MORRISON v. WORK.

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Claims

Court of

Docket No.

Syllabus.

the Interstate Commerce Act and the former were not. The distinction is certainly a sound one and, I think, it was rightly observed by the court below.

Since the opinion in 1913 Congress has given much consideration to the Interstate Commerce Act, but nowhere do I find expression of a definite purpose to disregard the limitations there approved. The question is highly important; the subject matter is essentially local in nature; the States can and should control until and unless Congress, by clear language, shall indicate its intent to regulate. The creators ought not be deprived of power over their own creatures as to domestic traffic permitted only under carefully considered contracts, because of detached and obscure sentences found here and there in a general enactment designed for carriers whose lines constitute integral parts of the great interstate railway system of the country.

MORRISON, JR., ET AL. v. WORK, SECRETARY OF THE INTERIOR, ET AL.

APPEAL FROM THE COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

No. 112. Argued October 24, 1924.-Decided January 5, 1925.

- 1. A suit to enjoin the Secretary of the Interior and other executive officers from carrying out acts of Congress upon the ground that they unconstitutionally deprive the plaintiff and the other members of an Indian tribe of property held for them as individuals by the United States, can not be entertained in the face of a substantial defense that the property is in truth tribal property subject to control by the United States as guardian of Indians, since for the adjudication of this issue the United States is an indispensable party, and it cannot be sued without consent of Congress. P. 4S5.
- 2. Under Act of January 14, 1889, and by agreement with the Chippewa Indians of Minnesota, reservation land was ceded to

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ly. Co. v. *Interstate* 24, decided June 9, 1 difference between by railroad and, for 1 latter were within

es the new § 15a dealexcludes "(b) street or s a part of a general nterurban electric raileam railroad system of sportation of freight" les for the issuance of y in the case of conexcludes, by paragraph rban electric railways, a general steam railwhich inserts the new cludes, by par. 1, p. tric railway which is road system of transanty to carriers after y par. a, p. 464, "a Federal control at the its principal source urban passenger trafdeals with the Labor erurban, or suburban meral steam railroad

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the United States, which undertook to sell it, deposit the proceeds in the Treasury to the credit of those Indians, pay interest in specified ways, to them and on their behalf and ultimately divide the principal among the Indians then entitled. *Held*, that one of the Indians has no standing to maintain a class suit to restrain executive officials from alleged excess of their powerin disposing of the funds and interest, since the trust is the obligation of the United States, and the right of the Indians imerely to have the United States administer it properly. P. 480.

3. Courts have no power under such circumstances to interiorwith the performance of the functions committed to an executivdepartment of the Government, by a suit to which the United States is not, and cannot be made, a party. *Id*.

4. A mandatory injunction is granted, not as a matter of right, but in the exercise of a sound legal discretion. P. 490.
53 App. D. C. 331; 290 Fed. 306, affirmed.

APPEAL from a decree of the Court of Appeals of the District of Columbia, affirming a decree of the Supreme Court of the District which granted a motion to dismiss appellant's amended bill for an injunction.

Mr. Webster Ballinger, with whom Mr. Edward L. Rogers and Mr. Frank D. Beaulieu were on the brief, for appellants.

Mr. Harry L. Underwood, Special Assistant to the Attorney General, with whom Mr. Solicitor General Beck and Mr. Assistant Attorney General Wells were on the brief, for appellees.

MR. JUSTICE BRANDEIS delivered the opinion of the Court.

By the Act of January 14, 1889, c. 24, 25 Stat. 642, and agreements made pursuant thereto approved by the President March 4, 1890, the Chippewa Indians of Minnesota ceded to the United States their title to all lands constituting their reservations in that State, except a

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and vitally affect interests of the United States. It is therefore, an indispensable party to this suit.⁴ It was not joined as defendant. Nor could it have been, as Congress has not consented that it be sued.⁵ The bill, so far as it complains of acts done pursuant to the later legislation, was properly dismissed for this reason, among others.

Second. The three grounds of complaint which rest upon charges that the defendants, acting under color of authority granted by the Act of 1889, have inflicted and threaten injury by the exercise of powers not conferred. have this in common. Each complaint involves the charge that the officials have erred either in construing or in applying that act and the agreements approved March 4, 1890. The Court of Appeals held all of these charges to be unfounded. We need not consider the correctness of the rulings. Nor need we consider whether the errors complained of were decisions by a head of an executive department of the Government of the character not subject to judicial review.⁶ The bill was properly dismissed, so far as concerns these three charges, because the plaintiff is not in a position to litigate in this proceeding the legality of the acts complained of.

The case at bar is unlike those in which relief by injunction has been granted against the head of an executive department, or other officer, of the Government to enjoin an official act on the ground that it was not within the authority conferred, or that it was an improper exercise of such authority, or that Congress lacked the power to confer the authority exercised. In those cases the act

[•]Naganab v. Hitchcock, 202 U. S. 473; Louisiana v. Garfield, 211 U. S. 70; New Mexico v. Lane, 243 U. S. 52. Compare Goldberg v. Daniels, 231 U. S. 218; Wells v. Roper, 246 U. S. 335, 337; Lambert Run Coal Co. v. Baltimore & Ohio R. R. Co., 258 U. S. 377, 383.

⁵ Turner v. United States, 248 U. S. 354, 359; United States v. Babcock, 250 U. S. 328, 331. Compare Minnesota v. Hitchcock, 185 U. S. 373.

^e Ness v. Fisher, 223 U. S. 683.

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na v. Garfield, 211 mpare Goldberg v. 335, 337; Lambert U. S. 377, 383. United States v. v. Hitchcock, 185 complained of either involved an invasion or denial of a definite right of the plaintiff," or it operated to cast a cloud upon his property.⁸ In some of those cases the defendant would have been liable individually in trespass_ unless he could justify under authority conferred.⁹ Morrison and the other Chippewas have no right of that character. The lands ceded are the property of the United States. It has, confessedly, power to dispose of them. It assumed the obligation of doing this properly, of accounting for the principal of the trust fund to be created thereby, and of disbursing properly the interest accruing. Each of these three grounds of complaint involves, in essence, either the charge of failure to pay into the Treasury to the credit of the Chippewas money which should be credited to them or the making of a payment from the accruing interest for a purpose not authorized. If through officials of the United States these lands, or the proceeds

^{*} American School of Magnetic Healing v. McAnnulty, 187 U. S. 94; Santa Fe Pac. R. R. Co. v. Lane, 244 U. S. 492; Waite v. Macy, 246 U. S. 606; Hammer v. Dagenhart, 247 U. S. 251; First National Bank of Canton v. Williams, 252 U. S. 504; Fort Smith & Western R. R. Co. v. Mills, 253 U. S. 206; Street v. Lincoln Safe Deposit Co., 254 U. S. 88; Tedrow v. Lewis & Son Dry Goods Co., 255 U. S. 98; Kennington v. Palmer, 255 U. S. 100; Kinnane v. Detroit Creamery Co., 255 U. S. 102; Weed & Co. v. Lockwood, 255 U. S. 104; Willard & Co. v. Palmer, 255 U. S. 106; International Ry. Co. v. Davidson, 257 U. S. 506; Hill v. Wallace, 259 U. S. 44; Lipke v. Lederer, 259 U. S. 557; Regal Drug Co. v. Wardell, 260 U. S. 386; Chastleton Corp. v. Sinclair, 264 U. S. 543.

⁸ Noble v. Union River Logging R. R. Co., 147 U. S. 165; Lane v. Watts, 234 U. S. 525; Payne v. Central Pac. Ry. Co., 255 U. S. 228; Payne v. New Mexico, 255 U. S. 367; Santa Fe Pac. R. R. Co. v. Fall, 259 U. S. 197; Baldwin Co. v. Robertson, 265 U. S. 168.

Noble v. Union River Logging R. R. Co., 147 U. S. 165; Street v. Lincoln Safe Deposit Co., 254 U. S. 88; Lipke v. Lederer, 259 U. S. 557; Regal Drug Co. v. Wardell, 260 U. S. 386. Compare Philadelphia Co. v. Stimson, 223 U. S. 605, 620; Greenleaf Lumber Co. v. Garrison, 237 U. S. 251; Cunningham v. Macon & Brunswick R. R. Co., 109 U. S. 446, 452.

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thereof, or the accruing interest, are improperly disposed of, it is the United States, not the officials, which is underobligation to account to the Indians therefor. In other words, the right of the Indians is merely to have the United States administer properly the trust assumed. It resembles the general right of every citizen to have the Government administered according to law and the public moneys properly applied.¹⁰ Courts have no power, under the circumstances here presented, to interfere with the performance of the functions committed to an executive department of the Government by a suit to which the United States is not, and cannot be made, a party.¹¹

Third. A mandatory injunction is sought to compet the Secretary of the Interior to permit the Red Lake Indians to receive allotments from the Red Lake Reservation, under § 2 of the General Allotment Act of February 8, 1887, c. 119, 24 Stat. 388. The plaintiff does not claim to be entitled to an allotment of any of this land. He is not a Red Lake Indian. He is not seeking to enforce the right of any Red Lake Indian to an allotment. Morrison's interest is an indirect one. His complaint appears to be this:

Approximately 700,000 acres of land were reserved to satisfy claims for allotment to the Red Lake Indians. Under the agreements approved by the President these allotments were to be made as soon as practicable after

¹⁰ Fairchild v. Hughes, 258 U. S. 126; Massachusetts v. Mellon. 262 U. S. 447, 486. Compare Louisiana v. McAdoo, 234 U. S. 627. ¹¹Among the 59 cases passed upon by this Court in which a suit to enjoin an officer of the United States was entertained but relief was denied, there are two—Quick Bear v. Leupp, 210 U. S. 50, and Lane v. Morrison, 246 U. S. 214—in which the plaintiff appears to have had only the same character of interest as is claimed by the plaintiff in the present case. In these cases, relief was denied on the ground that the action complained of was within the scope of the authority conferred, the question of the plaintiff's right to litigate the matter not having been raised.

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The Institute for Government Research is an association of citizens for coöperating with public officials in the scientific study of government with a view to promoting efficiency and economy in its operations and advancing the science of administration. It aims to bring into existence such information and materials as will aid in the formation of public opinion and will assist officials, particularly those of the national government, in their efforts to put the public administration upon a more efficient basis.

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INSTITUTE FOR GOVERNMENT RESEARCH.

STUDIES IN ADMINISTRATION

THE PROBLEM OF INDIAN **ADMINISTRATION**

Report of a Survey made at the request of Honorable Hubert Work, Secretary of the Interior, and submitted to him, February 21, 1928

SURVEY STAFF

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Although the Indian owners of the property should elect representatives to the board of directors of the corporation, the majority of the board, at least for a good many years after the inception of the experiment, should be composed of representatives of the government, operating under acts of Congress and regulations made in accordance therewith by the Secretary of the Interior and the Commissioner of Indian Affairs. White purchasers of shares from Indians would naturally secure the voting rights of the shares. Gradually the government might withdraw if development of the Indians warranted such a course. Such an arrangement would give the Indians training and experience in the management of property which they much need under conditions that would prevent them from going far astray and would permit selected especially competent ones to have the opportunity to try using their interest in the tribal wealth for their own economic advancement. It would give them a voice in the management of their property.

This suggestion that the corporate form of organization be given mature consideration results in part from the study made by several members of the survey staff at the Quinaielt Reservation in Washington, where under a court decision the unfortunate practice was followed of allotting timber lands to individual Indians. The Indian Office resisted the allotments of these timber lands, and it was only after a decision by the United States Supreme Court compelling such allotments that the present practice was pursued.⁴

[•] Section 331 of Title 25 of the Code of Laws of the United States provides for allotments of Indian lands when the president is of the opinion that a "reservation or any part, may be advantageously utilized for agricultural purposes."

In the suit of a member of the Quileute tribe of Indians, the United States Supreme Court in United States v. Payne, 264 U. S. 446 (1924), held, however, that the terms of the original treaty between the United States and the Quinaielt, Quileute, and affiliated tribes entitled the members of those tribes to allotments even of lands chiefly valuable for timber, and that the general allotment act should not be construed as preventing allotments of such lands.

The objections to this practice of allotting timber land, as seen at Quinaielt, may be summarized briefly as follows:

I. It is practically impossible to make a fair and equitable distribution of timber land among the Indians on an acreage basis At Quinaielt the Indians first allotted were given land classified as agricultural, which had little or no timber value. Later allottees got land classified as timber land, but the value of the timber varied from a few dollars to many thousands of dollars. If timber land is to be allotted the basis must be the quantity and value of the timber, not the surface area of the land.

2. The salability of the timber on the Indian's allotment depends on the location of the allotment. That timber which is in the immediate path of the logging company's operations must be sold at once and brings a fair price as established by open competitive bids. That which is remote from present logging operations will bring a mere fraction of its prospective value because it may be years before it is reached in logging and it is divided into units too small for its immediate use by anyone. The Indian himself can hardly log it because of the difficulty, if not the impossibility, of getting his logs to a market. The only recourse of the old Indian who needs funds for his immediate support or of the young Indian who wants money for his education or for getting established in business, is to let his allotment go for the little it will bring. Indians declared competent have sold timber allotments for a mere fraction of what the government a little later secured for comparable abutting allotments sold in economically workable units under competitive bids.

3. The fact that the timber in an economically workable unit covers many different allotments vastly complicates the supervision of logging operations and the accounting. When the timber lying along allotment lines is cut it must be branded to show from which allotment it came and it must be credited to the proper allotment in the scale book and carried through the accounts so that eventually its value is included in the account of the proper Indian in the individual Indian money ledger. To appreciate what this means one must scramble after the brander at the corner where four allotments meet and then follow the entries through from the allottee's scale book to the individual Indian money ledger.

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4. The cut-over land in the Quinaielt Reservation has little if any economic value at present. From the standpoint of national economy the best use to which it can be now put is to permit it to go back to forest. In order to let it go back to forest fire must be kept out of it. The individual Indian owner of a small allotment has no funds to do this and no interest in doing it, for he will scarcely live to see it again covered with even the smallest size merchantable timber. He does not live on the cut-over land; nobody does. For miles and miles it is a wilderness of old stumps, and unfortunately fires often sweep through, killing all new growth. It would be far better if it were owned in great areas either nationally or privately, so that someone would have an economic interest in keeping fire out of it and protecting the new growth.

5. The net effect at Quinaielt is that the Indians come into possession of timber money in the order in which their allotments are reached by the logging companies, unless they sacrifice their holdings at a fraction of their value. After the timber is gone their allotments have little value. They are poor for a while, then momentarily rich, and often finally poor again. Such an arrangement does not solve the human problem.

Quinaielt is an extreme example of an erroneous application of the principle of allotment. It is an excellent illustration of the general dangers. In many places the principle has been followed where it leaves the Indian with land which he cannot utilize because its area is too small to be economically workable. The only course open to him is to rent it to somebody, usually a white man, who has resources to rent many allotments combining them to make a sufficient territory to be of some economic use. The corporate form of ownership, it is believed, affords the possibility of overcoming some of these difficulties. If experiments with it should prove successful at places like Klamath and Menominee, further experiments might be tried in getting Indians to exchange their grazing allotments, which they never personally use, for shares in a corporation that would consolidate these small allotments into large economic units capable of being used or rented or sold without all the present difficulties incident to the past division of land into areas too small to be usable.

Need of More Lands. For many years the government has pursued a policy of purchasing and opening to white settlement the so-called "surplus lands" of Indian reservations. This practice has proceeded so far that at present few tribes have more lands than they require. In the future unallotted lands should generally be reserved to the Indians themselves. The needs of most tribes must slowly but surely increase if they are to maintain themselves in the presence of white civilization, and if any case exists where there is not immediate necessity for all the lands now reserved to a group such need is likely to exist in the near future.

Several reservations are not at present large enough to support the population owning them. These should be enlarged if possible. Especially should some plan be formulated at once to solve the land problem of the Navajos. These Indians are now utilizing their range almost if not quite to the limit of its capacity for the sheep and other livestock which constitute their chief economic resource. Several thousand of them are living as trespassers on the public domain or on small allotments inadequate for their support. Their reservations should be enlarged right away so that the economic development of these industrious people may go on.

Railroad Land Grants. Certain reservations in the Southwest include within their boundaries large areas of railroad lands given as construction grants, in alternate sections. This checker-board arrangement creates an impossible situation so far as working out permanent future policies is concerned. In the past the railroads have allowed the Indians to use these lands for grazing, but with the insistence of some of the states that taxes must be paid upon this property, such use clearly will not be permitted indefinitely. Prompt action should be taken to remedy the situation, since neither the Indians nor the railroads can derive any considerable benefit from it without the consent and coöperation of the other owner. The Indians fear that railroad ownership of alternate sections may be converted to ownership of half the land in a solid block, thereby leaving to them a reservation only half as large as the area they are using, or that if the railroad land is purchased for them the cost may be made reimbursable against the tribe.

The Indians are clearly right in objecting to either of these solutions of this problem. The railroad land included within the boundaries should either be purchased outright by the government and given to the Indians, or the railroads should be given in ex-

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2. The Indian Service should take all possible steps to safeguard the rights of the Indians in the irrigation and power projects on the Flathead Reservation. The power development there will be of far greater economic importance than the irrigation project, and the question is: To whom do the power rights belong? The Indians and their friends cite substantial evidence to show that the power rights are the property of the Indians. White settlers on the irrigation project are anxious to secure the returns from the power to pay their irrigation charges and to yield them a profit. This question should be promptly settled in the courts; and until it is settled the Indian Service should regard itself as the guardian and attorney for the Indians, leaving no stone unturned to further and protect to the utmost the right of the Indians. If a decision adverse to the Indians is to be rendered, it should come from the court of last resort and not through any administrative action by officers of the executive branch of the government.

3. The reservoir impounding water for the use of the Zuni Indians has silted up to such a degree that their water supply is threatened. Unless something is done promptly to remedy this condition, the land of these Indians now under cultivation may be left without sufficient water. Many of these Indians are making excellent use of their irrigated lands, and they should not be set back by failure on the part of the government to maintain a proper reservoir. At Zuni consideration should also be given to the more permanent development of smaller projects away from the main village. At the time of the visit of the survey staff an earthen dam had just given way, freeing all the impounded water upon which several Indians were dependent for their year's agriculture. From the social and economic point of view it is apparently highly desirable to develop smaller projects away from the main village.

4. The development of water for livestock and household use by drilling wells, excavating springs, and building reservoirs throughout the Pueblo, Navajo, Hopi, and Papago reservations has been one of the finest and most constructive pieces of work done by the Indian Service in recent years. This work should be continued and larger appropriations made for it. Valuable work remains to be done in the Navajo country, and it is estimated that the Papago Reservation can be made to support nearly twice as many cattle and sheep by increased water development.

5. Attention should be given to the problem of irrigating the Uncompany Flats of Uintah and Ouray. The Indians here complain that the government has not kept promises made to them as to watering these lands.

6. In general, new projects should be constructed only after careful consideration of costs and a definite determination that they are economically sound for Indians who can hardly be expected at the present time to make as efficient use of land and water as whites.

7. In some cases adjustments should be made of construction and operation and maintenance charges and authority secured to write them off in cases where it is clear that the Indians can never pay them.

This adjustment should be done with considerable liberality, even to the extent of cancelling large sums which the Indian nominally owes, if the evidence shows that the project was an engineering blunder or that the decline in agriculture has rendered the land incapable of paying such charges. The psychological effect of heavy indebtedness against his land is very bad for the Indian. He becomes discouraged in the matter of improving his farm, since he feels that he may eventually lose it, together with all improvements. 8. The question of water rights should be made the subject of careful investigation, and reservation officers charged with the administration of projects used by both Indians and whites should be given the duty of seeing that the Indians secure their rightful share of water. In Nevada the legal cases to establish the rights of the Indians should be pressed to the utmost until they have been carried to the court of last resort.

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Few Indians in Forestry Werk. The number of Indians engaged in work with timber is surprisingly small. Except at Menominee, Wisconsin, where the Indian Service does the logging and operates the lumber mill, Indians were rarely found either working in the lumber camps or at the mills: The tendency in both logging and milling has been toward the increased use of power and machinery and a decrease in the number of workers. The requirement now is for a relatively small number of highly skilled workers who are regular in attendance and reliable. One mill manager interviewed, who runs an enormous plant operating entirely on timber purchased from the Indian reservation, did not think of a single Indian at present on his pay roll. He said that there was no race prejudice against Indians, but that they were not sufficiently regular in attendance to meet the requirements of a modern high power mill and that their irregularity prevented them from gaining the skill required for the better paying jobs.

Menominee Mills. At the Menominee Reservation Indians are employed both in the camps and in the mill. One got the impression that the Indians there were doing more work and prospering more than was the case on other reservations, and for this situation the policy of employing Indians in the timber and mill operation was apparently largely responsible. Interviews with the white officers on this reservation brought out the opinion that the policy of employing Indians increased the cost of production, that if a private commercial company had charge of the operations they could reduce labor costs by employing a smaller force made up almost entirely of white men. The tendency is to give the Indian who applies for work a job, whether he is actually needed at the moment or not, because the welfare of the Indians is placed ahead of the immediate interests of the balance sheet. At times Indians have occupied some of the more responsible positions requiring skill and experience although it may be doubted whether they could have held these positions in a commercial mill where they would have been in direct competition with the whites. Despite this policy

of preferring Indians, the available statistics indicate that the operations are carried on at a profit."

The survey staff has not made a detailed examination of the accounts of the Menominee operations, but it is of the opinion that even if the profits are not what they might be with a white staff, the undertaking is well worth while because of the training and the economic opportunities it affords the Indians. It is not only a commercial enterprise, it is also educational. The superintendent at the time of the survey visit showed a keen appreciation of the social side of his task.

The Establishment of Other Government Mills. The question of establishing other government mills should be given careful consideration. Small sawmills on reservations remote from market and with comparatively small and unimportant forest resources offer considerable promise. Such mills are a valuable aid in providing lumber for better homes and outbuildings for the Indians and in furnishing them opportunity for productive employment. They should not be constructed where they come into competition with larger, more economical, units operated by private enterprises. if the government is to charge the Indians using lumber with its cost. At Klamath the Indians complained that when the little government mill was running, the lumber from it cost more than lumber from private mills. No small mill could possibly compete with the modern highly efficient big private mill operated there with all the economies of large scale production. The question of the establishment of small mills calls for careful investigation and planning by competent technical experts connected with the proposed Division of Planning and Development.

¹⁰ A curious situation was encountered at Menominee. The superintenden has adopted the policy of having the slash cut up for cord wood. This word is piled by the tracks in the woods where it is cut, and when it is sold, gener ally in the larger cities of the section, it is loaded on the cars and sent $\frac{1}{2}$ freight to its destination. The workers are paid by the cord. They live with their families in shack camps back in the heart of the woods. They are no Indians but mountain whites from Kentucky. The Indians apparently do no care for this type of work. At the time of the visit by the survey staff, all this work was done with hand tools. The question naturally arises whethe small power saws operated by portable gas engines would be more efficien. A social investigator, too, is inclined to raise a question as to what schese facilities are available for these white children back in the woods, but th survey staff did not take the time to go into this subject.

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Menominee Mills. At the Menominee Reservation Indians are employed both in the camps and in the mill. One got the impression that the Indians there were doing more work and prospering more than was the case on other reservations, and for this situation the policy of employing Indians in the timber and mill operation was apparently largely responsible. Interviews with the white officers on this reservation brought out the opinion that the policy of employing Indians increased the cost of production, that if a private commercial company had charge of the operations they could reduce labor costs by employing a smaller force made up almost entirely of white men. The tendency is to give the Indian who applies for work a job, whether he is actually needed at the moment or not, because the welfare of the Indians is placed ahead of the immediate interests of the balance sheet. At times Indians have occupied some of the more responsible positions requiring skill and experience although it may be doubted whether they could have held these positions in a commercial mill where they would have been in direct competition with the whites. Despite this policy

of preferring Indians, the available statistics indicate that the operations are carried on at a profit."

The survey staff has not made a detailed examination of the accounts of the Menominee operations, but it is of the opinion that even if the profits are not what they might be with a white staff, the undertaking is well worth while because of the training and the economic opportunities it affords the Indians. It is not only a commercial enterprise, it is also educational. The superintendent at the time of the survey visit showed a keen appreciation of the social side of his task.

The Establishment of Other Government Mills. The question of establishing other government mills should be given careful consideration. Small sawmills on reservations remote from market and with comparatively small and unimportant forest resources offer considerable promise. Such mills are a valuable aid in providing lumber for better homes and outbuildings for the Indians and in furnishing them opportunity for productive employment. They should not be constructed where they come into competition with larger, more economical, units operated by private enterprises. if the government is to charge the Indians using lumber with its cost. At Klamath the Indians complained that when the little government mill was running, the lumber from it cost more than lumber from private mills. No small mill could possibly compete with the modern highly efficient big private mill operated there with all the economies of large scale production. The question of the establishment of small mills calls for careful investigation and planning by competent technical experts connected with the proposed Division of Planning and Development.

"A curious situation was encountered at Menominee. The superintendent has adopted the policy of having the slash cut up for cord wood. This wood is piled by the tracks in the woods where it is cut, and when it is sold, generally in the larger cities of the section, it is loaded on the cars and sent by freight to its destination. The workers are paid by the cord. They live with their families in shack camps back in the heart of the woods. They are no Indians but mountain whites from Kentucky. The Indians apparently do no care for this type of work. At the time of the visit by the survey staff, at this work was done with hand tools. The question naturally arises whether small power saws operated by portable gas engines would be more efficient A social investigator, too, is inclined to raise a question as to what scheo facilities are available for these white children back in the woods, but th survey staff did not take the time to go into this subject.

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A Fair Price for Timber and Forest Production. Where Indians own individually forest areas every opportunity should be given them to cut and market their own logs, timber, and firewood. Aid should be extended to them in selling their forest products at a fair price.

In eastern Oklahoma the Indian Service should if possible extend greater protection to the Indians to see that they get a fair price for their timber and to protect them from option contracts that tie up their lands and prevent their development. The question of the fair value of a stand of timber is a technical one, requiring expert determination. The Indians have little or no real knowledge of its actual value, and in many cases they have sold it for a fraction of its worth, just as they have the land itself.

Protection Against Forest Fires. The matter of more adequately protecting Indian forests from fires is now receiving careful consideration from the Indian Service and the Bureau of the Budget apparently is prepared to recommend larger appropriations for this purpose. Some of the states and some private companies have been of the opinion that the Indian forests in the past have not been adequately protected.

The work of forest protection appears to be of a type for which Indians are particularly adapted. The Indian Service, through the recommended Division of Planning and Development, should give special study to the possibility of giving Indian boys from reservations where there is considerable timber land special training for work of this character. This training should fit them either for positions in the Indian Service or for positions with other governmental agencies, national or state, or with private companies. Indian boys who show particular promise in this preliminary training should be encouraged to go on with their education and to fit themselves for the more technical branches of forestry.

Personnel of Indian Forest Service. The survey staff wishes to record its impression that the Indian Service has many excellent men in its forest service. Their decision to practice selective logging on several of the jurisdictions seems specially worthy of commendation, especially because the land is at present of little value except for timber raising. The salaries of these able employees is comparatively low and consequently the turnover is high. Salary standardization is needed here as it is in other branches of the Service.

Labor Problems in the Indian Service. Next to some form of agriculture, unskilled labor is the more important occupation among Indians. This fact, it will be recalled, was brought out by the table on page 489, showing the occupations of Indian fathers as reported by Indian school children. Probably 15 to 18 per cent of the children have fathers in no way engaged in agriculture. Of these a large proportion are unskilled laborers.

In many parts of the Indian country are Indians who were never given land or who have lost their lands through being declared competent prematurely or for other reasons. Many of them have no resources but their labor, and they are rarely trained to do any special kind of work. Some of them cut wood, raise gardens, hunt fish, gather wild products, serve as guides, and do other miscel laneous things to eke out an existence. Others are almost wholl dependent on wage earning in non-agricultural pursuits. As ex amples of the wage earners may be cited, the landless Indians o California and Nevada, many Chippewas of Minnesota, and nu merous members of the Five Civilized Tribes in Oklahoma. Man Indians of the Southwestern desert reservations also depend fo a large part of their living upon wage earning.

The Policy of the Government Regarding Unskilled Labor. The relatively large number of Indians in casual labor or in other job essentially unskilled reflects in some measure the attempts of gov ernment employees to meet the difficult problem of helping the Indians to make a living on their own lands. In some localities where the conditions of life are very hard and the returns for farming meager and uncertain, the Indians have been encourage to abandon their little farms and to leave the reservation to becom wage earners in various industries and labor projects.

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THE INSTITUTE FOR GOVERNMENT RESEARCH Washington, D. C.

The Institute for Government Research is an association of citizens for coöperating with public officials in the scientific study of government with a view to promoting efficiency and economy in its operations and advancing the science of administration. It aims to bring into existence such information and materials as will aid in the formation of public opinion and will assist officials, particularly those of the national government, in their efforts to put the public administration upon a more efficient basis.

To this end, it seeks by the thoroughgoing study and examination of the best administrative practice, public and private, American and foreign, to formulate those principles which lie at the basis of all sound administration, and to determine their proper adaptation to the specific needs of our public administration.

The accomplishment of specific reforms the Institute recognizes to be the task of those who are charged with the responsibility of legislation and administration; but it seeks to assist, by scientific study and research, in laying a solid foundation of information and experience upon which such reforms may be successfully built.

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INSTITUTE FOR GOVERNMENT RESEARCH,

STUDIES IN ADMINISTRATION

THE PROBLEM OF INDIAN ADMINISTRATION

Report of a Survey made at the request of Honorable Hubert Work, Secretary of the Interior, and submitted to him, February 21, 1928

SURVEY STAFF

Lewis Meriam Technical Director Ray A. Brown Henry Roe Cloud Edward Everett Dale Emma Duke Herbert R. Edwards Fayette Avery McKenzie Mary Louise Mark W. Carson Ryan, Jr. William J. Spillman



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shares to get the necessary funds. The shares of the old and feeble might be sold to provide them with necessities. The shares would be far more liquid assets than any allotment of land. They could be more minutely divided and could be sold or pledged without the formalities incident to transactions involving real property.

Although the Indian owners of the property should elect representatives to the board of directors of the corporation, the majority of the board, at least for a good many years after the inception of the experiment, should be composed of representatives of the government, operating under acts of Congress and regulations made in accordance therewith by the Secretary of the Interior and the Commissioner of Indian Affairs. White purchasers of shares from Indians would naturally secure the voting rights of the shares. Gradually the government might withdraw if development of the Indians warranted such a course. Such an arrangement would give the Indians training and experience in the management of property which they much need under conditions that would prevent them from going far astray and would permit selected especially competent ones to have the opportunity to try using their interest in the tribal wealth for their own economic advancement. It would give them a voice in the management of their property.

This suggestion that the corporate form of organization be given mature consideration results in part from the study made by several members of the survey staff at the Quinaielt Reservation in Washington, where under a court decision the unfortunate practice was followed of allotting timber lands to individual Indians. The Indian Office resisted the allotments of these timber lands, and it was only after a decision by the United States Supreme Court compelling such allotments that the present practice was pursued.^{*} The objections to this practice of allotting timber land, as seen at Quinaielt, may be summarized briefly as follows:

I. It is practically impossible to make a fair and equitable distribution of timber land among the Indians on an acreage basis. At Quinaielt the Indians first allotted were given land classified as agricultural, which had little or no timber value. Later allottees got land classified as timber land, but the value of the timber varied from a few dollars to many thousands of dollars. If timber land is to be allotted the basis must be the quantity and value of the timber, not the surface area of the land.

2. The salability of the timber on the Indian's allotment depends on the location of the allotment. That timber which is in the immediate path of the logging company's operations must be sold at once and brings a fair price as established by open competitive bids. That which is remote from present logging operations will bring a mere fraction of its prospective value because it may be years before it is reached in logging and it is divided into units too small for its immediate use by anyone. The Indian himself can hardly log it because of the difficulty, if not the impossibility, of getting his logs to a market. The only recourse of the old Indian who needs funds for his immediate support or of the young Indian who wants money for his education or for getting established in business, is to let his allotment go for the little it will bring. Indians declared competent have sold timber allotments for a mere fraction of what the government a little later secured for comparable abutting allotments sold in economically workable units under competitive bids.

3. The fact that the timber in an economically workable unit covers many different allotments vastly complicates the supervision of logging operations and the accounting. When the timber lying along allotment lines is cut it must be branded to show from which allotment it came and it must be credited to the proper allotment in the scale book and carried through the accounts so that eventually its value is included in the account of the proper Indian in the individual Indian money ledger. To appreciate what this means one must scramble after the brander at the corner where four allotments meet and then follow the entries through from the allottee's scale book to the individual Indian money ledger.

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^a Section 331 of Title 25 of the Code of Laws of the United States provides for allotments of Indian lands when the president is of the opinion that a "reservation or any part, may be advantageously utilized for agricultural purposes."

In the suit of a member of the Quileute tribe of Indians, the United States Supreme Court in United States v. Payne, 264 U. S. 446 (1924), held, however, that the terms of the original treaty between the United States and the Quinaielt, Quileute, and affiliated tribes entitled the members of those tribes to allotments even of lands chiefly valuable for timber, and that the general allotment act should not be construed as preventing allotments of such lands.

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4. The cut-over land in the Quinaielt Reservation has little if any economic value at present. From the standpoint of national economy the best use to which it can be now put is to permit it to go back to forest. In order to let it go back to forest fire must be kept out of it. The individual Indian owner of a small allotment has no funds to do this and no interest in doing it, for he will scarcely live to see it again covered with even the smallest size merchantable timber. He does not live on the cut-over land; nobody does. For miles and miles it is a wilderness of old stumps, and unfortunately fires often sweep through, killing all new growth. It would be far better if it were owned in great areas either nationally or privately, so that someone would have an economic interest in keeping fire out of it and protecting the new growth.

5. The net effect at Quinaielt is that the Indians come into possession of timber money in the order in which their allotments are reached by the logging companies, unless they sacrifice their holdings at a fraction of their value. After the timber is gone their allotments have little value. They are poor for a while, then momentarily rich, and often finally poor again. Such an arrangement does not solve the human problem.

Quinaielt is an extreme example of an erroneous application of the principle of allotment. It is an excellent illustration of the general dangers. In many places the principle has been followed where it leaves the Indian with land which he cannot utilize because its area is too small to be economically workable. The only course open to him is to rent it to somebody, usually a white man, who has resources to rent many allotments combining them to make a sufficient territory to be of some economic use. The corporate form of ownership, it is believed, affords the possibility of overcoming some of these difficulties. If experiments with it should prove successful at places like Klamath and Menominee, further experiments might be tried in getting Indians to exchange their grazing allotments, which they never personally use, for shares in a corporation that would consolidate these small allotments into large economic units capable of being used or rented or sold without all the present difficulties incident to the past division of land into areas too small to be usable.

Need of More Lands. For many years the government has pursued a policy of purchasing and opening to white settlement the so-called "surplus lands" of Indian reservations. This practice has proceeded so far that at present few tribes have more lands than they require. In the future unallotted lands should generally be reserved to the Indians themselves. The needs of most tribes must slowly but surely increase if they are to maintain themselves in the presence of white civilization, and if any case exists where there is not immediate necessity for all the lands now reserved to a group such need is likely to exist in the near future.

