
This is a reproduction of a library book that was digitized by Google as part of an ongoing effort to preserve the information in books and make it universally accessible.

Google™ books

<https://books.google.com>





LIBRARY
OF THE
UNIVERSITY
OF ILLINOIS

77-1-S

P975z

pt. 6-12

11-1-5
p975a
6-12

ADMINISTRATION AND USE OF PUBLIC LANDS

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON PUBLIC LANDS AND SURVEYS
UNITED STATES SENATE
SEVENTY-EIGHTH CONGRESS

FIRST SESSION

PURSUANT TO

S. Res. 241, S. Res. 147, and S. Res. 39
(76th Congress) (77th Congress) (78th Congress)

RESOLUTIONS AUTHORIZING THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS TO MAKE A FULL
AND COMPLETE INVESTIGATION WITH
RESPECT TO THE ADMINISTRATION
AND USE OF PUBLIC LANDS

PART 6

FEBRUARY 16 AND 17, 1943, VERNAL, UTAH

Printed for the use of the Committee on Public Lands and Surveys



THE LIBRARY OF THE

JUN 17 1943

UNIVERSITY OF ILLINOIS

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1943

COMMITTEE ON PUBLIC LANDS AND SURVEYS

CARL A. HATCH, New Mexico, *Chairman*

ROBERT F. WAGNER, New York
JOSEPH C. O'MAHONEY, Wyoming
JAMES E. MURRAY, Montana
PAT McCARRAN, Nevada
CHARLES O. ANDREWS, Florida
MON C. WALLGREN, Washington
ABE MURDOCK, Utah
EDWIN C. JOHNSON, Colorado

GERALD P. NYE, North Dakota
CHAN GURNEY, South Dakota
RUFUS C. HOLMAN, Oregon
JOHN THOMAS, Idaho
RAYMOND E. WILLIS, Indiana
EDWARD V. ROBERTSON, Wyoming

W. H. McMains, *Clerk*

N. D. MCSHERRY, *Assistant Clerk*

SUBCOMMITTEE ON SENATE RESOLUTION 241 (76TH CONG.)

PAT McCARRAN, Nevada, *Chairman*

CARL A. HATCH, New Mexico
JAMES E. MURRAY, Montana
CHARLES O. ANDREWS, Florida
MON C. WALLGREN, Washington

GERALD P. NYE, North Dakota
RUFUS C. HOLMAN, Oregon

E. S. HASKELL, *Chief Investigator*
ELIZABETH HECKMAN, *Secretary*

77-1-S
P975a
pt 6-12

CONTENTS

Statement of—

Allred, Horace	2194, 2259, 2342, 2356, 2367, 2385
Browns, Lafe	2228
Broome, Marvin	2336
Christiansen, Leon	2382
Colton, B. O.	2191, 2345, 2351
Curry, Oran F.	2364, 2314, 2351
Day, Willars	2378
Dillman, Ray	2169, 2186, 2258, 2295, 2364, 2385
Favre, C. E.	2370, 2381
Galloway, Louie	2362, 2363
Gilbert, L. J.	2362
Graham, L. O.	2182, 2232, 2261, 2272
Haskell, E. S.	2257
Haslem, Joseph	2228
Havell, Thomas C.	2176, 2228, 2271, 2309, 2343
Iorg, Mrs. Lorina	2351
Jenson, Dowane E.	2195
Johnson, Clyde S.	2183, 2230, 2246, 2281, 2340, 2368
Larson, L. Waine	2195, 2280, 2310, 2341
Lusty, Bert	2361
Leech, J. H.	2176, 2189, 2269, 2310, 2339
McKee, Harvey	2365
M Kee, J. R.	2383
Meagher, N. J.	2299
Moore, Chas. F.	2311
Moulton, H. D.	2326
Orser, Lynn	2388
Patterson, Knox	2167, 2224, 2246, 2275, 2304, 2330, 2380
Pawwinnee	2265
Rice, W. B.	2373
Sallee, Ernest	2249
Smith, Emory G.	2310, 2381
Smith, Moroni A.	2183, 2214, 2227, 2287, 2302
Thorne, Louie M.	2335
Wagner, Joe A.	2282
Woelke, Walter V.	2197, 2244, 2269, 2235, 2316, 2343
Wright, C. C.	2138, 2246, 2280, 2349, 2372, 2389

ADMINISTRATION AND USE OF PUBLIC LANDS

TUESDAY, FEBRUARY 16, 1943

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS,
Vernal, Utah.

The subcommittee met, pursuant to call at 10 a. m., at Vernal, Utah, Senator Pat McCarran presiding.

Present: Senators McCarran (chairman), Abe Murdock.

Also present: E. S. Haskell, investigator.

The CHAIRMAN. The committee will come to order. The Committee on Public Lands of the United States Senate is meeting here at this time, meeting under and pursuant to Senate Resolution 241 of the United States Senate to investigate the administration and proprietorship of the open public domain.

Let me say at the outset that this hearing was called at this particular time because of certain contingencies that have arisen in the past and because of the fact that the Secretary of the Interior, acting through the Second Assistant Secretary, and the chairman of this subcommittee have had an agreement that as soon as possible these hearings would be conducted. It appears from a preliminary and rather imperfect view of the situation that there are a number of questions involved. The committee will be unable to give more than 2 days to the hearing at this time. We will proceed as rapidly and with as long hours as is possible, consistent with our ability to hear those who wish to be heard. If we are unable to conclude the hearings by tomorrow night we will have to recess and take them up at a later date. The committee is compelled to leave here on the following morning to take its course on to Washington. Certain important matters are calling us back there and we cannot give more than 2 days to the hearings at this time. For that reason it may be necessary to work longer hours than ordinarily is cared to put in at this line of work.

We have had in the field here for some days our special investigator, Mr. Haskell. We have his preliminary view and observations made on the grounds. From that view the committee hopes that it has formulated a plan of procedure to expedite and to hear as consistently as possible the problems involved.

It is our view that a concise and somewhat brief history of the Indians and Indian activity in the locality would be an opening subject. The committee therefore calls Mr. Wright, superintendent of the Indian reservation, at this point.

The witness will not be sworn unless something arises where the committee deems it necessary. As a rule, we find men tell the truth, and if they don't, they usually get caught at it. If they get caught at it, it is just going to be too bad.

STATEMENT OF C. C. WRIGHT, SUPERINTENDENT, UINTAH AND OURAY INDIAN AGENCY, FORT DUCHESNE, UTAH

Mr. WRIGHT. My name is C. C. Wright, and I am superintendent of the Uintah-Ouray Indian Agency at Fort Duchesne, Utah.

The CHAIRMAN. How long have you been connected with the Indian Service?

Mr. WRIGHT. About 13 years now.

The CHAIRMAN. How long have you lived in this locality?

Mr. WRIGHT. Seven years.

The CHAIRMAN. Seven years?

Mr. WRIGHT. Seven years the 1st of March.

The CHAIRMAN. How long have you been acquainted with this locality?

Mr. WRIGHT. Seven years, sir.

The CHAIRMAN. Where were you located prior to that?

Mr. WRIGHT. On the Pima Indian Reservation in Arizona, out of Phoenix.

The CHAIRMAN. Has anyone indicated to you what would be a proper course of procedure or proper line of statement for you to make?

Mr. WRIGHT. No, sir; I think it has developed over all these years. I intended to make a statement similar to that I made before Mr. Haskell and the Indians the other day, and we prepared that ourselves.

The CHAIRMAN. You may proceed in your own way.

Mr. WRIGHT. Thank you, sir. May I refer to the map as I proceed?

The CHAIRMAN. You may refer to any exhibit as you go along.

Mr. WRIGHT. I thought it might be well to start with the time when the first Indian reservations were set up in Utah. That, according to our records and information, was about 1850 and 1851. Brigham Young was then Territorial Governor and Indian agent in this part of the country. He set up a number of Indian reservations in what was then the Utah Territory. Among those was a reservation which has later become known as the Spanish Fork. I don't know the exact size of that reservation. It has been reported as all the way from 15,000 acres to 300,000 acres, but there was a band of Ute Indians that lived on that reservation, and they were fairly close, of course, to the settled communities in Utah at that time.

Difficulties arose from time to time because of the constant migration of the whites into this Territory and the taking of the lands, as the Indians looked at it, so there was raiding on the white communities as in other parts of the western country. So a treaty was made with this particular band of Ute Indians that lived on the Spanish Fork Reservation in about 1865. That treaty provided, among other things, that this band of Indians, who later became known as the Uintah Utes, should move out here to the Uintah Basin. The Uintah Basin had been set aside by President Lincoln in 1861, previous to this treaty by 2 or 3 years.

I might point out what that reservation consisted of at that time. It is shown on this map by this yellow line, and comprised about 2,039,000 acres.

Senator MURDOCK. May I interrupt there before you go on? When you refer to the treaty regarding the—as I understood it—the Spanish Fork Reservation, you refer to a treaty between whom?

Mr. WRIGHT. A treaty at that time that was promoted by an Indian agent whose name was Irish, and we understood by the records which we consulted that Brigham Young and other leaders of the Territory at that time sat in on it. But the treaty was never ratified by Congress.

Senator MURDOCK. That is the point I had in mind, whether or not you were referring to the treaty that was not ratified.

Mr. WRIGHT. It took about 3 years after 1865 for that treaty to get to Washington, where it failed to be ratified. But in the meantime the Uintahs had moved from their Spanish Fork country, and, in the terms of the understanding they had with the white people, if it should not be called a treaty, was that they were to get paid for this Spanish Fork reservation, so many cattle, so many sheep, so many blankets and provisions, if they would move out to this reservation. When the treaty was not ratified they did not receive payment for that Spanish Fork country, did not receive all of the provisions that they expected. But nevertheless from their standpoint they carried out their part of the agreement, and under old Chief Tabby they moved out to this country and stopped at the Strawberry Valley. You gentlemen came through there on your way out.

Senator MURDOCK. Let me ask this question: In the treaty that you speak of, did that in any way refer to the acreage of the Spanish Fork Reservation?

Mr. WRIGHT. I don't know. I could not find that in the records I read, Senator.

They stopped the first winter in the Strawberry Valley and almost froze to death, suffered a great many hardships. Then they moved over to what is now Tabiona, named after the old chief, and he and his people remained there ever since. They founded a little camp there. The community has since been named after that chief. Chief Tabby and his Uintah band then began to spread somewhat and settled throughout the entire Uintah Basin, down the Duchesne River. Scattered bands of Ute Indians lived at what we call Whiterocks now—they called it Uintah, meaning "the edge of the pines," where two rivers come together. Other bands of Indians lived there, and apparently always had, or made their headquarters there. At least, the Spanish fathers who came across the Green River here in 1776 found Indians here, Ute Indians. They called them Utahs, and that is where our State got its name.

The Uintahs were living here and they lived here then, and do until the present day. In fact, they stayed here continuously after that. Then, during the meantime, many other bands of the Ute Indians lived and covered this whole territory, this whole western territory of Colorado, and used to roam clear up to the Canadian line, through Montana and down to the Colorado River. Many of them made their homes in Colorado, and in 1869 a large reservation in Colorado was set up for the Ute Indians containing 15,000,000 acres altogether. In 1874, only 5 years after its creation, that reservation

was diminished by about one-half, through an act of Congress and cessions by the Indians.

The next event, perhaps, of significance in this discussion, was what is known as the Meeker massacre, which occurred in Colorado in 1879. N. C. Meeker was an Indian agent who was appointed a year, I think, or a short time, at least, before he was killed by the Indians. Like many other Indian agents he had a lot of ideas, and some of them were cockeyed. He thought the only way to make a good Indian out of the Indians was to make good farmers out of them and settle them down on allotted land, plow up their lands and teach them how to farm. The Indians said, "That's no way for a man to live. We have lived by the chase, roamed this country, and you cannot tie us down to an 80-acre tract of land. That is like being in prison." They did not agree on that, but Meeker tried to enforce it as much as he could, and did a good deal of plowing and cultivating of lands in and around Meeker.

The Indians opposed it all the time, and they began to become bitterly opposed to it and said, "Now, we are going to have trouble if this continues. You are going down there on our race track and on our gambling grounds and starting to plow that up, and there is going to be trouble. That's going to be the last straw and we are not going to stand for that." They began to gather up ammunition from the traders, what guns they could. Meeker, in the meantime, saw trouble coming and sent for the United States troops and a fairly large contingent of them headed toward Meeker, Colo. In the meantime he plowed a few furrows up around this race track, or what would now be called Bear Dance grounds and Rodeo grounds. They ambushed the troops, killed Major Thornberg, at about the first shot. Altogether, 27 officers and men were killed, and 150 horses and mules were killed. Meeker and all his employees were captured, his women folks, too, and the Indians made them prisoners. I mention these things to indicate there was perhaps provocation for the way the Indians acted there. Naturally, that created a great deal of trouble in Colorado and a great deal of excitement. The general statement in Colorado was "We are going to run the damned Indians out of this State; we've had enough of them." They almost did it, too. There are only about 800 Indians in Colorado at the present time, I believe; fewer than in any other State. Utah has the second lowest number.

That Meeker trouble, by the way, occurred, according to Indians, principally through the activity of the White River Band and the Capota Band. The Uncompahgres were not involved in it at all, nor the Uintahs. But old Chief Ouray was a similar character to Chief Washakie of the Shoshones of Wyoming. He was peace loving and wanted to get along and try to do what the Government wanted him to. So he was sent over and he helped settle this difficulty, and a treaty was made in Washington in 1880. That is rather a famous treaty among the Ute Indians. That treaty provided: That the White River Indians should be moved to the Territory of Utah; that the Southern Utes, who included that Capota Band, should go down to the mouth of the La Plata; that the Uncompahgres should go down to the mouth of the Gunnison River in Colorado; and, provided it was good land, would cede all the balance of this

reservation, which was created in 1869, to the Government. I don't know what happened exactly, but good and sufficient land was not found in Colorado for the Uncompahgres nor the White Rivers, so they were brought over to the Territory of Utah. The White Rivers were brought over and allotted on some of this blue-colored land that you see on this map, brought over under military escort against their will. The Uncompahgres were brought over by a commission. They were a peaceful band and apparently did not need military escort.

When the White Rivers were brought in here, the Uintahs who had been here under old Chief Tabby felt resentful and said, "Where are we getting off at? After all, we lost the Spanish Fork Reservation through a treaty with your people, and never got paid for that, and now you are making us divide it up with the White Rivers, and we never did like them. You are bringing them over, and we don't like it. We don't think it's right." But in the language of this proclamation of this reservation, it said, "for the occupancy and use of the Indian tribes." It did not say, while it was perfectly legal, I suppose, what tribes were indicated. It was done. There has been a rift between the bands of Indians ever since, and it still exists at the present time.

The CHAIRMAN. That is, between the Uintahs and the Uncompahgres?

Mr. WRIGHT. And the White Rivers.

The CHAIRMAN. There are three groups?

Mr. WRIGHT. Three bands; yes, sir, that make up the present Indian tribes in Utah. The Uncompahgres came from Colorado a year after the White River Band, and were located here at Ouray. It was in 1881 that they were brought in under this commission that I speak of. There were about 600 of them, and they were very peaceful people, very trustful Indians, and cooperative, and they said, "How are we going to live when these provisions run out, and so forth." The Government said, "Well, it is a pretty good cattle country. We will allot you a lot of land in here where it can be irrigated. You can make homes here, and we will set up a reservation for you." So they set up this Uncompahgre Reservation in 1882 under President Arthur.

Senator MURDOCK. Will you indicate the colors?

Mr. WRIGHT. That is indicated by this orange-colored line which contains approximately 2,000,000 acres; I believe, 1,800,000 in round figures. That was set up for the Uncompahgres in 1882.

Then the Government proceeded, as time went along, to make what allotments they could within that reservation to the Indians. The allotments, if I remember right, consist of 160 acres to each head of a family.

The CHAIRMAN. Let me interrupt you there, please. This territory bounded by the orange line that you are now speaking of was set up as a reservation for the Uintah—

Mr. WRIGHT. No; for the Uncompahgre Indians; and called the Uncompahgre Reservation.

The CHAIRMAN. What became of the Uintahs in the meantime?

Mr. WRIGHT. They are still living on the Uintah Reservation.

The CHAIRMAN. And the White Rivers?

Mr. WRIGHT. Still living with the Uintahs in the Uintah River Basin.

Now, as I say, the Government, with allotment commissions, proceeded to make allotments within the Uncompahgre Reservation. One hundred and twenty-two allotments were made; but later all of them were canceled, except 83, considered unfit for the type of agriculture that could be carried on in this area. I might mention in passing, as most people present know, it is pretty rough in this area, and the only places for the cultivation of crops is along the streams, and much of that is unsatisfactory. The allotments shown in blue along the White River are a greasewood type of land, heavily alkaline, and none of them has ever been developed into agricultural production except a small tract here at the mouth of the river. So, these 83 allotments were made. Then in 1897 the Government restored this entire area to the public domain except the 83 allotments, and the Indians said, "Well, what about the rest of us? There are about 600 of us Uncompahgres. What are you going to do with the rest of us?"

"Well," the Government said, "we will allot you along the Duchesne River up in the Uintah Basin; find some allotments for you up there." Then both the Uintahs and the White Rivers objected. They said, "Here we are asked the third time to divide our reservation. We had nothing to do with the Uncompahgres and this trouble over in Meeker; but here you sent those people back to us. Send them back to where they came from down on their own reservation. We don't want them up here."

The Government said, "That's the best we can do. As a compromise, we will have the Uncompahgres pay for their allotments. They will pay \$1.25 an acre out of their tribal fund into the Ute tribal fund."

The CHAIRMAN. That was in about what year?

Mr. WRIGHT. Between 1897 and 1902.

So that took care of the Uncompahgres land situation in that fashion up until that time; and, of course, this Uncompahgre Reservation was then opened to homestead and sale of lands under the public land laws of the United States.

The CHAIRMAN. In that regard, going back to that Uncompahgre country, that had, as I understood you to say, been set aside by a treaty duly ratified?

Mr. WRIGHT. No, sir; that was set aside by proclamation of the President, and was never ratified at all.

The CHAIRMAN. It was made by proclamation?

Mr. WRIGHT. That's right, under Chester A. Arthur when he was President.

The CHAIRMAN. Then it was returned to the open public domain after the allotments were fixed?

Mr. WRIGHT. That is right.

The CHAIRMAN. And that was done also, I take it, by proclamation?

Mr. WRIGHT. Yes, sir; I think by an order of the President.

In the meantime State sections were set aside here, as usually is done on the public domain, and the white people began to homestead some of the lands on the creek bottoms here in different places.

The next event that followed which seemed significant was what is referred to always now as the opening of the Uintah Reservation. After the allotments were made for the Uncompahgres here, and from 1902 until 1905, allotting procedures were going on, and the allotments were pretty well completed for the entire group of Ute Indians, all

three bands. The Government then said, "Now, the rest of this reservation we will declare surplus and open it to homestead and sale under all the public-land laws. But before we do that we will set aside certain areas for other purposes." So, they first set aside this green area. There are a little over a million acres in the area taken from the Indians and made into the Uintah National Forest. It has since been renamed from here over as the Ashley National Forest; and from there over to this point on the map is the Wasatch National Forest; and this down here is still the Uintah National Forest.

The CHAIRMAN. You say it was set aside. By whom? In what manner?

Mr. WRIGHT. By an act of Congress.

The CHAIRMAN. A congressional act?

Mr. WRIGHT. Yes, sir; a congressional act. At the same time it set up this area shown as yellow on the map as a grazing reserve for the Ute Indians. That was also done by act of Congress.

These areas in blue were already allotted. The rest of the entire reservation inside here, which is shown in the uncolored and in the purple, was opened for homestead and sale and entry under the public-lands laws.

The CHAIRMAN. Let's get this down. You now have been speaking of three tribes or groups of Indians.

Mr. WRIGHT. We refer to them as three bands.

The CHAIRMAN. Three bands; the White Rivers, the Uintahs, and the Uncompahgres?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. They may all be classed now as the Utes?

Mr. WRIGHT. That is right.

The CHAIRMAN. So that gets them. Now, all those in that territory are the Ute Indians?

Mr. WRIGHT. That is right.

The CHAIRMAN. Now, you have brought it down to a point where it is the territory surrounded by the yellow line, to which you first made reference in the very opening of your statement?

Mr. WRIGHT. Yes, sir; that is right.

The CHAIRMAN. So that all of that territory bounded by the orange line, say, except the allotments, is now open to entry and is part of the open public domain, and all of the Indians of all the groups have been pushed up into that territory surrounded by the yellow line?

Mr. WRIGHT. Theoretically; yes, sir. Actually, the Uncompahgres—I will come to that a little later—actually, the Uncompahgres did not move up into this territory, nor did they participate to any great extent in the use of this territory. But, theoretically and legally, they exist and have their holdings here, what they do have.

I might mention at this point that between 1861 and 1905 the acreage that belonged once to the Ute Indians had shrunk to 360,000 acres, from approximately 20,000,000 at the beginning of that period.

