Union's cause to claim 160 acres of double minimum land.⁵ Two years later in the Soldiers' and Sailors' Act the duration of a military hitch became deductible from the period of residency; wounded and disabled Union survivors were excused entirely from residency requirements, although they had to live on the land one year as act of good faith before receiving title.⁶

Decisions by commissioners of the General Land Office also affected the operation of the Homestead Act. Because a settler legally received only one chance to homestead, it was necessary to rule under what circumstances an entryman gave up his claim. The commissioner declared an entry forfeited when the settler was absent from the land longer than six consecutive months during the required five years, and he found that sale of



*Phineas W. Hitchcock (1831-1881)
was Nebraska's delegate to Congress
between 1864 and 1867.
As a Senator in 1873, he authored
the Timber Culture Act.*

a homestead before receipt of title *prima facie* evidence of abandonment. In all cases the defunct claims reverted to the public domain.⁷ Of particular interest to settlers on the Plains was a decision that entrymen could use trees on their land for improving their claims, but the timber was liable to seizure if they attempted to market it.⁸ Contrary to these restrictions, a settler could transfer a portion of his claim without penalty for the use of a church, cemetery, school, or railroad right-of-way.⁹ Another ruling restricted an alien's ability to prove-up his homestead. Although immigrants who declared an intention to become citizens might enter land, the commissioner decided in 1867 and reiterated in 1868 that they could not receive a completed patent until they had been naturalized.¹⁰ The original Homestead Act, Congressional amendments, and decisions by the commissioner of the General Land Office created a legal framework in which the settler could obtain his free acreage.

The act specified that free farms would come from the public domain, but not all categories of federal land were open to

homesteaders. In its primary description the General Land Office designated land as unsurveyed and surveyed. Only preemptors could select farm sites in an unsurveyed region. After surveyors had marked townships and sectional lines and had forwarded their plat books for approval, first to the national office and then to a local land office, the administrators classified the district as unoffered surveyed land open to both preemptors and homesteaders. Claims by other procedures were excluded until a Presidential decree placed a district in the offered category.¹¹ For frontiersmen who intended to homestead, rapid surveys were essential.

The surveyor general of the Kansas-Nebraska district in 1854 began to mark a boundary between the territories as a baseline for future surveys,¹² but it proved difficult. Surveying parties encountered numerous problems: the absence of trees (traditionally used to mark sectional corners),¹³ the unbridged Platte River,¹⁴ and harassment by hostile Indians.¹⁵ More constraining than environmental obstacles were political considerations; the surveyor general and his staff were patronage appointees sensitive to partisan pressure and popular concerns. Technically limited only by the orderly, rectilinear progression of townships, the surveyors responded to political interests. Most surveys occurred in Kansas during the struggles in the 1850's for political control of that territory.¹⁶ After passage of the railroad act, national interest focused on completion of the transcontinental route, so surveying expeditions worked primarily in the Platte Valley to give the company access to its land and to allow the laying of the right-of-way. The concentration of surveying parties in one area would not have been so detrimental if the land office had not operated with such meager funds; but appropriations were always limited, and in 1865 Congress failed to provide any funds for the survey.¹⁷ Perhaps it was constant legislative parsimony that moved one Nebraska surveyor to seek greater efficiency from his crews by making them not merely surveyors, but foresters as well. Surveyor General Robert R. Livingston proposed in 1869:

It should be feasible, and entail no additional cost to the United States, to introduce a clause in surveying contracts in the treeless portion of this district, whereby the contractor should be bound to cause his chainman to deposit three to six seeds of some hardy and rapidly growing tree, such as the blueberry, coffee-bean, or honey locust at every tally. No time would be lost, for when the hind chainman came

up with his tally pins they could be thrust into the yielding soil, a sufficient hole or holes made to plant the seeds in, and after planting, a slight blow from the heel of his boot would cover them.¹⁸

Nothing came of the proposal. Despite physical, political, and administrative obstructions, slowly the surveyors managed their duties. The surveyor general estimated in 1870 that surveys in the eastern quadrant and along the railroad route in the Platte Valley had covered three-eighths of Nebraska Territory.¹⁹