Several reservations are not at present large enough to support the population owning them. These should be enlarged if possible. Especially should some plan be formulated at once to solve the land problem of the Navajos. These Indians are now utilizing their range almost if not quite to the limit of its capacity for the sheep and other livestock which constitute their chief economic resource. Several thousand of them are living as trespassers on the public domain or on small allotments inadequate for their support. Their reservations should be enlarged right away so that the economic development of these industrious people may go on.

Railroad Land Grants. Certain reservations in the Southwest include within their boundaries large areas of railroad lands given as construction grants, in alternate sections. This checker-board arrangement creates an impossible situation so far as working out permanent future policies is concerned. In the past the railroads have allowed the Indians to use these lands for grazing, but with the insistence of some of the states that taxes must be paid upon this property, such use clearly will not be permitted indefinitely. Prompt action should be taken to remedy the situation, since neither the Indians nor the railroads can derive any considerable benefit from it without the consent and coöperation of the other owner. The Indians fear that railroad ownership of alternate sections may be converted to ownership of half the land in a solid block, thereby leaving to them a reservation only half as large as the area they are using, or that if the railroad land is purchased for them the cost may be made reimbursable against the tribe.

The Indians are clearly right in objecting to either of these solutions of this problem. The railroad land included within the boundaries should either be purchased outright by the government and given to the Indians, or the railroads should be given in ex-

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exceed the value which the structure adds to their land. If the diversion dam is in fact an engineering mistake, the Indians who had no part in planning it, should not be asked to bear the expense except insofar as they are directly and clearly benefited by what has actually been done.

2. The Indian Service should take all possible steps to safeguard the rights of the Indians in the irrigation and power projects on the Flathead Reservation. The power development there will be of far greater economic importance than the irrigation project, and the question is: To whom do the power rights belong? The Indians and their friends cite substantial evidence to show that the power rights are the property of the Indians. White settlers on the irrigation project are anxious to secure the returns from the power to pay their irrigation charges and to yield them a profit. This question should be promptly settled in the courts; and until it is settled the Indian Service should regard itself as the guardian and attorney for the Indians, leaving no stone unturned to further and protect to the utmost the right of the Indians. If a decision adverse to the Indians is to be rendered, it should come from the court of last resort and not through any administrative action by officers of the executive branch of the government.

3. The reservoir impounding water for the use of the Zuni Indians has silted up to such a degree that their water supply is threatened. Unless something is done promptly to remedy this condition, the land of these Indians now under cultivation may be left without sufficient water. Many of these Indians are making excellent use of their irrigated lands, and they should not be set back by failure on the part of the government to maintain a proper reservoir. At Zuni consideration should also be given to the more permanent development of smaller projects away from the main village. At the time of the visit of the survey staff an earthen dam had just given way, freeing all the impounded water upon which several Indians were dependent for their year's agriculture. From the social and economic point of view it is apparently highly desirable to develop smaller projects away from the main village.

4. The development of water for livestock and household use by drilling wells, excavating springs, and building reservoirs throughout the Pueblo, Navajo, Hopi, and Papago reservations has been one of the finest and most constructive pieces of work done by the Indian Service in recent years. This work should be continued and larger appropriations made for it. Valuable work remains to be done in the Navajo country, and it is estimated that the Papago Reservation can be made to support nearly twice as many cattle and sheep by increased water development.

5. Attention should be given to the problem of irrigating the Uncompany Flats of Uintah and Ouray. The Indians here complain that the government has not kept promises made to them as to watering these lands.

6. In general, new projects should be constructed only after careful consideration of costs and a definite determination that they are economically sound for Indians who can hardly be expected at the present time to make as efficient use of land and water as whites.

7. In some cases adjustments should be made of construction and operation and maintenance charges and authority secured to write them off in cases where it is clear that the Indians can never pay them.

This adjustment should be done with considerable liberality, even to the extent of cancelling large sums which the Indian nominally owes, if the evidence shows that the project was an engineering blunder or that the decline in agriculture has rendered the land incapable of paying such charges. The psychological effect of heavy indebtedness against his land is very bad for the Indian. He becomes discouraged in the matter of improving his farm, since he feels that he may eventually lose it, together with all improvements. 8. The question of water rights should be made the subject of careful investigation, and reservation officers charged with the administration of projects used by both Indians and whites should be given the duty of seeing that the Indians secure their rightful share of water. In Nevada the legal cases to establish the rights of the Indians should be pressed to the utmost until they have been carried to the court of last resort.

Forestry. In the discussion of Indian property, both tribal and individual, considerable space was given to the subject of timber lands." The difficulties resulting from the allotment of timber land at Quinaielt, Washington, were described. The problem of individualizing the holdings of the Klamath and Menominee Indians

* See pages 462 to 466.

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The survey staff has not made a detailed examination of the accounts of the Menominee operations, but it is of the opinion that even if the profits are not what they might be with a white staff, the undertaking is well worth while because of the training and the economic opportunities it affords the Indians. It is not only a commercial enterprise, it is also educational. The superintendent at the time of the survey visit showed a keen appreciation of the social side of his task.

The Establishment of Other Government Mills. The question of establishing other government mills should be given careful consideration. Small sawmills on reservations remote from market and with comparatively small and unimportant forest resources offer considerable promise. Such mills are a valuable aid in providing lumber for better homes and outbuildings for the Indians and in furnishing them opportunity for productive employment. They should not be constructed where they come into competition with larger, more economical, units operated by private enterprises. if the government is to charge the Indians using lumber with its cost. At Klamath the Indians complained that when the little government mill was running, the lumber from it cost more than lumber from private mills. No small mill could possibly compete with the modern highly efficient big private mill operated there with all the economies of large scale production. The question of the establishment of small mills calls for careful investigation_and planning by competent technical experts connected with the proposed Division of Planning and Development.

"A curious situation was encountered at Menominee. The superintendent has adopted the policy of having the slash cut up for cord wood. This wood is piled by the tracks in the woods where it is cut, and when it is sold, generally in the larger cities of the section, it is loaded on the cars and sent by freight to its destination. The workers are paid by the cord. They live with their families in shack camps back in the heart of the woods. They are not Indians but mountain whites from Kentucky. The Indians apparently do not care for this type of work. At the time of the visit by the survey staff, all this work was done with hand tools. The question naturally arises whether small power saws operated by portable gas engines would be more efficient. A social investigator, too, is inclined to raise a question as to what school facilities are available for these white children back in the woods, but the survey staff did not take the time to go into this subject.

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A Fair Price for Timber and Forest Production. Where Indians own individually forest areas every opportunity should be given them to cut and market their own logs, timber, and firewood. Aid should be extended to them in selling their forest products at a fair price.

In eastern Oklahoma the Indian Service should if possible extend greater protection to the Indians to see that they get a fair price for their timber and to protect them from option contracts that tie up their lands and prevent their development. The question of the fair value of a stand of timber is a technical one, requiring expert determination. The Indians have little or no real knowledge of its actual value, and in many cases they have sold it for a fraction of its worth, just as they have the land itself.

Protection Against Forest Fires. The matter of more adequately protecting Indian forests from fires is now receiving careful consideration from the Indian Service and the Bureau of the Budget apparently is prepared to recommend larger appropriations for this purpose. Some of the states and some private companies have been of the opinion that the Indian forests in the past have not been adequately protected.

The work of forest protection appears to be of a type for which Indians are particularly adapted. The Indian Service, through the recommended Division of Planning and Development, should give special study to the possibility of giving Indian boys from reservations where there is considerable timber land special training for work of this character. This training should fit them either for positions in the Indian Service or for positions with other governmental agencies, national or state, or with private companies. Indian boys who show particular promise in this preliminary training should be encouraged to go on with their education and to fit themselves for the more technical branches of forestry.

Personnel of Indian Forest Service. The survey staff wishes to record its impression that the Indian Service has many excellent men in its forest service. Their decision to practice selective logging on several of the jurisdictions seems specially worthy of commendation, especially because the land is at present of little value except for timber raising. The salaries of these able employees is comparatively low and consequently the turnover is high. Salary standardization is needed here as it is in other branches of the Service.

Labor Problems in the Indian Service. Next to some form of agriculture, unskilled labor is the more important occupation among Indians. This fact, it will be recalled, was brought out by the table on page 489, showing the occupations of Indian fathers as reported by Indian school children. Probably 15 to 18 per cent of the children have fathers in no way engaged in agriculture. Of these a large proportion are unskilled laborers.

In many parts of the Indian country are Indians who were never given land or who have lost their lands through being declared competent prematurely or for other reasons. Many of them have no resources but their labor, and they are rarely trained to do any special kind of work. Some of them cut wood, raise gardens, hunt, fish, gather wild products, serve as guides, and do other miscellaneous things to eke out an existence. Others are almost wholly dependent on wage earning in non-agricultural pursuits. As examples of the wage earners may be cited, the landless Indians of California and Nevada, many Chippewas of Minnesota, and numerous members of the Five Civilized Tribes in Oklahoma. Many Indians of the Southwestern desert reservations also depend for a large part of their living upon wage earning.

The Policy of the Government Regarding Unskilled Labor. The relatively large number of Indians in casual labor or in other jobs essentially unskilled reflects in some measure the attempts of government employees to meet the difficult problem of helping the Indians to make a living on their own lands. In some localities where the conditions of life are very hard and the returns for farming meager and uncertain, the Indians have been encouraged to abandon their little farms and to leave the reservation to become wage earners in various industries and labor projects.

This practice should not be condemned hastily. The employees responsible for the policy see the Indians facing uncertain futures on the reservations. They see that successful farming or grazing operations depend upon an availability of water supply, in many cases not yet realized and perhaps never to be realized by their wards. They know that the market for agricultural products is uncertain at best and that Indian farmers must realize something

THE INSTITUTE FOR GOVERNMENT RESEARCH Washington, D. C.

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STUDIES IN ADMINISTRATION

THE PROBLEM OF INDIAN ADMINISTRATION

Report of a Survey made at the request of Honorable Hubert Work, Secretary of the Interior, and submitted to him, February 21, 1928

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By J. P. Kinney

Forestry Branch, U. S. Indian Service

Subsequent to receiving a request from Mr. Zon that I present to the Society an outline of the forestry work being done in the Indian Service, I drew from its quiet resting place in my library. No. 31 of Volume X of the *Forestry Quarterly* and read again an article entitled "Forestry on Indian Reservations" that I prepared in July, 1912. It is astonishing how thoroughly one can forget in ten years, and I was really surprised when T found the last paragraph of that article to read as follows:

"And, now when every Indian shall have received an allotment, what is to be done with the surplus timberland? This question can be answered only by the Congress of the United States. On about a score of reservations in the western States there are large areas of tim'erland which will not be needed for allotment and which are not ada; tell to agriculture. These timberlands include high mountain slopes, as et. the Flathead and Warm Springs Reservations, volcanic ash land which is not subject to irrigation and is wholly unfit for agriculture, as used the Klamath Reservation, or natural forest soil, as on the Quinaielt These areas should unquestionably Le maintained as forest lands. The regulations approved June 29, 1911, and the general forms of contract adopted earlier in the same year, make provision for the conservative cutting of timber from all areas of this character. Although the ult: mate status of these lands is yet undetermined, the writer is considerthat the forest cover will be maintained whether the lands shall continue to be held as Indian tribal property or be acquired by the United States for National Forest purposes."

These words brought back to my mind the hours of serious thought that I gave in 1910 and 1911 to the question of the status of Indiantimberlands, and to the problem of the administration of these lands in such manner as to fully maintain their value as national resources with out impairing the private property interests of the owners and without interfering with the very important task of developing habits of industry and economic independence among the Indians. A close study of the

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experiment that had been made in 1908 and 1909 of having the forestry work on Indian Reservations conducted by the Forest Service of the Department of Agriculture, convinced me that this plan was impracticable. I reached the conclusion that unless, or until, arrangements should be made by which the Federal Government should take over timberlands not needed by the Indians for agricultural or grazing purposes and pay the Indians therefor, such timberlands should be administered by the Department that had charge of all other interests of the Indians; that there could be no efficient administration with responsibility divided between two Departments. Eventually the Executive orders of March 2, 1909, by which an effort was made to place extensive areas of Indian timberland in the National Forest status, were revoked and the Indian Service resumed the full administration of Indian timber resources. It was not long after such revocation that the article from which I have quoted above was written.

We are today not much nearer the final determination of the status of Indian timberlands than we were in 1912. On one reservation only has the forested area been given a legal status as an "Indian Forest" by Act of Congress. This was done on the Red Lake Reservation by act of May 18, 1916 (39 Stat., 123, 131). On the other hand, all suggestions that the large areas of non-agricultural forest lands on various reservations be opened to unregulated exploitation have been successfully opposed except in the case of the Choctaw-Chickasaw timberlands in eastern Oklahoma. As the United States had no legal interest in these lands and the Congress was unwilling to appropriate the amount necessary to purchase them, the Indian Service was unable to prevent their sale, notwithstanding a strong conviction on the part of myself and others in the Service that the public interest would be served by the maintenance of a National Forest upon this very rough and non-agricultural area.

The general regulations for the administration of Indian Forest land, approved June 29, 1911, under authority of the act of June 25, 1910 (36 Stat., 855, 857), have been superseded by the regulations approved February 5, 1918, but in the preparation of the revision I kept constantly in mind the view that the Indian not only has property rights to protect but also has social and moral responsibilities as to the manner in which his property is used, and has the same interest in the future welfare of his county, State and Nation as has his white neighbor.

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During nearly twelve years' service in the Indian Burean, 1 have always found the Commissioners of Indian Affairs sympathetic with any plan for the conservation of timber resources and ready to enter τ any regulation for the protection of the public interest, provided it -3° not unfairly limit the legitimate private interests of the Indian owners. The Department has consistently supported the Indian Service in the efforts to enforce conservative humbering on all forest lands. On λ with 10, 1920, the Assistant Secretary of the Interior approved regulations to govern logging operations under all contracts for the purchase ϵ_1 Indian timber that I believe represent as great progress as has been made in this phase of American forestry practice.

Within the first five years after the establishment of the forestry work as a separate unit in the Indian Service, in February, 1910, very embarrassing situations under old timber contracts on the Bad River. Grand Portage, Lac Courte Oreille, Lac du Flambeau, and Menominer Reservations were cleared up, new contracts made and prices of stumpage increased. Sales of timber were also effected under the Leech Lake, Red Lake, and White Earth jurisdictions in Minnesota, and the first sales were made on the Jicarilla, Klamath, and Tulalip Reservations. The sales on the Jicarilla and the Tulalip Reservations estallished record prices for those localities and the small sales on the Klamath were significant as precursors of the development of an extensive industrial enterprise on that reservation.

An unfortunate combination of circumstances, the details of which may not with propriety be recited on this occasion, seriously impeded the development of an improved organization of fire protection, timber sales administration, and cruising work on Indian lands prior to July 1, 1914.

Almost at the beginning of the fiscal year 1915 preparations were begun for the cruising of the Menominee Reservation and the gathering of data for a contour map. This work was followed by systemativaluation surveys on the Eastern Cherokee, Quinaielt, Flathead, Rel Lake, Spokane, and Siletz Reservations. The work was interrupted in 1918 and 1919 by the war, but was resumed in 1920, and the greater part of the Klamath Reservation has been covered during the past twyears. Only the Menominee and Quinaielt Reservations have been entirely covered.

These surveys contemplate the making of a fairly accurate estimate of the timber on each forty-acre tract, the acquisition of reliable information as to the character of soil on each forty and the gathering of thata for an accurate contour map of each reservation examined. The trip system is used, two strips, each two chains wide being run through Fach forty, except where the stand of timber is both light and uniform and the surface practically level, where a single strip two chains wide may be run. Base lines are first run two miles apart and the stations Atwo for each forty) marked, and all elevations carefully recorded. The cruise strips are then run through the forties at right angles to the base lines from station to station. Box compasses with two and onehalf needles are found satisfactory and distance are determined by a two-chain steel tape. Differences in elevation along cruise strips are determined by a six-inch Abney hand level graduated to read differences in per cent of slope. The topographic compassmen do not attempt to draw accurate contour lines in the field but aim to represent the surface accurately by form lines and the location of the contours is determined by the draftsmen from the Abney readings as corrected by the transit station elevations. The timber estimates thus obtained are sufficiently accurate for all sales in which the amount actually cut is the basis for payment, and the contour maps are as accurate as will ever be needed for forest administration in the localities that they cover.

Since 1915 extensive general sales of timber have been made on the Bad River, Colville, Coeur d'Alene, Flathead, Fort Apache, Jicarilla, Klamath, Mackinae, Mescalero, Nett Lake, Nez Perce, Lac Courte Oreille, Quinaielt, Red Lake, Spokane, and Tulalip, and many small sales on other reservations or on public land allotments have been made. During the five years 1916 to 1920, inclusive, nearly fifty general timber sales involving approximately three and one-half billion of stumpage have been effected and the amount of timber actually cut has been over one billion six hundred million feet. The income from timber sales on lands administered by the Indian Service has averaged more than one and one-half million dollars annually during the last ten years. It is interesting to note that the total income from timber sales on all National Forests for the fiscal year 1920 was about the same as the total value of the timber removed from lands under the jurisdiction of the Indian Service during the same fiscal year.

From this it will be seen that the forestry activities of the Indian Service are somewhat extensive. However, the facts above presented afford an incomplete picture of the work done. The administration of individual and collective allotment sales involves a large amount of

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detail and consideration of the peculiar circumstances surrounding the individual. Those engaged in the direction of forestry work must consider the general purpose of the Congress and the plans of the Department and the Indian Office for the advancement of the Indian. With out yielding ground as to the essential principles of theory and practice the Forestry Branch of the Indian Service has pursued the ideal of conciliatory cooperation with other branches of the Indian Service. The such policy little has been lost and much gained. Very sub-class progress has been made and the future can be faced with confidence

Within the past two years there has been a revival of the ideal to the intertained in the Department of Agriculture nearly twenty years and that the forests on Indian Reservations should be administered in Forest Service. The proposition has appeared in several bills of the forest Service. The proposition has appeared in several bills of the fit of the Congress. It appears that these bills have been prepared by the laboration with the Forest Service, and House Bill No. 120, 61th Chargress. Ist Session, known as the Suell Bill, has received the total endorsement of that Service. An explanation of the purposes of the bill so far as it affects Indian lands was contained in an article in Mr. E. A. Sherman in the April (1921) issue of the Journa V. FORESTRY, entitled, "A Plan for the Disposal of Indian Reserves. Timberlands,"

Section 9 of the Snell Bill withholds from entry, appropriates : allotment (except as to mineral entry) all lands within Indian Research tions that may be classified by the Secretary of Agriculture (obvicus) through the instrumentality of the Forest Service) as "valuable cliff for the production of timber or protection of watersheds." By Section 10 of this bill the National Forest Reservation Commission "directed to recommend to the President the incorporation in Nut-Forests of any lands classified as valuable chiefly for the product a timber or protection of watersheds and withdrawn from entry at the preceding section, which, in the judgment of said Commission is adapted for National Forest purposes. Said Commission is institution authorized to determine the value of any lands so withdrawn which at the property of Indian tribes,"

The effect of these two sections would be to place the determination of the price to be paid to the Indians for their legal or equitable rights in reservation timberlands almost solely in the discretion of the Ferret Service in the Department of Agriculture, which is charged by the 192 with the duty of making the only examination, classification, and appraisal for which an appropriation is provided. The only direct official representative that the Indian owners of this property-worth possibly fixty millions of dollars-have in this proposed transaction is the Secretary of the Interior, who is one of the seven members of the National Forest Reservation Commission; but he is not provided with the means of ascertaining the value of the property to be taken from the Indians. Theoretically the other six members of the Commission, all responsible public officials, would approve no valuation that was not entirely fair to the Indians; but practically these officials would in all probability have even a weaker basis for a judgment than would the Secretary of the Interior. It might be difficult for representatives of the Forest Service to place themselves in the role of disinterested appraisers. It would be far more difficult to convince the Indians that a just appraisal thus made was in fact a fair one. The bill contemplates a sort of condemnation proceeding in which there is an opportunity for the suggestion that the appraisal is to be made by a party having an interest in the subject matter of the appraisal.

Unless my observations of the mental processes of the Indian and of his characteristic attitude toward communal property have been exceedingly superficial and faulty the taking over by the United States of this vast property without agreement with the Indians as to the price to be paid would arouse a storm of protest that would be followed by an interminable re-presentation of a claim of unjust treatment. And, conceding for the present that such a procedure might be sustained in the courts, at least as to many reservations, is this course in keeping with the spirit of our institutions and in the long run will the public conscience approve a course that smacks somewhat of star-chamber methods? The author of the provisions in the bill, that I am informed Mr. Snell introduced by request, regarding the valuation and expropriation of Indian timberlands did not, I believe, have the proper legal perspective as to Indian lands. These lands are private property, held in sacred trust by the United States for the benefit of the Indians. If trust property is to pass into the hands of the trustee, the circumstances of the transfer should be such as to repel any suggestion of a breach of trust.

In discussing the question of adequate compensation to the Indians for the property taken for National Forest purposes, Mr. Sherman ventured the remark that honesty of purpose in recognition of the equities

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of the Indians probably was "not a rare attribute peculiar to some cre Bureau alone." This subtle sarcasm was evidently directed toward the Bureau with which I have the honor of being officially connected. Survey ficially considered the suggestion of the competency of the Force Service to assume the role of guardian of the interests of the Inda. may seem incontrovertible. But careful consideration will, I isless, reveal the weakness of such a position. Gentlemen, there is such a thing as habit of thought. "How use doth breed a habit in a max." Foresters are trained to a certain habit of thought. I do not done a It is a great possession. Yet he would be a hold man who would deta that this most praiseworthy habit may impose limitations on ever capacity to perceive promptly all phases of a complex question. The Indian problem is a complex one-one of the most perplexing the with which our National Government has to deal. There are much problems connected with the educational, social, and industrial units of this race yet unsolved. The administration of their property inteests is inseparably intertwined with the other phases of Indian admin istration. That Congress should direct that millions of acres of land 's taken from the reservations without consideration of the grazing and other interests of the Indians seems to some of us a debatable question Any view that the only interest involved is a public interest is error.e.s. Any assumption that the representatives of a Bureau whose function has been for years, and now is, the administration of public timber 2013. is as well qualified to interpret the desires and determine the needs the Indians as the Bureau that has been in intimate touch will the Indian problem for seventy years is open to attack. Does the man that has normally thought in terms of science put on easily the clock of the literary critic? Does he that has habitually trained his mind in the theories of one political school, easily assimilate the fundamental cepts and convictions of the opposing party? Purity of purpose is to t the only test of proficiency.

I am not a veteran in the Indian Service, yet I have personally ker at of several instances in which officials of the Forest Service have to hibited either a non-sympathetic attitude or a lack of capacity to use stand the viewpoint of the Indian. This is not remarkable. These merare trained in the care of public lands. There seems an almost detercable disposition on the part of representatives of the Forest Service consider unallotted Indian lands as public lands. The highest land authority announced many years ago that the title to Indian unallotted ands was held by the United States, burdened only by the right of reupancy by the Indians; but subsequent legislation and executive and adicial interpretation have recognized something more than a mere with of occupancy and have considered tribal lands as Indian property and in trust by the United States. I do not believe that we shall return in the earlier viewpoint.

If the latter view be the proper one, should not the Government defortment standing in closest relation to the Indian decide what lands renceded by them and what lands may well be sold? If large approriations are to be made for a classification of Indian lands, should they at be accredited to the Interior Department and the classification made at due regard to the requirements of the Indians for agricultural and mazing lands and from the viewpoint of an owner of private property the is contemplating the advisability of disposing of the part of the property that he will not actually need for domiciliary or industrial rurposes? I feel that the Federal Government may very properly sist that it should have the preference right to purchase any forest ands that are to be sold by the Indians and that after Indian lands are assified, the Forest Service should determine whether certain lands that are not needed by the Indians should be acquired as National Forests. Full information as to the basis of classification and the charatter of the land offered would then be available for the consideration of the Forest Service.

I am of the opinion that Indian lands bearing a heavy stand of merthantable timber, even though they be non-agricultural in character, would remain under the jurisdiction of the Indian Bureau until the mature timber is marketed and that the transfer of the interest of the indians on the basis of an appraisal, as contemplated by the Snell Bill, would almost certainly mean the receipt by the Indian owners of a uuch smaller return than would be obtained through a continuation of the present policy of selling the mature timber on scale. My views on the whole question have changed little since 1912, except that longer issociation with the Indian problem has convinced me that the comrection of allotments to the Indians on a reservation often does not study the economic needs of the group as to land ownership.

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FORESTRY ON INDIAN RESERVATIONS.

By J. P. KINNEY

Three centuries have passed since the adventurous Cavaliers at Jamestown and the conscience-pressed Puritans at Plymouth boldly began the work of making America a white man's country. At that time the forests of the United States formed a practically unbroken cover along the Atlantic coast from the St. Croix River to the river St. Johns, and westward to an irregular line far beyond the mighty Father of Waters, spread a verdant blanket over both slopes of the Rocky Mountains, and along the Pacific coast attained a magnificence unequalled in the whole world. These forests, extending over an area of more than one-half billion acres, all belonged by right of possession to the red man.

• What has the Indian to-day?

The latest statistics gathered by the Indian Service show that there are in the United States approximately 300,000 Indians holding about 72,000,000 acres of land, more than three-fourths of which was never forest land within historic times. Of these 72,000,000 acres over 40,000,000 have been allotted; the remainder is held in common by the various tribes.

Nearly 170,000 allotments have been made varying from 40 acres to 320 acres each, or even more, according to the character of the land and the special legislation passed for the allotment of particular tribes. Somewhat less than one-half of these allotted lands is held under trust patents, with the fee in the United States. The work of assigning individual allotments of land to Indians has been in progress for more than twenty years. During the fiscal year ending June 30, 1911, nearly 14,000 allotments, embracing over 2,000,000 acres, were made in the field. There are 120,000 Indians who have not yet received allotments.

By implication the General Allotment Act of 1887, known as the Dawes Act, did not include timberland. However, upon reservations where there was an insufficiency of agricultural land to supply all members of the tribe with allotments, where the better agricultural land was covered with timber, where practically all the lands were forested or where the allotment was made

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under special acts, timberlands have been allotted. There can be no question but that because of the cupidity of the Indians and mistaken ideas on the part of allotting agents, timbered allotments have in many instances been assigned where lands better adapted to agriculture were available.

There are no satisfactory statistics in regard to the extent and value of Indian timberlands. From such information as the writer has been able to acquire, the conclusion is reached that the amount of allotted timberlands is about 1,500,000 acres, and the amount of unallotted approximately 6,500,000 acres. The amount of timber on allotted lands may be given at 5,000,000,000 board feet, with a value of \$12,000,000, and that upon unallotted lands as 36,000,000,000 board feet with a value of \$72,000,000,

Comparatively small amounts of timber have been cut from reservations in the Rocky Mountain and Pacific States, but lumbering on reservations in the Lake States has been in progress for thirty years. From the Bad River Reservation in northern Wisconsin alone nearly 1,000,000,000 board feet have been cut since 1893.

The question which will naturally arise in the mind of the reader will be "Is the lumbering on Indian lands conservative or destructive?" The question should be fairly met. The greater part of the lumbering which has been done on Indian reservations in the Lake States has not been conservative in the sense in which this term is generally used in forestry literature. However, during the last eight or ten years it has been conservative in the sense that very little has been wasted. Everything merchantable has been cut and paid for. This method has, of course, not been conducive to a reproduction of forest crops. The criticism which has been passed upon this system has arisen, undoubtedly, from an entire misunderstanding of conditions.

Practically all of the land within Indian reservations in Wisconsin and Minnesota, except on the Menominee and the Red Lake reservations, has been allotted. The majority of these allotments are still held under trust patents or patents with restrictions on alienation. Nevertheless, these allotments are individual property. The area of these allotments varies from 40 to 160 acres. An individual Indian cannot be expected to practice forestry upon its allotment. To any one having the slightest ac-

quaintance with the character and mental make-up of the Indian, it should be at once apparent that co-operative management of allotments as forest lands is impracticable. Many of these allotments are held by old men and women who have never adapted themselves to the habits of the white. Hundreds of them live face to face with destitution. The only means that the Indian Service has through which to keep these unfortunate people from starvation is to derive as large a revenue as possible from their timber. Another class consists of young men and women who desire money for educational purposes, for the building of houses, or for the purchase of farming equipment. The Government would not be justified in insisting upon the practice of a highly intensified forest policy under such circumstances. As many of the allotments will be alienated within a few years to whites and be turned into agricultural uses, the State as well as the Indian might suffer a loss through the additional expense involved in a conservative logging and a retardation of clearing and agricultural development. Within the Lac du Flambeau Reservation in Wisconsin there are about 20,000 acres of lands claimed by the State under the swamp lands grant which has not been alloted. This land is quite generally massed in the northern half of the reservation. Unfortunately scattered allotments have been made throughout this area. The writer is of the opinion that arrangements could and should be made under which the State of Wisconsin might be given control of these swamp lands and might purchase most of the scattered allotments within the area mentioned. The individual Indians and the tribe should receive a just compensation for these lands, which lie at the very headwaters of two of Wisconsin's important rivers and are adjacent to the State forest reserves.

Under the Act of March 28, 1908 (35 Stat. L. 51), and the amendment of March 3, 1911 (36 Stat. L. 1076), the Indian Service is conducting logging operations on a large scale on the Menominee Reservation in Wisconsin. A sawmill having a capacity of 40,000,000 feet per annum was built in 1908-09 where the Wisconsin and Northern Railroad crosses the West Branch of the Wolf River. About this mill has grown up the little village called Neopit, in honor of a former Menominee Chief. The Menominee Reservation, perhaps, contains the largest body

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of virgin timber in the State of Wisconsin. White Pine of the quality found on this reservation is now exceptionally rare and the Norway Pine, basswood, birch and oak are equal to any timber in the State. There is also a very heavy stand of good quality hemlock. The total amount of all species is over 1,500,000,000 board feet. In addition to the thoroughly modern sawmill, planing mill and all ordinary accessories, the humbering equipment includes about seven miles of railroad track, two locomotives, forty Russell cars, and two log loaders. Although the operation is conducted under the supervision and control of the Department of the Interior, the mill and all equipment is the property of the Menominee tribe of Indians, and the business is conducted under the name "Menominee Indian Mills."

Prior to 1910 the Indian Service had devoted comparatively little attention to the forests in the Rocky Mountain and Coast States. The Indian reservations in those States were rather inaccessible and the economic development had not reached the point where there was any strong demand for the exploitation of the timber resources of the Indians. It has been often and openly said that fires were very frequent in Indian reservations, were allowed to burn unmolested, and yearly did immense damage. It is undoubtedly true that altogether too many fires have been permitted to burn themselves out on Indian reservations. On the Crow, Blackfeet, Warm Springs, and Klamath reservations the writer has observed the destructive work of fires that could doubtless have been controlled in their incipient stages. However, observation of the evidences of former fires on Indian reservations as compared with those on public lands and National Forests, a careful consideration of the records of the Indian Office, and a knowledge of the character and habits of Indians, leads the writer to the conclusion that the white man has in this matter as in many other matters, heaped upon the Indian a reckless and unjustified criticism. I have no hesitation in saying that, considering his limitations as to intelligence and education, the Indian is far less addicted to the evil of forest burning than the white man.

On January 22, 1908, the Secretary of Agriculture and the Secretary of the Interior entered into a co-operative agreement under which the Forest Service was to undertake the administration of Indian timberlands. On July 17, 1909, this agreement was rendered ineffective through a determination by the new administration in the Department of the Interior that the arrangement was illegal. During the eighteen months that this agreement has been in effect an attempt had been made by the Forest Service to extend its administration so as to cover the work of fire protection and timber utilization on Indian reservations. Little had been accomplished when the action of the Interior Department brought these efforts to an end.

After the abrogation of the co-operative agreement the Indian Office began to take steps toward increasing the efficiency of the forestry work on Indian reservations through its own official force. In February, 1910, the writer entered the Indian Service as Assistant Forester, and undertook the work of organizing the forestry work both in the Office and in the field. It was understood at the time that the writer would have charge of the Office administration while the field work would be under the direct supervision of a Forester in the Indian Service. There was considerable delay in the execution of plans, but with some changes the organization then outlined has been gradually put into operation during the past two years.

This plan contemplates a forester, assistant forester and superintendent of logging, whose duties are those of general inspection and supervision; three men having similar duties within three assigned portions of the United States which may be described as comprising the Southwestern, the Northwestern and the Central States; about a dozen or fifteen forest assistants and lumbermen in charge of the forestry work on the more important timbered reservations under the jurisdiction of the superintendents of the reservations, and a force of about 112 forest guards and rangers under the jurisdiction of the superintendents on about forty reservations having large forest interests. In addition to this force there is available on each reservation a protective and executive force consisting of white farmers, stockmen and others, employed in the Indian Service, and the local Indian police and line riders. It is believed that the efficiency of this force for fire fighting is very satisfactory.

During the spring of 1910 the writer started the work of build-. ing telephone lines for forest protection purposes on Indian reser-

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vations. More than 1,500 miles of telephone line, about 50 cabins, and many miles of fences and trails were constructed during the succeeding 12 months. These means of protection proved of great value during the fire season of 1910 and 1911.

Prior to 1910 no general policy as to dealing with Indian timberlands had ever been formulated. It had been the custom to act upon each individual question as it was presented. So long as nearly all timber questions related to large sales on tribal lands or to group sales from allotments this system could be used without serious difficulty; but it was apparent that as the segregation of individual holdings multiplied the detail connected with sales of timber from allotments and as the settlement of the western States increased the demand for small sales from tribal lands the work connected with the handling of all detail at Washington would be insurmountable. It was for this reason that the writer prepared the general regulations and instructions for officers in charge of forests on Indian reservations, which were approved by the Department of the Interior on June 29, 1911, and issued in a small booklet for general distribution to special forest officers, superintendents, forest guards, farmers and others in the Service.

One of the important innovations of these regulations was the establishment of the rule that individual Indians who are permitted to cut timber from tribal lands for sale must pay a stumpage charge for the benefit of the tribe. Under the conditions obtained in the past the practice of allowing the more progressive Indians a rather free hand in cutting tribal timber for sale may have been excusable as a means of enabling and encouraging Indians to procure a living. The rapid rise of stumpage values and the need of protecting the interests of all the Indians against the desire for gain which civilization is sure to arouse in the more aggressive required that the exploitation of tribal timber be placed upon a business basis as far as practicable.

The regulations require that all cutting shall be done under a permit or a regular contract. A considerable discretion as to small sales is left with the local officials. General instructions as to advertising, making of contracts, marking and scaling, were incorporated in the regulations. The sawnill feature of forestry work in the Indian Service has no counterpart in the forestry work of the United States Department of Agriculture. The

rovernment has need of large quantities of timber at various agencies and schools, for building construction, fencing, irrigation flumes, etc. Lumber is also needed for the construction of houses and barns for Indians. Upon Indian reservations about 30 Government sawmills were operated during the fiscal year 1911. These are all small mills cutting from 2,000 to 20,000 board feet per day of eight or ten hours. They are operated largely by Indian labor and afford a means of industrial training for the Indians in addition to acting as an incentive to the improvement of housing conditions on the reservations. As Indian labor is usually 20 to 40% less efficient than white labor and as these mills must almost of necessity be operated for short day periods, the successful commercial operation of the mills is difficult. In most instances their maintenance must be justified on educational and social grounds rather than economic.

