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Providing Lumber for the 'Sawed' House: The Repeal of the
Southern Homestead Act and Euro-American Settlement of the
Plains

David Nesheim

Homesteading Reconsidered

May 17, 2007

Between 1862 and 1866, two separate homestead acts became law in the United States. Congress passed the first during the Civil War, applying to public domain lands primarily in the western half of the U.S. The Homestead Act of 1862 allowed settlers to claim 160 acres of public domain and receive title after a five-year period of residence and improvement. It featured other methods to gain title, including preemption and cash purchase. Following the war in 1866, the Southern Homestead Act opened nearly 47,000,000 acres in Alabama, Arkansas, Florida, Louisiana, and Mississippi, although in 80-acre parcels and with no preemption clause or ability to commute claims through cash purchase.

Despite the apparent similarities, scholars discuss the first far more frequently than the latter and rarely consider the two together. To a certain degree, this results from the wide range of interests converging on the topic. Historians of the public domain and federal land laws; the early Republican Party; the Civil War and Reconstruction; and agriculture all publish on at least some aspects of the homestead acts. After a brief discussion of the historiography of the Southern Homestead Act, I will examine congressional debate regarding its repeal. The final section examines the aftermath of repeal and its impact on the South and the Plains. I argue that the South

became a lumber hinterland to the expanding settlement on the Plains, amounting to a huge subsidy for that process.

Several journal articles published in the 1970s treat the Southern Homestead Act of 1866. Two of the articles examine the experience of single states, Alabama and Louisiana, highlighting the failure of the 1866 law to transfer lands into the hands of loyal Whites and freedmen. Two other articles focus on the southern act writ large, agreeing that the act was a failure with only 4,000 claims patented during its tenure, though dissenting on the reasons why.¹

One version of the Southern Homestead Act's failure criticizes the plan's creators for not recognizing the needs of freedmen. Christie Farnham Pope recognizes George F. Julian as the congressional leader responsible for the act and characterizes him as an ardent supporter of settlers with an unyielding belief in the efficacy of land holding in creating "honest and upright citizens." However, she argues that Julian was in the minority with this view and most congressional support came from a desire to punish the South than any attempt at republican land reform. Farnham Pope contends that the bill was destined for failure because it was based on two faulty premises. The first posited that the South's entire social fabric could be remade by transferring "over one-third of the area of but five of the Southern states to Negroes." The second,

fatal flaw was the assumption by legislators that freedmen did not significantly differ from whites in the North, and would easily pass from former bondsmen had no capital and who were forbidden to read or write into prosperous citizens.²

Warren Hoffnagle also offers a different rationale for the act, stating "it was conceived with a view to greater economic equality for black people." He lists several factors that doomed the plan, including corruption among white administrators, white hostility toward blacks, unsuitable and remote lands, and an under funded and under staffed Freedman's Bureau. Hoffnagle includes the problem of black poverty and illiteracy as contributing factors, but argues that had the act been implemented differently, these would have been surmounted.³

Writing in 1940, Paul Wallace Gates considers the South, between 1866 and 1876, as "a laboratory for experiments in land reform." Rather than focus on the size of the tracts available for homesteading (160 acres under the 1862 law, and 80 acres for the 1866), Gates rightly observes that that the key difference was in the various ways that settlers could gain title to the land. The later act restricted claims to homesteading, and had no provisions for purchase of land. He argues convincingly that the reason for the Southern Homestead Act's repeal in 1876 came from lumber interests, not from a unified South that sought to throw off the yoke of Reconstruction. Furthermore, he contends

that after 1876, the timber interests were wildly successful in appropriating the public domain in the South, thereby removing valuable capital in the form of pine lumber.⁴

The Compromise of 1877 generally receives credit or blame for terminating Reconstruction, depending on your perspective. And under the administration of Rutherford B. Hayes, who gained the Presidency as a result of that compromise, military rule in the South did end. However, even before the controversial election of 1876, there were signs of a new attitude about the former states of the Confederacy. The repeal of the Southern Homestead Act was one such event. Congress debated the measure for nearly six months before it was sent to President Ulysses S. Grant, where it became law without his signature. A close examination of those debates reveals that the re-integration of the South contained conflicting visions of the nation's future.

