5-1994

The Tail Wags the Dog: State Versus Federal Control in the Public Domain Debate, 1929-1934

Kevin D. Hatfield
Utah State University

THE TAIL WAGS THE DOG: STATE VERSUS FEDERAL CONTROL IN THE PUBLIC DOMAIN DEBATE, 1929-1934

by

Kevin D. Hatfield

A thesis submitted in partial fulfillment
of the requirements for the degree

of

MASTER OF ARTS

in

History

Approved:

UTAH STATE UNIVERSITY
Logan, Utah

1994

ACKNOWLEDGMENTS

I am extremely grateful to Clyde A. Milner who offered me the opportunity to conduct my graduate studies at the center of the western history universe. Through securing me a teaching assistantship, encouraging me to intern at the Western Historical Quarterly, directing my thesis, and lobbying for my acceptance into a doctoral program, Professor Milner has molded the last two years of my life.

The attentive faculty of the USU History Department, including Professors David R. Lewis, F. Ross Peterson, Anne M. Butler, and Carol A. O'Connor, also guided the development of my thesis. They extended me the discretion to tailor their seminars into thesis-building research and writing exercises.

I remain deeply indebted to the entire staff of the Special Collections, Merrill Library for providing me with unobstructed access to the wealth of primary source material on land law at the USU archives. Robert Parson and A. J. Simmonds procured several government documents, which allowed me to complete my thesis. Parson, an expert in western land law and grazing policy, offered invaluable counsel on this complex topic.

To my parents and Clarence and Virginia I will be forever thankful for their unwavering moral and financial support. Above all I wish to evince my heartfelt gratitude

to my best friend and wife, Linda. Her facile wit and sincere encouragement instilled me with the confidence and conviction to complete this project.

Kevin D. Hatfield

CONTENTS

ABSTRACT

The Tail Wags the Dog: State Versus Federal Control in the Public Domain Debate, 1929-1934

by

Kevin D. Hatfield, Master of Arts

Utah State University, 1994

Major Professor: Dr. Clyde A. Milner II
Department: History

This thesis examines the evolution of public land law during the early 1930s. It focuses specifically on the development of a federal grazing policy on the remaining public domain located in the eleven western states. This period of intense intellectual conflict, concerning the relationship between private enterprise and the federal government, was a pivotal moment in the history of land law.

To explain the profound shift from the entrenched states' rights attitudes of the 1920s to the acceptance of federal control inaugurated by the Taylor Grazing Act in 1934, this thesis explores the emergence of a powerful pro-federal contingent from 1929 to 1934. Led by Utah politicians, businessmen, and academicians, this pro-federal group of westerners, USDA officials, and

conservationists ultimately defeated the movement to cede the remaining public domain to the states. A series of public-policy-making events, including the Hoover Committee, the National Conference on Land Utilization, and the hearings of the House Committee on Public Lands and the Senate Committee on Public Lands and Surveys, provided these pro-federal advocates with the opportunity to consolidate their efforts and solidify their arguments.

Pro-federal proponents used the Hoover Committee to establish valuable communication links and raise a nascent voice against states' rights. The next year, during the National Conference on Land Utilization, this group promulgated the first nationally recognized plan for federal ownership of the public domain. Finally, the persuasive testimony of pro-federal witnesses before the House and Senate public lands committees divided the states' rights supporters into bitter factions and subsequently convinced the legislators to reject the bills favoring state control.

By early 1934 these events had molded a formerly disconnected group of individuals into a synergistic force that ultimately afforded Don Colton and Edward Taylor with the momentum to pass the Taylor Grazing Act. Previously scholars have neglected the critical prelude to the Taylor Grazing Act. This thesis attempts to contribute an

important piece to the historiographical puzzle of public land law. (195 pages)

CHAPTER I

HISTORIOGRAPHICAL INTRODUCTION

In a move that is uncannily reminiscent of the early 1930s public domain debate, western politicians have again resurrected the battle cry for states' rights. Similar to their pre-Taylor Grazing Act precursors, the current Cowboy Caucus--a bipartisan coalition of western legislators--have declared war on the landlordism of "that great aggressor, the federal government."[1] The "BLM bill," drafted by two Cowboy Caucus members, Colorado Representative Dan Schaefer and Wyoming Representative Craig Thomas, advocated the unconditional cession of all Bureau of Land Management acreage to the states.[2] The Utah-sponsored Western States Summit, convening on the fiftieth anniversary of the Taylor Grazing Act and in the home state of its author, overwhelmingly endorsed the "BLM bill" at its Denver gathering. Utahn Joseph Stumph raised the stakes higher with the introduction of his "Ultimatum Resolution" at the summit. His resolution provided the states with a legal process of seceding from the jurisdiction of federal

---

[1]Christopher Smith, "Western Rebels: Pray for Strength, But Say They Have Not Yet Begun to Fight," Salt Lake Tribune, 15 February 1994, A1-2.

[2]Christopher Smith, "Caucus Wants Federal Lands Deeded to Western States," Salt Lake Tribune, 16 February 1994, B3.

agencies.[3]

Already bolstered by the support of such western luminaries as Utah Governor Mike Leavitt, the Western States Summit received the additional backing of county commissioners and livestock owners around the West. In January 1994, the Nevada Association of Counties had promulgated their approval of the "BLM bill" and composed a formal letter to Interior Secretary Bruce Babbit and Agriculture Secretary Mike Espy outlining their states' rights philosophy.[4] Nye County Nevada commissioners even published a resolution positing that "the state of Nevada owns all public lands within the borders of the state." In addition, the District Attorney of Lincoln County, Nevada, confiscated the "guns, badges and all symbols of police authority from BLM and Forest Service Agents."[5]

Direct parallels exist between this current upheaval and the events preceding the Taylor Grazing Act of 1934, including the Western Governors Conference, the Hoover Committee, the National Conference on Land Utilization, and the hearings of the House and Senate public land

---

[3]Smith, "Western Rebels," A1-2.

[4]Ernie Thompson, "They're Fed Up, and Aren't Going to Take It Anymore," High Country News, 21 February 1994, p. 7.

[5]Jack Wheeler, "Land War," Strategic Investment, 19 January 1994, 11.

committees. But most contemporary proponents of states' rights remain unaware of any historical continuity. The Cowboy Caucus presents the same legal, ecological, and economic arguments to confute federal ownership as their predecessors did. The "equal footing doctrine," "theory of trusteeship," and the contention that private enterprise provides the best stewardship have not changed over the last fifty years. However, present detractors of federal ownership fail to adequately credit the individuals earlier in this century who originally developed these ideas. This neglect of 1930s land law development has caused politicians, editors, environmentalists, businessmen, and historians to oversimplify and often misconstrue the complex public domain debate. Without investigating the pivotal prelude to the Taylor Grazing Act, an enduring political solution will elude public policy makers and a full understanding of land law history will elude scholars.

The historiography of land law lacks a comprehensive evaluation of the crucial period between 1929 and 1934. Land law scholars concur that the Taylor Grazing Act of 1934 marked a pivotal moment in the evolution of public land policy. This legislation emerged as a watershed between two distinct philosophical phases of United States

land policy--disposal and reservation.[6] Although the federal government had withdrawn economically and aesthetically valuable tracts of land from private entry since the mid nineteenth century, Congress had refrained from instituting a universal system of permanent public ownership.[7]

---

[6]The Taylor Grazing Act did not explicitly endorse permanent public ownership--this did not occur until the passage of the Federal Land Policy and Management Act of 1976--or rescind any of the acts providing for privatization of the public domain, including the Homestead Act of 1862, the Desert Land Act of 1877, the Dry Farming Homestead Act of 1909, and the Stock-Raising Homestead Act of 1916. Instead Congress wrote an ambiguous and general policy statement that engendered decades of acrimonious debate and forced the administrative agencies to clarify it. The act's preamble asserted its purpose was to "promote the highest use of the public lands pending its final disposal." Did "final disposal" mean grazing districts or wholesale federal divestiture? Similarly, sections 14 and 15 of this act authorized the Secretary of the Interior to liquidate quarter-sections of land lying both within and outside the boundaries of the Taylor Grazing Districts. The act only stipulated that the land transferred to private holdings must be assessed and classified by the Interior Department as more suitable for agricultural--rather than grazing--purposes. However, the federal government's divestiture of its land did decline precipitously. As Louise Peffer states, "Of 357 applications for homestead recorded between the passage of the Taylor Act and June 30, 1939 only 19 were found to be primarily suitable for agricultural purposes." Louise Peffer, Closing of the Public Domain: Disposal and Reservation Policies 1900-50 (Stanford: Stanford University Press, 1951.), 279. For additional statistics on federal land sales after 1934, see Paul Wallace Gates and Robert W. Swenson, History of Public Land Law Development (Washington DC: Government Printing Office, 1968; reprint, Holmes Beach, FL: WM. W. Gaunt & Sons, 1987), 612-13.

[7]Alfred Runte, National Parks: The American Experience, 2d ed., (Lincoln: University of Nebraska Press, 1987). Runte chronicles the development of the national

Historians have employed the Taylor Grazing Act as a temporal point of reference in their monographs and journal articles. They carefully frame their discussions of land law around this centerpiece--describing events as occurring either before or after this law. However, by focusing so intensely on this act, scholars have neglected its equally important prelude. Most secondary accounts only discuss the instrumental efforts of Congressmen Don Colton of Utah and Edward Taylor of Colorado in securing the passage of the act named in honor of the Representative from the Centennial State.[8] Historians have perennially ignored--

---

park system, dating from the Yosemite Park Act of 1864. For a detailed political and administrative history of the national forest system see Gates and Swenson, History of Public Land Law Development; Sally K. Fairfax and Samuel T. Dana, Forest and Range Policy, rev. ed., (New York: McGraw-Hill, 1979); John Ise, The United States Forest Policy (New Haven: Yale University Press, 1920); and William G. Robbins, American Forestry: A History of National, State, & Private Cooperation (Lincoln: University of Nebraska Press, 1985).

[8]For a more comprehensive explanation of the bills sponsored by Colton, the senior Republican on the House Public Lands Committee, and Taylor, and their subsequent hearings, see Gates and Swenson, History of Public Land Law Development, 610-611; Peffer, Closing of the Public Domain, 215-220; Phillip O. Foss, Politics and Grass: The Administration of Grazing on the Public Domain (Seattle: University of Washington Press, 1960; reprint, New York: Greenwood Press, 1969), 50-52; and Robert Parson, "Prelude to the Taylor Grazing Act: Don B. Colton and the Utah Public Domain Committee," Encyclia 68 (1991), 209-31. These authors recount the positive influence the Colton Bill(H.R. 11816) had on the eventual Taylor Bill. The Colton Bill became only the second bill endorsing federal control of the rangelands to pass through the committee stage and reach the floor. Only the bill of Senator

or perfunctorily dismissed as irrelevant--the political and philosophical foundation that underpinned the success of Colton and Taylor. They fail to explicate how an outnumbered contingent of Utahns and USDA officials could convince Congress to espouse permanent federal control after other, more luminary, politicians had foundered at this task for over twenty-five years. Similarly they never explain Taylor's abrupt ideological reversal. This erstwhile advocate of privatization had orchestrated the passage of the Stock-Raising Homestead Act of 1916.[9] The corpus of secondary land law research implies that the causes for the enactment of long-awaited federal grazing

---

Stanfield, chair of the Senate Committee on Public Lands and Surveys, introduced during the first session of the sixty-ninth Congress, precedes the Colton Bill in surmounting the committee hearings. For more general examinations of the Taylor Bill, representative of most secondary land law literature, see Wesley Calef, Private Grazing and Public Lands (Chicago: University of Chicago Press, 1960; reprint, New York: Arno Press, 1979), 49-53 (page references are to reprint edition); Paul J. Culhane, Public Land Politics: Interest Group Influence on the Forest Service and the Bureau of Land Management (Baltimore: The Johns Hopkins University Press, 1981), 81-84; and Marion Clawson, The Federal Lands Revisited (Baltimore, The Johns Hopkins University Press, 1983), 30-31, 35. For recent anthologies of articles and essays dealing with rangeland policy see John R. Wunder, ed., Working The Range: Essay on the History of Western Land Management and the Environment (Westport, CT: Greenwood Press, 1985); and Sterling Brubaker, Rethinking the Federal Lands (Washington, D.C.: Resources for the Future, 1984).

[9]Peffer, The Closing of the Public Domain, 201; Gates and Swenson, History of Public Land Law Development, 516-517.

legislation--this profound turning point in land law history--lie solely with the work of these two individuals. This causal relationship remains tenuous and incongruous.

Without exploring the role of the Committee on the Conservation and Administration of the Public Domain and its aftermath, this important moment will never be elucidated. In 1929 President Herbert Hoover commissioned this independent investigative committee--popularly referred to as the Hoover Committee--with a mandate to study the economic and ecological ramifications of continued unregulated use of the public domain. Hoover, the last of the three laissez-faire Republican presidents of the 1920s, opposed enlarged governmental interference with private enterprise. Although disconcerted by the state of the grazing lands, he advocated ceding the remaining public domain to the states or even parceling it out to stockmen.

Resembling the public land commissions of 1879 and 1903-1905, the Hoover Committee predictably supported the sentiments of its creator with its majority decision and published recommendations. Just as Gifford Pinchot, Frederick H. Newell, and W. A. Richards had conducted an ostensibly objective study of the public lands only to confirm the progressivism and utilitarian conservationism of their patron, Theodore Roosevelt, the Hoover Committee

authenticated the initial proposal of the president for state cession.[10] Unfortunately, land law historians have cursorily rejected the Hoover Committee as the last, abortive articulation of the pro states' rights attitude before the rise of New Deal liberalism in the 1930s and the natural resource conservationism espoused by Harold L. Ickes and Henry A. Wallace.

Consequently, they have overlooked the seminal minority decision rendered by the pro-federal members of the committee, and their continued efforts during the 1931 National Conference on Land Utilization and the House and Senate public land hearings of early 1932. The frenetic work of this embattled contingent quickly eclipsed their counterparts' efforts. The relentless promotion and campaigning of W. B. Greeley, E. C. Van Petten, I. H. Nash,

---

[10]U.S. Congress, Committee on the Conservation and Administration of the Public Domain, Report, (Washington, D.C.: Government Printing Office, 1931), 1-85; Charles E. Winter, Four Hundred Million Acres: The Public Lands and Resources (Casper, WY: Overland Publishing Company, 1932; reprint, New York: Arno Press, 1979), 215-229, 235-249 (page references are to reprint edition). As a Congressman from Wyoming during the early 1930s, Winter remained a staunch proponent of state cession. He testified at the Salt Lake City Conference of Western Governors--where Assistant Secretary of the Interior Joseph M. Dixon first introduced Hoover's proposal--and before the Senate Committee on Public Lands and Surveys regarding bills "granting remaining unreserved public lands to the states." His book combines historical analysis of land law and the reproduction of valuable primary source material, including his own testimony, correspondence of the Hoover Committee, and its final report.

Elwood Mead, and especially Utahn William Peterson, for federal government ownership and management of the public domain succeeded in inspiring western ranchers, politicians, and bureaucrats to adopt their philosophy. Their cogent arguments and abundant reports helped steel the resolve of Colton and Taylor, and afforded them invaluable intellectual ammunition in the protracted battle between state and federal forces. Although not the first to enunciate this position--calls for larger communal or federal ownership of range lands date to John Wesley Powell, Gifford Pinchot, and R. N. Stanfield--Peterson and his colleagues ironically used the Hoover Committee as a vehicle for consolidating and advancing the case of federal control. Incidentally, their arguments endured long after the burgeoning ethos of "reservation" had discredited the formal conclusions of the Hoover Committee.

None of the major historical surveys of public land law or monographs with narrower purviews devote more than a few pages to this critical transition to the Taylor Grazing Act, and rarely include any acknowledgment of the minority, pro-federal Hoover Committee members' contributions.[11]

---

[11]The first three major surveys were published before 1925 and are therefore not accountable for this neglect. However, they do cover earlier stages in the private versus public debate. See Thomas C. Donaldson, The Public Domain: Its History, with Statistics, with References to the National Domain, Colonization, Acquirement of Territory, the Survey, Administration and Several Methods of Sale and

Roy M. Robbins's extensive appraisal of land law history, Our Landed Heritage: The Public Domain 1776-1936, began the pattern of labeling the Hoover Committee as merely reactionary, with the "only conservationist note in the entire [committee] found in the statements providing that certain lands were to be reserved for national defense, reclamation, and for additions to national forests and parks. . . ."[12] Although Robbins explores the creation, personnel, and final recommendations of the Hoover Committee more closely than many of his successors, the only hint of dissent he mentions within this body remains the "failure of one member of the Commission, Col. William

---

Disposition of the Public Domain of the United States, with Sketch of Legislative History of the Land States and Territories, and References to the Land System of the Colonies, and also that of Several Foreign Governments (Washington, D.C.: Government Printing Office, 1884). As a member of the Public Land Commission of 1879, Donaldson assumed the task of composing an exhaustive history of land law. See also George M. Stephenson, The Political History of the Public Lands, 1840-1862: From Pre-emption to Homestead (New York: Russell & Russell, 1917); and Benjamin Horrace Hibbard, A History of the Public Land Policies (Madison: University of Wisconsin, 1924). Respectively a colleague and doctoral student of Frederick Jackson Turner, Stephenson's and Hibbard's methodology remains emblematic of the historiography of the early twentieth century. Unlike the "New Western History" these authors focus myopically on political and economic issues, oblivious to the importance of race, gender, ethnicity, or non-traditional primary sources that illuminate the lives of ordinary individuals.

[12]Roy M. Robbins, Our Landed Heritage: The Public Domain 1776-1936 (Lincoln: University of Nebraska Press, 1962), 416.

B. Greeley, formerly chief forester, to sign the report."[13] He disregards the connection of Greeley to Peterson and the other pro-federal members, and with the ambiguous term "failure"--instead of abstain or refuse--forces the reader to speculate why Greeley "failed" to sign the report. He also fallaciously assumes that the strident pro-states'-rights tone of the committee's report galvanized the Democrats into action and instilled in them the conviction to finally triumph over western ranchers and Republicans. According to Robbins, this renewed wave of conservationism, provoked by the committee, ushered in the new administration of "Harold Ickes, Henry Wallace, Henry Morgenthau, Rexford Tugwell, as well as the President himself" and secured the passage of the Taylor Grazing Act. Yet, Robbins never reveals how two Republicans actually pushed the bill through Congress or the lineal descent of pro-federal ideology from Peterson and Greeley to Taylor and Ickes.[14]

Four years after Robbins released his study, Louise Peffer published her Stanford doctoral dissertation, The Closing of the Public Domain. Peffer spends a short

---

[13]Ibid.

[14]Ibid., 420-21. Although deficiencies exist on this topic, Robbins study remains a valuable reference and research tool. His annotated footnotes and extensive bibliography offer copious primary and secondary sources.

chapter investigating the Hoover Committee and the subsequent hearings of the House and Senate public lands committees on the bills derived from the Hoover Committee's final report.[15] She expands Robbins's analysis and discloses the reason for Greeley's failure to sign the report. She also asserts that "others signed it reluctantly" and includes a quote by a Montana representative, I. M. Brandjord, denigrating the report. However, the dissent she acknowledges appears isolated and impotent, and the reader does not realize any coherent minority opposition or agenda. Echoing the conclusions of Robbins, Peffer posits that the "only important contribution of the committee's work to the public land situation was that it clarified opinion."[16]

Again the historiography of land law relegated the committee to the status of an agent provocateur. Although Peffer provides a more sophisticated level of analysis than Robbins--by focusing on the evolution of philosophies first and their political, legal, and institutional manifestations second--she still fails to draw the connection between the ideas of the pro-federal Hoover

---

[15]Peffer, Closing of the Public Domain, 203-13.

[16]Ibid., Closing of the Public Domain, 212.

Committee members and future conservationists.[17] Essentially Peffer substantiates the oversimplified labeling started by Robbins, which inadvertently obscures the critical role played by the pro-federal minority of the Hoover Committee. It is discouraging that Robbins and Peffer set the cornerstone upon which future authors, such as Philip O. Foss, Marion Clawson, Wesley Calef, Paul Wallace Gates, Gary D. Libecap, and Paul J. Culhane, would predicate their theses and research. As disciples readily accepted the accounts of these authors--evidenced by the numerous times they cite Peffer in their text, footnotes, and bibliographies--they concomitantly adopted Peffer's and Robbins's stereotypical label of the Hoover Committee. As with all labels, this one posed a grave danger. It lulled historians into a collective complacency, mollifying their natural tendency to critically analyze labels and past

---

[17]Peffer's predecessors--including Donaldson, Stephenson, Hibbard, Walter Prescott Webb, Robbins, and Gates had studied the evolution of the government's paramount land policy--disposal. Although some of these historians offered limited scholarly commentary on the fledgling concept of reservation, none developed a comprehensive analysis of "reservation philosophy." The traditional Hamiltonian-Jeffersonian ideological debate dictated the thematic parameters of scholarly research during the first half of the twentieth century. Historians thus remained fettered to the question of whether the government should ultimately liquidate the public domain to generate revenue or conversely grant it to yeoman farmers in defense of democracy. The preponderance of primary source material in Peffer's footnotes underscores the dearth of secondary literature available to her concerning this new line of investigation.

scholarship. Excluding the prolific and unsurpassed work of Gates, all future students of land law remained content with the assertions of Peffer and Robbins. No additional primary source research or innovative synthesis of secondary literature occurred concerning the Hoover Committee.

Paul Wallace Gates's magnum opus, History of Public Land Law Development, remains the most comprehensive survey of American land policy ever collected within one book. Although written as a result of Gates's membership in the Public Land Law Review Commission of 1968, most of the research antedated that of Peffer and Robbins. Although Gates cites Peffer in his treatment of the evolving grazing/leasing policy to indicate his awareness of recent scholarship, most of his conclusions are extracted from his own swollen portfolio of journal articles, government reports, book chapters, introductory essays, and monographs.[18] Therefore, he had already formulated his

---

[18]Paul Wallace Gates remains the preeminent scholar of public land law. While a professor at Cornell University, he received numerous honorary awards, fellowships, and consultancies. By 1968 the Second Hoover Commission to Organize the Executive Branch of the Government, the Agricultural Adjustment Administration, and the Departments of Interior and Justice had all solicited the counsel of this pundit for his unparalleled knowledge of land law. For other distinguished works by Gates, see The Wisconsin Pine Lands of Cornell University: A Study in Land Policy and Absentee Ownership (Ithaca: Cornell University Press, 1943); The Farmer's Age: Agriculture, 1815-1860 (New York: Holt, Rinehart, and Winston, 1960); and Land and Law in

own opinions about the significance of the Hoover Committee and remained more impervious to Peffer's and Robbins's portrayals.

Although Gates astutely reviews the formation and recommendations of the Hoover Committee and the actions of Colton and Taylor, the two events remain disconnected. Gates delineates the subtle differences between the pro-states'-rights proponents--some demanding title to sub-surface minerals and others emphasizing reclamation--and he observes the various responses to the committee's report--even alluding to staunch opposition from Utah. However, he fails to report any pro-federal contentions within the committee.[19] At least Gates does not perpetuate the simplistic notion that the wrath precipitated by the Hoover Committee helped the Democrats to pass the Taylor Grazing Act. Gates attributes its passage to manifold factors, including the successful Mizpah-Pumpkin Creek experiment and the efficient leasing system already operating under

---

California: Essays on Land Policies (Ames: Iowa State University Press, 1991). For a short academic biography and complete listing of his published writings, see "Western History Association Prize Recipient, 1986: Paul Wallace Gates," Western Historical Quarterly 18 (April 1987): 132-40.

[19]Gates and Swenson, History of Public Land Law Development, 524-29, 607-13.

the auspice of the U.S. Forest Service.[20] He also briefly describes the impact of the National Conference on Land Utilization and the congressional hearings on the eventual success of the Taylor Grazing Act.

Published in 1970, Everett Dick's The Lure of the Land remains the most recent broad survey of public land history. A progenitor to the "New Western History" that burgeoned over the next two decades, Dick's interpretation of public land history markedly departs from the conventional historiography of the early twentieth century. Accordingly, Dick debunks the mythologization of western migration, settlement, and "frontier" lifestyles, while stressing the notions of fragmentization, decentralized power, and complexity in western land distribution, ownership, and use.[21] Notwithstanding his emphasis on

---

[20]Congress appropriated funds to the Interior Department to conduct the Mizpah-Pumpkin Creek experiment in 1928, which covered 108,000 acres of sub-marginal private, state, and public land in southeastern Montana. Intensive regulation was then applied to the area in an attempt to rehabilitate the denuded grasslands and increase the carrying capacity. For a complete review of this event see Gates and Swenson, History of Public Land Law Development, 608-10; and Everett Dick, The Lure of the Land: A Social History of the Public Lands from the Articles of Confederation to the New Deal (Lincoln: University of Nebraska Press, 1970), 346.

[21]Dick's "new social history" voice and perspective may appear callow to contemporary followers of Elliot West, Richard White, and Patricia Nelson Limerick; however, it appeared sophisticated and somewhat iconoclastic in 1970. Although the currently transcendent themes of gender and ethnicity fail to assume a prominent role in Dick's

complexity, Dick recapitulates the conclusions of Peffer and Robbins, completing his discussion of the Hoover Committee in less than a page. He adduces absolutely no original statements or insights about the committee, representing its impact as ephemeral and insignificant.[22]

Other current surveys of the American West--although encompassing topics other than land--that employ the "New Western History" approach disappointingly gloss over the Hoover Committee entirely. Both Patricia Nelson Limerick in her anecdotal study The Legacy of Conquest and Richard White in his interpretive text "Its Your Misfortune and None of My Own" focus on the environmental and social causes of the Taylor Grazing Act at the expense of political and legal developments. Although commendable for pushing the boundaries of western history and integrating race, gender, and ethnicity, these books do not clarify the role of the Hoover Committee or the work of the pro-federal contingent during the early 1930s.[23]

---

assessment, he does focus on class, and delves meticulously into the life of the ordinary farmer, rancher, homesteader, and itinerant family. Dick's twenty-one page classified bibliography--rivaling that of Gates--should not be overlooked by those interested in public land law history.

[22]Ibid., 345.

[23]Richard White, "It's Your Misfortune and None of My Own": A New History of the American West (Norman: University of Oklahoma Press, 1991), 479, 531; Patricia Nelson Limerick, The Legacy of Conquest: The Unbroken Past of the American West (New York: W. W. Norton & Company,

Charles F. Wilkinson, professor of law at the University of Colorado School of Law, has completed the most recent survey of western public land and water law. An expert in western legal history, Wilkinson examines the enduring influence of the "Lords of Yesterday," or nineteenth-century laws, policies, and ideas, on present natural-resource and land use. Although Crossing the Next Meridian targets a general audience, it clearly investigates the evolution of logging, fishing, mining, and grazing laws. In his chapter titled The Rancher's Code, Wilkinson diligently describes the legal chronology of grazing from the nineteenth-century range wars to the early National Forest Service leasing policy. However, the conventional scholarly judgement of the Hoover Committee and its aftermath as "insignificant" reverberates through Wilkinson's analysis. Consequently, his etiology of the Taylor Grazing Act leaps from Forest Service procedures to the Great Depression and Dust Bowl. Although an invaluable addition to the historiography of public land law, Crossing the Next Meridian also fails to discuss the immediate

---

1987), 25, 87, 156. For additional examples of "New Western History" see Patricia Nelson Limerick, Clyde A. Milner II, and Charles E. Rankin, eds., Trails: Toward a New Western History (Lawrence: University of Kansas, 1991); and William Cronon, George Miles, and Jay Gitlin, eds., Under an Open Sky: Rethinking America's Past (New York: W. W. Norton & Company, 1992).

prelude the Taylor Grazing Act.[24]

Aside from the broad surveys of public land law, several monographs deal with specific topics and tighter time periods. Prompted by the seminal study of Peffer, which scrutinized the philosophy of "reservation," both Phillip O. Foss and Wesley Calef adapted this approach to an examination of grazing lands. Although this concentration on range lands would suggest a correspondingly more intricate exploration of the Hoover Committee, neither author elaborates this event. Although they present background information, the locus of their investigations remains the establishment of administrative institutions and procedures after the enactment of the Taylor Grazing Act.[25] Foss, in Politics and Grass,

---

[24]Charles F. Wilkinson, Crossing the Next Meridian: Land, Water, and the Future of the West (Washington, D.C.: Island Press, 1992) 75-113.