Plat books of surveyed districts went to the local land offices, staffed by registers and receivers, where settlers entered claims under all of the disposition laws. Congress established the first district office in Nebraska at Omaha City July 22, 1854, and the first plat books arrived in June, 1856.²⁰ Making the administrators more accessible to settlers, three new units opened in 1857: the Nemaha District with an office at Brownville; the South Platte District with an office at Nebraska City; the Dakota District with an office at Dakota City.²¹ The offices remained unchanged until westward movement of settlers forced the relocation in 1868 of three farther west: the Brownville administration moved to Beatrice, Nebraska City to Lincoln, and Omaha to West Point, while the Dakota City office remained stationary. A fifth unit was opened April 20, 1869, at Grand Island to accommodate settlers in the Platte Valley.²² Responding to memorials from the state legislature and the pressure of increased land transactions, Congress created two land districts in 1872, one for the Republican Valley at Lowell and another for the western region at North Platte.²³ After the Lowell office was moved to Bloomington, the seven offices remained unaltered until 1882.

Before the passage of the Homestead Act, the lack of business in Nebraska made the land administration a sinecure of sorts. Registers and receivers dealt with preemptors, purchasers, and those with bounty scrip, but dilatory surveys and national attention on Kansas initially restricted settlement in Nebraska. On the eve of the Civil War, the prospect of a fratricidal struggle also limited emigration into the Territory. The commissioner reported that in both Kansas and Nebraska large tracts of surveyed land remained unclaimed.²⁴ Local officials performed only minimal duties.

The Homestead Act promised to increase business, so the

administration developed a systematic procedure to handle the anticipated crush of entries. First the prospective homesteader had to locate land that appeared suitable for farming and was open to homestead entries. In this crucial step the land office offered only meager guidance. Local officials informed settlers of surveyed regions but provided no additional information about topography or farming potential.²⁵ A settler who had just arrived in the territory might enter a claim blindly or he might turn to the unofficial land officer, the land agent.

The agent exploited the opportunity created by the settler's unfamiliarity with the district and by the administration's silence. For assisting in selecting and purchasing land, even entering claims, the agent demanded a commission or a share of the transaction. Despite their mendacity Professor Paul W. Gates insists that "these western land agents rank with the registers and receivers as among the most important people on the frontier."²⁶ The value of their assistance varied by the extent of their actual knowledge of the area; some explored the surrounding terrain, others examined only the plat books.²⁷ Nevertheless, for the newly arrived settler, the agent was a useful aide.

After finding a promising site the settler made his entry at the land office. In the application he stated the location of his claim, and in an affidavit he swore to his eligibility under the provisions of the Homestead Act and testified that the application was for his "exclusive use and benefit, and . . . made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the benefit of any other person."²⁸ If the land had not previously been entered and the forms were in order, the register accepted the claim and the settler paid the necessary fees and commissions to the receiver.²⁹ At this point the settler possessed an interlocutory land entry which meant he could reside on the land while complying with the remaining requirements of the Homestead Act.³⁰

The homesteader returned to his land to cultivate and to improve it. After five but before seven years of residency the entryman, his widow, or their heirs could make a final entry. The claimant signed an affidavit that he was a citizen of the United States, had cultivated his land for at least five years, had



Homesteaders at a distance from adequate water supplies still tried to grow trees near their sod houses. This home is thought to have been that of George Greenwalt near Weissert in Custer County (1887).

not alienated any portion of the original entry and had remained loyal to the United States. Two witnesses attested to the affidavit. He then paid his final fees and received in return a certificate that entitled him to a patent if the General Land Office accepted his final entry.³¹ Before the title arrived, which might take years, the settler was placed in a rather anomalous position: the courts considered the settler the legal owner of the land, and the claim became subject to many legal processes including sale; yet the title remained vested in the United States government, and jurisdiction of the land remained with the General Land Office.³² Commutation provided another option to the homesteader. A settler, who presented two witnesses that he had lived on and improved his claim during a six-month period, could purchase his entry at minimum price without waiting for the five-year period to expire.³³ The procedure used by the General Land Office relied entirely on sworn statements by claimants and witnesses to enforce compliance with the regulations of the Homestead Act.³⁴