Now, the opening of the reservation, as I say, occurred officially in 1905, but in 1903—

The CHAIRMAN. Let me catch you there, please. The opening of the reservation—by "the reservation" you mean what territory?

Mr. WRIGHT. I mean by that the Uintah Reservation, surrounded by this yellow line, diminished by the forest reserve, of course.

Senator MURDOCK. The yellow is the reserve for the Indians?

Mr. WRIGHT. Yes, sir.

Senator MURDOCK. Let me ask this question; there is the land that is now indicated on the map in the yellow, known as the Indian grazing reserve. The title to that is vested in the tribe?

Mr. WRIGHT. That is my understanding, that it is—no; that was by an act of Congress. If I am correct, it was set up as an Indian grazing reserve for the benefit of the Ute Indians by an act of Congress.

The CHAIRMAN. Now, of two tracts of land, or two pieces of territory set up by congressional act, one is the forest lands embraced within the yellow line and the green, and the other is the grazing land embraced within the yellow line and in yellow. Those are both definitely fixed by congressional acts for the benefit of the Ute Indians?

Mr. WRIGHT. That is right—well, not the forest reserve.

The CHAIRMAN. That does not come into that category?

Mr. WRIGHT. The forest reserve is not for the benefit of the Ute Indians. The agreement was that the Indians at that time were to be paid for the forest lands at about \$1.25 an acre, and for the coal lands it contained. The Indians were to be paid the appraised value of these coal lands whenever that appraisal was made. They were paid for this green land taken from them for the forest reserve about 30 years afterward. In fact, they were paid in 1934, and received a million and a quarter dollars. I might point out also in passing, during that interval the Department of Agriculture, through the Forest Service, collected a million and a half dollars in grazing fees on that former Indian land. That will come up in the discussion a little later.

The CHAIRMAN. In any event, they were paid for the land in accordance with the agreement?

Mr. WRIGHT. They were, except the coal lands under that national forest.

The CHAIRMAN. As far as the coal lands are concerned, I take it, that is a matter still in abeyance?

Mr. WRIGHT. Yes, sir; that act passed Congress, I think, in 1938, permitting—it was a large sum—\$860,000 for those coal lands. Most of those coal lands exist in this part of the forest here [pointing to the map], but there are some small holdings in here, some coal mines in there at the present time, 36,000 acres. The President vetoed that bill because he said the amount was exorbitant. That is still in abeyance, and of course the Indians are conscious of that, especially since this bill passed both Houses of Congress.

Now, when this reservation was opened, a man by the name of McLaughlin was sent out here to consult with the Indians. It seemed that the Government wanted to have the consent of the Indians, if possible. He held meetings for about a week with the Utes down there, which were very well attended, according to the report I have, the old reports. He told them that they were just going to be allotted land for farming purposes, and he came to get their consent to it and to the opening of the reservation. They were unanimously opposed to it, 100 percent. Some of the speeches they made and some of the replies they made to this Commission for not wanting to open the reservation are prize documents, it seemed to me. They said, "Look what has happened to us already in the last 40 years. Look at the deals we have got already; and now you ask us to give up the remainder of our reservation."

Anyway, he held these meetings for many days. He was supposed to get the signatures, apparently, and on his report he had

82 signatures, out of all of the Indians who lived on the reservation, and 20 or 30 of those were school boys, and so on. It looked like rather a perfunctory sort of thing. He told them finally: rather a perfunctory sort of thing. He told them finally: "It doesn't make any difference; Congress already passed a law, and we would like to have your consent; have you move all to your allotments and start the work and farm them. But the law is passed and you must accept it anyway. The reservation is open and the white people are now going to come in and occupy these lands."

In protest to that act, from three to six hundred of the Utes assembled up here at what is now called Bridgeland, with their horses and wagons. They said, "We are leaving this country." They left and they started marching toward Wyoming. When they got into Wyoming they ran out of food. They killed some cattle to eat, and United States troops were sent after them and they had a brush with the soldiers. Apparently the Army contingent was kind to them, and led them over into South Dakota. They stayed on the Pine Ridge Sioux Reservation for 2 or 3 years. At that time, through the auspices of the Indian Office, they rented about five townships of land on that reservation in South Dakota, and paid, I believe, \$1.25 an acre for a 5-year lease. Those people who remained here in Utah did not all approve of this departure; they kept sending emissaries, and the Government sent interpreters to South Dakota and asked them to come back.

A few of the Utes died up there. The Sioux didn't like them, and said: "We don't want you up here on our reservation." So the remaining Utes at last trekked on back. Those who came back were deeply dejected. They had lost their horses and what goods they had taken with them, and they felt pretty badly about it. Many of these old fellows are living today among the Utes, and often refer to that period. They look around and see how the white people have moved in and occupied this reservation. At the present time they are inclined to say, "I told you so."

Many of the white people now think it was a mistake also. That is what happened at that time.

Immediately after that, in 1906, the Government passed an act authorizing the construction of the Uintah Indian irrigation project. Out of the proceeds of these land sales that began to be homesteaded here, and also out of the sale of the Ute Indian lands, they appropriated \$600,000 to build this Uintah Indian irrigation project. Various appropriations were added to that from time to time, until now it has run into more than a million dollars. This irrigation project covers approximately 80,000 acres, and it contains 22 canal systems. These 22 canal systems divert water from all the streams. No storage facilities were created at all, just diversions from the streams to irrigate these blue-colored lands [pointing to the map] wherever they happened to lie next to the tributaries of the Duchesne and Uintah Rivers. A land-subjugation program was initiated by the Government to level and clear and plow and fence the tribal allotments. Tribal funds on a reimbursable basis were used for that purpose. There are a number of those blue lands at the present time that have as much as twelve or sixteen hundred dollars against them for the subjugation work which was done at that time to get these lands in cultivation and into the hands of the Indians. At

the same time it was permitted that the Indians could sell these lands as soon as they moved upon them; so they proceeded to do so.

It has hardly been one generation since the Indians knew anything about private property in land. They had been a nomadic people, and felt they had certain rights to the entire Rocky Mountain region here. If they could get five or six hundred dollars for the land, that looked like a big price. So, out of the 77,000 acres left—I said 80,000 awhile ago, but it was 77,000 acres and a little over—out of that area within the irrigation project 25,000 acres approximately were sold to the white people as they came in. That diminished the land the Utes still owned. Then the Strawberry Valley reclamation project was authorized. I forget what year that was, but it was in this interval after the reservation was opened up until 1930—I think it was 1909, I am not sure. Anyway, it was in that interval. The farmers farther west needed a reservoir site out here in the Strawberry Valley. The Reclamation Service came to the Indians and said: "We need a reservoir site over here. We will give you \$1.25 an acre. Our engineers have said we need 56,000 acres." That is shown by this line here [indicating], and it would take in this area here. They said: "We will pay you \$1.25 an acre."

The Indians said: "No, we don't want to sell the land. We never have wanted to sell any land, never wanted to dispose of the land at all. That is our grazing country; we get grass money from that." The Indians call it grass money; the white people used the range and paid them grazing fees. Those used to be paid out to them per capita. It was stacked up in piles of hard money; not paid to them by check. They knew where that silver came from; that grass money.

The CHAIRMAN. By the way, that was lawful money, too.

Senator MURDOCK. I might add this, Mr. Chairman, these Indians evidently know very much more about the value of money than a lot of white people. They know that silver money is good. A lot of white people don't realize that yet.

Mr. WRIGHT. The Reclamation Service said: "We have got to have a reservoir site, and we don't know how much territory it is going to cover. Our engineers say we can use the right of eminent domain against it if you don't sell it." The land was sold, and they paid for it in five annual installments.

The CHAIRMAN. Was eminent domain exercised?

Mr. WRIGHT. I don't think it was necessary. The tribe had no authority in those days. It was scattered.

The CHAIRMAN. Right on that point, as regards this particular land and other lands within that yellow line, what was the status at that time as to any act of Congress affecting it?

Mr. WRIGHT. The proclamation of President Lincoln was ratified in 1864 by the Congress.

The CHAIRMAN. It had been ratified?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. So that land to which you now make reference, that was to be used for a reservoir site, was a part of the land that had been actually assigned, by congressional act, to the Indians for reservation purposes?

Mr. WRIGHT. Yes, sir; but it had been opened for sale and disposal under the public-land laws.

The **CHAIRMAN**. You probably have referred to this, and I have not caught it. In other words, after the act of Congress which set aside that land within the yellow border there was another act turning it back into the open public domain?

Mr. WRIGHT. Not exactly that, but opening it up for white settlement. That was in 1905.

The **CHAIRMAN**. Still retaining it in the status of Indian reservation?

Mr. WRIGHT. Yes, sir; until such time as it was sold to the white people.

The **CHAIRMAN**. In other words, white people could come in and acquire title in fee simple within that territory?

Mr. WRIGHT. Yes, sir.

The **CHAIRMAN**. So that your reclamation people who came in and took that piece of ground for reclamation purposes, reservoir purposes, came in under that provision, I take it?

Mr. WRIGHT. I understand so; yes, sir; and they paid \$71,000 for that—\$56,000—and it was a good investment. Aside from the actual reservoir site they now collect \$21,000 a year in fees from it. The Strawberry Water Association—

The **CHAIRMAN**. The Strawberry Water User's Association is an association of white people having lands that are served by that reservoir?

Mr. WRIGHT. Yes, sir; down around Provo, and that part of the State.

The **CHAIRMAN**. Does that serve any Indian lands for reclamation purposes?

Senator **MURDOCK**. Pardon me, but all lands within the yellow—there are some lands still remaining white. Is that all used today by white people?

Mr. WRIGHT. Yes, sir; all the uncolored land within the yellow line is now white owned.

Senator **MURDOCK**. And all blue lands are still in Indian ownership?

Mr. WRIGHT. That is right.

Senator **MURDOCK**. The square in the Uintah Forest Reserve to the south, what does that represent?

Mr. WRIGHT. I'm sorry, I don't know the exact history of that little square there, but it is in private ownership. I don't know exactly who owns it.

Mr. BERT LUSTY, of Duchesne, Utah. That particular piece was sold during the Indian sale.

Mr. WRIGHT. It apparently was sold at public auction.

Senator **MURDOCK**. I was just going to refer to this; in the opening of the Ouray-Uintah Reservation to white settlers, at least the Government reserved to the Indians the proceeds from all sales of that land to the white men?

Mr. WRIGHT. Yes, sir.

Senator **MURDOCK**. Now, when the Uncompahgre Reservation was returned to the public domain—that is the area within the orange line?

Mr. WRIGHT. Yes, sir.

Senator MURDOCK. The Indians gave up entirely and absolutely all rights to that and have never received anything in the way of cash proceeds from the sale?

Mr. WRIGHT. That is right. They retained, as far as I know, no legal claim on that.

The CHAIRMAN. Going back now to the legend, as you started it, the white is now held by white settlers in fee simple?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. The yellow is the Indian grazing land?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. The green is the Forest Service land?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. And the purple is what?

Mr. WRIGHT. I am coming to that right now, Senator.

I might mention, in the meantime, however, that in 1910 what was called the Ute judgment fund was paid to these Utes. It was really paid in '13, but the act was passed at the end of 1910. That paid them for the coal reservation that had been ceded; that portion of it that had been converted into national parks and national forests, and offsets were made against that claim until about 3,000,000 and a little over was left to the Indians. That was to be used under the discretion of the President for their benefit. With that Ute judgment money they built that reclamation project that I speak of, this Indian irrigation project, and they built roads throughout the basin here, and subjugated this land. These bridges that you came over on Highway 40 were built with those funds. Certain small doles, totalling \$80,000 a year, were paid out per capita to the Indians for a number of years, out of those funds. I mention that because I would like to refer to it later.

Then the total loss of the land by the Utes up to this period that I have been mentioning, including these losses here, reduced the area to about 360,000 acres. The lands shown in purple on the map are the lands opened for entry but which nobody would buy. They remained open lands, unsold, and are now commonly referred to as "the ceded Indian lands."

The CHAIRMAN. That is, now?

Mr. WRIGHT. They are now still unsold, still unhomesteaded, or, as I say, are perhaps erroneously referred to as ceded Indian lands. As I understand it, no cession was ever made or called for by the Indians, but they were opened by the Government for entry and never entered.

The CHAIRMAN. That is part of that tract that was opened?

Mr. WRIGHT. That is right, part of the whole thing.

The CHAIRMAN. The purple lands, then, I take it, are lands that those seeking land would not care to take up, and they remain open land yet, and are still subject to entry?

Mr. WRIGHT. They were, up until 1933, or approximately that.

That brings us up to what we might say is the present era. In the meantime, I'd like to repeat that the Uncompahgres did not feel like fraternizing very much with the other Indians. When they tried to move up there and occupy some of their allotments, or move cattle up on this Uintah range, or anything of that sort, the other Indians said that they had better go back to their own country. "This is our

country. What business have you got up here?" They said, "Oh, we know a law of Congress has been passed, yes; but that does not make any difference to us. This is our country, given to us back in 1861 before you ever had any trouble." Those kinds of remarks are pretty keenly felt by the Indians, and as a result of those things and other things the Uncompahgres almost entirely used this part of the country, the public domain.

The CHAIRMAN. That may be designated for the purposes of the record—you said the Uncompahgres use almost entirely this part of the domain. You refer to what?

Mr. WRIGHT. To the former Uncompahgre Reservation, and even lands that extended beyond it down into what is now Grand County.

The CHAIRMAN. They do now, you say?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. So that the Uncompahgre are south of the blue lands to a considerable extent? That is the only way I can designate it.

Mr. WRIGHT. Yes, sir; and have always remained there.

Now, during this interval white people came in and homesteaded these lands that are colored in dark red and light red here, 75 miles south of Ouray, way up into the Book Cliffs region, and began to operate livestock outfits in that country during that entire period. The Indians, what few livestock they had, they also operated down in this country as best they could. But the competition was pretty keen. In fact, some of the Indians relate having been driven out at the point of a gun by some of their white neighbors. For that matter, white people were driven out by white neighbors.

Senator MURDOCK. Have the relations between the White River people and the Uintahs become better so they are living together now in harmony on the land allotted to the White Rivers?

Mr. WRIGHT. I'm afraid not. But they are living there, and have intermarried some. There was only a small number of White Rivers, about 250 as against 600 Uintahs, approximately. There is not presently a serious problem there, but there is a constant rift between those people right up to the present moment.

Then the white people, as I say, homesteaded these lands, began operating livestock outfits in this country, and the Indians tried to operate also. As an illustration of how difficult it became for the Indians to operate in there, as well as some of the white people, our Uncompahgre Indians, with headquarters at Ouray, formed a little livestock association, and they made a lease with two of the operators in here. The land owners, including a fellow by the name of Myrup, leased that land to the Indians for 4 months. They paid \$2 a head for their cattle and 50 cents a head for their sheep to this private land owner in order to run their sheep in this country on the public domain. That lease is on record in 1935, and similar leases existed previous to that.

The CHAIRMAN. How many months?

Mr. WRIGHT. Four months.

The CHAIRMAN. Those were summer months?

Mr. WRIGHT. Yes, sir; and that illustrates how difficult it was for the Indians to get grazing privileges in this area, their former reservation. In 1933 came the so-called withdrawal order of 1933 by the

Secretary of the Interior. The white stockmen operating customarily in this area felt the need of regulation, of protection against the trespass and exploitation of the public domain by transient stockmen. This competition by outsiders was pretty keen, and so they, I believe, applied for the organization of a grazing district, under the 1928 act, which, they later found out, only applied to Montana, so they could not organize under that. As a result of this proposal, and also because of the demands of these Uncompahgre Indians that they had no place to run their stock, that they were being pushed around by the nomadic sheepmen, and that they were about to go out of the stock business, that withdrawal was made in 1933, September 26, withdrawing the entire old Uncompahgre Reservation from further disposal. I believe it said "in aid of Indian legislation."

The CHAIRMAN. Was that following the announcement of the Taylor Grazing Act?

Mr. WRIGHT. No, sir; that preceded it by a year.

The CHAIRMAN. How was that withdrawn, by Executive order?

Mr. WRIGHT. By secretarial order.

The CHAIRMAN. Secretarial order?

Mr. WRIGHT. Yes, sir; by the Secretary of the Interior. When that was withdrawn a good deal of correspondence passed back and forth about it. A year later the Taylor Grazing Act was passed, and the Grazing Service began to get organized under that act. The local people here in Vernal wished to have this area organized into a grazing district.

Senator MURDOCK. You are referring again to the land within the orange line?

Mr. WRIGHT. Yes, sir; referring to that, and, in addition, there was land outside of the orange line that they wished to bring into the district, too, which was later done. A meeting was held here at Vernal, as a culmination of these things, and the situation was discussed pretty thoroughly. The Indian Service representatives were here, as well as the local stockmen, and they arrived at an agreement that, in order to take care of the Indian situation, they would recommend and agree to legislation that would set up an Indian Reserve within this heavy black line. That was July 10, 1935. Following that agreement very shortly—

The CHAIRMAN. Right at that point, the chairman has in his hand what purports to be a copy of an agreement of date July 10, 1935, entitled: "Agreement, Vernal, Utah," and signed by A. D. Keller, for Brown Livestock Co., and others.

Mr. WRIGHT. That is the one I refer to; yes, sir.

The CHAIRMAN. That copy may go into the record at this point. (The agreement referred to was as follows:)

AGREEMENT, VERNAL, UTAH, JULY 10, 1935

The entire withdrawn area of the old Uncompahgre Reservation, including the entire proposed reservation, is placed under the Taylor Grazing Administration up to and including December 31, 1936, or until the passage of the bill creating the new reservation if that occurs prior to December 31, 1936. The Commissioner of Indian Affairs shall concur in all matters effecting policy relative to administration under the Taylor Grazing Administration or until said bill is passed. The Commissioner of Indian Affairs further agrees that if he believes that the people of the Utah Grazing District No. 8 have in all good faith been working for the passage of this proposed bill and it has not passed by December

31, 1936, that he will continue the administration of the old Uncompahgre Reservation under the Taylor Grazing Administration until such time as the proposed bill does pass or until he may feel that the people of Utah Grazing District No. 8 have ceased to work for the proposed bill. At the same time the people of Utah District No. 8 agree that they will work for the passage of the proposed bill.

A. D. Keller, for Bown Livestock Co.; H. A. Brown; W. R. Hazelbush; C. A. Meadows; Earl Leech; James Luster; A. M. Myrup; E. S. Birchell; J. Harold Reader; N. A. Taylor; Veone Taylor; Alva L. Hatch; Golden Hatch; Abraham Hatch; Gilbert Wild; Leo Wild; Carlos Wilcox; B. H. Stringham; J. M. Stewart, Chief, Land Division—Indian Office; Richard B. Millin, Associate Range Supervisor, United States Indian Service; Mark W. Radcliffe, field agent; Robert Marshall, Chief, Forestry and Grazing Division, Indian Office; Hugh W. Colton; Robert L. Bennett; Oran Curry; Henry E. Harris; L. W. Page, superintendent.

Mr. WRIGHT. Yes, sir. I might say that the Indian Service has a statement to present for the record, to cover what I am trying to say, which includes that and all other documents. I think I can verify it.

The CHAIRMAN. What I am trying to get, in as orderly a way as best we can, are all of these documents. I thought, in view of the fact that your statement had arrived at that point, that the copy which is in the possession of the chairman might properly go into the record at that place.

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. We will try to put these instruments into the record as we come to them in the discussion. I think perhaps that will segregate them, and designate them more intelligently.

Mr. WRIGHT. Since this agreement was reached here in Vernal, to set up an Indian grazing reserve, more or less within that black line [indicating] the local people have made the statement that the facts were misrepresented to them; they have said that the Indian Service double-crossed them and represented to them at that time this entire Uncompahgre Reservation was subject to being restored to the Indians, all of it, and therefore that they were willing to make the compromise settlement and recommend the small area out of Grand County and the small area out of the original Uncompahgre Reservation for Indian use. But it is a fact that they endorsed that agreement. In fact, the livestock association members, some of them are here, two of them, and the county commissioners, they endorsed it; nearly everybody endorsed it. They state now that the reason they did this was because this was misrepresented to them, but I don't know whether it was or not. I wasn't present at that time. But I might point out that this withdrawal order took effect September 26, 1933, and that was a year before, almost a year before the Indian Reorganization Act was passed and that is the only act, I understand, which gives the Secretary authority to restore any ceded lands to the tribe, so it could hardly have been possible that that withdrawal order contemplated the restoration of that land to the Indians.

The CHAIRMAN. I understood you to say when you first mentioned the withdrawal order embracing the lands within the orange line, when you mentioned it here a moment ago, that it was a withdrawal order for restoration to the Indians?

Mr. WRIGHT. No, sir. I meant to say, if I did not, I believe the order stated that it was in aid of Indian legislation.

The CHAIRMAN. That is correct; that is exactly what you did say.

Mr. WRIGHT. So there has been that misunderstanding, and that disagreement about this area ever since. That is probably why the legislation has not been passed, or has not been supported in recent years. That is my understanding of it.