First introduced in the Senate by Republican Powell Clayton from Arkansas, Senate Bill No. 2 opened the public lands in Alabama, Arkansas, Florida, Louisiana, and Mississippi to public sale and preemption, lands that had been restricted solely to homesteading for the past ten years under the Southern Homestead Act (SHA). In what would prove to be a remarkable understatement, Clayton stated that the bill did "not bear on its face its full purpose," nor could it be expected to pass "without some explanation." As the months passed from February

to June, that explanation ran a topical gambit including the status of timber lands in the South and the nation at large, the relationship between virtuous republican citizens and the public domain, and the uniformity and equality of the American legal system.⁵

For Clayton, the opening of the public lands of the southern states was a simple matter. In an apparent nod to consistency and egalitarianism, he argued that there should be one law for public lands that applied to all citizens, and the Homestead Act of 1862 served such a purpose. Furthermore, the Southern Homestead Act discriminated against timber interests. He claimed that the prairie states, stretching from the Mississippi River to the Pacific Ocean, clamored for the timber of the South. Displaying a depth of understanding of society equal to his tenuous grasp of geography, he claimed that the Negroes of the South refused to homestead these lands because they realized they were farmers, and the land only had value for timber. Explaining why they had yet to take advantage of the homestead provision, he stated that the former slaves recognized their place, both figuratively and literally, and chose to remain where they were at the end of the war. Therefore, the only result of keeping the SHA in force was the encouragement of timber thieves and the restriction of western settlement and the

timber industry. In fact, he claimed to not know why Congress enacted the restrictions in the first place.⁶

Although Clayton was forgetful, the institutional memory of the Senate remained intact. George Edmunds, Republican Senator from Vermont, was present in 1866 when the SHA first passed. He reminded his fellow legislators that the purpose of the bill was for the benefit of the recently freed "colored people" and it was a "very wise and beneficent measure." He cautioned that it took time to rise from poverty and removing the restrictions now would be premature. Once the former slaves had time to amass sufficient capital, they would no doubt take advantage of the homestead provisions. Furthermore, timber was growing scarcer throughout the nation as demand increased. Therefore, the lands would only be more valuable when eventually homesteaded by poor southerners.⁷

Other southern Senators resented their Northern colleagues instructing them on the best course for their region's future. Taking a page from Clayton, Lewis Bogy from Missouri also called for a single land law for the entire country; furthermore, he reasoned that the restrictions stifled immigration to the South. Bogy argued that the South needed economic development, and that expansion would be fueled by population growth. However, under the terms of the SHA, public land could not be purchased. Requiring citizens to wait five years to gain title to their

estates was unrealistic, especially when that restriction did not exist in other states. James Alcorn from Mississippi rebuked Edmunds suggestion that repealing the SHA would injure the poor, since opening the lands to lumber interests would generate jobs in that industry.⁸

When the debate resumed a week later, Senator George Boutwell of Massachusetts made an impassioned plea for the future of the nation. He argued that the question of southern timber was not a local issue, nor was it a simple matter of economics. He feared that the U.S. was traveling a "clear path marked by all the effete and extinct nations of the world," namely the "impoverishment of the land" by the destruction of the forests. He referenced George Perkins Marsh's *Man and Nature* and the work of George Emerson, both of whom had studied the issue of deforestation in other countries and concluded that it led to the downfall of once great nations. Boutwell could not support the repeal and called it "a system of robbery and plunder of generations yet to come."⁹

As the debate in the Senate reached an end, the refrain for unity in the laws of the land carried the day. John Ingalls from Kansas recommended the novel twist of taking the provisions of the SHA and applying them to the rest of the nation, eliminating the pre-emption portion of the General Homestead Act. Samuel Maxey, who had fought on the side of the Confederacy, replied

that such an action would extend the discriminatory nature of the SHA. He rather crassly invoked the Fourteenth Amendment in a plea that all citizens should be treated equally. Finally, Charles James from Florida argued that it has never been the policy of the government to restrict the public domain for the future and all he wanted was the southern states to be restored "on an equality with the other states of the Union."¹⁰

Congressional delegates from the West praised the value of the agrarian ideal for the Republic. Kansan William Brown called for the extension of the SHA's provisions to all the states of the Union. He declared that his state offered a fine example of the benefits of the homestead principle to the actual settler. James McDill of Iowa concurred that there should be only one law for all of the public domain, and that it should be the SHA. He disputed the notion that a great supply of good land remained in the West, and stated that of the remaining land only five percent was suitable for agriculture. Therefore, the government should reserve the remaining lands for poor people, as "a landholder always makes a good citizen."¹¹