[25]Foss, Politics and Grass; Calef, Private Grazing and Public Lands. The power wielded by local livestock interests reached its apex in the 1950s, and profoundly influenced the writings and conclusions of Foss and Calef. Bolstered by local advisory boards, the National Advisory Board Council, and the pro business lobbying of Senator McCarran of Nevada and the professional grazing associations, stockmen essentially dictated BLM policy during the late 1940s and 1950s. Consequently Foss analyzes the evolution of grazing policy through the lens of political determinism. He discounts the influence of social and economic forces, and maintains that institutional arrangements and organizational structures--decentralization, budgeting processes, and special interest group involvement--guide environmental, economic, and social developments. Comparably, Calef combines case studies of grazing administration in five principal basins

condenses Peffer's judgment on the committee into four paragraphs, allotting more space to an explication of the Mizpah-Pumpkin Creek experiment. Besides a quote from Governor George H. Dern of Utah, decrying the Hoover Committee's report, Foss adds no fresh information to this event.[26] Likewise, Calef's rudimentary handling of the Hoover Committee, in the introductory chapter of Private Grazing and Public Domain, summarizes Peffer's and Robbins's evaluations of the committee in one paragraph. Calef never even recognizes the existence of a formal committee, but instead alludes to some amorphous "[proposal] of President Hoover and members of his cabinet."[27]

More recent monographs, published during the early 1980s, by Marion Clawson, The Federal Lands Revisited, and Gary D. Libecap, Locking Up the Range, have reexamined the relationship between the federal government and private, natural-resource-extracting, industries. Both confine their analysis to lands under the jurisdiction of the

---

of the Middle Rocky Mountains. However, he focuses on the incoherent patterns of land tenure in these five regions, and their various permutations of private, state, and federal ownership. In contrast to Foss, Calef also concedes that the diversity of western topography, climate, and land distribution contribute to the formation of grazing administration.

[26]Foss, Politics an Grass, 47-48.

[27]Calef, Private Grazing and Public Lands, 51.

Bureau of Land Management and U.S. Forest Service and also broach innovative and persuasive proposals for future land management.[28] Although the public versus private debate remains a paramount component of their studies, Clawson and Libecap fail to draw insights from the fertile and yet unexploited ground of the Hoover Committee and early 1930s

---

[28]Clawson, The Federal Lands Revisited. Although a career bureaucrat--serving as an economist in the Bureau of Agricultural Economics and as director of the Bureau of Land Management in the early 1950s--Clawson's analysis neither transgresses into mere paeans to his former agency nor does he predictably expound a zealous pro-federal ideology. A synthesis of existing monographic literature--rather than extensive research of primary sources--this book divides the history of public land law into six original temporal periods. Clawson also introduces the ideas of long-term leasing and quasi private-public corporations as prospective systems of future land use. Gary D. Libecap, Locking Up the Range: Federal Land Controls and Grazing (Cambridge: Ballinger Publishing Company, 1981). Although resembling a manifesto of pro-states'-rights ideology, more than a scholarly synthesis of secondary works, Libecap's short book argues the case of privatization astutely. Writing during the aftermath of the Sagebrush Rebellion and at the inauguration of the laissez-faire era of James Watt and Ronald Reagan, Libecap repudiates the alleged benefits of bureaucratic management --in either stabilizing the range livestock industry or the ecology of western lands. Instead he postulates that private enterprise offers better stewardship to the land than regulatory agencies. Libecap presages the work of Samuel P. Hays, Beauty Health and Permanence: Environmental Politics in the United States, 1955-1985 (Cambridge: Cambridge University Press, 1987) by investigating the political theories of specialization and control of knowledge, and the subjectivity of bureaucratically sponsored scientific research. For another forceful post-Sagebrush Rebellion statement on federal intervention in the West--from the MX missile proposal to natural-resource extraction--see Richard D. Lamm and Michael McCarthy, The Angry West: A Vulnerable Land and Its Future (Boston: Houghton Mifflin, 1982).

public land-law developments. By the early 1980s the perennially reiterated conclusions of Peffer and Robbins had become so entrenched that new scholars never contemplated reevaluating this nearly sacrosanct scholarship. Libecap offers only a synoptic, two-sentence account of the Hoover Committee, while Clawson begins his history of grazing policy, excluding the U. S. Forest Service system, with the Colton and Taylor bills.[29]

The only treatment of the Hoover Committee since the surveys of Peffer, Robbins, and Gates to rely on primary source materials is Stanford J. Layton's To No Privileged Class. [30] This interesting monograph traces the intellectual history of land law development through the "Country-Life Movement" of the Progressive Era, "the Back-to-the Land Movement" of the 1920s, and the private-versus-public-land controversy during the early 1930s. Despite listing the members of the Hoover Committee, he only indicates their respective professions and fails to discern their individual personalities or philosophical positions.

---

[29]Libecap, Locking Up the Range, 42; Clawson, The Federal Lands Revisited, 30-31, 35, 36.

[30]Stanford J. Layton, To No Privileged Class: The Rationalization of Homesteading and Rural Life in Early Twentieth-Century American West (Provo: Brigham Young University, Charles Redd Center for Western Studies, 1988).

Neither does he detect any dissent within the committee.[31] His endnotes reveal the prevailing propensity among scholars to acquiesce to Peffer and Robbins. Instead of directly quoting members of the committee or those opposed to its final report, he quotes Robbins's and Peffer's interpretations. Layton avers that "according to Peffer, the purpose of the committee was 'to assess and evaluate public sentiment, not to create it.' Her research has led to the conclusion that the committee was not true to its calling."[32] Again the significance of the Hoover Committee is reduced to inciting the Democrats and conservation forces into action. Layton strives to reconcile the incongruous juxtaposition of the Hoover Committee's anti-federal recommendations and the passage of the Taylor Grazing Act; however, he misses the opportunity to use the minority decision of the committee itself as an important explanation.

Although monographs embracing other environmental topics often touch on land-use issues, their focus is not specifically land-law development. The commendable studies of western water policy, including Donald Worster's Rivers of Empire, Donald Pisani's To Reclaim a Divided West and From Family Farm to Agribusiness, Marc Reisner's Cadillac

---

[31]Ibid., 77-80.

[32]Ibid., 98.

Desert, Norris Hundley's The Great Thirst, and Robert Gottlieb's A Life of Its Own, all treat land law as only an ancillary theme.[33] Similarly, other monographs more attuned to the realm of environmental historiography, such as Richard White's Land Use, Environment, and Social Change, Donald Worster's Dust Bowl, Roderick Nash's Wilderness and the American Mind, and James C. Malin's History & Ecology, stress natural, social, and intellectual history over politics and law.[34]

Until historians fully illuminate the significance of the Western Governor's Conferences, the Hoover Committee,

---

[33]For a diversity of opinions regarding water development, use, and distribution in the West see Donald Worster, Rivers of Empire: Water, Aridity, and the Growth of the American West (New York: Pantheon Books, 1985); Donald Pisani, To Reclaim A Divided West: Water, Law, and Public Policy, 1848-1902 (Albuquerque: University of New Mexico Press, 1992) and From Family Farm to Agribusiness: The Irrigation Crusade in California and the West, 1850-1931 (Berkeley: University of California Press, 1984); Marc Reisner, Cadillac Desert: The American West and Its Disappearing Water (New York: Penguin Books, 1986); Norris Hundley Jr., The Great Thirst: Californians and Water, 1770s-1990s (Berkeley: University of California Press, 1992); and Robert Gottlieb, A Life of Its Own: The Politics and Power of Water (San Diego: Harcourt Brace Jovanovich Publishers, 1988).

[34]Richard White, Land Use, Environment, and Social Change: The Shaping of Island County, Washington (Seattle: University of Washington Press, 1980); Donald Worster, Dust Bowl: The Southern Plains in the 1930s (Oxford: Oxford University Press, 1979); Roderick Nash, Wilderness and the American Mind (New Haven: Yale University Press, 1967); and James C. Malin, History and Ecology: Studies of the Grassland, ed. Robert P. Swierenga (Lincoln: University of Nebraska Press, 1984).

the National Conference on Land Utilization, and the hearings of the House and Senate public lands committees of the early 1930s, a missing "intellectual and political" link will remain in the historiography of land law. These events remain an integral, yet unexplored, component of public land-law development. They derive their importance from ties to the larger debate over a federal grazing policy and the timeless dialectical relationship between private and public sentiments.

This thesis analyzes the abrupt reversal of public policy and federal law from one of privatization to conservation and government control. By focusing on the efforts of the major players during these early 1930s events, this thesis draws logical connections between the growing pro-federal contingent and the later success of Colton and Taylor. Although the many surveys and monographs discussed above recount the history of the Hoover Committee, none of them devote more than a short chapter to the pivotal period between 1929 and 1934. This time of intense intellectual conflict was a major turning point in the history of public land law. As if caught between the Scylla and Charybdis, the Hoover Committee existed during that tumultuous transition between the "Roaring Twenties" with a succession of three laissez-faire Republican presidents and the Great Depression and dawn of

New Deal liberalism.[35]

The recent revival of the public domain controversy makes a comprehensive understanding of public land law an exigency and not a pastime. Therefore, this thesis tries to contribute to the collective knowledge of grazing policy history by explaining how the Taylor Grazing Act passed in 1934. Only an examination of the pro-federal Hoover Committee members' endeavors and their subsequent involvement in the National Conference on Land Utilization and congressional hearings can elucidate the complicated evolution of grazing law. Without acknowledging their influence, it remains impossible to explain the rapid shift from the tenacious pro-states'-rights attitudes that had remained hallmarks of western sectionalism for decades to the establishment of federal control.[36]

---

[35]The phrase "caught between the Scylla and Charybdis" is borrowed from Sting of The Police, "Wrapped Around Your Finger," Synchronicity (Hollywood, CA: A&M Records, 1983).

[36]Much of the information for this thesis has been discovered in the rich archive collections at Utah State University. The Experiment Station Directors' Files contains correspondence, reports, and opinions of nearly every member of the "Hoover Committee," especially William Peterson, director of the USAC Experiment Station, 1921-28 and subsequently director of the USAC Extension Service in the early 1930s. The Laurence A. Stoddart Papers contain government documents, manuscripts, correspondence, and rare books accumulated by Stoddart, former professor of Range Management and Head of the Range Management Department at USAC. The Arthur C. Smith Papers encompass hundreds of boxes of yet unprocessed material. Smith, a professor of Range Management at USAC, collaborated with Stoddart in 1943 to publish the first widely used Range Science

---

textbook. The Range Management Collection "consists of the remnants of the Library of the Society of Range Management, which came to the Utah State Agricultural College library in the 1940s," as the register for this collection explains. It contains bound journals and other publications.

CHAPTER II

THE HOOVER COMMITTEE

As Assistant Secretary of the Interior Joseph M. Dixon approached the podium at the Conference of Public Land States' Governors, convened in Salt Lake City in August 1929, he prepared to read a letter from President Herbert Hoover. The letter echoed the words of the president's recently appointed interior secretary. Earlier that year Lyman Wilbur had proposed a surprising and momentous solution to the public domain dilemma.[1] Broaching the

---

[1]Charles E. Winter, Four Hundred Million Acres: The Public Lands and Resources (Casper, WY: Overland Publishing Company, 1932; reprint, New York: Arno Press, 1979), 185-195; U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to the States: Hearings on H.R. 5840, 72nd Cong., 1st sess., 1932, 13; U.S. Congress. Senate. Committee on Public Lands and Surveys, Granting Remaining Unreserved Public Lands to the States: Hearings on S. 17, 2272 and S. 4060, 72nd Cong., 1st sess., 1932, 26-50; and Stanford J. Layton, To No Privileged Class: The Rationalization of Homesteading and Rural Life in the Early Twentieth-Century West (Provo: Brigham Young University, Charles Redd Center for Western Studies, 1988), 77. Several secondary accounts incorrectly assert that Herbert Hoover personally attended and addressed the Conference of Public Lands States' Governors that met in Salt Lake City, 26 August 1929. Roy M. Robbins, in Our Landed Heritage: The Public Domain 1776-1936 (Lincoln: University of Nebraska Press, 1942), 413, states "President Hoover who in a speech delivered at Salt Lake City in August, before a conference of western governors, declared that an end should be put to federal landlordism and bureaucracy . . . then announced his intention of appointing a commission to study a plan of transferring the unappropriated and unreserved lands . . . to the states." Everett Dick, in The Lure of the Land: A Social History of the Public Lands from the Articles of

subject for the first time before the annual Conference of Western Governors in Boise, Idaho, Wilbur suggested that once "sound state policies based on factual thinking" developed, all the public domain, including national forests, parks, monuments, and bird refuges, should be transferred to the states.[2]

Moderating Wilbur's pro-state rhetoric, Hoover's letter informed the governors of his desire to divest completely of all the remaining vacant, unappropriated, and unreserved public domain to the states, retaining only the subsurface mineral rights for the federal government.[3] However, he made no mention of relinquishing other federal lands. Expressing the new administration's characteristic Republican, laissez-faire parlance, Hoover's letter opined that "western states have long since passed from their swaddling clothes and are today more competent to manage much of their affairs than is the federal government . . .

Confederation to the New Deal (Lincoln: University of Nebraska Press, 1970), 345, also implies Hoover's presence and attests "At a conference of western governors at Salt Lake City, he proposed selling the arid and semiarid lands suitable for grazing and also said he would appoint a commission to study his recommendations."

[2]E. Louise Peffer, The Closing of the Public Domain: Disposal and Reservation Policies, 1900-50 (Stanford: Stanford University Press, 1951), 203.

[3]Phillip O. Foss, Politics and Grass: The Administration of Grazing on the Public Domain (Seattle: University of Washington Press, 1960), 47-8.

We must seek every opportunity to retard the expansion of federal bureaucracy and to place our communities in control of their own destinies."[4] Next Hoover declared that he would appoint a commission of experts in public land policy and law to study the "whole question of the public domain, particularly the unreserved lands." After a year of circumspect examination, the committee would present its report and recommendations regarding the most efficient course of implementing Hoover's plan to Congress and the president.[5]

Although the majority of western governors and Congressmen greeted Hoover's plan with approbation, a small contingent of Westerners from Oregon, Idaho, Utah, and some USDA officials vehemently opposed this conveyance of land ownership to the states. Following Dixon's presentation of Hoover's letter, the Conference of Public Land States' Governors convened a hearing to discuss the Hoover-Lyman proposal. A captious debate immediately developed. Despite the protests of Utah Governor George H. Dern, the pro-states'-rights advocates dominated the hearing.

---

[4]Winter, Four Hundred Million Acres, 186.

[5]Ibid.; Paul Wallace Gates and Robert W. Swenson, History of Public Land Law Development (Washington, D.C.: Government Printing Office, 1968; reprint Holmes Beach, FL: WM. W. Gaunt & Sons, 1987), 524-25 (page references are to reprint edition); and William L. Graf, Wilderness Preservation and the Sagebrush Rebellions (Savage, MD: Rowman & Littlefield Publishers, 1990), 174-176.

Charles E. Winter, a former Representative from Wyoming, dubbed the Hoover-Lyman proposal the "emancipation proclamation for the West." A perennial states'-rights activist, Winter boldly supported the president's plan and denied that the federal government ever possessed legal title to the public domain. Delivering an ebullient oratory, the Wyomingite blustered, "What are the successive steps which will bring us [western states] into full sovereignty and jurisdiction? First, the surface areas, Second, the mineral resources, Third, the forests, Fourth, the waters. All of these things are coming as sure as we are assembled." Presaging the vitriolic public domain debate of the next three years, Winter presciently asked the conference, "Do you imagine for one moment that this thing is to be put through by only a wave of the hand because it has come from the President? Oh, no. It will take much labor. It will yet take much argument."[6] Winter concluded his speech with a demagogic appeal to the conference to pass an unequivocal resolution supporting the Lyman-Hoover proposal. Aroused by Winter's elocution, the pro-states'-rights-dominated conference resolved to support the plan and the creation of a committee to investigate this issue. The conference even recommended each attending governor to promptly submit "the names of three qualified

---

[6]Winter, Four Hundred Million Acres, 205-09.

citizens for consideration by the president for appointment on such commission."[7] The Conference of Public Land State's Governors sparked the war between pro- and anti-federal supporters, and Hoover's Committee became the first theater of battle.

Ironically, Hoover's committee--eventually named the Committee on the Conservation and Administration of the Public Domain--provided the forum for the fledgling pro-federal group of Westerners to consolidate and articulate their ideology. Although this coterie remained a minority within the Hoover Committee, their ideas and arguments had the most profound and enduring influence on the development of public land law. These pro-federal members pursued three themes that ultimately divided the committee: ecology, administration, and natural resources. Yet, the essence of the debate remained whether the federal government should dictate policy to the states, or conversely the states to the federal government. Should the tail wag the dog? The pro-state proponents did not think so. In their eyes the states constituted the dog, and any amount of federal control was backward.

Although the conclusion and final report of the Hoover Committee endorsed state ownership, the frenetic work of the outnumbered pro-federal members quickly eclipsed their

---

[7]Ibid., 211-12.

counterparts' efforts. The indefatigable promotion and campaigning of W. B. Greeley, E. C. Van Petten, I. H. Nash, Elwood Mead, and especially William Peterson for federal government ownership and management of the public domain, consequently inspired other western businessmen and government officials to adopt their philosophy. The tireless work of this burgeoning pro-federal group engendered subsequent conferences and committees, long after the Hoover Committee promulgated its unsuccessful report. As spokesmen for the pro-federal position, individuals like William Peterson were also indispensable proponents of the Taylor Grazing Act of 1934, which finally ended nearly 150 years of privatization, and marked the triumph over states'-rights advocates.

Since the General Land Ordinance of 1785 had established the rectangular survey system of townships subdivided into thirty-six sections, the federal government espoused the rapid liquidation of the public domain to generate revenue for the state.[8] Land emerged as the young nation's most valuable asset, often its only source of wealth. Some statesmen, such as Thomas Jefferson, imbued this policy of privatization in moralistic terms.

---

[8]Dick, The Lure of the Land, 7-8; Richard White, "It's Your Misfortune and None of My Own:" A New History of the American West (Norman: University of Oklahoma Press, 1991), 137-38, 141-48.

He argued that "fee simple" ownership of land by yeoman farmers, rather than the feudalistic usufructuary rights held by European serfs, would promote self-reliance, democracy, and republicanism. Alexander Hamilton, in his pragmatic Report on Public Credit, lucidly defined the government's genuine motivation behind privatization. Hamilton contended that "in the formation of a plan for the disposition of the vacant lands of the United States there appear to be two leading objects of consideration: one the facility of advantageous sales . . . the other the accommodation of individuals now inhabiting the western country, or who may hereafter emigrate thither. The former as an operation of finance claims primary attention."[9]

Hamilton initiated a policy that the federal government would consistently adhere to for over a century. Sales, preemption, withdrawals, homestead legislation, and direct grants to railroads, states, and businesses reduced the original public domain from 1,441,436,160 acres to 473,836,402 by 30 June 1904.[10] Although it required 119

---

[9]Benjamin Horace Hibbard, A History of Public Land Policies (Madison: University of Wisconsin, 1965), 2.

[10]U.S. Congress, Report of the Committee on the Conservation and Administration of the Public Domain, (Washington, D.C.: Government Printing Office, 1931), 9; Director's Files, Utah Agricultural Experiment Station, Department of Special Collections and Archives, Merrill Library, Utah State University, Logan, Utah, Box 6, Folder 1, Committee on the Conservation and Administration of the Public Domain, Final Report. Hereafter cited as Director's

years to dispose 967,599,758 acres, averaging about 8.13 million acres annually, the period between 1904 and the establishment of the Hoover Committee witnessed the most intensive liquidation heretofore. During those twenty-six years the General Land Office oversaw either the sale, grant, or withdrawal of 294,856,956 acres, leaving a mere 178,979,446 acres of public domain.[11] The yearly average of disposal during this period was 18,224,477 acres, over twice as much as the preceding 119 years.

The Enlarged, or Dry Farming, Homestead Act of 1909 and the Stock-raising, or Grazing, Homestead Act of 1916 served as the two major catalysts during this period of accelerated privatization. The former allowed an entryman to receive a half-section of 320 acres, while the latter provided for the grant of a full-section of 640 acres. Both acts also reduced the commutation period from five to three years.[12] Advocates of these enlarged homestead laws believed they would facilitate the settlement and

---

Files.

[11]Malcolm J. Rohrbough, The Land Office Business: The Settlement and Administration of American Public Lands, 1789-1837 (New York: Oxford University Press, 1968). Provides a detailed history of the General Land Office, established in 1812, and the early disposition of the public domain.

[12]Gates and Swenson, History of Public Land Law Development, 503-09; Public Land Law Review Commission, Digest of Public Land Law (Washington, D.C.: Government Printing Office, 1968), 286, 353.

cultivation of the remaining public domain, which was predominantly marginal or even submarginal land. By 1904 entrymen and corporations had acquired most of the lucrative public domain. The land that remained appeared suited only for the latest methods of dry-farming and grazing. Nevertheless, even these pursuits often failed, as the grants of half- and full-sections proved inadequate for either prosperous farming or ranching.[13]

Throughout the 1910s and 1920s, abuse of the homestead laws funnelled millions of acres into the possession of an elite group of corporations and speculators, while the wanton use of the remaining public domain contributed to forage denudation, watershed degradation, soil erosion, and stream or reservoir siltation.[14] By the time Hoover addressed the public land states' governors in Salt Lake City, ninety-nine percent--or 177,977,374 acres--of the total 178,979,446 acres of the remaining public domain was concentrated in eleven states: Washington, Oregon,

---

[13]Gary D. Libecap, Locking Up the Range: Federal Land Controls and Grazing (Cambridge: Harper & Row Publishers, 1981).

[14]Paul Wallace Gates, The Fruits of Land Speculation (New York: Arno Press, 1979); Stephen A. Douglas Puter and Horace Stevens, Looters of the Public Domain: Use and Abuse of America's Natural Resources (Portland: Portland Printing House Publishers, 1908; reprint, New York: Arno Press, 1972); Robert P. Swierenga, Pioneers and Profits: Land Speculation on the Iowa Frontier (Ames: Iowa State University Press, 1968). These works provide an extensive account of land fraud and speculation.

California, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming, Colorado, and Arizona.[15] Consequently, these states were acutely interested in developing some explicit system of public domain management. In some of these states the public domain constituted a majority of the state's total land mass. For example, eighty percent of Nevada's and forty-six percent of Utah's land mass remained public domain.[16] The states could neither include these lands in their tax bases, nor control their detrimental influence on adjacent state and private land. Although homestead entries and forest reserves inexorably reduced the amount of public domain available for grazing, the demands placed on this shrinking resource by the livestock industry increased.

For decades the eleven public land states had clamored for either unconditional or at least partial cession of the remaining public domain. Although the endeavors of western Senators had secured some legislation amenable to the states'-rights attitude, such as the Carey Act of 1894, many western states ultimately remained discontent with the

---

[15]Ibid.

[16]Director's Files, Box 6, Folder 32, William Peterson, Utah, circa 1930, 2; Director's Files, Box 6, Folder 29, George W. Malone, Nevada and the Public Lands, circa 1930, 1-3.

ambiguous legal and economic status of the public domain.[17] Therefore, when President Hoover made his proposal to cede the public domain to the states and form a committee to analyze the proposal, many western businessmen and politicians believed this was the opportunity they had restlessly waited for. Westerners had lobbied for such a commission since the mid 1920s. During the Western Agricultural Extension Conference in 1924, the speaker urged the president to appoint a "fact finding committee to investigate the whole subject of the most desirable policy to be pursued in regard to the remaining public lands."[18] Although Calvin Coolidge declined to fulfill this proposal, Hoover afforded the states a chance to control and rehabilitate the public domain in the summer of 1929.

The support Hoover experienced from the western governors was not initially mirrored in Congress. Staunch opposition to his recommendation of establishing an investigative committee arose in both houses. Representative William B. Bankhead of Alabama derided Hoover's proposal as bureaucratic profligacy. Many congressmen agreed with Bankhead and assured Hoover that

---

[17]Donald Pisani, To Reclaim a Divided West: Water, Law, and Public Policy, 1848-1902 (Albuquerque: University of New Mexico Press, 1992), 251-265; Public Land Law Review Commission, Digest of Public Land Laws, 206.

[18]Director's Files, Box 7, Folder 23, Memorandum to President Calvin Coolidge, 1924, 2.

Senate and House committees specializing in land policy already existed.[19] Congressman R. A. Green of Florida also denounced the proclivity of "presidential commissions" to subjectively support the ideology of their creator. In a lightly veiled allusion to the commissions of 1879 and 1904, he stated that they "are usually appointed . . . with a certain purpose in view, and often their recommendations can pretty safely be recognized in advance."[20]

However, on 15 January 1930, the testimony of Utah Representative Don B. Colton and Montana Representative Scott Leavitt before the House Committee on Rules convinced Bankhead and his fellow detractors of the necessity of the Hoover Committee. As chairman of the House Public Lands Committee, Colton explained that numerous bills providing for a solution to the public domain dilemma had failed in his committee. He argued that only a mandate from a non-partisan committee, staffed by pro-state and pro-federal members, could evolve into a successive bill that would ultimately pass both houses and become law. Although Colton did not espouse the Hoover-Lyman proposal to cede

---

[19]U.S. Congress. House. Committee on Rules, Commission to Study and Report on Conservation and Administration of Public Domain: Hearings on H.R. 6153, 71st Cong., 2nd sess., 1930, 1-12; and Peffer, The Closing of the Public Domain, 204.

[20]Gates and Swenson, History of Public Land Law Development, 525.

the public domain to the states, he did support a commission to study the issue of conserving the western range.[21]

Leavitt concurred with Colton, and conceded that although the House Public Lands Committee could accumulate the same statistical data a private commission could, "the value of this commission will consist in bringing together the various divergent ideas that exist throughout the United States as a whole, and in the western public-land states especially, so that some policy might be adopted."[22] Colton concluded his testimony by informing the Rules Committee that his committee had unanimously reported H.R. 6153 to the House floor. The bill, drafted by Interior Secretary Lyman Wilbur, authorized the president to "appoint a commission to study and report on the conservation and administration of the public domain."[23] It also stipulated that the secretaries of interior and agriculture would serve as ex officio members, and appropriated a budget of $50,000. Impressed by the testimony of Colton and Leavitt, the Rules Committee promptly approved the bill, which then awaited a vote by

---

[21]U.S. Congress. House. Committee on Rules, Commission to Study and Report on Conservation and Administration of Public Domain, 7-12.

[22]Ibid., 4.

[23]Ibid., 1.

the full House.

During this tempestuous congressional debate, the inchoate Hoover Committee conducted its initial meeting in early January of 1930. In anticipation of eventual congressional approval the committee decided to organize its membership prior to its formal inception. The committee consisted of twenty-two members. The Secretary of the Interior, Ray Lyman Wilbur, and the Secretary of Agriculture, Arthur M. Hyde, served as ex-officio members. Former Secretary of the Interior during the Roosevelt administration, James R. Garfield, assumed the position of chairman. Each of the eleven public lands states also sent a representative, appointed by their respective governors, to sit on the committee. The remaining eight individuals represented the entire nation and not any specific state or regional interests. These "at large" committee members consisted of such political and academic luminaries as W. B. Greeley, former Chief of the U. S. Forest Service; George H. Lorimer, editor of the Saturday Evening Post; and James P. Goodrich, former Governor of Indiana.[24]

---

[24]U.S. Department of Interior, Annual Report (Washington, D.C.: Government Printing Office, 1931), 13-4; U.S. Congress, Report of the Committee on the Conservation and Administration of the Public Domain, 1, The other "at-large" member were: H.O. Bursum, former United States Senator from New Mexico, Socorro, New Mexico; Gardner Cowles, publisher, The Register and Tribune, Des Moines, Iowa; Mary Roberts Rinehart, author, Washington, D.C.; Huntley N. Spaulding, former Governor of New Hampshire,

The committee also determined the forthcoming year's business at its inaugural gathering. The members endorsed several resolutions. The first authorized the chairman to "make a request for an appropriation of $50,000 for expenses of the commission."[25] Next Garfield created three subcommittees, one to investigate the disposal and use of the surface of the public domain, a second to assess subsoil fuel minerals, and a third to examine the future of reclamation policy. Before adjourning the members also clarified their principal purpose. The chairman ordered each of the public land states' representatives to evaluate their constituents' sentiments on public land policy, and to compose a report illuminating any endemic problems of their respective states.[26] Garfield also drafted a questionnaire regarding each western state's land policies, which was to be completed by their representative over the next year. The chairman then urged each representative to enlighten the reports with their own educated conclusions on what to do with the public domain. Finally, the former interior secretary announced that the committee would

---

Rochester, New Hampshire; and Wallace Townsend, member of the Arkansas River Association, Little Rock, Arkansas.

