

IN 1807 a congressional statute authorized the president to lease lead mines in the then TERRITORY of Indiana, for a term not exceeding five years, and while the law was in force its constitutionality was attacked in the supreme court of the United States, upon the sole ground that the only power vested in congress by the constitution was to sell the public domain—not to lease it.

Thomas H. Benton, one of the most learned constitutional lawyers the country ever produced, thus assailed the law, and advanced as a main contention, that to uphold the power of congress to grant even short leases of mining property, would logically clothe it with authority to lease all public lands for long terms of years, thereby creating a vast, permanent tenantry and converting the United States into a perpetual landlord, and a possibility of that nature was never contemplated by the founders of the government.

The federal attorney general recognized the force of the argument and met it by asserting that **SHORT TIME LEASES** would not conflict with the duty of congress to eventually sell the public domain, when the future development of the country would justify it, saying:

"The inference that it would lead to the establishment of a numerous tenantry **WITHIN THE STATES** is less an argument on the constitution than a supposition that congress might **WANTONLY ABUSE A DELEGATED TRUST.**"

The supreme court, in deciding the question, accepted the view of the attorney general, declaring "there can be no apprehension of any encroachment upon **STATE RIGHTS** by the creation of a numerous tenantry within their borders, as has been so "strenuously urged in argument." (14 Pet. 526.)

Thus the executive and judicial departments concurred in virtually admitting that congress would "wantonly abuse a delegated trust" if it should attempt to deal generally with the public lands **WITHIN A STATE** as a landlord giving long time leases to numerous tenants, instead of selling them outright.

The underlying idea being that the genius of our institutions calls for a community of freeholders, not one consisting of mere lessees of the federal government.

If congress would violate its trust obligations to the citizens of a state, by holding itself out as a perpetual landlord instead of seller of the public domain within its borders, by what process of reasoning can the existing federal policy be sustained, which virtually amounts to a permanent withdrawal from sale, or other substantial disposition, of over one-third of the entire territory within the boundaries of Colorado, under the pretext of conserving forests and reserving coal lands for the benefit of remote posterity?

The framers of the Colorado constitution recognized that the control and preservation of forests is a **STATE** and not a federal function for in Sec. 6, Art XVII of that instrument, they said:

"The general assembly shall enact laws in order to prevent the destruction of and to keep in good preservation the forests upon the lands of the state, or upon the lands of the public domain, the control of which shall be conferred by congress upon the state."

In all states lying east of Colorado (with some insignificant exceptions), the federal government does not claim, nor does it attempt to exercise any control over either forest or coal lands, for the reason that in the discharge of its trust obligations it has long since sold and parted with title to substantially all of them, leaving the question of preservation of forests to those states respectively. Are not Colorado and its neighbor mountain states legally entitled to equal rights and privileges with the older states, touching forest and coal lands?

This question admits of but one answer. Each state, under the national constitution, stands on an equality, in all particulars, with every other state and with the whole of the states collectively, and a federal policy singling out a few mountain states within which vast bodies of forest and coal lands are permanently to be withheld from sale and possibility of private proprietorship, is an unjust discrimination against them.

When Colorado was admitted as a state in 1876, but an insignificant fraction of its territory had then passed into private ownership—certainly not to exceed twenty per cent—its population was sparse, its natural resources, in the main, undeveloped.

Suppose, immediately after its admission, congress should have attempted to pass an act declaring that all public lands therein were thereby permanently withdrawn from sale or occupation, and should be held for the theoretical benefit of the nation at large, as a forest reserve, and for the conservation of coal for future generations, would any fair-minded citizen, even of a remote eastern state, have hesitated for an instant to denounce such a measure as a palpable infringement upon vital constitutional immunities of Colorado and its citizens?

We trow none will be bold enough to reply in the affirmative.

If the permanent exclusion from private ownership of eighty per cent of the soil of Colorado, under any conceivable color or guise, would by all be deemed a flagrant wrong, is not the substantial withdrawal of a like nature of nearly forty per cent of its territory under existing policy, equally reprehensible and unfair, the difference being only in degree?

Nearly, if not quite, four-tenths of the land within the geographical limits of Colorado is now for all practical purposes a mere federal dependency, removed from state control or private ownership, and supervised by a horde of federal police whose principal function is to warn our citizens to "keep off the reservation," and to enforce the command with the aid of the dread machinery of federal power.

It may be that relief is not feasible through judicial action, that redress must be sought from congress—the right infringed being political in its nature. The public sentiment should be quickly aroused through the press and all other legitimate

sources, to the end that the existing laws may be amended and Colorado accorded the ~~rights and interests~~ ^{rights and interests} concerning public lands within its borders with those heretofore enjoyed by the older states of the Union.

It is a deplorable fact that for some inscrutable reason, some of the journals of the state have exhibited a total indifference to the gravity of the subject, and others have signified their approval of the bureaucratic illegal policy of the government. Exercise of executive power, however detrimental to our local interests, is applauded by certain of our newspapers, upon the archaic unrepubli- can dogma that "the King can do no wrong."

It is time that our people should stand shoulder to shoulder, without regard to political affiliations, and voice a universal demand that Colorado shall be accorded all the rights of a free and sovereign state to which it is entitled under the constitution of the United States. One of such rights is the restoration to market of all unsold public lands within our borders.

The adjacent mountain states should make common cause with us in that behalf.

Our Public (?) Domain.

TOUCHING the article by Mr. Waldron, published on this page today, we recite the bitter experience of a settler in Routt county. Five years ago he homesteaded 160 acres. He spent on the land in those five years over one thousand dollars. Portion he used for grazing, but the larger part was farmed. When his five years of occupation had matured he applied, in the usual way, for possession. His application was refused. He inquired the cause of the refusal. Answer: His homestead was included in an area of *coal lands* withdrawn from entry by proclamation of President Roosevelt. Now this man's 160 acres are demonstrably *not* coal bearing. They are farm and grazing land. This man has cultivated, farmed and grazed them for five years. But the President's proclamation has robbed him of the product of his labor and expenditure, and he has no redress. One eminent lawyer asserts that *he could get this man his homestead through the courts*, but the man is *poor*, and eminent lawyers are expensive. And this is not an exceptional "hard-luck" story. It is typical, in its general character, of the frequent results of the recent forest and public (?) lands policy of the Roosevelt-Pinchot administration.

To Protect Homesteaders.

Long Valley Advertiser

Senator Wm. E. Borah, who is ever alive to the interests of the people, has framed a bill which if made a law will tend to prevent special agents from harrassing the conscientious settler who is making an honest effort to comply with the law and make a home for himself and family. At times, especially in a country like Long valley, there are circumstances surround the settler which no one could foresee, and when the settler makes amends as early as possible, it is not right for some special agent to come along, who has no other intent than to give the settler all the trouble he can, and make the acquiring of a home a misery to our citizens. Of course there are cases where the man who files on government land has not the least idea of trying to comply with the law, has never been and never expects to be a citizen of the community—but the general public will not be heard to complain of his being made to comply with the most minute requirement. It is only the bona fide settler whom the people would protect from the taunts and impositions of the special agents. It materially retards the growth and development of new countries and the system should be corrected at an early date by employing agents who can discern the distinction between the man of good intent and the man subject to gross wrongdoing and disregard of law.

Senator Borah's bill, which has been twice read and referred to the judiciary committee, is as follows:

"That any employee, representative, special agent, or officer of the United States who shall by means of misrepresentation, deceit, fraud, threats, menace, or duress secure or by such means seek to secure any release, relinquishment, assignment, or quitclaim deed to any entry, right of entry, filing upon, or possession of or to public lands, or any interest or title in or to public lands, or who shall by means of misrepresentation, deceit, fraud, threats, menace, or duress secure or by such means seek to secure any statement, oral or written, affidavit, or admission from any person with the intent or purpose to use the same, or which could or might be used to affect or impair the entry, title, or interest of such party so giving or making the same in or to public lands, shall, upon conviction, be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment not less than six months nor more than two years, or by both such fine and imprisonment."

GIGANTIC LAND FRAUDS.

Government Racing Against Statute of Limitations—Discovery Parity Due to Liberality of Congress.

From Our Special Correspondent.

WASHINGTON, D. C., Wednesday, Jan. 29.

Brief dispatches have been sent from Washington within the past 48 hours announcing both the discovery of the fraudulent entry of western lands amounting in value to over \$110,000,000, and the request of the secretary of the interior for an additional appropriation of \$500,000—or \$1,000,000 in all—to carry on the work of recovering these lands for the government. But such dispatches can have given at best only a vague idea of the real importance and significance of the matter. In the first place, it is probable that the estimate of \$110,000,000 falls far short of the real value of the lands in question. For example, mineral lands in Nevada, now held by the Central Pacific and Southern Pacific railway companies in alleged violation of law, are entered in the detailed report of the land office at a value of only \$25,000,000, whereas it has been estimated by a well-known engineering and mining journal that these same lands are worth no less than \$100,000,000. In addition, the discovery of these land frauds is a

signal instance of enterprise and activity in departmental work and is one of the tangible results of the reorganization of the interior department under Secretary Garfield, which was described in The Republican only a few days ago. But beyond this the affaire throws some highly interesting light upon the controversy between President Roosevelt and Congress over the so-called curtailment of the activities of the secret service.