The final word in the debate came from a former Confederate soldier. Rep. Hernando De Soto Money was a first term congressman from Mississippi who had served throughout the war. He objected to his colleagues from other regions suggesting that they knew what was best for the South. He stated the "hot temper

which followed the war" resulted in the "persecution against the white people of these States" brought about by the SHA. All he desired was that the southern states "be put on an equal footing with the other states." After all, the South was firmly committed to the well being of the "colored man" and there was "as little distress and poverty among the poorer people of the Southern States" as anywhere in the Union. Money concluded by ridiculing the notion of a "land monopoly" by suggesting that you "might as well say that merchants have a monopoly in dealing in merchandise or that shoemakers have a monopoly in shoemaking as to say that farmers have a monopoly of the land."¹²

The repeal of the Southern Homestead Act became official on July 4, 1876. This date is fitting in light of all the discussion involving the proper course for the Republic. During the debate, former Confederates wrapped themselves in the cloth of republican equality and democratic egalitarianism and called for the end of discriminatory statutes. A few, more transparent, southern congressmen called for the economic growth of the South and the industrial development of its coal, iron and especially timber resources. All agreed that the SHA deserved revocation. Its repeal marked the beginning of the end of Reconstruction and the first steps toward the re-integration of the South. The congressional debates charted several courses for the nation.

The vision of the future that carried the day told of a country preoccupied with growth. Some voices called for the conservation of the public lands, others for the protection of the nation's timber. However, these views represented a small minority. On the other end of the spectrum, the existence of any shortages in either land or timber was flatly denied. The South resisted any further attempts by outside interests to dictate the conditions of their existence. The rise of Jim Crow laws would soon give the lie to their claims of equality under the law, but it was clear that they were ready for freedom and liberty to profit. For the rest of the country, this appeared to be a reasonable request. The end of Reconstruction is not only a story of "failed" Republican policies, but also a tale of industrial capitalism's appeal. For many, by 1876, it was time to get back to the business of growing America. Economic growth appeared to offer the best platform to achieve that elusive "equal footing."

The yellow pine forests opened by the repeal of the Southern Homestead Act soon supported settlement on the Great Plains. The greatest expansion occurred in the 1890s, but within months of the repeal "cruisers" from Great Lakes lumber interests combed the region for prime lands. Small speculators arrived first, acquiring pine tracts for \$1.25 to \$3.00 an acre, while hardwood lands sold for \$5 to \$10. Larger holdings were obtained

as well; two Michigan lumbermen, Nathan Bradley and C.F. Hackley, together claimed over 200,000 acres, for example.¹³ The first yellow pine arrived in Chicago just a year after repeal of the Southern Homestead Act, and in over a decade it offered Great Lakes white pine stiff competition in Nebraska and Kansas.¹⁴ Public reaction against the increasing number of Northern investors in the South, coupled with fear of the "lumber trust," led Congress to suspend all cash sales except for homestead claims in 1888.¹⁵

In that roughly ten-year period, over 5.5 million acres of prime Southern timberland was sold, setting the stage for a lumber boom. Following close behind, transportation infrastructure increased apace. Between 1880 and 1890, the South as a whole saw 23 thousand miles of railroad construction, a stunning increase over the five thousand miles of the previous decade. Cheap labor closed the deal. The average wage in the South was \$376 per year in 1880, a full thousand dollars less than in the Northeast. A transportation system existed, the land was acquired easily, and an exploitable and cheap labor force stood at the ready all coalescing around 1890.¹⁶

The transformations reached far beyond the timberlands, altering the social fabric of the South. The jobs promised from the lumber industry did little to help Southern blacks. Seasonal and itinerant employment tore at the bonds of families,

forcing the men to travel to work in lumber camps, while their wives stayed home. Between 1880 and 1915, around a quarter of urban and small town black families had only a single parent in the home, usually the mother. The forced migrations and apparent vagrancy of the men began to draw suspicion from white southerners, erupting in violence and lynchings.¹⁷ The Jeffersonian vision of yeoman farmers may have not lived up to its vaulted promise, but the creation of a permanent underclass in the South offers a stark contrast to the failures and frauds elsewhere.