For the first decade of homestead operation in Nebraska,

Table II of this paper records the number of initial entries, the amount of land claimed, and the number of final titles. Although entries rose constantly in the ten years considered, the end of the Civil War brought a dramatic increase of entrymen. The growing number of claims is the most obvious pattern in the statistics, but it is also quite apparent that only a little over half of the total entrymen made final entries. The number who successfully completed the requirements for title never reached half the number of original entries in any one year until after Nebraska became a state. The trend lends credence to those historical accounts that find tremendous restlessness among the first farmers on the frontier.³⁵ These numbers do not include the commutations during the same period because they were reported without distinction with the records for land sales.³⁶ The commissioner of the land office estimated in 1865 that 50 percent of the homestead entries would be commuted,³⁷ but research in three counties in Nebraska revealed that only about one-third of all homestead titles were acquired under this feature of the act.³⁸

Breaking the homestead figures into district components, the effect of survey location and the accessibility of a region become apparent (see Table III). The remoteness of the Dakota district north of the Omaha Indian reserve was mirrored in the paucity of entries at that office. On the other hand, the greatest number of entries was made at those district offices south of the Platte River. The pattern of entries also reflected the survey of the Union Pacific route. The heavier settlement in the southeastern region and along the railroad line explain the westward movement of land offices and the creation of the Grand Island office in 1868.

The records of land disposition under all forms of alienation at the Omaha office, as an example (see Table IV), demonstrate that more land was entered under the Homestead Act than was sold for cash, including commutations and agricultural scrip. Moreover, at the Omaha office the acreage taken by all methods was never more than that claimed in homestead entries until 1872. Although these statistics illustrate that settlers did receive an opportunity to locate a claim, the chart does not show the amount of land claimed by the railroads nor the number of entrymen who failed to prove-up their homesteads.

TABLE I
FEEES AND COMMISSIONS FOR HOMESTEAD CLAIMS

Entry Size in Acres	Cost Per Acre	Commissions		Fees at Entry	Total
		At Entry	Final Entry		
160	\$1.25	\$4.00	\$4.00	\$10.00	\$18.00
80	1.25	2.00	2.00	5.00	9.00
40	1.25	1.00	1.00	1.00	7.00
80	2.50	4.00	4.00	10.00	18.00
40	2.50	2.00	2.00	5.00	9.00

Compiled from GLO, *Circular, 1870*, (for the Middle West) 7.

TABLE II
NUMBER AND ACREAGE OF HOMESTEAD ENTRIES AND FINAL HOMESTEAD ENTRIES FROM 1863 UNTIL 1872

Year	Homesteads		Final Claims	After 5 Years
	Entries	Acres	Entries	Acres
1863	349	50,775.13	139	20,536.27
1864	769	114,649.10	277	41,687.92
1865	812	114,875.28	285	42,134.42
1866	1,456	203,980.71	437	61,465.88
1867	1,628	225,856.74	649	91,446.90
1868	2,844	325,459.52	1,658	220,420.98
1869	3,596	376,860.42	2,818	321,743.77
1870	4,583	509,062.71	2,828	344,345.57
1871	6,021	713,306.63	3,590	418,962.30
1872	5,970	696,620.30	3,507	422,147.76
Total	28,028	3,331,428.54	16,188	1,984,891.77

Compiled from Donaldson, 351-353.

Nevertheless, homesteading was the primary procedure for locating land in the first decade of its operation.

The sale of land did continue and large purchases were news in Nebraska, particularly if the buyer was an outsider. In June 1867, the *Nebraska City News* reported, "A gentleman from New York, said to be worth three millions of dollars, entered 11,000 acres of land."³⁹ The gentleman may have been Ira Davenport of New York who bought 17,000 acres in Nebraska from 1863 to 1873.⁴⁰ In the first decade of homestead operation, ninety-eight different persons purchased tracts of at least 2,560 acres, sixteen times the maximum size of a homestead claim from the public domain.⁴¹ At the Omaha office, of 136,450 acres purchased, 98,440 acres were sold in



The Oran Peck farm (c. 1910) on an island in the Platte River South of Shelton produced an abundance of trees due to its favorable location. Note the fine buildings, water works, and automobile, a 1910 Buick. (Solomon D. Butcher Collection, Nebraska State Historical Society)

blocks of 2,560 acres or larger (see Table IV). Small wonder that governors encouraged legislative memorials to the United States Congress to end the public sale of land! Acting Governor Algernon Paddock during a speech in 1867, requested the following modifications:

First, prohibiting any further issuing of warrants or land scrip, for any purpose whatever, except for the usual endowments to new states, or for internal improvements in the States and Territories where the lands are located. Second, forbidding the location of any warrants or agricultural college scrip of a greater amount than two sections in each township. And third, withdrawing the government's land from public sale, and reserving all, except those donated as before mentioned, exclusively for location under the homestead and preemption laws.⁴²

He went on to suggest that Congress purchase the land donated to the Burlington Railway, "provided that every acre thus regained by the Government should be held exclusively for the location under a homestead law, which should require every settler to cultivate at least twenty acres of timber on his homestead, the preservation of which for five years should be one of the essential conditions of obtaining the fee-simple of his land."⁴³ The sale of land remained, however, as a major feature of the disposition laws.

Paddock's apprehension reflected the contemporary concern that "actual settlers" would be denied an opportunity to secure farms from the national lands. That attitude assigned an unwarranted primacy to the Homestead Act among the laws governing the alienation of government land. Once described as incongruous,⁴⁴ the disposition laws formed a comprehensive give-away system that rapidly transferred public land at little or no cost into the hands of private individuals.⁴⁵ The Homestead Act supplemented the other methods of alienation by increasing the opportunity for persons to participate in the development of the frontier through personal labor rather than purchase. In this sense the Act concluded a general trend to reduce both the cash payment and the minimum size of an entry that began shortly after the initial land provisions of the Ordinance of 1785. Although it was only one of the possible procedures for acquiring land, it was frequently used for initial entries in the early years. One study calculated that despite the number of early failures 80 percent of the land available to homesteaders in Nebraska eventually passed to private title through the homestead or other settler-oriented legislation.⁴⁶

The opportunities for settlers under the homestead provisions must not be overdrawn. The homesteader's great advantage was the provision that allowed entries on unoffered land, but claims

TABLE III^a
ACRES IN HOMESTEAD ENTRIES AT THE DISTRICT
LAND OFFICES, 1863-1872^b

Year ^c	Omaha ^d	Brownville ^e	Neb. City ^f	Dakota City	Gr. Island ^g
1863 ^h	11,949.48	17,911.99	15,441.07	5,469.84	
1864	40,792.15	39,264.62	31,438.30	3,806.59	
1865	34,328.80	37,040.05	39,854.21	3,031.40	
1866	38,934.71	94,895.21	59,551.09	10,588.15	
1867	60,498.86	93,038.29	53,282.68	16,823.78	
1868	107,435.45	118,574.91	60,124.06	38,502.19	
1869	106,695.69	79,593.04	120,369.13	74,430.43	
1870	60,961.74	113,070.21	160,512.66	85,251.86	31,643.34
1871	56,774.36	138,413.67	306,375.59	85,640.47	128,299.99
1872	34,119.59	172,877.80	275,387.65	67,581.08	155,080.93
Total	552,496.83	904,679.79	1,122,337.44	391,125.79	315,024.26

a. Compiled from GLO, *Annual Reports, 1863-1872*.

b. Final entries for the local offices are not reported in the *Annual Reports*.

c. The year in this chart is the fiscal year.

d. In 1868 the office moved from Omaha to West Point.

e. In 1868 the office moved from Brownville to Beatrice.

f. In 1868 the office moved from Nebraska City to Lincoln.

g. Grand Island District was created in 1869.

h. The reports for 1863 are only for the second half of fiscal 1863. It should be recalled that the Homestead Act did not go into operation until January 1, 1863.

still had to be made in surveyed districts. The course of the survey in Nebraska opened land early in the Platte Valley but in many sections it lay astride the railroad path and only eighty acres could be obtained. A more serious disability handicapped the homesteader because his claim could not be held liable for debts during the five years of residency. That clause severely restricted the claimant's access to mortgage funds, leaving only short-term chattel loans;⁴⁷ the inability to obtain credit may account for much of the fraud under the Homestead Act.⁴⁸ Generally homesteaders who obeyed the law only partially participated in the frontier "boom" activities. Residency requirements curtailed mobility, denying them access to subsidiary income from temporary employment, and prohibitions restricted funds from the sale of land parcels or timber stands from their claims. Many of these provisions had been made with good intentions, but they cut cross grain to exploitative enterprise of the frontier. Men did not come to the territories to become subsistence farmers but to establish a home and to

make a profit. Perhaps the Homestead Act can be compared to indentured servitude in the colonies. It was a useful system for the indentured servant, but less appealing than other procedures for making a start in the New World. During the first decade of operation the limited size of entries, the restrictions on movement and profiteering, and the isolation from credit made the Homestead Act less appealing than other methods of acquiring title; it is possible that many of the settlers who failed to make final entry on their homestead claim were among those who purchased or used some other law to obtain farm sites.