While the discovery of these land frauds is primarily due, as already declared, to the reorganization of the interior department under Mr. Garfield, it is also due in large measure to the liberality of Congress a year ago in their increasing from \$250,000 to \$500,000 the appropriation to enable the interior department to prosecute land frauds by means of its own agents rather than through the detectives of the secret service, the disappointing results of whose previous activities had proved them unsuited for this special class of investigation. Here is a point now to be emphasized again, as it was recently emphasized by Mr. Taft in his speech defending Congress from the imputations of President Roosevelt: At the very session in which Congress directed the insignificant curtailment of the secret service, over which Mr. Roosevelt has waxed so disproportionately and inaccurately wroth, appropriations for the prosecution of fraud on a vastly larger scale than dealt with by the secret service were being not only increased but actually doubled. Nor is there yet any good reason to doubt, provided Secretary Garfield earnestly presses his point, that following its action of last year, Congress will double the amount once again, and, in view of the vast interests involved, readily follow his recommendation that \$1,000,000 instead of \$500,000 be now appropriated in order that these large areas may be recovered to the government and then in turn be thrown open to honest settlement by individual homesteaders or those legally seeking mineral, timber or other lands.

A dramatic interest is lent to the proceedings which the interior department is instituting to recover these lands, by the fact that in many instances the government is actually racing against the statute of limitations. As an example of the pressing necessity for prompt action in some of the larger and more important cases, there may be mentioned the suits brought by the government against the Juanita coal and coke company and the Utah fuel company, involving lands worth \$2,500,000. In these two cases the evidence of the fraudulent acquisition of land was finally uncovered during last November. Suits were filed on December 7, 1908, and the statute of limitations would have absolutely prevented the bringing of suit on December 8, 1908, or only 24 hours later. By this narrow margin was the government able to institute proceedings for the recovery of these lands, and by the same narrow margin were those who had unlawfully acquired the lands prevented from entering on a possession of them which thereafter could not have been disputed. In a similar manner the investigation of certain Oregon timber lands worth about \$1,000,000 were completed and suit was filed in May, 1908, which was within a few weeks of six years after the date upon which the patents had been issued. The point is that suit cannot be brought against a patent six years old.

As a result in most cases where the department was so far behind in its work that fraud was not discovered or prosecuted until the expiration of the six-year period, nothing could be accomplished, and those violating the law were necessarily left in the enjoyment of their unlawfully acquired lands.

The present cases involving the fraudulent entry of these lands to the value of over \$110,000,000 are all so-called new cases, as described by the department, in spite of the fact in some instances, as mentioned, the statute of limitations has almost expired against them. It is also declared by the land office that they are all cases of merit and that the old business accumulated upon the docket has been dismissed wherever the facts warranted. One of Secretary Garfield's early steps in reorganizing the interior department and bringing it up to date was the sending of department representatives into each United States district court where land cases were pending. These experts were required to go over the docket and examine all such cases to see if there was any chance for further proceedings, and to dismiss them in case there was no chance. In this way deadwood was eliminated and the department has been able to ascertain just where it stands and to concentrate its attention upon such cases as offer hope of definite results. The phrase "concentrate its attention" is in one sense, however, somewhat misleading, or at least hardly suggestive of the fact that there are at present recorded in the special service division of the general land office no less than 22,000 distinct cases demanding further attention such as will be provided for under the appropriation now asked, and this in spite of the fact that during the past 17 months cases have already been investigated to the number of over 28,000.

With the \$250,000 appropriated for the fiscal year ending June 30, 1907, the field force of the land office investigated and disposed of practically 6500 cases, collected from transgressors \$284,470, returned

200,270 acres of land worth about \$2,190,400, and secured the conviction in criminal cases of 128 defendants. The present reorganization of the field force, and general methods of handling the investigations in relation to public lands, dates practically from the beginning of the fiscal year 1907-1908. The work performed and the results accomplished in protecting public lands, recovering public lands fraudulently acquired, and prosecuting parties guilty of crimes in relation thereto, for a period from July 1, 1907, to December 1, 1908,—17 months,—may, therefore, be treated as a unit. The amount appropriated for carrying on the work for the 17 months was \$300,000—three hundred and fifty thousand dollars for the fiscal year ending June 30, 1908, and \$250,000 was expended for the first five months since that date. With this expenditure of \$550,000, the following results have been accomplished:

200,270 acres of patented lands recovered including coal lands, estimated value	\$24,122,250
678,240 acres of unpatented lands recovered, value	2,547,100.00
Collected from timber transgressors	136,094.70
Fines collected	8,207.94
	\$27,413,552.84

The foregoing comprises absolute recoveries to the United States of \$4,510,548.08 in money value, which is \$4,010,948 in

excess of the total appropriation expended in the work. But, except for the fines and timber trespasses, this is not actual money returned to the United States treasury. It represents lands of such value restored to the public domain where the honest purchaser or settler may acquire it; and the present administration of the public land laws is such as to prevent the recurrence of further illegal acquisition. Also, the subsequent sale of the recovered coal and timber lands—now for the first time sold upon appraisal—will result in such increase in cash returns to the treasury as will exceed the expense of recovery.

The absolute recoveries, which have already been made, constitute, as will be seen, but a very small part of the work which has been done, for the prospective recovery of \$110,000,000 worth of land, made possible by the investigations of the last two years, is a matter of much larger importance. These tangible results make interesting further reference to the details of the reorganization, which has been effected under Mr. Garfield. When he entered upon his duties as secretary of the interior about 45 separate entries were required to complete each single transaction in the land office. Since then business has been so simplified that instead of 45 entries there are only seven. This example is typical of what has been done throughout the department in the way of securing greater simplicity, better system and consequently greater rapidity in the disposal of business. The unprecedented, and in other times scarcely believable, situation has been reached at which attorneys practicing before the department instead of being vexed at its delays in handling cases have actually been disturbed by its rapidity and asked for more time. This contrasts strikingly with the ordinary governmental methods of letting business drag on and on indefinitely, while each separate transaction is delayed by red tape.

The following letter from Chief Forester Pinchot to W. G. M. Stone of Denver gives a good outline of the government's policy with reference to miners on forest reserves:

United States Department of Agriculture, Forest Service, Washington, Office of the Forester, Jan. 9, 1909.
Mr. W. G. M. Stone, President Colorado State Forestry Association, Denver, Colorado.

My Dear Mr. Stone:—I keenly regret that, because of the commission which I am now bearing to the republic of Mexico at the direction of the president, I am prevented from accepting your invitation to attend the annual meeting of the Colorado State Forestry association. There is nowhere that I would rather go now, were I free to follow my own choice, than to Colorado, where the friends of forestry have given such proof of intelligent loyalty to a high conception of citizenship, but where misunderstanding of the work which the national government is actually doing, and misrepresentation of its purposes and of the facts, has unhappily been so much in evidence of late. I am no less anxious to meet and confer with those who are sincere opponents of the National Forest administration, to the end that misunderstandings may be cleared away and the best course may be pursued, than I am to greet my good friends of your association, who have been outspoken in the defense of the forest service.

One of the chief causes of friction and misunderstanding is, I hope and believe, in a fair way to be removed through conference between representatives of the mining interest and myself. On October 10, 1908, I addressed a letter to the Hon. J. H. Richards, president of the American Mining congress. After reciting that complaints concerning mining claims in the national forests in recent months have shown that many mining men believe justice is not being done their industry, my letter continued:

"More than 75 per cent of the claims examined last year were reported favorably, and we have endeavored to carry out the law and your orders intelligently and fairly. But, doubtless, improvements can be made if the mining men will help. The forest service is anxious for justifiable complaint. It desires the co-operation and friendship of the mining men, not their opposition; and it is anxious to assist in every legitimate way in the development of the mining industry.

"Accordingly, I write to ask whether the American Mining congress, through you as its president, or by the action of the executive committee, will appoint in the immediate future a committee of three or five representatives, as you may deem best, to co-operate with the forest service in an effort to reach a mutual agreement, both as to the rules which should govern the forest service under the law in dealing with mineral questions in national forests, and as to the definition and interpretation of these rules, so that there shall be no misunderstanding whatever as to what is just and right for both parties in the premises."

On October 26 Judge Richards wrote me as follows:

"I have received from the executive committee of the American Mining congress the suggestion that I appoint the following names on the committee in compliance with your suggestion contained in your letter of the 10th inst., Col. A. G. Brownlee, Judge E. A. Colburn, George J. Bancroft, William P. Daniels, and W. F. R. Mills.

"In selecting these men I took into consideration the necessity of having these men so situated as to residence that a meeting could be secured without too much inconvenience.

"I am notified this morning by the secretary, that the next session of the congress will be held in Pittsburg on the 2nd, 3rd, 4th and 5th days of December next.

"Trusting that you will find this committee of service to you and that I may have the pleasure of meeting you at Pittsburg, I remain,

"Very sincerely yours,

(Signed) "J. H. RICHARDS."

