

When New York offered to relinquish its claim to the Western lands in 1780, the Congress of the Confederation responded with a pledge that the unappropriated lands that may be ceded or relinquished to the United States by any particular state shall be disposed of for the common benefit of the United States. This raised the issue of how the public lands should be disposed of. Most in Congress agreed that the public lands should be used as a source of revenue for the nation's cash-starved Treasury and provide land as promised to the soldiers who had enlisted in the Continental Army. There was sharp difference, however, as to how disposal should be carried out. Most Southern delegates favored a system of indiscriminate location and subsequent survey, as had been the practice in their states. Others advocated more orderly settlement, voicing arguments set forth by Thomas Jefferson that indiscriminate location with subsequent survey led only to costly and protracted lawsuits as owners sought to establish boundaries. What they wanted was a system like in New England where survey preceded settlement. The Congress of the Confederation in the Land Ordinance of 1785 opted for the policy of orderly settlement. The public lands were to be surveyed and numbered by the Geographer of the United States into townships 6 miles square and seven ranges. One-seventh of the townships selected at random were to be used to satisfy military land warrants. The remaining townships were to be auctioned at not less than \$1 an acre. The United States reserved Lot 16 in each of the townships to provide revenue for public schools as well as four other lots for later sale. The government also reserved rights to one-third interest in any gold, silver, lead or copper that might

be found. Operation of the Land Ordinance disappointed Confederation officials. Surveys were slow. The Geographer of the United States Thomas Hutchins had begun work in the fall of 1785, but dense forests, swamps and the threat of Indian attack resulted in the survey of only four ranges after two years of work. Desperate for revenue, the Confederation abandoned the Land Ordinance of 1785 and contracted to sell public lands without competition to two speculative land companies. Both offered Congress mere pennies per acre, but in the end were able to purchase only a portion of the lands contracted. The United States ratified the Constitution in 1788, rendering the Land Ordinance of 1785 inoperable. A new public land policy had to be enacted. By Article 4, Section 3, Clause 2 of the United States Constitution the task fell to Congress for it had the power to dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States. Public land law historian Paul Gates noted the Congress of the Confederation had stipulated in the Northwest Ordinance that the legislatures of new states created from the public domain shall never interfere with the primary disposal of the soil by the United States, nor with any regulations Congress may find necessary for securing the title in such soil to the bona fide purchasers. The first Congress under the new federal Constitution had carefully extended the Northwest Ordinance on August 7, 1789 with these safeguarding provisions, thereby making it clear that states thereafter created out of American Territory were not to interfere with the management or disposal of the public lands.