To get back to this agreement, part of the terms of that agreement were that the Indians with their tribal funds and Government funds which might be appropriated under the Indian Reorganization Act would go into this area here, surrounded by the black line, and buy out all of the private properties there. There were even some discussions at the time about buying the cattle that were owned by these private operators, but as I understand it, that was made contingent upon whether or not they could obtain the money or not. So the tribe put up \$200,000 and the Government said they would match it and go in there and buy these private properties. This was the beginning of the land-acquisition project.

The CHAIRMAN. In other words, in order that the record might be clear on that, the private properties to which you are now referring are the private properties within the black line, the black irregular line on the map, which private properties are on the map designated in red?

Mr. WRIGHT. Yes, sir; that is right. In order to make it clear to those who are looking at this map, the sections of land that are colored in brown here are State land sections. They, of course, were not purchased and still remain State sections.

The CHAIRMAN. I am trying now to clear my mind on this point; you brought us up to the point where they have purchased or are about to purchase the land designated in red within the black lines. Now, how are the other lands affected within the black line?

Mr. WRIGHT. At the present time?

The CHAIRMAN. Yes.

Mr. WRIGHT. They are still, with the exception of a few little blue spots here, Indian allotments, the rest of them are public-domain lands, but two or three townships in here are also a naval oil reserve, but it is being administered, I understand, the same as public lands.

The CHAIRMAN. But the black line refers to the agreement of July 10, 1935?

Mr. WRIGHT. Yes, sir.

I meant to say, following that immediately, in July of 1935, officers of the Indian Service and officers of the Grazing Service met in Washington and drew up another agreement, and to put it in rough, uncouth terms, it said, this is not public domain land here within this old Uncompahgre Reservation that has been withdrawn, so the Grazing Service have no authority to administer it. All they can administer is public-domain lands, hence this being withdrawn in aid of Indian legislation, an agreement is necessary between the Indian Bureau and the Grazing Service to permit the Grazing Service to administer it. That agreement was drawn on July 19, 1935, a week or so later.

Senator MURDOCK. Mr. Chairman, Mr. Woehlke has referred to me some communications, topics of communications between Mr. Collier, the Commissioner of the Bureau of Indian Affairs, and T. A. Walters, First Assistant Secretary of the Interior, and D. K. Parrott, Acting

Assistant Commissioner of the Land Office, which cover the withdrawal in 1933, the recommendations there for the temporary withdrawal in aid of legislation.

The CHAIRMAN. Withdrawal within the orange line?

Senator MURDOCK. It might be well at this point to insert that into the record.

The CHAIRMAN. The date of this is June 12, 1933, and let the record show that it has designation "copy; L-A 22512-33," and the word "map" here, under it, and it purports to have been signed by John Collier, Commissioner, and another letter or note attached thereto purports to have been signed by T. A. Walters, First Assistant Secretary, General Land Office, and another attached thereto purports to have been signed by D. K. Parrott, Acting Assistant Commissioner, United States Department of the Interior, General Land Office. The letter is of date September 23, 1933. It may go in the record at this place. I think perhaps it is a proper place. Is there any objection to this going into the record?

Mr. KNOX PATTERSON, Salt Lake City, Utah. I would like to ask, Mr. Chairman, is that some kind of withdrawing pursuant to the law of 1933? Is that what it purports to be?

The CHAIRMAN. I have not read it and I can't answer that. You may look it over if you please.

We are going to pause here for just a moment, if you please. It has been customary in the hearings of this committee that we fix a record of those who attend the hearings and who are interested in the subject matter. At this time we will have passed among those who are present with us cards, on which card you will kindly write your name, your address, and your official position or designation as you see fit. If you belong to any of the services you will designate the service to which you belong and the capacity in which you serve. That, then, constitutes the record of the attendance before the committee.

(Recess until 10:35 a. m.)

The CHAIRMAN. The committee will be in order.

Will you kindly have the cards passed forward so that they may be turned over to the committee?

As the hearings go on, if new parties come to the hearings we would appreciate it very much if they would sign these cards and file them with the committee. That is the only way we have of keeping designation as to who is present. We especially invite the Indians who are here to make known their presence by the signing of these cards.

LIST OF PERSONS ATTENDING VERNAL, UTAH, HEARINGS

H. L. Allred, Roosevelt, Utah.
L. M. Angus, secretary, Dry Gulch Irrigation Co., Roosevelt, Utah.
Daniel B. Beard, custodian, Dinosaur National Monument, representing National Park Service, Jensen, Utah.
Austin Beebe (stockman), Altonah, Utah.
Lester Bingham, Uintah County assessor, Vernal, Utah.
Lafe Bowne, (woolgrower), Provo, Utah.
Frank A. Brewer, T & X Ranch, Jensen, Utah.
Jack Brewer, Ouray, Utah.
Harry A. Brown (cattleman), Ouray, Utah.
Mrs. Harry Brown, Ouray, Utah.
Marvin Broome (farmer and stockman), Ouray, Utah.

- Orleis Butters (sheep business), 548 South Twelfth East Street, Salt Lake City, Utah.
- J. A. Cheney (banker), Vernal, Utah.
- Steve Cheturas (user of unit G, District No. 8), Ouray, Utah.
- B. O. Colton, member Duchesne County Planning Board, Roosevelt, Utah.
- Ed Conklin, (stockman), Altonah, Utah.
- Dan Cuch (Indian), Tridell, Utah.
- Oran F. Curry, chairman, Ute tribal committee, Fort Duchesne.
- George C. Davis, director, Ashley Woolgrowers Association, Vernal, Utah.
- Willard A. Day, chairman, Duchesne County Planning Board and Duchesne County commissioner, Roosevelt, Utah.
- Ray E. Dillman, Moon Lake Water Users Association, Roosevelt, Utah.
- Clarence E. Favre, Chief of Range Management, Intermountain Region, Forest Service, Ogden, Utah.
- Dorr Finicum, deputy assessor, Vernal, Utah.
- W. C. Foy, representing Duchesne Livestock Association, Duchesne, Utah.
- C. S. Gardiner, field supervisor, Farm Credit Administration, 307 City and County Building, Salt Lake City, Utah.
- Louie Galloway, superintendent, Moon Lake Water Users' Association, Roosevelt, Utah.
- L. J. Gilbert, Arcadia, Utah.
- Fred Goodrich, ceded land committee, Bluebell, Utah.
- DeWitt C. Grandy, Soil Conservation Service, Vernal, Utah.
- Leland O. Graham, Assistant Solicitor, Interior Department, Washington, D. C.
- Iowa J. Hall, Vernal, Utah.
- Mrs. Clarissa S. Hanson, Box 123, Roosevelt, Utah.
- Paul S. Hanson, board member in district No. 8, Roosevelt, Utah.
- Joseph Haslem, chairman, cattle section, advisory board, district No. 8, Jensen, Utah.
- Abraham Hatch, Ouray, Utah.
- Golden Hatch, Ouray, Utah.
- Loran Hatch, Vernal, Utah.
- Thomas C. Havell, supervisor, Branch of Adjudication, General Land Office, Washington, D. C.
- Paul Hazelbrush, Grazing Service, district clerk, Vernal, Utah.
- Don F. Hill, Vernal, Utah.
- Charles T. Hohenthal (assistant to Mr. Haskell), field examiner, General Land Office, Salt Lake City, Utah.
- Lorena D. Iorg, acting secretary of Uintah and Ouray tribal business committee, member Uintah Band of Utes, Fort Duchesne, Utah.
- Howard M. Ivory, Soil Conservation Service, Vernal, Utah.
- Dee Jenkins, farmer, Vernal, Utah.
- Marve Jenks (Indian), Fort Duchesne, Utah.
- Tom Jenks (Indian), Fort Duchesne, Utah.
- Dewane E. Jensen, district grazer, United States Grazing Service, Nephi, Utah.
- Alfred L. Johnson (cattleman), Vernal, Utah.
- Clyde S. Johnson, attorney at law, Vernal, Utah.
- H. C. Jolley, Vernal, Utah.
- Russell R. Keetch, county extension service, Vernal, Utah.
- Dan Kutch (Indian), Fort Duchesne, Utah.
- Sab Kutch (Indian), Fort Duchesne, Utah.
- Ray G. Labrum, Uintah County board member, Moon Lake Water Users' Association, Vernal, Utah.
- Milton Larson, Arcadia, Utah.
- Joe H. Leech, Chief of Lands Grazing Service, Department of Interior, Salt Lake City, Utah.
- Elmer Lind, president, Ashley Woolgrowers' Association, Vernal, Utah.
- Bert Lusty, president, Duchesne Livestock Association, Duchesne, Utah.
- Clifton W. McCoy, Vernal, Utah.
- W. M. McCoy, Vernal, Utah.
- Harvey McKee, Vernal, Utah.
- J. R. McKee, president, Moshay Stock Association, Tridell, Utah.
- McKewan, member, Uncompahgre Group, Ouray, Utah.
- Harold Madson, Meeker, Colo.
- N. J. Meagher, banker, Vernal, Utah.

Heber Moon, Hanna, Utah.
 Nephi Moon, Hanna, Utah.
 Charles F. Moore, acting regional grazier, region 2, Salt Lake City, Utah.
 H. D. Moulton, field examiner, General Land Office, Department of Interior, Salt Lake City, Utah.
 Glen Murray, Vernal, Utah.
 O. W. Nielson, Ouray, Utah.
 N. A. Ogden, manager of land department, Salt Lake City, Utah.
 Knox Patterson, attorney at law, Boston Building, representing M. A. Smith, Salt Lake City, Utah.
 Pawwinne, Uncompahgre committee member, Ouray, Utah.
 Charles A. Perry, Vernal, Utah.
 Stephen C. Perry, Rural Free Delivery No. 1, Vernal, Utah.
 J. Fred Pingree, member, Utah State land board, Salt Lake City, Utah.
 W. N. Preece, secretary-treasurer, Ashley Woolgrowers' Association, Vernal, Utah.
 Alma Preece, Uintah County commissioner, Vernal, Utah.
 J. Harold Reader, advisory board member, Vernal, Utah.
 Red Fingernail (Indian), Fort Duchesne, Utah.
 Glenn Reed (Indian), Ouray, Utah.
 W. B. Rice, United States Forest Service, associate regional forester, region 4, Ogden, Utah.
 Carl R. Richens, Arcadia, Utah.
 Louis D. Roberts, Vernal, Utah.
 Laren Ross, Mosby Mountain Stock Association, member, Ashley Forest Cattle and Horse Growers Committee, Tridell, Utah.
 Ernest Saltee, assistant land field agent, Indian Service, Land Division, 909 First National Bank Building, Salt Lake City, Utah.
 Earl C. Sanford, forest supervisor, Ashley National Forest, Vernal, Utah.
 Jack Santos, Ouray, Utah.
 Seeje (Indian), Fort Duchesne, Utah.
 D. R. Seely, Vernal, Utah.
 H. E. Seely, vice chairman, grazing board, district No. 8, Vernal, Utah.
 Dave Siveaap (Indian), Fort Duchesne, Utah.
 Henry Slauch, fish and game warden, Vernal, Utah.
 Emory C. Smith, 1835 Yale Avenue, Salt Lake City, Utah.
 Marvin F. Smith, Vernal, Utah.
 Moroni A. Smith, 1205 East Third South Street, Salt Lake City, Utah.
 Royal M. Smith, 1842 Michigan Avenue, Salt Lake City, Utah.
 Waird G. Smith, 1078 South Twentieth East, Salt Lake City, Utah.
 Walter Smith, 1660 Harrison Avenue, Salt Lake City, Utah.
 Olive Sprouse, Ouray, Utah.
 R. S. Squire, Ouray, Utah.
 Willis Stevens, Ouray, Utah.
 Austin B. Taylor, Altonah, Utah.
 Louis M. Thorne, Ouray, Utah.
 Arthur Tomlinson, Ouray, Utah.
 Harry E. Tomlinson, Ouray, Utah.
 H. A. Tyzack, Vernal, Utah.
 Marie Villard, Craig, Colo.
 Joe A. Wagner, assistant range examiner, United States Indian Service, Uintah and Ouray Indian Agency, Fort Duchesne, Utah.
 Leo Wild, Vernal, Utah.
 Reed H. Wilson, grazier aide, district No. 8, United States Grazing Service, Vernal, Utah.
 Walter V. Woehlke, assistant to Commissioner Office of Indian Affairs, Chicago, Ill.
 Arthur Wooley, Vernal, Utah.
 C. C. Wright, Superintendent, Uintah and Ouray Indian Reservation, Fort Duchesne, Utah.

The CHAIRMAN. Very well, Mr. Wright. Mr. Wright, I have here in my hands the instruments that were handed to me by Senator Murdock which purports to be a letter over the signature of John Collier, of date of June 12, 1933—has that letter been brought to your attention?

Mr. WRIGHT. Not wholly; I am familiar with it—

The CHAIRMAN. Will you tell us to what land it refers?

Mr. WRIGHT. It refers, as I understand it, to the old Uncompahgre Reservation within the orange line.

The CHAIRMAN. I wish, before this goes into the record, to make certain about it. I wish you would familiarize yourself with it at this time. It will be withheld from the record at present.

Senator MURDOCK. As I understand it, Mr. Wright, someone who will follow you will have in his possession in their chronological order all orders, proclamations, and other communications with respect to the withdrawals of these different tracts?

Mr. WRIGHT. Yes, sir. Mr. Woelke has a complete statement on that, including all those things you mention and many others.

Senator MURDOCK. I ask that question, Mr. Chairman, for this reason; I am sure we do not want to duplicate the record.

The CHAIRMAN. I want to say, Senator, that in trying to make a study, following the investigator's proceedings here, personally I have come to this conclusion, subject to change: Following Mr. Wright we would call Mr. Leech to get into the record all of the historic matters pertaining to these lands. That is the program I had tentatively outlined, subject to change at all times, simply to get before the committee as best and as clearly as I could the history of it. Mr. Wright is giving the history of the Indians themselves, as a group, and then the history of the lands from their legal historical features should follow. So, with that in mind, is that satisfactory?

Senator MURDOCK. Yes, that is perfectly satisfactory.

Mr. WRIGHT. I believe I was at the point where I was going to describe this land acquisition project within this black line shown on the map. That started in 1935, immediately after that agreement that was mentioned; at least the purchase negotiations were started. The completion of the first purchase was in 1937. That has proceeded all along until the present time. We consider it complete at present with the exception of three or four small holdings; four, to be exact. Two of them are down here on the Green River, and one of them at this point here, and another was way back up in the summer range. We haven't been able to acquire those tracts because the owners were not able to give satisfactory title up to the present time.

The CHAIRMAN. Let me ask you this, although it is a little beside the question; growing out of the experience I have had as a member of the Appropriations Committee, referring to the appropriations for land, do you hold those lands under option?

Mr. WRIGHT. No, sir. One of them we do; the other three we do not.

The CHAIRMAN. The experience I have had, I am sorry to say, is that the Indian Service in making these purchases frequently gets an option, frequently gets the exercise of the option, removes the optioner and he grows old and his grandchildren are old by the time they are paid for the lands that were optioned. It has been a practice I don't approve of very much.

Mr. WRIGHT. We have told all of our vendors, Senators, if they were older than 40 years we did not wish to deal with them.

To continue, that land acquisition has been practically completed, and the Indians appropriated, as I say \$200,000 and the Government, through the Indian Office, agreed to match it. But it did not take that much, quite. In round figures it has cost \$300,000; \$296,515 to

be exact, 32,697 acres have been purchased. During this time, during this interval, while this land has been in process of being purchased, which, as you say, is always plenty slow, the entire area has been administered under the Taylor Grazing Act by the local grazing service, and that has been done under this agreement of July 19, 1935. I can submit that for the record at this time, or, if you wish—

The CHAIRMAN. I have here a copy of what purports to be an instrument signed as of date July 19, 1935, purporting to be signed by John Collier, Commissioner of Indian Affairs, and John S. Deeds, Acting Director, Division of Grazing Control, purported to be approved and signed by Harold L. Ickes, Secretary of the Interior. If there is no objection that will go into the record at this point. I think it illustrative of the witness' statement.

(The instrument is as follows:)

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, D. C., July 19, 1935.

The Honorable, the Secretary of the Interior.

MY DEAR MR. SECRETARY: Representatives of the Division of Grazing in the Interior Department and the Indian Office met in conference July 18 and agreed on a plan for the management of the unentered lands within the ceded Uncompahgre Reservation, Utah.

It was agreed that any action taken to place these lands under range management should be consistent with any prior valid withdrawal from entry, including the withdrawal from homestead entry by the Secretary of the Interior dated September 26, 1933, of the ceded Uncompahgre lands in Utah. This withdrawal was prior to the Executive order of November 26, 1934, promulgated pursuant to the Taylor Grazing Act approved June 28, 1934 (48 Stat. 1269).

Under these conditions we recommend that the ceded Uncompahgre lands in Utah which were temporarily withdrawn from homestead entry on September 26, 1933, be placed temporarily under range management in accordance with the provisions of the Taylor Grazing Act until December 31, 1936, or until the passage of the bill by Congress creating the new Uncompahgre Reservation if it occurs prior to that date. If the Commissioner of Indian Affairs believes that the people of Utah living within or interested in grazing district No. 8 have been working in good faith for the passage of the bill reestablishing an Uncompahgre Reservation and it has not been passed by Congress by December 31, 1936, he agrees to continued administration of the ceded Uncompahgre lands by the Grazing Division of the Interior Department until the said bill has been passed by Congress or until he believes the above-mentioned people have ceased to work for the enactment of said bill. The Commissioner of Indian Affairs shall concur in all matters affecting policy relative to the administration of the ceded Uncompahgre lands. We understand that the stockmen and other interested parties who attended a meeting at Vernal, Utah, on July 10, have agreed to the above conditions.

It is further agreed that these lands now in grazing district No. 6 in Utah, which it is proposed shall form a part of the Uncompahgre Reservation, shall be included with the ceded Uncompahgre lands in grazing district No. 8 in Utah; that only temporary grazing licenses which do not create in the licenses vested rights of any kind in and to these lands shall be issued for grazing livestock within the modified grazing district No. 8; and that the right, title, and interest of the Indians in and to the ceded Uncompahgre lands shall in no way be jeopardized.

Should there be any Indians within the ceded Uncompahgre Reservation who desire the use of these lands for their own livestock, it is agreed that they be given prior right to an allocation of range within grazing district No. 8, irrespective of what their technical commensurability may be.

Respectfully,

HAROLD L. ICKES,
Secretary of the Interior.
JOHN COLLIER,
Commissioner of Indian Affairs.
JOHN F. DEEDS,
Acting Director, Division of Grazing Control.

Mr. WRIGHT. That, no doubt, Mr. Leech, will cover.

I might just refer briefly to one or two items in that agreement. One is that the Indians should receive grazing privileges without cost and regardless of their technical commensurability during the time that this legislation is pending to set up this as an Indian grazing reserve. In addition to that it says that nothing but temporary licenses will be issued. Therefore on account of that agreement the Grazing Service is now unable to issue 10-year permits until this matter is settled.

The CHAIRMAN. That is within the territory embraced within the orange line?

Mr. WRIGHT. Yes, sir. It does not affect the other parts of the district.

The CHAIRMAN. Going back to your former statement as regards the understanding that the Indians had that they might use the range without setting up a commensurate base; is that correct?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. In other words, they might use as much land as they wanted to, regardless of what their commensurability might be?

Mr. WRIGHT. Well, I don't know as it implied that strong an arrangement. They might use as much land as they wanted to, but they might be granted licenses upon proper applications for whatever livestock they had to run. I might say that has been done as far as that is concerned, but as we acquired these properties—by “we” I mean the Indian Service—we removed the livestock that belonged to the vendors. We called them the vendors, the private owners, and as they sold out they moved off. Then we applied at various times for nonuse licenses pending the time when the Indians could build up their herds and use the area themselves, and also for the conservation and rehabilitation of the range. It is unfortunate for us that those privileges were not granted, and it seemed to us that almost as fast as we moved out the livestock of the stockmen to whom these properties had belonged, someone else moved in with a license from the Grazing Service. Because of this the area has been pretty fully stocked during this interval, both with Indian and white livestock. There is a considerably larger proportion of white stock, however.

The CHAIRMAN. Right at this point, what is the largest holding that any Indian has on the lands purchased from the white people within the black line?

Mr. WRIGHT. The largest holding that was purchased?

The CHAIRMAN. What is the largest holding that any one Indian has?

Mr. WRIGHT. Well, it was purchased, Senator, in the name of the United States, in trust for the Ute Indian tribe.

The CHAIRMAN. Then I take it, and you can see if I have the correct picture, if not you can correct me—I take it the Indians were moved into the properties and lands from whence the white settlers moved out?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. Was there any limitation to the amount of land any one Indian could have of the lands purchased from the white settlers?

Mr. WRIGHT. No limitation was set up. But there were about 11 homestead ranch holdings in here, and the remainder was home-

stead grazing land, out on the range. All of the homesteaded land shown in this scattered area here, and a large part of this, in fact, on the creek, is just range land, is used in common by the Indians as a tribe, as a whole. But the buildings of the 11 ranch properties are now occupied by Indian families. One pretty good example, what we can refer to as the Jigg Taylor holdings, consisted of a total of 630 acres, approximately, and a little over a hundred acres of that was in cultivation. Three Indian families live on that now.

