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Land Ordinances

Alexander J. Field

Santa Clara University, afield@scu.edu

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LAND ORDINANCES. As European influence extended across the oceans, all regions of recent settlement faced the challenge of devising means for distributing, by sale, lease, or grant, lands originally held or used by aboriginal populations, and at the same time defining the political relationship between the frontier and the existing states. One of the most sweeping instances of legislation addressing this issue took place in the early years of the United States where, in exchange for the cession of claims on western lands by the original thirteen states, the federal government under the Articles of Confederation agreed to convert the public domain into private holdings as quickly as possible.

The Land Ordinances of 1785 and 1787 had lasting influences because they set the stage for the orderly distribution of western lands and provided procedures for the admission of new states to the federal Union on an equal footing with those already constituted. Their consequences were thus both political and economic—insuring that the original thirteen states would not develop an imperial relationship with western colonies, and that once title to new land was granted, the United States would step out of the picture with regard to legal claims on it, providing local and territorial governments with a foundation for their tax base.

Both ordinances reflected the handiwork of Thomas Jefferson, who had chaired a Congressional Committee appointed in 1783, and made its report in March 1784. Prior to the 1785 legislation, there had been two basic systems for the distribution of government land. Under the Southern system, a buyer simply indicated the land he wanted and then had the county surveyor mark it in the record office in terms of metes and bounds. The New England system did not permit land to be acquired until first surveyed, and thus opened new rectangular townships on a systematic basis. Development proceeded in an orderly fashion, without owned parcels leapfrogging over large intervening and oddly shaped pieces of unowned or undeveloped land.

The Land Ordinance of 1785 reflected Jefferson's preference for the New England system. The Ordinance required that lands be scientifically surveyed before sale and that the moneys collected be a one-time source of revenue for the national government but that subsequent to the sale, property would be held by the territory or future state, rather than the national government. The ordinance embraced the New England pattern of six-mile-square townships, each divided into thirty-six sections of one square mile, a section thus comprising approximately 640 acres, and to be the minimum unit of sale. In 1800, sales of half sections (320 acres) were permitted, and in 1804 minimum parcel size dropped to a quarter section (160 acres), declining finally in 1832 to 40 acres. An 1841 Preemption Act provided for marking down land unsold for ten years or more, and in 1862, as a result of the Homestead Act, the remaining public domain became available at no direct cost to settlers in exchange for occupation and improvement. A similar act was passed in Canada in 1879.

The lasting political effect of the 1787 legislation (Northwest Ordinance) was that it established conditions under which new states could be admitted to the Union on an equal footing with those existing. The legislation begins with a lengthy section specifying how property is to pass in the territory in the case of those dying interstate, and specifying how realty and personalty may legally be conveyed within it. Resolving such issues is an essential precondition for economic development to proceed within the context of a private enterprise system.

The Ordinance then proceeds to specify governance procedures in both the short and the long run. Initially, a new territory would be run by a governor and judges appointed by Congress. When population grew to include five thousand male inhabitants, a territorial legislature would be elected and a nonvoting representative sent to Congress in Washington. And upon attaining a population of sixty thousand, the territory could be admitted to the Union. Not less than three nor more than five states were to be formed out of the territory, and slavery was prohibited. Jefferson's committee had originally proposed ten states, but

Monroe objected, fearing that in the context of continued divisiveness over the slavery issue, this would be ill advised.

Ultimately, thirty-one out of the fifty American states were admitted to the United States under provisions established under this Ordinance. Far from being politically disadvantaged relative to the original seaboard colonies, many of the newly admitted states were actually advantaged, since they were sparsely populated but guaranteed two senators and a minimum of one representative. Thus did the American Republic avoid replicating the core-periphery relationship existing between England and the original colonies that had ultimately led to the Revolution. On the other hand, Jefferson's original report had included a broader provision banning slavery after 1800 in all territories west of the Appalachian Mountains. That provision was rejected in Congress in 1784 by a single vote.

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ALEXANDER J. FIELD