I have since been informed by Mr. Smith Riley, district forester of the forest service stationed at Denver, that it is the plan of this committee, as he is informed by Mr. Brownlee, to acquaint itself with the facts in all specific cases of complaint which may be brought to its attention, in order that, through discussion of the forest service of concrete examples, the rights and wrongs of methods now in use may be established. I await the convenience of the committee to take up at the earliest possible moment with these officially designated representatives of the miners themselves all points which may be at issue between prospectors and miners and the forest service.

While I regret that any points of

conflict should have arisen, I must point out that the forest service has been forced to take cognizance of various matters connected with mining claims in national forests. With the real miner I am thoroughly in sympathy--and when I say this I am not

making a profession which is unrelated to acts. I want, and intend that, every right which the miner has under the laws of the United States shall be enjoyed by him, within national forests exactly as elsewhere on the public domain. If he is now being harassed or impeded in the exercise of those rights by forest officers, I want to know it. I regard it as a part of my business to see that he gets those rights, and I thankfully welcome the assistance of anyone who will help me carry out this purpose by bringing to my attention cases in which injustice seems to have been done any man. I wish to inquire into any and every case of action on the part of forest officers which is thought to deny or abridge the rights of prospectors and miners, as defined by law.

There is not one law for the patenting of mining claims upon the unreserved public domain and another law for national forests. At the same time it must be recognized that on national forests the forest service must, in the performance of its duty to administer lands as forests, take action when the law itself is about to be evaded to defeat the purpose for which the forests were set aside. Real miners should themselves recognize that their interests are not identical with the interests of those who wish under color of the mining laws to hold or get title to lands for other than mining purposes.

I wish to make my position clear with the utmost definiteness, so that if actions of forest service officers fail to square with that position the responsibility may be placed upon me and I may take steps to right the wrong. The rights of miners are defined by law. For the law itself I am not responsible. I cannot go back of it, and so far as it concerns the acquiring of title I do not execute it. But I do not wish to stop with the letter of the law, in the sense of giving the miner just what the law gives him and no more. I will go just as far to help the legitimate miners as I can without doing injustice to the rights of the public. To the extent of my power I will see to it, and am seeing to it, that he has preserved for him

the timber which he will need to develop his mine, and that he gets it at a fair price, not a monopoly price. If he needs the grass on his claim for his own work animals, if he is outside of a national forest and in a state which has a fence law he cannot protect it without fencing, but within a national forest the necessary grass is assured him without charge. On the other hand, no man may, if I can prevent him by making the facts known, initiate or patent mining or other claims in national forests in order to obtain, by the sale of timber or grass or the control of water or the land itself, a return which the law did not intend to give.

To prevent such things, it is right that claims within national forests should be examined by forest officers before they go to patent, or when the land appears to be held improperly, in a way to interfere with national forest administration. In the case of mining claims, so far as the resources of the forest service have permitted all examinations have been made by mining experts and geologists. It must be borne in mind, however, that under no circumstances does or can the forest service decide whether a claim is good or not. That rests with the land office. The forest service simply states the facts, as it finds them, and reports its conclusion on those facts. The land office applies the law to the case, and decides whether, in view of the facts as presented, a hearing should be ordered before the claim is allowed to go to patent. If the statement of the facts is wrong, the claimant has every opportunity to show at the hearing that it is wrong. In other words, the forest service appears merely to bring out the facts. It can never be the judge in the case.

Nevertheless, I recognize that to subject claimants to the annoyance and expense of a hearing needlessly would be to harass and impede them in the exercise of their rights. The forest service must not show an obstructive, litigious, or unfriendly spirit towards those who are entitled to their claims. There appears to be a belief in some quarters that it is the policy of the forest service to make it as hard as possible for claimants to establish their rights to land within national forests, and that in pursuance of this policy it has sought to discourage claimants by forcing them to a contest, whether they have a good claim or not. This is not true.

The large majority of claims examined are reported on favorably. If it shall appear that in any locality claims which prove to be good are being sent to hearing in any considerable numbers, this fact will in itself be evidence that the forest service has been over-zealous. Forest officers must be zealous and efficient in protecting the rights of the public, but they must not be so zealous as to impose unnecessary hardship on citizens who are acting in good faith and are within the law. Wherever it may prove that this has happened, I shall be ready to admit that the service

has been in the wrong, and will immediately take action to correct the evil.

In short, if it is true that national forest officers are unnecessarily harassing prospectors, miners, or any other class of claimants or users of the national forests, they are doing so contrary to the policy of the service, and those who are unfairly treated have only to present the facts to secure redress. Members of the forest service are accountable to me for all they do. I want to emphasize with all possible vigor that if they, being human, fail to act always in the right spirit as servants of the public, or fail to use good judgment, there is a remedy at hand for those aggrieved through protests which will make possible administrative action. The forest service seeks to give every man a square deal. If anyone does not get a square deal, he is not compelled to suffer in silence until he has a case which he is willing to carry into the courts. A man does not go to law with a neighbor in whose fair-mindedness he has any confidence, as soon as he has cause of dispute with him. He goes to his neighbor and talks it over. Forest service officers must protect the interest of the public, not subordinate it to the interest of the individual; but they must also deal with all individuals in a spirit of fairness, courtesy, and neighborliness, and with good judgment. If they do not, they are delinquent in the performance of their official duty, and will be held to account for the delinquency when it is made manifest.

I have written thus fully about the relations of forest officers with the public because I believe that this is a subject of very great practical importance just at the present time to all who believe that the policy of forest protection is in the public interest. If the forest service fails in point of fact, on the national forests themselves and in direct contact with

users of the forests, to make it felt that it is really dealing squarely with the public, the cause of forestry itself will receive a severe setback. There are unfortunately not lacking those who for selfish reasons would have it believed that the national forest administration is not serving the public interest, and who would gladly discredit it through misrepresentations and distortions of the truth. Unfortunately, also, persons of entirely honest intentions do not always present an unprejudiced story when their own interests are adversely affected. A prudent man soon learns in this world that it is necessary to hear two sides of almost any case before judgment can safely be passed. There will always be a certain amount of friction between the forest service and individuals, so long as human nature remains what it is. I hold it, however, as my earnest wish and purpose that the forest service may stand before the people as an example of a beneficent governmental policy efficiently carried into effect; and I welcome as co-operators with me all who will help in a spirit of honesty and fairness toward the perfecting of the national forest administration, by bringing to light the defects inevitable in so new a work.

One word more concerning the miners, and I have done. It is sometimes said that the willingness of a man to spend his time and money in making the development required by law should, if done in good faith, suffice to enable him to establish his claim, since even eminent geologists have often failed to recognize in the case of property which later proved highly valuable that a discovery such as would establish a right to patent had been made, and that therefore forest whether a claim is good or not. If forest officers were in joint of fact called on to make any such decision, I should heartily agree with this contention. What the forest officer does, however, is simply to appear in defense of the title of the public when it appears probable that an individual is trying to acquire title illegally. When title becomes a matter of contest between two individuals, each appears before the court with his witnesses and the court decides between them, on the law and the evidence. Exactly the same thing happens when, on the report of the forest service, the case is brought to a hearing by the land office. The witnesses for the public are not privileged. It is entirely for the interior department to

decide what weight attaches to the testimony offered, and to rule on the law. As I have already said, the forest service must not bring citizens into hearings needlessly to establish rights which are not matters of reasonable doubt. The point which I wish to make, however, is that the man who acquires title to any part of the public domain, illegally, wrongs the man who might have taken the same land legally later on, just as truly as if that man appeared in court to contest the claim and was defeated through a miscarriage of justice. That second man is entitled to his day in court. In other words, when it appears probable that a wrong is being done, I conceive it as a part of the business of the forest service to appear on behalf of the public, and bring forward such evidence as it has, whenever national forest lands are involved. After it has done this, everything else rests with the officers of the department charged by law with the determination of all such cases. Only, forest officers must, in this as in all other matters, show good judgment and proper consideration for the interests of all involved. They must protect the common interests in the forest, and I will support them in doing so to the last point; they must help the honest miner all they can, and they must do their duty without fear or favor in the case of the man who is trying to break the law. And take them as a body, they are doing a big work in a very fine way.

Very sincerely yours,

(Signed) GIFFORD PINCHOT,
Forester.

POSITION OF THE STATE'S VAST
LAND GRANTS.