The CHAIRMAN. If we were to look upon this entire matter from the same standpoint that we would view it under the Taylor Grazing Act, generally speaking, would you say that the lands designated in red would be base lands for commensurate rights on the open public domain?

Mr. WRIGHT. Definitely; yes, sir.

The CHAIRMAN. That is the way I have grasped the situation.

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. Now, if that be base land for commensurability on the open public domain, and if we regard the land within the orange border as open public domain for purposes of this discussion, what would be the largest holding of base land any one Indian would have in there?

Mr. WRIGHT. That is a pretty difficult question to answer. For instance, the A. M. Myrup property we purchased consisted of 8,000 acres of patented land. He had two home ranches there. Three Indian families are on one, and three on the other. They occupy those home ranches with their families. On the remaining 8,000 acres.

The CHAIRMAN. Were the commensurate rights of the white settlers determined under the Taylor grazing system, prior to the time the white settlers were bought out?

Mr. WRIGHT. Not all of them. There were two large holdings that were purchased, and as I say, the options were taken before the grazing district got under organization here. They were the two largest holders, and they never had a license from the Grazing Service. I believe all the remainder did, I am not sure, that is about all of them, but most of the remainder did have a license.

The CHAIRMAN. Where are the base lands in this area upon which the Indians who took over the white settlers' lands sustain their cattle or livestock when the livestock are not on the open public domain?

Mr. WRIGHT. They are now on the creek bottoms, which are shown on this part of the map here colored in red, and along these blue allotted lands, up and down the White River, and, to some extent, up and down the Duchesne River, on these blue and purple lands in here.

Mr. PATTERSON. Is that winter or summer grazing he is talking about?

The CHAIRMAN. We have not gone into that yet. I am wondering—I don't want to go too far into it right now. I don't want to get too much involved here. I want to get the history.

Senator MURDOCK. I would like to ask this question, Mr. Chairman: Is it contemplated by the Indian Service, Mr. Wright, that any Indian other than an Uncompahgre Indian should have any rights within the

grazing reserves or proposed grazing reserve within the black line?

Mr. WRIGHT. Yes, sir. In fact, one herd of sheep belonging to a Uintah has been grazing there for 2 or 3 years.

Senator MURDOCK. So would it be correct to say this, that it is the proposal of the Bureau of Indian Affairs to use as base properties the lands in green, or the lands in blue, or some of them, within the old Uintah Reservation?

Mr. WRIGHT. I might answer that in two ways, Senator. It has been our judgment and our contention all along that these purchased properties would absorb the commensurate lands in this area within the green line, not the black line, but the green line.

Senator MURDOCK. That is, the base properties within the black would be sufficient to have all the grazing lands within the black line allocated to them as base properties?

Mr. WRIGHT. Yes, sir; that has been our contention. It has not been accepted. We also included, however, the small number of blue allotments within this area [indicating].

Senator MURDOCK. Are you informed as to how title originally vested in the white owners to the lands indicated in red, within the black lines?

Mr. WRIGHT. Almost wholly by homestead.

Senator MURDOCK. Would that be the smaller homesteads of 160 acres, or the grazing homestead?

Mr. WRIGHT. Many of them were grazing homesteads, 640 acres.

Senator MURDOCK. But some of them were smaller?

Mr. WRIGHT. Yes, sir.

To answer that former question, Senator, for the record, especially, the Uncompahgre Indians desired this area for their use, and there has been, particularly recently, considerable discussion of trying to obtain that for their sole use, on the ground that the Uintahs and the White Rivers had their grazing lands up here [indicating]. The Uncompahgres thought they were entitled to this area exclusively.

The CHAIRMAN. You are now referring to the area within the black line?

Mr. WRIGHT. I am referring to what is within the black-green line.

The CHAIRMAN. The green line is a kind of an amendment to the black line?

Mr. WRIGHT. Yes, sir. For the record's sake I might make that a little clearer.

That property cost the Indians \$170,000, and the Government paid \$130,000 more to purchase those private lands. Our land field agent appraised the value of those private properties on the basis of a formula that was developed by a good many experienced men. An agricultural land bank agent helped on it. Our land agent would go out to a piece of that property and apply the formula to it, considering the number of acres of alfalfa, the number of acres of pasture and corn, or whatever grew on the property, and then set up the number of livestock that private property would carry. As an illustration, if the property would carry 30 head, then he gave not that value, but after consultation with the Grazing Service, who informed him that a fair ratio of use was 9 months on the public

domain to 3 months on the base property, so he would multiply the 30 head that the fellow could carry on the home ranch by 3 and get 90 head that should run on the public domain, making a total operation there of 120 head year long. The rate of payment was established for most of these properties on an average of about \$45 per animal unit of the properties total carrying capacity. At that rate, the properties cost the Indians approximately \$300,000 and provided carrying capacity in the area of nearly 65,000 animal-unit-months or about 5,400 animal-units year long. From those figures it was contemplated that that base property would absorb all of the public domain in the area, even if nothing else was taken into account.

The **CHAIRMAN**. When you say, "the area" you refer to the black line?

Mr. WRIGHT. Yes, sir; I refer to this green line in this black line.

Now, I might say that in the course of negotiations for purchasing all of this property there were some properties, particularly here on what is called Willow Creek, that we were not able to buy. The price seemed too high, and so it was decided later to modify the boundary, and leave out some of this Willow Creek territory. There are some rather sharp topographic barriers at that point; it is a survey line, so it can be described. This is Willow Creek for the most part coming down there, so the boundary was modified and this area was included on account of topography again. There is a ridge around here and this was the new line that was drawn.

The **CHAIRMAN**. You are referring now to the green line?

Mr. WRIGHT. Correct, so when I am talking about the carrying capacity I am now talking about the lands within the green line instead of the black line.

Now, that is a pretty high carrying-capacity figure, and if they use what has later been determined by the Indian Service range men as the carrying capacity instead of the 5,400 we get about 3,300, and that would run the cost of the animal units on this private property up to about \$88 a head that the Indians paid for it. If we use the Grazing Service's figure which, by the way, has been interpolated from their estimates, they have not actually produced an official figure on this area, then the cost of the carrying capacity per animal-unit purchased in there would be about \$67.

Now, we take the position that from an historical, equitable, and a moral standpoint the Indians are entitled to this area, but aside from that—

The **CHAIRMAN**. Again referring to the area within the black and green line?

Mr. WRIGHT. Yes, sir. But aside from that standpoint we feel quite sure that they have purchased it outright, and from a business standpoint they are entitled to it, even forgetting the whole history that I have attempted to describe.

The **CHAIRMAN**. Well, they purchased it outright, as far as they could purchase, transferring title in fee simple to the purchasers. You call it a purchase. It has to come by recognition of a commensurate right.

Mr. WRIGHT. Yes; that's right. I realize there is some question on that point.

Senator MURDOCK. Are we correct in coming to this conclusion, Mr. Wright, that there is a difference between the estimate of the Grazing Service which, as I understand you to say, was 5,400 animal unit months.

Mr. WRIGHT. No; that figure was the estimate of our land purchasing agents.

Senator MURDOCK. I thought you said it was the Grazing estimate.

Mr. WRIGHT. No; there was an interpolated figure which resulted in an animal-unit cost of \$67.

Senator MURDOCK. What was this 3,300?

Mr. WRIGHT. The estimate the area's conservative carrying capacity made by our Indian Service men.

Senator MURDOCK. Do you refer to that as 3,300 animal-unit months?

Mr. WRIGHT. No, sir. That figure means 3,300 animal units year-long.

Senator MURDOCK. As the carrying capacity of the grazing lands plus the base properties within the green line?

Mr. WRIGHT. Yes, sir; that is my understanding.

The CHAIRMAN. That is on the basis of how many months?

Mr. WRIGHT. The year long.

The CHAIRMAN. Twelve months?

Mr. WRIGHT. Yes, sir; and the Grazing Service has a somewhat higher estimate, that is true.

Now, I don't know as I am entirely clear on the effort to get legislation that would set this up as a reserve, but I might mention that during this interval of 7 years while this has been pending and been in controversy between our own service, and, to some extent, the Grazing Service, and the local stockmen here, and various organizations among the white people here, controversies have arisen all the time in this area and it has been very difficult to administer with any degree of fairness, or any feeling of permanency at all, or any ability on the part of anyone to make any permanent future plans. They have disagreed about rates, and about who should be in there, and who should be out, and about who had the rights and vested rights, and about where the Indians should go, and the white fellow should go, and it has been a very difficult situation. As I understand it, Mr. Murdock introduced a bill to set up this area as a grazing reserve.

Senator MURDOCK. Let me see if I can set you right on my position. About 3 or 4 years ago my conclusion was that our experience with the setting up of Reservations had convinced me that that was not the proper way to handle the Indian grazing situation. Now the proposal that I made, and the bill that I introduced, contemplated setting up an Indian grazing district, under the formula of the Taylor Grazing Act. Now, my attitude is that the Indian citizen is entitled to grazing rights on exactly the same basis as the white citizen, and that has been my idea of the solution of this problem, giving the Indian exactly the same grazing rights commensurate with his base property that the white livestock owner has; and the objections that I had to the bill that passed the House during the last session was that that bill, without my knowledge at all, contemplated again setting up an Indian reservation.

Now, the reason that I object to a reservation is this: I think that as the Indians grow in the livestock business, it is certain that they are entitled to grazing rights; but I can see no reason and no justification in setting up a great large reservation for the Indians, unless they have some beneficial use for it.

Mr. WRIGHT. Of course, as far as my statement is concerned, I had better not try to trace the legislation's history. You, of course, know it better than I do.

I want to make one more point, however, if I may. Some sort of legislation has been pending here for a long time, and it has not been accomplished, and it has made for a difficult situation here for all of us. Everybody in this room knows that. So the Secretary of the Interior thought that he had authority to set up a special grazing district. I don't mean he thought he had that authority. I suppose he was sure about it, so that an order has been prepared, and I understand signed by the Secretary of the Interior, to set up this area as a grazing district for the Indians. That is, within this green line, approximately. But that order has not been issued, and it is hoped that out of the discussions here at your hearing today and tomorrow some sort of an agreement might be reached, by which this order can be issued, and legislation following it, to make it permanent, and to settle this matter, so that we, all of us here, will know where we are.

Senator MURDOCK. May I ask this question, What is the number of Uncompahgres, now, that are involved in this matter?

Mr. WRIGHT. Approximately 600, Senator.

Senator MURDOCK. Is that men, women and children?

Mr. WRIGHT. Yes, sir; Uncompahgres. There are 1,422 Ute Indians in our reservation here.

Senator MURDOCK. That is including children as well as adults?

Mr. WRIGHT. That is the entire tribe.

Senator MURDOCK. Now, is it the intention of the Indian Bureau to locate the entire 600 Uncompahgres within the area within the green line?

Mr. WRIGHT. Well, with rather few exceptions, yes, sir. Some of the Uncompahgres have intermarried, during the years with these other people, and live—I don't know the exact number that live up there, but there are relatively few.

Senator MURDOCK. Could you break the 1,422 down to adult males, adult females, and so on?

Mr. WRIGHT. I could give you that, sir; I don't have it with me.

The CHAIRMAN. I would like to have that if you can get it.

Now, just one question as regards the Ute Indians, other than the Uncompahgres. They have the land embraced within the yellow on the map for grazing purposes, is that correct?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. How much land is embraced in the yellow?

Mr. WRIGHT. Approximately 270,000 acres.

The CHAIRMAN. How many livestock have they, other than the Uncompahgres?

Mr. WRIGHT. Approximately 3,000 head of cattle, about 4,000 head of sheep.

The CHAIRMAN. And the Uncompahgres have about how many livestock?

Mr. WRIGHT. About 1,290 head of cattle and 7,000 sheep.

The CHAIRMAN. And the land embraced within the black and green lines surrounding the red, indicating what has been purchased, comprises about how many acres?

Mr. WRIGHT. About 650,000.

The CHAIRMAN. I notice a space there that seems to be out of the survey. Am I correct in that?

Mr. WRIGHT. That is unsurveyed land; yes, sir.

The CHAIRMAN. That is all contemplated to be included in this?

Mr. WRIGHT. Yes, sir.

Senator MURDOCK. I wonder if you will give me the figures on the cattle and sheep holdings of the White Rivers and Uintahs?

Mr. WRIGHT. White Rivers and Uintahs combined, about 3,000 head of cattle and 4,000 head of sheep.

The CHAIRMAN. Now, do the White Rivers and the Uintahs range those cattle now along the yellow lands?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. And they have their base lands in the blue?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. And I am interested in knowing what crops are harvested on the red lands that have been purchased from the whites.

Mr. WRIGHT. There is only about 1,100 acres in this entire 32,000 acres that was purchased, that is cultivatable. The rest of it is open range land. The crops grown on that approximate acreage of eleven hundred consists chiefly of alfalfa hay, some timothy and grain. Things of that kind are raised, corn and garden crops, some wheat, and other small acreages of beans.

The CHAIRMAN. Well, of the stock that would be ranged on the open lands—when I use the term “open lands” I mean other than land held in fee simple—of the stock that would be ranged on the open lands, where would the base lands be for their sustenance for the winter months?

Mr. WRIGHT. They would be, as I mentioned a moment ago, Senator, chiefly on the creek bottoms of what is known as the Hill Creek; up and down here for about 50 miles. There is one holding here on Willow Creek; an Indian has 170 head there now. He put up two stacks of hay, and has river bottom meadow. Then on this White River land here, they flooded some of these lands here last year, by putting obstructions in the river, and the natural western wheat grass is as high as this table; and many hundred head, I should say five or six hundred head, of cattle are wintering there now.

The CHAIRMAN. They winter on the land without harvesting the crop?

Mr. WRIGHT. This kind of winter; yes, sir.

The CHAIRMAN. Does that come to this district each year?

Mr. WRIGHT. Well, this is an unusual winter, like California; but it is quite common. Of course the advocated practice is to have some hay for reserve purposes. Of course, that is very necessary.

The CHAIRMAN. Referring now to the yellow lands, which I understand are used by the White River and the Uintahs for grazing, do they lease to whites?

Mr. WRIGHT. Not lease, Senator, but permit.

The CHAIRMAN. Permit?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. About how many?

Mr. WRIGHT. Forty percent white users, last year, and 60 percent Indian, on the yellow lands.

The CHAIRMAN. And as regards the lands surrounding the red, and within the black and green borders, are there permits issued by the Indians there?

Mr. WRIGHT. No, sir. The Grazing Service have been issuing permits there for the white use.

The CHAIRMAN. What is the percentage there between the whites and the Indians?

Mr. WRIGHT. Forty-nine percent white and 51 Indian, in this area at the present time.

The CHAIRMAN. How much grazing by the Indians is there on the national forest?

Mr. WRIGHT. As much as we can get, which amounts to about a thousand head now. We have an old agreement with the national forest, that was developed in 1906, which said that 1,200 head of Indian horses and cattle could run for 6 months, upon the national forest; and we have been getting about a thousand head of that for the last few years.

The CHAIRMAN. Are there any sheep up in there?

Mr. WRIGHT. That includes sheep. It is the equivalent of 400 head of cattle in all; in the equivalent of sheep on this area.

Senator MURDOCK. The life on the forest is fixed at the 1,200 head of cattle?

Mr. WRIGHT. Yes, sir; cattle and horses, it said.

Senator MURDOCK. What was the consideration, Mr. Wright, for that right that was given to the Indians?

Mr. WRIGHT. When this national forest was created in 1906 either the Indians or Captain Hall of the United States Army who was the Indian superintendent said, "Now, this is a funny way to lay out a grazing area. This is spring and fall range, instead of spring and fall and summer range, and the Indians' horses and cattle have been running up here and back, covering both areas. There are no fences, no barriers or anything, and you cannot keep the Indian stock off that forest. It seems like they are entitled to run there. What are we going to do about it?"

The Forest Service said, "Count up what you have got there, and we will make some sort of an arrangement." So Captain Hall counted them, and he got 2,400 head that grazed up in here. They said, "They will drift up and back; we will split the difference and call it 1,200 head on the forest for the summer season." I believe they mentioned 6 months, although it may have been just the summer season. As a matter of fact they only range there for 4 months, at the present time; and in consideration for that the Indians will allow the white permittees who take their cattle on the national forest to cross this yellow

land free of charge, whenever they have to take their herds off the national forest. In addition to that the Indians waive the regulation of advertising to the highest bidder for any surplus grazing the Indians may have; waive that regulation and permit the four permittees to have that privilege of going up and down, and they can be the ones using the surplus range on this land, instead of being subject to the bidding process, which might eliminate them.

Senator MURDOCK. When a cut is made on the forest, as I presume that it has been made, what happens to the Indians' right of grazing on the forest, the 1,200 head? Has that been cut?

Mr. WRIGHT. We have contended that nothing should happen to that right; but actually during the 30 years or more that the Forest Service has been in operation, the use by the Indians on the national forest dwindled from that 1,200 head to almost nothing in 1936. There were only 300 or 400 head of grazing up there at that time. The Forest Service personnel had changed from time to time, and were not aware of this old arrangement. They said, "We have now issued permits to the white permittees, which have almost completely stocked this range; and we don't know that there was any such agreement as that. But in order to be cooperative we will do the best we can with you. But we cannot give you any 1,200 head." They made some shifts, as best they could, and took care of whatever they could that first year. It increased a little each year, until they got up to a thousand. But we have been anxious to have a review of that old understanding, and have it placed on a permanent basis, so that we can plan. For instance, at the present time we have had quite an increase in this Indian stock, and we don't know where we are going to put them next summer. It creates a problem. We have either got to take some of the white stock off of here, for spring and fall use, and take care of these Indians' stock, or the Forest Service has got to reduce some permittee there to take care of it.

Senator MURDOCK. A stockman at Heber City yesterday referred to a cash item that is being held for a number of years. I think he said \$300; as the result of this Indian right on the forest. He did not explain fully to me about it, and I wonder if you know anything about that. He did suggest that something should be done.

Mr. WRIGHT. No, I don't know a thing about that.

Senator MURDOCK. He simply hurriedly told me about it; referred, I think it was, to an item of \$300 in cash.

Mr. WRIGHT. I recall the record in going through the file there. Ten years ago a man over there was charged a crossing fee. I don't know whether he paid it and expects to have it refunded. I am not familiar with it, but there was a mistake made some 10 years ago on a crossing fee.

Senator MURDOCK. If I may refer to the base properties within the green and black lines, title to that has been taken collectively, has it not?

Mr. WRIGHT. Yes, sir; that is right, the Ute Indian Tribe.

The CHAIRMAN. That is taken by the Government for the Indians?

Senator MURDOCK. It is held collectively now. Is it the plan, do you know, to divide that up individually between the Indians?

Mr. WRIGHT. No, sir; no such plan as that now, except for the home properties, where they live in there, little cabins that are there, and

make a garden and put up their hay for that home operation. That is assigned to individual families; yes, sir; but, as I say, there are only 11 of those.

The CHAIRMAN. Where do the greatest group of Uncompahgres live?

Mr. WRIGHT. Here at Ouray.

The CHAIRMAN. Is that the reservation?

Mr. WRIGHT. Yes, sir; that is the headquarters for the reservation.

The CHAIRMAN. What is the income? What is the amount of the income derived by the Indians from their agricultural pursuits, referring now first to the White Rivers and the Uintahs? What is the annual income, say, for a period of 3 to 5 years back?

Mr. WRIGHT. Family income?

The CHAIRMAN. Break it down into the family, or you can take it as a group, just as you like. Perhaps you would prefer to break it down. But I wanted, first of all, what is the income from that group known as the White River and Uintahs, from their agricultural pursuits? I take it all of their income, aside of what comes from the Government, comes from agricultural pursuit.

Mr. WRIGHT. Agricultural and labor.

The CHAIRMAN. Hold it down to agricultural pursuits. What have they derived from any period of years you see fit?

Mr. PATTERSON. Including livestock as agriculture.

Mr. WRIGHT. I don't have it broken down between the bands, Senator. We have it only as a tribe.

The CHAIRMAN. Take the whole three groups as a tribe.

Mr. WRIGHT. Yes, sir. Our reports show it as the tribe as a whole.

The CHAIRMAN. If you could break it down for us—we are dealing with a question here which seriously involves one branch of your tribe, which is the Uncompahgres, and you have dealt with them separately here in your discussion. I would like to know what the agricultural income, the income from agriculture embracing livestock, of the two groups, the Uncompahgres as one and the White River and Uintahs as the other. Then, if you care to break it down by units of families, that would be all right.

Mr. WRIGHT. That will be easy to obtain. I will have it for you tomorrow morning.

The CHAIRMAN. The committee would like to have a break-down of the income from agricultural pursuits of the respective groups, and the income derived by the respective groups from the letting of permits to white settlers on these tracts.

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. If you would be so kind as to get that for us we would appreciate it. Have you about concluded?

Mr. WRIGHT. I believe I have, sir.

Senator MURDOCK. One other item, Mr. Wright, would be informative. What is their income from leasing water rights? Do they lease any water at all?

Mr. WRIGHT. No, sir.