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And, now when every Indian shall have received an allotment, what is to be done with the surplus timberland? This question can be answered only by the Congress of the United States. On about a score of reservations in the western States there are large areas of timberland which will not be needed for allotment and which are not adapted to agriculture. These timberlands include high mountain slopes, as on the Flathead and Warm Springs Reservations, volcanic ash land which is not subject to irrigation and is wholly unfit for agriculture, as upon the Klamath Reservation, or natural forest soil, as on the Quinaielt. These areas should unquestionably be maintained as forest lands. The regulations approved June 29, 1911 and the general forms of contract adopted earlier in the same year, make provision for the conservative cutting of timber from all areas of this character. Although the ultimate status of these lands is yet undetermined, the writer is confident that the forest cover will be maintained whether the lands shall continue to be held as Indian tribal property or be acquired by the United States for National Forest purposes.

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ive forces opposite in direction from qual in momentum to the destructive of the past. The Emergency Conion Work has strikingly shown the latent powers of the Indians for rent and effective coöperative labor. ndians have in the past century uinously wrought upon by a faneconomic policy. The solution of lian "problem" now depends prion intelligent, permanent land use, human understanding.

E. C. W. ON INDIAN RESERVATIONS

Journal of Forestry - Vol. 31, No. 2, Feb. 1933

By J. P. KINNEY

HE Act of March 31, 1933, Public No. 5, known as the "Emergency Conservation Act" afforded an unparalleled opportunity for the improvement of forest and range conditions, on lands held in trust by the United States for the benefit of the Indians of various tribes. The forested lands of the Indian reservations have been under conservative administration by foresters for approximately twenty-five years but throughout that period the funds available from federal gratuity appropriations both for protection and administration, aside from those expended for fire suppression, have never exceeded \$225,000 in any one year and have averaged less than \$100,000 annually from the fiscal year 1910, to the fiscal year 1933. From 1910 to 1933 the average amount available annually from such appropriations for physical improvements within the forested areas on Indian lands was less than \$30,000, or less than one half of one cent for each acre of commercial forest land within Indian rcservations. Obviously only by the strictest economy and most diligent efforts 'on the part of the local officials in charge of the Indian forest lands could any improvement in the means of administering and protecting the said forests be effected.

The enactment of the Emergency Conservation Act opened new vistas to those in charge of the Indian forests and inspired them with new hope for an early realization of long-cherished ideals. As soon as the Act was approved by President Roosevelt, the needs of the Indian forest lands were vigorously presented and persistently urged. Since April 15, 1930 the Forestry Branch of the Indian Service has been charged with the duty, under the general direction of the Commissioner of Indian Affairs; of administering the non-forested grazing lands on Indian reservations amounting to approximately 35,000,000 acres. Two of the greatest needs of these range lands had long been recognized as a lack of sufficient and well distributed watering-places for stock and the prevention of farther erosion and the rehabilitation of lands already greatly injured by erosion.

The plans formulated in April, 1933 for the expenditure of funds that it was hoped would be made available under the Act of March 31, 1933 gave exceptional prominence to erosion control and water development. In fact these phases of the conservation work on Indian lands appeared to demand the assignment of a very large part of any funds that might be received by the Indian Service to projects that were undoubtedly considered of a rather incidental importance when the Conservation Act was being formulated and under discussion in the Congress. This situation was due to two facts; first, the great preponderance of grazing lands within Indian reservations. second, the relatively greater need for relief in the form of employment for the Indians who occupied the open plains areas in the Dakotas, Montana, Wyoming and Oklahoma and the vast semi-arid regions in Utah, Nevada, Southern Colorado, Arizona and New Mexico.

The allotment of natural timber lands in Michigan. Minnesota and Wisconsin and the subsequent transfer of title to a large part of these lands to whites and a similar process in Oklahoma made it difficult to find projects in those states that would come within the forest improvement purposes of the Act, i. e., the

development of forest lands in such manner as to redound to the benefit of the public or a substantial group or community. From the first the position was taken that the employment on Indian reservation work should be confined as much as possible to Indians. This requirement tended to restrict the number of men that could be assigned to forested reservations in western states, for these reservations have a relatively small population as compared to the reservations in the Great Plains and in the southwestern district. Thus it happened that over two-thirds of all the work to be done on Indian lands under the Emergency Conservation Act was allocated to Arizona, New Mexico, Montana and South Dakota where range improvement rather than forest development constituted the principal work to be done.

As the work progressed the advisability of this allocation was clearly established. The Indians of the Plains and the Southwest eagerly embraced the opportunity for employment and at nearly every reservation they filled or exceeded the quotas originally assigned. Adverse economic conditions in general and the special distress of the grazing industry, coincident with several years of drought had reduced many Indian families to a condition of destitution. Crop failures in Montana and the Dakotas in 1933, accentuated the conditions that existed when the conservation work was planned in the spring of 1933.

Prior to May 1 the Indian Service had been assured informally that \$5.875,200 would be assigned to the Indian Service for expenditure on Indian reservations but not until June 20 were these funds finally definitely made available for expenditure. While active preparations for the undertaking of the great task were being made through May and June, orders for supplies could not be placed nor definite commitments as to personnel made until the funds were actually available. At a few reservations work was begun early in July but supplies and equipment were not received nor a working organization effected on many reservations until late July or early August. The field forces of the Service threw their whole energy into the work and though there were many reasons for annovance and discouragement, the morale of the men was generally maintained at a high level and enthusiasm overcame the numerous and perplexing difficulties.

At the end of July only 4,500 enrolled men were reported at work in eighteen states. At the end of August the number of enrolled men had risen to 10,372 and at the close of September the number reported was 11,943. This number was substantially below the 14,400 originally authorized but it must be noted that a very large number of teams and pack horses owned by Indians were being hired on the work and the income derived from the use of these animals afforded a direct means of relief to families that had previously been able to find no profitable work for their horses, mules or burros. Reports at the end of September showed nearly 700 miles of truck and horse trail, over 500 miles of telephone line, 200 miles of roadside clearing, 100 miles of boundary survey and marking and 400 miles of range fence completed. By September 30 more than 100 springs and wells had been developed, and over 150 stock-watering reservoirs constructed, many with a water surface of several acres; poisonous or noxious plants had been eradicated from more than 6.000 acres; erosion control has been effected on nearly 30.000 acres; and rodent control work had been done on more than 1,000,000 acres. In addition to these primary accomplishments nearly 100 bridges had been built, 100 barns, sheds and other buildings constructed, miles of livestock driveway cleared, and posted and fire hazard reduced on a substantial acreage-

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Early in November the Indian Service received a further allocation of \$4,000,000 for the continuation of the Emergency Conservation Work until April 30, 1934.

While work in the higher elevations of the western reservations must cease during two to five months of winter, projects have been selected at lower elevations that may be continued through the winter months and in the Lake States and on most of the reservations in the Southwest work will be carried on, with a somewhat reduced force, throughout the winter.

Arrangements have been made for the operation of four or five training camps during January, February and March at which selected Indians will be trained in the elements of forestry practice, erosion control and other range activities with a view to fitting them to assume a higher degree of leadership in such work among their own people.

From the standpoint of conservation of health, self-respect and other social values the Emergency Conservation Work on Indian reservations may be fully justified; but the benefits are by no means fully measured by social values. The physical improvements on Indian lands have added very substantially economic values to the wealth of the nation.

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EDITORIAL

SUSTAINED YIELD AS AN OBJECTIVE

ROUND the subject of "sustained yield" centered much earnest discussion in the recent session of the Forest Conservation Conference on Article X of the Lumber Code. It wellnigh crowded out "forestry" and "conservation." These general terms have served well in the past, but the tendency now is towards a term with more exact meaning. Sustained yield rings the bell.

Conceptions of sustained yield, however, are widely variant. Some appear to see in it a veritable panacea, a quick and certain solution of many of the country's forest ills. They would vote it in at once and settle the vexatious problem of forest conservation. Why worry about particulars or slow-moving methods. This transcendent view is like a glorious sunset,-charming but difficult to analyze and quite impossible to explain to minds that ask for somber details.

Others who find a strong appeal in the idea of sustained forest yield are much inclined to consider it from a regional point of view. They regard the problem of forest conservation and renewal as a regional problem and they would like to see it attacked and solved by regions. In their discussion it is regional sustained yield they have in mind. Among those who hold this view a considerable number appear to feel that this desirable objective may be quite near at hand.

However several exact definitions of sustained yield which were advanced in connection with the conference do not at all reflect the regional viewpoint. On the contrary they are so exact and restrictive as to indicate application strictly to definite, somewhat limited, parcels of forest land. One is as follows:

"The yield or cut of timber from a forest which is managed in such a way as to permit the removal of an approximate equal volume of timber annually or periodically, the volume of timber re-moved being equal to the increment."

This conveys a simple, easily grasped idea. It places sustained yield on a basis where growth and production can be determined with approximate exactness and in due time brought into balance.

These divergent conceptions indicate that however much we may have discussed sustained yield we have not in our thought fully explored its meaning and application. A serious difficulty with the definition just quoted is that it is limited to definite, restricted tracts. We cannot for present purposes think merely in terms of single tracts; we must think in terms of great arcas, of entire forest regions. The definition fails when we try to apply it regionally. Take the West Coast. In that great forest region the Forest Service says saw-timber growth is now less than 10 per cent of the volume

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of the products removed. Can anyone tell us how growth could quickly be boosted tenfold? Can we even picture the possibility of reducing production by 90 per cent? It is quite as idle to think of bringing the two together at some half way point. Sustained yield for the West Coast cannot be thought of except as a possibility of the distant future. The vast reserve of old growth timber must be reduced and the area of cut-over land must be greatly increased. Eventually the curves will meet but how far in the future no one can tell.

Consider another important region-New England, where we meet wholly different conditions and find a different problem. There both in volume and quality the reserve of merchantable timber already has been reduced too low. In New England the gap between growth and production is not wide. It might conceivably be closed within a decade or two, giving sustained yield according to the definition. Would that satisfy us? No. The Secretary of Agriculture has tersely stated why:

"With resources such as forests where the capacity for sustained production has already been reduced below requirements, conservation may also involve the building up of productivity above existing levels."

That is the point; the level of productivity both as to volume and quality of material must be substantially raised in New England before we shall be satisfied with results. This will require good silvicultural practice through years of effort. For New England as for the Pacific Coast, sustained yield on a satisfactory basis is not to be realized at once or in the near future.

If the Lake States and the South be likewise considered it will be found that in those regions also an acceptable balance between forest growth and forest products output cannot soon be attained.

Because regional sustained yield is not

immediately or soon to be realized, shall we reject those expressive words as having no regional application? That does not seem to be necessary. It is desirable, highly desirable, that we clear our minds about the situation. Regional sustained yield may well be set up as a distinct objective towards which we may direct our efforts. Nothing need deter us from laying out our course in that direction. But let us remember that this objective like a distant mountain peak as it comes into view is probably a long way off. Forest surveys, growth determinations, forest plans, on a more comprehensive scale than anything hitherto attempted will be required, because we can get nowhere in this advance without reliable forest data. Guesses will not suffice.

Paralleling this will be the steps to be taken by forest operators,—preservation of young growth, provision for reseeding, true selective cutting having in view both maintaining and improving growing stock, partial cutting of every character,—these are steps on the long road to regional sustained yield.

It is very important to recognize one phase of sustained yield as a present reality. This phase is represented by those individual or corporate operators or timberland owners who already have adopted the policy of removing no more timber from their lands than is replenished by growth. They are fully meeting the technical definition of sustained yield. Some are doing more. They are building up both quantity and quality of growing stock. This concept has won the earnest thought of many timberland owners in the past ten years and the plan is going into effect in a greater number of cases than many foresters appear to realize. It is one of the most hopeful signs of the present forest situation. It is true presenttense sustained yield; something to be recognized, encouraged and aided.

WILLIAM L. HALL.

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BURT P. KIRKLAND and AXEL J. F. BRANDSTROM

Divison of Forest Economics Forest Service

United States Department of Agriculture







The publication of this report has been made possible through a grant of the Charles Lathrop Pack Forestry Foundation

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Coast Logging and Lumber Division and published in a Handbook of Forest Practice (33). (It is recognized that on many forest properties and in many localities these measures will not insure continuous sustained yield.) The Code also pledged the industry to work toward sustained yield as an ultimate objective, sustained yield being defined on page 26 of the above handbook as management of specific forest lands ... to provide without interruption or substantial reduction raw material for industry and community support. It is with the methods that will permit the attainment of the sustained yield objective with immediate profit and with the least possible delay that this study is primarily concerned.

2. Purpose, scope, and general significance of the study.---The purpose of this report is to demonstrate through detailed studies of representative timber areas the wide possibilities that now exist for bringing the timber lands of the Douglas fir region under intensive selective management so that they will provide abundant and continuous supplies of highquality products. It is true that continuous supplies of timber can be obtained under a properly executed clear-cutting system. The methods here proposed, however, should produce a larger proportion of high-grade timber than can ordinarily be obtained with extensive clear cutting of areas managed on a short rotation. Moreover, this end should be attained at the same time that current income from the present forest is increased. Though some of the principles involved are new to Douglas fir forestry, they have been thoroughly tried and developed during the last 50 years in Europe. Notable work along these lines has been done in Switzerland by Biolley (4) and Borel (5), in Sweden by Wallmo (32), and in these and other European countries by numerous foresters whose work could be readily cited. The application of selective cutting, which is part and parcel of intensive management, has been developed in several regions of the United States, notably in the South by Ashe (2) (3), ^{\vee} and in the Lake States by Zon (34).

The arrival of the time for action in this field has been hastened by the remarkable progress of the past decade in motorized and mobile logging machinery adaptable to conditions in the region. The development of trucks, tractors, and road-building and logging technic now makes it feasible and profitable to select timber for cutting in the order of true economic and silvicultural desirability. The first report of this series (7), hereinafter referred to as the "logging cost report", dealt with these mechanical developments' from the standpoint of immediate logging and gave careful comparisons with previously prevailing methods. In the present report, application of these methods to long-term management is considered.

(Anyone familiar with intensive forest management practice knows that it rests, the world over, on permanent road systems, flexible logging methods, and consequent intensive control of the growing stock.) Since the march of events has placed these instruments in our hands, the unique opportunity has now come to the Pacific Northwest to apply intensive management directly to the virgin forests; as a part of that opportunity, as will be demonstrated later in this report, true sustained yield forestry enters into the picture as a matter of course.

Obviously, sustained yield management with its uninterrupted flow of forest raw materials would do away with the annual stumpage depletion charge, which in normal years amounts to more than \$20,000,000 for the region. This loss of the capital resource is nearly double the total tax bill of the industry in the western parts of Oregon and Washington. The depletion charge for the industry as a whole is preventable by the following measures: (1) Proper selection of cutting areas throughout the region; (2) proper selection of trees and groups of trees for cutting; and (3) adequate protection of residual stands and regeneration groups from fire and other injuries.

The methods proposed aim first to open up any given tract as soon as possible by developing an intensive permanent transportation system which will make all operable parts of the area accessible and will make it possible to place the growing stock under intensive selective control. The forest thus will become in effect a warehouse in which trees are stored on the stump awaiting market demands. Justification for early construction of a permanent road system arises in the first place through the urgent necessity of effecting quick removal of the most overmature timber. Justification for continuous maintenance and use of the road system arises through the opportunities that this will afford for market selection, fire control, efficiency in operation, and intensive management of the timber. Cutting is not confined to a small subdivision, as in wholesale clear cutting, but is extended to all parts of the tract.

In old-growth stands the initial cut is usually a liquidation cut of financially mature trees, which includes or may consist entirely of those that are decadent. Following this cut, light return cuts will be made at short intervals. In these, the logging operations sweep back and forth over the entire area, with the constant purpose of removing that portion of the growing stock which at any given time is most urgently in need of removal. This should result in the highest practicable productivity in volume and value from the residual stand and the prompt regeneration of small patches of land where mature groups have been removed.

The keynote of the methods proposed is complete and continuous control of the growing stock. After this control is established, as it necessarily must be for immediate economic and operating reasons, each element of the growing stock, of the forest land area, and of the permanent transportation system should thenceforth be put to its best use. If and where this demands cutting, cutting should take place. If and where it demands deferment of cutting, cultural measures, intensive protection, or what not, these measures should be undertaken. Flexibility, continuous control, and facilities for learning through experience how best to solve all the various management problems that arise are essential. In exercising this control a broad view must be held of the entire property. A decision as to what to do on any portion of a sustained yield unit cannot be reached without considering what needs to be done on all the other portions of the same unit. In other words, the treatment to be accorded to any specific stand or its components must be considered in relation to the needs for corresponding treatment of other stands, and the most urgent situations must be dealt with first.)

Above all, it should be emphasized that this report does not suggest or advocate the introduction of a rigid "system" of management. On the contrary, the methods proposed depend on the utmost flexibility in the approach to the management problems of every individual tract. They constitute a system only in the respect that decisions on where, when, and what to cut will in each case be based on all of the available facts which arise from the infinite variation in economic, physical, and biological conditions within each stand and in different localities. This is in sharp contrast to clear-cutting methods, which ignore these variations.

Relation of the proposed methods to silviculture.—This report is in no sense a treatise on silviculture. Its approach to management problems is purely from the economic viewpoint but necessarily includes full consideration of physical, industrial, and social factors to whatever extent they can be evaluated. Any method of cutting, whatever the reasons behind it, results in a certain silvicultural form of the forest, and in this sense the discussions in several chapters have a bearing on silviculture.

The forests of the Douglas fir region include a large number of species. The majority of these species are shade enduring and form stands of great density. The only definitely light-demanding species is ponderosa pine, which occurs in rather limited areas in the interior valleys and in the southern part of the region. (Douglas fir, which is the predominant) species (comprising approximately 60 per cent of the total volume), also definitely demands open space for regeneration but once established develops into extremely dense stands, both pure and mixed. Its inability to regenerate in the stand is largely due to the invasion by an understory of the more shade-enduring species before the upper crown cover has become sufficiently broken to permit regeneration of Douglas fir.) The wide distribution of Douglas fir is largely due to periodic fires during the past several hundred years. Its future position as the predominant species is no doubt assured by the extensive clear cutting that has already taken place. (Owing to the already wide) distribution of Douglas fir many authorities believe it will be good policy in handling the remaining merchantable stands to encourage where feasible the perpetuation of the mixed forest as better fitted to meet the industrial requirements of the region than a pure Douglas fir forest. The mixed forest is also universally recognized as the safest from insects and disease.)

In the Douglas fir region, using the flexible operating methods that are now available, selection for economic reasons results in removal of trees both singly and in groups. These methods if slightly regularized (as they obviously should be for silvicultural reasons) will lead to a silvicultural system wherein regeneration occurs in small groups while the remainder of the stand is not intentionally under regeneration but is subject to stand management for many successive cutting cycles. In consequence a relatively small number of selected trees will be held to a late felling age.

Long observation in the forests of this region leads the authors to believe that the clear-cut spots will regenerate densely to the desired

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nis region clear-cut e desired mixed-conifer forest. At the age of 40 to 60 years, where pulpwood, post, pole, or saw-log markets permit (and they are already available in much of the region), cutting for stand management purposes in these groups can be begun, using the same roads on which adjacent old timber is continuously being taken out at short intervals. Such early cuttings cannot generally be undertaken in present large areas of young stands because the low-value products cannot stand the cost of forest improvements constructed for their special benefit. Under the proposed methods these improvements are paid for and maintained by the high-quality large timber that is continuously being produced.

In dealing with these problems almost wholly from the economic viewpoint it has not seemed necessary to distinguish the different silvicultural forms of group and individual treeselection cuttings. They have been dealt with, therefore, as resulting always from financial maturity either because the tree itself cannot earn satisfactorily if left standing or because it is more of a detriment to the remaining stand than can be offset by its individual earnings. In the interest of brevity the methods thus conceived as a whole are called in the text "selective timber management".

Finally, it may be emphasized that silvicultural measures are necessarily governed by economic considerations. Until recently, the machinery and transport methods available for handling heavy timber in the Pacific Northwest, necessitated clear cutting on extensive areas, which definitely circumscribed the choice of silvicultural methods. The authors conceive that within the broad economic limits discussed the shackles that have previously bound silviculture in the Douglas fir region have been struck and that the economic cutting practices recommended will permit the continuous development of stands of as near the right density as the silviculturist can prescribe.

It is not expected that everyone will accept the conclusions drawn in this report. To those who dissent as to the intensity with which selection can be or should be practiced in this region it will no doubt be clear, however, that the transportation system created through the initial liquidation of surplus and declining values will facilitate broad-scale clear cutting of any areas so designated as easily as it permits continuance of intensive selective management. The authors will look with open minds upon the application of any silvicultural method which can be supported in any given case by adequate facts. In view of the controversial nature of some aspects of Douglas fir silviculture it must be assumed that many years will elapse before valid conclusions can be drawn on such points as the proper size of clear-cut areas and numerous other questions that may arise from the radical change in management procedure here proposed. Variations in application to individual properties will always be in order.

CHAPTER X

REVIEW AND CONCLUSIONS

65. Résumé of intensive selective timber management as applied to long-time timber supply.—An understanding of the conditions prevailing in the Douglas fir region with respect to the forests, timber values, and markets points the way to selective timber management. In this region there are wide differences in rate of tree growth as influenced by timber type, site quality, and density of stocking; mortality, decay, and risk factors also vary widely. A wide range in stumpage conversion values is characteristic of typical forests of the region. These differences in value arise from differences in timber types, topography, and location, as well as in species, quality, and size of timber (chapters II to V, inclusive). Then, too, market fluctuations which occur from time to time may temporarily upset normal value relations among different species, qualities, and types of timber.

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The rapid evolution of flexible logging equipment and methods (7) that has taken place during the last few years has a significant effect on the possibilities of selective timber management. Crawler tractors, fairlead arches, bulldozers, tractor-mounted drum units, etc., combined where necessary with skyline swinging, constitute practical operating tools for intensive selection by individual trees and by small groups. They offer the flexibility and selectivity that are needed for both long-term selective management and current market selec-They also bring important savings tion. through reduction of timber breakage and, wherever conditions are suitable for their effective use, a substantial reduction of logging costs. Curiously enough, this reduction in costs may often be relatively the greatest in roughcountry areas (chapter IV) even though the new methods in their present state of development may not be directly applicable to all portions.

A large part of the reduction of logging costs is brought about through the striking economy of long-distance tractor roading and in many cases also through substitution of motor roads for railroad spurs. Such a road system differs radically from the old system; including tractor roads, the mileage will be much greater, but both the initial and maintenance costs will be much less—usually less than one-third as much.

Light initial cut will permit quick liquidation of overmature timber.---The advantages of selective timber management are most clearly demonstrable in connection with large, wellstocked properties with a long-time supply of timber. In such a forest the first step, as shown in the examples cited in chapters III, IV, and V, is to start with the best and handiest logging shows for an initial removal of only a small portion of the stand (generally 15 to 25 per cent by volume), partly by individual tree selection and partly by small-group selection (generally 1- to 10-acre areas), according to the character of the stand. The immediate aim is to liquidate quickly the financially most overmature portion of the realizable timber capital. In typical cases the timber taken out in this cut would consist to a large extent of decadent old-growth timber of very high stumpage conversion value, together with outright salvage of merchantable windfalls or other dead and rapidly deteriorating timber. If liquidation of these nonproductive or declining, though generally high-value elements of the stand were long delayed, a serious loss, relatively speaking, would be suffered; mortality, decay, other risks, and above all, discount of long-deferred income work together to make a heavy financial pressure for early liquidation. Prevention of these excessive losses requires rapid extension of the local road system so as to facilitate a light initial cut. The savings effected through this hastened liquidation of only a small portion of the stand will pay for such a road system. Snag felling and other necessary fire protective measures will pay for themselves in the same way.

Permanent road system is key to successful selective management.—The roads thus constructed can and should be charged off against the initial cut, or in any event amortized within a few years after construction. This is an important point to remember. A permanent road system of this kind will give convenient and quick access to all parts of the operating area. It will place the growing stock under complete selective control, and where continuously maintained through constant or relatively frequent use, will constitute as essential a part of an intensively managed forest as do the land and the trees themselves. It is the key to management methods featuring short cutting cycles and light cuts. It is the key to market selection and to effective fire protection. Further than this, in conjunction with a relatively large aggregate of landing space for log storage, it is the key to high operating efficiency, because it will make possible (a) complete separation of yarding from loading, (b) decentralization of yarding into small, independent operating units, and (c) a high degree of specialization in handling timber of widely differing sizes. All of these are prerequisites in the attainment of maximum operating efficiency in logging (γ) .

Closely following the initial cut as it gradually progresses through the tract, the road system will permit light return cuts to be made one after another. A regular cutting cycle of 5 years is indicated in the cases discussed in chapters IV and V, and the cyclic cut on any given area may be further split into two or more cuts as may be desired for various reasons, such as market selection and salvage. The logging operations should sweep back and forth (touching only lightly in some places, not at all in others, and clear cutting small patches here and there) constantly aiming at removing that portion of the growing stock which at any given time is most urgently in need of removal. This means that logging can always be kept closely attuned to the mar-It means that fire-killed, bug-killed, ket. windthrown, or otherwise damaged merchantable timber can be salvaged before serious deterioration sets in, usually in the course of the regular logging operations. It also means that the bulk of the current cut would ordinarily continue to come from the most mature and generally more valuable elements of the stand, from which the market would be supplied with its requirements for high-grade timber. For increased production of the lower grades-to whatever extent profitable market demand might permit-the cut would be centered on the naturally complementary sources of lowgrade material. Such material should preferably be obtained through closer top utilization

of the trees actually cut, and through sanitation cuttings in old-growth stands and improvement cuttings in second-growth stands, in effect it would constitute free surplus stumpage, the removal of which would enhance rather than detract from future returns.

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Selective management will lead to increased growth.—As this program is carried out, the net productivity of the forest, originally in equilibrium, with growth offset by mortality, should gradually increase. Most rapid progress in this direction should be made during the initial cut. Here mortality losses in merchant. able timber will be practically stopped as soon as windfalls and dead or defective old-growth trees are removed and the remaining timber placed under intensive management. Growth on the remaining merchantable timber should thereafter offset a large part of the cut and so extend the life of the timber supply. Further and continued progress should be made as young timber responds to release cuttings, and as new growth comes in to take the place of the slow-growing old timber that has been removed.

Skillful management of new growth is, of course, necessary to the ultimate development of such methods. Highly favorable conditions will be created for the successful regeneration. survival, and management of new growth, because the selective method, unlike extensive clear-cutting will provide an overabundant seed supply, will retain for the most part the forest climate with its naturally moist growing conditions and relative safety from fire, and will provide permanent roads, a permanent logging organization, and intensive fire protection-all as a part of efficient management of the exist. ing merchantable growing stock. High density of stocking, which is the key to full use of the soil for both quality and quantity production will here be within relatively easy reach of skillful management that recognizes the silvicultural requirements of the various species and timber types. In densely stocked patches of second growth, intensive stand management would generally begin with thinnings at the ages of from 40 to 60 years, and this treatment would be repeated at short intervals over a iong period before liquidation-and-regeneration cuttings again took place. The result of this procedure, as described in chapters III through VL should be sustained yield of high-value timber. The growth capacity of the soil would be permanently devoted to trees mainly of merchant. able size, for the pre-merchantable period would be short in relation to the average life span of

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the trees that make up the bulk of the cut. Most of the cut, even after the original oldgrowth trees are gone, would continue to come from large, high-quality trees generally from 100 to 200 years of age; the remainder would be supplied from thinnings in stands from 40 to 100 years old.

Silvicultural and fire protection practices developed and tested on the basis of accumulating experience.--No attempt has been made in this report to set forth the precise measures required for attainment of the best silvicultural and fire protection results. As a matter of fact, since widespread operating experience is still lacking, final judgment cannot be rendered as to how these problems generally should be handled. This is furthermore a problem many of the details of which will have to be worked out on the ground for each individual forest property. From the silvicultural point of view the essential thing to know before hand is that the selective program provides a permanent road system and selective control of the growing stock. Furthermore it provides for group selection (clear cutting) as well as for tree selection. These two forms of cutting can be made complementary to each other to whatever extent regeneration or other requirements may dictate. It is also well to know and to recognize that in initiating selective timber management on any large area of natural forests, the immediate proberm is not how to get regeneration but how to get the growing stock into the most productive condition possible. A good many years will elapse before the initial task of cleaning up stagnant and declining values and placing the growing stock under selective control is completed. In the meantime, the regeneration results obtained from various degrees of tree selection cuttings and various forms of group selection cuttings can be observed and studied for the purpose of determining the future course in this particular respect.

From a fire protection point of view the situation is much the same. The main points in a sound fire protection program is to preserve the forest climate, to maintain a fire resistant stand, and by means of a permanent road system to promptly utilize matured timber and salvage timber killed by fire, insects, and other destructive agencies. Through these measures and through giving time for widely distributed slash to decompose and return to the soil, selective management aims at gradual attrition of the inflammable debris in the forest to the point where fire hazards will be less and fire control more feasible than under existing conditions. The experience of countries where such methods have been used over long terms of years warrant the belief that these expectations are realizable.

Selective sustained yield management gives highest returns.—To summarize, then, intensive selective timber management, applied to wellstocked properties with long-time timber supply to begin with, should bring a relatively high immediate income and at the same time lay a foundation for a relatively high sustained yield The guiding principle in balancing income. plans for immediate income against provision for high future returns is to manage a property for its highest capital value, as determined by discounting a series of deferred annual incomes to their present net worth-a principle that is recognized in all branches of investment management, as for example in life insurance, banking, farming, and real estate. This means that attention should be given not only to current income but also to the capitalized value that remains. It means essentially that liquidation of timber should take place in an orderly manner, while remaining amply flexible for immediate response to changing market demands and prices. In other words, non-earning and low-earning timber should be liquidated in the order of its relative financial maturity, and higher-earning timber should be held until financially mature or until its turn to be liquidated arrives. The constant aim should be to keep the land productive; the logger's ax should work with Nature rather than against her, and guide and speed her productive processes rather than destroy them. The productive capacity of the soil will thus be directed toward sustained production of high-quality timber, the source of a permanent capital value that is now being left undeveloped.

Selective management builds for the future without undue gambling, on the uncertainties of the future. It first of all looks after the present. Many decades will be required to remold the forest to the pattern desired; it will not at first present an orderly or finished picture. But from the very start of selective operations Nature's productive forces, starting with very moderate gains, can be progressively released to work toward the desired ends.

66. Contrast between forestry starting with bare land and selective sustained yield management of existing timber.—Timber growing in this region has been and is still being thought of very largely in terms of conventional "bareland" forestry. In its purest form, this contemplates that the timber-growing enterprise would start with an investment in logged-off lands and a further investment in planting, and thereafter continue for perhaps 60, 80, or 100 years with annual expenses for administration, protection, and taxes. Compound interest, at rates sufficiently high to cover the extraordinary risks that are here involved, will commonly run the total accumulated investment to large amounts. The prospective timber grower, under such circumstances, is confronted with the problem of building up a forest from "scratch." He finds that there are many uncertainties involved as to costs and returns. He logically reasons that he is spending money in the present for uncertain returns in the longdeferred future; that he is tackling a job that will not be finished during his lifetime; that he is attempting to work against the devastating effect which compound interest has on an enterprise in which for many long decades money will constantly be going out with nothing coming in.

Intensive selective management as applied to a forest with a long-time timber supply will create an entirely different basis for the timbergrowing end of the business. Timber growing will begin with orderly selective liquidation and intensive management control of the existing timber, and the forest will be gradually brought to a high state of productivity by eliminating the declining or least productive growing stock and by putting the land to work at its maximum productive capacity. This, as has been shown, may be accomplished very largely by taking money out of the forest, not by putting money into it. Such timber growing "costs" as the owner may find it advisable to assume in order to obtain increased productivity can be charged off currently like any other item of current production costs. This will avoid the stumpage depletion costs that would have to be charged against the annual cut in case the productivity (i.e., the capital value) of the forest were not to be maintained on a permanent basis. The current costs of forest management should seldom amount to more than a very small fraction of such depletion charges.

67. The status of short-term operations.— It is true that there are many existing properties in the Douglas fir region which, considered by themselves, do not qualify for the type of management herein discussed. As a result of the method of disposal of timber from the public domain and of later transfers of ownership, a considerable number of properties have been segregated which cannot stand on their own feet. This does not mean that all or even a majority of such small properties need be excluded from sustained yield management. If a property is large enough to allow a periodic or cyclic cut every 5 to 10 years without undue sacrifice of operating efficiency, it is perfectly feasible to manage it for a sustained yield, though the returns in such cases will not be annual. With modern methods of truck transportation, however, it will frequently be possible for a single operator to combine the yields from several small tracts into a continuous operation, even if they are scattered over a considerable area. toge

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The existence of a large number of enterprises engaged in liquidation of certain areas must not be overlooked, because of their effect on forest management in the Douglas fir region as a whole. If extensive clear cutting were economically the most desirable practice, destruction of these small properties might be inevitable, but it is not. The fact that selective cutting is more economic, with respect both to immediate returns and to preservation of future values, makes complete liquidation undesirable. As matters stand these liquidating operations have preempted to themselves an undue share of market outlets in proportion to the timber held, and they occupy a privileged position in this respect which is preventing the marketing of the legitimate output of sustained yield operations throughout the entire region. It will no doubt take some time to correct these practices, but their damaging effect on industrial welfare, on the communities, and on regional interests generally should receive the earnest attention of all parties concerned.

On first thought it may seem that the most profitable course for short-term operators to follow is to take full advantage of the opportunity to liquidate without regard for the need of other owners to market their timber or for regional interests in general. In reasoning along this line, however, it should not be overlooked that pressure for liquidation is forcing many owners of non-operating timber to attempt disposal of their holdings at whatever price will attract a buyer. This depresses the prices of all timber and logs and severely reduces the capital recoveries from liquidating short-term properties.

An enlightened selective policy by existing operators is needed, designed to supply the market with its full requirements of high-value logs, such as the plywood industry requires. e been r own a ma cluded operty lic cut fice of ible to the the With , howsingle several I, even e area. enter areas effect region re ecoestruc inevit ve cutoth to ion of n undeidating ves an tion to vileged ing the stained region correct fect on and on ive the ed. e most tors to opport he need or for asoning e overforcing to athatever ses the rely reidating

existing ply the h-value equires, together with all the pulp and other low-value logs that forest industries can profitably use, but avoiding dumping excessive quantities of inferior material on an overburdened market. This would soon permit selective cutting of higher value timber and receipt of some income by the less remote non-operated properties. Thus a policy of light selection, first within present operating properties and later within non-operating properties (now available at discounted prices), would become operative in much the same manner as shown in the case of the long-term property discussed in chapter III. Experienced short-term operators by quickly realizing on high-value timber and acquiring interests in non-operated timber would thus become long-term operators holding less valuable portions and elements of their present properties for future operations. In this way the operating experience, equipment, and market outlets of these operators could in natural sequence be applied for the common good of the forest industries and the Douglas fir region. Obviously these measures require the individual operator to realize the identity of his own welfare with that of the regional forest industries as a whole, but accumulating evidence indicates that this point of view is rapidly growing for many reasons in addition to community of interest in the standing timber supply. Without it, not even successful operations rest on a firm foundation, and disbandment of many competent operating organizations will soon occur. If this regional or industry point of view prevails, successful consolidation of operating short-term and non-operating timber properties into sustained yield units can readily take place in a voluntary and wholly natural manner.