Out on the Plains, emerging towns consumed lumber at prodigious rates. The image of the sod house retains its appeal in the historical imagination, but for many settlers, a frame house signified a comfortable existence. Geographer John Hudson noted that most towns had two or three lumberyards, and profit was nearly ensured in that industry. Although William Cronon and others have traced these connections, most of the focus on lumbering highlights the decades of the 1870s and 1880s. However, the greatest numbers of homestead claims were filed after 1890. The yellow pine forests opened by repeal of the Southern Homestead Act amounted to a giant subsidy for western settlement. The profits may have unevenly accrued to a precious few, but the increased supply, especially following the decline of the Great Lakes industry, helped to keep prices down for the

average citizen. When lumber dealers on the Plains did loose money, it was due to local competition and not from lack of a market.¹⁸

Superficially, the greatest difference between the two Homestead Acts was the absence of cash sales in the Southern version. Economists Terry Anderson and Peter Hill use the term transaction costs to describe "specifying, monitoring, enforcing, and trading property rights." They argue that higher transaction costs make it harder for people to gain from the trade and more likely that conflict will ensue. The lack of a cash purchase option created the highest transaction cost possible - requiring five years of toil to achieve title.¹⁹ These high costs added to the considerable burdens faced by under-capitalized and mostly illiterate free blacks in the aftermath of the Civil War.

The repeal of the Southern Homestead Act can be viewed as a repudiation of the "free land" ideal found in its more famous national cousin. Such a conclusion would miss the mark. Free land was a fiction, as the costs of surviving for five years waiting to prove a homestead claim were very real. The paltry number of claims filed during the decade of the Southern Homestead Act makes explicit the chasm between the ideal of free land and the ability of the poor to realize that ideal. The connections between southern lumber and western homesteading

call for further investigation of the impact of Plains settlement. The Southern component of this story, its dark obverse, deserves further explication. Drawing a straight line from the lumber used to build a one-room schoolhouse or a church steeple to the social dislocation resulting in violence and lynchings may be a stretch, but it is important to recognize the hidden costs as well as the transaction costs of homesteading.

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- ¹ John B. Myers, "The Alabama Freedmen and the Economic Adjustments During Presidential Reconstruction, 1865-1867," *The Alabama Review* 26, no. 4 (1973); Claude F. Oubre, "Forty Acres and a Mule: Louisiana and the Southern Homestead Act," *Louisiana History* 17, no. 2 (1976); Warren Hoffnagle, "The Southern Homestead Act: Its Origins and Operations," *The Historian* 32, no. 4 (1970); Christie Farnham Pope, "Southern Homesteads for Negroes," *Agricultural History* 44, no. 2 (1970); Paul W. Gates, "Federal Land Policy in the South, 1866-1888," *The Journal of Southern History* 6, no. 3 (1940).
- ² Farnham Pope, "Southern Homesteads," 211-12.
- ³ Hoffnagle, 628-29.
- ⁴ Gates, 303-04.
- ⁵ U.S. Congress, Senate, 44th Cong., 1rst sess., *Congressional Record*, Vol. IV, 815.
- ⁶ *Ibid.*, 815-17.
- ⁷ *Ibid.*, 817; *Biographical Directory*, 951.
- ⁸ Senate, *Congressional Record*, 849, 852.
- ⁹ *Ibid.*, 1084, 1085.
- ¹⁰ Senate, *Congressional Record*, 1089-1090.
- ¹¹ *Ibid.*, 3293.
- ¹² *Ibid.*, 3294.
- ¹³ Ralph W. Hidy, Frank Ernest Hill and Allan Nevins, eds., *Timber and Men: The Weyerhaeuser Story* (New York: MacMillian Company, 1963), 208.
- ¹⁴ William Cronon, *Nature's Metropolis: Chicago and the Great West* (New York: W. W. Norton, 1991), 150-51.
- ¹⁵ James E. Fickle, *The New South and the "New Competition": Trade Association Development in the Southern Pine Industry* (Urbana: University of Illinois Press, 1980), 7; Edward Ayers, *The Promise of the New South: Life After Reconstruction* (New York: Oxford University Press, 1992), 124.
- ¹⁶ Archer H. Mayor, *Southern Timberman: The Legacy of William Buchanan* (Athens: University of Georgia Press, 1988), 13-15.
- ¹⁷ Ayers, *The Promise of the New South*, 69, 124.
- ¹⁸ John N. Vogel, *Great Lakes Lumber on the Great Plains: The Laird, Norton Lumber Company in South Dakota*, with a foreword by Wayne Franklin, (Iowa City: University of Iowa Press, 1992), ix, 121; Cronon, *Nature's Metropolis*.
- ¹⁹ Terry L. Anderson and Peter J. Hill, *The Not So Wild, Wild West: Property Rights on the Frontier* (Stanford, CA: Stanford University Press, 2004), 14-18.