Mr. PATTERSON. May I ask for a couple of documents, first the agreement of July 12, 1935, between the Indian Service and the Grazing Service in relation to cooperative agreement; that is, July 20, 1935.

November 20, 1936, that was extended. I would like to have the extension agreement.

The CHAIRMAN. I have in my hand here the first instrument you called for. It has been admitted in the record. Further extended, November 20, extending the agreement of July 20?

Mr. PATTERSON. That was taken from a letter written to Mr. Seeley on March 4, 1940. I would like to see the first two.

Mr. WRIGHT. I have the first one. I don't know whether I have the others.

The CHAIRMAN. Before you leave, Mr. Wright, we should like to have one expression from you. I caught, at the early part of your discussion, that you did not regard from the history that you know of this tribe, speaking now of the three groups of one tribe, you did not regard them as an agrarian tribe?

Mr. WRIGHT. No, sir; not originally at all.

The CHAIRMAN. They were more given to the chase, and so on?

Mr. WRIGHT. That is right.

The CHAIRMAN. They made their living that way?

Mr. WRIGHT. Yes, sir; distinctly so.

The CHAIRMAN. Now, how has the population increased or decreased in the past decade?

Mr. WRIGHT. A slight increase in the last decade, Senator, from about 1,350 to the present population of 1,422.

Mr. PATTERSON. Will we be permitted to ask him a few questions after lunch?

The CHAIRMAN. Yes. We will now recess until 1:15.

(Recess until 1:15 p. m.)

The CHAIRMAN. The committee will be in order.

I understood there was someone who wanted to interrogate Mr. Wright. Are there any questions? Does anyone wish to propound any questions to Mr. Wright?

Let the Chair make it clear now that at any time during the hearings, if anyone in attendance cares to propound a question to anyone who is testifying, if they will stand and make known their name, so that the record may be clear we will be glad to have them propound the questions. It is the view of the committee that those who are on the ground, and who know the problems from their respective standpoints, are best qualified to interrogate in many instances; and the committee is here for the purpose of getting all the enlightenment it can, on every phase of the subject. So let no man hesitate to propound any question. Simply rise, and give your name, so the record will disclose who you are, and propound your question. Is there anyone in the audience who desires to interrogate Mr. Wright now while he is on the stand?

Very well, we will call Mr. Leech. Before we do that, I would like to ask one question myself of Mr. Wright.

Mr. Wright, I think we asked you to get for the committee, during the course of the hearings here, the data as to the amount received by the tribe from agricultural pursuits, and also the amount received by the tribe from permits?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. Make that broad enough to cover both lease and permit, as those terms apply. In other words we would like to ask for those.

Mr. **RAY DILLMAN**, attorney-at-law, Roosevelt, Utah. Might we ascertain the income that is derived from the ceded lands themselves, south of the Duchesne, and break it down also north of the Duchesne; the two units?

The **CHAIRMAN**. Can you do that?

Mr. **WRIGHT**. We can do that, yes, sir; I think by tomorrow morning.

The **CHAIRMAN**. Any other information desired from Mr. Wright while he is before us? Mr. Wright, did you intend to give the committee the benefit of your knowledge as regard the attitude of the Indians with reference to the ceded lands south of the Duchesne?

Mr. **WRIGHT**. I would be glad to do that if you desire it.

The **CHAIRMAN**. Yes; we would like to have it.

This "ceded lands," that is a misnomer, in reality, isn't it?

Mr. **WRIGHT**. Yes, sir. The proper name for those lands is the opened, unsold lands in the Uintah Reservation. But, if I may, I have always been calling them ceded lands.

The **CHAIRMAN**. Very well, that is all right.

Mr. **WRIGHT**. About 4 years ago, as I recall it, a proposal was made that this Uncompahgre area or what we have called the Ute extension area, which is shown on the map within the green and black line there, should be set up as a reserve, or a special grazing district for the Indians; but, if that were done, that the ceded lands, within the old Uintah Reservation, should also be disposed of; that such disposal should be made so that it would benefit the users, white users particularly, in Duchesne County. Those ceded lands have been used for years as a sort of no-man's land, with no administration on them, scarcely, and they lay in such locations that they had to be used by the Uintah National Forest permittees and by the white owners of their lands interspersed among them. So a proposal was made to the Indians that they consent to giving up at least a large portion of those ceded lands, in order to make the use among the white people more logical, more convenient; and, also, as a part of a trade, to get this Uncompahgre area for their Uncompahgre neighbors. The Indians replied in effect as follows: "We don't think it is right that we should be asked to give up some of our ceded lands on the Uintah Reservation, in order to see that Uncompahgre area established for the Uncompahgres. We have heard a good deal already about the laws that have been passed, and orders by the President, and so forth; but we always thought that country belonged to the Uncompahgres anyway. That is our understanding; it was promised to them in the beginning. When the Uintah Reservation land was taken away from us, the white people paid \$1.25 an acre for it when they homesteaded it. We have gone into the old Uncompahgre area as a united tribe, and paid much more than that to get the land back. Now we are being asked to give up the ceded lands. But if that is the only way it can be done—it is true we are not using much of those ceded lands—we will consent to let those ceded lands south of the Duchesne and Strawberry Rivers go, on five conditions:

"First, that the Uncompahgre Reservation is set up for the Ute Indians. Second, the mineral rights be reserved, on those ceded lands, to the Indians. Third, that we get paid for whatever the value is of those ceded lands. Fourth, that we collect the grazing fees on those ceded lands while we are waiting to get paid. We remember it took 30 years to get paid for the forest lands. Fifth, that the Avintaquin

Canyon country which runs down through those ceded lands be reserved to us as a special hunting ground, in order that we be allowed to have exclusive hunting privileges on that canyon country."

Well, those conditions were submitted to Washington. Some of the attorneys for the Indians visited the reservation and explained in a meeting of the Indians that those conditions were hardly feasible, that the mineral rights already belonged to the Government, they would have to repeal existing laws; that the Uncompahgre Reserve could be set up as one condition, and they would probably get paid for the lands if they were taken. That would be fulfilling two conditions, and they probably would get paid in such a short time that they would not realize a great deal even if they did collect the grazing fee. They could not have the Avintaquin country for exclusive hunting grounds, because the white people owned lands in there already, and they could not exclude any man from his own land. So this proposal could not be fulfilled except as to two of their conditions. Even so, the Indians who met in these meetings said, "Well, if that's the best we can do you go ahead and do what you can with it, and we'll be content."

That is about the way in which they consented to the disposal of their ceded lands, in a trade to have this Uncompahgre Reservation set up for the Uncompahgres, or for the Ute tribe as a whole; and it was the understanding that the ceded lands north of those two rivers would be restored to the Indians.

The CHAIRMAN. Thank you, Mr. Wright.

Mr. PATTERSON. Could we ask Mr. Wright some questions?

The CHAIRMAN. Yes; I called for you before. Do you wish to interrogate Mr. Wright now?

Mr. PATTERSON. Mr. Wright, I take it you are supporting this House bill 837?

Mr. WRIGHT. Not necessarily, sir.

Mr. PATTERSON. You are supporting legislation of that character, I take it?

Mr. WRIGHT. Well, I suppose I could go that far; yes, sir.

Mr. PATTERSON. That is the purport of the bill; to make a withdrawal of that specific area for the benefit of the Indians?

Mr. WRIGHT. Yes, sir; to that extent we are supporting it.

Mr. PATTERSON. And as I understand it you present two points: First, that the Grazing Division has no jurisdiction over the area in question; that is, the black area, the area bounded in black as modified by the green lines on the east; that they have no jurisdiction by reason of the fact that the land was withdrawn by the act of 1933. Is that correct?

Mr. WRIGHT. Well, that they have jurisdiction by virtue of the agreement between the Indian Office and themselves.

Mr. PATTERSON. They have jurisdiction by virtue of it?

Mr. WRIGHT. Yes, sir.

Mr. PATTERSON. Then you claim nothing now under that theory that it was withdrawn, and, therefore, the Grazing Division has no jurisdiction?

Mr. WRIGHT. No; we don't claim that at all.

Mr. PATTERSON. Then your other point is that the Indian Department has gone into this area and purchased certain base property, and

with that base property you purchased the grazing rights that went with it?

Mr. WRIGHT. Yes, sir.

Mr. PATTERSON. And that the Indians are entitled to enjoy those rights?

Mr. WRIGHT. That is right.

Mr. PATTERSON. That is your main point, is it not?

Mr. WRIGHT. Yes, sir.

Mr. PATTERSON. Now, you referred to an agreement or two here, copies of which, one, at least, was put in evidence. This document of July 10, 1935, where you say the grazing board here, and the stockmen of this area, all agreed, that this, whatever this agreement is—I hand it to you. Is that the agreement you referred to?

Mr. WRIGHT. I referred to that; yes, sir.

Mr. PATTERSON. Now, at the time you had that meeting, where was that meeting held, here?

Mr. WRIGHT. I believe here in this room.

Mr. PATTERSON. You were present?

Mr. WRIGHT. No, sir.

Mr. PATTERSON. Who represented the Indian authorities at that time?

Mr. WRIGHT. Their names are on there. I could not identify them. If you would hand it to me—they were James M. Stewart, Richard B. Millin, Mark W. Radcliffe, Robert Marshall, and L. W. Page.

The CHAIRMAN. They represented the Indian Service?

Mr. WRIGHT. Yes, sir.

Mr. PATTERSON. Were you here following the transaction at the time?

Mr. WRIGHT. No, sir; I was not here.

Mr. PATTERSON. You were not here at that time?

Mr. WRIGHT. No, sir.

Mr. PATTERSON. Did Mr. Page have charge of the reservation at that time?

Mr. WRIGHT. That is right.

Mr. PATTERSON. Do you know that at that time they agreed in great detail as to how this particular area should be operated? Do you know that?

Mr. WRIGHT. I don't know in how great a detail, but there was a good deal of discussion, I know, and I have heard—

Mr. PATTERSON. The stockmen were all interested in the transaction. Did you know that Hugh Colton represented the white users of the range at that time?

Mr. WRIGHT. I understood so.

Mr. PATTERSON. Do you know at that time that a committee was appointed to draft a bill to be sent to Senator Murdock to be introduced in the house at that time?

Mr. WRIGHT. Well, I don't know that I know that. I may have heard of it; yes.

Mr. PATTERSON. Have you since ever gone over the bill that was sent to Mr. Murdock?

Mr. WRIGHT. There have been so many, Mr. Patterson, that I don't know whether I really saw this particular one you are referring to or not. Seems to me there have been quite a number of bills and

orders during this last 7 years. I could not say that I am familiar with that particular one.

Mr. PATTERSON. If you have looked over their bill, I ask you to state if you observed in paragraph—

The CHAIRMAN. To what bill are you referring?

Mr. PATTERSON. To the one prepared by Mr. Colton, pursuant to the meeting of July 10, 1935; prepared by him, at the instance of this meeting, to present to Senator Murdock for introduction, subject to such revisions as he might care to make.

The CHAIRMAN. What was the date on it?

Mr. PATTERSON. Identify it by the letter sent on the 19th of July 1935. Did you know that meeting agreed upon a bill which contained the following paragraph:

And all persons who have established a right to use the public domain in the said area under provisions of the Taylor Grazing Act will be permitted by the Office of Indian Affairs to graze upon the land upon which they have been licensed to graze by the Division of Grazing at a charge not to exceed that which they would be charged for similar privileges under the rules and regulations of the Division of Grazing until such time as said licensees or their successors in interests shall sell their holdings within the said area to the United States Government for the use and benefit of the Indians entitled to use their reservation.

Mr. WRIGHT. I think we had that understanding.

Mr. PATTERSON. Those were the inducements which caused this alleged agreement to be signed?

The CHAIRMAN. How can he testify to that when he wasn't here?

Mr. PATTERSON. Well, I think he has a general understanding of it.

Mr. WRIGHT. I don't know about that.

The CHAIRMAN. I am wondering how you can testify to it.

Mr. PATTERSON. Unless he knows the history of the—

The CHAIRMAN. I don't want to be captious; the rules before the committee are rather lax in that respect; and I don't want to put someone in a position where he has to testify to something he doesn't know.

Mr. PATTERSON. I appreciate that, Mr. Chairman.

It was your understanding at that time and in your later dealings in connection with this matter that in your later dealings with the Grazing Division that the United States, or the Indian Agency, would go in there and purchase all of the livestock owners of that area?

Mr. WRIGHT. Do you mean the area within the green and black line there?

Mr. PATTERSON. Yes.

Mr. WRIGHT. Yes; that was our understanding.

Mr. PATTERSON. They were not only to purchase the base property, buy the cattle, and even give them a bonus on the cattle?

Mr. WRIGHT. No; I don't recall that I have heard of it, but I don't know whether it was agreed upon or not.

Mr. PATTERSON. It was never done?

Mr. WRIGHT. The cattle were not purchased; no.

Mr. PATTERSON. Pursuant to the provisions of the Grazing Act, your department, I take it—you are familiar with the so-called Taylor Grazing Act?

Mr. WRIGHT. Maybe not from a lawyer's standpoint.

Mr. PATTERSON. I don't know of anyone else that is, from a lawyer's standpoint. It provides that no lands withdrawn or reserved for any purpose shall be included in any such district so organized by the Secretary of the Interior. Let me go back a little farther. It says:

That in order to promote the highest use of the public lands pending its final disposal, the Secretary of the Interior is authorized, in his discretion, by order to establish grazing districts, or additions thereto, and/or to modify the boundaries thereof, not exceeding, in the aggregate, an area of 80,000,000 acres of vacant, unappropriated, and unreserved lands from any part of the public domain of the United States (exclusive of Alaska), which are not in national forests, national parks and monuments, Indian reservations, revested Oregon and California railroad grant lands, or revested Coos Bay Wagon Road grant lands, and which in his opinion are chiefly valuable for grazing and raising forage crops: *Provided*, That no land withdrawn or reserved for any other purpose shall be included in any such district, except with the approval of the head of the Department having jurisdiction thereof.

Now, I take it, you spoke this morning of having several agreements with the grazing division in relation to this matter. I take it that you were acting pursuant to this provision of the Grazing Act which permitted your Department to cooperate with the Division of Grazing for the administration of these lands, were you not?

Mr. WRIGHT. That is a long drawn-out question. I don't know whether I am answering right or not when I say "Yes" or "No." Furthermore, we don't have any department. We are in the Interior Department.

Mr. PATTERSON. But this primary agreement that was signed, the third agreement, was signed by Collier, was it not?

Mr. WRIGHT. I think so.

Mr. PATTERSON. Without a doubt you thought you had authority to negotiate those agreements?

Mr. WRIGHT. When you say "you," do you mean the Bureau?

Mr. PATTERSON. The Indian Department.

Mr. WRIGHT. No such thing.

The CHAIRMAN. That is, the Bureau of Indian Affairs.

Mr. PATTERSON. Are you familiar with the agreement of July 20, 1935?

Mr. WRIGHT. Which agreement do you refer to?

Mr. PATTERSON. It is the one you put in evidence here between the Grazing Service—

The CHAIRMAN. Mr. Patterson, do you refer to the one put in the record of date, July 19, and approved on July 20?

Mr. PATTERSON. I have, I believe, what is the final agreement between the Indian Department and the Grazing Department, which recites that there was such an agreement on July 20, that they entered into a cooperative agreement involving the lands in question, and this agreement, July 20, 1934, was further extended by another agreement of November 20, 1936. Now, I don't have that agreement. Do you know anything about that?

Mr. WRIGHT. I have seen it, yes sir. I think I have it in my brief case here.

Mr. PATTERSON. Will you produce a copy of it for us?

Mr. LEECH. Here is a copy of it, Mr. Chairman.

The CHAIRMAN. Do you wish it at this time?

Mr. PATTERSON. Yes, sir.

(Thereupon the chairman read the following letter into the record:)

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, November 17, 1936.

The honorable the SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: Reference is made to the agreement of July 19, 1935, signed by the Commissioner of Indian Affairs and the Acting Director of Grazing and approved by the Secretary of Interior, July 20, 1935, relative to placing the unentered lands within the ceded Uncompahgre Reservation, Utah, temporarily under range management in accordance with the provisions of the Taylor Grazing Act. In view of the fact that final action in completing the proposed new Uncompahgre Reservation has not been taken by Congress, it is agreed that the above-mentioned agreement be hereby extended until such final action has been taken by Congress * * * with the understanding that in the meantime grazing fees for Indians are to be waived, retroactive to July 19, 1935.

Sincerely yours,

WM. ZIMMERMAN,
Assistant Commissioner of Indian Affairs.
JULIAN TERRETT,
Acting Director of Grazing.

Approved: November 25, 1936,

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

Mr. PATTERSON. Are you familiar with that?

Mr. WRIGHT. I don't know that I've seen that one until right now. There was one later agreement that extended the July 1935 agreement further, for the following year. That's the one I had in mind. It is a different one from the one you mean. We had that understanding, that the agreement had been extended.

Mr. PATTERSON. And it was, and you operated under those instructions until you received a further instruction under date of about March 4, 1940.

The CHAIRMAN. What are those?

Mr. PATTERSON. I don't know. Senator Murdock, I don't know whether this is the document you referred to this forenoon or not. You were going to hold it up for identification. If it is, it is the document I would like to put in evidence.

Senator MURDOCK. No, this isn't the one that I referred to.

Mr. PATTERSON. I ask you to take a look at a letter dated March 4, 1940, addressed to Mr. C. P. Seeley, 503 Federal Building, Salt Lake City, Utah, and signed by E. N. Kavanagh, which identifies a copy of a joint instruction agreement, and ask you to examine the instruction agreement, and ask you to state if you have been instructed in accordance with that instruction. You may examine the letter if you wish, too.

The CHAIRMAN. In order to be clarifying here for the record, this morning we held up a proposed exhibit looking for it to be checked for correction, and we think perhaps it might go into the record now to aid council in interrogating. It is of June 12, 1933, over the signature of John Collier, attached to which is an instrument purporting to have been signed by T. A. Walters, First Assistant Secretary, and also attached to which is an instrument purporting to have been signed by D. K. Parrot, Acting Assistant Commissioner of the General Land Office. If it will be of any assistance to you, you may

have it in the record now, unless there is some objection to it. I think it would be clarifying, perhaps.

(The documents referred to read as follows:)

JUNE 12, 1933.

The honorable the SECRETARY OF THE INTERIOR,

(Through the Commissioner of the General Land Office).

MY DEAR MR. SECRETARY: By Executive order of January 5, 1882, a tract of land in central eastern Utah, adjoining the then Uintah and Ouray Reservation, was reserved for the Uncompahgre Ute Indians. The order is set out below, which embraced approximately 78 townships, or about 1,800,000 acres:

"It is hereby ordered that the following tract of country, in the Territory of Utah, be, and the same is hereby, withheld from sale and set apart as a reservation for the Uncompahgre Utes, viz: Beginning at the southeast corner of township 6 south, range 25 east, Salt Lake meridian; thence west to the southwest corner of township 6 south, range 24 east; thence north along the range line to the northwest corner of said township 6 south, range 24 east; thence west along the first standard parallel south of the Salt Lake base line to a point where said standard parallel will, when extended, intersect the eastern boundary of the Uintah Indian Reservation as established by C. L. Du Bois, United States deputy surveyor, under his contract dated August 30, 1875; thence along said boundary southeasterly to the Green River; thence down the west bank of Green River to the point where the southern boundary of the said Uintah Reservation as surveyed by Du Bois, intersects said river; thence northwesterly with the southern boundary of said reservation to the point where the line between ranges 16 and 17 east of Salt Lake meridian will, when surveyed, intersect said southern boundary; thence south between said ranges 16 and 17 east, Salt Lake meridian, to the third standard parallel south; thence east along said third standard parallel to the eastern boundary of Utah Territory; thence north along said boundary to a point due east of the place of beginning; thence due west to the place of beginning."

From 1882 to 1899, 105 allotments were made on the Uncompahgre Reservation. However, between 1899 and 1905 some of these were relinquished for other lands on the Uintah and Ouray Reservation, to the end that only 83 allottees kept their lands on the Uncompahgre Reserve. The lands not included in individual allotments were restored to the public domain in accordance with the provisions of the act of June 7, 1897 (30 Stat. 87).

These particular Uncompahgre Indians are strictly a stock raising people and their livelihood depends on obtaining additional grazing land, as their present land holdings do not provide sufficient range for their cattle. To meet this situation and in a strong belief that the lands legally belong to their tribe, the Indians are vigorously urging that their original reservation be returned to them, subject, of course, to all existing valid rights to lands heretofore disposed of therein.

Section 4 of the act of March 3, 1927 (44 Stat. 1347), permits the temporary withdrawal of lands for Indian purposes but prohibits permanent withdrawal except by act of Congress. Therefore, legislation will be required before a withdrawal as proposed herein can be made permanently. However, it is essential that the lands be withdrawn temporarily from disposition under the public land laws pending consideration of the matter by Congress, and also so that the range may not be destroyed by bands of sheep now driven in from Colorado and parts of Utah outside of the land in question.