[25]Director's Files, Box 6, Folder 8, Committee on the Conservation and Administration of the Public Domain, Committee Resolutions, circa 1930, 1.

[26]Peffer, The Closing of the Public Domain, 204.

solicit information from every government agency concerned with the public domain, and after assessing all the material procured from members and government agencies, they would reconvene in June.[27] As expected, Congress approved H.R. 6153 that spring on 10 April 1930, after the continued campaigning of Colton and Leavitt.[28]

Immediately following the committee's opening meeting, two schools of thought materialized. As members exchanged correspondence and began drafting their tentative reports, three divisive issues arose. William Peterson, appointed by Governor Dern of Utah as that state's representative, emerged as a leading champion of federal control. Then the Director of the Extension Service at Utah State Agricultural College (USAC), Peterson had enjoyed an eminent career, and received national recognition within his profession. After completing graduate studies at the University of Chicago in geology, the native Utahn returned home and became a tenured professor at USAC.[29] In 1921 Peterson began directing the agricultural experiment

---

[27]Director's Files, Box 6, Folder 8, Committee, Committee Resolutions, 1-2; Director's Files, Box 6, Folder 9, James R. Garfield, Statement, 5 June 1930, 1-8.

[28]Director's Files, Box 6, Folder 8, Committee, Committee Resolutions, 1.

[29]Robert Parson, "Prelude to the Taylor Grazing Act: Don B. Colton and the Utah Public Domain Committee, 1927-32," Encyclia 68 (1991): 211.

station at USAC and his distinguished work made him the obvious candidate for the chairman of the Utah Public Domain Committee established in 1927.[30] By serving as a member and often chairman in numerous committees, such as the Utah "Range Committee" in 1923, Peterson also cultivated an impressive political network with such individuals as Don Colton, George Dern, and Elwood Mead.[31]

Francis C. Wilson, the representative from New Mexico, remained Peterson's pro-state nemesis throughout the committee's existence.[32] A fervent proponent of state control, Wilson demanded the full cession of all surface and subsurface proprietary rights. An attorney and interstate river commissioner for New Mexico, Wilson also

---

[30]Peterson also benefitted from the renowned work of his predecessors at the USAC experiment station, John A. Widtsoe and Lew Merrill. The seminal research and publications of these men on the topic of dry farming secured the USAC experiment station a position of "first among equals."

[31]Director's Files, Box 3, Folder 43, William Peterson, Available Public Lands, circa 1923, 1; Director's Files, Box 3, Folder 43, William Peterson, Vacant Public Lands in the Western States, circa 1923, 1; Director's Files, Box 3, Folder 43, C. L. Forsling, Director of the Great Basin Experiment Station, Ogden, Utah, to William Peterson, Logan, Utah, 17 December 1923; Governor George H. Dern Papers, William Peterson Correspondence, Box Z155G9, Utah State Archives and Record Service, Archives Building, State Capitol, Salt Lake City, Utah, William Peterson, Logan, Utah, to Governor George H. Dern, Salt Lake City, Utah, 26 May 1930, hereafter cited as Governor Dern Papers.

[32]U.S. Congress, Report of the Committee on the Conservation and Administration of the Public Domain, 1.

fostered a rapport with influential government and business officials who eschewed the pro-federal agenda. As a participant on the Committee of Public Lands of the New Mexico Cattle Growers' Association, Wilson maintained an intimate relationship with chairman Oliver M. Lee and former New Mexico Senator H. O. Bursom. These contacts allowed Wilson to form a pro-state majority coalition within the Hoover Committee.[33]

The interstate nature of ecology remained the paramount issue dividing the Hoover Committee into pro-federal and pro-state factions. The essence of the ecological debate revolved around grazing. The preponderance of public domain in 1930 remained marginal and suited exclusively livestock use. The land often lacked any merchantable timber, received an exiguous amount of precipitation--from five to twenty inches annually--and lay too far from any practical source of irrigation.[34]

---

[33]Director's Files, Box 6, Folder 25, Committee on Public Lands, Report and Recommendations of the Committee on Public Lands to the Executive Board of the New Mexico Cattle Growers' Association, Submitted at the Meeting at Albuquerque, 12 September 1930, 1-2.

[34]Director's Files, Box 6, Folder 32, William Peterson, Utah, 1-16; Director's Files, Box 6, Folder 29, Malone, Nevada and the Public Lands, 1-16; Director's Files, Box 6, Folder 29, George W. Malone, To The Committee, 17 November 1930, 1-17; Director's Files, Box 6, Folder 29, George Malone, Problems Confronting the Committee on Conservation and Administration of the Public Domain, 11 June 1930, 1-23.

Although all committee members concurred that the deleterious ramifications of overgrazing must be ameliorated, they differed widely on the most provident solution.[35]

Peterson insisted that the interstate nature of watersheds, rivers, erosion, silting, stock-driveways, overgrazing, and successor plant germination eluded a system of state control. He called attention to the arbitrary use of longitude and latitude lines in demarcating the coterminous borders of the western states. The federal government had failed to create natural geographic units, by using mountain ranges, rivers, watersheds, and other geological formations to delineate western boundaries. Therefore, Peterson emphasized that "part of Utah naturally belongs to Wyoming and Idaho. Part of Arizona naturally belongs to Utah and the rivers which flow through one state rise in another."[36] He reasoned that only a federal administrative regulatory agency could transcend state provincialism and rivalries to coordinate and execute a plan that would benefit the entire region.

---

[35]Wesley Calef, Private Grazing and Public Lands (New York: Arno Press, 1979); Libecap, Locking Up the Range: Federal Land Controls and Grazing. These monographs explicate the historical debate concerning grazing and the public domain.

[36]Director's Files, Box 6, Folder 29, William Peterson, Public Domain, circa 1930, 10; Director's Files, Box 7, Folder 2; Peterson, Utah, 1-6.

Peterson also avowed that only a federal agency could assemble blocks of land large enough to preserve the ecology and regulate grazing. Writing to John F. Mendenhall, the executive secretary of the Utah State Land Board, Peterson beseeched him to provide a map depicting the amount and location of state land. Peterson explained to Mendenhall that "this map is very necessary in getting over to the commission the argument of the advantage in getting the state lands into blocks for administration and the possibility of exchange."[37]

As Peterson disseminated his beliefs throughout the committee and to government agencies, he quickly gained the support of "at-large" committee member W. B. Greeley and the current Chief of the U.S. Forest Service R. Y. Stuart. Some departmental loyalty and camaraderie bound the men together, with Peterson working for the USDA Offices of Experiment Stations and Extension Service, and Greeley and Stuart employed by the U.S. Forest Service. However, they all perceived as an interstate phenomenon the ecological devastation caused by overgrazing.

Throughout the 1920s, under the administration of both Stuart and Greeley, the Forest Service conducted experiments to study the effects of "herbaceous vegetation

---

[37]Governor Dern Papers, Box Z155G9, William Peterson, Logan, to John F. Mendenhall, Salt Lake City, 9 December 1930.

on surface run-off and erosion."[38] Sponsored in close collaboration with the Morrill Land Grant College experiment stations, these Forest Service experiments had acquainted Greeley and Stuart with Peterson through decades of reciprocated ideas and information. In the summer of 1929, Stuart briefed Peterson on the results of rehabilitation experiments in the Wasatch, Boise, Jornada, and Santa Rita national forests, located in Utah, Idaho, New Mexico, and Arizona, respectively. In most of these areas the Forest Service had decreased grazing by thirty-five percent between 1924 and 1929, and allowed livestock commensurate to only seventy-five to eighty percent--rather than one hundred percent--of the estimated average annual forage crop. According to Stuart and his field men, these measures restored the carrying capacity and slowed erosion. Stuart explained that "on the unregulated public domain the forage is usually grazed to the roots" and livestock numbers increase annually. The similar results of the experiments guided by Peterson at USAC and those conducted by Stuart and Greeley in the Forest Service boosted their confidence and steeled their pro-federal convictions.

W. B. Greeley wrote to his former bureau and requested R. Y. Stuart to compile a summary of the research and

---

[38]Director's Files, Box 6, Folder 4, R. Y. Stuart, Washington, D.C., to James R. Garfield, Washington, D.C., 6 June 1930.

results of the Forest Service's experiment stations, and to forward a copy to every member of the committee. Greeley realized Stuart's report would corroborate Peterson's contentions.[39] According to the report, "the impairment in the volume and quality of the vegetative cover had . . . far-reaching economic and social consequences."[40] These repercussions included: destruction of palatable perennial grasses; succession by low value weeds and brush; reduction in carrying capacity, and increased per animal unit production cost; accelerated stock death rate and lowered birth rate; severe erosion; depletion of fertile top soil; lowered soil moisture levels; destruction of arable farmland by sand and gravel deposition; decreased crop production; heavy sedimentation and siltation; reduced holding capacity and efficiency of irrigation reservoirs, canals, and diversion ditches; congestion of river channels; exacerbation of flooding; hampered navigation; diminished hydroelectric output of dams and reclamation projects; accelerated "run-off" and subsequent formation of

---

[39]Director's Files, Box 6, Folder 13, A. Sherman, Washington, D.C., to James R. Garfield, Washington, D.C., 28 January 1930; Director's Files, Box 6, Folder 13, W. B. Greeley, Seattle, to Moskowitz, Washington, D.C., 2 December 1929; Director's Files, Box 6, Folder 13, U.S. Forest Service, Data for Public Land Commission, circa 1930, 1-29.

[40]Ibid.

"gullies" that undermine the integrity of watersheds.[41] The report continued to describe the situation in catastrophic terms, exclaiming that state management and continued overgrazing would contribute to the "restriction of community development and of the ability of resident homebuilders to attain the standards of living and of economic independence which would have been attainable."[42]

Greeley and the Forest Service believed that the federal government should place the remaining public domain under that agency's jurisdiction. They lauded the fact that they were the only agency to have established a comprehensive grazing policy, encompassing permits, range research, land classification, and strict supervision. They remained the only regulatory institution that could enforce universal standards and formulate a national inventory of lands. The erratic boundaries of the national forests, which often ran contiguous with--and in some areas encircled--public domain, precluded any attempt at state control. Consolidated blocks of land under one steward was mandatory. Disparate and inferior state grazing and land

---

[41]Director's Files, Box 6, Folder 4, R. Y. Stuart, Washington, D.C., to James R. Garfield, Washington, D.C., 5-8; Director's Files, Box 6, Folder 13, U.S. Forest Service, Data for the Public Lands Commission, 12-5; Director's Files, Box 6, Folder 14, W. B. Greeley, Recommendations as to the Surface of the Public Domain, circa 1930, 1.

[42]Ibid., 13.

management policies would undermine the adjacent national forest land, and all efforts of the Forest Service to rehabilitate watersheds and rangeland would be negated. Stuart emphatically alerted the committee that the "more than 100 million acres of [public domain] which was so interspersed among the federal lands" made the "adequate separate protection and management" of the federal land "economically impracticable."[43]

After reading the reports of Peterson, Greeley, and Stuart, Elwood Mead, the state representative for California and the Commissioner of the Bureau of Reclamation, felt compelled to expound his pro-federal stance. Although his ties to the Interior Department dissuaded him from repeating the call for an expanded role for the Forest Service, he did concede the need for suprastate administration. Mead believed his bureau epitomized the potential possessed by federal administration for uniting the West, alleviating ecological destruction, and surmounting geographical and climatological obstacles. Mead professed that similar to the interstate reality and implications of reclamation projects, the abuse of the public domain covered eleven states and could not be remedied by individual state control. Irresponsible range practices in one state would

---

[43]Ibid., 12.

nullify the more prudent measures implemented by its neighbors. Mead strove to elucidate this interdependency in a Bureau of Reclamation report issued to the committee members. The report stated that:

> It is recognized throughout the Rocky Mountain and Pacific Coast regions, [that] hundreds of communities are directly dependent on nearby watersheds for their supply of water, for irrigation and other purposes, and that in many cases their dependency is interstate in scope due to the watershed being in one state and the irrigation use in another, and also due to the fact that the irrigation water in one state must often be stored in another state. Inasmuch as these facts cannot be changed due to the geography of the region, it is recommended that lands valuable for watershed protection should be administered under the supervision of the federal government.[44]

Mead also agreed with his pro-federal compatriots in the USDA and called for a national inventory of land resources and soil classification base on agricultural and grazing values.

The reports of Peterson, Greeley, and Stuart provoked a polemical rebuttal from Francis C. Wilson. The New Mexico representative resolved to refute the notion that federal administration was the panacea for interstate ecological problems. In a scathing response, Wilson reasoned that decades of federal neglect and moribund

---

[44]Director's Files, Box 6, Folder 6, Elwood Mead, Washington, D.C., to James R. Garfield, Washington, D.C., 22 October 1930; Director's Files, Box 6, Folder 6, Elwood Mead, Federal Reclamation as a National Policy, circa 1930, 1-11.

policies demonstrated the government's current and future inability to properly manage the public lands. In stark contrast to Greeley's confidence in his agencies institutional arrangements and expertise, Wilson assured the committee that the states had accomplished far more in the areas of range rehabilitation and management. He excoriated the Forest Service proposals to include additional land under their jurisdiction. Delving into their statistical data, he revealed substantial discrepancies between the "Chief Forester and . . . his field men." He also denounced the nebulous recommendation of the Forest Service to reserve over thirty-six million acres of New Mexico public domain in "some form of public control other than National Forest but to be retained in Federal ownership."[45] During one of his typical diatribes, Wilson used an extended metaphor to attack Greeley, Stuart, and Peterson, stating:

> This land is the stepchild of the federal government, an outcast in fact, neglected and uncared for since birth, and yet when the state comes forward with a proposal to legally adopt it to the end that it may gain a respectable, self-sustaining status, up spring a host of special departmental pleaders who talk learnedly on erosion, run-off, watershed protection and over grazing, upon which we of the West, God knows, need no education, and recommend that it remain in its present custody. For fifty years and more nothing has been done to improve or protect it and

---

[45]Director's Files, Box 6, Folder 25, Francis C. Wilson, New Mexico Report, circa 1930, 3.

> unwise legislation has complicated the problem and made more difficult the solution, until today we of New Mexico find the unlucky child in our laps, without jurisdiction to control it or authority to nourish it, a present curse and a future threat--Utter neglect has brought it to that dismal pass, not the neglect of the state but of the federal government.[46]

Peterson's belief that the narrow self-interest of states would only incite disputes and hinder regional cooperation also disturbed Wilson. Instead Wilson explained that the respective State Engineers of Wyoming, Colorado, New Mexico, Arizona, and Nevada had collaborated harmoniously with "sister states on interstate streams," including flood control and irrigation. Elaborating on the potential of interstate coordination, Wilson attested that the consolidated units of land necessary for protecting watersheds, rivers, and grazing, could only be achieved by state ownership. He admitted the tangled arrangement of public domain and U.S. Forest Service land, but insisted that their merger would not create the desired outcome. According to Wilson, Greeley and his allies had conveniently overlooked the massive amount of state owned land that was also dispersed throughout the federal holdings. In every western state the Morrill Land Grant Act of 1862 had donated the sixteenth and thirty-sixth section of every township for subsidizing public education.

---

[46]Ibid., 4.

The enabling acts of states like New Mexico, Arizona, and Utah had even augmented this grant by adding the second and thirty-second sections. Private homestead entries merely consummated this chaotic distribution of land ownership, as private claims existed everywhere. Therefore, the federal government would not only have to nationalize the public domain, but also withdraw or purchase state and private land if it wanted to establish watershed units and grazing districts with any integrity.

Next the government would have to issue scrip to the sellers, which they could exchange for vacant, unreserved, and unappropriated land of commensurate size and value elsewhere in the state.[47] Obviously enough land did not exist to complete this wholesale exchange. Under state ownership only private claims would have to be exchanged, unlike federal ownership where both private and state claims would require adjudication. A nonplused Wilson wondered why "it is nowhere suggested that the minority holdings of the Federal Government be turned over to the State, but instead that the tail should wag the dog and the majority holders should exchange their lands."[48] Since

---

[47]Director's Files, Box 6, Folder 17, General Land Office, A List of Laws Relating to Land Exchanges, Including Scrip in the Nature of Exchange, with Reference to School and Railroad Grant Indemnity Provisions, circa 1930, 1-14.

[48]Ibid., 5.

the federal government could not feasibly absorb the vast state and private holding, the state should absorb the federal holding. This would require less paper work and create the largest and most successful land units.

Wilson's harangue failed to sway Peterson. The Utahn continued to oppose his colleague's philosophy, and exhorted Wilson to observe the growing movement toward conservation and land withdrawals for parks, forest, monuments, migratory bird refuges, and Indian reservations. In Utah alone the presidents had already withdrawn approximately 7.9 million acres for national forest reserves by 1930.[49] The federal lands in Utah totaled a staggering 8,662,609 acres. Peterson explained that placing the remaining public domain under a federal agency was simply the logical extension of the prevailing trend. Federal control, according to Peterson, would facilitate such activities as the "coordination of summer ranges on the National Forests with the winter and spring ranges on

---

[49]An omnibus land bill enacted in 1891, known as the General Revision Act, covering everything from the repeal of the Timber Culture and Preemption Acts to the amendment of the Desert Land Act, had also empowered the president to reserve forest lands by executive order. Gates and Swenson, History of Public Land Law Development, 484-85; Sally K. Fairfax and Samuel Trask Dana, Forest Range Policy; Its Development in the United States (New York: McGraw-Hill Book Company, 1980), 24; Sally K. Fairfax and Carolyn E. Yale, Federal Lands: A Guide to Planning Management and State Revenues (Washington, D.C.: Island Press, 1969).

the Public Domain."[50] Peterson also feared the centrifugal effects of state control on the management of interstate stock driveways.

Obdurately refusing to recant his testimony, Wilson disregarded Peterson's admonitions. The representatives of Arizona, Nevada, Wyoming, Colorado, and Montana lined up behind the New Mexico representative in solid support of state control and state ability to combat interstate ecological phenomena. These members used Wilson's report and intransigent rhetoric as a springboard to begin addressing another divisive and often overlapping issue. Who possessed the best bureaucratic apparatus and institutional mechanisms to administer the public domain? Many federal advocates, such as Greeley, Peterson, and Mead, had already extolled the virtues of their respective bureaus. However, the majority of the committee members steadfastly lobbied in favor of their state governments' departments.

George W. Malone, the State Engineer of Nevada and the committee representative for that state, posited the argument that the unique conditions of every state precluded a monolithic system of policies and standards.

---

[50]Director's Files, Box 7, Folder 11, William Peterson, Comparison of Advantages and Disadvantages of Administering the Public Domain by Federal Control, by State Control, or by Private Ownership, circa 1930, 1-2.

State governments could treat these endemic conditions more attentively and expertly than a detached, torpid, and apathetic federal agency.[51] Malone praised the "very efficient method for dealing with range disputes . . . range boundaries . . . and stock water rights" his State Engineer and State Land Department had developed. Since states like Nevada already had the "machinery to protect [the] range," state control would prevent the superfluous "enlarging of central government authority and personnel," and incur "no additional federal expense."[52]

Malone's ideas reverberated through the report of Wyoming's delegate to the Hoover Committee, Perry W. Jenkins. He also believed that because of varied ecological conditions "the same stipulations and provisions [were] not advisable in every" state.[53] Jenkins's faith in his state's administrative regulatory institutions surpassed that of Malone. Unsatisfied by the proposed cession of the public domain, he called for the transfer of all current federal reserves, including forests, parks,

---

[51]Director's Files, Box 6, Folder 29, Malone, To the Committee, 1-7.

[52]Ibid., 2, 8.

[53]Director's Files, Box 6, Folder 30, Perry Jenkins, The Public Domain in Wyoming, circa 1930, 1-11; Director's Files, Box 6, Folder 30, Perry Jenkins, What Wyoming Desires with Regard to the Public Domain, circa 1930, 1-5.

game sanctuaries, and reclamation projects. After receiving these lands, in fee simple form, the state could liquidate them and channel the proceeds into the state funds for public schools, buildings, and roads. The State School Land Board, comprised of the governor, secretary of state, state treasurer, and superintendent of public schools had proved its efficacy through years of valiant service in appraising, advertising, and selling the state lands. A State Land Board also existed, which oversaw the management and sale of all other state land not designated for pubic education. Not only would this cession bolster the school endowment fund, but it would strengthen the entire state economy. Jenkins remarked that "our federal government will then be simplified while the state will come into her own and will grow and prosper under self rule."[54] Jenkins also debunked Greeley's and Stuart's assertions that the Forest Service had devised the most sagacious grazing policy. According to Jenkins, "Wyoming had been leasing lands for grazing for a number of years," and had improved the grazing value of state lands over twenty-five percent compared to the adjacent public domain.[55]

---

[54]Director's Files, Box 6, Folder 30, Jenkins, What Wyoming Desires with Regard to the Public Domain, 3.

[55]Director's Files, Box 6, Folder 30, Jenkins, The Public Domain in Wyoming, 10.

Finally, the state report for Montana, compiled by I. M. Brandjord, underscored the remonstration against Forest Service, or any federal agency, control. Brandjord "frankly confessed" that "arguments can be found or fabricated for [federal] government control of almost any activity; but the vast areas of desert grazing lands of the West present a field that is particularly unsuited for government regulation and control."[56] He evoked images of "armies of government officers and employees" trekking for thousands of miles aimlessly between Washington, D.C. and the West.[57] He counseled the committee to "consider the unwieldiness of the machinery and the impediments to constructive work" as well as the impolitic use of tax money needed to supervise the grazing lands federally.[58] Sardonically concluding his report, Brandjord reasoned that the federal government should no sooner be allowed to monopolize the grazing lands than it should "take over the exclusive manufacture, distribution, and sale of lipsticks

---

[56]Director's Files, Box 6, Folder 28, I. M. Brandjord, Some Tentative Suggestions for the Disposition of the Public Domain and the Future of Federal Reclamation, circa 1930, 16; Director's Files, Box 6, Folder 28, I. M. Brandjord, Montana: The Federal Land Grants and their Administration, January 1930, 1-7.

[57]Ibid.

[58]Ibid.

and other cosmetics."[59]

Perusing his supporters' reports impelled Wilson to reenter the fractious debate. A recent meeting of the Executive Board of the New Mexico Cattle Growers Association had unequivocally ordered the federal government to "restore . . . to the several states the right of control over those unappropriated and unreserved lands lying within the states, of which they were unjustly and unwisely deprived when the territories were granted the rights of statehood."[60] Emboldened by this report, Wilson vilified the federal bureaucracy supervising land issues. He portrayed the bitter interdepartmental rivalries and overlapping responsibilities as barriers to proficient management.

The work of the committee had aggravated several disputes between bureaus within the USDA and the Interior Department. The information that emanated from these government agencies contained a myriad of recriminations against their rivals. First, a preexisting argument between the Bureau of Reclamation and the Bureau of Agricultural Engineering exploded. Commissioner Mead and

---

[59]Ibid., 17.

[60]Director's Files, Box 6, Folder 25, Committee on Public Lands, Report and Recommendations of the Committee on Public Lands to the Executive Board of the New Mexico Cattle Growers' Association, Submitted at the Meeting at Albuquerque, 1-2.

Agriculture Secretary Hyde, both members of the Hoover Committee, exchanged a barrage of insults and accusations through department releases, correspondence, and annual reports. Hyde and L. C. Gray, director of the Bureau of Agricultural Economics, categorically opposed the current reclamation policy. They believed irrigation-oriented reclamation projects impetuously expanded the acreage of arable farm land and ineluctably generated a cycle of overproduction, ecological damage, decreased agricultural product prices, loan default, land delinquency, and deterioration of irrigation districts. Gray demanded the "restriction of federal reclamation to the completion of projects already started and the rehabilitation of deficient water rights on lands now cultivated and occupied, with no new reclamation projects to be initiated until justified by the agricultural needs of the nation."[61] Mead denied these allegations, acrimoniously retorting that "the idea that the irrigated West is adding or will add to the over-production of staple farm crops is a delusion that a better knowledge of what is taking place will remove. The crops grown on federal irrigation projects have never exerted an injurious influence on the

---

[61]U.S. Department of Agriculture, Yearbook of Agriculture (Washington, D.C.: Government Printing Office, 1932) 459-60.

price of staple farm crops."[62] He also assaulted Gray's contentions, pronouncing that "there should be no question about the continuance of federal reclamation, safeguarded as it is today under a carefully thought out plan of extension, limited by the available funds, and only after the feasibility of new areas has been determined to the satisfaction of the Commissioner of Reclamation, the Secretary of Interior, the President and the Congress."[63] Both departments used this dispute, in the context of the Hoover Committee, as conclusive evidence that they were the best-suited candidate for control of the public domain. They implied that the myopic policies of their competitor regarding reclamation embodied the institutional arrangements and malaise of the entire department and exemplified its policies toward grazing on the public domain as well.

A secondary dispute erupted between the U.S. Geological Survey (USGS) and the Forest Service. Both claimed a monopoly on the expertise, familiarity, and funding needed to manage grazing and the public domain resourcefully. George Ottis Smith, director of the USGS, disavowed the wisdom of expanding the Forest Service, and

---

[62]Director's Files, Box 6, Folder 6, Mead, Federal Reclamation as a National Policy, 3.

[63]Ibid., 4.

countered that the USGS was the indisputable leader in grazing affairs. The primary mission of the Forest Service was to manage timber, not grazing. According to Smith, only his agency fully fathomed the complexities of range management. For over fifty years, the USGS had "furnished the technical information needed in carrying out the conservation policies on the open public domain . . . and since the enactment of the stockraising homestead act in 1916 the grazing resources had received intensive studies."[64]

New Mexico representative Wilson, an astute politician, opportunistically exploited these federal interdepartmental disputes. In a brazen attempt to muster support for the pro-state perspective, Wilson vowed that "if one agency is vested with authority to administer surface rights [Forest Service] and another agency is vested with the authority to administer sub-surface rights [USGS], such dual control has heretofore resulted and will continue to result in conflict of interest of lessees and result in serious losses to lessees of sub-surface rights and deprive them of any possible means of recovery or

---

[64]Director's Files, Box 6, Folder 18, Ottis Smith and the U. S. Geological Survey, A General Discussion of the Open Public Domain and of its Grazing Resources, 20 May 1930, 2.

protection."[65] Conversely, if the lands were consolidated under a single state agency, "conflicts of authority [and] conflicts of interest and losses of lessees" would be avoided.

Heaping invective on his pro-federal adversaries, Wilson defined their faith in federal institutions as "blind, uniformed, unintelligent adherence to bureaucratic traditions opposed always to any change in the status quo."[66] Wilson then recapitulated Malone's belief that state governments could allocate the revenue generated from the ceded public domain more sensitively than a remote federal bureaucracy. Besides, this revenue "should accrue to the benefit of the citizens of the state to whom such lands of right belong."[67]

A state agency, working in conjunction with a State Land Board, could also adjudicate private claims more effectively. Wilson claimed he spoke for all the western states, when he told the committee that he resented the federal government's insinuation that the states had

---

[65]Director's Files, Box 6, Folder 25, Committee on Public Lands, Report and Recommendations of the Committee on Public Lands to the Executive Board of the New Mexico Cattle Growers' Association, Submitted at the Meeting at Albuquerque, 1-5.

[66]Director's Files, Box 6, Folder 25, Wilson, New Mexico Report, 12.