Such consolidation of existing short-term units and stoppage of further disintegration of existing sustained yield units are the principal measures required to eliminate destructive liquidation, to bring about sustained yield, and to introduce an orderly economic system of marketing the region's timber resources. If the market outlets are fairly divided among all the management units, public and private, there is no question but that on the one hand there will be sufficient outlets for practically all the sustained yield products, and on the other hand that such markets as have existed in the past will be fully supplied. There are, of course, certain rough, remote units with low-quality timber which are not yet ready for operation. The temporary holding back of such areas will permit those of the present short-term operations that cannot be fitted into the sustained yield picture to complete their present program and then permanently to retire from the scene. As these shortterm operations drop out, the slack in production would be taken up by the more remote units, and in time also by restoration of production on the large areas from which the growing stock has been removed in the past.

68. Restoration of production on areas clear cut in the past.—The growing stock has now been completely removed from approximately 7 million acres of the most accessible and, for the most part, the highest quality timber lands in the Douglas fir region. The result is that the operable timber zone has been pushed back into generally rough areas, remote from the manufacturing centers and principal shipping outlets. This imposes a severe transportationcost handicap on the bulk of the forest materials that will be available to industries for many years to come, in comparison with the raw material costs that would have been posisible had selective timber management been continued, as originally started on the accessible areas, and improved upon as time went on. However, in spite of this handicap, the timber of the Douglas fir region remains as accessible to deep-water shipment as that of any coniferous forest region in the world.

Restoration of the major part of these depleted forest areas that are not fit for other and higher uses must for a long time remain one of the extremely important problems before the forest industries and the communities of the region. At the present time it imposes heavy expenses for fire protection and maintenance of public services in scattered communities and settlements while contributing very little in return. Rehabilitation of the best located of these areas is particularly important in view of the opportunities they offer for integration of forestry and agriculture. Whether brought under intensive management as farm woodlands or as commercial forest units, they are obviously capable of contributing in an important way to the economic well-being of the communities concerned. The forest enterprises themselves will, in turn derive important benefits, such as availability of labor, public roads, local markets, and low costs for public services.

The problem of restoring these areas cannot be stated in terms of going operations, with current outgo and income, but must be con-

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sidered first in terms of restoration of a destroyed capital value. Only after this restoration has been accomplished will continuous operation of forest enterprises actually be possible.

The period over which this restoration will necessarily extend cannot generally be less than a century if high quality material is to be produced. The region possesses industries, however, that can absorb considerable material from young stands as they develop, beginning with ages from 40 to 60 years, for pulpwood, poles, piling, posts, etc. If the young stands are again ruthlessly cut over, as they inevitably would be under the present wholesale clearcutting system, they will continue to produce only the lowest grades of forest products, and will occupy the markets that should be reserved for thinnings and improvement cuttings from better managed forests. If, on the other hand, virtually all owners should adopt a sound system of selective timber management, the yield of high-quality material from these areas can be reestablished. Each owner would then have a reasonable share of the market for the smaller materials removed periodically in thinning his timber stands, and the rebuilding process generally could be counted on to pay its way and yield some profit after the stands are from 40 to 60 years of age. Large areas of young stands are already old enough for selective management to begin.

Continuous supplies of large, high-69. quality timber and concurrent production of lower grades are essential to the forest industries of this region .--- The form of forest management heretofore assumed feasible in the Douglas fir region contemplated the production of relatively small-sized, and generally, from the viewpoint of the lumber industry, lowvalue material. Such a program does not take into account the fact that unless adequate provision is made for continuous production of large-sized, high-quality timber the most profitable industries of the region will not long be able to maintain their existence. The plywood industry, which depends exclusively on highgrade material, is still making remarkable progress and is the support of numerous secondary wood-using industries, such as door and furniture manufacture. The lumber industry itself, which still uses the greater mass of material taken from the forest, also depends to a great degree on its command of a supply of high-grade logs. If the supply were cut off, most of the profitable lumber items, including

high-grade interior finish, flooring, and large timbers, for which there is a world market, would drop out of the picture. It is well known that the returns from these higher grades are the source of virtually all the profit in the industry, many of the other grades being no more than by-products that often sell below the actual cost of production. The high grades pay the primary cost of logging and manufacture, and without them most forest areas could not be operated at all.

If the supply of high-quality timber is allowed to diminish there is no escaping the conclusion that a large proportion of the foreign markets and most of the remote domestic markets will be lost. The lower grades of lumber cannot stand on their own feet for distant shipments. In particular, the large eastern domestic markets for these grades of west coast woods are sure to dwindle, because it has been amply demonstrated that the southern pine region with its 200 million acres of forest lands can produce them at lower cost and with a large freight differential in its favor.

Although the maintenance of supplies of large timber is of the first importance, smaller trees, necessarily removed from the forest in the selective management process, will fit in a much more limited way into a balanced industrial program in the region. Sound and straight trees, varying from post to long piling sizes, are useful in producing very high-value prod. ucts in certain industries, of which the wood. preservation industry is the best known. The smaller trees, although logged and sawn at higher cost than the larger trees, also provide excellent lumber of the common grades. The continued supply of these grades at reasonable costs undoubtedly will have an important bene. ficial influence on the continued demand for finishing lumber, plywood, etc., produced from larger trees. Obviously the local Pacific Coast markets will continue to absorb large quantities of these grades, even though more distant markets may be increasingly supplied from sources nearer to them. Thus, taking all grades of lumber and plywood into consideration, balanced production will be essential if large market outlets are to be continually assured.

Finally, it should be noted that although lumber continues to constitute about half of the wood utilized from American forests, some persons believe that existing trends in utilization indicate that wood fiber products, chieffy pulp and paper, may eventually become the major products of the forest. However, even

if "cellulose forestry" should increase in importance far beyond what is now anticipated, the findings of this study are in no wise invalidated. In this region, large trees can be grown and logged more cheaply per thousand board feet than small trees. Under any conditions yet visualized saw-timber forestry should pay its own way and provide as a by-product all the pulpwood that can be used, whereas pulpwood produced separately will have to bear all forestry costs. Selective management offers the most practicable means of maintaining the ready-grown stand of pulpwood species of proven value; and such management favors these species in regeneration, in contrast to extensive clear cutting, which favors Douglas fir, a species as yet of very limited use in the pulp industry.

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70. Perpetuation of existing resources and investment values is at stake.—The principal problem before the Pacific Northwest is perpetuation of existing forest resources at a high level of continuous productivity. If this is accomplished there is little doubt that the investment values of forests and forest industries also will be maintained. Ample evidence exists that extensive clear cutting as at present practiced will not accomplish this, but that on the contrary it will result in depletion of the resource and loss of most of the capital values dependent thereon.

The methods described herein do not contemplate the making of extensive new investments in the forests, but on the contrary provide for early withdrawal of large but nonproductive investments already made in the existing timber supply. Building up of a new growing stock with adequate representation of diameter classes above 40 inches would be the work of centuries, but carrying on an existing stock in which these diameter classes are already well represented involves only the continual reservation of sufficient medium-sized trees to grow into the place of the large trees

as they are cut. In like manner, the small trees already existing in large numbers will replace the medium trees, premerchantable trees will be recruited into the small-tree class, and abundant regeneration will replenish the premerchantable ranks. All these progressions taking place simultaneously in a forest already well stocked involve no long-time financial commitments and no accumulation of costs or earnings at compound interest. It is only necessary to find for each forest property the most favorable margin or balance of net returns resulting from the relationship between annual costs and annual income. Investment values would thus be based upon capitalization of stable net earnings rather than upon the entirely fictitious idea that all merchantable trees are capable of liquidation in a year or in a few years. If good management can be attained for each individual property in a given locality or within the region, the result should be a continued flow of income to labor and a continued safeguard of all other community interests.

Other values of the forest will be maintained by selective management methods.—Throughout this discussion little consideration has been given to forest values other than for commercial timber production. It is perfectly clear, however, that a management procedure that preserves a heavy growing stock and generally excludes extensive clear-cutting will promote also the aesthetic, protective and other functions of the forest which make it of multiple utility.

A comprehensive view of the forest management problem must include these aspects and work toward a program that will preserve all possible regional values and opportunities. Under this broad policy the economic foundation should be ample to support, without undue burden to any interest, those services of the forest which have come to be indispensable in the modern world.

Official File Copy **Enclosures** Files 90.2.20 DEFENDANT'S EXHIBIT NO. 4-165 Court of Claims Docket No.

INDIANS OF THE QUINAIELT AGENCY, WASHINGTON TERRITORY.

By C. WILLOUGHBY.

The Indians now on the Quinaielt Agency are of the Salishan stock, and consist of the following bands: Ayhut, 36; Chehalis, 5; Hohs, 61: Humptulip, 16; Hoquiano, 16; Montesano, 16; Georgetown, 69; mixed bloods, 3; Quilts, 85; Quinaielts, 107; Satsop, 12. In all there are males, 213; females, 210.

In point of intelligence they do not compare favorably with other tribes of Washington Territory. They are indolent, uncleanly, wanting in ambition, and for the most part unable to understand any enterprise that would benefit them financially. They are not satisfied to look forward to a crop in the fall as a result of sowing in the spring-time. An abandoned cannery at this place was never operated, because of the exorbitant price demanded for their fish by the Indians. Their dwellings vary from those patterned after the white man's house, where stoves, chairs, bedsteads, etc., may be found, to the old smoke-blackened lodges of a former day. The latter are built of boards hewn out by hand from slabs split from the spruce tree by means of yew wedges and stone mauls, and dressed with an adz. In former times when iron was unknown the adz was made from the ribs of the whale. The modern adz, with iron blades and elk-horn handles, are very effective implements. The boards are from 12 to 14 inches in width, some times 24 inches wide. These squarely built lodges have a pitched roof, while those of the Mahaks are flat. A latch-string opens the rude door, the lower part of which is about a foot below the level of the ground outside. An earth floor in the middle of the lodge is bordered on each side by a platform of boards a foot high and about 33 feet wide. On these platforms the women sit to weave their mats and baskets, and behind the platforms next the wall and on both sides of the lodge are ranged their beds of matting and blankets, raised 3 feet from the ground, and extending the whole length of the building. The sleeping mats are from 7 to 8 feet in length, 3 and 4 feet wide, and are made of rushes found in the neighborhood. They are used for bedding, and also as a lining to the walls of their lodges. A hod consists of five or six of these ings piled up to farm a madress. The rug rolled at the end

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forms the pillow. These rugs are made by sewing through the rushes, just as if stringing them together on a hempen twine. The needle is made from the ulua of the albatross's wing. A wooden creaser is used to rub down the scams of the mat. The beds are protected from the weather by rush or flag matting fastened upon the wall. Each family living in a lodge has its own separate fire, built upon the ground. Dishes were formerly kept in baskets or boxes, but may now be seen in rude enpboards near the fire.

The winter supply of fish is smoked and dried in the lodge, which is used at the same time as a dwelling, and the atmosphere is always redolent of smoke, old fish, and "ripe" fish eggs. Dritt-wood, of which their beach furnishes an unusually large supply, is brought to the lodge by the women. Defore the introduction of matches fire was procured by friction from very dry dead cotton-wood. A stick of this was pointed and placed in a small cavity made in another piece of wood, the hands rapidly moving the upright stick as if drilling.*

The sticks with three cavities were placed upon the ground, the Indian kneeling and placing a knee upon each end. He placed one end of the smaller stick in one of the cavities, and, holding the other end between the palms of his hands, kept up a rapid half-rotary motion, causing an amount of friction sufficient to produce fire. With this he lighted the end of the braided slow-match of cedar bark. This was often carried for weeks thus ignited and, held carefully beneath the blanket to protect it from wind and rain.



SFIG. 1. Quinaielt woman in dress of codar bark.

In former times clothing was made from seal, elk, bear, and rabbit skins; also of rushes and cedar bark, the plumage of ducks and other fowl being sometimes woven into the latter. In the olden time the skin of the woodchnek was much prized, blank, ets made therefrom being used only by chiefs. Large basket-work hats were formerly worn. At present grass hats resembling those of white people in shape. The fur garments once worn by the Quinaielts are no longer in existence. On great occasions, when Indians belonging to other tribes are visiting the Quinaielt, the dress of the latter varies from civilized garb by the wearing of their newest and most gaily colored blankets. A new patchwork calico quilt has been seen distinguishing the tall form of the chief, and bright head-feathers are in demand for caps and hats. Then the women wear ifair most prudy colice. dresses, don their ear and nose rings, spinible their that with down, and paint

the face a flagning red, a combination of black and red seeming to be pre-The fire-sticks of a red to red. Williams of projects full as play device could well be, and may stand for the lowest type of the internations of Unit. M.

ferred by t ent into h during qu. ige of her skirt of ce the only : the waist ilian wome were laid e the groum flat piece long set c at each er tied toget then bent creased an strument i the whale. made still : by rubbing Many va from the Q principal fe fresh it is e by fastenin in the grou wards the eggs, from without sal They are th ages. The that they in "ripe" and Their and Buffalo-sku headwaters wishing to p dians and d River India cept a wom Skokomish hold famite were bought them with a and only to

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INDIANS OF THE QUINALELT AGENCY.

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erred by the men. I have seen an old woman, the lobe of whose ear was ut into five or six deep scallops, where her ear-rings had been torn out luring quarrels with others of her sex. When she drew down the cartilige of her no-e to insert its ring she was a grotesque-looking object. The

kirt of cedar bark was formerly he only garment reaching from he waist that was worn by Inlian women. The strips of bark were laid over a rude frame set in the ground, consisting of a thin, flat piece of wood about 2 feet long set edgewise into a support at each end made of two sticks tied together. The bark was then bent over the frame and creased and braised by the instrument made from the skull of the whale. The bark was then made still softer and more pliable by rubbing with the hands.

Many varieties of salmon taken from the Quinaielt River form the principal food of this tribe. When fresh it is eaten boiled, or roasted by fastening to a stick set firmly in the ground and slanting to-

wards the fire. The Indians also dry and salt their salmon. Salmon eggs, from the large "steel-head" are taken from the fish and packed without salt or cleansing in boxes or barrels until the latter are filled. They are then left to ferment and swell, in many cases bursting the packages. The eggs become indescribably putrid and at last solidify, so that they may be cut like cheese. They are thus considered deliciously "ripe", and fit for food.

Their ancient dishes were made of yew and their spoons of horn. Buffalo-skull dishes, with large handles, came originally from the headwaters of the Columbia River. The Atona or Chinook Indians, wishing to procure slaves, invaded a village of the Columbia River Indians and destroyed about half their houses. Those of the Columbia River Indians who were not killed ran away and hid in the forests, except a woman and child, who were captured and carried away. The Skokomish Indians took away with them also many articles of house hold furniture, including dishes made of the skulls of buffaloes. These were bought from the Chinooks by the Quinaielt Indians, who paid for them with cances and blankets. The dishes are said to be very old, and only to be found among the descendants of the chiefs. These heir-

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Fig. 2. Cedar bark cincture, and apparatus for making.

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looms were unexpectedly discovered by the curious white man amor heaps of old rags, basket grass, strips of dried fish, and humps of femented cheese-like fish eggs that had accumulated in dark and grincorners of the lodges. Still they are much prized and no poor famican afford to own them. The Quinaielts are not inclined to take an iterest in agriculture, on account of the abundance of fish to be obtaine. They also use the tender shoots of rushes, young salmon-berry sprout and other succulent growths of the spring-time. The salmon-berry sprouts are very freely caten in the carly spring, and their use is alway followed by an eruption of the skin and by inflamed eyes, renderinmany of the Indians sightless for a time. I have seen the same effec produced among the Makahs when I was in charge of that agency, bu to a far less extent.

A plentiful supply of bulbous roots, as those of the la-kamas and fer roots, are made available for food by this people. Strawberries, th wild currant, and gooseberry, thimble berries, blackberries, cral apples, sal-lal, and cranberries, huckleberries, and other small fruit are found in large quantities. Sal-lal berries are mashed, dried, an smoked in large cakes for winter use. Bear, whale, and seal oil ai largely drank at their feasts. Berries are also served upon such occsions, floating in these oils. Sometimes, but rarely, a deer, bear, o elk is secured, and the flesh of seal and otter is eaten. Any putuflesh that floats ashore is eagerly devoured. The beaching of a what creates the greatest excitement, and the largest amount possible of th decaying blubber is secured to be eaten or dried for future use. Segulls, ducks, geese, and other fowl, eggs of sea-birds, sea-weeds, crabclams, and other shell-tish complete their bill of fare.

The drag-net is used for fishing in narrow streams of water ; for usin it two canoes are necessary, with strut from 6 to 8 feet apart and bow diverging. An Indian sits in the stern of each canoe, each India holding one pole of the net in one hand, while the other hand holds tigh the string that keeps the mouth of the net open. The string alway remains fastened to the pole, but when the Indian relaxes his hold o the string, as he does in hauling up the net, the mouth of the net closes preventing the fish from escaping. The two canoes go up the rive until 200 or 300 yards from the mouth; the net is then placed, as in illus tration, and one Indian in each canoe paddles, while another throw stones to frighten the fish. Then they paddle down the river with th current into the narrow passage near the bar. Thus while catchin, salmon in the drag-net, as they proceeded down stream, they are at th same time driving the fish towards the Indians, who are standing i the shallow water on the bar, ready to spear them. Then from fiftee to twenty Indians stand on the bar, from 8 to 10 feet apart, and throw ing stones; drive the salmon towards the bar, where, at low tide, the water is from S to 12 inches deep. The shaft of the salmon spear is nade of of wood left han fete. T

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nade of cedar, the fork, of the wood of the salmon berry; the barbs, of wood or metal. The loop of cord, which is 16 feet long, is for the eft hand, as shown in sketch. The length of the spear is nearly 16 fete. This spear is used on the bar of the river at low water.

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FIG. 3.-Fishing with a drag net in Washington Territory.

The handle of the surf net is commonly made of yew wood. Formerly the twine of the net was made by the Indians from the fiber of the comnon nettle, which in some localities here has a very luxuriant growth



Fig. 4 .- Barbed salmon spear, and the mode of use

and is a good substitute for flax. All the fish nets of these Indiana were once made of this material; at present seine twine is used.

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The surf net is used in catching the culachon, or candle fish, and smel As the surf rolls in, the Indian runs rapidly forward, and bending down passes the net under the comb of the breaker, often capturing at one as many as an ordinary water backet will hold. The handle of the surf net is 6 feet long, mouth of the net 4 feet by 18 inches; depth of the net about 3 feet. The Indians hold the bottom of the net draw back underneath the bandle until they thrust the net in the water when they let the point fall.



F1G. 5.-Poles of net 10 or 12 feet; mouth of net 6 or 8 feet wide; net about 12 fee long.

The river net is used as in the accompanying illustration, the Indiar running a little faster than the current. Length of hundle, 14 feet net's month, 1 by 5 feet; depth of net, 4 feet. They are made of the same material as the other nets. They are all rudely put together, and are used in catching the small Quinaielt salmon, pronounced to be the finest species of this family. Their superior quality is no doubt owing to their peculiar feeding grounds in this locality. Their average weight is about 4 pounds, uncommonly deep and vich in color.

Their method of forming the knot in their nets is the same as that of the whites. Their nets are now made of twine, but were formerly made from nettles, rotted as previously described. The strands were twisted singly across the naked thigh until the required length was obtained; then two strands were twisted together on the thigh, the ends being

These Indi. - eal or otter · · · npanious v volonged to a "" im propert. " firmly adhe ed against : fuel; but a i mgh the ow i. the latter re : :t to be pair Basketry,—1 m the tanni basketry an ss for the w : the border pared like t en it is beate r or grass arco of traffic en basket gra ure that par e-und before i II. Mis. 17

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ld by the left hand while the two strands were rolled together by a by forward and quick backward motion of the right hand.

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FIG. 6.-Small net used for catching small river salmon.

These Indians have several unwritten haws regarding the beach. If eal or otter is found by an Indian the profits must be divided by any mpanions who are with him. Formerly different parts of the beach elonged to different factions. An Indian of one faction could not it im property found on the beach of another faction. This rule is not firmly adhered to as formerly. Drift-wood, when chopped and left ed against a log on the beach, is never disturbed by others in search fuel; but any lost article is considered as belonging to the finder, ugh the owner be known to him. It is difficult to change their ideas the latter respect. If they give up the article to the owner they ext to be paid its full value.

Basketry.—The Quinaielts excel in textile industry as distinguished in the tanning of furs. They have the cedar bark for the foundation basketry and strips of the pine root for rigid work, hemp rushes and iss for the weft and ornamentation. The grass used in strengthenit the borders of mats, rain cloaks, etc., grows on that places. It is pared like flax, by soaking in water until the outer portion decays, en it is beaten with sticks until only the fiber remains. The yellow is or grass used by Indians for the ontside of baskets is a great irce of traffic among these Indians, as it is only found in this locality. basket grass is gathered very carefully, one blade at a time, to use that part of the stalk that reaches about 6 inches under the control to the grass for drying

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it is woven together at the ends with fibers of cedar bark. It is the spread upon the ground or upon roofs in the sun. When to be used is moistened with water and split with two small knife-blades, set i stick in such a manner as to make the strips of the same width, smaller portion being thrown away. The grass is kept moist with wa while being made into baskets. The colored grasses are prepared using aniline dyes. They were formerly colored by steeping the ro of plants that yielded a yellow coloring. A red dye was made fr the bark of alder, and a paint was made of blue clay.

DOMESTIC RELATIONS.

In their domestic relations chastity seems to be almost unkno-These people are among the most, if not the most, degraded and . eased tribes of this coast. The parents usually manifest great affect for their children, although the animal instinct seems to predominat this trait. The manner of the Indian boy toward his mother is aln uniformly disrespectful. The condition of the wife is one of degra tion. She is expected to bring all the wood used for household y poses, as it is considered a disgrace for a man to be seen doing s work. The woman is expected to dig all the clams and roots and pick all the berries used by the family, the husband supplying fish

The forcheads of the children are compressed (with few exception game. soon after birth by laying a small bag containing feathers or the beaten fiber of cedar bark on the forchead. Infants are kept consta in small wooden trays, so tightly wrapped as to permit no use of

limbs, until they are six months old. When a girl is married after the Indian style, the father of the

receives compensation in the shape of horses, blankets, and mo Even when the marriage ceremony is performed by the agent this

of the old customs is often retained.

Still "women's rights" are sometimes asserted, as in the case of, woman with scalloped ears, who fought a desperate fight with and squaw to decide which should marry a medicine man, who appeare have no voice in the matter. Another instance is that of a school who throws large sticks of wood at her husband when he displeases He respects, though, her superior education, and when asked wh does not retaliate, replied: "Because I do not like to strike a lady The aged people were formerly neglected, and their death haste

by starvation and abuse; but fear of punishment now restrains

The native idea of a Supreme Being finds an embodiment, as with Indians from this cruelty. Makahs, in the Soc-ca-li, Tyce Bird, who is not as awe-inspiring, l

ever, as the Makah Thunder Bird, for, according to a Quinaielt leg he finds two pauthers, brought to him at his request "to play w the more than he can manage, and he entreats "the man," his servant and

fall, he cover-: e childishne The me sate d whom the oughts to th dian drum ai ·· rtions and gu but the unwelc ried to the Im was lately dan; :" "the ranch" sh in the mat 1)m the reserv. · very was not - me of her clot by the medicine The Quinaielt. cks, with face sembling idols tin around the Tims stand in g 4 sobey him that usat he will cause anadicate this fee theolderand mide st perstitions. St

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npanion, to take them away. Looking down upon the earth from his use on a high mountain, and seeing a great many Indians playing II, he covets the ball and sends the man to steal it for him! Such is e childishness of their religious ideas!

The me-satch-ics, or evil spirits, who take possession of sick people, d whom the doctors are employed to drive out, seem to occupy their oughts to the exclusion of the great bird. With loud beating of the dian drum and of sticks, accompanied by their own voices and the conrtions and guttural howls and wails of their doctors, they seek to drive t the unwelcome guest. The lips of the medicine man are often apied to the body to draw out the evil spirit. An Indian school girl is lately dangerously sick; her friends wishel to have her removed "the ranch" for treatment by Indian doctors. As she expressed no sh in the matter, she was kept in the school and received treatment om the reservation doctor. She recovered, but the credit of her revery was not given to the white physician. One of her shoes and me of her clothing had been taken to the ranch and had been doctored the medicine men; hence her recovery!

The Quinaielts have no large figures of idols. The little tamanantas cks, with faces rudely carved upon them, are the only objects at all sembling idols. The doctors place these sticks in an upright posin around the patient, to assist in conquering the disease. The Inins stand in great fear of the medicine man. They believe if they sobey him that he has the power of casting an evil spell upon them; it he will cause them to sicken and die. It seems to be impossible to idicate this feeling from their minds. Little can be expected from solder and middle-aged people with regard to laying aside their ancient perstitions. Some of the latter, who profess to do so, practically re-In their old faith in the medicine man.

While in school and listening to the advice and explanations of white . ople, the Indian children, as a rule, are not unwilling to take mediie as prescribed; but if their friends visit and talk to them their old sjudices seem to be revived. In one case an Indian girl resisted all orts to give her suitable remedies, declaring she would rather die in take the white doctor's medicine. She died in a day or two after. though sick with an incurable disease, her life might have been eatly prolonged if she had consented to receive the medicine required. Many of the adult Indians seem not only willing but anxious to uso e medicines of the white man, but prefer to use them in combination th the efforts of their own doctors, any good resulting from taking medicines being always attributed to the power of the medicine n.

decent circumstances have developed the fact that poison is used by se Indian doctors to hasten the death of patients considered incurable. ave been told that a poison made from toadstools was formerly used. At present strong poisons are obtained from unprincipled white men,

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who sell a small bottle of poison to the Indians for a very high pr Parents of Indian children have been known to ask the agency phy cian for poison with which to end the sufferings of the sick son daughter. They say they do not like to see their friends linger wi they can not recover. The sudden death of those who have been le sick, but are in no immediate danger, is no doubt owing to the use poison by the medicine men.

A common river or marsh moss is used for heart disease, and is eafresh from the water. Fern is used for the same purpose, eaten ra The water of boiled crab-apple leaves is used as a drink for spittiblood. Leaves of a tree bearing yellow flowers and black berries (*L icera involucrata*) are chewed for sore month, or they are chewed a rubbed on sores.

Wood moss is applied to sores. A common weed (*Geum macroph lum*) is a universal remedy, "good for everything." 'The leaves : eaten raw. Fungus is chewed and rubbed on sore neck. The roots *Maianthemum bifolium* are chewed and applied to sore eyes. Hav: given these uses of the few specimens brought, the squaw sudde crushed them all up together in her hand and carried them off. S said there were many more herbs used here, but that they grew away. She promised to bring me some, but thus far has failed to so.

Among the forest trees on the bank of the river their graves . made conspicuous by the quantity of white cloth or colored fabrics closing or floating above them. At present, as formerly, all the 1 sonal property of the Indian is buried with him or decorates his gra With the last Indian woman who died here a large quantity of ge clothing and a nice sewing-machine were buried. In old times the a mals belonging to an Indian, his horses, cat(le, etc., were killed up the grave, but through the influence of the agents this practice is e continued. A recent exception to the usual custom is the case of a s Indian who believes he will soon die, and who has made his will, le ing his personal effects, as well as his house, to his brother. These dians have not the same fear of handling a dead body as is shown the Makahs, who hurry it away while still warm, although the Qi aielt bury the body in the earth or lay it in a sheltered canoe very safter death. In putting the body of a dead Indian into its coffin box, the body is suffered to lie just as it is first placed. If in the ha consequent upon the dislike of these Indians to handling a dead perit is put face down it is suffered to remain so, and in carrying dreaded burden the box or coflin is tipped and handled with a rou ness and disrespect distressing to civilized men.

Mention has been made of the houses inclosing the dead. The coffin of an Indian who died last spring was placed in a l with rounded end, raised high on posts. The box was covered with cloth, and cloth was stretched around and covered the posts. Over it

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es a large American flag, the property of the deceased, in place of

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their graves colored fabrics merly, all the 1 corates his graquantity of ge old times the r were killed up his practice is t s the case of a s nade his will, le rother. These dy as is shown lthough the Qu ed canoe very si into its coffiu d. If in the ha lling a dead per. al in carrying elled with a rou

e dead.

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isnal gaily colored or white streamers of calico or other cloth.

FIG. 7. Example of Quinaclt burial.

ne body of an Indian girl who died about a month ago rests in a cocean canoe, raised on posts, to which it is tied, a white roof covz the coffin.

etween these two is a grave, to which are nailed rusty pans and kery, and near by a small one resembling a house, covered with c cloth. These graves with others are on the river bank just across i the village and very near the river's month. Others are scattered g at short intervals on the way up the river. When articles such hawls are placed in the coflin, a narrow strip 2 or 3 inches wide is off by some friend probably to render the shawl necless and to prerits being stolen. The house in which an Indian dies is sometimes down; recent orders forbid this practice now. Instead, a tanaas is often kept up in the house for three days after death to drive y the spirit supposed to be still haunting the place.

iey are superstitions concerning owls, believing them to be dead to tans. The idea of eating a robin is regarded with horror, not from thumane feeling, as I have yet to see an Indian child of this tribe does not take pleasure in torturing birds and small animals. To while passing an Indian grave is to cause the mouth to grow awry and so remain; to use any clothing that belonged to a dead person would be speedy death. Their dances seem to have no special meaning,

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FIG. 7. Example of Quinaelt burial.

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er. Of late years, horses also. There are no white men there. This the most definite account of their superstitions obtainable from the escut medicine men of this tribe, as they are usually unwilling to eak on this subject to white people.

A third image belonging to Sammy is made of cedar bark and seal ubber, painted. This one tells Sammy to wash his face and bathe th oil before he begins to doctor. The cedar-bark image regulates 3 wind currents, is the "doctor of the setting sun," and makes the 2an smooth. He tells Sammy what to do when fishing or whaling, d whether he will be successful or not. This image has been lately unifactured. Sammy says he will try it, and if it proves to be a ceitful adviser he will burn it up.

The Soc-ca-li Tyce Bird .- The Soceali Tyce Bird lives in a mountain. man wanted to marry the Soccali Tyce Bird's daughter, and the ceali Tyce said, "No;" he did not want to marry that girl to that in. And that girl wanted to marry very bad with that man, and r father would not let her go and marry with that man. And the ecali Tyee Bird told the man to get him some bears to play with. ad the man told the Soccali Tyce that he would fetch the bear to ay with. And that man fetch two bears with a string to take it the house and give it to that Soccali Tyce. And the Soccali Tyce ird went to that two bears to play with, and the bears tried to fight e Soccali Tyce Bird. And the Soccali Tyce Bird told that man to ke it out; that he was too much afraid for him. And the Soccali yee Bird told that man to bring two panthers in that house to play ith. And he brought it in the house with a string. And that Socdi Tyee Bird went in to play with the panthers, and that Soceali yee Bird afraid for the panthers. And the panthers take the stick him like everything. And the Soccali Tyce Bird tried to go to the ro panthers and tried to fight him, and the Soccali Type Bird tried , go away from him and go in his bed; and the two panthers tried go on the Soccali Tyee and torn his shirt like everything. And the occali Tyee Bird told the man that wanted to marry that girl to take is panthers away from the house. And the Soccali Tyee Bird told at man to go and fetch him snow-great lots of snow on the mountain. nd that man brought just little bit of snow like a ball. And that secali Tyee got mad about it, because he did not brought lots of snow r him. And that Soccali Tyce Bird tried to eat that snow; and that low did not all go in his mouth. And that Soccali Tyee sat down on is bed and he get cold, and he tried and go and sit down at the fire make himself warm, and that Soccali Tyee almost dead, because he it lots of snow. And he throwed it away on the house, and the house ill of snow. And the Soccali Tyee told that man that wanted to marry) take that snow away from the house.

And the Soccali Tyee told that man to go and fetch some wood.

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PAPERS RELATING TO ANTHROPOLOGY

And that man that wanted to marry brought him great lots of wood. And that Soccali Type tried to cut that wood in two pieces. And the Sociali Type told that man to get right in the wood (like a hollow log). The Soccali Tyee took an ax away from that stick, and that man was in the stick, and that Soccali Tyce tried to go away from that stick, and that man was in that stick. Because that Soccali Tyee think that man was dead. And that Soccali Tyee stay in the house as long as he can. And that man get in the house with the wood. And that Soccali man get mad about that man because he thought he was dead, and he is alive now.

And that Soccali Tyce tried to go out from the house. And that Socrali Type saw lots of people on the end of the land. And the Soccali Tyce saw lots of people to play in the Indian land. And the lots of people play with a ball and they throw it. They throw it and it get burnt. And that Soccali Tyee tried to go in the house. And the Soceali Type told that man to go in the people to steal that ball for him.

And that man tried to go and take that ball away from the people. And that man that wanted to marry tried to stand between the people and watch the ball. And the people throw the ball away, and he take it. Tried to run as fast as he could. And the people cried like everything. And they took the pitchwood and tried to barn it, because the land was too dark like everything to see the man. And the people tried to take the ball away from that man, and the land is raining like everything, and the light is gone out. And the people go back again. They did not take the ball from that man. He run like everything. And that man that wanted to marry gave that ball to the Soccali Tyee Bird. And the Soccali Tyee Bird was glad, and that man married the daughter of the Soceali Tyee Bird.

A story of men and animals.—A lady was married to a man a few days, and she went into the woods to pick some berries; and she was there in the woods as long as she can to pick some berries, and then she came back in the house. Next morning, then again, she will go to the woods and pick some berries; and the lady was stay in the woods as long as she can; and her husband tried to sell her dress and clothes and everything away from her. And the lady came back to the house and tried to find her dress and everything to change her things. And she get mad, because she never fud her things in the house; and she didn't want her husband any more. And the man was mad, and told his wife to go to the woods to pick some berries as fast as she could. And the man tried to ye his wife on his back, and tried to put her in a high tree, and the m told his wife to sit down in the free; and he leave his wife in the tree and go home again.

And the woman cried as loud as she could, because her three brothers was fishing in the river. The woman she get three brothers. One of the woman's he said that the three bo and mother and this may that father t said that wo was on the t tiver again; und they say say: "Oh, tl three boys we his sister in t And the ma bear, wolf, fo with that ma away from th And the wl that tree, and And the sc tree. He star And the bl woman. And the blue jay to cree himself. trom the tree. blue jay fall de Lim, and he ge

again at the w tored the blue too much to ev he let him to de

And this wor body scold him, And that boy t the boy was sh winging, and evbecause he nevo

And the boy tack and all th scolded. He m j y was getting now. And that want him to tal band man, beca and the woman

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except, perhaps, the elk dance, which they perform dressed in the slof the elk, just before going on a hunting expedition.