It is, therefore, recommended under authority contained in section 4 of the act of March 3, 1927, *supra*, and subject to all existing valid rights, that all vacant, unentered, and undisposed-of public lands within the area that was embraced in the Executive order of January 5, 1882, be temporarily withdrawn from all forms of entry under the public land laws in aid of proposed legislation permanently reserving the lands as a grazing range for the Uncompahgre Ute Indians and for white stockmen within the area, with the understanding that pending the enactment of legislation as hereinabove referred to this temporary withdrawal shall not deprive the other Indians or the white stockmen of Utah who have been utilizing any of the public lands within the withdrawn area from the continued use of such lands for grazing purposes, under approved permits from the Commissioner of Indian Affairs.

Respectfully,

JOHN COLLIER, *Commissioner*.

GENERAL LAND OFFICE,
Washington, D. C.

(See G. L. O. memo of 9/23/33 herewith.)

There are no reasons appearing in the records of this Office why the foregoing recommendation should not be approved.

Acting Assistant Commissioner.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
September 26, 1933.

The foregoing recommendation for the temporary withdrawal of vacant and unentered lands within the area embraced in Executive order of January 5, 1882, as a grazing reserve, in aid of legislation to make the withdrawal permanent, is hereby approved and the matter referred to the Commissioner of the General Land Office for appropriate notation upon the records of his office. This withdrawal is made subject to all existing valid rights and withdrawals affecting any of the lands embraced therein.

T. A. WALTERS,
First Assistant Secretary.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, September 23, 1933.

Memorandum for the Secretary.

Referring to the attached draft of temporary withdrawal order recommended for departmental approval by the Commissioner of Indian Affairs on June 12, 1933, I have to advise that as amended by adding "This withdrawal is made subject to all existing valid rights and withdrawals affecting any of the lands embraced therein" there are no reasons appearing in the records of this office why the recommendation of the Commissioner of Indian Affairs should not be approved.

D. K. PARROTT,
Acting Assistant Commissioner.

The CHAIRMAN. We have been using a map that is on the wall. Is there anyone here who cares to object to the correct portrayal of that map for the purposes for which it is used, namely, to portray the lands by metes and bounds and general territorial position in controversy? Does anyone object to that?

Senator MURDOCK. I believe it might well be stated, Mr. Chairman, that the map is prepared by the Bureau of Indian Affairs, and has been used in a number of hearings concerning this same subject. It was brought out here by Mr. Haskell.

The CHAIRMAN. Is it agreed that it correctly portrays the lands involved in this hearing, and sets forth correctly the legal subdivisions?

Mr. PATTERSON. We agree to that.

Mr. LEECH. The Grazing Service accepts it, Mr. Chairman.

The CHAIRMAN. We have an agreement here; we are making headway. We have got one agreement.

THOMAS C. HAVELL, Supervisor, branch of Adjudication, General Land Office, Washington, D. C. Mr. Chairman, may I say that I was requested by Mr. Haskell to look the map over with reference to statistical data on file in the General Land Office? I found it, in all the checks that I applied to it, to be correct and in conformity with the records of the Land Office, as far as it goes. But there are some things that are not shown. What it does depict, I've found to be correct.

Mr. PATTERSON. Is that correct, Mr. Wright, that those are the instructions you have been operating on since November 17, 1936?

Mr. WRIGHT. Yes. I might say, however, that I did not understand that that in any way superseded the original agreement. But it was a set of joint instructions for operational purposes.

Mr. PATTERSON. I would like to get this in the record some way. I have but one copy.

The CHAIRMAN. I take it we can get other copies. Mr. Leech, have you other copies?

Mr. LEECH. Yes; I have copies right here.

The CHAIRMAN. Well, we will get the copies from Mr. Leech, and it will go in the record.

(The letter and instrument are as follows:)

DEPARTMENT OF THE INTERIOR,
DIVISION OF GRAZING,
Washington, March 4, 1940.

Mr. C. P. SEELEY,
Salt Lake City, Utah.

DEAR MR. SEELEY: Attached herewith are three copies of the joint instructions agreed upon by the Indian Service and the Grazing Service for administrative action in the area in Utah grazing district No. 8 that is of mutual concern to both agencies.

It is believed that these instructions clearly define the objectives and the action to be taken. It is anticipated that the respective representatives of the two Services will be able to get together and work out the problems here in a manner that will be satisfactory and will eliminate further need for special consideration here in Washington.

Very truly yours,

E. N. KAVANAGH,
Acting Director of Grazing.

OFFICE OF INDIAN AFFAIRS,
Washington, November 17, 1936.

The honorable the SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: Reference is made to the agreement of July 19, 1935, signed by the Commissioner of Indian Affairs and the Acting Director of Grazing and approved by the Secretary of the Interior, July 20, 1935, relative to placing the unentered lands within the ceded Uncompahgre Reservation, Utah, temporarily under range management in accordance with the provisions of the Taylor Grazing Act.

In view of the fact that final action in creating the proposed new Uncompahgre Reservation has not been taken by Congress, it is agreed that the above-mentioned agreement be hereby extended until such final action has been taken by Congress, with the understanding that in the meantime grazing fees for Indians are to be waived, retroactive to July 19, 1935.

Sincerely yours,

WILLIAM ZIMMERMAN, Jr.,
Assistant Commissioner of Indian Affairs.
JULIAN TERRETT,
Acting Director of Grazing.

Approved November 25, 1936.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
Washington.

JOINT INSTRUCTIONS TO THE FIELD PERSONNEL, OFFICE OF INDIAN AFFAIRS, AND THE
GRAZING SERVICE, DEPARTMENT OF THE INTERIOR

UTAH

Recent developments indicate that there is some misunderstanding and confusion in the field concerning the status of certain lands and of certain agreements

between the Office of Indian Affairs and the Grazing Service with regard to the administration of these lands.

The lands in question, involving approximately 1,800,000 acres of land now within the boundaries of Utah grazing district No. 8, were withdrawn from entry or disposal pending legislation by order of September 26, 1933. This order is still in effect.

Subsequent to the passage of the Taylor Grazing Act and because the conservation and rehabilitation plans of the Office of Indian Affairs and of the Grazing Service were so closely related, these agencies, on July 20, 1935, entered into a cooperative agreement involving the lands in question. This agreement of July 20, 1935, was further extended by another agreement of November 20, 1935. The agreements refer to the area as ceded Indian lands. It was later determined, however, that the lands were not of the character contemplated for restoration to tribal ownership under section 3 of the Indian Reorganization Act, and instructions accordingly were issued under date of August 22, 1939.

The specific area regarding which misunderstanding and confusion appear to exist is an area of approximately 700,000 acres within which the Office of Indian Affairs has purchased and is continuing to purchase certain base properties for the benefit of the Indians. Subsequent to the completion of the purchase of these base properties, it was the understanding of both agencies that grazing privileges would be accorded to the respective Indian owners under the terms and provisions of the Federal Range Code, and, further, that the Grazing Service, in cooperation with the Office of Indian Affairs, would endeavor to rehabilitate the Federal ranges, which admittedly were overgrazed.

The following joint instructions are issued under the authority of the agreements above referred to and which are still in effect:

1. It is understood by representatives of both services that certain areas are seriously overstocked and that steps should be taken as promptly as possible to relieve this condition.

2. In areas where there exists any dispute or controversy concerning the condition of the range or its carrying capacity range examiners of the Office of Indian Affairs and of the Grazing Service should make joint field examinations and arrive at an understanding regarding the range condition and its carrying capacity.

3. Nonuse licenses issued to the Office of Indian Affairs or to individual Indians owning base property for the purpose of conservation and rehabilitation of the range shall actually be nonuse licenses and the Grazing Service will not issue use licenses to other applications for grazing privileges on the areas covered by any nonuse licenses approved for the purpose of conservation and rehabilitation of the range.

4. Base properties acquired by the Office of Indian Affairs shall be rated and classified in accordance with the provisions of the Federal Range Code approved by the Secretary of the Interior.

5. Grazing fees are not to be charged or collected from Indians operating under license from the Grazing Service in Utah grazing district No. 8.

6. In the event the Office of Indian Affairs leases acquired base properties to white stock operators and such operators receive licenses for use of Federal range, such licensees will be required to pay grazing fees in accordance with section 8 of the Federal Range Code.

7. Funds received as grazing fees from use of these lands will be applied under section 10 of the Taylor Grazing Act.

8. The local offices of the Office of Indian Affairs and the Grazing Service should work very closely in the handling of all problems concerning this area.

JOHN COLLIER,
Commissioner, Office of Indian Affairs.
R. H. RUTLEDGE,
Director of Grazing.

Mr. PATTERSON. Now, as I understand you, Mr. Wright, you feel that the Indians are entitled to sit in on this area and enjoy the rights that would be enjoyed by the sellers of this land had they not sold?

Mr. WRIGHT. Yes, sir.

Mr. PATTERSON. Let me ask you further, since the Indians have acquired these rights, what percentage of that land has been leased out, or rather leased; the livestock being leased by the white settlers?

Mr. WRIGHT. None has been leased.

Mr. PATTERSON. Have the livestock of these Indians been leased by the white settlers, in which they pay so much in wool, and so many lambs?

Mr. WRIGHT. Indian livestock?

Mr. PATTERSON. Yes.

Mr. WRIGHT. One herd; yes, sir.

Mr. PATTERSON. How much money have you received from this area, as a result of leasing to the Indians?

Mr. WRIGHT. Leasing to the Indians?

Mr. PATTERSON. Leasing this area of the Indians to the whites?

Mr. WRIGHT. We haven't made any leases whatever. You may be referring to permits, or something like that.

Mr. PATTERSON. You may call it permits. How much have you received in the interest of the Indians, from the white settlers, in using this land; say, in the last 3 years since this agreement has become effective?

Mr. WRIGHT. I could give you the exact figures by looking on the records, but we received 1 year 2 cents per sheep months, for approximately—well, I have forgotten the number, somewhere around twelve hundred dollars, as I remember it.

Mr. PATTERSON. What is the basis of the lease charge. Is it on the acre, or per head?

Mr. WRIGHT. Per head.

Mr. PATTERSON. Could you get us those figures, say for 1942, 1941, and 1940; the amount the Indians have received to their account, by reason of the use of their permit lands from the whites?

Mr. WRIGHT. Yes, sir.

Mr. PATTERSON. Isn't it true, generally, that the Indians, when they acquire these rights, immediately sublease to the whites, and the whites use their rights?

Mr. WRIGHT. No, that is not altogether true; they do some, to some extent; and not always immediately. It takes quite a little period of time, you understand, for a man to get into the stock business himself, and the Indians are very reluctant to get into the stock business before they have some land to put them on. It is natural with them, if they have some surplus feed, to sell that. They will sell it.

Mr. PATTERSON. You have been on this particular reservation, had control of these Indians, for how long?

Mr. WRIGHT. Seven years now.

Mr. PATTERSON. Hasn't it been your experience with the Indians that, as quickly as they get livestock, land, property of any kind, that they lose it very quickly?

Mr. WRIGHT. Oh, no; not at all. They have made every effort it seems humanly possible to prevent themselves from losing their lands.

Mr. PATTERSON. Now, as a matter of fact, it is only so many years that the Indians have to be restocked with more livestock, isn't it, after they get in the business? Of course you would not be familiar with it here, unless you have been here. I take it you would not know what the results may have been for these particular Indians.

The CHAIRMAN. Do you want an answer to that question?

Mr. PATTERSON. If you know.

Mr. WRIGHT. Will you ask it again?

(The reporter read the last question.)

Mr. WRIGHT. Let me answer that with statistical facts. In 1938 our Uncompahgre Indians, whom we have been talking about, had approximately 600 head of cattle. Today they have 1,390; all from natural increase, practically. There are one or two exceptions, where they have bought a few to add to this basic herd. On the other area, there is a small group up there; 3 years ago they had 250 cattle, and now they have 471, from natural increase, no purchases, no assistance from any outside funds whatever.

Mr. PATTERSON. Do you know of any others who have lost their stock?

Mr. WRIGHT. Yes; in 1936 and 1937, a severe winter here, the Indians lost half of their stock. So did the white people, many of them.

Mr. PATTERSON. Do you know the condition of these lands purchased from the whites in this area, at the time of the purchase?

Mr. WRIGHT. Which area do you mean?

Mr. PATTERSON. The black area we are talking about.

Mr. WRIGHT. To some extent.

Mr. PATTERSON. Have you observed them recently?

Mr. WRIGHT. The land?

Mr. PATTERSON. The conditions of the farm improvements, and so forth?

Mr. WRIGHT. During the past summer?

Mr. PATTERSON. Have they receded, deteriorated, in condition?

Mr. WRIGHT. It depends on what interpretation you put upon that.

Mr. PATTERSON. Haven't the properties generally run down, the farms deserted now, compared to the time you got it?

Mr. WRIGHT. No; it is being farmed as intensively as the white people farmed it. I think we can say that, all right.

Mr. PATTERSON. How many white settlers did you purchase from up there?

Mr. WRIGHT. Twenty-eight, I think. I have forgotten the exact number.

Mr. PATTERSON. Not all within this area.

Mr. WRIGHT. Yes; all within that area.

Mr. PATTERSON. Did you purchase 28 within that area?

Mr. WRIGHT. I forget the exact number, somewhere in that neighborhood; yes, sir.

Mr. PATTERSON. Now, you knew at that time that the users, under the Taylor grazing bill, were using that area, did you not?

Mr. WRIGHT. Some were and some were not. The first purchases we made of two big outfits, as I mentioned this morning, A. M. Myrup Livestock Co., never had a license from the Taylor Grazing.

Mr. PATTERSON. I'm referring to the others who have been using that area there for the past 30 years, the past 25 years.

Mr. WRIGHT. They were the biggest users.

Mr. PATTERSON. I'm not talking about those that you purchased, but about other livestock men who have been there for 25 years, and are still there. You knew that condition obtained when you went in there to purchase those lands?

Mr. WRIGHT. Not in that particular area; no, sir.

Mr. PATTERSON. You don't know that Mr. Smith went in there in 1927, for instance? And has been there ever since?

Mr. WRIGHT. Not in that particular area; no, sir.

Mr. PATTERSON. Not in the black area?

Mr. WRIGHT. No, sir.

The CHAIRMAN. Get that answer clear, because it is somewhat important here. Is it your intention to answer that Mr. Smith was not ranging that particular area? Is it your intent to answer that you do not know?

Mr. WRIGHT. My intent is to answer I did not know he ranged that particular area. I wouldn't go so far as to say he did not, at any time.

Mr. PATTERSON. In that area, isn't there a brown shading there, representing school sections?

Mr. WRIGHT. Yes, sir.

Mr. PATTERSON. The red represents patented acreage and the brown represents school sections?

Mr. WRIGHT. That is right.

The CHAIRMAN. Are those brown areas still under State control?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. They have not passed into private control?

Mr. WRIGHT. No, sir.

Mr. PATTERSON. Usually leased by white settlers or users, are they not?

Mr. WRIGHT. Many of them are; yes, sir.

Mr. PATTERSON. You gave considerable to the early history of the Indians throughout this country. I take it that you have not personal knowledge of those things?

Mr. WRIGHT. Well, I was not living in 1861.

Mr. PATTERSON. Here?

Mr. WRIGHT. I was not; no, sir.

Mr. PATTERSON. You would not have personal knowledge of the settlement of the Indians in that particular locality?

Mr. WRIGHT. Not at that time; no, sir.

Mr. PATTERSON. You don't know, then, as a matter of fact, that these Ute Indians you have described as occupying this particular area have occupied all of the area, clear from here south to the San Juan River?

Mr. WRIGHT. Only from the record and histories, and so forth, of course.

Mr. PATTERSON. The full length of Grand County and San Juan County.

As I understood you this forenoon, you stated that the act of 1897, whereby these lands were restored—I believe you said that they were restored for a particular purpose. They did not become a part of the public domain after restoration. Is that correct?

Mr. WRIGHT. No; I did not mean to say that, if I did say so.

Mr. PATTERSON. What are the facts? Did they become a part of the public domain after the act of 1897?

Mr. WRIGHT. Yes, sir; I understand so.

Mr. PATTERSON. And the Indians ceded that land with the idea they were going to be paid \$1.25 per acre?

Mr. WRIGHT. No, sir.

Mr. PATTERSON. Didn't I understand you to say that they were to be paid by the Government at the rate of \$1.25?

The CHAIRMAN. Which lands are you referring to, Mr. Patterson?

Mr. PATTERSON. All of the land which he described from here west, clear out to the summit.

Mr. WRIGHT. Within the Uintah Reservation?

Mr. PATTERSON. Yes.

Mr. WRIGHT. I thought you were referring to the Uncompahgre Reservation.

Mr. PATTERSON. This other area in yellow and white, and possibly some of the green; that had the land restored under the act of 1897?

Mr. WRIGHT. No; 1905.

L. O. GRAHAM, Assistant Solicitor, Interior Department, Washington, D. C. The act of 1897, Mr. Patterson, deals with the Uncompahgre Reservation.

Mr. PATTERSON. Then the act of 1905. Did that restore these lands to the public domain?

Mr. GRAHAM. I don't understand it so; no, sir.

Mr. PATTERSON. Let me get my understanding, then. It was turned over to be sold by the Government for the benefit of the Indians?

Mr. GRAHAM. Yes, sir.

Mr. PATTERSON. They were to be paid \$1.25 an acre for it.

The CHAIRMAN. Let me see if I got it clear. The lands to which Mr. Patterson refers, now, are outside of the boundary of the black and green. Those lands, as I recall, it was stated today, constituted the reservation up to a certain point, and at that point it was fixed, so that white settlers might come in and acquire the land. Is that right?

Mr. WRIGHT. Which area is he talking about?

The CHAIRMAN. I am talking about the area within the yellow line.

Mr. WRIGHT. Yellow line, the old Uintah Reservation; yes, sir; that's right.

Mr. PATTERSON. I think it would include some of the white area below, would it not?

The CHAIRMAN. No.

Mr. WRIGHT. No.

Mr. PATTERSON. That land was restored, with the idea that the Government would sell the land for the Indians?

Mr. WRIGHT. Yes.

Mr. PATTERSON. The Government immediately announced sale, and sold a great deal?

Mr. WRIGHT. Yes, sir.

Mr. PATTERSON. Presumably paid the money over to the Indians?

Mr. WRIGHT. Yes, sir.

Mr. PATTERSON. Is it your understanding that was ceded to the United States Government, and became a part of the public domain?

Mr. WRIGHT. No, sir; my understanding was it was simply open for settlement and sale of homesteads.

Senator MURDOCK. Would it be correct to put it this way: That the land within the yellow line, within the Uintah Reservation, was restored to the public domain, subject to entry under the public-land laws, but with a trust imposed on it that, when, if and when, it was sold, the proceeds, at least to the amount of \$1.25, were to go to the Indians?

Mr. WRIGHT. I don't know; that is a rather technical matter. Without looking it up, I would not know.

Senator MURDOCK. The point I cannot get clear in my mind, is how you can open the public lands to entry under the public-land laws without restoring it as public domain.

The CHAIRMAN. Or, how you can open an Indian reservation to entry, under the public-land laws, without wiping out the Indian reservation entirely, and making it public domain. In my opinion as a lawyer, that is what was done; but it was done with a trust imposed, or a right reserved, in the Indians, to the proceeds of sale.

Mr. WRIGHT. And also was there not a right reserved to all of that that was not sold?

Senator MURDOCK. I say not. The reason I say not is this: We come along to the Wheeler-Howard Act, and we find in that act a provision providing for the restoration of that land to tribal ownership, by the Secretary of the Interior; so we must, in my opinion, come to the conclusion that when we say it was opened to entry, it was restored as public domain, subject, in case of sale, to having the proceeds go to the Indians. Now I think when you come to the Uncompahgres, you have exactly the same thing happening, except that all rights of the Indians were terminated, even to the proceeds of sale. They had nothing reserved for the Uncompahgres; and the only right they had to reserve in the Uintah, when it was thrown open, was the right to the proceeds after sale.

Mr. WRIGHT. Well, that, of course, involves some things I would not know. I would not set my opinion up against yours, Senator Murdock, at all. One of these public-land-office men might clear it up for us.

The CHAIRMAN. We will have the acts themselves put in the record, and we will have to determine what it is. The acts will speak louder than we can.

MORONI A. SMITH, Salt Lake City, Utah. Mr. Chairman, I would like to state and prove what Senator Murdock says. I have had a long continued experience, and read, and been active in it, and you are generally right, and testimony is that substantiates your statement. It was open to the public land, absolutely; the public domain, with the proceeds to come of it to go to the Indians, less the expense of conducting these sales.

The CHAIRMAN. I think maybe Mr. Leech's testimony will give us some light on that particular question.

Mr. CLYDE S. JOHNSON, attorney at law, Vernal, Utah. I am Clyde Johnson, Vernal, Utah, attorney at law. I represent Steve Cheturas, Dave Seely, and H. A. Tyzack. I would like to ask Mr. Wright some questions.

The CHAIRMAN. Very well.

Mr. JOHNSON. You indicated that at the time the forest reserve was set up, which is the area on the map in green, that there was also set up an area designated as Indian grazing ground, which was for the sole benefit and use of the Indians. Is that right?