[67]Ibid., 3.

mistreated their lands and were incapable of rectifying the problem. As Wilson expostulated, the cattlemen of New Mexico, similar to those of the other western states, had made substantial improvements on the public domain. If the federal government expropriated this land, they would never receive just recompense because their capital investments would be lost. A right of prior appropriation predicated on earliest and sustained use, and the construction of wells, corrals, fences, and watering equipment, had been established by these private cattlemen. With a single, stable state agency in charge, these private businessmen would receive adequate chance to either lease or purchase the land they had enhanced.[68]

Surprisingly, this disillusionment with federal bureaucracy transcended western sectional interest, and extended to the "at-large" committee members from the East. George Lorimer, editor of the Saturday Evening Post, also believed the unique conditions of every state required local control and attention by state agencies. Writing from Philadelphia, Lorimer informed the committee that "what might be good medicine for one [state] might not agree with another."[69]

---

[68]Ibid., 1-2.

[69]Director's Files, Box 6, Folder 23, George H. Lorimer, Statement, circa 1930, 2.

Peterson remained unfazed by the reports of Malone, Wilson, and Lorimer. He downplayed the degree of interagency rivalry and hostility, and insisted that either an existing or newly created federal agency could administer the public domain more comprehensively and efficiently than eleven separate state land departments. Federal regulation would ensure staff stability and qualification, and reduce administrative costs including overhead. Predictably he asserted that only the federal government could defray the costs of "maintaining an adequate research program," making range improvements, and instituting conservation programs.[70] Nor could the states pay a sufficient salary to maintain a skilled and devoted staff. He also adduced the idea that the appointment of most state employees, either through partisan politics or urban machines, subverted a system of hiring based on merit, and destabilized tenure of office.[71]

Peterson's vindication of federal institutions evoked an enthusiastic response from the Oregon representative. Wilson Van Petten, after attending the Oregon General Land Conference in Portland along with the Governor and the

---

[70]Director's Files, Box 7, Folder 11, William Peterson, Comparison of Advantages and Disadvantages of Administering the Public Domain by Federal Control, by State Control, or by Private Ownership, 1-3.

[71]Ibid.

Cattle and Horse Raisers' Association, realized he enjoyed the support of the majority of the state. Immediately following the conference, Van Petten drafted his report for the Hoover Committee, and explicitly enumerated the reasons for his opposition to state control: "frequent changes in state offices; state policies which interfere with a sustained effort along any line requiring a continued policy to accomplish; and state politics and personal interests and ambitions which bring changes with nearly every state administration."[72] Van Petten believed that the federal government should retain the public domain, and enlarge the Forest Service "into a forage preservation and utilization bureau."[73] The experience and years of valuable national service proved the aptitude of these agencies. Van Petten attested that the interstate disputes of the West surpassed the interagency disputes of the federal government. In a caustic critique of New Mexico's stance that portended future enmity between the two committeemen, Van Petten proclaimed that "we have listened to an interesting explanation by Mr. Wilson on how states

---

[72]Director's Files, Box 6, Folder 27, E. C. Van Petten, Oregon, circa 1930, 1-17; Director's Files, Box 6, Folder 27, E. C. Van Petten, Oregon Public Land Situation, circa 1930, 1-8; Director's Files, Box 6, Folder 27, E. C. Van Petten, Report of the Sub-Committee to the Oregon General Land Conference, February 1930, 4-11.

[73]Director's Files, Box 6, Folder 27, Van Petten, Oregon 7.

can by treaty solve conflicting water rights on interstate streams and how wonderful it is. Yet there is a tendency by some to deny the importance and necessity of protecting the watersheds and consequent regular flow of water in these streams."[74]

The other two Northwest states also demonstrated their solidarity with Van Petten, Peterson, Mead, and Greeley. Idaho's appointee to the Hoover Committee, I. H. Nash, endorsed the Forest Service as the new manager of the public domain. Nash believed the principles of this agency's grazing system, premised on leasing and permits, were conducive to ecological rejuvenation and private business. Other benefits of federal management included larger range units, stretching into several states, that would facilitate administration and experiments in "restoring and conserving" natural resources. Consolidation under the Forest Service would also permit stockmen to negotiate with only one agency for winter ranges in one state and summer ranges in another. Furthermore, "a better correlation in use of the two kinds of ranges could be worked out."[75] The Forest Service

---

[74]Ibid., 14.

[75]Director's Files, Box 6, Folder 33, I. H. Nash, The System of Control for the Larger Bodies of Public Domain, circa 1930, 2; Director's Files, Box 6, Folder 33, I. H. Nash, Memorandum for Dr. William Peterson, 18 March 1930, 1-3; Director's Files, Box 6, Folder 33, State Cooperative

Experiment Stations in the Boise National Forest and in Dubois, Idaho had also impressed Nash. The Idaho State Cooperative Board of Forestry of Idaho had developed an intimate relationship with their state's representative, and had stressed through their research that "all waters in the state are interstate in character so that watershed and stream flow protection confer benefits not alone to residents of Idaho but also to those of neighboring states as well."[76]

Although Washington agreed with the pro-federal school of thought, "the surface value of the public domain" was of little value in the state. Containing just over one million acres of public domain, less than any of the other eleven states, neither Washington nor its representative, Ross Tiffany, became very involved in the debate. Tiffany, with the support of the Spokane Chamber of Commerce and the stockmen of the state, did favor control of the public domain by the Forest Service. Tiffany asserted that his ultimate goal was "not to lose sight of broader national rights and interests."[77] Unlike Nash, Peterson, and

---

Board of Forestry of Idaho, Resolutions, circa 1930, 1-2.

[76]Director's Files, Box 6, Folder 33, State Cooperative Board of Forestry of Idaho, Resolutions, 2.

[77]Director's Files, Box 6, Folder 26, R. K. Tiffany, Spokane, to William Peterson, Logan, 26 August 1930; Director's Files, Box 6, Folder 26, R. K. Tiffany, Transfer

Greeley, who favored the Forest Service and the USDA, Tiffany suggested that the Forest Service should be placed under the aegis of the Interior Department. He even suggested merging all government agencies involved in land issues under a new cabinet level department of "Conservation and Development." Essentially Tiffany urged "a consolidation within the Department of Interior [of] all administrative functions pertaining to western problems."[78]

The third issue separating the Hoover Committee concerned the reservation of natural resources. The rancorous discourse that developed between the representatives of New Mexico and Oregon was emblematic of the larger debate. Oregon represented the states whose most valuable natural resources were located above ground, and New Mexico represented the antithesis. Some of the states in favor of cession were demanding the unconditional transfer of all subsurface mineral rights in addition the surface rights. Although neither President Hoover nor Secretary Wilbur had offered this, New Mexico and Montana

---

of Surface of the Unreserved and Unappropriated Public Domain, circa 1930, 1-8; Director's Files, Box 6, Folder 26, R. K. Tiffany, Department of Conservation and Development, circa 1930, 1-3; Director's Files, Box 6, Folder 26, R. K. Tiffany, Olympia, to Hugh A. Brown, Washington, D.C., 20 May 1930.

[78]Director's Files, Box 6, Folder 26, R. K. Tiffany, Spokane, to William Peterson, Logan, 26 August 1930, 6.

audaciously stated they would only accept the public domain if the subsurface rights were included. Other states with valuable oil, silver, quicksilver, gold, phosphate, coal, and potash fields subscribed to this demand along with New Mexico. For these states, mineral rights remained the sine qua non of cession. While pro-federal states, especially those like Oregon, cried that either the federal government had to reserve equally all the natural resources of the West, forests and oil included, or reserve none of them.

Wilson instigated the "subsurface rights" debate in his state report to the committee. He classified the donation of merely the surface rights of the public domain as a punishment not a reward, and a liability not an asset. He rhetorically asked Hoover and the committee why New Mexico should accept the federal government's burden of rehabilitating thousands of acres of marginal, overgrazed land without the concomitant benefit and restitution of the subsurface wealth? According to Wilson, Hoover's offer was not an act of government largess but rather a deceitful machination to relieve the government of a costly problem. New Mexico deserved the profit from the extractive industries surrounding these resources, and Wilson was determined to procure them. Heartened by Wilson's effrontery, Montana Governor J. E. Erickson penned a letter to Brandjord. Erickson assured his appointee that "I am a

firm believer in the proposition that the transfer, if made, should carry with it all mineral rights including oil and gas. The natural resources should belong to the state where they are found and the state should be free to develop these resources whenever they are needed by the people."[79]

Wilson's demagoguery vexed Van Petten who accused many of the western states and their respective representatives of "selfishness" and of "individual state interest going far beyond reason."[80] Although Van Petten also perceived Hoover's offer as a pretext under which the government could avoid the "moral obligation of . . . putting the grazing lands back to somewhere near their natural state before tendering them to the States," he did not embrace Wilson's solution.[81] Rather than calling for the cession of all federally reserved national resources as an inducement for accepting the "worthless" public domain, he demanded the government retain and restore the land. The states, according to Van Petten should not view the grant as an indemnity for the withdrawal of other taxable state

---

[79]Director's Files, Box 6, Folder 28, J. E. Erickson, Helena, to I. M. Brandjord, Helena, circa 1930.

[80]Director's Files, Box 6, Folder 27, Van Petten, Oregon, 3.

[81]Director's Files, Box 6, Folder 27, Van Petten, Oregon Public Land Situation, 7.

lands--forests and parks--by the government. Nor should they consider them a "valuable gift," because the ordeal of rehabilitating these "retrograded" lands would outstrip any benefits.

Van Petten explained that if he followed Wilson's logic, Oregon would have to demand "the forests and the O & C Grant Lands which are the only public assets of great value" in the state. However, the Oregon representative shunned these avaricious propensities. A staunch advocate of conservation and federalism, he believed that the citizens of every state owned the natural resources of the West collectively. Simply because large fossil fuel deposits fortuitously fell within the arbitrary, politically contrived borders of a New Mexico or Wyoming, that did not entitle those citizens a greater right of ownership than their counterparts in Delaware or Maine. Van Petten argued that these resources had to be conserved for future generations and for national defense considerations. Therefore, the only institution that represented the entire nation and escaped the capricious and unstable nature of local politics was the federal government.

In a special circular aimed directly at Wilson and his cronies, Van Petten enjoined them to justify their deep concern for reserving the forests, but not the subsurface

> shales or metalliferous resources, although they are valuable to these states. Could these oil gentlemen be led by the old western boom spirit of getting rich quick out of the oil and let the rest of the country and future generation go 'hang'? Why this urgent effort to give away untold millions in oil which was reserved as a national resource when they accepted their enabling act and became states. They are already getting the benefit of ninety percent of this oil but they are now impatient to be freed of all restraint imposed by this government, in an orderly and wise administration of this necessary public asset for the general good of the nation. These oil states very virtuously want to preserve the forests for the future welfare of this country. The forest are the only public asset of Washington, Idaho, and Oregon, of large value to these three states which is now conserved. Their potential value to these states does not represent in dollars and cents as much as the oil of Wyoming, Montana, and New Mexico which you are expected to blithely give away in a week's time. Why are the forests a more sacred public asset than the oil? I at least hope and believe that this commission will not assume the serious responsibility before this nation of doing such a thing. I can imagine how the press of the Middle West and East would view such an action. It would do violent harm to the welfare of the western states before the other states of this country for a generation to come, and as a representative of the West I raise my voice in earnest protest against it.[82]

By June of 1930, six months after the initial meeting of the Hoover Committee, the coalitions had calcified. Three profound issues surrounding ecology, bureaucracy, and natural resources had cleft the committee into antipodal camps. The only consensus reached by the members concerned the need for the "completion of the present [reclamation]

---

[82]Director's Files, Box 6, Folder 27, Van Petten, Oregon, 13.

Three profound issues surrounding ecology, bureaucracy, and natural resources had cleft the committee into antipodal camps. The only consensus reached by the members concerned the need for the "completion of the present [reclamation] projects."[83] Chairman Garfield, unsettled by the bellicose dialogue and divergent opinions, called the committee together for its second meeting on 2 June 1930. Garfield hoped that this meeting would provide the members with an opportunity to discuss their differences in person, instead of ensconcing recriminations and often insults within correspondence and reports. Accordingly, the Chairman believed that three days of deliberations could break the impasse that had been reached, and alleviate the increasingly protracted debate.

Yet the results of the meeting merely reflected in microcosm the diverse sentiments of the West and the nation. In exasperation Garfield lamented the fate of the committee in a speech he delivered upon the meeting's conclusion. He stated, "We have learned very fully the reasons why the states, which desire the public domain, wish it. We have also learned why some states do not want it. The division is quite sharp between those states. Idaho does not want it . . . Arizona, New Mexico, and

---

[83]Director's Files, Box 6, Folder 9, Garfield, Statement, 2.

Wyoming are anxious to have it."[84] Next the Chairman ordered the members to return home and review all the information they had accumulated. Over the summer they were to develop a tentative conclusion on the public domain issue, so that in the fall they could submit their state's opinion at the final meeting. Garfield ended his speech with a stern warning not "to crystallize our thoughts at present because we have not considered the problems sufficiently . . . [T]he whole problem covers so great a territory and involves so many interests, that it will require careful study for several months of all the material that has been gathered by this committee and is now being digested. Until the committee has had time to study this material, it is impossible to reach a conclusion."[85] Despite the chairman's caveat, the members had already "crystallized" their opinions, and the summer would only produce a more intractable environment.

The summer did presage the ultimate denouement of the Hoover Committee. Although the pro-state members controlled the final recommendation and report of the committee, it was their adversaries who ultimately triumphed after the dissolution of the committee, by influencing national public opinion and enacting the Taylor

---

[84]Ibid., 6.

[85]Ibid., 7.

Grazing Act. Throughout the summer the rapport between the four state representatives favoring federal control--Peterson (Utah), Nash (Idaho), Tiffany (Washington), and Van Petten (Oregon)--and the members who held federal positions--Mead and Greeley--blossomed. The members integrated their individual opinions into the first clarion call for federal control. The recognition Peterson had attained from working at the USAC Experiment Station and Extension Service placed him in a pivotal role within the committee. Not only did his organizational ties with Greeley and Stuart help bind the pro-federal group together, but his conservationist philosophy also appealed to Nash, Tiffany, Van Petten, and Mead. Hugh Brown, the executive secretary of the Hoover Committee, mimeographed all correspondence and information received by chairman Garfield in Washington, D.C., and immediately relayed it to Professor Peterson for his assessment. Frequently, government agencies, private businesses, and other pro-federal committee members circumvented the committee headquarters entirely and corresponded directly with Peterson.[86] Such pro-federal organizations as the Cattle and Horse Raisers' Association of Oregon exchanged missives

---

[86]Director's Files, Box 6, Folder 7, U.S. Department of Interior, Federal Oil Conservation Board Report, 28 May 1930, 1-31; Director's Files, Box 6, Folder 26, B. H. Kizer, Spokane, to William Peterson, Logan, 26 August 1930.

with Peterson regularly.[87] Before their appointment to the committee, these potential advocates of federal control remained incognizant of each other's work and sentiments, striving individually for a common goal. The committee served as the vehicle these individuals needed to combine their efforts into a nascent, yet growing, movement.

On 16 January 1931, the Hoover Committee issued its final report to Congress and the president. The report consisted of five "general polices" clarified by twenty "special recommendations." Published in an eighty-five-page book, the report also contained valuable discussions of such topics as clear listing, flood control, conservation efforts, stock driveways, migratory bird refuges, national forests, national parks, and reclamation projects.[88] The first special recommendation expressed the substance of the committee's proposal, stating that

---

[87]Director's Files, Box 6, Folder 27, William Duby and the Cattle and Horse Raisers' Association, Baker, OR, to William Peterson, Logan, 3 March 1930.

[88]Since the Hoover Committee did not advocate the cession of subsurface mineral rights, the complex federal procedure of clear listing and reserving classified minerals would become one of the key issues pro-federal proponents exploited to the detriment of the pro-states' argument. During the House and Senate Committee hearings on the bills embodying the Hoover Committee's recommendations, pro-federal and pro-state witnesses would frequently refer to the explanation of the clear listing procedure provided in the final report of the Hoover Committee. However, both sides used it as evidence to support their contentions.

"Congress pass an act granting to the respective public land states all the unreserved, unappropriated public domain within their respective boundaries."[89] To receive the grant, a state simply had to signify its acceptance through a formal legislative enabling act. The report even eschewed federal intervention in "all matters involving the interest of two or more states."[90] Instead, it advised state governments to negotiate with one another, and settle all disputes with an "agreement or compact."

Although the report essentially represented the pro-state perspective, the minority in favor of federal control elicited two important concessions from their adversaries. First, they convinced the committee to acknowledge a nominal support of the federal system of conservation. The fifth general policy asserted:

> We recognize that the Nation is committed to a policy of conservation of certain mineral resources. We believe the states are conscious of the importance of such conservation, but that their is a diversity of opinion regarding any program which has for its purposes the wise use of those resources. Such a program must of necessity be based upon such uniformity of federal and state legislation and administration as will safeguard the accepted principles of conservation and the

---

[89]U.S. Congress, Report of the Committee on the Conservation and Administration of the Public Domain, 2-3; Director's Files, Box 6, Folder 1, Committee on the Conservation and Administration of the Public Domain, Final Report, 29-30.

[90]U.S. Congress, Report of the Committee on the Conservation and Administration of the Public Domain, 8.

reclamation fund.[91]

Yet, this irresolute statement did not placate many of the pro-federal members. Former Forest Service Chief W. B. Greeley refused to sign the report and denounced its recommendations, remarking that "national interests will always remain paramount. Furthermore, it [the report] has no bearing upon the immediate administrative questions."[92] Greeley feared that the federal divestiture of the public domain would set a dangerous precedent that could ultimately undermine the political and geographic jurisdictions of the Forest Service.

The representatives of the western states opposed to the grant, Utah, Oregon, Idaho, Washington, and California, also persuaded the committee to include an option for federal control. Utah Governor Dern had personified the dissatisfaction of Peterson, Van Petten, Nash, and Mead with the possibility of a forced cession at the Western Governor's Conference in late 1929. Responding to the original proposal by Interior Secretary Wilbur and

---

[91]U.S. Congress, Report of the Conservation and Administration of the Public Domain, 2; Peffer, The Closing of the Public Domain, 210.

[92]U.S. Congress. Senate. Committee on Public Lands and Surveys, Granting Remaining Unreserved Public Lands to States: Hearings on S. 17, 2272 and s. 4060, 72nd Cong. 1st sess., 1932, 117-27; U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to States: Hearings on H.R. 5840, 143-51; and Peffer, The Closing of the Public Domain, 211.

Assistant Interior Secretary Dixon, Dern protested that "the states already own, in their school-land grants, millions of acres of this same kind of land, which they can neither sell nor lease, and which is yielding no income. Why should they want more of this precious heritage of desert?"[93] The second special recommendation recognized this sentiment and specified that state land boards could inform the president of their rejection of the grant and apply for federal control. The president could then "by executive order designate the unreserved, unappropriated public domain in such state as a national range."[94]

The Hoover Committee's report resembled the body's tumultuous existence: divided and at times contradictory. As Montana representative Brandjord bemoaned, "a mongrel report; a two headed hybrid [with] one head looking toward land and land improvement from the old fashioned standpoint of the individual farmer or peasant; and the other gazing with great admiration in the direction of [federal] management, control, conservation and development" could not benefit anyone. Yet the Hoover Committee failed to end the debate, and instead merely strengthened the position of

---

[93]U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to the States: Hearings on H.R. 5840, 14.

[94]U. S. Congress, Report of the Committee on the Conservation and Administration of the Public Domain, 3.

both sides.

Interior Secretary Lyman Wilbur and his fellow states' righters portrayed the committee's report as the true voice of the West. Whenever subsequent organizations or conferences endorsed the report, such as the Western Governors Conference of 1932, Wilbur exclaimed this proved the overwhelming western desire for cession. However, these groups often only advocated the general call for conservation made by the Hoover Committee, and not the specific recommendation to cede the lands.[95] Also, within a year chairman Garfield, New Mexico representative Wilson, and Montana representative Brandjord and his Senator Thomas Walsh would collaborate in translating the Hoover Committee's report into three separate bills.

The pro-federal camp also emerged from the Hoover

---

[95]Dern, testifying before the House Committee on Public Lands in 1932, explained the true intent of the Western Governors' Conference held in Portland, Oregon in October 1931. He explained, "We received reports from Washington which indicated that Mr. Garfield, Secretary Wilbur, and others, were using the resolution adopted in the western governors' conference to prove that the western states are now all in favor of having the surface of the unreserved and unappropriated public domain turned over to them . . . [but] that is not the case . . . [T]he resolution merely approved in a general way the recommendations of the Committee on the Conservation and Administration of the Public Domain . . . [I]n my opinion, the attitude of the western states has been misrepresented or misunderstood here in Washington." U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to the States: Hearings on H.R. 5840, 9.

Committee as a unified coalition of conservation associations, forestry organization, USDA bureaus, and state officials. The momentum gathered from the Hoover Committee would carry these individuals into their own national conference in November 1931, where they would formulate the first formal call for federal control. The founders of the National Conference on Land Utilization drew their inspiration from their minority experience on the Hoover Committee.

CHAPTER III

THE NATIONAL CONFERENCE ON LAND UTILIZATION

Despite the concessions Peterson and his colleagues wrested from their states' rights counterparts, the pro-federal members of the Hoover Committee did not publish a formal minority decision. Their signatures on the final report of the Hoover Committee tacitly endorsed privatization of all remaining public domain. Several members remained acutely aware of this predicament and resolved to convene their own conference in November to express their untempered opinions. In November 1931, before Garfield and Walsh had translated the Hoover Committee's recommendations into legislative bills, the National Conference on Land Utilization met in Chicago and forcefully espoused federal control.

L. C. Gray, although not a de jure member of the Hoover Committee, masterminded the National Conference on Land Utilization. Through his correspondence with Peterson and Mead on the Hoover Committee, Gray outlined his own pro-federal convictions, while simultaneously revealing the ideological gulf between the departments of Agriculture and Interior. The first director of the USDA's Division of Land Economics, which the Bureau of Agricultural Economics subsumed in 1922, Gray remained the Hoover Administration's authority on land economics. Agriculture Secretary Arthur

Hyde held Gray in high esteem, and enthusiastically accepted the bureau chief's suggestion to organize a national conference to formulate a new federal land policy.

Gray, who received a Ph.D. in economics from the University of Wisconsin, studied under the distinguished economists Richard T. Ely and Henry C. Taylor.[1] The edification Gray garnered from these progenitors of land economics convinced him to eschew the classical laissez-faire economics of Adam Smith that the federal government had embraced throughout the 1920s. Instead, he favored an activist government that intervened financially and politically to resolve social problems. Gray also believed that scientists needed to engage in extension work and not restrict themselves to self-indulgent research that benefitted only academia. He applied this progressive credo to natural resource utilization, and argued that the country needed a universally coordinated land policy to prevent an even deeper depression. Gray contended that the current ad hoc system of contradictory legislation and bureau objectives undermined the ecology and economy of the nation.

With this philosophy Gray launched the National

---

[1]Henry C. Taylor and Henry C. Wallace established the Bureau of Agricultural Economics in 1922. Richard S. Kirkendall, Social Scientists and Farm Politics in the Age of Roosevelt (Columbia, MO: University of Missouri Press, 1966), 21, 150.

Conference on Land Utilization, which he described as "the first important gathering in the history of the U. S. to outline a comprehensive national land policy, as distinguished from topical or regional segments of a policy."[2] The conference, sponsored by the Agriculture Department and the Executive Committee of the Association of Land-Grant Colleges and Universities, met in Chicago from 19-21 November 1931. During these three days, over 350 registered delegates attended, representing forty-nine agricultural colleges and experiment stations, nineteen railroads, thirteen federal bureaus, nine banking associations, and several other farm organizations.[3]

Hyde and Gray divided the gathering into seven topical panels that investigated every facet of agriculture, including forests, livestock, crops, orchards, taxes, credit, and technology. Six or seven speakers delivered short papers before each panel and a discussion period followed. On the first day of the conference Hyde and Gray appointed a Committee on Summaries and Conclusions to attend each panel and ultimately compose a formal list of

---

[2]U.S. Department of Agriculture, Yearbook of Agriculture (Washington, D.C.: Government Printing Office, 1932), 459-60.

[3]Paul Wallace Gates and Robert P. Swenson, History of Public Land Law Development (Washington, D.C.: Government Printing Office, 1968; reprint, Holmes Beach, FL: WM. W. Gaunt & Sons, 1987), 526-27.

recommendations that the entire conference would vote on during the concluding session. Although chaired by Cully A. Cobb, editor of The Progressive Farmer, Gray ensured that his compatriot from the Hoover Committee, William Peterson, was second in command. This time Peterson would enjoy the opportunity to write the majority opinion.[4]

Gray, who indefatigably canvassed the nation promoting his philosophy on submarginal land and public ownership, focused the conference on this common theme. Defining the goal of the conference, Gray stated that "it is to promote the reorganization of agriculture so as to divert lands from unprofitable to profitable use, and to avoid the cultivation of lands the chief return of which is the poverty and misery of those who live on them."[5] Hyde and Gray sent specific paper topics to all of the conference's speakers, asking them to discuss the issue of submarginal lands from the perspective of their field of expertise.

Gray believed the unbridled capitalism espoused by government and business throughout much of the nineteenth and early twentieth century had nourished the deleterious growth of submarginal lands. He delineated three thematic

---

[4]U.S. Department of Agriculture, Proceedings of The National Conference on Land Utilization: Chicago, IL, 19-21 November 1931 (Washington, D.C.: Government Printing Office, 1932), iv, 240-51.

[5]Kirkendall, Social Scientists and Farm Politics in the Age of Roosevelt, 39.

areas affected by submarginal lands that he wanted the conference to underscore. Politically, no administrative regulatory agencies existed to effectively control the overproduction of farm crops or the overextraction of natural resources. Invariably the expansion of farming, ranching, mining, and logging propagated a vicious boom and bust cycle where the vicissitudes of commodity prices continually devastated small farmers and businesses.

Ecologically, these intense periods of land use--while commodity prices rose--followed by years of neglect--during periods of market saturation--harmed the environment. Increased soil erosion, nutrient depletion, reservoir silting, and watershed degradation all forced more erstwhile arable land into the submarginal category.

Financially, the level of land abandonment rose concomitantly with the increase in submarginal land. As exhausted farmland, cut-over timberland, and denuded rangeland lost its productive capacity, owners could no longer defray the taxes or mortgage payments on this submarginal land and usually abandoned it. As loan defaults and tax delinquency mounted, more land reverted to state and federal ownership, while local tax bases shrank. This inequitable redistribution of the tax burden on those landowners who retained their land only made it more attractive for them to follow the pattern of abandonment.

Eventually, local governments, schools, roads, and other services suffered from this truncated tax base.

Although the National Conference on Land Utilization did not restrict its purview to the public domain of the eleven western states, this area did remain a major component of consideration. On the second day of the conference, Peterson delivered a paper titled "Land Utilization in the Western Range Country," at the most heavily attended panel. The broad topic of the panel, "The Use and Misuse of Land," differed from the specific parameters of subsequent sessions and allowed the speakers to set the tone of the conference.[6]

Peterson deftly modified his call for federal ownership and administration of the western public domain to fit Gray's framework of submarginal land. Positing the overgrazed rangelands of the West as an archetype of the submarginal lands created by a capitalistic economy, Peterson began his speech with a succinct description of the livestock business. Peterson portended the testimony of fellow Utahns, Governor George H. Dern and John M. McFarland before the House and Senate Committee hearings in 1932, by repudiating the contention that private enterprise offered the best stewardship to the land. He argued that

---

[6]U.S. Department of Agriculture, Proceedings of the National Conference on Land Utilization, 38-47.

the homestead laws had encouraged the exploitation of the federal lands. Since private owners could not maintain a lucrative livestock operation on even 640 acres of land, they "settled with the intent of pasturing the surrounding public lands."[7] The private owners immediately capitalized the value of these contiguous public lands into the aggregate value of their private holdings. The rancher could then reap a substantial profit by selling his private plot for a price calculated not on his original homestead claim, but on the connected public grazing area including any stream waters controlled through the doctrine of prior appropriation.[8]

---

[7]Ibid., 39.