Sequen, meaning a mole, is the name of the wooden image used one of the medicine men, "Sammy," and is called by him, in Engl "my doctor." The medicine man professes to believe that this im is animated by a spirit that tells the medicine man if any one is sich dying at a distance. If, as the medicine man says, any one dies, sequen disappears from the house and goes down into the ground, travels underground from one place to another.

The image has small eyes and month, and, resembling a mole, not see much, but has great will-power.

In doctoring, the sc-guan always sings; but no one can hear it cept its medicine man. If the patient is going to die, the image wa the doctor. In the night, the sc-guan stands in the middle of Samu floor and sings, and is the guardian angel of the household. As mole is Sammy's protector, Sammy never kills a mole. The sc-g goes to the grave-yard and looks after the dead; but none of the c speak to him when he goes there.

In traveling, if the *sc-guan* sees a fire, he never goes near it. If image should get burned, his medicine man, Sammy; would immedia die; and if Sammy's "doctor" should meet that of another mediman, both medicine men would soon expire. If Sammy travels, th *guan* follows him, even if unsummend, and is to be seen by Sarwherever he goes.

About six years ago Sammy had the vision that made him a doc Then he heard all kinds of noises proceeding from the earth, and spirits and tamanaws (images) " and their little bones were rattli Sammy had power given him by the Soccali Tyce Bird (the ruling spirit) to make and to have in his possession fire images, or "doct at once. In order to give or sell one of these images to a white t the Indian doctor must make a new image like the one to be disp of, and must place it for a while beside the old one to absorb its sp If a new one should not be made, the Soccali Tyce Bird would be an

The image tells the doctor when contagious diseases will prevail, whether they will make the medicine man sick or not; also, how n Indians will be sick, and how many will die. He tells the doctor to do "to take the sickness out." If any one is about to have eyes, the medicine man sees the mole coming from the direction of water. Its "rattling bones" are deer's toe-nails.

A second image in Sammy's possession is a brother of the mole exactly resembles the se-guan in appearance. When Sammy's bro Henry, died, the mole's brother conducted Henry to his new above the hand of spirits, remained there two months and returned to Sawith a favorable account of the condition and happiness of He. Sammy says that the other world is just the same as this, except that everything is better. There are to be found all kinds of fish, elk, and

where the of wood, the process. And the differences, And the differences hollow log). So and that man was used that man was used that man was used that man was been been that stick, where free think that differences long as he where the that Sociali are was dead, and he

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the woman's brother's back was broken, and he heard the crying, and he said that it just looked like his sister crying; that he hear it. And the three boys went back again. And those three boys told his father and mother that it just looked like his sister was crying in the woods; and this man and woman came down the river to see the woman; and that father tried to ask that man where his wife go to. And that man said that woman had gone to the woods to pick some berries; that she was on the tree. And the man and woman tried to go back up the river again; and those three boys tried to go fishing up the river again, and they saw his sister in the high tree, and they heard that woman say: "Oh, that is my brother that was fishing in the river!" And those hree boys went back and tried to tell his father and mother that it was as sister in the high tree.

And the man and woman went in the woods and tell all the animals ear, wolf, fox, whale, blue jay—every animal. And those animals go with that man and woman to take that woman that was in that tree way from that tree.

And the whale tried to stand up and to take that woman that was in hat tree, and be stand just a few minutes and fall down.

And the sea-lion tried to go and fetch that woman that was in the rec. He stand up and he fall down.

And the blue jay scolded the whale because he couldn't fetch the roman. And the whale tried to scold the blue-jay, and the whale told he blue jay to go on the high tree and take the woman away from the side himself. And the blue-jay tried to go and take the woman away from the tree. And the jay tried, and then he will fall down. And the hue-jay fall down. Hurts him-dead! And the bear tried to doctor i in, and he get well now. And as soon as he get well, he tried to scold again at the whale. And the whale scolded the bear, because he docbred the blue-jay. He didn't want him to get well, because he scold so much to everybody. And the whale told the bear, "Why didn't as let him to dead ?" because nobody like him.

And this woman—one of her brothers had his back broken—everysdy scold him, because he never think he was going to fetch his sister, and that boy tried to go up in the high tree and fetch his sister, and so boy was singing, and the people was singing, and the animals was nging, and everybody was singing. The blue-jay scolded the whale, scause he never helped the animals to sing!

And the boy brought his sister away from the tree and put her on his tek and all the animals felt joyful now. And the blue-jay scolded, olded. He never get joyful with the other animals. And the bluey was getting mad to the whale. And all of them were going home ow. And that husband want his wife again. And the animals didn't ant hum to take his wife again. And the blue-jay scolded that husund man, because he flort want that woman to have that man now. and the woman went home with her future and inches.
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Capture of wires.-The Indians living at the mouth of the Quinaielt River were formerly hostile to those tribes living further up the stream. towards its source, a lake. Two S'Kokomish Indians came over the mountains to the lake hunting clk. Two Quinaielt Indians were hunt ing near by and found the fire of the S'Kokomish Indians; also a squaw left in camp, whom the Quinaielts captured and carried home with them. As they journeyed, the woman tore her blanket and scattered pieces along the way. These were found by her two friends, who returned to their tribe and brought a large number of S'Kokomish In dians back with them to the lake. The S'Kokomish were on one side o the lake, the Quinaielts on the other. S'Kokomish Indians sent one o their number for canoes. A lake Indian, who was fishing, discovered the S'Kokomish crossing in a canoe and informed others of the Quinai elts, who captured the S'Kokomish. Two of the lake Indians the crossed to see where the rest of their enemies were concealed. The were found in the woods, gambling by a fire, while awaiting the retur: of their messenger. Consequently, the S'Kokomish Indians were sur prised at night when asleep, and were killed by the Quinaielts with flin. knives and hammers.

The Quinaielts took with them to their village the S'Kokomish wh was captured while crossing the lake. He was bound to a stake in th middle of the village. A council was held to decide his fate, and h was pierced by a great number of arrows and left to die. The woma : first captured became one of the numerous wives of the Quinaielt chie:

fficial File Copy Enclosures Files 90-2-20 DEFENDANT'S EXHIBIT NO. H-164 Court of Claims Docket No.

A CRUSADE FOR INDIAN REFORM, 1922-1934

By RANDOLPH C. DOWNES

The 8th of February, 1887 "may be called the Indian emancipation day."' Thus spoke the reform-minded, governmentsponsored Board of Indian Commissioners in 1887 in reporting to the Secretary of the Interior on the passage of the Dawes Act for the allotment of tribal land in individual farms to the American Indians. Forty-seven years later, on June 18, 1934, President Franklin D. Roosevelt signed the Wheeler-Howard Act which had for its aim the restoration and revival of Indian tribal life, and the stoppage of all further individual allotting of land. Said John Collier concerning this event: "Whether that date shall be known hereafter as the Independence Day of Indian history will be determined by the Indians themselves. . . . The Allotment law - the agony and ruin of the Indians - has been repealed."2 Thus spoke the reform-minded, governmentsponsored Commissioner of Indian Affairs as he set about the job of inaugurating a typically twentieth-century collectivistic reform to replace a typically nineteenth-century individualistic one.

It is hardly time for the historian to accept John Collier's invitation to sit in final judgment on the merits of his Iudian reforms. At least one entire Indian generation must test these reforms before the historian and the sociologist will be able to render a verdict. But it is high time to speak out in a word of judgment to the effect that the reformers of 1934 were correct in assuming that the Dawes Act' and its offspring, the Burke

"Annual Report of the Board of Indian Commissioners, 1887," in Report of the Secretary of the Interior . . . 1887 (Washington, 1887), 6.

2 Indians At Work (Office of Indian Affairs, Washington, D. C.), I, July 1, 1934, p. 1.

Statutes at Large, NXIV, 388-91. The story of the passage of the Dawes Act is well told in Loring Benson Priest, Uncle Sam's Stepchildren: The Reformation of United States Indian Policy, 1865-1887 (New Brunswick, N. J., 1942), 167-252.

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h C. Downes 331 OF OREGON. 355 375 ATTIN, 1886. 389 adas, 1817-1818. 399 419 421 425 427 429 ings B. Sanders 431 432 oodrow Wilson: 434 ol. VI, by Fred 435 McMurry 437 C. Kein 438 Utley . 439 gian Immigrent, 440 441 rs, by Paul M. 442 443 444 der 445 446 Dickerson 447 a B. Hesseltine 449 C. by John W. 4:0 ited States and 451 452 by Edward N. 454 455 456 463482

Act of 1906, had not fulfilled, and could not fulfill, their purposes of making it possible for the American Indians to become self-supporting. It is the purpose of this article to help to demonstrate this fact by showing how the Wheeler-Howard Act was but the culmination of over a decade of legislation aimed to stop the landlessness and pauperization resulting from the administration of the so-called allotment system.

"The allotment act," said Commissioner Collier in submitting his draft' of the reform bill to the Indian Affairs committees of Senator Burton K. Wheeler and Representative Edgar Howard, "contemplates total landlessness for the Indians of the third generation of each allotted tribe." " He pointed out that since 1887 the total Indian land holdings had decreased from 138,000,000 acres to 48,000,000 acres, 20,000,000 of which were arid or semi-arid. Three kinds of sales had accounted for this diminution: sales of "surplus" lands left over on a reservation after the members of the tribe had received their allotments; sales by Indians after they had received full title to their allotments; and sales of allotments divided into small pieces by parents who never increased the size of their holdings, but who either divided the land in their wills evenly among their children or who died intestate. The continuation of these sales, especially of the third type, for two more generations "mathematically insures and practically requires that the remaining Indian allotted lands shall pass to whites." This means that there was a gradually accelerating fragmentation of the Indian lands especially by division among the heirs of the original allottees and this fragmentation was reducing the size of the holdings to unworkable dimensions. The process usually took the form of a lease or sale of the small parcels of land to neighbor-

• Statutes at Large, XXXIV, 182-3. The Burke Act sought to rationalize and speed up the process of making individual allotments by permitting the issuance of land titles to individual Indians as soon as they were adjudged competent to manage their own affairs, instead of waiting for the end of the 25-year trust period as the Dawes Act required.

⁵ A dispatch to the New York *Times* of February 14, 1934, p. 8, stated: "The bill was drafted in the Office of Indian Affairs with the help of Nathan R. Margold, Solicitor of the Interior Department." See also New York *Herald Tribune*, Feb. 14, 1934, p. 4.

64 Readjustment of Indian Affairs," Hearings on H. R. 7903, House Committee on Indian Affairs, 73 Cong., 2 Sess., Part 1, p. 17. ing white islands w concluded landlords always di At the to compet ciates att gram. "'l their own the most cialized t a leader. teachers tive failu the whole National can its [t more tha gree pau the face (The poir clusively Before of the jo raking st by those , through ticularly have bee 1920's h 7 For me "History o The Proble Lift for t!. pp. 10-11; : 206-236. 8 Merian Nation (Washingty

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House Committee

ing white farmers so that Indian lands were becoming "mere islands within a sea of white-owned property." "The Indians," concluded Collier, "are practically compelled to become absentee landlords with petty and fast-dwindling estates, living upon the always diminishing pittances of lease money."

At the basis of this difficulty was the inability of the Indians to compete with white men. In 1928 Lewis Meriam and his associates attributed this to the faulty government educational program. "To educate the Indians in the use and management of their own property," states the Meriam report, "is obviously the most difficult task of all and requires employees with specialized training combined with the qualities of a teacher and a leader.... The absence of competent industrial or economic teachers and leaders explains in no small measure the comparative failure of several of the large policies of the past, notably, the whole plan of individual allotment of land."* In 1931 the National Advisory Committee on Education reported: "Nor can its [the government's] educational policy be said to be much more than a tragic failure. . . . The policy . . . has, in large degree pauperized the Indian and left him almost as helpless in the face of a strange economic civilization as he was before. . . . The point of view in Indian administration has been too exclusively fiscal and not sufficiently developmental."

Before the administrators of Indian affairs could take hold of the job of reform, the problem had to go through the muckraking stage. Conditions had to be played up, even exaggerated, by those who could focus public attention on the problem through the publicity of episodes seemingly illustrative of particularly outrageous treatment of the Indians. And it would have been unusual if the scandal-ridden years of the early 1920's had not provided grist for reformers of Indian affairs.

⁷ For more detailed treatment of the allotment system see ibid., 15-21; D. S. Otis, ^{(*}History of the Allotment Policy,^(*) ibid., Part 9, pp. 428-89; Lewis Meriam, et al, The Problem of Indian Administration (Baltimore, 1928), 469-72; John Collier, ^{(*}A Lift for the Forgotten Red Man, Too,^(*) New York Times Magazine, May 6, 1934, pp. 10-11; and Felix S. Cohen, Handbook of Federal Indian Law (Washington, 1942), 206-236.

⁸ Meriam, 469-70.

• National Advisory Committee on Education, Federal Relations to Education (Washington, 1931), Part I, 48-9.

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It is not surprising then that in 1922-1924 the fight against the so-called Bursum Pueblo Land bill provided an appropriate episode, and that the principal villain should be the ill-starred Secretary of Interior Albert B. Fall of Teapot Dome fame. It was this affair which gave birth to the dynamic, crusading American Indian Defense Association,¹⁰ and it was this association, through its indefatigable executive secretary, John Collier, which sparked the reform movement that reached its climax in the adoption of the Wheeler-Howard Act.

In 1922 Senator Holm O. Bursum of New Mexico introduced a measure known as "An Act to quiet the title to lands within Pueblo Indian land grants. . . . "" This bill, growing out of an ancient feud in New Mexico between the whites and the Pueblos, sought to restore the white man's advantage, lost in 1913, when the United States Supreme Court in the case of United States vs Sandoval " brought the Pueblo Indians under Federal jurisdiction in such a way that squatters who had been gradually encroaching on Pueblo lands for years found the burden of proof forced upon them when the Indians challenged squatter rights in Federal courts.13 The ensuing suits were so embarrassing to the whites that Senator Bursum sought to remedy the situation by obliging the Indians to produce proof of title from the hopelessly confused and vague evidences lost in the maze of over two centuries of Spanish, Mexican, and American land transactions. In the lack of evidence satisfactory to the Federal courts, a scale of periods and types of residence by the whites was set up which would be deemed necessary to qualify the occupier to receive a title deed. It offended the Indians because it would accelerate white encroachments and encourage dissident Indians, mixed bloods, and unfriendly white or Mexican neighbors to settle land disputes outside the traditional and more or less informal and friendly auspices of the tribal councils.

The Pueblo protest quickly reached national proportions. On

10 John Collier, "No Trespassing," Sunset, L (May, 1923), 60.

¹¹ Statutes at Large, XLIII, 636. For text of the Bursum bill see Congressional Record, 67 Cong., 2 Sess., 12324-5.

32 231 U. S. Supreme Court Report (1913), 28-49.

¹³ The background and effects of the Sandoval decision are summarized in Cohen, 383-90. Nove specia since meme judici vatio joine when ASSO the d River sion Club: lier, Colle there caugl from stars and (torne gress defet 14 5 15 / 1933-1 and ha "Puel Commi 16 ("Plun Last S 1923). Pueble Ameri and H 17 8 1923, Feb. 1 Heari aco ** Senate

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A CRUSADE FOR INDIAN REFORM, 1922-1934

November 5, 1922, there met at the Pueblo of Santo Domingo a special council, widely advertised as the first all-Pueblo union since the anti-Spanish revolt of 1680. This council adopted "a memorial to the American people" denouncing the change in judicial procedure and appealing for fair play and the preservation of "our Pueblo life."" Friends of the Indians quickly joined in the outery. The first step seems to have been taken when S. M. Brosius, Washington agent of the Indian Rights Association, formerly sponsors of the Dawes Act, pointed out the dangers of the Bursum bill to Mrs. Stella M. Atwood of Riverside, California, chairman of the newly-organized Division of Indian Welfare of the General Federation of Women's Clubs.15 Mrs Atwood engaged her fellow Californian, John Collier, then director of social science training at State Teachers College in San Francisco, to be her field representative. Collier, thereupon, toured the Pueblo country, visited their councils, caught the midnight magic of "the wild magnificent singing from [the] darkness on the north pueblo's summit, under the stars and against the vast shadow of the Sacred Mountain," and eventually joined Mrs. Atwood and Santa Fe's reform attorney, Francis C. Wilson, to denounce the Bursum bill to a Congressional committee of investigation.¹⁶ While Fall and Bursum defended their bill and called its critics propagandists," phi-

14 New York Times, Nov. 7, 1922, p. 6.

¹⁵ Ibid., Jan. 7, 1923, section S, p. 6. John Collier, Commissioner of Indian Affairs, 1933-1945, had been investigating conditions in the Pueblo country ever since 1919, and had brought some of his results to the attention of Mrs. Atwood as early as 1920. "Pueblo Indian Land Titles," *Hearings on II. R. 13152 and H. R. 13674*, House Committee on Indian Affairs, 67 Cong., 4 Sess., Feb. 1-15, 1923, p. 180.

¹⁶ Collier tells the story in a series of articles in the Pacific monthly Sunset. See "Plundering the Pueblo Indians," Sunset, L (Jan., 1923), 21-5, 56; "The Pueblos' Last Stand," ibid. (Feb., 1923), 19-22, 65-6; "Our Indian Policy," ibid. (March, 1923), 13-15, 89-93; "No Trespassing," ibid. (May, 1923), 14-15, 58, 60; "The Pueblos' Land Problem," ibid., LI (Nov., 1923), 15, 101. See also Who's Who in America, 1944-45, p. 409; Senate Report 1175, 67 Cong., 4 Sess. (Feb. 24, 1923); and House Report 1750, 67 Cong., 4 Sess. (Feb. 27, 1923).

¹¹ See New York Times, Jan. 21, 1923, section 8, p. 4; Jan. 26, 1923, p. 16; Jan. 28, 1923, section 7, p. 12; Feb. 8, 1923, p. 5; Feb. 16, 1923, p. 4. At the House hearings on Feb. 15, 1923 Burke accused Collier of conducting "a sort of revival meeting." House Hearings on H. R. 13452 and H. R. 13674, 67 Cong., 4 Sess., 400. For Senate hearings see "Pueblo Indian Lands," Hearings on S. 3865 and S. 4223, Subcommittee of the Senate Committee on Public Lands and Surveys, 67 Cong., 4 Sess.

lanthropists like Herbert Welsh, president of the Indian Rights Association, rallied supporters of the Indians to the cause;¹⁹ anthropologists like Herbert J. Spinden of the Peabody Museum at Harvard extolled the beauty of Pueblo community life, their songs, their crafts, their ancient traditions;¹⁹ and the gallant editor of the New York *Times* pleaded for the defense of "minority rights at home." ²⁰ Led by Collier, ten Pueblos took to the road, turning up in Washington, Chicago, and New York City to denounce the land grabbers before clubs and town meetings where they raised over \$6,000 for the Pueblo Indian Defense Fund. The House Indian Affairs Committee, however, denounced the propaganda as "insidious, untruthful, and malicious." ²¹ Nevertheless, the Bursum bill was killed, and in 1924 an impartial and competent Pueblo Lands Board was created to untangle the land claims.²²

The Indian reform movement was now under way. The summer of 1923 saw the issuance by the newly-formed American Indian Defense Association of a statement of general principles drawn up by Dr. Spinden in collaboration with the Indian Welfare Committee of the General Federation of Women's Clubs. The program emphasized the need of developing Indian "group loyalties and communal responsibilities'," including tribal landholding, self-government, and religious freedom, the creation of an organization to promote the sale of genuine products of Indian arts and craftsmanship, and a complete reorganization of the education, health, and irrigation services.²³ Not to

18 Ibid., Jan. 7, 1923, section 8, p. 6.

¹⁹ Ibid., Nov. 19, 1922, section 2, p. 6. Other societies joining in the hue and cry included the American Association for the Advancement of Science, and the American Anthropological Association. Ibid., Jan. 21, 1923, section 8, p. 4.

20 Ibid., Jan. 4, 1923.

²¹ Ibid., Jan. 15 and 25, 1923. House Report 1730, 67 Cong., 4 Sess., 8. The San Francisco and Santa Barbara chapters of the Indian Defense Association staged a Pueblo visit in which they collected \$15,362.65. American Indian Life, Bulletin 3, Sept.-Dec., 1925, p. 4.

²² Cohen, 390-91; Statutes At Large, XLIII, 636-42. Collier continued his activitics in behalf of the Pueblos by bringing on another delegation to the East in 1924 to raise money to support the Pueblos in their suits to retain their lands. New York Times, Jan. 21, 1924; Feb. 3, 1924, section II, 7; Feb. 9, 1924.

²³ The Survey, L (Aug. 1, 1923), 501. In 1925 the Indian Defense Associations of California began the publication in San Francisco of a periodical called America 4 Indian Life. In 1927 the publication was announced as being "issued on becautof

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ense Associations l called American ued on behalf of be outdone, the 42-year-old Indian Rights Association revamped its services with the aid of a grant from John D. Rockefeller, Jr., and in February, 1924 began to issue a monthly bulletin known as *Indian Truth.*²⁴ The two associations collaborated in an exposé of the exploitation of Oklahoma's Indians, but eventually found themselves at variance because of the more radical aims and less quietistic policies of the Indian Defense Association of which the militant Collier was executive secretary.²⁵ The latter society continued on its more aggressive course, enlisting the services of such distinguished individuals as its president, Dr. Haven Emerson, Columbia University Professor of Public Health, F. W. Hodge, director of the American Indian Museun, Rabbi Stephen S. Wise, and author-editor George B. Grinnell in publicly excoriating the policies of the Bureau of Indian Affairs.²⁶

An orgy of muckraking ensued. Alleged government maladministration in tribe after tribe was set before the public. Loudest and longest in the attack, though not first, was Sunset, "the West's Great National Magazine," which, from November, 1922 until June, 1924, had only six issues without at least one leading article denouncing the Indian Bureau.²⁷ Lead-off man was novelist Stewart Edward White, whose article "Our Treatment of the Indians," called the story of American Indian affairs American history's blackest page. White's article was accompanied by one written by Indian storyteller James Willard Schultz, entitled "America's Red Armenians," which accused the Indian Bureau of blocking private relief to the starving Blackfeet of Montana. In December, Congressman M. Clyde Kelly of Pennsylvania, member of the House Committee on Indian Affairs, scathingly arraigned the Bureau as "the embodiment of bureaucracy, a despotic, arbitrary domain." Beginning in the January, 1923 issue, John Collier devoted five articles to the Pueblo problem as already cited, and followed with three

the American Defense Association." See American Indian Life, Bulletin 1, June, 1925; and Bulletin 8, May, 1927.

²⁴ Forty-Second Annual Report of the Board of Directors of the Indian Rights Association (Philadelphia, 1924), 5.

²⁴ Indian Truth, I (Feb., 1924), 1; (May, 1924), 2-3; (Aug.-Sept., 1924), 3.
²⁶ New York Times, Mar. 18, 1925, p. 11; June 3, 1926, p. 12.
²⁷ Sunset, XLIX (Nov., 1922) to LII (June, 1924).

others entitled "The Fate of the Navajos" (January, 1924), "The Red Slaves of Oklahoma" (March, 1924), and "The Accursed System" (June, 1924). In April, 1923 there were three articles: one by Alice May Ward, field matron on the Cheyenne Reservation, entitled "Red Tragedies"; one by Mrs. Atwood called "The S.O.S. of the Pimas," pleading for irrigation to bring water to this Arizona desert tribe; and one by Walter V. Woehlke of the magazine staff, labelled "The Filipino and the Indian" in which the author asked: "Why has America uplifted the one and slaughtered the other?" Other contributions by Woehlke were "Let 'Em Die!" (July, 1923), exposing the plight of the trachoma-ridden California tribes; "Poisoning the Navajos With Oil" (August, 1923), in which the author declared that the recent discovery of oil on Navajo land presaged the destruction of the tribe's splendid self-sufficiency and a descent to the spoiled condition of the Osages; and "Hope for the Blackfeet" (December, 1923), which sought to show what "one determined, sympathetic and understanding man can do for an Indian tribe when he is given a practically free hand by the Washington bureaucracy." And finally there was the article entitled "The Painte 'Uprising' " (June, 1923), by that veteran of the Indian wars and member of the Board of Indian Commissioners, Major-General Hugh L. Scott, who attributed unrest in that Utah tribe to Indian Office neglect.

The contributions in the welfare magazine, The Survey, though not as sustained as those in Sunset, actually preceded in part the latter's first articles.²⁹ Frederick G. Collett in "Undelivered Pottage" (April 29, 1922) and Helen Dare in "Justice or Jujubes" (May 20, 1922), told the tragic story of how the United States had never delivered to the California Indians the land remnants promised them in the unratified cession treaties of the 1850's. Collier told the Pueblo story in "The Red Atlantis" (October, 1922) and "The American Congo" (August 1, 1923), as well as the Navajo story in "Navajos" (January 1, 1924). Elizabeth Shepley Sergeant added a new and sensitive note by her appreciative description of Pueblo dances in her "Christmas in the Pueblos" (December 1, 1923), which had

28 The Survey, XLVIII (April 29, 1922) to LI (Jan. 1, 1924).

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The controversy eventually reached the covers of the more austere Current History and The Forum. In the former magazine, Frances A. Blanchard sought to sum up the facts under the title "The Deplorable State of Our Indians" (July, 1923), and the following month, Collier, in "America's Treatment of her Indians," raked America's Indian policy with his merciless pen under the heading "The administration of Indian Affairs, a national disgrace. - A policy designed to rob Indians of their property, destroy their culture, and eventually exterminate them."²² In 1924, the magazine portion of the controversy was brought to an exalted close in The Forum in a debate between the conservative Flora Warren Seymour and the more liberal Mary Austin. This was followed by The Forum's symposium entitled "Our Duty to the Indians," from which the Indian Bureau emerged second best if judged by the volume of testimony submitted.30

The climax came early in 1924 with the publication by the Indian Rights Association of a pamphlet entitled "Oklahoma's Poor Rich Indians," and subtitled "An Orgy of Graft and Exploitation of the Five Civilized Tribes - Legalized Robbery." It was written by Gertrude Bonnin, Research Agent of the Indian Welfare Committee of the General Federation of Women's Clubs, Charles H. Fabens of the American Indian Defense Association, and Matthew K. Sniffen of the Indian Rights Association. It asserted that, as the result of the transfer in 1908 to the county probate courts in Oklahoma of all jurisdiction over the estates of Indian minors and incompetents, the Indians were being "shamelessly and openly robbed in a scientific and ruthless manner." It was claimed that in many counties the Indians were virtually at the mercy of groups or rings of judges, guardians, attorneys, bankers, merchants, and undertakers, all of whom regarded the Indian estates as "legitimate game.""

29 Current History, XVIII (July, 1923), 630-36; (August, 1923), 771-81.

³⁰ Flora Warren Seymour and Mary Austin, "Our Indian Problem," The Forum, LXXI (March, 1924), 273-88; "Our Duty to the Indians" (a symposium), ibid. (April, 1924), 551-7.

³¹ Gertrude Bonnin, Charles H. Fabens, and Matthew K. Sniffen, Oklahoma's Poor Eich Indians (Philadelphia, 1924), 11-17.

These charges made the Oklahoma tribes the leading Indian sensation in the press for the next two years. In the spring of 1924 the House of Representatives ordered an investigation by its Committee on Indian Affairs which in turn sent a subcommittee to Oklahoma to conduct hearings. On February 19, 1925 the subcommittee reported,³² declaring that "the wholesale charges made against the judges, attorneys, business and professional men of Oklahoma are not sustained by any evidence," but that in the oil producing districts inhabited by the Osages there were some "reprehensible and indefensible practices carried on . . . by unconscionable attorneys and persons who make it a profession to obtain appointments as guardians." The result was the passage of the act of February 27, 1925, greatly increasing the guardianship powers of the Indian Bureau over wealthy Osages.³³

The Pueblo Lands Board Act of 1924 and the Osage Guardianship Act of 1925 were signs of a new day. It was not long before administrators began to see that, in order to avoid the embarrassment of these pin-prick reforms, a general review of the entire Iudian service would be a good thing. The occasion for this was the accession in 1923 of Hubert Work as Secretary of Interior in the place of Fall. With the air full of slurs on the quality of the Indian Service, Work sought to clarify the situation by inviting one hundred leaders in the field of Indian welfare to constitute a National Advisory Committee on Indian Affairs. A heterogeneous collection of seventy-five advisers thereupon assembled in Washington on December 11 and 12, 1923, and, after two days of futile wrangling and parliamentary ineptitude, passed a series of innocuous resolutions in which, save for a health proposal, "not one fundamental proposition ... was put across," to use John Collier's words."

²² "Indian Affairs in Oklahoma," House Report 1527, 68 Cong., 2 Sess., 7, 8. See pamphlet of Indian Rights Association by M. K. Sniffen, "Out of Thine Own Mouth"— An Analysis of the House Subcommittee Report Denying and Confirming the Looting of Oklahoma's 'Poor Rich Indians'" (Philadelphia, March 10, 1925), 1-5.

33 House Report 1527, 68 Cong., 2 Sess., 10; Statutes at Large, XLIII, 1008.

³⁴ John Collier, "The Red Slaves of Oklahoma," Sunset, LII (March, 1924), 100; O. G. V. [illard], "For the Indian's Sake," Nation, CXVII (Dec. 26, 1923), 734-5; Elizabeth Shepley Sergeant, "The Red Man's Burden," New Republic,

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Secretary Work was no radical reformer, but he could see, as Collier saw, the amateur quality of the report of the Advisory Committee. Therefore, on June 23, 1925, ignoring temporarily Collier's proposal to engage the fact-finding services of the institute for Government Research, he called upon the 55-year-old advisory Board of Indian Commissioners to investigate and make recommendations. "These reiterated charges and countercharges," said Work, "give rise to a desire on my part to have a competent body of observers such as is to be found in the membership of your board, and unconnected with the Department of the Interior, formulate their views after proper inquiry."" The Board's unpublished report of January 26, 1926 was a whitewash. It said that all charges against Commissioner Burke were "puerile," and that those against Superintendent Wallen of the Five Civilized Tribes in Oklahoma were "politics." It recommended that the office of Superintendent of the Five Civilized Tribes be put under the Civil Service and that all Indians having annual incomes of over \$5,000 be segregated for special aid in the administration of their estates.³⁶

Just what Secretary Work thought of the Board's report he kept to himself. But it evidently soon became clear to him that the business of constructive Indian reform required something more than the attention of unendowed part-time committees. By 1926 he had come around to Collier's view that expert, unbiased, and full-time counsel should be consulted. The Board of Indian Commissioners was also of the same opinion in its annual report of June 30, 1926. It admitted the great complexity of the Oklahoma problem, its own inability to cope with it, and the need for outside, unbiased investigation. "We believe," said the Board, "there are organizations, amply financed and XXXVII (Jan. 16, 1924), 199-201. For a summary of the resolutions passed, see letter by Arthur C. Parker, the committee's chairman, in New York Times, Jan. 20, 1924, Section 8, p. 8.

35 New York Times, July 24, 1925, p. 12.

³⁶ Ibid., Jan. 29, 1926, p. 10. The report is referred to in Annual Report of the Board of Indian Commissioners to the Secretary of the Interior, . . . June 30, 1936 (Washington, 1926), 1, 17. The Board of Indian Commissioners had been created by Congress in 1869 to consist of nine presidentially-appointed philanthropists to serve as unpaid advisers to the Indian Bureau. Long before 1934, indeed long before 1887, "the Board had demonstrated its inability to effect vital improvements" and had thus turned the reform movement over to outside agencies. Priest, 42-53.

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manned, which would undertake this task without expense to the Government. . . [A] report from a non-Government, disinterested organization, with a field force of experts, would carry great weight not only with Congress but also with the general public."³⁷

Even before the official submission of this report Work had made up his mind, and, on June 12, 1926, had requested W. F. Willoughby, director of the Institute for Government Research, to make a survey of the economic and social conditions of the American Indians. Members of the staff of the Institute headed by Lewis Meriam, aided by nine specially selected experts, at once applied themselves to the job, and, after seven months intensive field work, prepared the monumental report which Willoughby submitted to Work on February 21, 1928.³⁸

The Meriam Report was a masterpiece of reform propaganda in the best sense of the word. Its high-minded scientific accuracy was never seriously questioned. Its non-controversial tone commanded the respect of both supporters and critics of the Indian Bureau. Although highly critical of American Indian policy, it avoided personalities. Indeed, it won friends from the very Bureau which it criticized. "The object of the survey," said Willoughby in his letter of transmittal, "has not been to take sides for or against the Indian Office, but to endeavor through constructive criticism to aid insofar as possible in pointing the way toward marked improvement in this important activity of the national government. That was our understanding of your request."³⁹ Obviously Indian reform was now lifted from the field of controversy and placed in the realm of practical businesslike possibility.

A second piece of scientific research into the Indian service was the Preston-Engle Irrigation Report. This was the result of Secretary Work's request of March, 1927, that a survey be made of Indian irrigation projects with a view to the improvement of Indian farming conditions. The request was made after the Meriam Survey was under way, when it apparently became

*7 Annual Report of the Board of Indian Commissioners, 1926, p. 13. *8 Meriam, vii-x.

³⁹ Idem. The Report was widely applauded by the press throughout the country. See New York Times, May 23, 1928. clear tha a thorou am point irrigatio and statwhich th survey v Bureau Indian A same hal Report. and valu ticality o ects over But th Service (Commis: H. Burk thor of t ual disti Burke wa as saying the same makes ge New Yo ministra came the last of th of reform tion he s them the 10 Meria

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clear that Meriam and his associates were not equipped to make a thorough investigation of irrigation. In his final report Meriam pointed out that he had not included on his staff an expert irrigation engineer because of the complexity of the problem, and stated that Work's action "has been almost precisely that which the survey would have recommended." " The irrigation survey was carried out by Porter Preston, an engineer of the Bureau of Reclamation, and by C. A. Engle of the Bureau of Indian Affairs. It was submitted to Work in 1928, and bore the same hallmark of constructive scientific accuracy as the Meriam Report. It condemned many Indian irrigation projects as costly and valueless to the Indians, pointed out the necessity and practicality of reorganization, and recommended turning many projects over to the Bureau of Reclamation." おうちょうちょう ちょうちょう あいてん ちょうちょう ちょうちょう ちゅうしょう ちゅうちょう ちょうちょう ちょうちょう ちょうちょう ちょうちょう ちょうちょう

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But these investigations had very little effect on the Indian Service during the years of Secretary Work's incumbency. The Commissioner of Indian Affairs from 1921 to 1929 was Charles H. Burke, formerly Congressman from South Dakota, and author of the so-called Burke Act of 1906 speeding up the individual distribution of Indian land under the allotment system. Burke was an avowed rugged individualist. In 1923 he was quoted as saying: "'I believe in making the Indian take his chance, just the same as white folks do. . . . Don't fool yourself. The Indian makes good when he has the chance.' "⁴² This attitude led the New York Times to say editorially that prior to 1929 the administration of the Bureau of Indian Affairs "never quite overcame the frontiersman's attitude" toward the Indians." This last of the "frontier" Commissioners was quite contemptuous of reformers of the Collier type. Speaking of the Pueblo agitation he said: "It is like going to a lot of children and telling them they ought to start a row for more than they are getting.