Promoters, who boomed Nebraska with local pride and desire for personal profit, realized the Homestead Act would not distinguish their territory from other frontier regions, but the passage of the transcontinental railroad bill promised to make Nebraska the cynosure of new settlers. One editor, seeing both laws as the pillars upon which territorial prosperity would rest, reported with infectious delight to his readers:

The effect of these two bills will be to start a great tide of emigration for the West and especially Nebraska. The emigration will certainly be very large even before the war is over. If it was only for the Homestead Law alone, many of those coming West to secure its advantages might prefer some other locality to Nebraska, on account of the scarcity of timber, but the Pacific Railroad will make land in Nebraska more desirable and more valuable than in any other territory.⁴⁹

Certainly the Homestead Act lured settlers to the Nebraska plains, but it was only one of the statutes that created a legal environment in which the federal government encouraged enterprise. Congress had authorized other legislation complementing, often complicating, federal assistance to territorial settlers.⁵⁰ The legislators added the Homestead Act and the railroad bill to a system that included land sales, grants to the states, and military scrip. During the 1860's, they passed the Morrill Act for agricultural and mechanical colleges and another bill that allowed individuals and corporations to post the cost of a public survey in order to claim land not offered to the public, then added an amendment that applied the deposit to the cost of entry.⁵¹ The success or the failure of the Homestead Act must be evaluated within the context of the entire land alienation system. All these disposition laws affected the growth of the frontier; yet, for many settlers the Homestead Act remained the promise of opportunity in Nebraska Territory.

TABLE IV^a
LAND DISPOSITION IN THE OMAHA LAND DISTRICT, 1863-1872^b

Year ^c	Amount Sold for Cash and Military Bounty ^d			Homestead Act			Ag College Scrip
	Acres	Total Cash and Bounty Scrip	Cash	Bounty Scrip	Acres	Approx. Number of Entries ^e	Acres
1863	400.85	\$ 501.05	\$ 501.05		11,949.48	81	
1864	13,993.22	17,491.52	17,491.52		40,792.15	273	320.00
1865	6,613.65	8,306.78	8,306.78		34,328.80	275	4,634.42
1866	3,334.57	4,795.50	4,695.50	\$100.00	38,934.71	364	9,634.42
1867	5,300.29	7,580.45	7,480.45	100.00	60,498.86	491	63,461.41
1868	10,997.12	17,862.46	17,662.46	200.00	107,435.45	963	123,360.00
1869	40,295.78	50,462.36	50,462.36	25.00	106,695.69	1,042	7,680.00
1870	45,291.34	64,878.25	64,878.25		60,961.74	495	
1871	6,856.61	20,054.93	20,054.93		56,774.36	428	4,154.95
1872	31,367.48	10,269.57	10,269.57		34,119.59	256	5,440.00
Totals	136,450.91	\$202,237.87	\$201,802.87	\$425.00	552,496.83	4,668	218,685.20

a. Chart compiled from the GLO, *Annual Reports*, 1863-1872.

b. Omaha District office was moved from Omaha to West Point in 1868.

c. Year refers to the fiscal year which ends June 30th of the date given.

d. Amount sold includes the amount paid for homesteads under the commutation clause.

e. Approximate number of entrymen established by dividing by 10 (for number of \$10 fees) into total amount of \$10 fees received by the district receiver. This method does not consider those who may have entered less than 160 acres of minimum land or less than 80 acres of double minimum who would have paid less than a \$10 fee.

NOTES

1. *Messages and Proclamations of the Governors of Nebraska, 1854-1887* (Report of the Work Projects Administration, Official Project N. 165-1-81-317, sponsored by the Nebraska State Historical Society and the University of Nebraska. Special publication of the Nebraska State Historical Society, 1941), I, 39. Hereafter cited as *Messages*.