[8]Ironically the establishment of federal control following the Taylor Grazing Act of 1934 did not eliminate the practice of capitalizing the value of adjacent public lands into the total value of private holdings. Instead the grazing permits issued by the Division of Grazing(1934-1949), the U.S. Grazing Service(1939-1946), and finally the Bureau of Land Management(1946-present)--after the merger of the U.S. Grazing Service and the General Land Office--simply became incorporated into the sale price of private real estate. Although the original permittees received their permits at a subsidized rate of AUMs (animal unit months), they sold them at full market value. Therefore, secondary owners took out large loans to cover the cost of the private real estate and the attached federal permits. So essentially the secondary owners pay the subsidized permit fee annually to the federal government, while also paying the free market value in the form of mortgage principle and interest payments. For a comprehensive discussion of grazing permits, see Marion Clawson, The Federal Lands Revisited (Baltimore: Johns Hopkins University Press, 1983) and Phillip O. Foss, Politics of Grass: The Administration of Grazing on the Public Domain (Seattle: University of Washington Press, 1960; reprint,

Peterson also strove to confute the idea that since a private owner's livelihood depended on the sustained yield of his land, he would logically nurture it better than a detached bureaucrat who did not anticipate direct financial reward from the land. He asserted that the degradation of watersheds corroborated this argument for federal control. According to Peterson, if common and statutory law regarded surface water as public property, then watersheds should receive the same legal classification. Repeating his position from the Hoover Committee, he maintained that the interstate nature of watersheds precluded their protection by any single private owner. The Utah State Agricultural College professor opined that "there is no reason to believe that because Mr. A owns lands which are watersheds to a certain valley and because he has purchased these lands with his own money he should be compelled to treat them in such a way that they become a definite protection to the water users below."[9] Peterson told the audience that in his entire career as geologist, professor, and experiment station and extension service director he "failed to find a single outstanding example in which a proper effort for watershed protection or flood control has

---

New York: Greenwood Press, 1969).

[9]U.S. Department of Agriculture, Proceedings of the National Conference on Land Utilization, 43.

been inaugurated, either on privately owned land or state-owned land."[10]

Again presaging the testimony of Dern and McFarland, Peterson informed the delegates of the National Conference on Land Utilization of the disastrous floods that had occurred along the Wasatch Front of Utah during the last few years. Peterson explained that an investigative committee of engineers and scientists, appointed by the governor of Utah to determine the cause of the floods, had traced their genesis to private grazing land. Their final report concluded that prolonged overgrazing on these lands had denuded the indigenous forage cover and culminated in accelerated runoff, gullification, and erosion. When exposed to heavy rains or rapid snow melt, these abused watersheds increased the usual rise in river levels to devastating floods.

Peterson next underpinned his economic commentary with formidable scientific evidence. Although conservationists and pro-federal advocates liberally used such shibboleths as "erosion" and "silting," few succeeded in lucidly explaining their meaning. These terms had become labels more than understood ecological events. The elucidation of these terms and their connection to political and economic arguments for federal land ownership could only strengthen

---

[10]Ibid.

Peterson's and his colleagues' hand.

The trained geologist began this section of his speech by averring that the western range reached its carrying capacity in 1890. However, cattle and sheep numbers inexorably increased on summer ranges--higher elevations grazed during the summer--to the point that the federal government created forest reservations to rehabilitate these areas. Summer ranges nearly always encompassed watersheds because of their mountainous locations. Therefore, grazing on these lands required responsible management. Although national forests covered large areas of summer ranges, many remained in the public domain, like the Wasatch Range of Utah.

Peterson enumerated the five factors that influenced the rate of runoff and therefore erosion on watersheds: the rate of precipitation and snow melt, the gradient of the land, the porosity of the soil, the density of vegetative cover, and the amount of organic material in the soil. Of these five factors, Peterson explained, man can only control one, the vegetative cover. Unfortunately, the prodigal use of the public domain by the private grazer had traditionally undermined this crucial regulator of runoff and erosion.

Moreover, new plant growth depended on nitrogen-rich organic material, or mulch, in the soil. The bacteria that

created this nitrogen thrived in the organic material, which dead plants returnd to the soil at the end of the growing season. When livestock grazed the forage of the watershed too intensively, indadequate organic material remained to replenish the soil with nitrogen for the following years crop. After successive seasons of overgrazing, the cumulative effect of decreasing mulch produced nitrogen deficient soil. Eventually this injurious process stunted the growth of palatable forage and provided a conducive environment for successor plants. Exogenous strains of unpalatable and poisonous foliage often supplanted native grasses, harming not only the watershed but the livestock industry.

According to Peterson, long-term overgrazing also dissolved the multiple root system of grass. The scattered plants, which replaced the former sod cover, could not absorb the amount of moisture that the dense nexus of roots could. Therefore, more precipitation and snow melt became surface water and ran directly into rivers or gullies. The solubility of nitrogen accentuated the damage wrought by this increased surface water, as the runoff dissolved what limited nitrogen remained. Ultimately this leaching of valuable chemicals deprived the remaining forage of its natural fertilizer and resulted in a barren and desiccated landscape.

Peterson suggested that the livestock industry should leave 10 to 15 percent of the annual forage growth for organic rejuvenation. He believed this equitable proposal would still allow ranchers to prosper, while finally protecting the watersheds of the West. Yet, Peterson questioned whether private enterprise would voluntarily check their economic expansion for the sake of ecology. Therefore, he called for the extension of federal reservations to include all watersheds. Peterson attested that "these watersheds need definite administration, protection, and control just as does a reservoir that has been built at large public expense. The water-absorbing power of our watersheds in the West is the most precious reservoir . . . Too often in irrigated areas the farmer's interest ceases at the head gate of the ditch as though he had no concern for the conditions on the headwaters of the streams."[11]

Peterson concluded his paper by reviewing the ecological interdependency of states, especially concerning watersheds and stock migration. He argued that only federal ownership of the public domain could prevent this land and surrounding private property from deteriorating into a submarginal class. The myopic perspective of private owners and states threatened to undermine the

---

[11]Ibid., 42-43.

integrity of the western environment. To prove the level of interstate stock migration, Peterson adduced a table listing the number of cattle and sheep that migrated between the winter, spring, and summer ranges of the eleven western states. In Utah alone 340,000 sheep annually migrated to neighboring states for winter ranges. Peterson concluded that "watersheds must be protected in one state for the benefit of another. Often water is reservoired in one state for use on lands in another. Flocks and herds must continue to make seasonal migration from one state to another, because in many of the States the winter and summer grazing are not in balance. All of this argues for a uniform policy in the supervision of public land."[12]

L. C. Gray followed Peterson and delivered the next paper titled "Some Ways of Dealing with the Problems of Submarginal Land."[13] The economist built a fiscal argument for federal ownership upon the ecological cornerstone laid by Peterson. He concurred with Peterson's assertion that the federal government should retain ownership of the public domain. He agreed that "there are extensive areas subject to severe erosion which can not be profitably avoided in private utilization. Public ownership is the only way to prevent much of this wastage

---

[12]Ibid., 46.

[13]Ibid., 58-67.

of an irreplaceable resource . . . Undoubtably erosion is contributing notably to the development of submarginal land."[14] Gray maintained that withdrawing the public domain from homestead entry would remove the specious temptation to "establish farms or grazing units on lands that will scarcely support a jack rabbit."[15] Promoting the bureaucratic apparatus of the federal government, Gray contended that "farmers acting as individuals" could not reverse the current trend of land deterioration. Instead the solution rested "on the solid basis of economic research, it will demand leadership of high quality, it will require credit facilities that will provide the capital essential for far-reaching adjustments."[16]

Gray's presentation distanced the federally minded bureaus of the USDA from the blatantly laissez-faire and pro-states'-rights Interior Department under Secretary Lyman Wilbur. Gray outlined an elaborate "ten point" policy to combat the burgeoning problem of submarginal lands, with federal ownership and management the overarching theme. Similar to Peterson's clarification of his profession's lexicon that the layman and media had popularized, Gray sought to explain the classical economic

---

[14]Ibid., 64-65.

[15]Ibid.

[16]Ibid., 58.

theory of submarginal land. He told his listeners that submarginality was a dynamic quality. It referred to land that "under proper conditions of utilization . . . will not pay to cultivate according to the normal standards of return to labor and capital that tend to prevail throughout the competitive field."[17] However, he conceded that advancing technology, new procedures, readjusted taxation, and fluctuating world commodity prices constantly redefined the status of specific tracts of land.

Gray, again substantiating the philosophy of Peterson, called for the consolidation of land tenure. The federal government could reduce its administrative costs by exchanging private and state lands located in federal reservations, with commensurate plots of federal land surrounded primarily by private property. This consolidation would also facilitate the readjustment of local tax levies. Numerous counties throughout the West remained sparsely populated, and interspersed with large tracts of federal land that the county could not tax. This forced the county government to place a heavy tax burden on the limited farms and ranches, because they needed to generate enough revenue to fund such rudimentary services and institutions as hospitals, schools, roads, and public buildings. Unlike cash crop farmers, those growing trees

---

[17]Ibid.

or running livestock saw financial returns only after several years, and could not bear this exorbitant property tax. So instead of paying the taxes, many private owners abandoned their land and relocated, leaving county governments unable to provide even the necessary expenditures. Gray explained that if the exchange program combined private enterprise and federal land into large enough blocks, this taxation dilemma would disappear.

Gray also recommended consolidating the submarginal land purchased by the federal government and the land acquired through tax delinquency. He argued that the government should discontinue reselling these lands to private interests, who only purchased them during boom periods and promptly abandoned them when the economy slumped. By attaching these blocks of land to other national reservations--forests, parks, or grazing districts--the respective bureaus could profitably lease this land to private users. Gray even favored the federal leasing of those units that were not coterminous with previously established federal reservations.

Although Gray's scope encompassed the entire nation, he echoed Peterson's principal tenet: only federal ownership could prevent the ecological and economic destruction of land. These two veterans of the pro-federal cause personified the sentiment of the National Conference

on Land Utilization. The ideology of Peterson and Gray reverberated throughout the papers of the conference. With representatives of the Interior Department and other pro-states' rights groups conspicuously absent, the collective voice of the conference unanimously denounced any further privatization of land.

Several representatives of the Forest Service, including R. Y. Stuart, appeared at the conference to vindicate their agency. Pro-state Hoover Committee members had vilified the Forest Service's performance in ecological rehabilitation and political administration. Stuart seized the opportunity to deliver a paper, titled "Fitting Forestry into a General Program of Land Utilization," in a pro-federal forum, and elucidated the integral role his agency assumed in the system of federal land management. The Forest Service chief rejected his detractor's calumnies that his agency limited its work to reforestation. In stark contrast to these allegations, Stuart described an early multiple-use doctrine in which "the major objectives are to keep existing forest land in such a productive condition that it will furnish needed supplies of timber, conserve water, check erosion of the soil, and conserve recreation values and wild life."[18]

After exonerating his agency, Stuart focused

---

[18]Ibid., 95.

specifically on the forests remaining on the public domain of the western states. He assured his audience that the public domain contained not only arid rangeland, but vast areas of forest and watershed lands that remained subject to disposal to individuals and states. Rejecting the Hoover Committee's recommendation of state cession, Stuart explained that the states lacked a "definite policy" regarding forested land. Only the federal government could provide a stable policy that would resist the capricious nature of free-market driven land use.

Stuart, like Peterson, also attacked the notion that the economic ties between private enterprise and the land fostered a nurturing relationship. According to Stuart, "public agencies differ from most private owners in that their existence is continuing and is virtually perpetual, and in that their policies of land use need not be governed by the possibility of realizing direct profits from such use."[19] He underscored this assertion by describing an inimical cycle of land use perpetrated by private owners. Farmers often planted vast acres with trees when crop prices plummeted. However, they immediately plowed these saplings under when the agricultural market rebounded, only to replant the trees after the ephemeral upswing ended.

Stuart also urged the federal government to halt

---

[19]Ibid., 99.

another destructive pattern. After stripping a forest of all its merchantable timber, private logging corporations abandoned the cut-over sections, which promptly reverted to public ownership. The Forest Service would then replant the areas with trees, raise them to maturity, and sell the land back to private enterprise to harvest and subsequently abandon. Essentially the federal government cultivated these timber lands during the years of zero yield, and allowed private enterprise to glean windfall profits by owning the lands just long enough to cut the trees. Hence, private enterprise avoided years of property taxes.

Rather than grow crops for private enterprise, Stuart suggested that the federal government expand its permanent ownership over all remaining public domain and tax delinquent and abandoned property. Stuart insisted that "a laissez-faire solution of the problem will be slow, inefficient, and costly."[20] A coordinated federal policy governing all forests and watersheds would prevent the conversion of these land "into farms where farm development is undesirable . . . " and would only exacerbate the problem of overproduction. Furthermore, National Forests, not "managed with commercial timber production as the primary objective . . . [furnish] cheap timber for use on farms, [provide] work in seasons when farm work is slack,

---

[20]Ibid., 100.

[conserve] water supplies for irrigation, stock and domestic use, [help] to protect agriculture lands from floods, silting, and erosion, and extremes in climate, [decrease] the farmer's taxes by widening the tax base, and sometimes [lower] the cost of government by creating more compact communities."[21]

Throughout the conference, Peterson, the chief assistant to chairman Cobb of the Committee on Summaries and Conclusions, attended the discussion period following each of the seven thematic panels. By listening attentively to each paper, and asking the authors insightful questions, the USAC professor culled the principal opinions expressed by the speakers. Peterson, along with the other nineteen committee members, composed an official report that enumerated eighteen specific recommendations concerning land utilization. The report's preamble unequivocally endorsed the abrogation of the former federal policy of "encouraging the rapid transfer of public lands to private ownership."[22] It called for a new universal policy of land use supervised by the federal government.

On the final day of the conference Agriculture Secretary Hyde convened a special session of all 350

---

[21]Ibid., 102.

[22]Ibid., 240.

registered delegates to vote on the report drafted by the Committee on Summaries and Conclusions. Hyde instructed chairman Cobb to take a viva voce vote after reading each of the eighteen recommendations. The audience overwhelmingly supported every recommendation, and formally adopted the report as the official decision of the National Conference on Land Utilization.

The first three recommendations reveal the influence Peterson wielded on the committee. Peterson finally expressed his true sentiments in authoritative form, by responding to the Hoover Committee report with "Recommendation NO. 1--Administration of Public Domain." This passage read: "It is recommended that in order to obtain conservation and rehabilitation of the grazing ranges of the public domain these lands be organized into public ranges to be administered by a federal agency in a manner similar to and in coordination with the national forests. Such public ranges should include lands withdrawn for minerals."[23] The second recommendation, advocating federal control of watersheds, also bore the mark of Peterson's hand. It stated that the dependency of western communities on watersheds "is interstate in scope due to the watersheds being in one State and the irrigation use in

---

[23]Ibid., 241.

another state."[24] Finally, the third recommendation called for the consolidation of land tenure to protect school lands and reduce administrative costs.

The report also covered such topics as: agricultural credit, extension work, land inventory, soil classification, homestead reform, taxation adjustment, submarginal-land retirement, and reclamation projects.[25] However, the creation of two committees became one of the most enduring pro-federal accomplishments of the National Conference on Land Utilization. The final section of the

---

[24]Ibid.

[25]L. C. Gray ensured that the report recommended the Reclamation Service to limit its operation to completing projects already underway. Reflecting the protracted debate between the Interior and Agriculture Departments, recommendation thirteen specifically admonished Elwood Mead's agency not to commence any new projects "until they are justified by the agricultural needs of the nation." Mead read a paper at the conference, titled "The Place of Federal Reclamation in a Federal Land Policy." Mead strove to convince his audience that continued reclamation would not accentuate the problems of overproduction and plummeting commodity prices. He argued that the expansion of irrigation agriculture in the West did not compete directly with midwest and southeast crops. Instead the commissioner of the Bureau of Reclamation contended that the Southwest could cultivate crops like sugar beets, long-staple cotton, and orchard fruits during seasons when the weather prevented other regions from producing them. Moreover, he argued that the burgeoning urban population of the West consumed the products grown in Reclamation Service irrigation districts, and they did enter eastern markets. For further information concerning this interdepartmental rivalry, see Gates and Swenson, History of Public Land Law Development, 527 and U.S. Department of Agriculture, Proceedings of the National Conference on Land Utilization, 17-23, 243.

report provided for the establishment of a planning body, "The National Land Use Planning Committee," and a legislative body, "The National Advisory and Legislative Committee on Land Use," to implement the platform of the conference. Secretary Hyde promptly organized these committees and they met for the first time in February 1932. The planning committee contained the various bureau chiefs of the USDA and USDI, five representatives appointed by the Association of Land Grant Colleges and Universities, and two members of the Federal Farm Board and Federal Farm Loan Board. The legislative committee consisted of representatives from the prominent farm, livestock, conservation, and banking associations.[26] With L. C. Gray serving as the executive secretary of the planning committee, both bodies worked feverishly throughout the next several years to formulate the public land policy suggested by the National Conference on Land Utilization and to submit corresponding bills to Congress.[27]

The official report of the National Conference on Land Utilization became a rallying point for the pro-federal contingent. They boasted that Interior Secretary Lyman Wilbur, President Herbert Hoover, and other proponents of

---

[26]U.S. Department of Agriculture, Yearbook of Agriculture, 57-60.

[27]Kirkendall, Social Scientists and Farm Politics in the Age of Roosevelt, 39.

states' rights could no longer disingenuously promote the decision of the Hoover Committee as an accurate reflection of western sentiment. Agriculture Secretary Hyde and Bureau of Agricultural Economics chief Gray, in their annual reports, wrote laudatory descriptions of the conference and unambiguously supported all its recommendations. They claimed that the recommendations of the conference represented the opinions of:

> the USDA, most of the land-grant colleges and universities, the Federal Farm Board, the Bureau of Reclamation, the Federal Farm Loan Board, the Federal Board for Vocational Education, The Association of Commissioners and Secretaries of Agriculture, the leading national farm organizations, a score of the most important railway systems, the Chamber of Commerce of the U. S., and about two score organizations concerned with banking, insurance, forestry, conservation, land economics, and engineering.[28]

The report of the committee received a wide distribution. Not only did the USDA print the conference report in their 1932 Yearbook of Agriculture, but the agency appropriated enough funds to have the entire proceedings--including the complete text of each paper and minutes of every discussion section--published by the Government Printing Office. The definitive voice of the National Conference on Land Utilization bolstered the nascent coalition assembled by Peterson, Van Petten,

---

[28]U.S. Department of Agriculture, Yearbook of Agriculture, 461.

Stuart, Gray, and other pro-federal members of the Hoover Committee. By early 1932 this pro-federal group loomed as a formidable adversary to their seasoned states'-rights opponents. The conference not only established formal channels of communication between the supporters of federal control, but also solidified their intellectual arguments. The committees that emerged from the conference also vowed to sustain the pro-federal struggle.

Above all else, the conference provided such pro-federal proponents as the Utah Governor, George H. Dern; the Utah Representative, Don Colton; the President of the Utah Cattle and Horse Growers' Assocation, John M. McFarland; the Forest Service Chief, R. Y. Stuart, and the Executive Secretary of the Society of American Foresters Franklin Reed with the confidence and backing to fight the pro-cession bills drafted by former Hoover Committee chairman James R. Garfield and Montana Senator Thomas J. Walsh. Within a few months of the National Conference on Land Utilization, hearings on these bills--distilled from the Hoover Committee's recommendations--commenced before the House Committee on Public Lands and the Senate Committee on Public Lands and Surveys. It would prove an almost insurmountable challenge for Dern and his colleagues to persuade the heavily western and free-market-oriented committees to reject the bills.

CHAPTER IV

HOUSE COMMITTEE ON PUBLIC LANDS

Throughout 1931 several state and federal officials proclaimed the Hoover Committee's final report had provided a definitive answer to the public domain debate. However, the translation of the committee's final report into legislative bills undercut this wishful projection. Federal officials, including the former and current Interior Secretaries James Garfield and Lyman Wilbur, as well as President Hoover, continued to repudiate the national government's ability to protect or manage the public domain. Meanwhile, the ranks of the pro-federal forces swelled as USDA employees, conservationists, and even the populations of some public land states enlisted on their side. Unlike the later twentieth century, Utah led the struggle for federal control during the 1930s. Utahns, including the director of the State Extension Service, William Peterson; the state Governor, George H. Dern; the Republican Representative, Don Colton, and the President of the Utah Cattle and Horse Growers' Association, John M. McFarland, concentrated their efforts on defeating the pro-cession bills submitted to the 72nd Congress.

Following the dissolution of the Hoover Committee, the New Mexico representative, Francis C. Wilson, and chairman James Garfield drafted the first bill calling for the

cession of all remaining "vacant, unreserved, unappropriated, nonmineral land" to the eleven public land states.[1] Wilson wrote most of the measure, while Garfield assumed the responsibility of submitting it to both chambers of Congress.[2] Garfield solicited the chairman of the House Committee on Public Lands, Representative John M. Evans of Montana, who succeeded Colton in 1931, to introduce the measure. Evans shared Garfield's pro-states'-rights ideology and assured the former Hoover Committee chairman that he would proudly sponsor the legislation.

Evans introduced the bill, known as H.R. 5840, in February 1932 before the House Committee on Public Lands, which was staffed with several influential western representatives. The roster included such ardent proponents of states' rights as William Eaton of Colorado, Dennis Chavez of New Mexico, and Samuel S. Arentz of Nevada. Although the ten members from non-public-land

---

[1]U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to the States: Hearings on H.R. 5840, 72nd Cong., 1st sess., 1932, 1. When Garfield appeared before the committee on 17 March 1932, he told the members that "the [Hoover] committee determined it would leave to Mr. Wilson and to me the task of drafting for the members of the committee of Congress. . .a measure that would represent the conclusions of the [Hoover] committee." U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Lands to the States, 60.

[2]Ibid., 184.

states offered a countervailing voice, it remained the Republican, pro-cession westerners that regularly attended the bill's hearings and dominated debate. The cohorts from Wyoming--Perry Jenkins, Charles Winter, and Thomas Cooper--and New Mexico--Francis Wilson, Dennis Chavez, and Byron O. Beall--orchestrated the onslaught against the outnumbered pro-federal witnesses appearing before the House committee.[3]

Despite this formidable array of states' righters, a minority of pro-federal westerners would convince the House Public Lands Committee to reject H.R. 5840. The intellectual groundwork of the pro-federal perspective, erected by Peterson in the Hoover Committee, afforded Colton the ammunition he needed to combat his states'

---

[3]The members of the committee were as follows: John M. Evans, Montana; Thomas A. Yon, Florida; William C. Lankford, Georgia; Butler B. Hare, South Carolina; Rene L. DeRouen, Louisiana; Claude A. Fuller, Arkansas; Fritz G. Lanham, Texas; Fletcher B. Swank, Oklahoma; Kent E. Keller, Illinois; Dennis Chavez, New Mexico; Bernhard M. Jacobsen, Iowa; Don B. Colton, Utah; Addison T. Smith, Idaho; Scott Leavitt, Montana; Philip D. Swing, California; Samuel S. Arentz, Nevada; Harry L. Englebright, California; Robert R. Butler, Oregon; William R. Eaton, Colorado; William I. Nolan, Minnesota; Victor S. K. Houston, Hawai'i; James Wickersham, Alaska. The witnesses testifying before the committee hearings on H.R. 5840 were as follows(in alphabetical order): Byron O. Beall, New Mexico; Thomas Cooper, Wyoming; George H. Dern, Utah; James R. Garfield, Ohio; W. B. Greeley, Washington; Clarence L. Ireland, Colorado; Perry W. Jenkins, Wyoming; Arthur H. King, Colorado; John M. MacFarland, Utah; Gifford Pinchot, Pennsylvania; Francis C. Wilson, New Mexico; Charles E. Winter, Wyoming.

rights adversaries. Colton, the senior Republican on the House Public Lands Committee, had corresponded with Peterson on this issue for years. At Colton's request, a dedicated group of witnesses testified against the bill, and eventually convinced the committee to reject it.

Colton strategically arranged a special meeting of the House Public Lands Committee on 13 February 1932. Over a month before the formal hearing process began, Colton succeeded in allowing Utah Governor George Dern to present the first statement on the Evans bill. Dern had also adopted Peterson's arguments, having communicated frequently with the professor. The governor had endorsed the report Peterson wrote for the Hoover Committee, claiming it represented the official opinion of Utah.[4]

Early on a brisk February morning in 1932, Dern entered the committee room and addressed a quorum of members. Dern began his testimony by explaining how

---

[4]Governor George H. Dern Papers, Box Z155G9, William Peterson, Logan, Utah, to Governor George H. Dern, Salt Lake City, Utah, 26 May 1930. Peterson met with the Governor and the Utah State Land Board before and during his membership on the Hoover Committee. He assured these state officials that he would forward them all reports and memoranda, generated by federal bureaus and other states, which pertained to Utah. Governor George H. Dern Papers, Box Z155G9, William Peterson, Logan, Utah, to State Land Board Executive Secretary J. F. Mendenhall, Salt Lake City, Utah, 28 October 1930; William Peterson, Logan, Utah, to State Land Board Executive Secretary J. F. Mendenhall, Salt Lake City, Utah, 9 December 1930; and State Land Board Executive Secretary, J. F. Mendenhall, Salt Lake City, Utah, to William Peterson, Logan, Utah, 23 March 1932.

cession would destabilize state economies. He contended that the states could generate more revenue if the public domain remained under federal ownership. The governor discounted the contention that the states would experience windfall profits once they could include the public domain in their tax base and levy taxes. Dern asserted that the states would struggle to sell or lease even a small percentage of this arid and abused land.

Instead the states would only lose the federal appropriations for highway and reclamation projects that were based on the public lands.[5] Dern persuasively emphasized the importance of western reclamation. The expansion of the West's agricultural potential, through irrigation, canals, reservoirs, and dams, guaranteed future community growth and increased employment. According to Dern, the failure of the 1894 Carey Act demonstrated the

---

[5]The federal government subsidized 50 percent of the cost of non-public-land states' highway projects. However, the government extended additional funding to the eleven western states, since they could not defray these expenses through taxes levied on the public domain. A form of remuneration for these non-taxable lands, this additional funding was based on half the percentage of the respective states' total land mass that remained public domain. For example in 1932, 52 percent of Utah remained public domain, hence their additional funding was 26 percent. This brought the aggregate federal highway subsidy to 76 percent. The federal government applied this formula universally throughout the West. For an elaboration of this topic see U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to the States, 23.

inability of individual states to muster the capital needed to complete reclamation projects.[6] He told the House committee that the termination of the Reclamation Fund would retard the development of the West's agriculture and hence indirectly affect industry and manufacturing.

Interposing, the western states'-rights committee members assured their eastern counterparts that the Reclamation Fund drew all its money directly from the western states. They reasoned that the western states already paid for reclamation, and that the Bureau of Reclamation merely profited off the West by continually expanding its personnel and overhead. Dern countered that the sources of Reclamation Fund capital--royalties from

---

[6]The Carey Act granted up to one million acres of land classified as "desert" by the statutes of the 1877 Desert Land Act. Accepting states merely had to record their land selections on plats, filed with the General Land Office, and pass the required enabling legislation. The author of this act intended the states to sell or lease this land to bona fide settlers in quarter section allotments, and use the corresponding revenue to fund reclamation projects. However the General Land Office would not transfer patents to the land until the states had completed the projects, irrigated the land, and secured settlers. Although an altruistic gesture, only Wyoming and Idaho utilized this law. Of the ten million acres available--California was not eligible for this act--only 1,067,635 acres were patented. For a complete table of withdrawals under the Carey Act, see Paul Wallace Gates and Robert W. Swenson, History of Public Land Law Development (Washington, D.C.: Government Printing Office, 1968; reprint, Holmes Beach, FL: WM. W. Gaunt & Sons, 1987), 651. Donald Pisani also provides a detailed account of the Carey Act in To Reclaim a Divided West: Water, Law, and Public Policy, 1848-1902 (Albuquerque: University of New Mexico Press, 1992), 251-53.

1920 Mineral Leasing Act, the sale of the public domain, project collections, and hydroelectric power fees--encompassed a much wider area than the eleven western states.[7]

The governor's correspondence with Peterson and Mead had familiarized him with this pro-state criticism. He seized the opportunity to clarify this issue and simultaneously advanced the pro-federal position. Dern maintained that the Reclamation Fund, and its parent bureau, functioned as an impartial and equitable clearinghouse for distributing reclamation money throughout the West. This agency transcended petulant, community self-interest and helped the West develop as a region. It channeled funds to the most promising areas and coordinated an interstate system of river and watershed development.