40 Meriam, 509-510.

41 "Survey of Conditions of the Indians in the United States," Hearings Before a Subcommittee of the Committee on Indian Affairs, United States Senate ... S. Res. 79 and S. Res. 808, Part 6, 1930, 71 Cong., 2 Sess., 2222, 2228, 2255, 2258-9, 2504, 2528. The entire report covers pp. 2210-2661. This report is hereafter referred to as the Preston-Engle Report.

⁴² Herbert Corcy, "He Carries the White Man's Burden," Colliers (May 12, 1923), p. 13.

43 New York Times, April 16, 1929, p. 28.

... Propagandists are touring part of the country with a company of dancing and singing Pueblos in full Indian regalia in order to awaken people to the 'crime' in New Mexico. There is no crime in New Mexico.'' "

Rightly or wrongly, the Indian Bureau, under Burke and his assistant Edgar Meritt, achieved a reputation among the reformers for being most reactionary. In 1929 Harold L. Ickes, then a promising Chicago attorney, castigated this pair of appointees of Albert B. Fall in characteristic language: "There has been no more shameful page in our whole history than our treatment of the American Indians. There has been no more blushraising record on this shameful page than the administration of the Bureau of Indian Affairs by Messrs. Burke and Meritt." " This reputation was due in part to their support of the Bursum bill already mentioned, and to their defense of the Indian Bureau in the case of the Oklahoma probate affair.⁴⁶ It was also due to their support of Secretary Fall in his efforts to issue to whites prospecting and leasing permits on oil lands located in so-called executive order reservations, a policy definitely spiked by Cougress in the Oil and Gas Act of March 3, 1927." Burke and Meritt succeeded in placing themselves in a most unfavorable light by their opposition to the general investigation undertaken by the Senate Committee on Indian Affairs in 1925 and 1929.45

The pre-New Deal phase of the Indian reform movement really got under way in 1929 when President Hoover appointed Ray Lyman Wilbur, educator, social worker, and president of Leland Stanford University, to be Secretary of the Interior. That Wilbur's appointment presaged progressive measures in the Indian Bureau was seen in the replacement of Burke and

44 Ibid., March 16, 1924, section 9, p. 3.

45 Harold L. Ickes, "The Federal Senate and Indian Affairs," reprinted in Congressional Record, 71 Cong., 2 Sess., 2498.

"New York Times, April 11, 1926, section 1, p. 14.

⁴⁷ American Indian Life, Bulletin 5 (April-June, 1926), 1; Statutes at Large, XLIV, 1347-S. Executive order reservations were those created by presidential order after the process of creating reservations by treaty was abandoned. See Cohen, 299.

48 Hearings Before the Committee on Indian Affairs, United States Senate, ... S. Res. 79, Jan. 10-13, 1928, Senate Committee on Indian Affairs, 70 Cong., 1 Sess., 41, 48; Cong. Record, 70 Cong., 2 Sess., 2088, 3299, 4372. Meritt, the la humanitaria and preside: Scattergood, **Pennsylvani**: Industrial In the appoint: predicted: " the terrible the impressi fair dealing. It has alre cluded that was the lack bur now ma for the Indi stated: "Th nation, but as possible] In order to educational acter, and to the industri Aided by cember, 192 propriation tures which 1932,5 Rho: nouncement

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1; Statutes at Large, by presidential order loned. See Cohen, 299. d States Senate, ... irs, 70 Cong., 1 Sess., Meritt, the last of the "frontier" administrators, by two Quaker humanitarians, Charles J. Rhoads, wealthy Philadelphia banker, and president of the Indian Rights Association, and J. Henry Scattergood, treasurer of Haverford and Bryn Mawr Colleges, Pennsylvania Working Home for the Blind, and Christiansburg Industrial Institute." Reformers rejoiced. John Collier declared the appointment "well nigh incredibly fortunate," ¹⁰ and Ickes predicted: "Mr. Rhoads will write a new and fairer chapter in the terrible story of our treatment of the Indian. . . . He gives the impression of sympathy and understanding, of justice and fair dealing."³¹

It has already been pointed out that the Meriam Survey concluded that the measure of the failure of past Indian policies was the lack of a sound educational program.⁵² Secretary Wilbur now made educational reform the keystone of the new era for the Indians. In nominating Rhoads for Commissioner, he stated: "The Indian shall no longer be viewed as a ward of the nation, but shall be considered a potential citizen. As rapidly as possible he is to have the full responsibility for himself.... In order to bring this about it will be necessary to revise our educational program into one of a practical and vocational character, and to mature plans for the absorption of the Indian into the industrial and agricultural life of the nation."⁵³

Aided by the vigorous insistence of President Hoover in December, 1929, on a Congressional educational equipment appropriation of \$3,100,000 and by subsequent annual expenditures which advanced from \$10,324,654 in 1930 to \$12,336,900 in 1932,³⁴ Rhoads was able to translate these high-sounding pronouncements into some form and degree of practical application. He selected as the Burcau's Director of Education, Dr. W. Carson Ryan, Jr., president of the National Vocational Guidance Association, and member of the executive council of the

⁶⁴ Cong. Record, 71 Cong., 2 Sess., 98; Annual Report of the Commissioner of Indian Affairs to the Secretary of the Interior, 1932, p. 21. See Ruby A. Black, "A New Deal for the Red Man," Nation, CXXX (April 2, 1930), 388-90.

[.] Indian Truth, VI (May, 1929), 1.2.

⁵⁰ American Indian Life, Bulletin 14, May, 1929, p. 6.

⁵¹ Ickes, quoted in Cong. Record, 71 Cong., 2 Sess., 2493.

⁵² See footnotes S and 9.

^{*3} New York Times, April 17, 1929, p. 29.

National Education Association. Since Ryan had been a member of the staff of the Meriam Survey, it is obvious that the educational recommendations of the Survey were at the basis of the reforms of the Rhoads administration. Ryan's introduction of a highly competent educational staff, led Meriam to characterize the group as comparing "favorably with the corresponding groups in such progressive and effective professional government agencies as the Children's Bureau, the Bureau of Home Economics and the Office of Education in the Interior Department." ¹⁵ Special college training and experience qualifications were rigorously applied to all members of the teaching staff throughout the Service.⁵⁶

Annual regional conferences of superintendents of Indian schools and agencies were inaugurated in 1931 to improve and unify the teaching programs.⁵⁷ A pattern was set for the solution of the boarding school problem by shifting the weight of enrollment from the lower to the upper grades,⁵⁸ making the training more practically vocational in character,⁵⁹ and eliminating, or converting to day-schools, those institutions whose value as boarding schools could no longer be justified.⁶⁰ The worst evils of the remaining boarding schools were corrected — overcrowding, inadequate food, and child labor.⁶¹ Whenever it was feasible, Indian students were encouraged to attend public schools.⁶² Ryan fostered, wherever possible, closer cooperation

⁸⁵ Lewis Meriam, "Indian Education Moves Abead," The Survey, LXVI (June 1, 1931), 253-7, 293. (Quotation on p. 254.)

56"Educational Appointments in the Indian Service," School and Society, XXXIV (Nov. 14, 1931), 658 9.

⁵⁷ W. Carson Ryan, Jr., "Educational Conferences of Indian Service Superintendents," School and Society, XXXIV (Dec. 5, 1931), 764-5.

53 Annual Report of the Commissioner of Indian Affairs, 1931, p. 5.

* Ibid., 1933, p. 79; Report of Conference on Vocational Education in Indian Schools held at Colorado Agricultural College, Fort Collins, Colorado, June 10 to 14, 1951 (Washington, 1931), 2-6.

60 Annual Report of the Commissioner of Indian Affairs, 1932, pp. 4-5; ibid., 1933, p. 73; "School Facilities for Indians," School and Society, XXXVII (June 3, 1933), 706.

61 "Increased Allowances for Food and Clothing for Children at Indian Schools," *Hearings*, Senate Committee on Indian Affairs, 71 Cong., 2 Sess., Feb. 27, 1930, p. 10; Meriam, "Education Moves Ahead," The Survey, LXVI (June 1, 1931), 253-7; Annual Report of the Commissioner of Indian Affairs, 1931, p. 5.

•2 "Indian Children and the Public Schools," School and Society, XXX (Sept. 21, 1929), 396-7.

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31, p. 5. Education in Indian rado, June 10 to 14,

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between the states and the Bureau, as, for example, when he requested his teachers to use as their guide state courses of study and to enrich them with material suitable to Indian needs. Greater means were provided for qualified Indians to obtain professional education in state or private colleges. There was created a new Guidance and Placement Division to help bridge the gap between school and employment. And finally, to cap the structure of vocational usefulness, extension work among the Indians was improved by increased appropriations, and by the creation of a new Division of Agricultural Extension and Industries, headed by Agricultural Specialist A. C. Cooley and counselled by the services, for one year, of Dr. Erl Bates of Cornell University.^{es}

It was in the nature of things that the invigorating touch of the Rhoads' regime was less effective in other branches of the Service, the efficiency of whose facilities could not be expected to overcome Indian inertia resulting from a lack of educational conditioning. This was particularly true of the Indian health services. The tremendous obstacles to the application of adequate public health standards to uneducated Indians was illustrated in 1924 when Commissioner Burke had shelved a report on Indian health conditions in the Southwest, made at his request by Florence M. Patterson of the American Red Cross, apparently on the grounds that it was impractical. Miss Patterson had stated that "the modern public-health movement has not touched these reservations," and had made recommendations how to apply such standards.⁶⁴ The Meriam Survey had endorsed the report and, after examining the situation among all the Indians, concluded that "the fundamentals of sound publie health work are still lacking." It recommended a seven-point program; an adequate force of trained, high-grade public health physicians; a much larger staff of public health nurses; public

⁶⁵ Annual Report of the Commissioner of Indian Affairs, 1930, p. 8; ibid., 1931, pp. 7, 16; ibid., 1932, pp. 8, 15; Statutes at Large, XLVI, 1124; ibid., XLVII, 103; Annual Report of the Secretary of the Interior . . . 1933, p. 79; American Indian Life, Bulletin 16, July, 1930, p. 39; Indian Truth, VII (June, 1930), 1.

4 "Survey of Conditions of the Indians in the United States," Ilearings Before a Subcommittee of the Committee on Indian Affairs, United States Senate . . . S. Res. 79 and S. Res. 30S, 70 Cong., 2 Sess., Part 4, pp. 950, 1015. The entire report is printed in ibid., 955-1017.

health clinics on all reservations conducted according to the best professional standards; greater preventive emphasis on the three greatest threats to Indian health, tuberculosis, trachoma, and diseases of infancy; special efforts to educate Indians in matters of personal and public hygiene; systematic collection and use of vital statistics; and greater cooperation with other governmental and private health agencies.⁶⁵

It is hard to evaluate from the available printed reports just how much improvement took place in Indian health conditions under Rhoads. Congressional appropriations for public health purposes increased from \$3,115,100 in 1930 to \$4,352,500 in 1932. Supervision of most public health activity was entrusted to medical directors from the United States Public Health Service, the number of public health nurses was increased, and investigations of water supplies, sewage disposal, milk distribution, and the control of venereal diseases were begun. The salary level of physicians and nurses entering the service was made "about equal" to that in other branches of government welfare work. Examinations for trachoma increased from about 25,000 in the fiscal year ending June, 1930, to 61,426 in the fiscal year ending 1933 with corresponding increases in surgical operations and other treatment. The hospitalization of tuberculosis sufferers was increased. General hospital and sanatorium facilities were expanded so that between 1929 and 1933 the number of available beds was increased from 3,162 to 4,164, the total patients served from 37,511 to 50,376, and the percentage of utilization from 59.5 per cent to 72.4 per cent. The annual number of vaccinations and innoculations increased in the same period from 25,790 to 27,844 with 37,022 recorded for 1932. The number of live births in Indian Service hospitals increased from \$16 in 1929 to 2,277 in 1933. Sporadic examples of clinical, laboratory, and field-nursing cooperation between the Service and state facilities were reported involving the states of Wisconsin, Minnesota, and California. With the active support of Rhoads, strong efforts to regularize state and federal cooperation were made with the introduction of the Swing-Johnson bill which would have enabled the Secretary of the Interior to make contracts 63 Meriam, Problem of Indian Administration, 190, 262-3, 270-72; the details of the Meriam Report on health are in ibid., 189-345.

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> 68 Annual Re 1931, p. 13; ibi-Indian Rights of the Interior, 2; Cong. Record 2131, 4615, 940 by the Meriam 67 Ibid., 505;

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with states to use state facilities for the promotion of Indian welfare. This measure passed the Senate in 1930 and again in 1932, but failed of adoption in the House.⁶⁶

No aspect of the Indian reform problem illustrates the difficulty of preparing the red men for individualized farming better than that of Indian irrigation. Unaided by systematic education, the Indians were less able to compete with whites on irrigable land than on fertile land. As the Meriam Survey pointed out: "To win success from a small area of high cost irrigated land requires far better farming than is necessary on a similar area of low cost land watered by natural rainfall." The Preston-Engle report declared: "The development of an irrigated farm ... [requires] far more capital, ingenuity, and perseverance than most Indians possess.... If such a small proportion of our own race can make a success of irrigated farming . . . how can it be expected that every Indian can succeed as an irrigation farmer?" And yet in arid country the allotment system of the Dawes Act had been carried out without regard to segregation and future irrigation projects so that, as the Preston-Engle report stated, there resulted "a condition that brought both Indian and white lands under the same irrigation system," and the Indian Service was frequently put "in the position of operating and maintaining irrigation systems more for white people than for the use of the few Indians under the system." The inevitable result had been that the "vast majority" had either leased or sold their lands and the net result was paradoxically enough "to encourage indolence and improvidence." It was estimated that as soon as "irrigated Indians" received unrestricted titles to their lands "70 to 90 per cent . . . immediately sell their land." " plory, m

The proposed remedies were in effect a form of default. Implying that it was too late or too difficult for the Indian Bureau

⁶⁶ Annual Report of the Commissioner of Indian Affairs, 1930, pp. 4-5; ibid., 1931, p. 13; ibid., 1932, pp. 10, 21; Annual Report of the Board of Directors of the Indian Rights Association, 1950, p. 6; 1951, p. 7; Annual Report of the Secretary of the Interior, 1933, pp. 80-85; Indian Truth, VII (March, 1930), 2; (Oct., 1930), 2; Cong. Record, 71 Cong., 2 Sess., 3492, 3635, 8502, 9344; ibid., 72 Cong., 1 Sess., 2131, 4615, 9405-9406. State and federal cooperation had been strongly advocated by the Meriam Survey. Meriam, Problem of Indian Administration, 99.

67 Ibid., 508; Preston-Engle Report, 2235, 2236, 2280.

to assume its neglected duty of irrigation education, Preston and Engle recommended that the larger projects be turned over to the Bureau of Reclamation, that the remaining personnel in the Indian irrigation service be drastically improved in quality, and that some of the projects be abandoned.⁶⁴ About all that Rhoads seems to have been willing to do in this respect was to reorganize the irrigation service,⁶⁹ and for his failure to follow Preston and Engle in the other recommendations he was severely criticized by Senators. William H. King of Utah and Lynn Frazier of North Dakota.⁷⁹ Perhaps the most outstanding reform was the cancellation of several million dollars of socalled "reimbursable debts," charged against Indians for various projects deemed no longer useful to the red men.⁷¹ However, the basic and probably unreformable trend of the Indian irrigation situation may be seen from the following table: ⁷²

Total irrigated acreage in	1924	1926	1929	1932
Indian irrigation service Total acreage irrigated by Indians Percentage irrigated by Indians	331,627	378,799	361,708	431,308
	118,151	117,440	113,420	133,134
	26.3	23.7	23.7	23.6

How much farther along the road to reform Rhoads would have gone if he had not been replaced by Collier in 1933 is, of course, impossible to say. It is true that Collier accelerated reform to a degree to which Rhoads was incapable. But the Collier administration was an acceleration, and not a break. How

cs Ibid., 2217, 2222, 2255, 2258-9, 2504, 2528.

69 Annual Report of the Commissioner of Indian Affairs, 1931, p. 22.

to Cong. Record, 71 Cong., 3 Sess., 1375-6; "Survey of Conditions Among the Indians of the United States," Scnate Report 25 on Irrigation and Reclamation on Indian Lands, part 4, 72 Cong., 2 Sess. (1932), 8-9.

11 Statutes at Large, XLVI, 1519; ibid., XLVII, 564-5; Annual Report of the Commissioners of Indian Affairs, 1930, p. 32; ibid., 1932, p. 19; ibid., 1933, p. 103; Annual Report of the Directors of the Indian Rights Association, 1932 (Philadelphia, 1933), 10; "Some Reimbursable Wrongs Corrected," American Indian Life, Bulletin 18, July, 1931, p. 22; "Pima Relief," Indian Truth, VIII (March, 1931), 1-2.

¹² Preston-Engle Report, 2224, 2244; "Survey of Conditions Among the Indians of the United States," Scnate Report 25 on Irrigation and Reclamation on Indian Lands, part 4, 72 Cong., 2 Sess. (1932), 6; "The Refusal to Reform Indian Irrigation Dooms Many Tribes," American Indian Life, Bulletin 17, Jan., 1931, p. 14. the new types of sought t carried c Thus i Howard Frazier averted i land coul be perm bodies an estate in i.e., the i Charles Oregon t a thorou themselv Collier's Rhoads' commissi faint ard only serv Quaker 1 And fr what Rhe cation, h mented. ' to day s school en and plan meantime formed i dren: or) out local tional tr. the India 13 Cong. 14 Annua

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Report of the , 1933, p. 103; 1932 (Philadeln Indian Life, (March, 1931).

ig the Indians ion on Indian Indian Irriga-931, p. 14. the new and the old dovetailed may be seen by pointing out two types of reform: those which Rhoads suggested and Collier sought to achieve, and those which Rhoads began and Collier carried on.

Thus in 1929 Rhoads anticipated the basic idea of the Wheeler-Howard bill when he rather timorously suggested to Senator Frazier that "the loss of Indian heirship land . . . might be averted if there were some means provided whereby the allotted land could revert to the tribal estate ... that Indian tribes might be permitted and assisted to form themselves into corporate bodies and that allotments might be turned back into the tribal estate in exchange for shares of stock." In the unallottable lands, i.e., the indivisible tribal estates, Rhoads proposed that Senator Charles L. McNary's bill to incorporate the Klainath tribe in Oregon to enable them to manage their timber reserves be given a thorough study with the idea "of passing over to the Indians themselves a collective responsibility for their tribal business." Collier's plans for an Indian claims court were anticipated by Rhoads' "thought" for the creation of a "special Indian claims commission" with "essentially judicial power." Rhoads' faint ardor grew fainter, of course, as the years went by and only serves to point out the difference between the quietistic Quaker reformer and the fighter of the Collier type.

And from 1933 on, as Collier groomed himself to strike down what Rhoads feared to attack, the Rhoads achievements in education, health, and other lines were carried on and supplemented. The transfer of Indian children from boarding schools to day schools near their homes was speeded up as boarding school enrollment dropped from 22,000 in 1933 to 17,500 in 1934, and plans were made for a decrease to 13,000 in 1935.¹⁴ In the meantime the remaining boarding schools were being transformed into institutions for the care of special classes of children: orphans, those with poor home environments, those without local school facilities, and high school pupils needing vocational training not offered locally.¹⁵ A new spirit came into the Indian Service as Collier issued an order based on the most

13 Cong. Records, 71 Cong., 2 Sess., 1052-3.

14 Annual Report of the Secretary of the Interior . . . 1934, pp. 84-5. 15 "Civilizing the Indian," Nation, CXXXVIII (Jan. 10, 1934), 33-4.

progressive educational and psychological foundations: "'No interference with Indian religious life or expression will hereafter be tolerated. The cultural history of Indians is in all respects to be considered equal to that of any non-Indian group. And it is desirable that Indians be bilingual... The Indian arts are to be prized, nourished, and honored.'"

In spite of the hamstringing effect of reduced appropriations for health work, Collier was able to rationalize this branch of the service by appointing a public health specialist, Sally Lucas Jean, to organize a health education program under the joint auspices of the divisions of health and education. The first of a series of nurses aid institutes held at Santa Fe in June, 1934, promised much for health education through the fact that all prospective nurses aids were to be Indian women. Grants from the Public Works Administration made possible the construction of eleven new Indian Service hospitals and the improvement of ten others. Out-patient work at service hospitals had doubled from 1927 to 1933.¹⁷ The passage of the Johnson-O'Malley Act of April 16, 1934,¹⁸ presaged the use of approved state health and educational facilities along the lines of the unsuccessful Swing-Johnson bill.

The story is quickly told. The time of timorous testing was over, and Commissioner Collier was determined to give the new Indian policy a charter basis. Accordingly the Bureau drafted its own bid with great care and, in February, 1934, submitted it to the tender mercies of Senate and House consideration. Then, while the Congressional committees held their hearings,⁷⁹ the fighting Collier took to the hustings. Backed by the specific and outspoken endorsement of President Roosevelt,⁸⁰ Collier took the bill to the country at large and to the Indians in particular. The press and radio were enlisted to create public senti-

16 Annual Report of the Secretary of the Interior . . . 1984, p. 90.

17 Ibid., 89-90, 92-4.

18 Statutes at Large, XLVIII, 596.

"Readjustment of Indian Affairs," *Rearings on II. R. 7909*, House Committee on Indian Affairs, Parts 1-9, 73 Cong., 2 Sess. (1934); "To Grant to Indians Living under Federal Tutelage the Freedom to Organize for Purposes of Local Self-Government and Economic Enterprise . . .," *Hearings on S. 2755 and S. 3645*, Senate Committee on Indian Affairs, 73 Cong., 2 Sess. (April 26, 23, 30, May 3, 4, 17, 1934).
⁴⁰ Hearings on H. B. 7908, 2334.

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ouse Committee Indians Living Local Self-Gov-1. 3615, Senate 3, 4, 17, 1934). ment in its favor.⁵¹ Under the auspices of Bureau employees, great Indian congresses were held throughout the West so as to give as many Indians as possible the chance to hear, discuss, and criticize the bill. Characteristically enough most Indians were more or less suspicious and preferred to return to their people and discuss the proposal at their leisure.⁵² However, by May 9 fifty-eight tribes comprising a population of 146,194 Indians had voted in favor of the bill and thirteen tribes made up of 15,213 Indians had voted against it.⁵³

Although assailed as communistic, pagan, and Bureau-bought, the measure became law with little difficulty. The title itself is an adequate summary: "An Act to conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes." 4 Thus allotment in severalty was explicitly forbidden and any surplus lands still remaining were to be restored to tribal ownership. Sales of lands to, and inheritance by, non-Indians were most drastically restricted. The Secretary of the Interior was enabled to acquire land for incorporation into tribal estates and the expenditure of not over \$2,000,000 a year for this purpose was authorized. The sum of \$250,000 a year might be spent to defray the expenses of organizing Indian chartered corporations. A revolving fund of \$10,000,000 was authorized to make loans to such corporations "for the purpose of promoting the economic development" of the tribes. Another sum of \$250,000 a year was to be spent for tuition loans to Indians attending "recognized vocational and trade schools."

81 Cong. Becord, 73 Cong., 2 Sess., 9265.

*: Congresses were held at Rapid City, South Dakota, March 2-5, 1934; at Santo Domingo Pueblo, New Mexico, March 15, 1934; at Phoenix, Arizona, March 15-16, 1934; at Riverside, California, March 17-18, 1934; and at Muskogee, Oklahoma, March 22, 1934. See Cohen, 84; Minutes of the Plains Congress (Rapid City Indian School, 1934); and Proceedings of the Conference for the Indiaus of Southern California held at Riverside, Calif., March 17 and 18, 1934, to discuss the Wheeler-Howard Indian Bill (mimeographed, n. p., n. d.).

83 Hearings on H. R. 7902, 399.

51 Statutes at Large, XLVIII, 984. Two major parts of the bill as originally introduced were omitted, viz., the creation of a Court of Indian Claims and the application of the law to the Oklahoma Indians.

Exemption of Indians from civil service rules was granted to promote an increase in the number of tribesmen in the staff of the Indian Service. Tribal constitutions were authorized to be created and ratified by the Indians themselves to give them extensive rights of political home rule. The act itself was not to apply to any tribe which should vote not to accept it.

And so we return to where we began. If the rugged individualism of the Dawes Act of 1887 and its subsequent administration were completely at variance with the sociological requirements of cultural amalgamation, the needed scientific adjustments were proposed, promoted, and in some measure adopted in the years before the enactment of the Wheeler-Howard Act of 1934. Indeed, in view of this pre-invasion of twentieth-century reform ideals into the anachronistic preserves of a nineteenthcentury Indian administration, modernists might be pardoned their flight of fancy in suggesting that, had the Wheeler-Howard Act been passed in 1887, the American Indians might by 1934 have been ready for the Dawes Act. THE (

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INDIAN FOREST AND RANGE

A History of the Administration and Conservation of the Redman's Heritage

By

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1950

J. P. KINNEY, A.B., LL.B., M.F. Fellow, Society of American Foresters

> FORESTRY ENTERPRISES 1740 K STREET, N.W. WASHINGTON 6, D. C.

FOREST OPERATIONS IN THE NORTHWEST - 1906-1933 175

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t Reservation f the Govern-U. S. 446).89 se lands was nding an infavorable for of Quinaielt ared for sale re the Lunch t of 435,000,edar, spruce, fir and other and the Cape um prices of ind \$1.00 for all contracts idjustment of ereafter. The nber was not Il the unsold t River. The in the Gray's 31, 1928 were ontracts pro-; to be made ner of Indian ces stipulated e-year period ncrease or de-Similar comtment periods price of saw ty percent of ending on the prices should f cedar poles might be increased not more than one-half cent per lineal foot and the price of Douglas fir piling not more than one-fourth cent per lineal foot, at any price adjustment period. The Commissioner might reduce the price at any time to correct an error or because of market conditions that prevented the operator from realizing a reasonable margin of profit, but no price could be reduced below the price originally bid for any class of timber product.

After these units were advertised, a determined effort was made by certain interests to prevent the consummation of the sales. Much publicity was obtained by the opponents of the sales and an excessive amount of misinformation circulated. Eventually it appeared that the controversy was being promoted by interests connected with the Northern Pacific and Union Pacific Railroads, as opposed to those that were supposed to be allied with the Chicago, Milwaukee, St. Paul and Puget Sound Railroad. Both of these companies had, many years earlier, made surveys across the Quinaielt Reservation northward into the western part of the Olympic Peninsula. In 1929 the Northern Pacific Railway filed an application before the Interstate Commerce Commission for authorization to build such a railroad.⁹⁵ Propaganda in opposition to the sales was spread among the Indians and many well-meaning individuals, who were misinformed as to the facts, were led to present protests against the sales. Strong protests were made through representatives in Congress. The Hoover administration had come into office only a few months before and obviously wished to avoid criticism.

Although a number of large logging and manufacturing companies became interested in the proposed sales and examined the timber, only four bids were submitted and each of these was on a different unit. While the bids were logical, considering the existing operations of the bidders, the fact that bids were thus made, by firms already operating on the Indian reservation, afforded a basis for a charge of collusion. The Ozette Railway Company bid the minimum prices on the Lunch Creek Unit. The Aloha Lumber Company bid the minimum prices on the Raft River Unit. The M. R. Smith Lumber and Shingle Company bid the minimum prices on the Cape Elizabeth Unit. The Hobi Timber Company bid \$3.75 per M feet on spruce and Douglas fir and the minimum prices for all other species on the Joe Creek Unit, the most desirable of all units.

Prior to July 31, 1929, the Indians owning 347 allotments out of a total of 703 allotments within the four units had already signed powers of attorney authorizing the Superintendent to sign contracts for the sale of their timber at not less than the advertised minimum prices. There can be little doubt that the great majority of them were desirous of selling and that all would have sold at the prices offered. However, so much criticism of the proposed sales had been expressed

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and such unrestrained allegations of improper influence voiced that Secretary Wilbur decided to reject all bids and to return to the bidders the certified checks for \$80,000 that had been submitted with the bids to guarantee compliance with their offers to purchase the timber. Such rejection was made on August 3, 1929 and the cash deposits returned.

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The bids offered undoubtedly represented the reasonable value of the timber at that time on all four units and it is not probable that the value of the timber as a whole would have been materially increased if the proposed Northern Pacific branch railroad had been built. It was not built and there never was a time following the autumn of 1929, when the financial depression came, that the timber could have been sold during a decade for the prices that were bid on June 18, 1929. In fact, stumpage prices in the Gray's Harbor region were much lower in the summer of 1939 than they were in June and July 1929. Mr. Henry B. Steer, Supervisor of Forests for the Taholah Indian Agency, who had developed and supervised most of the sales of Quinaielt timber, had carefully worked out the details connected with the offering of these four units and forcefully presented, with the concurrence of Superintendent W. B. Sams the reasons for believing that the bids received were advantageous to the Indian's allotted on the Quinaielt Reservation.

Makah or Neah Bay

The Makah, or Neah Bay, Indian Reservation is situated in the very northwestern corner of the United States at the tip of the Olympic Peninsula. The timber thereon is chiefly hemlock and of small size and mediocre quality. Not until 1920 were there any real inquiries with respect to the purchase of the same, it being fit for little except for paper pulp.⁹⁶ In 1923 the timber was examined by Mr. Henry B. Steer and Mr. Nels O. Nicholson, foresters of the Indian Service, with a view to the possible sale of the timber in accordance with the desire of the Indians. On March 3, 1924, the Wa-ach Unit of 300,000,000 feet was advertised, with bids to be received until June 18, 1924, at minimum prices of \$2.00 per M feet for spruce and cedar and \$1.00 per M feet for hemlock and other species, and with graduated prices for cedar poles.97 The approved form of contract provided for fixed increases on saw timber sizes of 12% of the initial prices on each species on April 1, 1928 and at the close of each three years thereafter until the expiration of the contract on April 1, 1943. Fixed increases of one-fourth cent per lineal foot on cedar poles 20 feet or under in length and one-half cent per lineal foot for those 21 feet or over in length were to become effective on April 1, 1931, and equal increases were to become effective on April 1, 1937. The contract also contained

SAVING THE FORESTS FOR THE INDIANS

ongress, slightly modiidian Forest and the suggestion of the Dee Interior possibly did s was not entirely conred in his first annual g out Indian adminisnt within a period of

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t of forest lands on the iter had felt compelled because of a belief that e best interests of the rtain parties to take six the creation of the Metroduced into Congress stigate and report upon ups of Indian lands for appropriation of \$1,000

An examination was nal Park Service, and a red for such purposes.⁵¹ and favorably reported ee Indians submitted a strong protest to the enactment of such legislation and neither House took action on the bill.⁵²

In 1907 and 1908 many of the Red Lake Indians were reported to be in favor of allotments but sentiment changed and the full-bloods at Red Lake reverted to their former opposition to allotment,⁵³ In 1925 there was a revival of sentiment in favor of allotment, especially among the mixed-bloods, and a disposition on the part of the Indian Bureau to encourage allotment as a step toward the final settlement of the affairs of the Minnesota Chippewa, as to which there was then much criticism and dissension. The allotment of the Red Lake Indians was generally favored in the Washington Office and by many field officials who had responsibilities in connection with the administration of Red Lake affairs. However, I had advocated the creation of the Red Lake Indian Forest upon the basis of the maintenance of a permanent forest industry and I could not bring myself to believe that the allotment of their forested lands would be beneficial to the members of the tribe, as a community. I felt impelled to oppose the allotment plan as vigorously as circumstances would permit.⁵⁴ The Indian Appropriation Act for the fiscal year 1928 (44 Stat. 940) carried an item of \$10,000 for survey work at Red Lake, preliminary to allotment. It appeared that allotment was about to be accomplished. However, the filing of a suit in the Court of Claims, in which the special rights of the Red Lake Indians in their reservation were attacked, served to stay the allotment plans.⁵⁵ Before the case of Chippewa Indians of Minnesota v. United States was finally decided by the Supreme Court in 1937, the policy of the Federal Government regarding allotment had completely changed.⁵⁶

The writer obtained an unfavorable impression as to the soundness of the allotment policy on Indian reservations at the time of his first visit to such reservations in the summer of 1910. From that time onward, he consistently opposed the allotment of forested lands unless it were definitely established that the lands to be allotted were adapted to agricultural use after the removal of the timber, and even if the lands were agricultural in character, if there was a probability that they would not be used for agriculture for several decades. This opposition was sometimes interpreted by associates in the Indian Service as a reflection of the personal desire of the writer to keep as much Indian land as possible in a forest status, and such opposition was at one time so indiscreetly stated in a report as to subject the writer to a well-merited reprimand from the Commissioner. However, the inadvisability of allotting forested lands seemed so obvious and the allotment so ineffective as a means of advancing the welfare of the Indians that I simply could not approve such allotment. It was apparent that allotment was the first step in the passing of the land into white ownership, if it had any possibilities other than the

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growing of timber, and thus allotment would almost certainly lead to a division of title that would make the administration of all surrounding forest land difficult.

My general attitude with respect to allotment may be inferred from a paragraph in a memorandum of February 4, 1927, which I was prompted to write after reading a report by a District Superintendent in the Indian Service urging the allotment of the Red Lake Reservation and the Menominee Reservation as a means of stimulating the industrial advancement of the Indians of those two tribes. The paragraph to which I refer was as follows:⁵⁷

It is 40 years—almost to a day—since the general allotment, or Dawes Act became a law. At the time of enactment this was heralded as "the great forward step" in the solution of Indian affairs,—the panacea for all the ills that Indian blood is subject to. On dozens of reservations in the Lake States, the Northwest and the Southwest I have tried to ascertain the effects of allotment. In some instances the results of allotment have seemed beneficial, in other neutral, in others positively harmful. It will take a keener analysis of the situation and more logical deduction than the District Superintendent has presented to convince me that allotment offers the only solution of the Red Lake and Menominee situations, or even that immediate allotment is essential.

Two years later the Superintendent for the Menominee wrote the Indian Office with reference to previous recommendations by his predecessor and by the District Superintendent and by others regarding allotment of the Menominees and stated that Mr. Kinney had been practically alone in opposing the allotment of the Menominees. He strongly favored allotment. In a memorandum of February 4, 1930, I again expressed my views; two paragraphs of which read.⁵⁸

Any one who has been long in the Indian Service and has been a keen observer must know that the allotment of land affords no guaranty whatever that the Indians will farm the lands or even that they will establish fixed homes on the land, or in fact exhibit any marked change in their habits of life as a result of the allotment. As was remarked by Representative Schneider at the Senate Committee meeting of Jan. 31, the Menominees, who are the only unalloted Indians in Wisconsin, are in a more prosperous condition than any other tribe within the State. The same statement may be made as to the Red Lake Band, the only unallotted Chippewa in the State of Minnesota. Allotment of lands has apparently done little toward solving the Indian problem on reservations as widely scattered as the Bad River in Wisconsin, the Flathead in Montana, the Klamath in Oregon, and the Jicarilla in New Mexico.