Mr. WRIGHT. That is it generally; yes.

The CHAIRMAN. That is, the yellow?

Mr. JOHNSON. Then you also indicated that the Indians were given a right to run 1,200 head of horses or cattle upon an area, in the green area, known as the forest reserve?

Mr. WRIGHT. Yes; not by any congressional act, but by understanding between the Secretary of Agriculture and the Secretary of the Interior.

Mr. JOHNSON. Then you stated that when the Indians came to a realization that they were cut down to 400 head—that is right, in the green area?

Mr. WRIGHT. That may be correct; yes, sir.

Mr. JOHNSON. Now isn't it a fact that the Forest Service cut the Indians down because of nonuse, and failure to use the 1,200 head, in the forest area?

Mr. WRIGHT. No, sir; that is not a fact; no, sir.

Mr. JOHNSON. Do you know why the Forest Service cut the use of the Indians within this area, and issued other permits, if it were not nonuse?

Mr. WRIGHT. It was understood, at least by our Bureau, that this agreement was not subject to lapse by nonuse. It was not a permit at all, as the Forest Service issues permits, but it was an agreement; and whether the Indians use it or not was not mentioned at all. It was provided as a part of the arrangement when the original Forest Service lands were set apart.

Mr. JOHNSON. But the Forest Service, in their control of the green area, known as the forest reserve, did cut the Indians, through nonuse?

Mr. WRIGHT. They did not cut them, as I understand it, but the use dwindled to about three or four hundred head, for other reasons, and due to various other causes.

Mr. JOHNSON. Do you know whether or not other permits were issued to other permittees, by reason of the lack of Indian livestock within the area?

Mr. WRIGHT. We were advised by the Forest Service that they were.

Mr. JOHNSON. Therefore, you would conclude that the Forest Service did cut the Indians down, through lack of use?

Mr. WRIGHT. Well, it actually worked in that manner; yes, but, technically, there were so many things that occurred that I know of—

Mr. JOHNSON. Technically, you mean, from the standpoint of the Indian Service?

Mr. WRIGHT. The standpoint of the Forest Service. No notice was given, no written word was made, not even any oral advice was given that they were cutting the Indians down.

Mr. JOHNSON. However, they were cut?

Mr. WRIGHT. Well, they were not cut; they just did not use it themselves, for various other reasons.

The CHAIRMAN. As, for instance, what are those various other reasons?

Mr. WRIGHT. Well, in the first place, they owned mostly horses, back in that period, 1906; and, during the period from 1906 to 1930, they began to own more cattle, and get rid of many of their horses. The horses occupied that forest in the first place. As they got rid of those horses, that use was diminished, on that account. That was one reason. Another reason is that they began to make use of that yellow area, that projects down on the map, there, to the Uintah River; and they began to settle on their farms, during that period; and some of their cattle, as well as their horses, were pastured, and obtained feed,

on those farms; and that is another reason they did not use it so much on the forest.

Mr. JOHNSON. While they were selling their horses, did they increase in cattle proportionately to their sale of their horses?

Mr. WRIGHT. To some extent they did; and the population of the cattle and sheep, for instance, fluctuated over this period.

Mr. JOHNSON. But you would say it was rather stabilized; as they sold a horse they replaced it with a cow?

Mr. WRIGHT. No; I wouldn't say that.

Mr. JOHNSON. Over how long a period was it, that the Forest Service took away these Indian rights, and issued other permits? Over how long a time?

Mr. WRIGHT. From 1906 until 1936.

Mr. JOHNSON. Now, as they purchased these cattle they began to use the yellow area, which is Indian grazing land. Is that right?

Mr. WRIGHT. Yes.

Mr. JOHNSON. Therefore they had ample room for their livestock, besides using the forest reserve?

Mr. WRIGHT. At times they did; and at times they did not. That is, one sheep outfit, according to the records, and this was before my time, you will understand, had a free crossing permit. He had 6,600 head of sheep, that crossed lengthwise of the reservation, almost, instead of sidewise, and it took them all summer to do it. There was not much left for the Indians to use.

Mr. JOHNSON. However, the conduct of the Indian livestock industry would indicate that, if such a thing you just mentioned did not happen, they could run their cattle and their horses and their livestock over this green area.

Mr. WRIGHT. Well, as you appreciate yourself, being a resident of this country, that land in yellow, there, is more suitable for spring and fall range than it is for summer; and it is no good at all, of course, in the winter. To make a balanced operational unit there it is almost necessary to have some other land for summer use.

Mr. JOHNSON. However, many of the whites do operate, to your personal knowledge, within an area very similar to the yellow one, known as Indian grazing ground; right in this country, do they not? Many of the whites operate in such an area every spring and summer?

Mr. WRIGHT. Well, I don't know as I am aware of that, many of them. There are some exceptions.

Mr. JOHNSON. Isn't it a fact, Mr. Wright, that the Indians that were set up in the cattle business traded most of their cattle; then the Indian Department started them out in the sheep business thinking they would take better care of them; would not wander out over the area?

Mr. WRIGHT. No such history.

Mr. JOHNSON. Did they lose their sheep, and they are now putting them back into the cattle business?

Mr. WRIGHT. I have no such history as that at all.

Mr. PATTERSON. These Indians are regarded, or rather they are, wards of the Government, are they not?

Mr. WRIGHT. That is right.

Mr. PATTERSON. They pay no taxes, do they?

Mr. WRIGHT. No real estate tax or private property tax. They pay a good many taxes, on their automobiles, and so forth.

Mr. PATTERSON. But they don't pay land taxes?

Mr. WRIGHT. They don't pay on the land.

Mr. PATTERSON. Now, the south end of this area in black here is actually summer range, is it not?

Mr. WRIGHT. Yes, sir.

Mr. PATTERSON. It recedes down into fall and spring, and, on up into the winter range, doesn't it; at the north end?

Mr. WRIGHT. Yes, sir.

Mr. DILLMAN. In reference to the ceded lands, Mr. Wright, by reason of the fact that all of the watering holes and water courses are privately owned, on the south of the Duchesne River; those lands that are called "ceded lands" have no practical value for use by the Indians, have they?

Mr. WRIGHT. Well, there are 28 percent of these lands now being used by the Indians; but it has to be done, as I indicated, by a combination of arrangements, by which the white lands can be used in conjunction with the Indians' lands, in order to get water.

Mr. DILLMAN. You say 28 percent is now being used?

Mr. WRIGHT. Yes, sir.

Mr. DILLMAN. Now, you refer to the ceded lands, north, which it is contemplated should be retained by the Indians. Have they any practical value for use by the Indians generally?

Mr. WRIGHT. I might answer that this way: They perhaps would have the same practical value for use by the Indians as they would anyone else, if the Indians owned the adjoining properties.

Mr. DILLMAN. If you look at them, they are interspersed with the white-owned property, and isn't it a fact their value is largely a nuisance value to the Indians? You may lease a little part to someone, or to a group of persons, not by reason of the fact they use it themselves?

Mr. WRIGHT. I don't like the word "nuisance value." We have in the Arcadia district a permit issued to the Arcadia Livestock Association, a group of white people using this ceded land, in conjunction with their own lands. That is the natural, practical use of those lands, surely; but if the Indians owned those white lands, there is no reason why they could not use them as practically as the white people.

Mr. DILLMAN. As the geography exists, and the ownership exists, they can make no practical use of those lands north of the river.

Mr. WRIGHT. Not without exchange.

The CHAIRMAN. I believe there was someone here who wished to propound a question; wanted to ask Mr. Wright a question.

Mr. H. R. ALLRED, Roosevelt, Utah. I want to ask Mr. Wright if it was not your understanding, in the beginning, that these Indian permits on the forest were issued to individual Indians?

Mr. WRIGHT. No; I never understood that.

Mr. ALLRED. I got that understanding from the forest people; that originally the permits were issued to individual Indians, up to numbers numbering the 1,200 head.

Mr. WRIGHT. I never heard that before.

Mr. ALLRED. I had that idea; and that they had gradually dropped out, until there was one Indian that has kept the right intact, for use.

Mr. WRIGHT. I think that is a mistake. I have never seen anything on it.

Mr. ALLRED. That has been my understanding.

Senator MURDOCK. If I understood Mr. Dillman's question, Mr. Wright, it was this: Your answer was that, on the ceded lands south of the Duchesne River, the Indians were using only about 28 percent of the area.

Mr. WRIGHT. That is right.

Senator MURDOCK. And it would be impossible for them to use even the 28 percent, if they were unable to make some arrangement with the white owners of the water holes and water courses; is that right?

Mr. WRIGHT. Well, I would not say impossible, but rather impractical; yes, sir.

Mr. PATTERSON. May I ask one more question? As I understood you to state that, if those Indians in that black area, within the black area, as modified by the green line on the east, are given the permits that go with the base property, that has been purchased by the Government for the Indians, your Department will be satisfied?

Mr. WRIGHT. Well, it depends on what you call—you said "a commensurate property?"

Mr. PATTERSON. Yes.

Mr. WRIGHT. It depends on what you would call a commensurate property.

Mr. PATTERSON. That which was purchased by the Government for the Indians, and that which the Indians had, in addition to the Government purchase.

Mr. WRIGHT. If I get your question clearly, I might answer it this way: That it was our understanding in the beginning, when this thing started, in 1935, that, if the Indians purchased those private properties, they would get exclusive use of that entire area, regardless of commensurability, or anything of that sort.

Mr. PATTERSON. You say you had that understanding. I asked you if there were not two points of interest to you, upon which your claims rested; first, by reason of the withdrawal of 1933, and, second, by reason of the fact you had purchased a base property; and you received from the first, that you claim nothing for it, but you do stand upon the second. If you stand upon the second, your rights will vest in the base property, which you purchased, together with the permits you have got on the base property; and you stated that is what you are standing upon.

Mr. WRIGHT. What I meant to say, if I misstated anything, we don't claim that the Indians need legal or technical rights to that old Uncompahgre area, that was restored to the open public domain. But we do claim, through agreements and understandings and negotiations, here, for this period of seven-odd years, that it was thoroughly understood that that area, approximately within the green line, would be the Indian's property, for use if he bought the private property within it.

Mr. PATTERSON. How could you have an understanding of that kind when here is one man, who, with his associates, runs 15,000 head of sheep in this area, and he never heard of that transaction?

Mr. WRIGHT. That was made with the stockmen here.

The CHAIRMAN. In what form was that? Did it ever take a written form?

Mr. WRIGHT. Well, the only written form is that record of July 16, 1935.

Mr. PATTERSON. You don't know how that arose? You were not here?

Mr. WRIGHT. No; furthermore, there is some question about these men running 15,000 head, or even 1 head in that area.

Mr. PATTERSON. Whatever the Grazing Division recognizes; that would be the way to put it, would it not?

Mr. WRIGHT. No; whatever can be determined on a fair, impartial, thoroughgoing investigation.

Mr. PATTERSON. Likewise, your rights to be determined by the fair, impartial investigation?

Mr. WRIGHT. That is right.

The CHAIRMAN. Mr. Wright, you have answered one question two ways, or else I have misunderstood you. I want it cleared up. Some-time ago Mr. Patterson asked you a question to this effect: If the Indians who now own the land in red, within the black area, received the same commensurate rights, on the surrounding open public domain, as their predecessors in interest had, that would be satisfactory?

Mr. WRIGHT. Well——

The CHAIRMAN. You answered that with a nod of the head.

Mr. WRIGHT. What I meant by that nod, Senator, is that it is our information and our understanding, that at the time of the purchase of these properties from the previous owners, these owners operated far more livestock in that particular area, than the commensurability and its carrying capacity would allow. Therefore, I nodded when you asked me the question in that way. In other words, if the Indians are permitted to run as many livestock in that area as those previous white owners ran, there will be a good many more than the carrying capacity of the area. Therefore it would absorb it all.

The CHAIRMAN. Are there any further questions?

Senator MURDOCK. Mr. Chairman, I have the law before me now, the Uintah Reservation. It is rather brief.

The CHAIRMAN. Read it into the record.

Senator MURDOCK (reading):

That the Secretary of the Interior with the consent thereto that the majority of the adult male Indians of the Uintah, the White River Tribes of the Ute Indians to be ascertained as soon as practicable by an inspector, shall cause to be allotted to each head of a family 80 acres of agricultural land which can be irrigated and 40 acres of such land to each other member of said tribes said allotment to be made prior to October 1, 1903, on which date all the unallotted lands within said reservation shall be restored to the public domain: *Provided*, That persons entering any of said land under the homestead law shall pay therefor at the rate of \$1.25 per acre: *And provided further*, That nothing herein contained shall impair the rights of any original lease which has been approved by the Secretary of the Interior, or any permit heretofore issued by the direction of the Secretary of the Interior, to negotiate with certain things for mineral lease, but any person or company having so obtained such improvements or lease or such permits to negotiate with said Indians for said lease on said reservation pending such time and up to 30 days before said lands are restored to the public domain aforesaid shall have in lieu of such lease or permit a preferential right to locate under the mining laws not to exceed 640 acres of continuous mining land except the Raven Mining Co., which, in lieu of its lease, may include 100 mining claims, of the character of the mineral mentioned in its lease, and of the proceeds for the lands so restored to the public domain, shall be applied first to the reimbursement to the United States for any moneys invested to said Indians to carry into effect the foregoing provisions and the remainder under the direction of the Secretary of the Interior shall be used for the benefit of said Indians.

I believe the rest of it is not necessary, Mr. Chairman. I think that clearly indicates there was a complete restoration to the public domain, except for those provisions.

The CHAIRMAN. Mr. Leech, I think we can go on with you now.

**STATEMENT OF J. H. LEECH, CHIEF OF LANDS, GRAZING SERVICE,
DEPARTMENT OF THE INTERIOR, SALT LAKE CITY, UTAH**

Mr. LEECH. Mr. Chairman, Director Rutledge wished me to express to the committee his regrets at not being able to get here. He would have been here except for present work and illness that prevents him, so he designated me to represent him and the Grazing Service at this hearing.

Now, Mr. Wright's testimony this morning concerned the area outlined by the yellow line, taking in part of the Ashley Forest and Indian grazing area, and the Strawberry Valley. The undisposed of lands opened by the act of 1902 are covered by numerous acts, and I thought I would merely give the citations, Mr. Chairman; and if anyone wishes to read any of the acts, we have them here, in the various statutes.

The CHAIRMAN. I am wondering if, in giving the citations, it would be convenient for you to give the substance of the provision. Would that take too long?

Mr. LEECH. I will try to, in a few brief words.

The Executive order of October 3, 1861, is what established the Uintah Reservation embraced in that yellow line on the map. Then it was ratified and created by Congress by the act of May 5, 1864, volume 13, page 63, of the Statutes at Large; and other adjustments made concerning the disposal, or the payment to the Indians, for the Uncompahgres, by the sale of the Strawberry lands, to the Reclamation Service, were included in the appropriate act, and the act Senator Murdock just read, the act of June 19, 1902, volume 32 of the Statutes, page 263. Also, I have a reference to page 744, provided these lands could be opened to entry and disposed of, and the Utes receiving the \$1.25 per acre. That about covers the area included in the yellow line.

The CHAIRMAN. Right there, Mr. Leech, I wish you would clear up a matter for those listening to the statutes being read. The statute of 1902, read by Senator Murdock, referred to now by yourself; in that statute it looked as though all of that land had been involved in the executive order, later involved in the act of Congress, which set up the territory as the Uintah Reservation, bounded by the yellow line. It would look as though the Congress had intended that it should all be restored as open public domain, with certain limitations. Now, that being true, what will we say about the purple lands? Are they in part of the open public domain; or what is their status under the statute?

Mr. LEECH. They are undisposed of lands, that were opened to entry, under the act of 1902, but have never been disposed of under the public land laws; and the Indians have not received \$1.25 an acre.

The CHAIRMAN. But the statute is clear that the whole territory was turned over to the open public domain; there is no question about that. It was all turned back into the open public domain. Now, it further

provided as to what the Indians would receive from the sale or settlement of the open public domain. They will receive \$1.25 per acre for all lands settled, or sold, by the Government; settled upon or sold. Now, that being true, isn't it a fact and that it follows, as a matter of subsequence, that the purple land is open public domain?

Mr. LEECH. Yes; open public domain; but, if anyone should obtain it, they would have to extinguish that Indian trust, which is attached to it.

The CHAIRMAN. What trust?

Mr. LEECH. Providing for that payment.

The CHAIRMAN. Well, certainly; but all they have to do is pay \$1.25 an acre, to extinguish the trust.

Mr. LEECH. That is right.

The CHAIRMAN. That is what they had to do with all the other lands now in private ownership.

To be perfectly frank with you, the only term of the trust is that, if, when, and as it is sold, that the Government will see that the Indians will get \$1.25 an acre; but otherwise it is part of the open public domain.

Mr. LEECH. That is right, Senator.

The CHAIRMAN. You would not hold that the Government is obligated to pay the Indians now \$1.25 an acre for holding that land?

Mr. LEECH. Not until they dispose of the land; no, sir.

Senator MURDOCK. Carry it one step further. In order to get the picture, I have in mind, if it were open to—entered by somebody, and a patent were issued by the Government to the person that entered it, it would take no action at all, collectively or individually, on the part of any Indian, in order to vest title in the patent?

Mr. LEECH. No, sir; if the United States issued a patent on it; would place so much money to the credit of the Ute Indians; they would collect it from this person.

Senator MURDOCK. That is the point I want, if the patent issued, notwithstanding the trust we have referred to, the Indians could make no claim whatever against the patentee, but their only redress and remedy is against the United States of America, for reimbursement of \$1.25.

Mr. PATTERSON. When the Government disposes of this land, then, and places it under the jurisdiction of the Taylor Grazing Act, isn't that sum of money due to the Indians, because it is withdrawn from sale, in a sense?

The CHAIRMAN. No.

Mr. LEECH. I think you're getting into section 11 of the Taylor Act, which would cover that feature. Lands of that character are placed in a district, and 50 percent of the returns collected in grazing fees would go to the tribe, but this is not in a grazing district.

Senator MURDOCK. Look at the forest reserve, which is in exactly the same status as the purple land is today, before it was made a part of the forest reserve; but when it was made a part of the forest reserve, by the Government, then the Indians were paid on the basis of \$1.25 an acre for this forest reserve.

Mr. LEECH. Yes, sir.

Senator MURDOCK. So Mr. Patterson's question, if now the purple land was made part of the grazing district, it is my opinion that, under

the statute I read, the Indians would have a good cause of action against the Government for \$1.25 an acre. That is the point you had in mind, wasn't it, Mr. Patterson?

Mr. PATTERSON. Yes; that's right.

The CHAIRMAN. I might say it has been drawn to my attention, by the special investigator of the committee, that is the position which the Bureau of the Budget has taken, and that is the objection they raised to one of the bills that was introduced.

Senator MURDOCK. I may add that that is the position of the attorney, Mr. Wilkinson, representing the Indians; if and when any of that land is made a part of the Grazing District, then the Indians immediately have a cause of action against the Government for \$1.25 an acre, and I agree with that position.

Mr. LEECH. That is a question I would have to refer to Mr. Graham, of the Solicitor's office, for the reason we have administered other ceded lands, under section 11 of the Taylor Grazing Act, and made a payment to the Indians of 50 percent of the collected fees; and their title, of course, is not extinguished. The land is not disposed of.

The CHAIRMAN. I am at a loss to reconcile that question, along that line. It seems to me, if we follow the spirit of the statute, which was that all of that land was made part of the open public domain, we had an implied trust there, all the way through, for \$1.25 an acre. But until it is sold it is open public domain. The trust may attach, but, if the purple land was put into a grazing area, I am at a loss to reconcile the statement that immediately the trust would become operative, to the extent of \$1.25 per acre. I cannot get that.

Mr. GRAHAM. I never heard that position advanced, Mr. Chairman. I am at a loss to understand how it can be successfully advanced.

Senator MURDOCK. I am taking the statement based on what has been done in the forest lands.

The CHAIRMAN. In the forest lands they took over absolute sovereignty. But in a grazing district you don't take sovereignty.

Senator MURDOCK. What's the difference? The Grazing Service administers your Taylor Grazing land, with the same sovereignty, the same control, that your Forest Service administers to your forest lands.

The CHAIRMAN. One is absolute ownership, absolute sovereignty. The other is administration of the Grazing, of the surface.

Mr. GRAHAM. I should like to point out also, Mr. Chairman, the Congress itself has made a provision by which the Indians, in the case of ceded lands, will realize a benefit, from proceeds of the grazing fees, in grazing district lands. However, section 11 of the Taylor Grazing Act provides that the Indians will receive 50 percent of the fees collected.

Senator MURDOCK. I'm perfectly willing to say, if that provision in the Taylor Grazing Act applies to this type of Indians, then that probably has superseded the statutes that I refer to, on that particular question.

Mr. GRAHAM. The understanding of the Interior Department is, if it were done that would be the result, 50 percent of the fee.