---

[7]The Mineral Leasing Act of 1920 stipulated that of the total royalties generated from the leasing of classified minerals, including oil, oil shale, gas, and coal, 52.5 percent went to the Reclamation Fund, 37.5 percent returned to the permanent funds for schools and road of the states the minerals were extracted from, and 10 percent went to the Federal Treasury. The term "project collections" refers to the irrigation districts established by the Bureau of Reclamation surrounding their various dams and reservoirs. The Newlands Act of 1902 required the bureau and water users to negotiate contracts providing for a repayment schedule and operation and maintenance expenses. The district essentially served as a tax base for defraying the reclamation projects. For a more comprehensive analysis of the interrelated operations of these acts, see Gates and Swenson, History of Public Land Law, 656-59, 741-745 and Director's Files, Box 6, Folder 6, Elwood Mead, Federal Reclamation as a National Policy, circa 1930, 1-11.

The bureau focused attention on major projects, instead of diluting reclamation's efficacy by building a myriad of minor and disconnected projects. Dern warned his audience that even if each individual state controlled all the revenue, produced from the leasing of minerals, sale of land, and project collections within its borders, the cause of reclamation in the West would not improve. The Utah governor exclaimed that "turning the royalties back to the States from which they were derived might be satisfactory to those of the public-land States which are richly endowed with minerals and are producing heavily, but it would kill reclamation in those States which are poor in minerals."[8] Essentially Dern used this example to preempt the speciously attractive offer to transfer title of subsurface minerals to the states.

Following his discussion of economic ramifications, Dern methodically reviewed all the points Peterson had advanced in the Hoover Committee. Colton and Dern realized the need to introduce the members of the House Public Lands Committee to Peterson's forceful pro-federal perspective. Most of these members had never read Peterson's work, because the published report of the Hoover Committee proffered the majority opinion. So outside a small circle

---

[8]U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to the States, 17.

of professional and political colleagues, Peterson's ideas remained obscure.

Conveying the passion of Peterson's writing, Dern stressed the interstate nature of ecological factors. The governor informed the committee that:

> We [Utah] are really afraid of it [bill H.R. 5840] on account of interstate grazing, and on account of the further fact that watersheds are interstate matters, and watershed control is the most important thing out West. When the boundaries of the Western States were fixed, some clerk in an office in Washington apparently drew lines along parallels of latitude and meridians of longitude . . . instead of taking natural boundaries and watersheds as boundaries.[9]

Dern again preempted the arguments of later pro-state witnesses by using this interstate concept to undermine Section 4 of the bill. This section allowed each state legislature ten years to decide whether to accept the grant, or to reject it and ask the Interior Secretary to establish a national range within their state. Although this option of choice appeared to satisfy both view points, Dern admonished the committee that it only further threatened the ecological and economic viability of the rangelands. First, the interstate nature of watersheds, erosion, and silting dictated that irresponsible actions of adjacent states would negate the salutary measures implemented by their neighboring state governments within

---

[9]Ibid., 28.

the national ranges. Second, this ten-year period allowed states to delay instituting any form of range management. Dern, calling for "immediate rehabilitation," explained that "our ranges are being very seriously depleted and deteriorated, and they have got to be built up, and built up right away, or else they will be beyond repair."[10]

The governor concluded his testimony by describing the "superior federal machinery" already in operation, which could efficiently and quickly assume control of the rangelands. Dern reasoned that the states possessed no analog to the Biological Survey, U.S. Geological Survey, or the U.S. Forest Service. He believed that the state land departments--charged with administering the state school lands--"would have to be greatly enlarged, at commensurately increased expenses to the States."[11] He also questioned the dearth of "expert knowledge" possessed by state employees, and the unstable tenure of office common in state governments "still bedeviled with the old doctrine of 'to the victors belong the spoils,' and [where] at every change of administration there is a demand for house cleaning."[12] Before departing the governor succeeded in submitting several letters and resolutions

---

[10]Ibid., 24.

[11]Ibid., 23.

[12]Ibid., 24.

from prominent Utah citizens, stockmen, and professional associations corroborating his testimony.[13] Colton had these documents included in the official record of the House Public Land Committee hearings, and supplied the committee members with this valuable reference material throughout the rest of the hearings.[14] The governor's appearance proved a victory for the pro-federal camp. He had the advantage of establishing an invaluable first

---

[13]These documents included statements from the Uintah Basin Cooperative Livestock Association, the Utah State Woolgrowers, the Utah State Board of Agriculture, the Cattle Growers Association of Utah, the La Sal Live Stock Co., the Scorup-Sommerville Cattle Co., the Provo Conservation Association, the First Security Bank of Provo, and Charles Redd. For a complete reproduction of these materials, see U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to the States, 29-37.

[14]The letter of John M. McFarland, President of the Utah Cattle and Horse Growers Association, adumbrated his future testimony. Colton secured McFarland as the last witness to appear before the House Public Lands Committee, ensuring that the pro-federal perspective would enjoy the opening and parting statements regarding H.R. 5840. In his letter, McFarland debunked the myth--propagated by Wilson, Garfield, and Hyde--that businessmen steadfastly opposed federal control. McFarland realized Dern's intention of using the letter as evidence in his case against H.R. 5840, and so he explained the situation lucidly: "The American National Livestock Association met in Salt Lake City in 1927 and passed resolutions favoring Federal control of the public domain. The State Woolgrowers Association in about 1928 passed a like resolution. . .The Cattle Growers Association of Utah for the past eight or nine years have worked for control of the public domain, and we feel sure that Federal control will be best for the livestock industry." U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to the States, 31.

impression, which may have swayed many of the House Public Land Committee members who were not completely familiar with this issue. His articulate and charismatic presentation of the pro-federal credo, developed by Peterson, Van Petten, Mead, and other Hoover Committee members, also weakened many later arguments of Wilson, Garfield, and Jenkins.

When the regular hearings began in mid-March 1932, James Garfield, Francis Wilson, and Perry Jenkins appeared before the House Public Lands Committee to promote their bill and the cause of states' rights. James Garfield, former Interior Secretary under Roosevelt and chairman of the Hoover Committee, appeared mostly for symbolic value to endorse the bill. After a brief description of the bill, he yielded the floor to Wilson, the experienced spokesman of states' rights.

Wilson earlier had demanded the federal government cede subsurface mineral rights with title to the surface. Now he had to reconcile his previous position with the pending bill. H.R. 5840 only provided for the grant of "all vacant, unappropriated, and unreserved non-mineral lands of the United States."[15] Wilson hoped to convert pro-federal westerners and skeptical states' righters--who opposed this bill only because it did not grant mineral

---

[15]Ibid., 1.

rights--into supporters of H.R. 5840. First, he strove to prove that the surface possessed its own intrinsic value. Dissuading the committee from narrowly focusing on the lucrative subsurface resources, he opined that "so long as Dame Nature reproduces, and grazing resources are not abused by overgrazing, that resource is valuable in perpetuity, and not as in the case of subsurface resources, once extracted and consumed, gone forever."[16] According to the New Mexico native, the conservationist propaganda decrying overgrazing was hyperbole.[17] He reassured the committee that the grasslands of the West still offered abundant and fertile grazing areas.

Fully aware that this argument alone would not sway the committee, Wilson attempted to clarify the esoteric and misunderstood process of clear-listing, fee simple title, and mineral reservation. He explained that since the original donation acts of the early 1850s, including all successive homestead and state enabling legislation, the

---

[16]Ibid., 66.

[17]Thomas Cooper of Wyoming concurred that the "matter of erosion has been somewhat exaggerated." He told the committee that erosion was a geological process that "nature used in the creation [and rejuvenation] of the world." Portraying erosion as often a beneficial phenomenon, he claimed that without erosion the world could not enjoy such natural wonders as Yellowstone Canyon in Yellowstone National Park and the Grand Canyon of Colorado. U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to the States, 175.

federal government had reserved the right to classified minerals.[18] After a prospective entryman or state had selected their land claim, they filed an affidavit with the Interior Department, swearing the selected land contained no minerals. Before the General Land Office (GLO) issued unconditional title, or fee-simple ownership, to private

---

[18]Historians usually refer to the Armed Occupation Act of 1842--applied only to Florida--and the Oregon Donation Act of 1850--applied only to Oregon--as the original donation acts. Congress passed these acts to reward settlers who had carved out homesteads in dangerous and rugged areas, and also to induce additional settlement. Precursors to the Homestead Act of 1862, these geographically limited acts granted entrymen up to 640 acres if they resided on a claim for five years and completed the necessary improvements. The acts formally admitting states into the union were commonly referred to as enabling acts. These acts--as stipulated by the General Land Ordinance of 1785--granted section 16 of every township to the state. Beginning with the Oregon enabling act in 1859 states received the 36th section as well. Finally, states entering the union in the late nineteenth and early twentieth century--such as Utah in 1896 and New Mexico and Arizona in 1910--received sections 2, 16, 32, and 36 in every township. The enabling acts obligated the states to divert the revenue from the sale or lease of these lands into a permanent fund to support schools, public building, and infrastructure projects. However, all these acts, including the various homestead laws, reserved the subsurface minerals for the federal government. The states' rights proponents of the early twentieth century would not succeed in reversing this legal tradition established in the 1840s. For a complete discussion of the early donation acts see Gates and Swenson, History of Public Land Law Development, 388-93 and Everett Dick, The Lure of the Land: A Social History of the Public Lands from the Articles of Confederation to the New Deal (Lincoln: University of Nebraska Press, 1970), 103-05. Abstracts outlining the provisions of the state's enabling acts can be found in Public Land Law Review Commission, Digest of Public Land Law (Washington, D.C.: Government Printing Office, 1968).

agents it allowed the U.S. Geological Survey to determine whether the said grant contained any classified minerals. However, only land that the GLO had surveyed and recorded on plat mats was eligible for liquidation. Surveying consisted of demarcating base and meridian lines and delineating the boundaries of ranges, townships, sections, and quartersections to prevent disputes between rival claimants.[19] The USGS consummated this surveying process by inspecting the land, and either through physical discovery or geological inference, publicly listing and recording the location and name of all the minerals that required reservation.

This process, referred to as clear-listing, occurred just prior to the sale or grant of lands, and only reserved to the federal government those minerals that were known and listed at that time. It provided the GLO the opportunity to verify that no outstanding homestead claims,

---

[19]The General Land Ordinance of 1785 established this rectangular survey system. Base and meridian lines are the principle reference points from which all other coordinates are drawn. Base lines run east-west and meridian lines runs north-south. Townships are thirty-six square mile units divided into thirty-six sections of one square mile, or 640 acres, each. These sections are further subdivided into half and quarter sections, of 320 and 160 acres, respectively. Sections are numbered by beginning with the northeast section as "one," then proceeding west and east, alternating with each row, the numbers progress until the southeast section, number thirty-six, is reached. Ranges are columns of townships that run parallel to the principal meridian. Dick, The Lure of the Land, 19-22.

mineral leases, or federal withdrawals existed on the prospective grant. Clear-listing did not reserve the federal government the right to all future mineral discoveries once the General Land Office issued a patent. Therefore, Wilson argued that vast quantities of valuable, but unknown, minerals passed to states and homesteaders constantly. He insisted that the process of clear-listing remained cursory and usually overlooked most mineral deposits. Wilson concluded that public land states should not rebuff the offer extended by H.R. 5840, simply because it contained the term "non-mineral."

The committee remained unconvinced by Wilson's explanation. Colorado Congressmen Eaton discredited Wilson's sanguine portrait of vast "unknown" minerals passing to the states. Attacking the extensive use of geological inference, Eaton charged that "this whole area, from the Louisiana Purchase to the Pacific Ocean, has been overrun by prospectors of every kind, for every kind of mineral, including prospectors and others from the Department of the Interior and Geological Survey, and to-day every part of it is marked as suspected mineral content."[20]

---

[20]Eaton and several other members also objected to the protracted and costly clear-listing appeals process. If the states contested the official decisions of the USGS, regarding the existence or location of minerals, the burden of proof lied with the state to refute the findings of the

Colton also criticized Wilson for his sophistry. He explained to the committee that western states still contained large areas of unsurveyed land. Utah alone possessed 14 million acres of unsurveyed territory as of 1932. Unlike other grants--where the USGS had already surveyed the land and the prospective grantee knew if his claim possessed mineral reservations before pursuing his application, this cession of the public domain forced the states to accept a grant before they knew what reservations the USGS would mandate. Therefore even if the states accepted H.R. 5840, selected their lands, and filed their affidavits promptly, most of this grant would still require surveying. The USGS could then rely on geological inference and reserve the subsurface rights to the entire grant, before the GLO issued any patents. Colton elucidated the crucial fact that the bill only guaranteed states the right to subsurface minerals that were unknown at the time of their acceptance and application on surveyed land, not unsurveyed. Hence with most of the public domain

---

USGS. However, if the USGS had not classified any minerals at the time the state submitted its official application for lands, and the corresponding affidavit swearing that "the lands selected are nonmineral," the state held the upper hand, because the burden of proof then lay with the USGS to prove the existence of minerals discovered in their later survey. Eaton feared that this appeals process could lead to "litigation and trouble and business for the lawyers." U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to the States, 68.

remaining unsurveyed, Wilson's proposition offered little hope for lucrative minerals.[21]

Coming to the defense of his embattled colleague, Charles E. Winter tried to resuscitate the states'-rights perspective. A veteran crusader for states' rights, Winter had fought tenaciously for cession during his three consecutive terms as U.S. Representative from Wyoming. Winter countered Eaton and Colton's contention that the unsurveyed portion of the public domain extended the possibility of the USGS reserving resources after the states accepted the grant. He expounded that "there is practically no known mineral area in the unreserved area; therefore the vast bulk of the 180,000,000 acres goes in fee simple title and there will be no reservation whatever to that."[22] Continuing to censure the pro-federal members, he maintained that they misconstrued the grant as solely a "surface right," and that in reality the USGS would only reserve "one or two very limited, small, known mineral areas."[23]

By the third day of testifying, Wilson realized his failure to assuage the fears of the western congressmen who as Dern proclaimed did not want "the skin of a squeezed

---

[21]Ibid., 68-72.

[22]Ibid., 21.

[23]Ibid.

lemon." He satisfied neither their questions concerning mineral rights nor the renewable value of the surface. On his last day before the committee, he introduced his final two arguments. Resurrecting his compelling case for the consolidation of land ownership in the West, which he presented to the Hoover Committee, Wilson told the House committee that the morass of entangled private, state, and federal lands precluded efficient federal management of the public domain. According to Wilson, the "remnant of the public domain, [state,] and private-owned lands are so intermingled and so mixed that as an administrative problem it has made it impossible" for the federal government to establish national ranges in these areas. Therefore, he assured the committee that state ownership of this land would require fewer exchanges to create compact blocks owned by one entity. Wilson boasted that section eight of his bill provided an opportunity for states to exchange private and federal land remaining within the area of the proposed grants.

Colton immediately disavowed this portrayal of western land distribution. Colton recalled how Peterson responded to Wilson on this issue during the Hoover Committee, and reminded the eastern members that the private and state lands surrounded by the national forests had not undermined the Forest Service's protection of watersheds, grasslands,

and timber. Although conceding that settlers and speculators had abused the Forest Lieu Section of the 1897 Forest Management Act, Colton stressed that overall the Forest Service had succeeded in consolidating and protecting their land.[24] He also described the success of the Mizpah-Pumpkin Creek experiment, conducted in Montana, as confirmation that federal control of an area punctuated with state and private land could dramatically aid

---

[24]The Forest Management Act of 1897 suspended President Cleveland's executive orders establishing forest reserves until 1 March 1898. The critical Forest Lieu Section of this act allowed entrymen with an unperfected title or patent within the newly created borders of a forest reserve to exchange their land for a tract of commensurate size and value from the remaining unreserved, unappropriated public domain. Essentially they could receive nonreserved federal land "in lieu" of the homestead they currently held within a forest reserve. Although Congress passed this act to protect settlers, it actually transferred hundreds of thousands of acres of prime timber land into the possession of private enterprise. Speculators perpetrated tremendous fraud under the provisions of this act. Often timber barons would hire dummy entrymen to claim worthless mountain or cut-over land within the anticipated borders of future forest reserves. Then upon the formation of the forest reserves, the government would issue the dummy entrymen scrip that could be remitted for lucrative agricultural or timbered land elsewhere. The entrymen completed this subterfuge by proving up on the new Homestead or Timber and Stone entries and promptly transferring title to the timber magnate that had originally employed them. Gates and Swenson, History of Public Land Law Development, 569-73 and Dick, The Lure of the Land, 329. For a participant's contemporary account of the machinations perpetrated under these acts, see Stephen A. Douglas Puter and Horace Stevens, Looters of the Public Domain: Use and Abuse of America's Natural Resources. (Portland Printing House Publishers, 1908; reprint, New York: Arno Press, 1972).

deteriorated range land.[25] Colton's fellow committee members concurred with this line of reasoning. Incidentally, many of them had voted for the Mizpah-Pumpkin Creek bill four years earlier when Scott Leavitt maneuvered it through the House Public Lands Committee.

Once again Winter vindicated Wilson's position. Addressing Colton passionately Winter opined that "I consider . . . a national range or Federal regulation . . . absolutely impossible and impracticable for the reason that remaining Federal lands are so interspersed and scattered throughout the rest of the domain, intermingled with State and private property, that there is not feasible, practical way of Federal regulation."[26] Responding to Colton's

---

[25]The Mizpah-Pumpkin Creek area of Montana consisted of about 110,000 acres of intensely overgrazed rangeland. Congress passed an act in 1928 that authorized the Interior Department to establish grazing districts, issue leases, and charge user fees within this finite area. The area included 22,432 acres of homesteaded land, 27,534 acres of public domain, 44,357 acres of Northern Pacific Rail Road land, and 6,400 acres of state land. The Forest Service aided the General Land Office in trading Montana federal land outside the district for state lands within it. The Forest Service also helped local leaders and stockman develop the range by building fences, digging wells, and constructing reservoirs and canals. Within a few years the carrying capacity of the test area increased 38 percent, and pro-federal advocates hailed this fledgling district as an unmitigated success. These figures are extracted from Gates and Swenson, History of Public Land Law Development, 608-11.

[26]Winter remained the most obstreperous, bellicose, and intransigent proponent of states' rights throughout the public domain debate. He demanded the federal government to cede all reservations, except the national parks, to the

request to reconcile his opinion with the success of Mizpah-Pumpkin, Winter perfunctorily dismissed that event as an aberration. He claimed that economic and ecological circumstances endemic to that specific area temporarily coalesced and allowed the experiment to prevail. Winter reminded the current committee members that he had sat on the House Public Lands Committee when Leavitt introduced the Mizpah-Pumpkin Creek bill, and had threatened to "fight to the finish" any general bill emerging from Leavitt's proposal. According to Winter, federal management "where there are three owners involved would [not] be feasible or practical in large areas."[27] Therefore, the best course for proprietary consolidation remained state ownership.[28]

---

states. He constantly disparaged the U.S. Forest Service, stating that "I know of no department within the Government, and no bureau which has so consistently, persistently, and insatiably demanded and secured expansion in power as the Forest Service. It is notably outstanding in the continuous process of federalization, centralization, and bureaucracy which has been condemned and criticized by our last several Presidents, by Senators and Representatives, and by students of governmental affairs." U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to the States, 119.

[27]Ibid.

[28]Thomas Cooper, President of the Wyoming Woolgrowers' Association, also testified before the House Public Lands Committee. He was a friend of Charles Winter and Perry Jenkins, and shared their states'-rights ideology. Backing up Winter's and Wilson's consolidation argument, Cooper complained that "with so much of the land already in the ownership of the people of the State, it would not be feasible to administer the remaining public domain by any

Moving on, Colton stressed that the paramount component of land consolidation on grazing lands was the coordination of winter and summer ranges. Sheep and cattle grazed in higher elevations during the summer, where the climate remained cooler, more humid, and conducive to healthy forage growth. As fall and winter approached, the animals grazed on successively lower elevations, living on the lowest elevations during the winter where temperatures remained higher and precipitation levels lower. Naturally these summer ranges lay exclusively within the national forests, while the public domain--which consisted of basins and desert lands--encompassed the winter ranges.[29] Colton urged the committee to consider the consequences if two different agencies owned these ranges. Not only would these competing owners have to negotiate stock driveways or easements for the transportation of cattle between their lands, they would each subject the stockmen to different fees, leases, and conservation measures. However, common ownership of the entire seasonal itinerary of the livestock

---

agency of the [federal] Government. The streams being owned, so much of the land being owned and passed into private ownership. . ." U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Land to the States, 176.

[29]For a succinct delineation of the types of ranges, see Wesley Calef, Private Grazing and Public Lands (Chicago: University of Chicago Press, 1960; reprint, New York: Arno Press, 1979).

industry would simplify land exchanges, eliminate bureaucratic duplication, and enhance ecological amelioration.

Before departing, Wilson fired his last intellectual salvo at the pro-federal camp, the theory of "federal trusteeship." With his pro-state contingent present and ready to support him, Wilson questioned the federal government's alleged constitutional right to own the public domain. He argued that the General Land Ordinance of 1785 and the Northwest Ordinance of 1787 provided a process for new states to enter the union as legally equal entities to the original thirteen states. Therefore, the enabling acts that admitted states under the provisos of these ordinances, beginning with Ohio in 1803, should have granted fee simple title to all the public domain within the new states. Instead, the federal government granted only a few sections in each township, instead of all thirty-six. The federal government fulfilled this trust by either surrendering title to all land within the borders of the new state upon entry, or by ensuring that the public domain quickly passed into the hands of private owners--through homesteading, sale, or grant.

Accordingly, the federal government only held the public domain in "trust" until the territories became states. Jenkins backed Wilson, asserting that "the Federal

Government occupies the place of trustee, and the West the ward. The time has come . . . to discharge the trustee. But, as in a trust agreement, I fail to find any place where the trustee is to absorb part of the property of the ward. It is my understanding that the whole of the property goes to the ward."[30] Theoretically, Jenkins believed that the permanent federal reservation of classified minerals also impinged state autonomy. He predicted that federal court jurisdiction over the subsurface and State court jurisdiction over the surface would instigate acrimonious legal conflicts. However, he acknowledged that for now H.R. 5840 was the best offer available.[31]

Jenkins used Wilson's introduction of this topic as a springboard to succinctly outline the fundamental premise behind states' rights. He attested that the "Federal idea" espoused by the constitution placed the "greatest possible autonomy" in the states. This idea also dictated that the

---

[30]U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to the States, 190.

[31]Ibid., 191. Arthur H. King, State Land Board Commissioner of Colorado, also informed the committee that Colorado believed "in equity and justice, all of the unappropriated public lands belong to the State and that the Federal Government is simply holding title as trustee until such time as the State was properly organized to take over and properly administer the same." U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to the States, 46.

"Federal Government should only handle those things which are interstate or international in their scope."[32] Therefore, control of the public domain should be the jurisdiction of the states. Distant and detached federal bureaucracies located in the East could not possibly understand the nuances of local conditions. The "sovereignty of the States depended upon" their right to own, tax, and police its land.[33]

Winter also felt compelled to speak on this subject. He had recently published a book titled Four Hundred Million Acres, which chronicled the political and legal history of the states'-rights debate. As a former politician and judge, Winter could effortlessly recall an overwhelming array of court decisions. He immediately reminded the committee that the Tenth Amendment to the Constitution read: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the State, are reserved to the States." Winter interpreted the constitution strictly, and reasoned that it did not explicitly prohibit the states from assuming ownership of the public domain upon their admission to the United States. Therefore, one was forced to conclude that ownership of the public domain was a right reserved to the

---

[32]Ibid., 181.

[33]Ibid.

states. Although he conceded that the constitution provided for the federal acquisition of territory through treaty and purchase, Winter explained that this only referred to territorial lands and not land located within states. Winter lamented that "the four sons of Uncle Sam--North, East, South, West--were entitled to their equal inheritance. North, East, and South duly received theirs. Now, when the West comes of age and asks for its equal share, North, East, and South say, 'Now, we will divide the last quarter among the four of us.'"[34]

Jenkins and Wilson then adduced three court decisions that proved a legal corpus existed to support their premise. In the landmark case, Pollard's Lessee v. Hagen (1845), the U.S. Supreme Court averred: "We think a proper examination of the [public domain] subject will show that the United States never held any municipal sovereignty, jurisdiction, or right of soil in and to the territory of

---

[34]Charles Winter, Four Hundred Million Acres: The Public Lands and Resources (Casper WY: Overland Publishing Company, 1932; reprint, New York: Arno Press, 1979). Winter's book remains a valuable primary source. He comprehensively outlines the pro-state and pro-federal theories. He also reproduces the final report of the Hoover Committee, conference resolutions and proceedings, House and Senate committee hearings, and official correspondence. Winter's astute analysis and interpretation of several district and supreme court decisions further strengthen his comparison of these competing ideologies.

which . . . any of the new States were formed."[35] Jenkins informed the committee that, although this case dealt specifically with land acquired from the Louisiana Purchase, the legal concepts expressed by the court extended to the western territories as well.

The next case, Omaechevarria v. State of Idaho (1918), concerned the right of the state legislature to limit grazing on the public domain to only one class of livestock. Idaho had passed a law prohibiting sheep from entering areas where cattle grazed. Ostensibly enacted to "keep the peace" between these perennial enemies, the law was appealed by the sheepmen to the U.S. Supreme Court. Jenkins, quoting Justice Brandeis who delivered the majority opinion in favor of Idaho, stated "the police power of the State extends over the Federal public domain."[36] Wilson also discussed a decision rendered by the Supreme Court of Nevada that upheld the state engineer's right to limit the use of watering holes located on the public domain. Wilson admitted that although this

---

[35]U.S. Congress. House. Committee on the Public Lands, Granting Unreserved Public Land to the States, 192.

[36]Brandeis also denied that the Idaho law abridged citizens of their fourteenth amendment rights, "namely: privileges of citizens of the United States, in so far as it prohibits the use of the public land by sheep owners." For a complete reproduction of this court decision, see U.S. Congress. House. Committee on the Public Lands, Granting Unreserved Public Land to the States, 109-33.

case had not been appealed to the U.S. Supreme Court, it followed the logic of the Idaho case.

Wilson and Jenkins concluded that until the federal government emancipated the West from its vassalage, their economic and social growth would stagnate. Jenkins explained that Wyoming citizens despised the East for imposing conservation measures on their state. He accused the East of hypocrisy, because during their development they had avidly exploited their natural resources, but now wished to deprive the West of the same opportunities. Alluding to the pro-federal stance of Colton, Dern, and Peterson, Jenkins exclaimed that "I do not know how it is in Utah, but we [in Wyoming] do not like the idea that the intelligence is all east of the Mississippi River."[37] He maintained that only the West held the intimate knowledge of local conditions needed to develop the most appropriate conservation policies.

Cooper also defended Wyoming's ability to manage the public domain. He believed that the diverse conditions present between each state, and even within states, prevented the creation of a federal range. He disagreed that any "general or universal" law or statutes could successfully protect the ecology. Presumably representing the entire West, Cooper proclaimed, "We do not want to be

---

[37]Ibid., 189.

under a bureaucratic government, where the rules imposed by men whom we have had no voice in electing will have the force and effect of law. . . . Whenever it [the public domain] is turned over to the control of any bureau, we are going to have a control that will be remote and repugnant to all the traditions of Americanism. It will certainly be repugnant to the people of Wyoming."[38] As a fellow Wyoming citizen, Winter felt compelled to second the statement of Cooper and Jenkins. He concurred that "federal laws are necessarily general and uniform and rigid, and therefore can not be as successfully applied to these various and varied conditions."[39] Moreover, he contended that the "public-land States have now advanced to a stage of intelligence and honesty and wisdom" and subsequently had proven their competence in administering range lands.[40]

A subtheme of this theory of "federal trusteeship" was the "owner as steward" contention. This corollary posited that private owners make the best caretakers. Insecure tenure caused economic instability and environmental depredations. Similar to the unregulated "open range"

---

[38]Ibid., 171.

[39]Ibid., 133.

[40]Ibid., 124.

currently existing on the public domain, bureaucratically managed land undermined secure and permanent property rights. A federal agency, such as the Forest Service, could capriciously attenuate the grazing privileges extended through permits or other contractual agreements. The agency could reduce the value of the permit by decreasing the Animal Unit Months (AUMs)--the amount of stock--allowed, shortening the period of grazing allowed annually, or changing single-use allotments into multiple-use areas. This unpredictable status of leased lands discouraged stockmen from engaging in substantial capital improvement to the range land, such as building fences, digging wells, and reseeding. Since several ranchers grazed on collective Forest Service allotments, improvements funded by one user would accordingly benefit everyone. Ranchers also risked losing these improvements, or any commensurate compensation, if the agency withdrew these lands from grazing or denied the renewal of the permit.