As a result of attempting to ventilate the affairs of the state land board the legislature has been forcibly reminded not only that the public school grants of the 18th and 36th sections of the public domain are withheld from their purpose by the forest reserve withdrawals of former President Roosevelt but also that the interior department has rejected the application of the state for surveys of certain of those sections. Referring to this situation Senator Heyburn has written: "You suggest an act of congress confirming the right of the state to complete its selections of land in the forest reserve. It needs no act of congress to do this. The state has the right to select it under an act that congress could not repeal if it wanted to. The act creating a state cannot be repealed or changed by any subsequent act of congress. If you will examine the act admitting Idaho, you will observe that it grants the land to the state in present and not upon the condition of selection. The provision of the constitution was ratified and confirmed by the act admitting Idaho, the constitution having been already ratified by the state. The power given the secretary of the interior to which you refer, has no application whatever to 18s and 36s, but only to lands to be selected other than school lands. The difficulty has been, that the state has made no proper attempt to enforce its rights." And that is probably true. The state has not been engaged in settling any of its large and vital propositions. The state has been too busy getting its politicians into the offices and shielding and petting them while they were in power, to pay any attention to what they did after getting there. The value the state has at stake in its land grants of which it is being deprived is variously estimated, running as high as \$50,000,000, and while any estimate is speculative and intangible the issue is prodigious in any event. These grants were confirmed to the state at the time of admission with the provision that they could never be alienated save by regular process and then at not less than ten dollars per acre to accrue to the permanent educational funds. It seems perfectly plain that those lands cannot be taken from the state by executive order or by any process save that written in both the federal and the state statutes. At the same time resolute and definite steps are necessary on the part of the authorities lest the state's rights go merely by negligence and default in asserting them.

admission to be made

Boise Statesman

THURSDAY, FEBRUARY 25, 1909.

STATE BARRED FROM ENTRY OF LANDS

Decision of General Land Office Which Precludes Invasion Into Forest Reserves.

RULING IS BLOW TO HOPES OF THE STATE

Selection of Timber Lands Can Not Be Made Within Forest Areas Even if State Had on File Applications for Survey of Tracts Desired Before the Creation of the Reserves—Precedent Which May Prove Disastrous to State in Future

The commissioner of the general land office has blasted the hopes of the state for the selection of timber lands as lieu lands indemnity for losses previously sustained, if his ruling that the state has no right to selection of lands within a national forest, although survey had been applied for before the citation of the reserve, is to obtain as the position of the federal government.

In April, 1905, an application was filed by the state of Idaho for the survey of 35,000 acres of land, lying mostly in Boise county. Funds sufficient to cover the cost of the survey were at that time deposited with the surveyor general. Under the law it was presumed that this act would give the state a preference right of entry when the plats of survey should be filed in the local land office. In May of the same year President Roosevelt issued a proclamation creating the Sawtooth national forest reserve, including this 35,000 acres which is now a part of the Boise national forest.

Entry Selection Denied
An application for a part of this tract was filed by the state, a few months later for school lands. This application has been suspended and the state is given 60 days in which to withdraw the application, which is now being called.

By his application previous to the creation of the reserve, a working prospect was made for the state in the selection of lands. He urges that the question of Idaho's compensation in respect to the reserve may be raised by the ruling of the commissioner which he characterizes as arbitrary.

Statement by Governor
Governor Hoadly stated last night that he did not wish about the possibility of such a change, but he was being compelled that a remedy to the unsatisfactory in respect should be found during session in the next of session for the session of the state. Whether he would address a message to the legislature, he said, he had not determined.

The text of the legislature's action follows:
"That James M. Brady, Governor of Idaho, being called in accordance with the provisions of the constitution of the state of Idaho, do hereby certify that the following is the substance of the message received from the commissioner of the general land office, Boise, Idaho, on the 23rd day of February, 1909, to wit: That the state of Idaho has no right to select lands within a national forest reserve, although survey had been applied for before the citation of the reserve, is to obtain as the position of the federal government."

The state was notified by the surveyor of the lands and accordingly a notice of entry was issued covering the same lands. In the meantime the state was notified by the surveyor that the state of Idaho was applying for the survey of lands on April 13, 1905, and the first of the survey was returned by the surveyor on the 13th day of May, 1905.

Elaborate Survey Issued
"After the survey of these lands was made, upon the state's depositing the required amount of money for the same, we enclosed them under cover of a letter addressed to the surveyor, dated at Boise, Idaho, on the 13th day of May, 1905, and the first of the survey was returned by the surveyor on the 13th day of May, 1905, and the first of the survey was returned by the surveyor on the 13th day of May, 1905."

BRIEF LOCAL NEWS

BUSINESS OFFICE.
Bell600
Independent430

NEWS DEPARTMENT.
Bell600
Independent (3 rings).....430

MARRIED—In San Francisco, at the home of her grandmother, Mrs. E. E. Laurie, Feb. 20, Miss Gladys Rogers, formerly of Weiser, and Dr. Loz A. Smith.

ELKS SOCIAL—The Elks will give one of their regular dances and social times to the members of the lodge and their families this evening.

TRESPASS CASES—United States District Attorney Lingenfelter has gone to north Idaho for the purpose of making settlement of certain timber trespass cases.

U. S. COURT—Judge F. S. Dietrich will confer with attorneys Saturday morning for the arrangement of business for the March term of the United States district court.

MARRIED—H. C. Hodge of Huntington and Lucile LeVire of Glendale, Mont., were united in marriage yesterday afternoon at 5 o'clock by Justice Dunbar in his office.

PROPERTY DEAL—C. F. Davis of Chicago has sold to J. A. Green of Lincoln, Neb., 150 acres of land four miles south of Meridian. The consideration was \$4000. W. T. Booth made the sale.

TO FORM CLUB—A number of young men about town will hold a meeting in the room over the Star bowling alley this afternoon at 5 o'clock for the purpose of forming a club the principal object of which will be athletics. All interested in such a movement are invited to attend.

SEQUENT ROLL—The various county auditors of the state are returning abstracts of the subsequent assessment rolls to the state auditor. The total of this subsequent roll will amount to \$1,500,000, increasing the assessed valuation of the state to \$117,200,000.

will result in great loss to the state as above mentioned, and we think that immediate action should be taken by the state and the legislature in regard to this unreasonable, unjust and apparently unlawful ruling. Yours respectfully,

M. I. CHURCH,
"Register."

CHURCH

UNCLE SAM SHYLOCK IS DEMANDING POUND OF FLESH

Picture of Conditions on the North Side Tract.

MISREPRESENTATION AT BOTTOM OF TROUBLE

REX OSBORNE.

"If there were a famine in China or a pestilence the congress of the United States would erect a relief measure at once and send a provision-laden ship, and the department of the government would do with each other to hand the stores with the least possible delay. There is no famine on the north side Minidoka tract, nor yet any pestilence, but the conditions are very bad and still the United States government, not asked for outright contribution, is demanding with Shylock greed, the pound of flesh. Is it right?"

This is an exact copy of a paragraph from a communication received by the writer recently. It is a terrible arraignment. If true, the government of the United States could no longer be regarded as wise and beneficent. Without knowledge of the facts I could not reply, and now, having some of them, I hesitate to make direct answer because I do not believe it has been the intention to harass and injure those settlers and because I am firmly of the opinion in the end it will be written that no great injustice has been done in the process of qualification. I made an investigation from the settlers' point of view. I give the result here without serious comment. It certainly is gloomy enough. Misunderstanding and misrepresentation are the twin evils that seem to have caused much of the trouble on the north side Minidoka tract—misrepresentation to the department by officials, on the ground and to understanding between the department and the settlers over the former's regulations based on that misrepresentation.

Let me abstract the situation. On November 25, 1901, Mr. Hitchcock, then secretary of the interior (but Chairman Hitchcock of the Japanese national committee, as some think) issued an order stating that the first payment would be due for later in December of the year in which water was delivered in April, March 3, 1907. Secretary Garfield, Hitchcock's successor, announced later would be ready for delivery for the irrigating season of 1907, and that the first payment would be due December 1, 1907.

But there was no water delivered in April of 1907, and only little in June. The majority of the settlers received water too late to make them in 1907. The reclamation officials then made the claim the settlers had not been ready to receive it, anyway. That was true in some cases, but it was because the settlers had been compelled to build the laterals which the government, as stated, had promised to construct. It was a slow and expensive process, and the government had promised to build these laterals, and it later on agreed to reimburse the settlers with south side scrip.

Having had no water during the season it was needed in 1907 many settlers found themselves financially ruined for the 1908 season. They did, in many cases, spend their last dollar seedling and reseeded their land in 1907 only to have the wind blow the seeds to the four corners of a north. Then came the reclamation official with the criticism that the settlers made a mistake in giving location to cultivation of the soil instead of working for south side scrip. This answer is made that in filling a soil they followed the advice of a reclamation official, who had advised them because they had begun work earlier and prosecuted it more vigorously—work on a rich soil with water—where? Still the Snake river. It is also stated at work on the south side has not been so plentiful as has been represented.

Because of their plight the indignation of the settlers was not surprising. Secretary Garfield a short time ago issued an order requiring that payments be made December 1 next to pay the first water installment. After a season of anger, however, the settlers dutifully faced the inevitable. They set out to make their payments. Many of them have stripped themselves of all to comply with the departmental demand—the last team, the sheep, the last bushel of grain—left themselves far worse off than they were when they entered the act. These will pay, but that will be of little use, under all the circumstances, respecting the wisdom of the hypothesis of the government of which they had always loudly boasted they were a part!

I want to quote at some length, because it covers the subject fully, the statement of a north side Minidoka settler who has been on the ground since the first. He is a man of intelligence, fair-minded, and versed in agriculture and in irrigation methods.