I am still defending the thesis, advanced nearly twenty years ago, that the time will come when many Indians on reservations that have been allotted and the surplus lands disposed of will have no place of refuge. I still believe that the results of the allotment policy have been very disappointing on many reservations. I still believe that the allotment of the Jicarilla Reservation more than twenty years ago was an egregious blunder, that the allotment of timber lands on the Klamath under the general allotment act and on the Flathead under the act of February 25, 1920 (41 Stat. 452), cannot be defended on any sound principles; and that the allotment of heavily timbered lands on the Menominee with the reservation of t would be an irretrie

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The annual the Indian rese and \$140,000 du fiscal year 1930 ally heavy expe \$325,000 in 193 to \$178,500 in 1 the administrat 1910 to 1929, e

6-15-76 Dr. Rob't E. Ficken. Please Share With Dr. Steen the enclosed excerts From "The Federal Lands: Their USe and Management" by Clawson & Held.

Dave Maskall

THE FEDERAL LANDS:

THEIR USE AND MANAGEMENT

* * *

BY MARION CLAWSON AND BURNELL HELD

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This book is a study in land use and management. Marion Clawson is director of Resources for the Future research in this area, and Burnell Held a research associate in the same field. THIS

(1) senior author, der primarily from five 1953, as Director of ment of the Interio with which that ty detailed study, by agency records to c and expenditures th and the statistical a first draft by persons

We have made an No attempt has bee: federal land manage included should be l book, some problem: tive means of dealin alternatives is not i particular program.

We hope that con the ideas advanced, future program for f stimulate such discus

The Federal Lands

obtained, because in so many situations effective competition was lacking. With the rising trend in use of federal land, this will not be as likely in the future.

Pricing of Products and Services from Federal Land

The desired goal of federal land management—maximization of the national welfare—must include considerations far broader than revenues and costs. At the same time, even with this borne strongly in mind, the latter are an important part of management; other factors being equal, a large revenue is preferable to a small one. A study of sales arrangements for specific products and services can reveal many of the problems inherent in the administrative process by which the federal lands are managed. If maximum revenue is not achieved, are the shortcomings of the administrative process balanced by advantages in the public interest?

TIMBER SALES BY COMPETITIVE BID 7

With exceptions noted later, timber is sold from federal land on the basis of competitive bid. However, there are many steps involved, most of which require discretion on the part of the administrator.

Timber inventory. A timber sale must be based on some sort of timber inventory, an estimate of annual growth and safe annual cut, and a sales plan. If the maximum allowable cut is to be made annually, this requires an accurate and up-to-date inventory, by species, age class, size class, condition of the timber stand, and other relevant items. Timber utilization practices have changed so much in recent years that new inventories and new methods of calculating sustained yield have been required. Most of the federal forest lands contained mature old-growth timber when brought under management. Until these old trees have been harvested and young ones allowed to grow up in their place, there will be no significant net growth. However,

¹.Data on methods of timber sale, pp. 204-17, draw heavily on material published in *Federal Timber Sales Policies*, supplementary staff report, Public Works and Resources Subcommittee of the Committee on Government Operations, House of Representatives (to accompany House Report No. 2960, 84th Congress, 2nd Session), November 2, 1956.

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Pricing Processes and Investments

under the sustained yield concept, harvest must not proceed so fast as to create a situation in which there is as yet no second-growth stand mature enough for harvest when all the old growth has been cut.

Timber inventories made for the purpose of calculating growth and yield on a national or regional basis need not be as detailed as those which are made to serve as a basis for timber management and sale plans. Inventories of the first type exist for the whole country but with different degrees of accuracy. Those of the second type are often deficient or out of date. As a result, in many areas the forest managers cannot be sure that they are putting up for sale all the timber that ran safely be sold; nor can they be sure that they are not selling more than the annual growth. There is need for accurate inventories by working circles on national forests, and by sustained-yield forest units on the O & C lands.

Timber sale plans also vary in their degree of detail and specificity. A general timber sale plan is ordinarily part of a timber inventory; it shows the average annual volume of different species and types of trees that may be sold. On the basis of this the federal agency may work to interest buyers if there is no active competition for timber in the area.

Size of sale. A basic policy issue is the size of the timber sale. If the volume of timber included in a single sale is large, then obviously only the largest timber processors can buy, for the smaller ones will lack both capital for large purchases and the sawmill capacity to handle a large volume within a reasonable length of time. On the other hand, if only small sales are made these may not appeal to the larger operators, and if sufficient timber is available from other sources they may hesitate to bid. A great deal depends on the general competitive situation in the area and on the relative supply of timber. Small sales are usually necessary for certain types of salvage and relogging operations.

The timber industry on the west coast generally considers sales of a million board feet or less as very small and even sales up to 5 million feet as small. A sale of from 5 million to 10 million feet is considered medium, and one of 10 million to 25 million feet is large; sales of over 25 million feet are very large. The federal agencies selling timber differ in the volume of timber they usually offer in an individual sale. During one eighteen-month period in 1954 and 1955 the Bureau of Land Management made 360 sales of less than 5 million board feet, 51 sales of 5 million to 10 million board feet, and 6 sales of over 10 million board feet, from the O & C area. Even as a proportion of the volume of timber sold, sales of less than 5 million board feet were

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more than half of the total. In the same period, Forest Service sales from the Willamette National Forest in Oregon consisted of 47 sales of less than 5 million board feet, 8 sales of 5 to 10 million board feet, and 13 sales of 10 million board feet or more. The latter included two-thirds of all timber sold. For its Region 6, which includes western Washington as well as Oregon, the Forest Service in the same period made 53 sales of 10 million to 25 million board feet, 16 sales of 25 million to 50 million board feet, and 3 sales of over 50 million board feet. Thus the Forest Service sales tend to run much larger, at least in this region, than do those of the Bureau of Land Management. (The Bureau of Indian Affairs in this same region has made one sale .as large as 640 million board feet of timber.)

The record of competition in the sales made over this same period shows that for the Willamette National Forest, competition was lacking in only 13 per cent of the sales of less than 5 million board feet, but in 25 per cent of the larger sales. For all of Region 6 of the Forest Service, competition was lacking in 24 per cent of the sales of 10 million to 25 million board feet, 62 per cent of the sales of 25 million to 50 million board feet, and in each of the three sales which involved 50 million board feet. These figures strongly suggest that the larger the sale, at least above 10 million board feet, the less the competition. But one must be careful in drawing such a conclusion; it may well be that sales of any size will draw no competition in some of the largescale areas because only one processing plant may exist in each area.⁸

The specific relationships for the Pacific Northwest would probably not hold elsewhere where the volume of timber per acre is not as high or the average logging operation is not as large. But there clearly seems to be some optimum size of sale in each situation; smaller sales will not attract the larger and often more efficient plants because they are not worthwhile, but sales much above the optimum exclude much of the potential competition. Aside from the question of getting the best price for the timber from federal lands—a matter which is considered in more detail later—the size of the timber sale has a significant effect upon the structure of the timber processing industry in areas where federal timber is a major part of the total supply. If sales are large, this will tend to force smaller operators out of business, and

^a For the same eighteen-month period, there was actually somewhat greater competition in sales of 10 million board feet and more from O & C lands, than from smaller sales. All of the larger sales, although these were comparatively few, brought more than one bid; but in 15 per cent of the smaller sales only single bids were entered. thus in Timl rate in recent. for whi sufficier standar of the c the tim At be based o change amount vary co diverge was in: the nec evident do with within Afte this tir since t dimen equal cruise, still v accura In t on a as the ment accura case (final Ti requi hence sible

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thus in time result in a larger average size of operation in the area. *Timber cruise and scale.* The sale of timber requires relatively accutate information about the timber to be sold. If the inventory is recent, in sufficient detail, and applies to the same area of land as that for which the sale is proposed, then the data in the inventory may be sufficient. More commonly, timber inventory data will not meet these standards and a special timber cruise is necessary. The thoroughness of the cruise depends upon the value of the timber, and upon whether the timber is to be measured again after cut.

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At best, a cruise is only an estimate of timber volume. It must be based on average timber utilization standards for the area, and these change in time as lower grades of logs become more usable. The amount of timber that a particular firm harvests, or its saw yield, may vary considerably from the volume estimated by the cruise. Such a divergence would not prove, though it may suggest, that the cruise was inaccurate. A major difficulty in producing accurate cruises is the necessity for allowing for log defect or rot, which may not be fully evident until the tree is cut down or sawed. Another difficulty has to do with labor: properly trained men are hard to come by and retain within the limits of the prescribed salary scale.

After the timber is cut the logs may be measured or "scaled." At this time, allowance for rot and defect can be made more accurately, since the poorest logs have already been eliminated; moreover, the dimensions of the logs can be measured rather than estimated. Given equal personal competence, scale should be much more accurate than truise, but it is still only an estimate. Actual output of lumber may still vary from scale, depending on skill at the sawmill and on the accuracy with which rot and defect have been allowed for.

In the O & C area the Bureau of Land Management sells timber on a cruise basis. The Forest Service here and elsewhere uses cruise as the basis for timber sales, but nearly always bases settlement or payment on scale. Considerable criticism has been voiced as to the accuracy of the cruises of each agency. This is more serious in the case of the Bureau of Land Management, because the cruise is the final basis of payment.

Timber appraisal. The laws applicable to most federal timber sales require that the timber be sold at not less than the appraised price; hence an appraisal must be made. The appraisal also provides possible buyers with estimates of value of the timber which may supplement the data on volume and grade of logs, and thus assist them in arriving at a bid.

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To calculate the value of the timber, the appraiser ordinarily starts by determining what the value of the timber would be at the first point in the logging and manufacturing process where a recognized market for the product exists. In some areas this may be for logs at a central point; in the Pacific Northwest the Forest Service bases its appraisals on log prices along the Columbia River or at other recognized log markets. Where there is no market for logs as such, or where it is believed that log prices may not fully reflect competitive values, the timber appraisal must begin with lumber values, which must include estimates of lumber output from logs and lumber prices at the mill. From whatever point the timber appraisal process begins, costs of cutting, yarding, and hauling logs and of necessary road construction must be deducted from the market price to get a residual timber value. In so doing, it is necessary for the appraiser to estimate a logging plan or "show" for the timber to be sold. This plan must be one which, in his judgment, is practical and at the lowest cost for the average operator, but which will also meet whatever conditions the agency imposes for conservation of trees and soil. The successful bidder for the timber is not required to follow this plan if he can devise a cheaper one that will also meet agency requirements.

After the residual value at the stump is calculated, the division of this residual into a stumpage price and into an allowance for profit, risk, and perhaps for interest or other costs omitted in the calculations, still must be made. For the O & C lands, the Bureau of Land Management makes a 50-50 split of this residual-50 per cent for the stumpage as such, 50 per cent to the buyer as margin for risk and profit. The Forest Service does not have a single formula, but splits the residual according to its estimate of risk and profit margin necessary to induce buyers to harvest the particular tract of timber. A uniform splitting of the residual has been criticized; it means that high-value timber that can be cheaply harvested offers a greater profit and risk allowance than low-value, high-harvesting-cost timber, which is exactly backwards from what would seem to be required. The Forest Service system, while open to the criticism that it does not provide enough objective standards for establishment of margin, is much more realistic in this regard.

A moment's reflection on the above process will suggest many reasons why a particular bidder may be able to bid more than the appraised price for a particular lot of timber. The volume and grade of the timber may be underestimated in the cruise; a more efficient logging "show" than was used in the appraisal may be possible; road

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costs may have been overestimated; perhaps the bidder is able to forego some part of the risk and profit allowance. Moreover, the usual appraisal process allows for depreciation and other capital costs of sawmills and other items; this is proper, for over the long run such costs must be met. However, this is not necessarily true for a particular lot of timber, where the operator has to meet only his variable or operating costs. For all of these reasons, bidders often can bid far above appraisals for timber; and, as will be shown below, they often do.

Sales methods. The sale itself may be by oral or sealed bid. If, over a series of sales, there is active competition in a locality and the volume of timber sold is not too large, enough bids will develop to bring in an approximation of the timber's full value, regardless of the sales method used, although this is not necessarily true of individual sales.

Where there is less competition or when the size of the sale is comparatively large, the method of sale can have a considerable effect on the purchase price. When timber is sold on oral bid a single bidder need offer no more than the appraised price; but when the bid is sealed the applicant is likely to bid above the appraised price against unknown competition.

Forest Service regulations permit sales by either method but provide that where competition is likely oral bidding is to be preferred. In the Pacific Northwest the Forest Service sells commercial timber entirely by oral bidding. In other localities where little competitive interest exists, written bids are used. The Bureau of Land Management sells O & C timber by both methods, except, under certain conditions—when the sale is part of a road use agreement with the owner of intermingled timber, he may specify oral bidding. Timber from public domain is sold by sealed bid.

The consequences of using one or the other method of bidding can be illustrated by data for all sales made by the Bureau of Land Management from O & C lands from July 1954 to December 1955, and for all sales from the Willamette National Forest during the same period.

For the O & C sales, when more than one bid was received oral bids brought 77 per cent and sealed bids 74 per cent above appraised price. On the other hand, where there was only one bid, oral sales brought only 1.5 per cent above appraised price, while sealed bids brought 27 per cent. In twenty-five of the latter sales, all but four were within \$10,000 of the appraised price and nine were within \$1,000.

For each of thirteen sales of varying size from the Willamette

National Forest during this period, all of which were by oral bidding, there was but a single bid, and in no case was it more than the appraised price. Thus, although in form the sale was competitive, it was in fact essentially, though not deliberately, a negotiated sale.

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In fifty-five other sales from the same forest during the same period, also all by oral bidding but involving two or more bids, an average of 40 per cent above appraised price was received. There was great variation in the extent of the increase above appraised price, from as little as 1 per cent to several instances of more than 100 per cent. In general, the more bidders, the greater was the spread between the sale price and appraised value. The fact that there would be only one bidder was perhaps not known with certainty until the sale was actually held. If competition had actually developed, higher prices would have been paid. These were not negotiated sales in the sense of agreement between the seller and the buyer.

Size of sale and price. The earlier general discussion of the relation between size of sales and price can be illustrated with some data on the relation between sales price and appraised value, by size of sale. Sales from the O & C lands from July 1954 to December 1955 using oral bidding and involving two or more bidders, brought timber prices that averaged 81 per cent and 80 per cent above the appraisal when tracts of less than 5 million and from 5 to 10 million board feet were sold. Sales of over 10 million board feet averaged 56 per cent higher than the appraised value. When sealed bids were used the comparable figures were 72 per cent and 82 per cent for the smaller sales and 62 per cent for the larger. These data indicate that sales of over 10 million board feet bring a relatively smaller price; however, there were too few such sales to be sure this is true generally. For sales up to 10 million board feet, no significant difference seems to occur.

Sales involving two or more bidders for timber from the Willamette National Forest averaged 54 per cent and 77 per cent higher than the appraisal on sales of 5 million and 5 to 10 million board feet, but 22 per cent greater on the sales of over 10 million board feet. The number of such sales from this one forest exceeded that of sales made from all the O & C lands, and hence may be significant. For all sales made by the Forest Service in its Region 6, sales prices were 53 per cent, 39 per cent, and zero per cent above appraised price for sales of 10 to 25 million, 25 to 50 million, and over 50 million board feet, respectively; however, these figures include single-bidder as well as multibidder sales and hence are not precisely comparable with the previous percentages based on multi-bid sales only. Pricing F

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Large timber sales seem to have a double effect on price: there are lewer bids made, hence more single bidder sales; and even when there are two or more bidders the sales price is smaller in relation to appraised price than for small sales.

In considering timber sales with limited numbers of bidders, the possibility of collusion among potential bidders should not be ruled out. "Gentlemen's agreements" were said by the General Accounting Office to exist in and before 1953.⁹ In at least one case, suit was brought by one lumberman against another, alleging breach of contract, one term of which was refraining from bidding for O & C timber. The GAO alleged that personnel of the two agencies "stated that they are generally aware that agreements exist between certain operators" to restrict bidding. However, in 1955 each agency denied the existence of such agreements in Oregon, at least.

If sales of 10 million board feet or more of timber from the Willamette National Forest in the July 1954-December 1955 period had brought the same percentage above appraised value that sales smaller than this actually yielded, total revenue from all sales from this forest in this period would have been 21 per cent higher than they actually were. If this percentage is applied to the roughly \$100 million timber sales from national forests today, a large sum is obtained. This possibly represents the maximum additional revenue available from national forest timber sales, by adjustment of sale volume and in other ways. In practice, far less than this increase might be realizable because demand in some areas is too weak to permit higher prices for stumpage. Some increase in revenue does seem possible, however.

Criticisms of timber appraisals. Timber appraisals methods and results have received sharp criticism. It is understandable that under some circumstances buyers are willing and able to pay more than the appraised price for timber, yet when large numbers of sales over comparatively long periods of time average 70 per cent above appraised price, the accuracy of the appraisals is open to question. In individual cases, prices up to twice or three times the appraisals have been paid.

It seems utterly fantastic that the large increases over appraised price in multi-bid sales could have been based, for such a long period, on other than the true value of the timber. The weight of evidence suggests that the appraised price established by the agencies

⁴U. S. General Accounting Office, Office of Investigations, "Report of Investigation of the Sale of Government-owned Timber by the Forest Service, Department of Agriculture, and the Bureau of Land Management, Department of the Interior," 17338 (mimeographed), March, 1953.

is materially less than the fair market value. As long as these base prices remain so conservative, large increases [in bids over appraisals] will continue. In addition, firms which purchase timber at the appraised price, either at noncompetitive sales or under renegotiation of long-term contracts, may receive substantial benefits.¹⁰

The low appraisals seem to result from errors in cruises and calculated costs of harvest and transport, and particularly in the method of splitting the residual between stumpage and profit and risk. There is evidence to suggest that the gap between appraisals and bid prices .has widened in recent years.

In view of the tendency to bid at or only slightly above appraisals on many timber sales, the question may be raised: Why advertise the amount of the appraisal?

Revealing the appraised price in the advertisement of sale often serves to rob the sale of its genuinely competitive character. On onebid sales the appraised price is virtually the negotiated price, especially in oral bidding. Even with sealed bids, the appraised price often determines the sale price if a bidder can be confident there will be no competition. Bids would more nearly conform to a competitive price if the bidder did not know what the appraisal is.

On the other hand, it can be argued that the more information the bidders have about the timber, the more likely they will be to pay what the timber is actually worth to them. The advertisement of sale contains the volume and grade of log by species. The appraised price serves a purpose if it reveals something of the relative accessibility of the timber. Offering a tract of timber for sale requires a considerable amount of work by federal personnel that would be largely lost if the only bid had to be rejected because it was lower than the appraisal.

One way to attack one-bid sales is to offer timber in volumes that permit more processors to bid and to reject in more cases all the bids (or the only bid) if they are unreasonably low. More realistic appraisals would also help. However, no maneuver is likely to produce many or high bids where demand is weak; and the federal agency wants mature timber harvested in order to permit new growth and to salvage what may otherwise be lost. Perhaps the solution to the problem lies in acquainting equally well both the agency and all possible bidders with the potential competitive interest in particular lots of timber, and to plan sales to take advantage of such competitive interest as does exist.

¹⁰ Federal Timber Sales Policies, op. cit., pp. 156-57.

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Other terms of timber sale. Timber sales involve a number of terms other than price. There is the matter of a down payment for the timber at the time of sale. Through the decades a system has grown up under which the purchaser, in effect, is given credit to finance his timber purchases. After he makes the down payment at the time of purchase, he pays only as the timber is cut. The payments are arranged so that he has always paid for somewhat more timber than he has yet harvested, up to the end of the contract. This is necessary to provide a margin of error against the possibility of cuts larger than estimated, and to assure that the purchaser will complete the contract. The amount of down payment for national forest timber sales is determined by the officers in charge of the sale; it is not a constant percentage, nor one varying directly with size of timber sale. The Burcau of Land Management requires a down payment on O & C sales that varies according to the size of the sale from 20 per cent for the first \$1,000 of sale price to 3 per cent of the estimated value of the contract for sales of over \$1 million.

Longer contracts for timber sale generally provide for renegotiation. The Bureau of Land Management provides for reappraisals in contracts extending over two years, but the reappraised price cannot be less than the contract price. In practice, this means that the government rather than the timber purchaser will initiate the renegotiation. On Forest Service sales reappraisals are made for all sales of five years or longer, and may be to a price lower than the contract price. Shorter contracts may specify reappraisals at shorter intervals. Since renegotiations of contracts involve use of appraised prices, with no opportunity for competitive bidding, the method of appraisal and the relation of appraised to sales prices become especially important in this situation.

Marketing and processing areas. The Forest Service and Bureau of Land Management have legal authority to establish various types of areas within which timber from lands under their jurisdiction must be processed. Under the 1937 O & C Act, the O & C lands have been divided into twelve master units. A marketing area has been established for each, within which the timber sold must undergo the primary stage of processing (manufacture of rough green lumber, or its equivalent). Sales are competitive. There is no restriction on processors' bidding and no restriction on establishment of new processing plants. In addition, the law provides that co-operative agreements may be made with private landowners under which the co-operator has the privilege of buying government timber at the appraised price without competitive bid. In return, he agrees to

operate his lands on a sustained yield basis. The Bureau entered into negotiations for several such co-operative agreements, one of which in 1948 progressed to the stage of public hearing. However, full agreement between landowner and agency was never reached, public opposition developed, and eventually the whole idea was abandoned. Since then co-operative agreements have not been revived by the Bureau.

The 1944 Sustained Yield Act extends similar authority for national forest lands, the public domain, and Indian lands. Under the act an agency can create federal units which in many respects are similar to the marketing areas established by the Bureau of Land Management for the O & C lands. The timber sold from designated areas must be processed within certain defined areas. Within these there is no restriction on bidding by timber processors and no limitation on the establishment of additional processing plants. The Forest Service has established five federal units to date.¹¹

This same act also provided for co-operative agreements similar to those provided for under the O & C Act. The Forest Service has entered into one such agreement with the Simpson Logging Company. It applies to part of the Olympic National Forest and runs for a hundred years. The agreement provides for purchase of national forest timber by the company at appraised prices and without bid. In return, the company agrees to operate specified areas of land in accordance with agreed-upon plans for sustained yield management. The validity of timber appraisal methods under these conditions is crucial.

USE OF RIGHTS OF WAY AS A MEANS OF IMPLEMENTING TIMBER SALES POLICY

In areas of intermingled forest landownership where public roads do not extend into the federal forest lands, roads to haul out federal and private timber are likely to cross lands of both ownerships. In mountainous areas the efficiency of one route to tap timber may exclude all others from consideration. Ideally, such a road would carry the logs downhill continuously from point of harvest to point

¹¹ Units are located near Grays Harbor, Washington, including part of the Olympic National Forest; Lakeview, Oregon, including part of the Fremont National Forest; Flagstaff, Arizona, including part of the Coconino National Forest; Vallecitos, New Mexico, involving part of the Carson National Forest; and Big Valley, California, involving part of the Modoc National Forest.

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of processing, avoiding adverse grades and hence high hauling costs. A road of the width and curvatures suited to modern logging trucks is costly to build, but when built it is likely to be capable of handling all the timber harvested in a watershed. Moreover, with the appraisal process used for government timber, whatever the building cost of the road system, the value of the stumpage is reduced thereby.

All of these facts suggest an obvious solution: one road system to serve all forest lands within a watershed, to be located where the logs would naturally come down. In many situations it can be shown that this is by far the cheapest way to harvest the timber, and that it results in much higher total values to all the timber than any other arrangement. While there are technical problems involved in joint use of a single road system, they have been solved by private forest operators who have built roads jointly. The economic problems—particularly who pays for the road and how costs are calculated and shared—offer difficulty, but these too can be solved.

One method is to amortize the cost of the road as quickly as possible and make no further charge except for maintenance; thus, each user has an equity in the road to the extent of the cost he has helped amortize. If the rate of timber harvest from different forest ownerships varies, amortization must be proportionate to ultimate volume of timber to move over the road. A different arrangement may be for one party to bear the cost of building the road, with other users paying what is essentially a rental charge. This method has been unged in the O & C area, where some operators would like to retain major control over the roads they have built or plan to build, and in so doing obtain larger payments. Whatever the method, whether amortization or rental, it is entirely possible to devise a formula that would result in equal charges.

The single road system for federal and private timber does, however, pose difficulty of another kind. If the federal government builds the road, presumably it could bear the risk that the charge made to a private operator might be inadequate to cover appropriate costs should the operator fail to use the road for all his logs. But if the private timber owner builds the road he is likely to request assurance, prior to setting his charges, that all the federal timber will come out over his road. Assurance of this nature might well interfere with the marketing of the federal timber. While the operator's road may be the most economic way to haul out the timber, it may not be the only way. A road charge based on such an assurance might seriously affect the competitive position of potential timber purchasers.

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On the O & C lands, under certain conditions, the Bureau of Land Management requires the right to cross private lands as a condition to granting federal right of way.

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Where a road system is adequate or can economically be made adequate to accommodate the normal requirements of timber haulers, the granting of rights-of-way across federal lands will be conditioned upon grants to the government with adequate provision for just compensation. Where a road cannot be made adequate to -handle the normal requirements of both parties, the government will not request rights. In entering into a right-of-way agreement the government will seek to reduce all the terms and the costs to specific statements and fixed figures. Provision is made for arbitration of disagreements by the road owner and the purchaser of government timber. Provision is also made for short-term permits.¹²

The regulations to carry out this policy were adopted in 1950, and somewhat modified in 1955.¹³ The regulations have been criticized, particularly by timber owners who are unwilling to share the use of roads they have built with other potential buyers of government timber. On the other hand, they have been strongly supported by lumbermen dependent on federal timber. The problems of negotiating agreements would have been less difficult had the Bureau been equipped with funds to buy rights of way and roads on a large scale, and had it vigorously used its power of eminent domain to do so. These reciprocal road use agreements permit only those who enter the agreement with the government to use the roads. Thus, third parties in the same area whose lands are not included in these agreements are denied a ready access to market.

The situation on national forests is different. The Forest Service and the Department of Agriculture have taken the position that under the Forest Management Act of 1897 they lack the authority to deny a right of way to anyone requesting it. This view has been challenged on legal as well as on other grounds. Since rights of way are available on application, the Forest Service has no bargaining strength against a private timber owner who refuses to grant the right to use a road system constructed on national forest and on his land. Nevertheless, the Forest Service has sought reciprocal road use agreements, and has obtained some.

"Federal Timber Sales Policies, op. cit., p. 16.

¹⁹Since 1950, more than 1,200 miles of logging roads have been made available to the use of buyers of O & C timber through 416 such reciprocal road use agreements. Pricing

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Timber is ordinarily not put up for sale unless access to it by any purchaser can be guaranteed. The Forest Service has reported:

In Oregon and Washington adequate rights-of-way have not yet been obtained to about 20 per cent of the commercial timber on the national forests. In most working circles sufficient access has been obtained to permit cutting at close to full allowable rates. Heretofore it has been possible to use effectively all available funds for timber sales administration by adjusting our sale program away from areas with unsolved access problems in other portions of the working circle. Opportunities to make such sale program adjustments are now getting scarce. We estimate that in Oregon and Washington approximately 150 million board-feet of the gap between actual and allowable annual cutting rates is involved in right-of-way difficulties.¹⁴

Each of these agencies has the right to condemn land or roads to provide access to federal timber. However, each has used this authority sparingly. Partly this is because funds have not been available to build all the roads needed. Partly, the agencies may have feared to arouse antagonism to their access-road programs, with possible adverse effects on appropriations. Certainly, condemnation procedures used in some areas would have to be used in others, and this, with limited funds and manpower, would be difficult. The stubborn situations have, in effect, been put aside for the present, but they will have to be met sometime.

OTHER METHODS OF TIMBER SALE

Although by far the overwhelming volume of timber from federal lands is sold competitively there are at least four other types of timber disposal from federal lands:

Free use of certain forest products is allowed. Such items as Christmas trees, firewood, mine props, fence posts, and lumber for home use may be taken without cost. Free-use permits are much larger in number than commercial timber sales, and the administrative work in handling them is unavoidably considerable, but the volume of timber taken today is low.

Noncompetitive sales are made where the volume is small and little of no competition is probable. Such sales are particularly effective

"Federal Timber Sales Policies, op. cit., p. 17.

for salvage operations where the value of the timber is unlikely to be high and harvesting costs may be large; and where the main objective is not revenue but better forestry. Even in these cases the administrator may make an informal check to determine what interest there may be, and what value is ascribed to the timber. Sales up to \$2,500 in value may be made from the public domain, up to 100,000 board feet from O & C lands, and up to \$2,000 from national forests, without competitive bid. Such sales, if wisely handled, are quite important to certain local groups, and can be a major tool in getting better forestry. Their numbers are relatively large, but the volume is small. Liberalization of existing laws might well result in even larger sales of this type.

Exchange of stumpage on national forests for private land added to national forests constitutes a form of timber sale. Such exchanges include varying amounts of timber on both the offered and the selected lands. In these exchanges the value of the timber sold is based on appraisal only. The volume of timber involved in such exchanges has never been large compared with the volume of commercial sales, and they are now prohibited by the Secretary of Agriculture.¹⁵

Some timber is cut in trespass actions on federal lands. Federal land managers take a cold view of protestations of innocence in trespass, because this is nearly always the claim. But where trespass is inadvertent-perhaps through misapprehension of legal boundary lines-the trespasser should pay more than the market price of the timber; if he does not, there is no incentive to greater care in the future, and soon the federal agency is selling, at the option of the trespasser, more of its timber than is consistent with good forestry. Willful trespassers should obviously pay far more, and if persistent may be prosecuted for criminal trespass. Trespass actions, civil and criminal, are ordinarily brought under state law governing trespass, which varies greatly from state to state. In Oregon, for instance, innocent trespassers pay double the market rate for stumpage cut, and willful trespassers pay three times the rate. While the scale of trespass timber cutting from federal land today is nothing like as large as it once was, it is serious enough. Unless trespass is closely guarded against and vigorously prosecuted when found, the entire system of federal land administration could in time break down. The volume of timber going through trespass cutting is relatively small, but the administrative effort which goes into trespass detection and prosecution has to be relatively large.

* The numbers and acreages of such exchanges are shown in appendix table 24.

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20 Years Of Controversy

ELMO R. RICHARDSON

MR. RICHARDSON is associate professor of history at Washington State University. He has written The Politics of Conservation (University of California Press, 1962) and several articles on federal-state resource policy. His "Federal Park Policy in Utah: The Escalante National Monument Controversy of 1935-1940" (Utah Historical Quarterly, April 1965) tells the story of one of Secretary Ickes' defeats. Professor Richardson is currently gathering materials for a study of the Civilian Conservation Corps.

PHOTO CREDITS: Pages 6, 9, and 13, National Park Service; page 8, University of Washington Libraries; page 10, U.S. Forest Service.



By THE TIME Franklin Roosevelt's administration took office in 1933, Americans had learned to accept federal regulation of resource use as the prevention of monopoly and waste. Even the areas of the Far West, economically dependent upon natural resource industries, endorsed the policy in that sense. State governments and private enterprisers there, at first hostile to Forest Service jurisdiction over vast tracts of the public domain, were now satisfied with that agency's practice of regulating commercial access to the national forests. At the same time, however, the preservation concept embodied in the administration of a national park system was not as well favored. Westerners expressed opinions that were merely tolerant ("an adequate museum of big trees"), or condescending (a preserved site "would please the women and other interested parties"), or, as the economic Depression worsened, class-conscious hostility ("a Playground for the Rich-and a Dole for our Workers").

It is noteworthy, then, that the national park system doubled in size during the 1930's. By the end of that decade the public had learned to think of national parks as valuable retreats now accessible to the ordinary citizen. The change in attitude can be explained partly by population mobility, partly by the gradual renewal of individual well-being, and by the publicity given to parks by New Deal projects like the Civilian Conservation Corps. Yet the expansion of the national park system occurred also against a contrary background of efforts to stimulate the economy which often meant a greater use of natural resources for industrial purposes.

A good share of the credit for this change must go to President Franklin D. Roosevelt and his Secretary of the Interior, Harold Ickes. They thought of themselves as the executors of the nation's best interests and sought to enlarge the scope of federal resource management. They had little patience with the patchwork of precedent and overlapping jurisdiction which formed the basis of federal conservation policy when they took office.

For Ickes the abiding objective was a Department of Conservation which would unite under one cabinet officer all government activities in the field of natural resources. Expansion of the national park system, desirable in itself, was a step toward that objective as well. Early in his administration, therefore, Ickes announced plans for six new national parks. These were to be total natural environments, wildernesses, with a minimum of lodges, concessions, and highways.

Since the new parks would be formed principally from existing national forest lands, the plan led inevitably to quarrels over administrative jurisdiction and to public controversy. Unlike Roosevelt, Ickes had a minimum of tact, personal or political, and less interest in educating the people than in exposing selfinterest and dishonesty to them. He equated his critics with the enemies of the people and attacked them all with the zeal of the one-time Progressive reformer that he was. Ickes managed his quarrels with striking effect. His greatest victory was the creation of Olympic National Park.

The Olympic Peninsula, lying between Puget Sound and the Pacific Ocean, is the farthermost northwest extension of the continental 48 states. At the heart of the 4,000,000-acre peninsula are the Olympic Mountains, 50 miles of rugged glaciated peaks dominated by Mount Olympus (7,965 feet). The mountains are surrounded by forests of Douglas fir, western hemlock, Sitka spruce, western redcedar, and Pacific silver fir. Two of the region's unique natural attractions are the rangeland of the rare Olympic elk (*Cervus roosevellii*) and the moss-encrusted rain forests which run along the valleys of the Hoh, Bogachiel, and Queets Rivers to the ocean.

The Olympic Peninsula was discovered and named by the maritime explorers of the late 18th century, but it was not settled to any great extent for almost one hundred years and then only in pockets of arable land along the 445-mile coastline. The rest was nibbled at by prospectors, miners, lumbermen and trappers. In 1897 President Cleveland withdrew from entry 1,500,000 acres of public land on the peninsula to form the Olympic National Forest. The center of this national forest (615,000 acres) was proclaimed Mount Olympus National Monument by President Theodore Roosevelt in 1909. During the First World War the Monument was reduced by half to permit mining and lumbering. It was administered by the Forest Service until 1933, then transferred to the Department of the Interior.

SOON AFTER THE Monument came under the Department of Interior's jurisdiction a campaign began to give it full national park status. This campaign was largely carried on by the Emergency Conservation Committee, a group of New York City natural scientists and park advocates, whose efforts were financed by the philanthropist Mrs. Rosalie Edge. Chief publicist for the Committee was its secretary Irving Brant, a St. Louis newspaperman and later confidante of Harold Ickes. The committee's campaign was stimulated early by a burst of favorable public opinion. In October 1933 hunters killed 250 of the rare Olympic elk during a four-day open season on Forest Service lands adjacent to Mount Olympus Monument. Protests against this "slaughter" and demands for protecting the area in a national park were heard in the West as well as the East. In western Washington the park idea was supported by civic associations, some businessmen, and, most importantly, by The Mountaineers Inc., a Seattle wilderness organization headed by attorney Irving Clark.

Governor Clarence Martin of Washington received the idea of a national park in the Olympics without enthusiasm. An oldline, localist Democrat from the

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, agrarian, castern part of the state, he viewed the issue first as it affected the economic needs of the state's citizens and second as a matter to be determined by the state's administrators. Martin passed the proposal along to the State Planning Council for study. That agency, created during the depression emergency to coordinate state and federal economic programs, was headed by Ben Kizer, an energetic Democrat from Spokane. He in turn assigned the study to a special Committee on Parks and Highways consisting of businessmen, engineers, and one landscape photographer, Asahel Curtis, a longtime champion of the commercial development of Washington's scenic resources.