Usufructuary, and not proprietary, rights to natural resources and land also precipitated perennial overstocking and profligate land-use practices. Since the permit holders often competed with each other for forage on a common allotment, it remained economically imperative for them to get their livestock on the range first and exhaust

the available grasses. Therefore, the Wyoming and New Mexico witnesses assured the committee that only suboptimal use of the range would prevail until the federal government granted fee-simple title to the private users. They contended that a businessman could implement long-term conservation measures better than a federal agency. The cyclical operation of the federal government, with a new president elected every four to eight years, prevented sustained bureaucratic planning. The president appointed an amenable cabinet that in turn appointed bureau chiefs and other lower level officials imbued with a different ideological mission from their predecessors. On the contrary, a businessman predicated his use of the land on economic and free-market factors. Naturally, the private user placed his long-term economic survival above all other factors. Therefore, a private owner would never overgraze and destroy his means of production. Conversely, he would cultivate his property and apply a stable, sustained yield program.[41]

Byron O. Beall, speaking on the request of Wilson, related this argument to New Mexico. Recounting his experience on the New Mexican range, he explained, "I find a misuse, or, rather, an abuse of the range on the part of

---

[41]For a modern pronouncement of this theory see Gary D. Libecap, Locking Up the Range: Federal Land Controls and Grazing (Cambridge: Harper & Row Publishers, Inc., 1981).

men who know better, men who admit they know better, but they present this situation, that unless they can have title to the property, which they would be glad to accept even at a higher cost than leasing . . . they propose to strip the country."[42] Jenkins avowed that he had observed a similar situation developing in Wyoming on the public domain and Forest Service lands. He claimed that "the primary incentive for people, livestock people, to run sheep is to make money, to make a living and enable them to maintain their homes and families. If the stock men have the opportunity to control their lands, have complete control of their lands, they will graze those lands in such a way as to afford them the very best use in every way possible, and they will know exactly what is the carrying capacity of the area that they control."[43]

Colton, determined to have pro-federal witnesses present the closing statements, secured three prominent individuals to end the hearings. W. B. Greeley, former chief of the Forest Service and Hoover Committee member, and Gifford Pinchot, Governor of Pennsylvania and former chief of the Forest Service, appeared to redeem the accomplishments of the U.S. Forest Service. Wilson and

---

[42]U.S. Congress. House. Committee on the Public Lands, Granting Remaining Unreserved Public Lands to the States, 154-55.

[43]Ibid., 174.

Winter had attacked this agency's grazing management, and Colton wanted these former bureau chiefs to explain that symbiotic relations between government and private enterprise were possible. Both men brilliantly outlined the evolution of Forest Service grazing policy over the bureau's twenty-seven-year history. They provoked positive responses from Leavitt, who believed his Mizpah-Pumpkin Creek project in Montana resembled Forest Service management. Several eastern members also expressed appreciation for Greeley and Pinchot's educational account of the western forests and their use by stockmen.

On 29 March 1932, the last formal day of hearings scheduled before the House committee, Colton introduced John M. McFarland, President of the Utah Cattle and Horse Growers' Association. McFarland began his testimony with a brief recapitulation of Utah's role in the pro-federal cause. He explained that Utah stockmen had embraced the idea of federal control because of their interaction with Forest Service grazing lands. That agency's Great Basin Experiment Station had also influenced these local businessman. Referring to the Forest Service, McFarland told the committee that "they showed us where a range that had required 7.5 acres to support a cow a month had been brought back until 2.5 acres would support a cow a month. They showed us, too, where erosion had carried off 300

cubic feet of debris with a 16 percent cover, and after it [the grass] had been restored to 40 percent cover it [erosion] was reduced to 20 percent."[44] This indisputable evidence that federal management could dramatically increase carrying capacity, profoundly impressed local stockmen. The state livestock associations subsequently convened several committees to discuss this matter, and unanimously resolved to support federal control as early as 1925.

McFarland then assured the committee that Utah fully appreciated the interstate nature of watersheds. He reminded the committee that Utah had experienced severe flooding in 1930 along the Wasatch Front, devastating several rural and urban areas around Salt Lake City. Following these floods the governor appointed an investigative committee, composed of "engineers representing the railroads, the State highway, and irrigation engineers, trained foresters, geologists, and cattle and sheepmen," to determine the causes of the flooding. This committee traced the route of the floodwater up the canyons and arroyos of the Wasatch Mountains. Ultimately they "discovered that the origin of these floods was on privately owned ground that had been

---

[44]Ibid., 202.

overgrazed--seriously overgrazed."[45] This incident had convinced Utahns that only federal management could sufficiently protect watersheds from overgrazing. McFarland informed the committee that Utah had nine million acres in watersheds, six million of which the Forest Service supervised. He confirmed that "where they [the Forest Service] administered it [the watershed], as they do around the experiment station and in all that forest where they used to have floods every time a cloud came, they have eliminated that . . . and the national forest is the only example we have of real conservation on our watersheds."[46]

McFarland then summarized the traditional pro-federal arguments, which Dern had begun the hearings discussing. He particularly reemphasized the ideas of: coordinating summer and winter ranges, the instability of state tenure of office, and the expertise of federal employees. He stressed that, similar to reclamation, no state possessed the capital needed to restore the haggard public domain. McFarland believed that "only Uncle Sam . . . could go ahead and rehabilitate the range, provide water, and wait 50 years, if necessary, for the returns, which no State can do."[47]

---

[45]Ibid., 203.

[46]Ibid., 206.

[47]Ibid., 204.

As Colton and the entire Utah coterie had planned, the last word the committee heard regarding H.R. 5840 was an eloquent and personal call for federal control. McFarland recounted his firsthand encounter with unregulated grazing, explaining that:

> In southern Utah, where I have some ranches, right next to the Kaibab Forest, we had hundreds of thousands of acres of the finest grazing land that could be found anywhere absolutely ruined. I had three ranches on two creeks, and at the junction of the two creeks was our home ranch, and we used to haul hay about 5 or 6 miles to this home ranch. To-day you can not ride a horse down there. There are washes 40 and 50 feet deep. That land has been ruined because of overgrazing, with no regulation; and it will take a long, long time to bring it back. So erosion is the serious thing. We have lost more agricultural land in the United States through erosion than we have under irrigation to-day; and if it keeps on down there, we are just going to silt that Boulder Dam Reservoir until it is not going to have the carrying capacity that we expected.[48]

Although only four of the fourteen witnesses that testified before the House Public Lands Committee advocated federal management of the public domain, they surprisingly outshone their anti-federal antagonists. The onus lay with the pro-cession proponents. They had to convince the committee that H.R. 5840 and the broader concept of states' rights promised the best economic and ecological course for the West. Despite the numerous arguments they advanced and the documentation they produced for support, most of the

---

[48]Ibid., 204-06.

committee members remained stolidly in favor of federal control. Colton served as the inexorable interrogator, methodically scrutinizing every aspect of the pro-states'-rights ideology. He successfully applied the "interstate" litmus test to each pro-state proposal, refocusing every recondite economic, ecological, bureaucratic, and legal argument to the pivotal question: Was the management of the public domain a state or federal task? Through this keen questioning, Colton exposed many of Wilson's, Winter's, and Jenkin's arguments as deceptive, fallacious, and extreme. He effectively discredited their alleged legal confirmation of the states' rights to the public domain. Colton commented that the Idaho and Nevada cases dealt with "policing powers," not proprietary rights, and the Pollard's Lessee v. Hagen case was a legally defunct decision that referred specifically to Alabama.

The sagacious and affable entourage of pro-federal witnesses he paraded before the committee--Dern, Greeley, McFarland, and Pinchot--garnered the trust and commendation of most the committee members. Their deportment contrasted with the often contentious and condescending attitude of Winter, Wilson, and Cooper. Committeeman Samuel S. Arentz of Nevada--a state known for its unremitted pro-state stance--even responded to McFarland by thanking him for "speaking our language. We understand exactly what you are

talking about, and you have made this talk on this dry subject very, very interesting. I have listened with a great deal of interest."[49]

Following the adjournment of formal hearings on H.R. 5840, the committee voted overwhelmingly against the bill. The pro-federal momentum begun by Peterson in the Hoover Committee helped his colleagues succeed in the House Public Lands Committee. By the late spring of 1932, the case for a national range had reached its fruition.

---

[49]Ibid., 207.

CHAPTER V

SENATE COMMITTEE ON PUBLIC LANDS AND SURVEYS

Following the House Public Lands Committee hearings, pro-cession advocates introduced the last three bills, distilled from the final report of the Hoover Committee, before the Senate Public Lands and Surveys Committee. Gerald P. Nye, the chairman of the Senate committee, introduced the Senate analog of the bill written by Garfield and Wilson. This bill, designated S. 2272, appeared as a replica of H.R. 5840 and called for the fee-simple cession of all unappropriated, unreserved, nonmineral public domain. However, the accompanying bills dramatically accentuated the stance of the pro-cession camp. Senator Thomas J. Walsh of Montana, a member of the Senate committee, sponsored the second bill, S. 4060. Drafted by I. M. Brandjord, the former Hoover Committee member representing Montana, S. 4060 proposed an unconditional cession of all remaining public domain, including the subsurface minerals. The third bill, submitted by Senator King of Colorado, similarly offered all the remaining public domain, unfettered by mineral restrictions, to the western states.

Resembling the House committee, the membership of the Senate Public Lands and Surveys Committee suggested an effortless victory for the proponents of cession. Of the

fifteen members, only two represented eastern states, and puissant detachments from Wyoming and New Mexico dominated the committee. Luminary Wyoming senators, Robert D. Carey and John B. Kendrick, faithfully attended every meeting. Moreover, they ensured that every Wyomingite witness that testified before the House committee, including Cooper, Jenkins, and Winter, promptly repeated their performance for the Senate. Similarly, the New Mexico delegation, consisting of Senators Sam G. Bratton and Bronson Cutting, secured the testimony of fellow New Mexicans Wilson and Beall.

However, the wedge Peterson originally drove into the intellectual pillars of the pro-states' ideology was sunk even deeper with the blow delivered by Colton and his colleagues appearing before the House committee. These initial victors passed the pro-federal maul on to senior Republican Senate committee member and Utah Senator Reed Smoot and his fellow Utahns--Dern and McFarland. Supported by former Forest Service personnel and conservation organizations, these Utahns exposed the inherent political and ethical incongruities in the Garfield bill, while discrediting the Walsh and King bills as extremist measures that jeopardized the entire system of federal resource management. Ultimately, the pro-federal advocates unleashed the centrifugal forces within the pro-cession

block. They fomented confrontations between the various states'-rights factions, for some demanded cession of surface rights only, while others called for subsurface rights and all federal lands, including national forests and parks. By exacerbating these underlying tensions among states righters, the pro-federal witnesses testifying before the Senate committee branded their adversaries as unfocused, avaricious, and radical. Dern, McFarland, and R. Y. Stuart persuaded supporters of the Garfield bill to fight the Walsh and King bills, while simultaneously convincing proponents of the Walsh and King bills to retaliate against the Garfield bill. Wielding their pro-federal maul, Dern and McFarland delivered the coup de grace and splintered the states' rights intellectual framework. Despite the abundance of anti-federal westerners on the Senate committee not one of the three bills was reported favorably to the floor of the Senate--all died within committee.

The abstruse clear-listing procedure emerged as the first issue to divide the pro-cession advocates. Colton's perceptive elucidation of the clear-listing procedure had convinced several former supporters of the Garfield bill to recant their opinions. McFarland and other pro-federal witnesses could cite numerous examples of this division.

Governor George W. P. Hunt of Arizona sent the Senate

committee a memorandum condemning the Garfield bill's provision for federal reservation of subsurface minerals. In the memorandum he explained that approximately half Arizona's public domain remained unsurveyed. He questioned the wisdom of accepting nearly eight million acres of unsurveyed land, which would remain in ambiguous legal status for several years. The Arizona governor acknowledged that the Hoover Committee had recommended Congress provide the General Land Office with additional funding to accelerate the surveying process. Yet he pointed out that the Garfield bill failed to address that matter. He reasoned that even if the GLO delegated the authority to survey the public domain to the individual states, that these local agencies could not defray the costs. Hunt reiterated Colton's contention that "the clear listing procedure . . . can not begin until after the lands are surveyed."[1] Exasperated, the governor lamented,

---

[1]U.S. Congress. Senate. Committee on Public Lands and Surveys, Granting Remaining Unreserved Public Lands to States: Hearings on S. 17, 2272 and S. 4060, 72nd Cong., 1st sess., 1932, 17. The members of the committee were as follows: Gerald P. Nye, North Dakota; Reed Smoot, Utah; Peter Norbeck, South Dakota; Tasker L. Oddie, Nevada; Porter H. Dale, Vermont; Bronson Cutting, New Mexico; Frederick Steiwer, Oregon; Robert D. Carey, Wyoming; Key Pittman, Nevada; John B. Kendrick, Wyoming; Thomas J. Walsh, Montana; Henry F. Ashurst, Arizona; Robert F. Wagner, New York; C. C. Dill, Washington; and Sam G. Bratton. The witnesses testifying before the committee hearings on S. 17, 2272, and 4060 were as follows (in alphabetical order): Byron O. Beall, New Mexico; I. M. Brandjord, Montana; G. H. Collingwood, Washington, D.C.;

"What could the State do with its great gift of lands prior to the time of clear listing when its title would be uncertain? It could not sell any land until a clear list issued . . . it could lease but with no degree of safety or assurance that any lands leased were State lands."[2]

Although neither Colton nor his pro-federal allies had convinced Hunt and the Arizona politicians to embrace the idea of national ranges, they did estrange Arizona from the pro-cession contingent that supported only a grant of surface rights. Arizona's official stance became more extreme and they demanded title to the surface and subsurface. Throughout the committee hearings, correspondence continued to pour in from Arizona. By mid-April 1932 the Senate committee received statements from the Arizona Secretary of State, House of Representatives, Senate, and Land Board attesting their state's position. Chairman Nye remained unaware of the growing schism between the pro-cession factions.[3] Consequently, he inadvertently intensified the division by ordering the committee

---

Thomas Cooper, Wyoming; James R. Garfield, Ohio; W. B. Greeley, Washington; Perry W. Jenkins, Wyoming; John M. McFarland, Utah; Gifford Pinchot, Pennsylvania; Franklin Reed, Washington, D.C.; R. Y. Stuart, Washington, D.C.; Charles E. Winter, Wyoming.

[2]U.S. Congress. Senate. Committee on Public Lands and Surveys, Granting Remaining Unreserved Public Lands to States, 17-18.

[3]Ibid., 23-24.

secretary--before each session--to read the missives that had arrived during the last recess. Many of these letters contained strident opinions that only amplified the differences between the factions. This allowed the members and witnesses to stay abreast of the evolving differences between states'-rights schools of thought.

This burgeoning sentiment, favoring the federal divestiture of mineral rights as offered in the Walsh bill, forced Garfield to present a final, desperate defense of his measure. The Garfield bill--both its House and Senate counterparts--had become universally associated with the final recommendations of the Hoover Committee. Therefore, as more westerners eschewed H.R. 5840 and S. 2272, they also implicitly voiced their rejection of the Hoover Committee's findings.

The former Hoover Committee chairman again tried to obfuscate the nexus between unsurveyed land, clear-listing, and mineral reservation. He beguilingly assured the Senate Committee that "we are dealing with the unreserved, unappropriated, and vacant lands. All the lands of known mineral are now reserved and are not covered by this grant."[4] Fellow Hoover Committee member Jenkins corroborated Garfield's deliberately ambiguous statement. Ignoring the fact that over 137 million acres of public

---

[4]Ibid., 81.

domain remained unsurveyed as of 30 June 1931, Jenkins assured the Senate committee that only an exiguous amount of the grant contained classified mineral reservations. Using Arizona's prospective grant as a typical example of the insignificant ratio of reserved minerals, Jenkins told the committee that only 140,000 of the state's 17 million acres of public domain had been clear-listed as mineral lands. Therefore, he confidently explained, the bill would grant the rest of the land in fee-simple form to the state.[5]

Senator Carey immediately objected to this sophistry. He retorted that the grant did encompass vast areas of federally withdrawn land--surveyed and unsurveyed--that the GLO and USGS suspected of mineral content. Referring to an Interior Department report, Carey showed the committee that Arizona possessed 29,976,321 acres of unsurveyed public domain, which the USGS had not clear-listed and could still potentially reserve the entire area if the agency determined it contained any minerals. After grilling Garfield for several hours, Carey finally elicited an accurate explanation from the former chair of the Hoover Committee. Garfield confessed that because "there are very large areas in some other States still unsurveyed, there

---

[5]Ibid., 171-72.

will be delay in the final clear-listing."[6]

Committeemen Walsh of Montana and Kendrick of Wyoming continued Carey's attempt to force Garfield's admission that his bill, and the final report of the Hoover Committee, possessed fundamental contradictions. Senator Kendrick exclaimed that S. 2272 implied that the nation could trust the western states to responsibly manage their surface resources but not their underground minerals. Accordingly, the bill perpetuated the economic and social inequality between the eastern and western states. Kendrick conceded the vital importance of these classified minerals, remarking that the "necessities of the many [can't] become the opportunities of the few."[7] Yet he argued that the western states could apply a more rigorous conservation policy to these natural resources than the federal government had. Referring to former Interior Secretary Albert Fall's illegal sale of naval oil reserves during the Teapot Dome Scandal, Kendrick rhetorically asked supporters of the Garfield bill why they should trust the federal government above the states.

After months of promoting the western states' economic and bureaucratic ability to supervise their grasslands, Garfield began to vacillate. He responded to Kendrick and

---

[6]Ibid., 110.

[7]Ibid., 95.

other adherents of the Walsh faction by equivocating, "Senators, my answer would be this: I think that the Federal Government is more capable of protecting against monopoly and misuse of resources than 48 different governments dealing with the same question." Continuing to waver on this issue, Garfield concluded that a single federal agency should protect these raw materials "rather than have the development of the public domain scattered in various bureaus, agencies, and departments, that is a better answer than to attempt to have 11 or 12 State jurisdictions dealing with those same problems, bearing in mind that many of these subsoil resources, such as oil and gas, are not bound by State lines."[8] The former Hoover Committee chairman also extolled the provision in his bill that forced states to earmark funds for the development of a range science department at their land grant college and corresponding experiment stations. Up to twenty percent of the income derived from the sale or lease of the granted land would defray the costs of these educational facilities. According to Garfield, "several States had not so safeguarded the use of their State lands as to prevent erosion and the loss of range forage" and so they needed this mandate to conserve their lands.[9]

---

[8]Ibid., 96.

[9]Ibid., 242.

Kendrick and Walsh instantly lambasted Garfield for his egregious self-contradictions. Not only had he earlier denigrated the detached and unsympathetic propensities of "far-off bureaucracies" in contrast to local control, but he had also dismissed the problem of coordinating interstate use of natural resources with the solution of "state compacts." Now he was applying a double standard that undermined his entire philosophy. The growing Walsh faction of states' righters--espousing unconditional cession--perceived the relationship between states and resources in black and white. Either the state should control all their patrimony or none of it. Walsh retorted, "It seems to me if we are to suspect the States of such disregard of their obvious interests and their lack of intelligent handling of these, we had better not let them have the lands at all."[10] Reinforcing the position of his Wyoming colleagues, New Mexico Senator Bratton also upbraided Garfield for his fallacious reasoning. Bratton sardonically asked, "If the principle that the surface rights belong to the State in which the land is located, and should be ceded to the State . . . is sound, it is equally sound the subsurface rights belong to that State . . . .I do not see how it could be argued that the State of New Mexico, for instance, is entitled to the full enjoyment

---

[10]Ibid., 242-43.

of the surface of her public domain, but she is not entitled to the full enjoyment of subsurface rights."[11]

Ironically, the more extreme elements of the states' rights bloc exploited the inconsistencies and spurious claims of Garfield--originally revealed by Colton in the House Committee--to advance their cause of unconditional cession. Although Colton used this ambivalence concerning ownership--dividing it between state and federal governments--to justify full federal control, the Walsh faction discovered they could just as effectively point to Garfield's irresoluteness as ample reason for state proprietorship. This factionalization of the states' righters forced Garfield and other defenders of the Hoover Committee's philosophy to uphold a moderate interpretation of the federal government's mission.

Eventually, Garfield had to abjure his former support of the theory of "federal trusteeship." Losing his former allies, Jenkins and Wilson, Garfield qualified his argument even further toward the center. Engaged in a vituperative debate with the spokesmen of the Wyoming and New Mexico contingents--Carey and Bratton, respectively--Garfield denied the assertion that the constitution, Northwest Ordinance of 1786, and court cases adduced by his erstwhile compatriots proved the states legally owned the public

---

[11]Ibid., 97-98.

domain. Instead, he countered that "the Federal Government is the landowner at present, not the State. When the State was created it did not become a landowner by reason of its acceptance of the enabling act, or its adoption of the Constitution."[12] Garfield told Carey and Bratton that "if I recognized or accepted the principle that the State had a right of ownership in the surface, I should certainly accept your conclusion that the same right of ownership existed in the subsurface . . . but I can not accept the principle that the State was the owner of any portion of the public domain."[13]

This controversy concerning the theory of "trusteeship" consumed several days of hearings and finally crystallized the battle lines between the Garfield and Walsh factions. Increasing numbers of states' rights westerners converted to the Walsh faction, and Garfield often found himself in the unexpected position of a mugwump defending federal management. Both Wyoming Senator Carey and fellow Wyomingite Winter exemplified this burgeoning extremist sentiment in their eloquent descriptions of "federal tyranny." In a climactic repudiation of the Garfield bill, Carey expounded, "One bureau of the Federal Government takes our oil; another bureau of the Federal

---

[12]Ibid., 98.

[13]Ibid., 98-99.

Government takes our water, and they use the money from our oil to take our water away from us to develop lands in another state. I think any State should be protected in its own resources, whether Wyoming, New Mexico, or any other State. It would be unfair to go into Oregon and cut down her forests for the benefit of other states."[14]

Winter agreed with his Senator and condemned the "use of Wyoming's water in other States and then the use of oil royalties from our State to put the water on the land in the other States."[15] Winter then introduced the most damaging case against Garfield's philosophy yet. He attacked the theory that the western states benefited from the work of the Reclamation Service. According to Winter, the Reclamation Service did not return the revenue extracted from western states, by the Mineral Leasing Act, as reclamation projects. To prove the Walsh faction's theory that the states should own the minerals, Winter submitted the fiscal report of the Interior Department for 1930. This report evinced that the western states received most of the proceeds generated by the public domain, while the federal government assumed the onus of administering the lands. It affirmed that out of the $6.8 million made from the public domain in 1930--through mineral leases and

---

[14]Ibid., 102.

[15]Ibid., 185.

sales--by the General Land Office, $3,167,000 went to the reclamation fund, $2,400,000 went to the public land states, $275,000 to Indian tribes, and $954,000 to the federal treasury. With the cost of administering the public domain amounting to $2,222,000, the report specified that "$5,567,000 of benefit was passed over to the States and reclamation fund at an out of pocket cost to the United States of $1,300,000."[16]

Winter sarcastically commented that the report, like Garfield, contradicted itself. Obviously "Federal control was a money-losing policy" if it cost $1.3 million annually to administer the lands. Winter attested that the states already possessed the bureaucratic machinery necessary to supervise the surface and subsurface resources, and ceding the land would eliminate this duplication of government and instantly save the country $1.3 million. Secondly, only the states possessed the police powers to effectively regulate resource production and prevent market saturation, inflation, and wild price fluctuations. To combat the overproduction of oil, coal, and other fuels, the federal government could only order a temporary moratorium on mining permits. Finally, the report included the amount allotted to the reclamation fund as part of that ostensibly "returned" to the public-domain states. Winter explained

---

[16]Ibid., 187.

that in reality the dams, reservoirs, and other facilities constructed by the reclamation fund remained federal not state property. The state citizens still had to repay the federal government in "project collections" for these dams, reservoirs, and irrigation works. Nearly 75 percent of the cost of these projects came from users living within the reclamation districts. Therefore, the states did not directly benefit from this situation.

Instead, Winter claimed that if the federal government unconditionally ceded the public domain to the states, they could then include these lands in their tax bases and lower the per capita tax burden shouldered by the citizens of the western states. The taxes levied on these new state lands, supplemented by their leasing and sale, would generate the money needed to construct their own reclamation projects without the interference of the federal government. These state-owned facilities would serve as valuable capital assets and strengthen the states' economy. Moreover, the states could augment the permanent endowment funds that their enabling acts established to support public schools, state buildings, and infrastructure improvements. The increased principal in these accounts would produce more interest that the state could include in school district and highway department budgets.[17] Overall, the state

---

[17]Ibid., 187-91.

ownership of the public domain and its minerals would emancipate the western states from their current economic bondage.

This political infighting among the exponents of states' rights played into the hands of the pro-federal proponents. Similar to the dissolution of a political party, whose resulting factions each field a candidate and therefore split the vote of their constituents, the states' righters had decimated their solidarity. With the two states' rights factions refusing to support each other, they precluded their ability to secure the majority vote required to pass any bill granting the public domain to the states. Furthermore, the ascendancy of the radical faction strengthened the position of the pro-federal forces.

The brazen demands adopted by the Walsh faction, unlike that of Garfield and the Hoover Committee, aroused a larger cross section of American society. Those individuals favoring federal management found a groundswell of support that had not existed before the rise of the Walsh faction. The pro-federal advocates had marshaled substantial support from conservation and forestry groups by exploiting the issue of assigning states mineral rights. Moreover, the provision in the Walsh bill to adjust the boundaries of national reservations mobilized an unprecedented level of pro-federal support.

This provision provided for the creation of a "Commission on Parks, Reservations, and Withdrawals" in each of the public land states eligible for the grant of public domain. Composed of three members--one appointed by the interior secretary, another by the agriculture secretary, and the other by the respective state governors--these boards would review the boundaries of "national parks, game and bird reserves, Carey Act Withdrawals, reclamation withdrawals, power site withdrawals, land withdrawn for stock-watering purposes, for stock driveways, and all other reservations and withdrawals."[18] The bill authorized the boards to determine what areas of the public domain the forest reserves should acquire, and conversely what areas the forest reserves should relinquish. Transcending an advisory function, the boards--through the concurrence of two members--could issue mandates to the state and federal governments. Their rulings did not undergo a review process or require approval by Congress or the president. The bill allotted the boards one year to consummate their task, and failed to appropriate them any money.

Pro-federal proponents immediately portrayed these boards as a pernicious attack on the federal system of resource management that over forty years of legislation

---

[18]Ibid., 1-5.

and public action had created. Contrary to democratic procedure, the bill did not require the boards to hold public hearings, publish their findings, or seek approval from elected representatives. Essentially these boards constituted a diabolical stratagem by the states to grab even more federal land along with the grant of public domain. Backers of the federal system alluded to the pugnacious statements of Walsh faction disciples to corroborate their accusations. For example, Arizona Governor George Hunt, in a letter to the Senate committee, opined, "Federal management of the forest areas in Arizona has not accomplished conservation. Federal control . . . has but secured Federal revenue rather than local benefit. I know of no real practical work that has been done in the Federal reservations of Arizona to protect them against erosion, so we can anticipate none by extending the reserved areas."[19]

By the hearings' conclusion in late Spring 1932, hundreds of letters from conservation groups, academic institutions, forestry associations, livestock organizations, chambers of commerce, county commissioners, and state legislatures had deluged the Senate committee.[20]

---

[19]Ibid., 154.

[20]The organizations formally declaring their opposition to the Walsh and Garfield bills, especially the sections providing for boards to adjust the boundaries of

Nearly all these groups enunciated their visceral opposition to reducing the geographical size or bureaucratic parameters of the national forest and park systems. The Utah contingent of Peterson, Colton, Dern, and McFarland quickly observed the emotion evoked by this provision and paraded several influential pro-federal witnesses before the committee during its final week of hearings.

The pro-federal assault began with the vanguard of two professional foresters, Franklin Reed and G. H.