"The present friction between the government and the settlers on the north side project may be viewed from two aspects—the legal and the

—Claim of Minidoka Settlers.

MEETING SECRETARY GARFIELD'S DEMAND

"It is believed that 75 per cent of the settlers will make their payments by December 1. Goaded by the threats of Secretary Garfield, many of them have stripped themselves of everything they possess that could be converted into cash. Some have sold the last team, the last bushel of grain, and are left in worse position than when they started in."—From a statement made to Rex Osborne by a north side Minidoka settler.

sentimental, or humanitarian. As to the legal question involved, I will merely state what appears to be the essential facts upon which the controversy is based. "On November 25, 1901, the commissioner of the general land office issued a notice to settlers and intending settlers upon the Minidoka project, setting forth some of the conditions under which the tract was opened for settlement. This notice was approved and signed by the secretary of the interior, Mr. Hitchcock. "In this notice it was set forth that the first water payment would not become due until December of the year in which water was delivered in April. This was accepted by the settlers as a pledge of agreement, a part of the implied contract between the government and the settlers.

On March 3, 1907, Secretary Garfield, who had succeeded Hitchcock, issued a notice, announcing that water would be delivered to the settlers in April of the irrigating season of 1907, and that the first payment would be due on December 1st of that year. The two propositions were coupled together, the promise of water being followed by the date of payment. In making this order the secretary undoubtedly was misled by misrepresentation and misrepresentation emanating from D. W. Ross, as it was apparent to all who were familiar with conditions here at that time that it would be a physical impossibility to deliver the water in time for beneficial use that year.

No water was delivered in April, 1907, nor in May, and to no considerable number even in June. The majority of the settlers received the water between the middle of June and the first of August, entirely too late for any beneficial use.

The government contends that the settlers were not ready to receive the water any earlier. This was the fact, as to some settlers, but it was because of the bad faith of the government that they were not ready to receive it.

The government had promised to deliver the water to every farm unit—that is, to construct all the laterals. Late in the fall of 1906 it was announced that this would not be done, that the settlers would be required to do a large portion of this work themselves—in many cases all of it. It was then so late that the work was forced over until the following spring. Owing to the peculiar topography of the tract it was necessary to build these laterals above the level of the land, involving heavy fill and expensive work. I know of one lateral which cost the settlers \$5 for each acre of land watered. The laterals were laid out by inexperienced and incompetent engineers, without reference to the lay of the land. There were delays in furnishing the settlers with the grades, and engineering mistakes were made, necessitating changes in the grades. In some cases, after the ditches were built, it was found they would not water the land, and the grades were changed, necessitating rebuilding of the ditches. In the case of the lateral upon which I am treated, the grade was not finally established by the government until the first of June, and then we were required to raise a completed portion, a quarter of a mile long, 1 1/2 feet higher. The government did not complete its portion of this lateral until July 1st, and we were among the settlers who, it is charged, were not ready to receive the water.

These are the main reasons why some of the settlers were not ready to receive the water in time for the irrigating season of 1907. On the other hand, many of the settlers were ready to receive it in April, but it was not in the main canals until towards the middle of the summer. The settlers relied upon the promise of the government to deliver the water to every farm unit and were not notified that the government would not keep this pledge until it was too late for the laterals to be built.

The department has denied it made any such promise to build these laterals, but there is abundant proof the promise was made, and made officially, and the reclamation service has just acknowledged that it acted in bad faith by announcing its intention to reimburse the settlers for the work done on the laterals, such payment to be made in scrip.

"I have gone into this subject of the laterals at this great length because the chief defense of the department, for its failure to deliver water in 1907 has been the plea that the settlers were not ready to receive it. "Many of the settlers relied upon the promise of Secretary Garfield, that the water would be delivered for the irrigating season of 1907, and exhausted every resource in putting in crops, many of them going in debt for the soil. In most instances these crops were a total failure, owing to the failure to receive water, and the settlers were left in debt and with nothing to show for their season's work.

Several hundred affidavits were forwarded to the department, setting forth the damages resulting from failure to receive water, but these affidavits were given no consideration, as far as known here.

"In some cases fall crops were

raised that season, but it was owing to exceptionally favorable soil conditions on certain tracts and to an abnormal rain fall. The greater portion of the tract is a light sandy soil, and on this soil the crops were a total failure.

"The department contends that the crop failure was due to ignorance of irrigation, late seeding, improper preparation of the soil, poor ditches, etc., but this is untrue. Some of the heavy losers were men who have had years of experience in irrigation farming.

"I am told that a detailed report of crop conditions on each farm unit that season was forwarded to the department by the local reclamation office, the farm units being marked as 'good,' 'fair,' or 'no crop,' and pretended reasons for the failure being given, and that this report shows 'good crops' on farm units upon which not a crop of any kind was ever planted. I do not vouch for this, although it was told to me by a man who claims to have seen the report. As this was under the Ross regime, I am ready to believe it.

"The settlers have all along believed that the order of March 3, 1907, would be modified, to the extent of postponing the date of the first payment, because, on account of the failure to deliver water for the irrigating season of 1907, such order was in direct conflict with the preceding order of Secretary Hitchcock, and its enforcement would be an act of bad faith. Although Secretary Garfield has never admitted that water was not delivered for the irrigating season of 1907, that it was not so delivered can be established by the testimony of every settler on the project.

"Now, as to the sentimental side of the case, admitting that the payment is legally delinquent on December 1st—these settlers have been here for over four years and never have raised a crop. A majority of them were poor when they came here. They have had families to support, stock and implements to buy and certain improvements to make. Most of them have been compelled to work out for wages a greater portion of the time. They have pinched and scraped to get along, and many of them have gone poorly clothed and poorly fed in their struggle to make homes. That they have been able to support their families and make improvements under the circumstances is greatly to their credit.

"They have been urged by the government to get their lands into cultivation as quickly as possible and would because they did not make more rapid progress in this direction. Conditions last spring seemed to justify every effort to cultivate their land. Many of them spent their last dollar for seed and worked through all the spring and summer in their effort to produce something.

"It turned out to be the most unfavorable crop season ever known in this region. There was a season of prolonged drought in the spring and

People Respond to the Demand But Have Little Left.

LAST TEAM, ONLY COW GO TO SATISFY CLAIM

front early spring until summer a succession of fierce gales. The effect upon this light soil was that their crops all blew out. I know of many instances where the farmers reseeded their crops two and three times and then raised nothing.

"Many put in large potato crops, expecting to realize enough from this source to make their payment. The unfavorable spring and summer resulted in half a stand and an unusually early freeze this fall ruined half of the remaining crop. The market conditions are such that what potatoes are left will not pay the expense of digging.

"These farmers are now censured by the reclamation officials for spending all their time and money in an effort to raise crops, instead of working for south side scrip. But in cultivating their land they were following the advice of these same officials, and surely were justified in the expectation that they could harvest enough to make their water payment.

"When Secretary Garfield was here he assured the settlers that there would be an abundance of work this fall for all who desired to work out their water payment. I have been told by many settlers that they have applied for work and have been unable to secure it. The opportunities for working out payments on the south side have not been so abundant as claimed by the reclamation service. All of this work was contract work, based on competitive bids, and the work has always been overbid—more bidders than work. The men with large outfits have been favored and the man with but one team stood a poor show.

"It is believed that 75 per cent of the settlers will make their payment by December 1st. Goaded by the threats of Secretary Garfield, many of them have stripped themselves of every possession that could be converted into cash. Some have sold their last cow, their last team, their last bushel of grain, and are left in a worse position than when they started in, absolutely helpless to till their land another season. All who are able to pay do so under protest. All feel that the government is guilty of a cruel injustice in forcing them to the hardship of making this payment a year before it is legally delinquent and a bitter feeling has been engendered.

"There are many other phases of the record of the reclamation service on this project that doubtless would be of interest to you, but as they do not appear to have a direct bearing upon the present controversy, I will not take them up at the present time. The discovery, after the canals were built, that thousands of acres of land, shown by the original maps to be under water, were in fact located above the water; the alleged destruction of these original maps and the announcement that the settlers on these high lands would be required to pay the same price for their water rights and pump water upon the lands at their own expense; is an interesting subject to investigate—and there are others.

"If the policy of Secretary Garfield in carrying out the underlying purpose of the reclamation act—to provide homes for the homeless poor—will be subverted, and the act will be used as an instrument with which to wrest the homes from industrious and worthy citizens who are doing the best they can to reclaim the desert."

HOUNDING HEELS OF HONEST SETTLERS

*I hope Daily Statesman
Nov 25, 1908*

Senator Borah Roundly Scores Governmental System of Spying and Inspection.

IS IRRESPONSIBLE BOTH FINANCIALLY AND MORALLY

Remedies Should Be Taken, He Urges, to Make Them Face the Music of Their Acts—Scathing Denunciation in Course of Address on Amendments to the Reclamation Law Necessary for the Home Builder.

"I am in entire harmony with the government in its effort to detect and punish the wrongdoer, but I believe that when a special agent, irresponsible financially and, generally, morally, goes around and indiscriminately ties up bona fide settlers, he should be made responsible in one way at least."