2. *Ibid.*, 165

3. For a detailed analysis of public land laws and the struggle for homestead legislation, see Roy M. Robbins, *Our Landed Heritage*, (Lincoln: University of Nebraska Press, 1962). The *Nebraska Advertiser*, July 5, 1860, made a typical comment on the presidential veto of the Homestead Act: "This crowning act of infamy of the old hypocrite has sealed the mouth of the last Buchanan man we have heard of."

4. U.S. *Statutes at Large*, XII, 392. Hereafter cited as 12 *Stat.* 392.

5. U.S. Congress, House, *The Existing Laws of the United States Of A General and Permanent Character, and Relating to the Survey and Disposition of the Public Domain*, 47th Cong. 2d Sess., 1884, House Misc. Doc. 45, 84-85, 93. Hereafter cited as *Existing Laws*. The privilege of entering a full quarter section of double minimum land was granted universally in 1879.

6. *Ibid.*, 89-90.

7. *Ibid.*, 85; U.S. General Land Office, *Circular: Showing the Manner of Proceeding to Obtain Title to Public Lands by Purchase, by Location with Warrants or Agricultural College Scrip, by Pre-emption and Homestead. August 23, 1870*, 8-9. Hereafter cited as *Circular, 1870*.

8. U.S. General Land Office; *Annual Report of the Commissioner, 1865*, 24. Hereafter cited as CLO, *Annual Report*.

9. *Existing Laws*, 79.

10. GLO, *Annual Report, 1867*, 98; and 1868, 84.

11. This discussion is based on U.S., Department of Agriculture, *Annual Report of the Commissioner, 1874*, 69.

12. Lloyd Bernard Sellin, "The Settlement of Nebraska to 1880" (Unpublished master's thesis, Department of History, University of Southern California, 1940), 149. See also Francis Leo Showacy, "The Establishment and Survey of the Nebraska Boundary" (Unpublished master's thesis, Department of History, University of Nebraska, 1935), and Paul W. Gates, *Fifty Million Acres: Conflicts over Kansas Land Policy, 1854-1900* (Ithaca, New York: Cornell University Press, 1954), 48-49.

13. Earl G. Garrington, "Cadastral Surveys for The Public Lands of the United States," *Surveying and Mapping*, IX, (1949), reprinted in Vernon Carstensen (ed), *The Public Lands: Studies in the History of the Public Domain*, (Madison: University of Wisconsin Press, 1963), 40; GLO, *Annual Report, 1869*, 228.

14. GLO, *Annual Report, 1864*, 91. An account of the experiences of surveying parties in the field can be found in C. S. Woodward, "Public Domain, Its Surveys and Surveyors," *Michigan Pioneer and Historical Society, Collections*, XXVII, (1887), 312-321.

15. Although actual Indian attacks did occur in 1868 and 1869 (see GLO, *Annual Report, 1869*, 286, and 1870, 367) one student suggests that the major form of Indian depredation was to destroy corner markers of the survey (see Showacy, "Survey of Nebraska," 43). For proposals to provide arms for the

surveying parties, see GLO, *Annual Report, 1869*, 289.

16. For a discussion of the land office administrators in Kansas as patronage appointments, see William H. Beezley, "Land Office Spoilsmen in 'Bleeding Kansas,'" *The Great Plains Journal*, X, No. 2, (Spring, 1970), 67-78.

17. GLO, *Annual Report, 1865*, iii.

18. *Ibid.*, 1869, 288.

19. *Ibid.*, 1870, 31.

20. Addison E. Sheldon, *Land Systems and Land Policies in Nebraska*, Nebraska State Historical Society Publications Vol. XXII (Lincoln: Nebraska State Historical Society, 1936), 35.

21. *Nebraska Advertiser* (Brownville), March 5, 1857. The article also gives the precise location of the land districts in terms of township and range.

22. Sheldon, *Land Systems*, 44.

23. *Nebraska Herald* (Plattsmouth), January 18, 1872.

24. GLO, *Annual Report, 1861*, 476.

25. Francis Harding White, "The Administration of the General Land Office, 1812-1911" (Unpublished doctoral dissertation, Department of History, Harvard University, 1912), 93; Verne E. Chatelain, "The Public Land Officer on the Northwestern Frontier," *Minnesota History*, XII, No. 4, (1931), 388.