THERE WAS NO doubt about the importance of forest products to the regional economy. Sixty per cent of the peninsula's population directly or indirectly earned its livelihood from logging and milling. With the lumber industry in its worst slump ever, most of the timber was being converted into pulp products, and production was rising. The Olympic Peninsula was a major pulpwood source-considered then the largest in the nation-and the Forest Service had encouraged this transition from lumber to paper. Labor unions were as anxious to maintain commercial access to these forests as were mill owners and peninsula businessmen. Not surprisingly the Council's special committee found the needs of the state's economy paramount and endorsed existing administration by the Forest Service. The Committee's report was adopted unanimously by the Council and published in July 1934.

The park issue reached Congress in March 1935. Representative Monrad C. Wallgren, Democrat, of Washington's peninsula district, incorporated the recommendations of the Emergency Conservation Committee and the resolutions of his park-minded constituents into H. R. 7086, a bill to establish Mount Olympus National Park. The measure would create a park by adding 400,000 acres, most of it from the national forest, to the existing Monument's acreage. Further details, including protection of the elk, reflected the influence of an Olympic park study team appointed by Arno Cammerer, Director of the Park Service.

Chairman Kizer was well aware of the value of a national park on the peninsula. National parks commanded large appropriations from Congress. The Interior Department and its Park Service also controlled funds for construction in the state, especially the gigantic Grand Coulee Dam. Support of continued Forest Service jurisdiction, therefore, put the state "in the midst of one of those first class rows between two highly influential government departments." "In my heart of hearts," Kizer admitted to Governor Martin, "I would like to see the Monument turned into a National Park. I think it will get far more attention



GOVERNOR CLARENCE MARTIN

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and be far more of an asset to the state . . . On the other hand . . . it would take far more timber land than the State can afford to surrender." If it went through as written, Kizer urged the governor to oppose it, "even though we found ourselves forwarding the interests of the Department of Agriculture at the expense of the Interior Department's interests." There was always the possibility of making trades and compromises to protect the state's vital interests.

By the end of 1935 the Wallgren bill had inspired hundreds of pamphlets, articles, and resolutions. The arguments pro and con were presented again in April 1936 at hearings held by Representative René De-Rouen's House Committee on Public Lands. Forest Service spokesmen, including former Chief Forester Henry S. Graves, defended the policy of multiple use management and the preservation of particular wilderness sites. Spokesmen from mill communities produced figures showing that 85 per cent of the peninsula's residents supported the existing policy, while labor leaders predicted that thousands of men would lose their jobs if the bill passed. Photographer Asahel Curtis insisted upon a strict interpretation of the National Park Act of 1916, claiming that only the

topmost ridge of the Olympics was worthy of inclusion in a national park. He argued that the park was inaccessible and too near popular Mount Rainier to ever attract visitors (only 25,000 had visited the Monument in 1935).

Among those testifying on behalf of the Wallgren bill were Mrs. Rosalie Edge, chairman of the Emergency Conservation Committee, and Irving Clark of Scattle. Their argument emphasized the superior claim of the nation over the local needs of the peninsula, especially over the needs of the forest industrics. The testimony of Park Service officials dwelled upon the uniqueness of the area and the need for keeping it inviolate. By implication and declaration the villain to these witnesses was the Forest Service, which they said was blatantly eager to please the mill owners. Secretary Ickes dismissed the notion of continuing Forest Service administration as tantamount to "putting a pig in a packing-house."

The DeRouen committee reported the Wallgren bill to the House favorably and without amendment, confirming Curtis' suspicion that Park Service lobbying had carried the day even before hearings began. The press of other legislation and the approaching

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1936 election prevented further action on it by the House. Impatient for the park and characteristically seeking the shortest distance between two points, Roosevelt considered breaking the deadlock by transferring 400,000 acres from the Olympic National Forest to the Monument by executive order, but the Attorney General advised him that this would be illegal under the provisions of the National Monuments and Antiquities Act of 1906. For his part, Secretary Wallace proclaimed in July a "primitive area" of 238,930 acres in portions of the Olympic National Forest adjacent to the Monument.

IN WASHINGTON STATE, Governor Martin was alarmed by the progress of Wallgren's bill and asked the State Planning Council to study the matter once again in order to draw up an alternative proposal that would take into account some of the points brought out at the hearings. "We must not come out as the unregenerate advocates of wicked sawmills" Kizer wrote to Ross K. Tiffany, the Council's secretary. The Council's new report on the Olympic Park came out in December 1936. It concentrated upon two difficult conditions existing on the peninsula: the vital relationship between forest use and the local economy, e mosaic of land holdings-state school lands, and state and private forests, and marginal farms-which carried the tax burden of the area. To have a national park without destroying local interests, the Council proposed a variation of the "Cleator Plan." This was a plan adopted by the Forest Service in 1929 for wilderness-recreation management of 450,000 acres in the Olympic National Forest and the Mount Olympus National Monument. The national park, according to this modified Cleator Plan, would consist of 360,-000 acres, principally the area of the existing Monument. Adjoining it to the west and southwest would be some 200,000 acres under Forest Service control but managed primarily for wilderness and recreation values.

Congressman Wallgren would not adopt the Cleator Plan but revised his park bill. The new bill, introduced on February 15, 1937 (H. R. 4724), showed the influence of the Council's report. The boundaries of the proposed park were reduced to 648,000 acres, an area only slightly larger than that recommended by the Council, but the bill retained a controversial southwestern extension into national forest lands containing accessible supplies of pulpwood.

Wallgren's new bill was a considerable let-down to at least one park advocate. Irving Brant wrote President Roosevelt in September 1937 about the "remarkable circumstances" of the bill. The Department of the Interior had submitted no report on the bill yet substantial government timber preserved by the first Wallgren bill was lost under the second. He urged the President to make a personal inspection of big



timber on the Quinault River, similar to that left out of the second Wallgren bill, during his trip to the West in the fall of 1937.

After a second round of public debate in 1937, federal and state officials realized that the national park issue would not be decided by public opinion but by the President himself. At the suggestion of Secretary Ickes, Roosevelt visited the Olympic Peninsula between September 30 and October 1. At frequent stops, he spoke with characteristic sentiment and optimism. Seeing some youngsters in one crowd, he told them, "I think you children are going to get your national park." Later in the day as his motorcade passed a logged-over hillside, he allegedly growled, "I hope the lumberman who is responsible for this is roasting in hell." To local businessmen, however, he expressed confidence that their lumber and pulpwood needs would be met by selective cutting in federal forests. He did not at the time specify which tracts would be available. On September 30, Roosevelt met with representatives of state and federal resource agencies at Lake Crescent. There, he defended a large-sized park and again said that details of boundaries and access could be worked out in subsequent discussion.

Encouraged by the apparent mood of compromise which followed this meeting, the State Planning Council passed a resolution (October 22, 1937) in favor of a national park. It went on record again, however, for dual administration by the Park Service and Forest Service and suggested that it be named "Mt. Olympus National Park and Demonstration Forest." The Council's resolution stressed accessibility to the park by requesting major highways along the river valleys and other entrances to the park.

BEHIND THE SCENES manuevering preceded the introduction of the third Olympic Park bill in the final session of the 75th Congress. In February 1938, Washington Senators Bone and Schwellenbach together with Representatives Wallgren and Martin Smith met with Chief Forester Silcox and Park Service Director Cammerer. Irving Brant was also present. On March 21, Cammerer reported to the President that the Forest Service and Park Service were in "substantial agreement," the bill had budget clearance, and the rest was up to Congress. Responding to the administration's wish for a large park, Wallgren introduced his third bill on March 25, 1938 (11. R. 10024). It, called for a park of 898,202 acres, substantially larger than the area in his two previous bills, and included westward extensions down the Bogachiel, Hoh, and Queets Rivers. There were no references to multiple use administration or entrance roadways.

The irreconcilable opponents of the Park were not likely to accept any bill, but if the state administrators meant to secure alternatives to the Wallgren measure, they would have to convince the President. Angered by the claims of eastern conservationists that most Washingtonians wanted the large park, Governor Martin decided to go to the White House immediately in order to "stoutly resist" their propaganda. Irving Brant argued against receiving the governor because it would delay consideration of the bill. But after Schwellenbach assured Roosevelt that Governor Martin wished only to discuss details of the westward extensions of the park, Roosevelt agreed to see him.

THE WASHINGTON DELEGATION-Martin, Kizer, and Democratic State Senator George Yantis-came to Washington, D. C., in April 1938 equipped with elaborate maps showing the pattern of land ownership on the peninsula and statistics concerning production and employment there. First they presented their case before the House Public Lands Committee; which was now holding its third series of hearings on the Olympic park. The hearings were cursory because even chairman René DeRouen admitted that all the arguments had been presented before. Then the delegation met in the White House with Bone, Schwellenbach, Smith, and Wallgren. The meeting was brief because Roosevelt limited discussion to the pending legislation. He was sympathetic to the idea of selective logging near the park's boundaries and suggested that such a provision might be introduced into the bill when it reached the Senate. As for boundaries, he thought the size of the park could be determined by consultation between federal and state officials after the bill was approved by Congress. But he insisted upon specific authority to enlarge the park after it was established.

Pleased with the interview. Martin and Kizer returned to their hotel accompanied by Senator Schwellenbach. As they discussed the meeting on the way, the Rooseveltian charm dissipated and was replaced by confusion and contention. To the Senator's surprise, Martin claimed that the President's suggestion about "consultation" meant that the state's executives could veto any unacceptable proposals for additions to the park. Schwellenbach hastened to point out that Roosevelt would hardly have agreed to such a limita-" tion of presidential power. Consultation simply meant that final boundaries would be fixed after discussions with state and federal officials. Even Wallgren was confused by the meeting and thought that the President had agreed to a park near the size wanted by state officials. Ickes dismissed that assumption as "dumb," Roosevelt customarily used vague language to get factions to agree, but it was unlikely that he would give so much just when he was on the verge of getting the large park he had so long wanted. Nevertheless, when Governor Martin returned to Washington State, he assured the press that nothing would be done about final boundaries without the state's approval.

To save his Council's "face," Kizer now drafted amendments to the Wallgren bill which would make the Olympics "a regular National Park with highways, concessions, and everything." He was encouraged by John Boettinger, publisher of the influential Scattle Post-Intelligencer and the President's son-in-law. Ordinarily an administration go-between, Boettinger now wrote editorials opposing the Wallgren bill unless amended to coincide with the Council's recommendation. He quickly drew a long intemperate letter from Ickes. The Secretary then turned his fire on Martin and Kizer. In a radio address from Spokane, he accused them of willfully distorting the President's suggestion for consultation. It was all part of a scheme, Ickes said, to force the President into accepting a smaller park or stand accused of betraying his promise. Martin's response to the speech was brief: "Oh Ickes, he attacks everybody."

These disruptions merely served to muddy the waters, Kizer observed, and spread resentment just when reconciliation was needed. The administration forces now acted swiftly to push the bill through Congress before the end of the session. DeRouen's committee reported the Wallgren bill without amendment on April 25, though state officials had been assured by some Congressmen that no immediate action would be taken. Martin's optimism was suddenly destroyed. When Kizer tried to find out what happened, he learned from Schwellenbach that Wallgren had assured the committee members they need not be bound by any alleged private understandings between Governor Martin and the President. And De-Rouen had insisted that the committee report out the bill for a large park because the Senate would amend it anyway.

The Wallgren bill passed the House on May 16 and was sent to the Senate Public Lands and Surveys Committee headed by Colorado Senator Alva B. Adams. At this point Acting Secretary of the Interior, E. K. Burlew, advised the President of an amendment submitted by Interior "which would authorize the President to add to the proposed park any lands within the boundaries of the Olympic National Forest." Because of the limited time before adjournment, Burlew added, the Senate Committee "should be influenced" and the Senators from Washington State "urged" to speed its passage.

No LONGER TRUSTING assurances of Congressmen who told them that the bill would be altered or die in committee when adjournment came, Martin and Kizer reminded the President of their trust in his consultation suggestion. Kizer then suggested to Schwellenbach that a temporary measure could be passed now and details worked out later. But if the Wallgren bill passed unamended, the people of western Washington would consider it a humiliation of

Governor Martin by the Roosevelt administration. The Senator replied that he and Senator Bone were caught in an uncomfortable dilemma: "If we disregard the conversations at the White House, we will be accused of having double-crossed the Governor, and if we pass the bill in conformity with the actual language used by the President, the bill will be more unsatisfactory to you and to the Governor than the bill which passed the House." The President, he concluded, would never assent to delay or suspension of his determination to add to the total size of the park, but he told Kizer that Roosevelt had given his "complete assurance" that consultation would not be a mere formality.

One jame 11 the Wallgren bill was reported out of committee with an amendment reducing the size of the park to about 648,000 acres but authorizing the President to make unspecified additions. It was passed by the Senate on June 13, rejected by the House, and went to a conference committee on June 16. The objections of all concerned were removed by a provision specifically requiring consultation and by another preventing the President from making additions for eight months, that is, until after consultations took place. The park was limited in size to 898,-292 acres after additions. It was, Schwellenbach informed Kizer, the "best possible compromise." The bill was then adopted without a roll call vote.

ROOSEVELT SIGNED THE act into law with "special pleasure" on June 29 at Hyde Park. Ickes, too, had reason to be pleased. Nevertheless, he grumbled in his diary that the bill had passed "by the skin of its teeth." The defeat of his Department of Conservation legislation in the same session of Congress certainly contributed to this dissatisfaction.

On the day Roosevelt signed the Olympic Park act the men of the Martin administration were feeling decidedly low. Reminded of William Howard Taft's lament after the 1912 election, Kizer wrote: "I knew it was coming-but I didn't know it would be so big!" State officials now turned their hopes to the consultation procedures. But in this stage of the Olympic controversy the initiative remained with the Department of Interior. It was Ickes who supplied Roosevelt with a list of proposed additions to the park which were in turn based on recommendations supplied by Irving Brant and O. A. Tomlinson, supervisor of Mt. Rainier National Park. As for the Department of Agriculture, Secretary Wallace told the President in November. that the Forest Service "would make no objections to existing or proposed Olympic Park boundaries."

The burden of defending Washington State's interests now rested on the State Planning Council. Its task was made no less difficult by Ickes' announcement in August 1938 that he favored extending the park boundaries to their maximum limits as soon as possible. To Washingtonians who thought the process would take several years at least, this announcement came as a distinct shock. Kizer thought it violated the spirit in which the Wallgren bill had been adopted. but since the other side had "more guns than we have" he reconciled himself to the ordeal of dealing with his long-time adversary. In August, he invited the Secretary out to examine a "demonstration forest" under sustained-yield management by a peninsula lumber company. In an unusually mellow mood after his victory, Ickes accepted. After the visit, the two men had "quite an interview." The Secretary seemed impressed by the demonstration forest; he seemed to agree that similar cutting experiments could be carried on in the park; the "hard shell" seemed to be cracking. It was a false hope. In subsequent meetings, Ickes made it very clear that his position on commercial access to the park's forests "had not changed in the slightest."

Kizer also tried to close the gap of misunderstanding between federal and state officials by writing to Irving Brant. He pointed out the Council's difficulty in making its way between the conservative lumbermen who would not change their destructive methods and the "embittered witnesses of forest devastation" to whom there were no desirable methods of logging. Younger, more progressive men in the industry, Kizer assured Brant, could be depended upon to use the techniques of selective logging. This distinction between old and new methods of logging deserved the widest publicity, and he hoped it would become a topic for Brant's "extraordinarily brilliant and effective talent as a writer and a generous public spirit." The letter, doubtless painful to write, received no reply.

The details of consultation were handled by Ross K. Tilfany, representing the State Planning Council, and Frank Kittredge, regional director of the National Park Service. Their joint report of December 13, 1938, recommended additions to Olympic Park of 202,292 acres on the north, east, and south. The western boundaries were left open because no agreement could be reached. Ickes had already submitted to the President Irving Brant's recommendations for adding some 50,000 acres to the west which had originally been part of the Wallgren bill and had been eliminated from it by the Senate amendment.

THE WESTERN BOUNDARY of the park became the focus of attention in 1939. Besides the 50,000 or so acres immediately west of the park, Roosevelt wished to acquire rain forest corridors along the entire length of the Bogachiel, Hoh, and Queets Valleys to the ocean, as well as a stretch of Pacific shore line. Since he had no authority to add lands in these areas under the Olympic Park act, the President asked Ickes to draw up proposals for legislation. Eventually the Queets corridor and Ocean Strip areas were made a Public Works Administration project. There was not much



the State of Washington officials could do about these new administration thrusts, but they fought a rear guard action to keep land in the Bogachiel and Hoh areas out of the park.

In January 1939 Governor Martin suggested to the President that final boundaries of the Olympic Park be determined by the federally sponsored National Resources Committee. This suggestion was politely but firmly declined. When studies on the boundary question were completed, Roosevelt wrote Martin, there would be a meeting in Washington "to consider findings and recommendations of all parties." That meeting was not held until December 1939, and in the meantime both sides prepared their final arguments. Once again the state objected to the proposed western additions because they would withdraw vital resources from commercial development. These arguments were summarized and refuted, at least to the administration's satisfaction, by Brant in a long memorandum dated December 6, 1939. The same memorandum contained Brant's recommendations for the Olympic Park additions: 187,411 acres of which 50,-625 would be added to the west side of the park and 136,786 acres to the north, east, and south sides. This was the administration proposal when the President met with Governor Martin, Kizer, Yantis, Ickes, and Wallace at the White House on December 9.

anyone in the National Park Service." For one hour and a half the men pored over maps without reaching agreement. From administration accounts of the meeting, it would appear that the Governor and his representatives were looking for some concession on the western boundaries of the park that would put to rest suspicions on the peninsula that the government was planning other national parks "and the fear that this one would be too large." The meeting resumed the next day, Sunday, December 10, but this time neither Roosevelt nor Martin was present. The only area in question was 50,000 acres in the Hoh-Bogachiel Valley. Again there was no agreement. In order to settle the question about rain forest, Roowevelt ordered the Park Service to take photo-

According to Ickes, Irving Brant carried "the ball

for Interior because he knows the area better than

In order to settle the question about rain forest, Roosevelt ordered the Park Service to take photographs of the Bogachiel Valley floor every one-half mile for three or four miles into the proposed extension. From the Forest Service and the Park Service he got figures on pulpwood supplies which proved that the proposed addition would not affect the peninsula's pulp industries.

Roosevelt was evidently impatient with any further delay in acquiring the western additions to the park. He also distrusted the Martin administration. For some time state Democrats had warned him that the Governor had little sympathy for the domestic policies of the New Deal. They would soon seek to "purge" him from the party just as the President tried to remove other opponents that same year. There was, therefore, no reason to be solicitous of Martin now.

On December 21, the President informed Governor Martin of his intention to proclaim the Bogachiel-Hoh additions. He felt sure the Governor would agree to the inclusion of this western area in the park "since the only question that arose" at their recent meeting "was the factual basis of the decision." The Olympic Park, he concluded, was only part of a larger program of planned resource use on the peninsula: "Outside of the park this is primarily a question of timber management. It was plain at our conference that we see eye to eye on this matter, and I hope that some plan of action may soon be worked out."

The proclamation was announced on January 2, 1940. Assisted by press secretary Steve Early, who was holding maps of the peninsula, the President played surveyor as he pointed out the disputed areas to news-paper-correspondents and summarized the arguments about rain forest and pulpwood supplies.

THE NEARLY COMPLETED park, roughly the size of Rhode Island, looked to Asahel Curtis like an "ancient mustard plaster" which "made you feel so bad in a new place that you forgot about the original trouble." The Olympic controversy had barely begun to cool when Washingtonians learned that Ickes was considering another national park in the Cascade Mountains from Canada to the Columbia River. "The Ickesan policy of grab has not exhausted itself in the State of Washington," proclaimed the Bellingham, Washington, Herald. Opponents of Olympic Park were again aroused to action because 1940 was an election year. In their state conventions that summer, Democrats and Republicans went on record against "any further encroachment by the National Government on the state's domain" and asked for the restoration of the former Monument boundaries. In the private correspondence of park opponents Ickes was usually cast as a Hitlerian dictator with Washington State pictured as the recently "blitzed" European countries. One such fantasy anticipated that he would be "stripped of all his power" in the forthcoming election and be reduced to "selling peanuts on a street corner." When the returns came in on November 5, however, it was clear that the controversy had been more noise than substance. The residents of the four peninsula counties, mainly concerned with larger issues of domestic prosperity and the war threat, gave a substantial majority to Roosevelt and sent Monrad Wallgren to the United States Senate.

Hotel operators doubted that the Olympic Parkequipped only with campground facilities and trailswould ever attract more than a few hundred visitors, but 75,000 came during the first season of 1938, a third of whom stayed for trips along the trails into wilderness areas. (That total had doubled by the end of World War II and continued to double annually during the immediate postwar years). Finding themselves portals of the park, several peninsula communities abandoned their earlier opposition. The citizens of Port Angeles already considered the park an essential part of their city's economy. Indeed, they were to request that 20,000 acres-including Mt. Angeles and Lake Angeles-be added to the park. This confirmation of his original purpose pleased Secretary Ickes so much that he came out to the peninsula again in September 1941. "I wouldn't have felt quite satisfied," he said with something like charm, "if I had gone without looking the people of Port Angeles in the eye." Getting a national park for any community was "one of the toughest jobs" a man in government could undertake. "I have been accused of taking resources away from the people. They don't realize until you have hog-tied them and forced a park down their throats that you really have given them an asset that has present value and continuously increasing value." Now, as the city was the first in the area to realize, the park would be an "anchor to windward, to keep people coming, to keep trade moving."

BUT THE PARK was not to remain unchallenged. Wartime demands for lumber brought renewed pressure to open Olympic Park forests to logging. At first the fears of conservationists were put at rest by the continuing Ickes administration, but as lumber grew short the demands, especially for accessible Sitka spruce, became too great. In December 1912 the acute shortage of logs for airplane stock in the Grays Harbor and Puget Sound areas caused Ickes to agree reluctantly "to sell, for war purposes, spruce and fir timber on the Queets Corridor and Ocean Strip lands in accordance with the principles of selective logging." (Ben Kizer must have smiled at that announcement.) The corridor and ocean strips were not yet part of the Olympic Park. Incursions into the park proper were still resisted by the Department under the watchful eye of Irving Brant who lamented "the unhappy results" of logging in the Queets Corridor during 1943 and promised worse if logging were permitted in the western extensions of the park which the administration had fought so hard to get.

Ickes left Interior in 1946, the same year Olympic Park was formally dedicated. Several bills to alter the boundaries of the park were introduced in Congress during the immediate post-war years, but none of them ever got out of committee. There was also little likelihood of boundary adjustments while Monrad Wallgren was Governor of Washington (1945-1949).

The hopes of the Olympic Park "revisionists" were rekindled when the 1952 elections placed Republican administrations in Washington State and Washington, D.C. Over Governor-elect Langlie's protests, outgoing President Harry Truman signed the proclamation in January 1953 incorporating lands in the Queets Corridor and Ocean Strip to Olympic Park. Langlie's advisors first suggested asking the incoming President, Dwight Eisenhower, to revoke the addition. Instead, Langlie pursued a course more conciliatory to the Department of the Interior by appointing in March 1953 an Olympic Park National Review Committee to report on the need for boundary changes.

The committee represented all shades of opinion and was chaired by William B. Greeley, former chief forester of the U.S. and then head of the West Coast Lumbermen's Association. In the months that followed, committee members traveled to peninsula communities where they collected predictable testimony and time-worn arguments from anyone wishing to offer them. Greeley soon realized that the committee was deeply divided and not ready to make recommendations to state or federal officials. Eventually nine members-lumbermen, foresters, and labor leaders-signed a report which merely asked the Secretary of the Interior to arbitrate the demands of all parties concerned. With this request the state administrators in fact abdicated their former insistence on being ultimate decision-makers. A minority report, signed by five members of the committee, maintained that no changes should be made in the park's boundaries. Cutting timber in parts of the park, the minority



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found, would hardly be sufficient to stabilize the forest industries or provide substantial employment.

The last hope of park opponents was the new Secretary of the Interior, Douglas McKay, As Governor of Oregon, he had been aware of the needs of the forest industries. A short time before he entered the cabinet, he had denounced "those mistaken souls who preach that our forests should be socialized." When advised of the request made by the Review Committee's majority, however, he declined to reopen the controversy. Already sensitive to the label "Giveaway McKay" pinned on him by Democrats and conservationists, the Secretary decided that sustained yield logging inside the boundaries of the park was incompatible with the purpose of the national system. Moreover, these reservations were becoming "increasingly important and economically valuable attractions." If they were reduced in size "for the benefit of commercial lumbermen," he told a forestry official in the Pacific Northwest, "we certainly would be in for some unusual criticism." For these reasons he concluded that the Olympic National Park "should be left alone."

As early as 1937, the state administrators realized that once the park was created there would be little if any chance for its modification. The intertial force grew stronger as the years passed. Should they have stood adamantly on the Council's first resolution for no change in the status quo of 1934? Could they have convinced Wallgren and Schwellenbach to support the "Cleator Plan" instead of alienating them just when their assistance was most needed in 1938? Perhaps there was no possible alternative open to them once the area was completely in the hands of the Park Service, Anyone who has seen the Olympic Park might agree that Harold Ickes had the "right cause." But as he well knew, that "cause" did not triumph automatically.

Note on Sources

This study is based upon research in the departmental, personal, and political files of the Franklin D. Roosevelt Papers, Roosevelt Library, Hyde Park, N.Y., and the files of the Governors and State Planning Council of the State of Washington at Olympia. Essential information was taken from three personal manuscript collections: the Ben Kizer Papers, University of Oregon Library, and the Irving Clark Papers and Asahel Curtis Papers at the University of Washington Libraries, Additional materials were found in the papers of Arthur Langlie, Corydon Wagner, and the Washington State Conservation Society at the University of Washington; the papers of William B. Greeley and Douglas McKay at the University of Oregon; and the records of the West Coast Lumbermen's Association at the Oregon Historical Society. Source citations for this article are on file in the editorial office of Forest History.



CHAPTER XVII

Use and Abuse of Settlement Laws 1880-1904

If one may judge from the silence of the public press, the periodicals, and indeed of Congressmen, little impact was made on public opinion by the Report of the Public Land Commission and the continued recommendations of the Land Commissioners for changes in the land laws to end fraudulent entries. The West was enjoying its greatest land boom--financed largely by a huge outpouring of funds from the East-and until the late eighties there were few who favored any action that might slow down the boom and the transfer of public lands to private ownership. In fact, the pressure for speeding up the surveys, opening new lands to settlement, and removing the Indians from their more desirable tracts was mounting, and, with respect to the Indians, came to a head in the eighties. Among the tribes which at that time were induced either to accept allotments or reduced reservations and to convey their surplus lands to the United States, were the Miami, Kickapoo, Sac, Fox, and lowa of Kansas, the Omaha, Otoe and Winnebago of Nebraska, the Chippewa of Minnesota, the Creek, Seminole, Peoria and Miami of Indian Territory, the Crow, Flathead, Gros Ventre, and Blackfeet of Montana Territory, the Sioux of Dakota Territory, the Shoshone and Bannack of Idaho Territory, the Ute of Utah and the Uma-

¹Charles J. Kappler, Indian Affairs, Laws and Treaties (2 vols., Washington, 1904), J, 177-349.

tilla of Oregon.¹ The wide distribution of these tribes shows the extensive pressure that was being exerted for removal of the Indians and the opening of their better lands to settlement.

Congress had long experimented with individual allotments of land as part of its efforts to break up Indian tribal organization and move the land into white ownership. In 1830, 1832, and 1834 it provided for allotments in Alabama and Mississippi for Choctaws, Creeks, and Chickasaws. These allotments, with few exceptions, swiftly fell into white hands. Meantime, Congress was including provisions for allotments to chiefs in treaties made with the Miami and Potawatomi tribes in Indiana in order to gain the support of influential traders into whose hands the allotments were certain to fall. It was impossible to wrest land cessions from the Indians without the approval of the Wabash traders to whom the chiefs were heavily in debt. The third major use of allotinents in this early period was in Kansas where in 1853-60 officials of the Indian administration were attempting to induce the intruded Indians to move to the Indian Territory and either to surrender their Kansas lands or to accept allotments of 160 to 640 acres. Almost without exception the allotments proved of no advantage to the Indian beneficiaries who soon lost them and were compelled to move to other and less desirable reservations; the traders, local business interests, and politicians came into possession of the tracts which, it had been hoped, might aid the natives in becoming assimilated into a new life.

Dawes General Allotment Act

Despite the abundant evidence that distributing lands in severalty to Indians had failed of its objective of developing selfreliance, reformers and land hungry westerners combined to bring about the Dawes General Allotment Act of 1887.² Its purpose was to break up the reserves by allotting land to individual Indians who might be expected to sell their tracts as soon as they had an alienable title and to provide for the sale of the surplus lands which were still extensive though much reduced. Land "advantageous for agricultural and grazing purposes" was to be allotted in 160-acre tracts to Indian heads of families, in 80-acre tracts to single persons over 18 and to orphan children under 18. Other children under 18 were to receive 40 acres. The allotments were to be held in trust for the Indians for 25 years. Surplus land not needed for allotments could be sold only with the consent of the tribes (the West had ways of convincing Indians that their surplus lands should be sold) and if adaptable to agriculture with or without irrigation was to be held solely for actual settlers in 160-acre tracts. Title was to pass only after 5 years of occupancy and no commutation or preemption was to be permitted.³ Because of strong opposition from the Five Civilized Tribes in present Oklahoma, they and other smaller tribes in that territory were exempted from the provisions of the Dawes Act.⁴

The rapid settlement of Texas and Kansas on both sides of the Indian Territory caused many individuals, railroads, and other economic interests to wish the surplus Indian lands opened to settlement. In 1889 heavy pressure from these sources caused the government to persuade the Creeks and Seminoles to surrender a portion of their unused lands in the central part of the territory. In line with the provisions of the Dawes Act, Congress stipulated that the lands were to be open only to homesteaders, 5 years' residence was required, and there was to be no commutation.5 There followed the classic "run." Fifty thousand people, it was estimated, dashed across the starting line in almost savage competition to seize choice locations.

Continued pressure upon other Oklahoma Indians brought them to accept allotments also and to sell their surplus lands to the United States. A series of "runs" took place in 1891, 1892, 1893, 1895 and 1901 when tens of thousands of landseekers rushed into the ceded territory as it was opened. On the last of these occasions, the authorities decided to employ a lottery to choose who should have the privilege of selecting quarter-section tracts in place of the exciting but troublesome run. Although there were only 13,000 tracts avail-

tion, The John Tipton Papers (3 vols., Indianapolis. 1942), pp. 3-53; and id., Fifty Million Acres. Conflicts over Kansas Land Policy, 1854-1890 (1thaca, N. Y., 1954). Loring B. Priest, Uncle Sam's Stepehildren. The Reformation of United States' Indian Policy, 1865-1887 (New Brunswick, 1942) is the best general treatment of severalty before 1887. ⁴ Act of Feb. 8, 1887, 24 Stat. 388.

⁸ Kappler, Indian Affairs, Laws and Treaties, I. 322-24. Edwin C. McReynolds, Oklahoma. A History of the Sooner State (Norman, Okla., 1954). p. 289, says that commutation was permitted after 14 months. USE A

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² In 1875 Congress enacted that Indians should have the privilege of the Homestead Act but required that the land patented to them after 5 years of residence should be inalienable for an additional 5 years. 18 Stat., Part 3, p. 420.

^a For a general account of the allotment process see J. P. Kinney, A Continent Lost-A Civilization Won. Indian Land Tenure in America (Baltimore, 1937), passim. For the story of allotments in Mississippi, Alabama, Indiana and Kansas see Mary E. Young, Redskins Ruffleshirts and Rednecks. Indian Allotments in Alabama and Mississippi, 1830-1860 (Norman, Okla., 1961); Paul W. Gates, Introduc-

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able, 170,000 people registered for the lottery. Doubtless there was a great deal of duplication and registration in the names of children. By 1900, Oklahoma and Indian Territories had populations of 790,301 and 107,658, respectively.⁶

Farther north, in southern Dakota Territory, the Great Sioux Reservation blocked western development. In 1889, a 9 millionacre chunk of this reservation west of the 100th meridian was sold to the United States for \$2.50 an acre after provision had been made for allotments under the terms of the Dawes Act. The surplus lands of the Sioux were opened to settlers under the Homestead Act but payment of \$1.25 an acre was exacted for entries made during the first 3 years, 75 cents an acre for lands taken up in the next 2 years, and 50 cents an acre after the expiration of 5 years. After 10 years the United States was to allow the Sioux 50 cents an acre for all the remaining unentered land which was to be subject to entry as free land under the homestead laws. Commutation was not to apply to the lands.⁷ Continuation of the land boom that had brought hundreds of thousands of landseekers to Kansas, Nebraska, and Dakota Territory was counted on to fill up the Sioux lands quickly. Unfortunately, in 1888 and 1889 the favorable cycle of wet years ended, and Dakota farmers suffered. To promote emigration to the Sioux lands, John D. Rivers prepared a H page brochure extolling the virtues of the country having "the most fertile soil, in the most favored clime under the shining sun" Readers were assured that "the soil is very fertile, containing all the elements necessary to raise the grains and grasses, and is a dark chocolate-colored loam, such as makes the old Illinois cornraiser happy and prosperous. Without

doubt the best soil in the South Dakota, and as productive as any in the world, is found in this valley." In the summer months "showers are more frequent in this area than in any other portion of the state. Water, coal and fuel are everywhere near by" The "united Dakotas can yet supply the world with wheat. No soil under the sun can so successfully produce this cereal." The character of the people of Dakota is assured for "it is generally the rule that only the most progressive, industrious, intelligent, and aggressive classes of people move to an inviting frontier, and have the nerve and ambition to withstand the temporary hardships of early settlers." In a final rhetorical burst the author called the Sioux lands "the Genesee Valley of the Northwest, the Garden Spot of the Western Slope "*

Rivers' over-generous judgment of the Sioux country produced no stampede of people looking for homestead land at \$1.25 an acre. The first year there were only 243 entries for 37,014 acres. In the same year, however, 331 allotments were made on 102,639 acres.⁹

An examination of Charles J. Kappler's Indian Affairs, Laws and Treaties and of the reports of the Commissioner of Indian Affairs for the years following the adoption of the Dawes Act reveals how rapidly the reservations were being reduced by allotuents and the sale of surplus lands, both processes making possible the acquisition by whites of the better portion of the arable lands. At a later time, Americans were to regret the haste with which the arable land was transferred from tribal ownership and the demoralization of the Indian which followed the allotment policy, but they were unable to devise any other solution

^a McReynolds, Oklahoma, pp. 299-304; Twelfth Census, Agriculture (Washington, 1902), Part 1, p. 688.

⁵ Kappler, I, 336-39.

^{*} John D. Rivers, The Settlers' Guide to the Great Sioux Reservation (Chicago, 1890).

^{*} Land Office Report, 1891, pp. 285-87; Herbert S. Schell, History of South Dakota (Lincoln, Nebr., 1961), pp. 247-48.