In these words Senator William B. Borah, speaking yesterday at the Commercial club luncheon, expressed his disapprobation of the present system of governmental spying and inspection.

The luncheon was largely attended and the club members liberally applauded the senator's remarks. The speaker at some length went into the subject of amendments to the reclamation act in order to bring about more encouraging conditions for settlers in this and other states wherein the government is operating an irrigation projects. Continuing he said:

"There is another matter which ought to be remedied. It is a system which has been growing up for a long time. That is the system of spying out, hounding down, embarrassing and annoying honest and bona fide settlers because the special inspector is either too ignorant or too careless to discriminate between him who does wrong and who does well. As the matter now stands, after a man has been upon the public domain for five years, struggling along to make a home and at last presents his evidence of final proof, a special agent, absolutely irresponsible, may, simply of his own whim, file a protest and the bona fide settler is tied up for any length of time from six months to a year.

Success or Bankruptcy.

"This sometimes means the difference between success and bankruptcy. The settlers may have exhausted all his means to make a home and have gone to bed and has obviously waited the time when he would have his property in his own but at the last minute he is tied up, embarrassed for a year or so, and then his property released after he has suffered what is to him untold financial loss.

"Now I am in entire harmony with the government in its effort to detect and punish the wrong doer, but I believe that when a special agent, irresponsible financially and generally morally, goes around and indiscriminately ties up bona fide settlers, that he should be made responsible in one way at least. I know that there are exceptions; there are some special agents who are just as anxious to do justice to the settlers as they are to protect the rights of the government. In my lifetime I have known two or three. But ordinarily they think it is incumbent upon them to throw suspicion upon every man who connects himself with an effort to get a home.

"There ought to be some way and there is some way by which the manhood and the womanhood which has been building up this great western country can be protected against the annoyance and embarrassment constantly put upon them by these men.

"If they haven't any more judgment than that which they are exercising they ought to be retired from the service. If they haven't any more sense of right than that which they are manifesting, they ought to be sent somewhere else."

"It is proper for me to say that I believe there is an honest effort in the proper places to correct this evil and it is the duty of every good citizen to give those who are high up in the department to understand that they will stand by them in correcting it."

It Is a Rich Man's Law.

In his remarks on the reclamation law Senator Borah said it was designed in theory for the poor man but as it was enacted and as it must be carried out under its own terms it required a man of wealth to avail himself of its provisions. He said in this connection:

"It is my purpose as I now view the matter to ask congress some time in the near future to consider the proposition of amending the reclamation act and I call it to the attention of the club at this time in order that I may have the suggestions of those who are interested either for or against the amendments which I think desirable. It is a matter in which the state of Idaho is greatly interested and a subject which cannot receive too much consideration at our hands. The reclamation law was designed in theory for the poor man. As it was actually enacted and as it must be carried out under its terms it takes a rich man to avail himself of its provisions.

"I would like to see the law so amended as to make it what it was intended to be, a poor man's law, a law which would assist the man of limited means or to speak in getting a better, which would protect him to his honest effort to get a home to the extent of his endeavor although through some unfortunate he might fail to do so."

A Home Building Law.

"I am thoroughly in favor of the theory and the principle that is shown in a home building law, a law which would invite to our domain those desirous of becoming bona fide home builders and which would exclude or treat as unacceptable the speculators or those who view occasionally a piece of land with a view of utilizing it for speculative purposes. In other words, I want it to be what in theory it was intended to be, for the man of limited means who wants a home. As it is now enacted it is not so. It is harsh, incomplete and in many ways wholly at war with the theory upon which it was framed."

Some of the Objections.

The speaker gave as one objection to the law the five year residence requirement. This, he said, was not the only essential in proving a build-

(Continued on Page Six.)

HOUNDING HEELS OF HONEST SETTLERS

(Continued From Page One.)

ers' good faith. In his opinion three or four years was sufficient.

He also contended that the law should provide for transfer of title, when payments are made, at the end of five years. The departmental regulation covering that point had been altered to the benefit of the settler, but the expressed intention of the law was still a mooted question and should be definitely settled.

To his mind the most important amendment demanded was one that would enable the settler who is not able to make full payment at the end of five years to utilize at that time the improvement or benefit of his labor. On this point he said:

"It seems to me that when a man has gone upon the ground and resided there for five years and has done the best he could in good faith undertaken to improve his land and pay for it but is unable to make full payment for the water at the end of five years, that he should be permitted, if he feels so disposed, to sell by assignment his interest.

Urges Assignment Provision.

"An assignment could be made through the United States land office which would enable him to get the benefit of his improvements and of his work or his investment to some extent, at least, while at the present time if misfortune overtakes him and he is unable to pay, he loses the benefit of his entire effort. This is a piece of injustice which only a government too busy with other matters to attend to the details of the citizens could provide for. This kind of law is the law which bears so hard upon the poor man.

"If we are going to have a poor man's law, let's take care of the poor man when misfortune overtakes him, when through sickness, or, we will say, through want of proper business methods, he is unable to finally pay it. Why should he not have the benefit of his honest efforts, why should the government of the United States say that simply because a man has been sick or because he himself, as some wise legislator may say, has been improvident, that he should not have the benefit of his honest efforts to make a home.

Can't Injure the Government.

"If you would make it necessary for the assignee to go upon the place or attach to him the qualifications of an original entryman, certainly the government cannot be injured in any way. It is not difficult at all to provide such an amendment and I have no doubt that the department would be glad to see it although I do not speak authoritatively. As the law now is, of course the department can do nothing of that kind. The defect is in the law and not in the administration."

The speaker declared that the first settler, who endured the hardships that always accompanies the making of a new home without extensive means was not necessary any less a good citizen than the man who with greater advantages came after and succeeded. This thing of weeding out settlers through harsh and unjust laws should not be necessitated by any terms of the law and if it should be done after the terms of the law do not necessitate it the man who would do so would be unfit to execute any law. He said his observations both with reference to the Mindoka project and to the men who have come in under the Payette project were that these first settlers were as a rule an exceptionally good class of citizens.

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Official Paper of Cassia County

Friday, December 25, 1908.

Dry Farming in Idaho

George Day, special agent for the state land office, who recently returned from a trip to the southeastern part of the state, is more enthusiastic than ever about the great success that is being achieved by the farmers on arid land without irrigation. He said yields of 40 bushels of wheat to the acre are quite common and that yields on the dry farms which he saw will run from 25 to 44 bushels to the acre. The barley yield is about the same, while the oats will go several bushels better. The wheat, he said, is so much better than that grown on irrigated land that it finds a ready market at an advance of 15 cents per bushel. He did not recall the name of the variety usually grown but he said that it is sown in the fall.

Near Downey, Mr. Day said, fully 300,000 bushels of dry land wheat had been harvested this season, and the yield near American Falls exceeds 100,000 bushels. In Owyhee county, where dry farming has been practiced for several years and a large acreage is cultivated, the total production is much larger. The Rexburg bench, he said, where the state secured a large acreage some time ago, is proving a banner section. Farmers there secured from 35 to 44 bushels of wheat per acre, and of course are more than pleased with the profitable results. It has been fully demonstrated, he said, that thousands of acres in Idaho are the equal if not the superior to the Palouse country for growing wheat without irrigation. He predicted that before many years the wheat crop from dry farms would be one of Idaho's leading products.

Mr. Day said that the 75,000 acres of land filed on by the state last year has all been leased to wheat growers, and every well known farmer has taken from those who wish to engage in this class of farming. Great interest, he says, has been awakened all over the southeast. Wheat was successfully grown quite a distance above Marsville, in Fremont county, this year, thus opening up great possibilities for a large section of country that was supposed to be of no value only for grazing.

April 4, 1909
PAGE FOUR

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IDAHO—GEM OF THE MOUNTAINS.

The area which Idaho presents embodies a surface of 84,800 square miles. Perhaps three-fourths of this vast territory is capable of the highest stage of agricultural and pastoral development. The other one-fourth, approximately, is contained in forest reservations, largely mountainous and inaccessible. Idaho is an empire capable of sustaining an untold quantity of animal life. Its undeveloped resources are almost beyond computation. It inherits the essentials of material and political greatness in an eminent degree. Its chief want is population. To reach an estimate of the capabilities of the state of Idaho it is necessary to institute a comparison between it and some of the old European nationalities. A similar comparison with the states of the American union is not deemed requisite.

Italy is the nearest in comparative area with Idaho of the great European states. It containing some 110,000 square miles, or 29 per cent greater than Idaho. Italy combines several former kingdoms, those of Rome, Naples, Sardinia, Sicily, etc., and contains a population of 32,000,000, or more than one hundred times the density of Idaho on substantially the same area. The king of Italy alone draws from the state \$2,858,000 annually, or more than the entire cost of the government of Idaho for two years. Italy has a standing army of 240,000 men, or about the total population of Idaho, and spends annually on its navy \$35,000,000, or one-third the total assessed value of the state.