---

the forest reserves, included: American Farm Bureau Federation; American Forestry Association, Association of State Foresters; Bighole (Montana) Stockmen's Association; California, Santa Barbara County Board of Supervisors; California State Chamber of Commerce, Southern Council; Colorado, Boulder Chamber of Commerce; Colorado, Boulder County, Board of County Commissioners; Colorado, Larimer County, Board of County Commissioners; Conservation Association; Cornell University; Crest Forest Club; Dude Ranchers' Association; Eden Conservation Society; Idaho Woolgrowers' Association; Massachusetts Forestry Association; Michigan Academy of Science, Conservation Committee; Michigan Conservation Council; Michigan State College; Michigan University, School of Forestry and Conservation; Oregon Forest Fire Association; Penobscot Forestry Club; Portland (OR) Chamber of Commerce; Redrock Valley (Montana) Stock Association; Rocky Mountain Biological Laboratory; Ruby Valley Stock Association; Sierra Club; Society for Protection of New Hampshire Forests; Twin Bridges (Montana) Rotary Club; Twinlakes (Montana) Stockmen's Association; Utah State Agricultural College; Westfork (Montana) Stock Association; University of Wisconsin, College of Agriculture; Wise River (Montana) Stock Association.

Collingwood.[21] Although decrying the more recent proposals of the Walsh faction, these foresters built on the resistance that the pro-federal forces had maintained since the Hoover Committee. They used the refusal of Colonel W. B. Greeley to sign the final report of the Hoover Committee as a rallying point. Greeley had abstained from endorsing the report because of a similar, albeit diluted, recommendation to create state boards for adjusting national forest boundaries.

Reed spoke first and explained that existing laws, such as the Weeks Act and Clarke-McNary Act, already dictated how the Forest Service could acquire new lands. He also reminded the committee that only the secretary of agriculture could "initiate proper action in the case of any eliminations of land from the national forests."[22]

---

[21]U.S. Congress. Senate. Committee on Public Lands and Surveys, Granting Remaining Unreserved Public Lands to States, 192-220. Franklin Reed represented the Society of American Foresters and G. H. Collingwood represented the American Forestry Association.

[22]U.S. Congress. Senate. Committee on the Public Lands and Surveys, Granting Remaining Unreserved Public Lands to States, 192-93. The Weeks Act of 1911 authorized the Forest Service to acquire forest areas through direct purchase from states and private owners. Under this act, the agency could establish forests in non-public domain states where the land had been previously privatized through homesteading, pre-emption, and cash sales. The act underscored the need to protect interstate rivers and watersheds, especially in the Northeast and Southeast. The Clarke-McNary Act of 1924 broadened the scope of the Weeks Act concerning the acquisition of land. It also implemented a new policy of cooperation between the federal government, state agencies, and private forest owners. The

Moreover, the Weeks Act had already established a board to rule on land acquisition and liquidation. The National Forest Reservation Commission, consisting of the secretaries of agriculture, interior, and war, as well as two members from both the House and Senate, had to approve all boundary adjustments and land selections proposed by the Forest Service.[23] The boards created by the Walsh bill would only serve as a superfluous extension to the existing federal and state bureaucracy.

Collingwood expanded his colleague's legal history, and circumspectly described how the purpose of these boards contradicted over thirty years of national forest legislation. He argued that the federal government should not eliminate any land from the forest reserves, but instead should include all the remaining public domain

---

act provided for the federal government to match state funds in support of fire protection, reforestation, nurseries, and taxation studies. The act also created state extension foresters--who worked in coordination with the State Extension Service created by the Smith-Lever Act of 1914--to aid small woodlot owners or "forest farmers." For a more comprehensive discussion of these laws, see Paul Wallace Gates and Robert P. Swenson, History of Public Land Law Development (Washington, D.C.: Government Printing Office, 1968; reprint, Holmes Beach, FL: WM. W. Gaunt & Sons, 1987), 591-600 and William G. Robbins, American Forestry: A History of National, State, & Private Cooperation (Lincoln: University of Nebraska Press, 1985), 66-104. Robbins devotes entire chapters to the Weeks and Clarke-McNary Acts, and astutely analyzes the political and economic debates preceding their passage.

[23]Gates and Swenson, History of Public Land Law Development, 595.

within them. Postulating a new version of the "theory of trusteeship," Collingwood posited that this theory only applied to the land ceded by the original thirteen colonies. Since these royal charters had vouchsafed the land in fee-simple title to the colonies, neither the federal government nor the collective people of the United States had ever purchased the lands. Therefore, when settlers carved states such as Ohio and Indiana from this ceded territory, they could legally claim the public domain as their patrimony. In contrast, the forester maintained, the "lands west of the Mississippi were purchased by the citizens of the entire United States," and therefore the government did not hold them in a temporary trust but in full ownership. He then applied this argument to the forest reserves and reasoned that state boards did not have the legitimacy to usurp the lands owned by the entire nation. Accordingly, these boards "struck at the very foundation of the national principles of conservation formulated under the leadership of Theodore Roosevelt and developed during the intervening years."[24]

Collingwood's commentary elicited a sharp rebuke from Wyoming Senator Carey, who condescendingly inquired how the forester had arrived at these erroneous conclusions.

---

[24]U.S. Congress. Senate. Committee on the Public Lands and Surveys, Granting Remaining Unreserved Public Lands to States, 210-11.

Collingwood replied that eleven separate land boards implementing eleven different policies would destabilize the uniform system that had evolved from years of federal law. Carey, responding with bravado that unintentionally aided his pro-federal opponents, pronounced, "We fear that the whole State of Wyoming will be included within the national parks or within the national forests. Our effort all the time is to get away from the Government."[25] Unfazed by Carey's blustering, Collingwood finished his testimony by urging the committee to reject the Walsh bill. He informed the senators that the American Forestry Association--backed by the Society of American Foresters, the Izaak Walton League of America, the National Grange, the American Farm Bureau, the Conservation Association of Los Angeles, and the National Parks Association--stood for "the inviolate retention of the lands and natural resources which now belong to our people as a perpetual and inalienable trust to be used for the common benefit of the citizens of the United States."[26]

To drive home the pro-federal maul, a triumvirate of former and current Forest Service chiefs appeared before the committee. Two close associates of Peterson on the Hoover Committee, R. Y. Stuart and Colonel W. B. Greeley,

---

[25]Ibid., 211.

[26]Ibid., 214.

flanked by the distinguished Gifford Pinchot, arrived in Washington, D.C. to deliver the death blow to the Garfield and Walsh bills.

R. Y. Stuart, the acting director of the Forest Service, took the floor first. Stuart reviewed the legal history of the Forest Service, and highlighted a law that Collingwood overlooked. He explained that Congress passed a law in 1912 ordering the secretary of agriculture to "select, classify, and segregate . . . all lands within the boundaries of the national forests" that offered potential for homesteading and farming. Once the secretary classified these lands as suitable for "non-forest purposes," settlers could claim them under the Forest Homestead Act of 1906.[27] Stuart then notified the committee that this task had taken ten years of sedulous work and over one million dollars to complete. How, he asked the committee, could these boards "determine absolutely and finally, without review, within one year,

---

[27]Ibid., 203; and Gates and Swenson, History of Public Land Law Development, 512. The Forest Homestead Act of 1905 provided settlers an opportunity to settle on land within the boundaries of the forest reserves, which the Department of Agriculture had classified as suitable for farming. However, the department also had to rule that the homestead would not undermine the protection of the surrounding forest--especially concerning watersheds and fire suppression. The act did not contain a commutation clause, so entrymen had to fulfill the full residency requirements.

the lands to be added?"[28]

Stuart denounced the tremendous discretion these boards would enjoy. The bill did not enjoin them to conform to land classification standards developed by the Forest Service. Stuart charged that the nebulous parlance of the bill would give the boards a "free hand to determine what national-forest policy and objectives should be" and lead to a detrimental remodeling of the forest reserves.[29] S. 4060 empowered the boards to remove any land "not primarily suitable for forest purposes" from the current national forests. Each board could then follow its own criteria for defining "forest purposes," and seize vast tracts of land for their respective states.

Again Senator Carey reacted to this bureau perspective, and offered his own recriminations. He alleged that the Forest Service wanted to expand its jurisdiction over grazing and riparian areas through the pretext of "watershed protection." Carey outlined the logic of the Forest Service as such: nearly all the land in the West is a watershed; a primary purpose of the Forest Service is to protect watersheds; therefore, the Forest Service should protect nearly all of the western lands.

---

[28]U.S. Congress. Senate. Committee on the Public Lands and Surveys, Granting Remaining Unreserved Public Land to States, 204.

[29]Ibid., 204-05.

Bristling at this syllogism, the Wyoming Senator remonstrated, "Take my State of Wyoming. All of Wyoming could be called a watershed. It contains the Continental Divide." He discounted the delicate ecological connections between grazing, erosion, and watersheds, remarking, "We have little erosion out there. I do not think I have ever seen any erosion in Wyoming."[30]

After Stuart, the two most venerable proponents of the Forest Service testified before the Senate committee. Pinchot personified the conservation ethos, while Greeley loomed as the sole objector to the Hoover Committee report. Both former Forest Service chiefs touted the pivotal role their bureau assumed in the conservation of natural resources and voiced their unwavering opposition to the Walsh and Garfield bills. Reemphasizing Stuart's point that the Forest Service had implemented an adequate system of land classification, Greeley informed the committee that "I personally engaged in a very extensive examination of the national forest boundaries in 1910 and 1911, and at that time eliminations aggregating something like 21,000,000 acres were made, and the boundaries were subjected to a very searching detailed examination. . . . [A] further detailed examination, duplicating what was done then, would not reveal any extensive areas that should be

---

[30]Ibid., 206.

eliminated."[31] Greeley argued that instead of attenuating the role of the Forest Service, any grazing bill enacted by Congress should secure the bureau a "permanent place in the administration and conservation of the range."

When Pinchot finally addressed the committee, the pro-federal witnesses had already broached all their arguments. Despite his lack of new material, the symbolic value of Pinchot's appearance outweighed the substance of his testimony. The endorsement of this nationally recognized figure could only help the pro-federal contingent foster additional support.

Although the pro-federal forces on the Senate Public Lands and Surveys Committee lacked a formidable leader like Colton or Peterson, the inconsistencies they revealed in the Garfield bill and the Hoover Committee's report propelled the pro-federal cause through the Senate. Notwithstanding the convincing testimony of several conservationists, the factionalization of the states'-rights bloc during the Senate committee hearings boosted the idea of national ranges more than anything. The internecine verbal warfare waged by the Garfield and Walsh factions discredited both the moderate and extreme versions of the states'-rights philosophy, with the former appearing paradoxical and the latter avaricious. The bills sponsored

---

[31]Ibid., 119.

by Garfield and Walsh, S. 2272 and S. 4060, experienced a similar fate to H.R. 5840 and neither received the votes needed to move on to the Senate floor. Though states'-rights advocates enjoyed a majority on the Senate committee, they could not reconcile their differences enough to support either pro-cession measure.

By the summer of 1932 and early 1933, the bills sponsored by Colton and Taylor received increasing support as the only rational solutions to the public domain and grazing dilemma. Several conferences, called by state governors, livestock associations, and federal bureaucracies over the next year, would lend further credence to the idea of national ranges.

CHAPTER VI

ON TO THE TAYLOR GRAZING ACT

Less than a month after the defeat of the Garfield and Walsh bills, Don Colton introduced his own grazing bill to the House Public Lands Committee. H.R. 11816 outlined a system of national ranges administered by the Interior Department.[1] The earlier testimony of Dern, McFarland, Greeley, and Colton against the pro-cession measures had prompted the ideological apostasy of several erstwhile states'-rights adherents. John M. Evans, the chairman of the House Public Lands Committee who had sponsored the Garfield bill, now supported Colton's call for federal control. Even Interior Secretary Lyman Wilbur stated, "H.R. 11816 has received very careful consideration in this department and it is believed to be a workable and desirable piece of legislation. Its benefits will not be local, but state and nation wide. I recommend early and favorable action."[2]

Bolstered by these recent converts, Colton maneuvered

---

[1]U.S. Congress. House. Committee on the Public Lands, Grazing on Public Domain: Hearings on H.R. 11816, 72nd Cong., 1st sess., 1932, 108.

[2]U.S. Congress. House, Committee on the Public Lands, Grazing on the Public Domain, 10. Phillip O. Foss, Politics and Grass: The Administration of Grazing on the Public Domain (Seattle: University of Washington Press, 1960; reprint, New York: Greenwood Press, 1969), 51.

his bill through the committee by mid-June 1932, and secured a passing vote on the House floor. Although H.R. 11816 became the first grazing bill ever to pass either chamber of Congress, it foundered in the Senate Committee on Public Land and Surveys. Despite the strong testimony of Colton, Evans, Stuart, and Edward T. Taylor, the Senate committee failed to report on the bill.[3]

Rebounding quickly from this setback, Taylor--another recent deserter of the states'-rights school of thought--reintroduced Colton's bill during the Seventy-third Congress. The Colorado Representative personified the national and congressional shift from traditional states'-rights attitudes to pro-federal thought led by Peterson and his colleagues during the early 1930s. Since his election to the House in 1909, Taylor had emphatically opposed federal control. Epitomizing his philosophical stance, Taylor enunciated in 1914 that "I am and always have been opposed to having the resources of the West withheld from private ownership and put into a general Federal leasing system, and I cannot reconcile myself to believe that it is for the welfare or development of our Western Sates to have our internal affairs governed by Washington bureaucrats. I

---

[3]U.S. Congress. Senate. Committee on Public Lands and Surveys, Public Grazing Lands: Hearings on H.R. 11816, 72nd Cong., 1st sess., 1933.

earnestly feel it is an un-American policy."[4] The apex of Taylor's anti-government crusade came in 1916, when he orchestrated the passage of the Stock-Raising Homestead Act.[5]

By 1933 Taylor had disavowed his earlier beliefs and resurrected the Colton bill with minor revisions. He expunged the provision of Colton's measure that authorized state legislatures to reject national ranges, and exclude their respective states from federal control. Taylor realized that with the new pro-federal Roosevelt administration and Congress, he no longer needed to extend this concession to states'-rights advocates.[6] Although Taylor still confronted a lively states'-rights opposition in the House and Senate, the former passed the Taylor Grazing Act on 11 April 1934 and the latter--after the violent dust storms of the great plains--on 12 June 1934.[7]

---

[4]Louise E. Peffer, The Closing of the Public Domain: Disposal and Reservation Policies, 1900-1950 (Stanford: Stanford University Press, 1955), 216.

[5]Paul Wallace Gates and Robert W. Swenson, History of Public Land Law Development (Washington, D.C.: Government Printing Office, 1968; reprint, Holmes Beach, FL: WM. W. Gaunt & Sons, 1987), 516--17.

[6]Gates and Swenson, History of Public Land Law Development, 610 and Foss, Politics and Grass, 51-2.

[7]U.S. Congress. House. Committee on the Public Lands, To Provide for the Orderly Use, Improvement, and Development of the Public Range: Hearings on H.R. 2835 and H.R. 6462, 73rd Cong., 1st and 2nd sess., 1933-1934 and U.S. Congress. Senate. Committee on Public Lands and

The support of President Franklin D. Roosevelt, Interior Secretary Harold Ickes, Agriculture Secretary Henry C. Wallace, and Assistant Secretary of Agriculture Rexford Tugwell precipitated the final triumph of a federally managed grazing system.[8] The intellectual and political blueprint drafted by pro-federal forces during the Hoover administration furnished these "New Dealers" with a coherent plan for the public domain. Yet the historical preoccupation with the Roosevelt era often obscures its critical prelude.

Compared with the proliferation of New Deal programs, including the Soil Conservation Service, Agricultural Adjustment Administration, and the Division of Grazing created by the Taylor Act, the platform espoused by Peterson and his colleagues appears amazingly prophetic. Although the Roosevelt administration emphasized such issues as soil erosion, submarginal lands, and overgrazing, neither Ickes, Wallace, nor Taylor conceived the programs they implemented. Many of the New Dealer's policies, especially the Taylor Grazing Act, merely applied the ideas

---

Surveys, To Provide for the Orderly Use, Improvement, and Development of the Public Range: Hearings on H.R. 6462, 73rd Cong., 2nd sess., 1934. Harold Ickes testified at both the House and Senate hearings, while Henry Wallace testified only before the House commitee.

[8]Richard S. Kirkendall, Social Scientists and Farm Politics in the Age of Roosevelt (Columbia, MO: University of Missouri Press, 1966), 56-65.

of their predecessors.

The events of the early 1930s, including the Hoover Committee, National Conference on Land Utilization, and the House and Senate committee hearings of 1932, served as forums for the growth of a coherent pro-federal movement. The pioneering work of William Peterson, E. C. Van Petten, I. H. Nash, and W. B. Greeley, as minority members of the Hoover Committee, established valuable communication links and increased awareness among pro-federal proponents of their common aspirations. The concessions they wrested from the powerful states'-rights majority also tempered the Hoover Committee's final report and instilled the confidence to organize their own gathering.

The National Conference on Land Utilization, arranged by L. C. Gray and other pro-federal USDA officials, assembled 350 similar-minded individuals, representing a wide array of academic, business, and political interests. William Peterson and R. Y. Stuart delivered stirring addresses to the conference, and the USAC professor helped compose the resolutions ultimately adopted by the conference. The final report of the National Conference on Land Utilization unequivocally endorsed federal retention of the public domain and a system of national ranges. Essentially, the conference rendered the first collective call for federal control by such an accredited group.

Emboldened by their earlier successes, several pro-federal witnesses, including Utah Governor George H. Dern, John M. McFarland, R. Y. Stuart, W. B. Greeley, and Gifford Pinchot, appeared before the House Committee on Public Lands and the Senate Committee on Public Lands and Surveys. Aided by House committee member Don B. Colton, these persuasive witnesses convinced both committees to reject the Garfield and Walsh bills, which embodied the recommendations of the Hoover Committee. They not only exploited the contradictions in the states'-rights arguments, but also exacerbated the divisions between their opponents. By the end of the Senate committee hearings, the factionalization of the states' righters effectively undermined their campaign for cession.

Although historians often dismiss this period as unimportant, it remains a critical transition between two periods of land law and political thought. Scholars need to explore the background causes of the Taylor Grazing Act, and transcend a narrow focus on its precipitants. The tail should not wag the dog.

BIBLIOGRAPHY

Primary Sources

Director's Files, Utah Agricultural Experiment Station, William Peterson Papers, Box 3, Folders 1-43. Department of Special Collections and Archives, Milton R. Merrill Library, Utah State University, Logan, Utah.

_____. William Peterson and the Committee on the Conservation and Administration of the Public Domain, Box 6, Folders 1-32. Department of Special Collections and Archives, Milton R. Merrill Library, Utah State University, Logan, Utah.

_____. Don B. Colton Papers, Box 7, Folders 1-23. Department of Special Collections and Archives, Milton R. Merrill Library, Utah State University, Logan, Utah.

Governor George H. Dern Papers. William Peterson Correspondence, Box Z155G9. Utah State Archives and Records Service, Archives Building, State Capitol, Salt Lake City, Utah.

Public Land Law Review Commission, Digest of Public Land Law. Washington, D.C.: Government Printing Office, 1968.

U.S. Congress. Report of the Committee on the Conservation and Administration of the Public Domain. Washington, D.C.: Government Printing Office, 1931.

U.S. Congress. House. Committee on the Public Lands. Granting Remaining Unreserved Public Lands to the States: Hearings on H.R. 5840, 72nd Cong., 1st sess., 1932.

_____. Grazing on Public Domain: Hearings on H.R. 11816, 72nd Cong., 1st sess., 1932.

_____. To Provide for the Orderly Use, Improvement, and Development of the Public Range: Hearings on H.R. 2835 and H.R. 6462, 73rd Cong., 1st and 2nd sess., 1933-1934.

U.S. Congress. House. Committee on Rules. Commission to Study and Report on Conservation and Administration of Public Domain: Hearings on H.R. 6153, 71st Cong., 2nd sess., 1930.

U.S. Congress. Senate. Committee on Public Lands and Surveys. Granting Remaining Unreserved Public Lands to the States: Hearings on S. 17, 2272 and S. 4060, 72nd Cong., 1st sess., 1932.

_____. Public Grazing Lands: Hearings on H.R. 11816, 72nd Cong., 1st sess., 1933.

_____. To Provide for the Orderly Use, Improvement, and Development of the Public Range: Hearings on H.R. 6462, 73rd Cong., 2nd sess., 1934.

U.S. Department of Agriculture. Proceedings of The National Conference on Land Utilization: Chicago, IL., 19-21 November 1931. Washington, D.C.: Government Printing Office, 1932.

_____. Yearbook of Agriculture. Washington, D.C.: Government Printing Office, 1929-1934.

U.S. Department of Interior. Annual Report. Washington, D.C.: Government Printing Office, 1929-1934.

Secondary Sources

Brubaker, Sterling, ed. Rethinking the Federal Lands. Washington, D.C.: Resources for the Future, 1984.

Calef, Wesley. Private Grazing and Public Lands. New York: Arno Press, 1979.

Clawson, Marion. The Federal Lands Revisited. Baltimore: The Johns Hopkins University Press, 1983.

Cronon, William, George Miles, and Jay Gitlin, eds. Under an Open Sky: Rethinking America's Past. New York: W. W. Norton & Company, 1992.

Culhane, Paul J. Public Lands Politics: Interest Group Influence on the Forest Service and the Bureau of Land Management. Baltimore: The Johns Hopkins University Press, 1981.

Dick, Everett. The Lure of the Land: A Social History of the Public Lands from the Articles of Confederation to the New Deal. Lincoln: University of Nebraska Press, 1970.

Donaldson, Thomas C. The Public Domain: Its History, with Statistics, with References to the National Domain,Colonization, Acquirement of Territory, the Survey,Administration and Several Methods of Sale and Disposition of the Public Domain of the United States, with Sketch of Legislative History of the Land States and Territories, and Reference to the Land System of the Colonies, and also that of Several Foreign Governments. Washington, D.C.: Government Printing Office, 1884.

Fairfax, Sally K., and Carolyn E. Yale. Federal Lands: A Guide to Planning Management and State Revenues. Washington, D.C.: Island Press, 1987.

Fairfax, Sally K., and Samuel Trask Dana. Forest and Range Policy: Its Development in the United States. rev. ed. New York: McGraw-Hill, 1979.

Foss, Phillip O. Politics and Grass: The Administration of Grazing on the Public Domain. Seattle: University of Washington Press, 1960; reprint, New York: Greenwood Press, 1969.

Gates, Paul Wallace. The Farmer's Age: Agriculture, 1815-1860. New York: Holt, Rinehart, and Winston, 1960.

_____. The Fruits of Land Speculation. New York: Arno Press, 1979.

_____. Land and Law in California: Essays on Land Policies. Ames: Iowa State University Press, 1991.

_____. The Wisconsin Pine Lands of Cornell University: A Study in Land Policy and Absentee Ownership. Ithaca: Cornell University Press, 1943.

Gates, Paul Wallace, and Robert W. Swenson. History of Public Land Law Development. Washington, D.C.: Government Printing Office, 1968; reprint, Holmes Beach, FL: WM. W. Gaunt & Sons, 1987.

Gottlieb, Robert. A Life of Its Own: The Politics of Power and Water. San Diego: Harcourt Brace Jovanovich Publishers, 1988.

Graf, William L. Wilderness Preservation and the Sagebrush Rebellion. Savage, MD: Rowman & Littlefield Publishers, 1990.

Hays, Samuel P. Beauty, Health, and Permanence: Environmental Politics in the United States, 1955-1985. Cambridge: Cambridge University Press, 1987.

Hibbard, Benjamin Horace. A History of the Public Land Policies. Madison: University of Wisconsin Press, 1924.

Hundley, Norris, Jr. The Great Thirst: Californians and Water, 1770s-1990s. Berkeley: University of California Press, 1992.

Ise, John. The United States Forest Policy. New Haven: Yale University Press, 1920.

Kirkendall, Richard S. Social Scientists and Farm Politics in the Age of Roosevelt. Columbia: University of Missouri Press, 1966.

Lamm, Richard D., and Michael McCarthy. The Angry West: A Vulnerable Land and Its Future. Boston: Houghton Mifflin, 1982.

Layton, Stanford J. To No Privileged Class: The Rationalization of Homesteading and Rural Life in Early Twentieth-Century American West. Provo: Brigham Young University, Charles Redd Center for Western Studies, 1988.

Libecap, Gary D. Locking Up the Range: Federal Land Controls and Grazing. Cambridge: Harper & Row Publishers, Inc., 1981.

Limerick, Partricia Nelson. The Legacy of Conquest: The Unbroken Past of the American West. New York: W. W. Norton & Company, 1987.

Limerick, Patricia Nelson, Clyde A. Milner II, and Charles E. Rankin, eds. Trails: Toward a New Western History. Lawrence: University Press of Kansas, 1991.

Malin, James C. History and Ecology: Studies of the Grassland. Edited by Robert P. Swierenga. Lincoln: University of Nebraska Press, 1984.

Nash, Roderick. Wilderness and the American Mind. New

Haven: Yale University Press, 1967.

Parson, Robert. "Prelude to the Taylor Grazing Act: Don B. Colton and the Utah Public Domain Committee, 1927-32." Encyclia 68 (1991): 209-31.

Peffer, Louise E. The Closing of the Public Domain: Disposal and Reservation Policies, 1900-1950. Stanford: Stanford University Press, 1955.

Pisani, Donald J. From Family Farm to Agribusiness: The Irrigation Crusade in California and the West, 1850-1931. Berkely: University of California Press, 1984.

_____. To Reclaim a Divided West: Water, Law, and Public Policy, 1848-1902. Albuquerque: University of New Mexico Press, 1992.

Puter, Stephen A. Douglas, and Horace Stevens. Looters of the Public Domain: Use and Abuse of America's Natural Resources. Portland: Portland Printing House Publishers, 1908; reprint, New York: Arno Press, 1972.

Reisner, Marc. Cadillac Desert: The American West and Its Disappearing Water. New York: Penguin Books, 1986.

Robbins, Roy M. Our Landed Heritage: The Public Domain, 1776-1970. Lincoln: University of Nebraska Press, 1942.

Robbins, William G. American Forestry: A History of National, State, & Private Cooperation. Lincoln: University of Nebraska Press, 1985.

Rohrbough, Malcolm J. The Land Office Business: The Settlement and Administration of American Public Lands, 1789-1937. New York: Oxford University Press, 1968.

Runte, Alfred. National Parks: The American Experience. 2d. ed. Lincoln: University of Nebraska Press, 1987.

Smith, Christopher. "Western Rebels: Pray for Strength, But Say They Have Not Yet Begun to Fight." Salt Lake Tribune, 15 February 1994, A1-2.

_____. "Caucus Wants Federal Lands Deeded to Western States." Salt Lake Tribune, 16 February 1994, B3.

Stephenson, George M. The Political History of the Public

Lands, 1840-1862: From Preemption to Homestead. New York: Russell & Russell, 1917.

Sting. The Police. "Wrapped Around Your Finger." Synchronicity. Hollywood, CA: A&M Records, 1983.

Swierenga, Robert P. Pioneers and Profits: Land Speculation on the Iowa Frontier. Ames: Iowa State University Press, 1968.

Thompson, Ernie. "They're Fed Up, and Aren't Going to Take It Anymore." High Country News, 21 February 1994, 7.

"Western History Association Prize Recipient, 1986: Paul Wallace Gates." Western Historical Quarterly 18 (April 1987): 132-40.

Wheeler, Jack. "Land War." Strategic Investment, 19 January 1994, 11.

White, Richard. "It's Your Misfortune and None of My Own": A New History of the American West. Norman: University of Oklahoma Press, 1991.

_____. Land Use, Environment, and Social Change: The Shaping of Island County, Washington. Seattle: University of Washington Press, 1980.

Wilkinson, Charles F. Crossing the Next Meridian: Land, Water, and the Future of the West. Washington, D.C.: Island Press, 1992.

Winter, Charles E. Four Hundred Million Acres: The Public Lands and Resources. Casper, WY: Overland Publishing Company, 1932; reprint, New York: Arno Press, 1979.

Worster, Donald. Dust Bowl: The Southern Plains in the 1930s. Oxford: Oxford University Press, 1979.

_____. Rivers of Empire: Water, Aridity, and the Growth of the American West. New York: Pantheon Books, 1985.

Wunder, John R., ed. Working the Range: Essays on the History of Western Land Management and the Environment. Westport, CT: Greenwood Press, 1985.