26. Paul W. Gates, "The Role of the Land Speculator in Western Development," *Pennsylvania Magazine of History and Biography*, LXVI (July, 1942), 318.

27. *Ibid.*

28. 12 *Stat.* 392, Sec. 2.

29. The fees that a settler paid were based on the amount of land, the type—minimum or double minimum—and the region in which it was located. In the Midwest fees and commissions were somewhat lower than those of the Rocky Mountain and Far Western regions. Table 1 demonstrates costs in the Midwest.

30. Charles R. Pierce, "The Land Department as an Administrative Tribunal," *The American Political Science Review*, X, No. 2 (May, 1916), 281.

31. *Circular, 1870*, 8; *Existing Laws*, 82-83.

32. Pierce, "Administrative Tribunal," 281-282.

33. *Circular, 1870*, 9.

34. White, "The Administration," 276-277.

35. For discussion of instability of settlement made by initial entrymen see George L. Anderson, "The Administration of Federal Land Laws in Western Kansas, 1880-1890, A Factor in Adjustment to a New Environment," *Kansas Historical Quarterly*, XX (Nov., 1952), 233-251.

36. Thomas Donaldson, *The Public Domain* (Washington: U.S. Government Printing Office, 1884), 350.

37. GLO, *Annual Report, 1865*, iii.

38. This estimate taken from John Arnett Caylor, "The Disposition of the Public Domain in Pierce County, Nebraska" (Unpublished doctoral dissertation, Department of History, University of Nebraska, 1951), 22; Evan E. Evans, "An Analytical Study of Land Transfer to Private Ownership in Johnson County, Nebraska" (Unpublished master's thesis, Department of History, University of Nebraska, 1950), 24; James A. Stone, "Disposition of Public Domain in Wayne County, Nebraska" (Unpublished master's thesis, Department of History, University of Nebraska, 1952), 66-67.

39. *Nebraska City News*, June 12, 1867.

40. William J. Steward, "Speculation and Nebraska's Public Domain, 1863-1872," *Nebraska History*, XLV, No. 3 (Sept. 1964), 269.

41. *Ibid.*, 268.

42. Sheldon, in *Land Systems and Land Policies in Nebraska*, 80, recorded that the following grants of land became available to Nebraska at statehood: (1) an absolute grant of sections 16 and 36 in every township or their equivalent, for support of the common schools; (2) twenty entire sections of the public domain for the purpose of erecting public buildings at the Capital for legislative and judiciary purposes; (3) fifty entire sections for the purpose of erecting a suitable building for a penitentiary; (4) seventy-two entire sections for the use and support of a state university; (5) 900,000 acres for an agricultural college; (6) six sections of land adjoining and contiguous to all salt springs within the state, not exceeding twelve in number, to be used or disposed as the legislature might direct; (7) by the preemption law of September 4, 1841, the state would receive 500,000 acres for internal improvements, and 5% of the proceeds of all sales of Public Lands lying within the state for the support of the common schools.

43. *Messages*, I, 237-238.

44. From the title of Paul W. Gates, "The Homestead Act in an Incongruous Land System," *American Historical Review*, XLI, No. 4 (1936); 652-682.

45. Thomas Le Duc, "Public Policy, Private Investment, and Land Use in American Agriculture, 1825-1875," *Agricultural History*, XXXVII, No. 1 (Jan., 1963), 3-9.

46. This is Paul W. Gate's estimate and it includes Timber Culture and Preemption claims. See "Homestead Act: Free Land Policy in Operation, 1862-1935," *Land Policy and Problems in the United States*, ed. by Howard W. Ottoson (Lincoln: University of Nebraska Press, 1963), 39.

47. This is suggested in Allan G. Bogue, *Money at Interest: The Farm Mortgage on the Middle Border* (Ithaca, New York: Cornell University Press, 1955), 252.

48. Gates, "Free Land Policy in Operation," 36.

49. *Nebraska Advertiser*, May 29, 1862.

50. Gates, "The Homestead Act in an Incongruous Land System," 652-682.

51. Harold Hathaway Dunham, *Government Handout: A Study in the Administration of the Public Lands, 1875-1891* (Ann Arbor, Michigan: Lithoprinters, 1941), 78-79.