The Netherlands, area 12,648 square miles, Belgium, 11,373 square miles, and Denmark, 13,388 square miles, combined have about half the area of Idaho and a population of some 16,000,000. They are less burdened by governmental charges, yet the Netherlands pays its queen \$250,000, and her family \$62,000; Belgium pays \$660,000 and Denmark \$250,000. Their standing armies are the Netherlands, 34,500 men, Belgium 49,700 and Denmark 14,600, or about the total adult population of Idaho.

These comparisons will suffice to give something of an idea as to the possibilities of the great state now looming into general public notice. There is no nationality probably which presents such a surface of rich and inexhaustible soil as does Idaho. Not even fertile France surpasses the Gem of the Mountains in the character of her productions. The climate of the state is salubrious and healthful. Within her boundaries almost every product known to the use of man can be grown. The mineral resources of the state are boundless in extent and wonderful in richness. All that tends to the comfort and happiness of mankind is found in abundance within her borders.

The state is merely in her infancy—her possibilities as to the future can scarcely be foretold. She is possessed of all the essentials of greatness. The provision of the state for the education of her youth is magnificent. The permanent school fund now amounts to \$2,900,000. In addition to this, the school fund has the 18th and 24th sections of the entire state, which, at the minimum price at which it is allowed to be sold, viz: \$10 per acre, would realize \$28,000,000.

No military servitude is exacted here; no standing armies are maintained, eating up the substance of the people. The civil government of the state is managed upon economical principles. The appropriations for the state government for two years aggregate but \$1,500,000. This is about \$2.00 per head of the population of the state, and includes the interest on the public debt and provision for the sinking fund. It is no more than what some of the states exact as a voting poll tax.

What Idaho requires above all things is population to develop her wonderful resources. Her capacity to support in affluence and comfort millions upon millions from the overcrowded countries of the old world is beyond question. It is claimed for the state of Idaho over any other section that nowhere else is such diversity of production practicable, nor is there to be found a country possessing more natural resources within her own borders, nor one that can be made more nearly self-sustaining. It is claimed that nowhere else can as good land, in as large quantities, as near to good markets, be had at as low prices—land upon which can be successfully grown almost every production known in the markets of the world. It is claimed that no country affords a healthier or more genial climate; outdoor work is practicable nine-tenths of the time, and the farmer need not labor six months that his stock may survive the remainder of the year. It is claimed, further, that no other section offers as many attractions in the matter of low taxes, with the same probability of their continuing so; and further it is claimed for Idaho that her public debt is

inconsiderable, and her schools and benevolent institutions liberally endowed.

The empire state of Idaho can support upon her broad acres millions of the industrious and intelligent from all lands and nationalities, and to all such she extends a cordial invitation. Her 84,800 square miles of territory await the enterprising immigrant and offer an asylum to the impoverished of the earth.



A GATEWAY



WALLULA, WASHINGTON, THURSDAY, FEBRUARY 4, 1909.

Improve Snake River

For Navigation and Power Purposes.

[At the request of the Wallula Commercial Club, Hon. E. M. Warner of Two Rivers has prepared the following article for publication in the various newspapers of this region.—EDITOR.]

Snake river is one of the great water highways of the United States, but is little used for transportation purposes and regulates no rail rates, although lower Snake river flows almost through the center of one of the great wheat producing districts of the world, which annually sends by rail to the Pacific coast a large amount of wheat and other agricultural products and imports from such coast a large quantity of other freight, and although upper Snake river flows almost through the center of the south half of the state of Idaho, which is now developing some of the largest irrigation districts in the world and beginning to send to and import from the Pacific coast by rail a considerable amount of freight.

The reasons why lower Snake river does not transport considerable freight and regulates no rail rates, are:

(1) The falls in the Columbia river at Celilo prevent continuous navigation from points above to the Pacific coast.

(2) The fall in lower Snake river at and near Five Mile Rapids, situated a few miles above the mouth of the river, and at one or two other places between there and Riparia, is considerable, being about 10 feet at Five Mile Rapids in a distance of a mile; and the fall at these places produce there, during the low water period, which generally prevails during the fall and winter months, swift currents, rapids, shallow waters, shoals, narrow channels, rocks and reefs, which make continuous navigation between Lewiston and Celilo during this low water period, when most of the wheat and other freight is marketed, impractical commercially; and the fall at these places produce there and to a considerable distance above, during the high water and flood period, which generally prevails during the spring and early summer months, swift and strong currents, which prevent steamers from carrying much freight up stream and make navigation very slow, difficult and costly.

(3) Most of the wheat and other agricultural products are produced some distance back from the river on the surrounding uplands; and most of the towns and cities to and from which the traffic is principally transported are situated some distance back from the river; and the only means of transportation to and from the river are the railroads, which make high local rates to and from the river.

The reasons why upper Snake river carries no freight and regulates no rail rates, are:

(1) Lower Snake river must first be improved for the reasons above stated.

(2) The several falls in the upper Snake river prevent continuous navigation of its waters.

For the purpose of increasing navigation above Celilo, the state of Oregon recently constructed a portage railway around the falls in the Columbia river at that place; and the Open River Transportation Company of Portland has recently established a line of steamers above Celilo to connect with this portage railway and its line of steamers below, and is carrying some freight on this line of steamers above Celilo and reduc-

ing rail rates on some classes of freight between the coast and such places above Celilo as Wallula, Pasco and Kennewick, notwithstanding the expense of the transfers to and from this portage railway, and will doubtless carry considerable more freight and reduce rail rates on some classes of freight between the coast and the cities of Dayton, Waitsburg and Walla Walla, if the farmers and business men of the counties of Columbia and Walla Walla succeed in constructing the electric railway they have surveyed from Dayton via Waitsburg and Walla Walla to Wallula.

For the purpose of overcoming the falls in the Columbia river at Celilo, the federal government is now constructing The Dalles-Celilo canal with locks at an estimated cost of \$4,900,000, which will probably be completed in a few years, and which when completed will surely increase navigation above and decrease rail rates on some classes of freight between the coast and such places above as Wallula, Pasco, Kennewick and Lewiston, just as the construction of the Cascade locks below increased navigation above that place and decreased rail rates on some classes of freight between the coast and The Dalles, and which when completed will be of great benefit to the states of Washington, Idaho and Oregon, particularly if the upper Columbia and lower Snake rivers be improved and electric railways be constructed as branches and feeders of traffic to these rivers from the various towns and cities throughout the Inland Empire, and particularly after the construction of the Panama canal.

Lower Snake river, according to the judgment of practical engineers and experienced navigators, could and should be improved by means of a dam with locks near Five Mile Rapids, as the conditions there will admit of the construction of a dam with locks at no very great expense, there being there solid bedrock and no expensive property that would be submerged by backwater, and as a dam there would reduce the fall in the river above to the extent of its height and thereby overcome the rapids and strong currents for miles above, and as the deep backwater therefrom would overcome the rocks, reefs, shoals and narrow channels of numerous places above, such as Perrine's Defeat, Potato Patch, Five Mile Rapids, Tiger Head Crossing, Cockmagormick Rapids, Three Island Bend, Old Washtagna Ferry Reefs and possibly Fishhook Rapids, and as the delay in passing steamboats through the locks would be short and inexpensive, whereas blasting out these rocks, reefs and shoals and widening the channels at these places would still leave the fall in the river and in consequence still leave the swift currents, rapids and shallow waters during the low water period when most of the wheat, agricultural products and other freight is marketed, and still leave the swift and strong currents during the high water and flood period, and would cost about as much as a dam with locks.

Lower Snake river will doubtless be somewhat improved by the construction of the large storage and irrigation systems now commenced in Southern Idaho by the general government and the state of Idaho, as thereby the flood waters of lower Snake river will be decreased in the spring and

early summer months, and as the flood waters of such branches of the lower Snake river as the Salmon, Clearwater and others, which will probably be little used for irrigation purposes, will furnish more than sufficient water for navigation purposes on lower Snake river during the spring and early summer months, should all of the waters of upper Snake river be used for irrigation purposes, and as the waters of the upper Snake river, which during the fall and winter months when the irrigation season is ended will be considerably increased from the storage and use of the spring and flood waters, will, together with the waters of the branches of lower Snake river, furnish sufficient water for navigation of lower Snake river during the fall and winter months when most agricultural and other freight is marketed.

A dam with locks near Five Mile Rapids would produce thousands of horsepower cheaply, which would make possible the construction and operation of electric electric railroads to the Snake and Columbia rivers from the various surrounding towns and cities of the Inland Empire that are off of these streams, and which would, in connection with pumping plants operating under low lifts, enable about 50,000 acres of irrigable land in Franklin, Benton and Walla Walla counties of the state of Washington to be irrigated and to add about \$10,000,000 to the taxable property of these counties and the state of Washington, and which would furnish cheap electric power to the surrounding towns and cities for city water works, city lighting, street car lines and for various manufacturing and industrial uses.

The improvement of Snake and Columbia rivers as water highways by means of dams with locks where practical and advisable would produce thousands of horsepower cheaply, to endure for all time, which would enable the heavy and bulky agricultural and other products of the Inland Empire to be transported to these rivers by electric railways and then by water down these streams to the coast for the markets of the world, and which would furnish cheap electric power to the transcontinental railroads of the Northwest to carry to and from the Pacific coast other freight of the Inland Empire, which will rapidly increase as this section of the country continues to develop and when the Panama canal is constructed, and which would furnish cheap electric power for irrigation, manufacturing, lighting and other industrial purposes throughout the Inland Empire.

The irrigation of the vast areas of arid lands in Southern Idaho by means of dams across Snake river and wide and deep canals will probably give to Southern Idaho at no long distant date cheap transportation to the lower Snake river, for, if these dams in connection with locks cannot make upper Snake river navigable, or if these large irrigation canals in connection with the river, dams and locks cannot give navigable waters, before or during the irrigation season, power at least from these dams and canals will be available for the operation of electric railroads to the lower Snake river.

In view of the great importance to the country of the improvement of lower Snake river, the various commercial clubs and farmers' unions throughout the Inland Empire should take up with their respective legislators and congressmen the matter of improving lower Snake river, and suggest to their representatives (1) how it may be best improved to serve the present and future interests of the Inland Empire, and (2) what legislation, state and national, is needed to secure the desired improvements, and to enable citizens, corporations, towns, cities, irrigation districts, counties and states benefitted to cooperate with one another and with the general government to assist financially in making these improvements and developing what power that may be produced, and to secure to the general public the benefits that may be derived from the utilization of such power.

PROJECTS OF IRRIGATION

By FREDERIC J. HASKIN.

During the current year it is estimated that nearly 350,000 acres of irrigated land will be thrown open to settlement by the government. This will afford homes for 175,000 people, as irrigated land is supposed to be capable of supporting one person to every two acres. The irrigated lands available to the settler this year are scattered all the way from the Canadian boundary to the Mexican border, embracing all kinds of climate and farms suitable for growing everything from hardy alfalfa and northern cereals to semi-tropical fruits.

All that is necessary for a man to do to obtain possession of his share of this land is to reside on it and otherwise to comply with the provisions of the homestead law. The land will cost him practically nothing, except a small fee for entry. He will have to pay, however, for the water right to irrigate his farm, which ranges in cost from \$30 to \$50 per acre. This can be paid in ten annual installments if he chooses. The price depends upon the cost of constructing, operating, and maintaining the government reclamation plant.

Realizing that the most important problem before the nation to-day is that of providing homes for the people, Uncle Sam aims to make it as easy as possible for his people to obtain such homes. That the tendency of population to crowd into cities is not healthy was long ago recognized by statesmen and, one result was the enactment of the reclamation law in 1902. The sponsors of that legislation and the promoters of the work that has been carried on under it for seven years have made the not extravagant claim that the law, if carried out to the fullest extent and thoroughly understood by the people, will solve the problem for some years to come.

That the people appreciate what is being done for them, and are anxious to take advantage of the opportunities afforded, is shown by the thousands of inquiries being received at Washington. The land hunger is so widespread that it is almost impossible for the government to keep the supply of irrigated lands equal to the demand. No sooner is an area irrigated than there is a great rush of applications for farms. That is what is expected in the case of all the openings this year.

The Federal government has already invested \$2,800,000 in the reclamation of arid lands, and about \$90,000,000 more of private capital has been invested for the same purpose. With these enormous expenditures 11,000,000 acres of land have been reclaimed. It is estimated that there is enough water in the country, if it is properly used to irrigate 30,000,000 acres more. At the rate of one inhabitant to every two acres, this vast area of arid land will furnish homes for 15,000,000 people, twice the population of the great State of New York and five times as many people as lived in the thirteen original colonies when they won their independence.

If all of the land to be irrigated produces crops at the same rate as that now under irrigation, which is upward of \$20,000,000 worth annually, the total area reclaimed and to be reclaimed would produce crops valued at a round billion dollars a year. So far but a small beginning has been made by the government, water being available for only 1,500,000 acres. Of the thirty great reclamation projects inaugurated under the Newlands law, only two have been wholly completed. Others are in various stages of progress, the lands being opened to settlement as the work proceeds.

In no part of the arid West is more active development going on at the present time than in the State of Montana, whose vast areas of public domain and splendid water supply afford unusual opportunities for establishing ideal farming communities. One project is already completed, six others are under construction in that State, and it is expected that work will commence on two more projects during the summer. The ultimate development of these works will add a crop-producing area in Montana larger than the entire State of Rhode Island. During the year 1933 it is expected that no less than 147,000

acres of land, covered by five reclamation projects, will be thrown open to settlement.

The farm unit is comparatively small in each case, being from forty to eighty acres of irrigable land. At close intervals the government is laying out town sites, so that the farmers will be within easy reach of churches, schools, stores, and railroad stations from which their crops can be shipped. The government will permit men without much ready money to work out the cost of the water rights for the farms they enter upon by assisting in the construction of canals, ditches, dams, and other works. If a would-be settler is not lucky enough to secure land from the government there is always opportunity for him to buy some surplus ground at reasonable prices from farmers who sent in early applications.

There will be 17,000 acres ready for settlement this year under the Huntley project, near Billings, Mont. Situated 3,500 feet above the sea and watered by the Yellowstone River, this land is remarkably fertile, producing alfalfa, grains, corn, fruit, and vegetables. A novel feature of the construction work on this project is the pumping station near Ballantine, where the fall of water from the main canal is made to lift a portion of the water to a canal on a higher level. Vertical turbines and centrifugal pumps are mounted on the same shaft, and the operation is nearly automatic.

An equal area of land is being opened under the Sun River project, Montana. Already the influx of farmers has been so great that there are said to be splendid opportunities for the business man, merchant, and manufacturer. Many of the farmers are meeting with such success that their friends in the East are going Westward to join them. Another Montana project just open to settlement is the Lower Yellowstone, where 65,000 acres of land, lying near the junction of the Yellowstone with the Missouri River, is rapidly being filed upon. The man who wants a home there will have to hurry.

A little farther south 30,000 acres will be opened during May, in the Shoshone project, Wyoming, near Buffalo Bill's favorite old stamping ground. In order to complete this project a dam 325 feet high—the highest in the world—was built; a road eight miles long, and a tunnel three miles in length were cut through the solid rock, and hundreds of miles of canals were dug.

Still farther south, 15,000 acres will be available for settlers in the Uncompahgre project, in Colorado. Forty thousand acres will be added to the irrigable area in the so-called Truckee-Carson project, Nevada, water being taken from Lake Tahoe under a special agreement with a private irrigation concern. A tract of 15,000 acres in Southeastern California, under the Yuma project, will be opened in October next. There tropical fruits can be grown almost without cultivation.

The Yuma lands lie on an Indian reservation, and a small payment must be made to the red men owners in order to obtain possession. This is true also in the Huntley project, Montana, which was part of the Crow Indian reservation. As fast as Congress authorizes it, the reclamation service is placing Indian lands under irrigation. This year, besides those just mentioned, lands having an area of nearly 10,000 acres, located on reservations in Montana and Washington, will be thrown open to the settler, and they are expected to be entered quickly, as they embrace some of the most valuable fruit land in the world. The construction of irrigation works on the Fort Peck Indian reservation, Montana, will be commenced as soon as possible.

The latest project to receive approval of the government involves the reclamation of 50,000 acres of fine fruit lands in Grand Valley, Colorado. It will take several years to complete the work, which will include a canal sixty miles long, pumping stations, etc., to irrigate land on several levels. The Grand Valley apple and peach orchards are world-famous, the fruit growers getting \$1 a box for their product. There are marvelous tales from Grand Valley of oats growing eight feet high and yielding 12 bushels per acre, of potatoes producing 40 bushels in the acre, and of watermelons and vegetables, planted between rows of growing trees, which pay for the labor before the orchards bear.

The government is extending the blessings of irrigation at public expense to the people of Porto Rico. A \$1,000,000 bond issue has been sold there and the proceeds are being devoted to the construction of irrigation works. As a sort of experiment in irrigation, dry farming is practiced extensively in the West on land which cannot be watered. Under a new law 1,000,000 acres of land in Wyoming are to be thrown open at once to settlers, who will be permitted to acquire 20 acre homesteads for dry farming purposes. It is not known how successful this experiment will be.

While the government encourages home-building it objects to frauds on the public domain in violation of the reclamation law, or any other statute. A million dollars is now being spent by the general land office and 500 special agents are being employed to investigate and prosecute the guilty persons in 2,000 cases of alleged land frauds involving \$20,000,000 worth of lands. The Department of Justice is prosecuting 2,000 defendants in Oklahoma in an effort to recover several million acres of land alleged to have been fraudulently acquired.

A few years ago one had only to travel westward a short journey to see nothing but public land from skyline to skyline. To-day bands of steel extend from ocean to ocean, the Great American Desert is fast disappearing under the onslaught of irrigation and dry farming, and cities and towns and wide green meadows dot the landscape. The property of the nation, which at one time embraced nearly two billions of acres of land, has been reduced to something like half a billion acres. Out of our free lands have arisen twenty vigorous Commonwealths and an agricultural empire that is the marvel of the world to-day.

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