Mr. B. O. COLTON, Roosevelt, Utah. Considerable importance has been attached to the fact of the value of \$1.25 of those Indian lands. Nothing has been said of three Government town sites, within that

area, where a sale of lots was made, under some order, just what, I don't know. Then later, after a certain period of time had elapsed, for the entry of homesteads, there were some land sales authorized. As I remember it, two were held at Provo, one at Duchesne. It was provided those lands should be sold at auction, for not less than 50 cents per acre, and as high as anybody might go; and quite a large area of land was sold, at those sales; so that the value of reservation land that is open to the public would range from 50 cents per acre up to \$1.25 for homestead. Beyond that, any value that a range man might bid for those lands, and to the value of town-site lots, in those three town sites, and the lands that were not sold at all were those lands that are now called ceded lands.

Mr. LEECH. Two thousand one hundred acres was set up in town sites, divided into town sites, and sold. I don't know what the price was.

Mr. JOHNSON. That was under the town-site law.

Mr. LEECH. The territory included in the orange lines, known as the Uncompahgre Reservation, that was set up by an Executive order of January 5, 1882. Here is a copy of the order for the record.

The CHAIRMAN. It will go into the record at this point.
(The instrument reads as follows:)

EXECUTIVE ORDER JANUARY 5, 1882

UNCOMPAHGRE (UTE) RESERVATION

It is hereby ordered that the following tract of country, in the Territory of Utah, be, and the same is hereby, withheld from sale and set apart as a reservation for the Uncompahgre Utes, viz: Beginning at the southeast corner of township 6 south, range 25 east, Salt Lake meridian; thence west to the southwest corner of township 6 south, range 24 east; thence north along the range line to the northwest corner of said township 6 south, range 24 east; thence west along the first standard parallel south of the Salt Lake base line to a point where said standard parallel will, when extended, intersect the eastern boundary of the Uintah Indian Reservation as established by C. L. Du Boise, United States deputy surveyor, under his contract dated August 30, 1875; thence along said boundary southeasterly to the Green River; thence down the west bank of Green River to the point where the southern boundary of the said Uintah Reservation as surveyed by Du Boise, intersects said river; thence northwesterly with the southern boundary of said reservation to the point where the line between ranges 16 and 17 east of Salt Lake meridian will, when surveyed, intersect said southern boundary; thence south between said ranges 16 and 17 east, Salt Lake meridian, to the third standard parallel south; thence east along said third standard parallel to the eastern boundary of Utah Territory; thence along said boundary to a point due east of the place of beginning; thence due west to the place of beginning.

CHESTER A. ARTHUR.

The CHAIRMAN. I want to say right here that the committee is anxious to make this record as complete, in detail, as we can without making it cumbersome, because the whole committee will want to review the entire proceedings, and it will be more advantageous if the record is fairly complete.

Mr. LEECH. That roughly embraced eight-hundred-and-some-odd thousand acres. From the record it appears here 12,540 acres were allotted to 83 Indians, and that the remainder of the land was re-

stored to the open public domain, by the act of June 7, 1897. That is found in volume 30, page 62.

The CHAIRMAN. Right at that point, the Uintah Reservation, within the yellow lines, was created. That reservation was created by an act of Congress, in addition to the Executive order?

Mr. LEECH. Yes, sir.

The CHAIRMAN. Now, the Uncompahgre, within the orange line, was only created by an Executive order, or was there an act of Congress?

Mr. LEECH. It seemed to have followed the act of Congress, March 6, 1880, volume 21, page 199, referred to by Mr. Wright this morning, in the moving of two bands from Colorado.

The CHAIRMAN. Was that set aside by an act of Congress?

Mr. LEECH. That act provided that an area would be established in the Utah Territory, for the Uncompahgres.

Then, 2 years after that, in 1882, is when the Presidential proclamation was issued.

The CHAIRMAN. You have to associate them by analogy; the Executive order followed the act of Congress?

Mr. LEECH. Yes, sir.

Now, after the act of 1897, restoring the orange area, or the area outlined in orange, to the public domain, it was opened to all of the public-land laws. The next withdrawal that I note was in 1933, the order referred to here a number of times, approved by the First Assistant Secretary, Walters, on September 26, 1933. It withdrew everything that was in the original Uncompahgre withdrawal, of 1882, which was shown there in the orange line. This withdrawal of 1933 was made in accordance with section 4 of the act of March 3, 1927, 44 Statutes 1347, which permits the Secretary of the Interior to temporarily withdraw lands for Indian purposes, in aid of securing legislation. Now, I believe a copy of this is already in, but there is an additional copy. After the withdrawal of 1933, of course, the Taylor Grazing Act was passed in June of 1934; and then in June of 1935 we established the grazing district, Utah No. 8, and it covered the public lands north of this orange line, and around the forest, in Daggett and this part of Uintah County. That was the original boundary of grazing district No. 8. Then, after the meeting here of July 10, 1935, the Grazing Service and the Indian Office entered into an agreement that this within the orange would be added to it, and this area south, in Grand County, would be made a part of Utah district No. 8.

The CHAIRMAN. That made all of that east side of the map in district 8?

Mr. LEECH. Everything in that orange line, Senator, and this black line south, in Grand County, plus the part already in northern Uintah and Daggett Counties, grazing district No. 8. That was the order of July 20, 1935.

After that, joint instructions, that were mentioned this morning by Mr. Patterson and Mr. Wright, were issued in 1940. They were merely instructions to the local offices of the Indian Service and the Grazing Service, as to administration in this area covered, outlined, with the black and green lines, or what will later be referred to in the testimony as unit G.

The CHAIRMAN. What I would like to know is, how did unit G come into existence in the first place?

Mr. LEECH. Well, in the administration of grazing privileges, in Utah district 8, the advisory board and the district grazier determined on administrative units, and they called them A, B, C, D, E, F, G, and they are purely administrative units set up; trying, however, to follow, I believe, topography. But I will put a witness on later to testify to that.

The CHAIRMAN. Those instructions you have been referring to, have they been put in the record?

Mr. LEECH. I think we can put them in now. Those were arrived at between the Grazing Service and the Indian Department.

The CHAIRMAN. And those instructions applied to the lands in orange, on the map, because those lands had been withdrawn by the order of the Secretary?

Mr. LEECH. Yes, sir; that is right.

Mr. ALLRED. May I ask Mr. Leech a question on those boundaries?

The CHAIRMAN. Just a moment until we get those exhibits in here.

Mr. PATTERSON. That agreement, Senator, was signed by Collier and Rutledge.

The CHAIRMAN. That is the agreement that is going in now.

Mr. LEECH. I would like to put in one, and substitute it later, because this is not an endorsed, official filed copy. I would like to substitute it later with another.

The CHAIRMAN. Very well.

[A copy of the instrument above referred to entitled, "Joint instructions to the field personnel, Office of Indian Affairs and the Grazing Service, Department of the Interior, Utah," was previously inserted in the record and will be found on page 81 of the transcript.]

Mr. PATTERSON. Apparently that instrument is not dated, but it is attached to a letter dated March 4, 1940.

The CHAIRMAN. Then the letter of transmittal will go in with it.

Mr. LEECH. The date was February 15.

At this point, Mr. Chairman, I think I have gone over pretty thoroughly the historical background. If you wish at this time we can call Mr. Jenson, a man that has examined and rated these properties indicated here in red or in green that have been purchased by the Land Office. He could give the results of his examination, the privileges that go with various properties, under three or four different tabulations that he made.

Mr. ALLRED. Mr. Leech, in describing the boundaries, as usual, you omitted the country we are supposed to make a living on, unit H. It may confuse some of our discussion later if unit H, on this side of the river, is known to be part of district 8. You did not describe that as a part of district 8.

Mr. LEECH. That is part of district 8.

Mr. ALLRED. If you expected to tie in that discussion on ceded lands, it would have a bearing on that.

The CHAIRMAN. What is this, now, please?

Mr. LEECH. This is unit H, of Utah district 8; we did not have the district boundary line. It is that part of Uintah and Duchesne Counties south of the old Indian reservation boundary, down to the Carbon

County line. Mr. Chairman, we can put in another map indicating all of the units in Utah district 8. Mr. Larson will refer to that map.

Mr. L. WAYNE LARSON, district grazier, Duchesne Grazing District, Utah. The other part of grazing district 8, Mr. Allred refers to, is that part of Uintah and Duchesne Counties west of Green River and south of the Indian reservation boundary line, to the Carbon County line.

Senator MURDOCK. Is that the Uintah Reservation boundary line?

Mr. LARSON. Yes, sir.

Senator MURDOCK. The south boundary of the Uintah Reservation?

Mr. LARSON. That is right.

The CHAIRMAN. Any further questions, Mr. Allred?

Mr. ALLRED. That is all.

STATEMENT OF DEWANE E. JENSON, NEPHI, UTAH, DISTRICT GRAZIER, UNITED STATES GRAZING SERVICE

Mr. JENSON. My name is Dewane Jenson, and I am district grazier at Nephi, for the Grazing Service.

I was in this territory during the summer of 1941, in charge of base property studies and adjudications. The problem we have here today, the Indian problem, was part of that study. I take it that is the part you want presented here.

Mr. LEECH. Do you want this witness qualified, Senator?

Senator MURDOCK. I think it would be helpful.

The CHAIRMAN. You may state your background.

Mr. JENSON. I started in with the Grazing Service in February of 1938, as junior range examiner. Three years ago I was made assistant range examiner, in charge of base property investigations and adjudications. Within the last year I have been a district ranger.

The CHAIRMAN. What was your business before?

Mr. JENSON. Soil Conservation Service, for a year and a half, as soil technologist.

The CHAIRMAN. What is your background from a grazing standpoint?

Mr. JENSON. Prior to that I taught at Delhi High School for 5 years, agriculture. I went 5 years to the College of Agriculture, and I was born and raised on a ranch in Cache Valley.

The CHAIRMAN. The committee is especially interested in one or two angles. First of all, the commensurate rate allocations made on base property, in the running of cattle and sheep in this particular locality. The commensurability, as I understand it, is not always uniform, but depends largely on those others; depends on range conditions, so that on this locality we would like to know what rule was established and set up for commensurability.

Mr. JENSON. Of course, our directions would be set up to try to conform to the provisions of the Taylor Grazing Act and the Federal Range Code.

Along in the summer of 1941 we were directed to come into this area and make a complete study of this entire district 8. That study was completed from two standpoints, complete detailed range

surveys were made by one crew in which they used aerial photographs, as nearly as they were available, and the other crew we call our base property, or dependent property, crew. We had eight or nine men in this crew, of which I was in charge. We made dependent property studies, on all base lands submitted by all applicants in grazing district 8. Then later on, in the fall and winter seasons, we took these studies, of course, and listed them, and made what we called our adjudications; and for this particular area we speak of here as unit G, which is bordered here by Willow Creek and the Green River and the Grand County line; we knew we had a particular problem in there. We were directed to make a cooperative study on that. There was an agreement, I think it was the one inserted into the files here, in 1940, whereby that study would be made in cooperation, a cooperative study with the Indian Service and the Grazing Service. A number of our Grazing Service examiners started on this field investigation early in the spring of 1941, just got a good start, and were called off. Some of this legislation stopped it. Along in the fall we were directed to proceed with that study, and a range survey crew consisting of nine members completed that study, and then the base property crew went into the area, I think, in October; two men from the Grazing Service and two range examiners from the Indian Service.

Our procedure on this base property study was to go to each and every one of these properties purchased by the Indian Service, which has been shown in these maps in red, in that Hill Creek country; went over each piece of property, that is, of course, the legal descriptions; platted all that land on the map, measured each laystack over each meadow, and each piece of alfalfa ground, and the adjacent grazing lands, and, by their methods, estimated the forage production and the carrying capacity of those lands.

The CHAIRMAN. In that work, will you clarify the record; who was engaged cooperatively?

Mr. JENSON. The Grazing Service examiners and Indian Service examiners.

The CHAIRMAN. Were they working jointly?

Mr. JENSON. Jointly; worked jointly in the field together, and, as my statement was made, on the carrying capacities, important production of any lands—not examiners from each organization, but initialed the rating given that property. Of course, that would be the basis to build up a study.

Then after the field examinations were all completed we began to analyze all the studies that had been made and found in the past years, before we made this study, there had been a number of other studies made—the study was made at the time the Indian Service made purchase of the properties. All the properties were rated at that time as to their production. Another study was made along in 1940 by the Grazing Service examiners, taking the Indian Service ratings, which had been placed on the lands and comparing those ratings with a State average of production of lands of similar character. Then the certain study came along.

That would be the study we made in the fall of 1941.

Senator MURDOCK. A joint study?

Mr. JENSON. Joint study. We have all of those comparisons of each of those studies here, in case you desire to go into them.

The **CHAIRMAN**. Right there, I understood you to say that the Indian Service and the Grazing Service worked together; that is, their representatives, and that, when they agreed, they initialed a conclusion or agreement?

Mr. JENSON. That's right. When in the field the two examiners made an estimate, measured the stacks of hay, went over the field, and any rating they gave at that time was initialed by both examiners.

The **CHAIRMAN**. Who held those initialed instruments?

Mr. JENSON. I have them here.

The **CHAIRMAN**. Are they voluminous?

Mr. JENSON. No; we have copies of them here, if the record wants them.

Mr. LEECH. Copies of the individual examinations?

Mr. JENSON. Examinations in the field.

Mr. LEECH. Of each property?

Mr. JENSON. Yes; individually.

The **CHAIRMAN**. The initials indicate agreement?

Mr. JENSON. That is right. We were instructed when going into the field to decide on the rating of that property and initial that rating before they left the property.

The **CHAIRMAN**. Supposing they did not agree?

Mr. JENSON. I don't think anything very serious came up; there was not much of a question.

Senator MURDOCK. Do you mean by that there was no difficulty in the Grazing Division representatives agreeing with the representatives of the Indians?

Mr. JENSON. That's right. It was a matter of give and take; agreed before they left there as to the rating on that property.

Mr. WALTER V. WOHLKE (assistant to Commissioner, Office of Indian Affairs, Chicago, Ill.). May I ask who the Indian Service examiners were that participated in that?

Mr. JENSON. Gutzman and Krause.

The **CHAIRMAN**. Those two were the representatives of the Indians?

Mr. WOHLKE. May I ask another question? Were the results of this survey ever submitted to the Indian Office, to the regional forester or the superintendent of the reservation here at Uintah Reservation?

Mr. JENSON. The field men made the investigations. All those studies were put up in this form and presented to Mr. Zimmerman and Mr. Arnold from the Indian Service, and Mr. Rutledge, of the Grazing Service, in April of 1941, and at that time the Indian Service representatives took photostatic copies of all these records.

Mr. LEECH. Now, Mr. Jenson, you have these results tabulated on these charts, do you not?

Mr. JENSON. Yes, sir.

Mr. LEECH. I wonder if you can proceed to explain the charts?

Mr. JENSON. Well, I have to give a little background here before you can understand that.

We made these studies, then we took the results gained from the field and tried to apply them to the provisions of the Taylor Grazing Act and Federal Range Code, and based these studies entirely around the priority claims, base ratings of the property, on the date the land was submitted, as specified by the code, and the use being made of the base. Then the study was compiled jointly with the

representatives of the Indian Service, during the winter of 1941 and 1942 I was in charge of this work. I will go ahead and present this to you.

Mr. LEECH. Mr. Chairman, we will substitute this with photostats for the record.

Mr. JENSON. Going into the records we found, of course, you have to stick to priority and base rating on each property the date the lands were submitted.

The CHAIRMAN. In order to tie this in once more, this study is a study of project unit G?

Mr. JENSON. Yes.

Then, on this sheet here, I have a summarization of that study, summarization of the acreages, A. U. M. rating on all lands submitted to date by the Indian Service in district 8. We broke that down, first, into the group of lands the Indian Service presented to the Grazing Service. This grouping is merely based on the priority claims of those lands, by groups, and, in all cases, we found priority claims greatly exceed base property ratings introduced.

Now, I can go to the map here. This first group we have, across here, are the lands in unit G, along Hill Creek and Willow Creek, which are the purchased properties, that is, the red on the map. We found a total acreage of 3,145. The total for forage production, or A. U. M. rating, on that, made by the survey, 6,023 A. U. M.'s. Broke that down further to determine what type of land that production comes from. Of that, 3,568 comes from farm land, 1,748 A. U. M.'s comes from summer grazing, and 707 A. U. M.'s from winter grazing; if necessary, break it down from character of production to show dependency. We broke it down further into how much of that is inside of district 8, and how much outside of district 8. The purpose of breaking it down, there was a lot of controversy as to whether the lands outside the district had any priority; so we broke it down from that standpoint.

Now we come to totals. The first, that is the property along Hill Creek. Then this other is some Indian allotments, Wash and Harris Indian allotments, Indian reservation and tribal lands. These others are Indian names of properties legally described on the map, and we go down here to subtotals. We find in the Indian Service and the Grazing Service a record of some kind or other of 67,132 acres before June 28, 1938. That June 28, 1938, is the date set in the Federal Range Code as the time the land should be submitted in order to show any dependency.

Then, since 1938 we have lands not submitted to Grazing Service prior to June 28, 1938. Then we have another 10,128 acres, so this 10,000 acres really came into the picture after the deadline, the date set for the submission of lands. After that we took this summarization and this chart here is a summarization of the lands submitted, and when submitted and whether in the district or out of the district. Then they took those lands and worked on what we call an adjudication, here, on the basis of the rating of those lands and on priority claims, and whether they were submitted or not. Briefly going over this chart, a summarization of the ratings on base properties, Federal Range Survey carrying capacity, and yearlong livestock operations on Indian properties, and Federal range unit G, district 8, Utah. The basic thing back of this adjudication was to work out a practical,

sensible operation from the standpoint of handling the stock. So we set up a form where we worked out the summer operation, the winter operation, combined that; made a year-round operation and then divided that into your carrying capacity. We proceeded to study, and were unable to get a definite estimate as to what policy and what lands were going to be given consideration. So we set this up under 10 possibilities with the hope that the policy adopted would fit one of those possibilities. In each of these we are dealing with entirely the same lands and show the results under different possible policies.

Now, I will take you through this very slowly and see if we can get in from here over to summer operations. Take this first one, where we consider all base lands submitted by the Indian Service regardless of date of submitting, and using the 1941 survey.

MR. PATTERSON. Is that number one possibility?

MR. JENSON. That's right. These are the possible considerations. This first one takes in all the base lands, regardless of whether they came in before June of 1938, or regardless of where they are located; all lands in the Indian Service ever submitted; under that provision, 77,953 acres. Now, the first thing we are going to work out here is the summer operation.

Senator MURDOCK. Is that all in this district 8, unit G?

MR. JENSON. No; I can show you. All these red lands down here on Hill Creek, the lands over here on White River, and the lands up on Bitter Creek, lands outside the Indian Reservation, and anywhere they have been submitted. That is the first consideration.

Senator MURDOCK. Whether in district 8 or unit G?

MR. JENSON. That is right.

On that 77,000 acres, the range, we broke that down as they show you on that chart, whether it came from farm lands, summer lands, or winter grazing lands. Working out a summer operation as to A. U. M.'s, on the base farm lands, plus base A. U. M.'s on the winter grazing, amounted to nearly 12,000 A. U. M.'s—11,943. Took the base rating which would be used in the wintertime, plus the winter grazing, and equalled it here. It gives the qualifications, the Federal range A. U. M.'s, opposite to the base A. U. M.'s, of 11,943; then the A. U. M.'s, summer base, is 6,498. Add that for the summer operations, and you would have available 18,440 A. U. M.'s. Divide that by 6 months, the total base lands and the total grazing lands that can be used during the summertime, would take care of 3,073 cows, at which time during the summer they would be on the base land, the summer grazing, 35 percent of the time, and on the Federal range 65 percent of the time.

MR. PATTERSON. May I interrupt him on one or two points here? What do you mean, this number of A. U. M.'s on how many acres?

MR. JENSON. 77,953.

MR. PATTERSON. That would run what? Was it 3,000 cattle or sheep?

MR. JENSON. Three thousand cattle. That is just for the summer part. I will go into the winter next.

MR. WRIGHT. That is using the Federal range with it?

MR. JENSON. Using the basis that can be used in the summer and using the Federal range that can be used in the summer.

Did the same thing here for the winter operation. On the summer lands, 6,498 A. U. M.'s gives a dependence for winter operation. So, if the dependency produced on their own base is 11,943 A. U. M.'s,

which would be used in the wintertime, along with the winter grazing on Federal range, that, then, is a total resource of 18,000 A. U. M.'s, which would take care of the same number of stock during the winter months.

Senator MURDOCK. That is "animal unit months"?

Mr. JENSON. Yes.

Senator MURDOCK. Based on cattle?

Mr. JENSON. On cattle, that is right; or 5 sheep are included. In the wintertime it shows it would be on the base 65 percent of the time, and Federal range 35 percent of the time. Bring that together and make a 12-month operation, adding the summer and winter available for both Federal range and base, which would make a year-round operation for this, 3,073 cows.

Now, from here back, we have just set up a possibility, according to the survey made by the examiner. The next thing, we take a carrying capacity which you arrive at by the range survey crew, find on the summer area that the estimated carrying capacity is at 11,943 and on the winter estimated it at 6,497; or, if we work this through the way we have here, the Indian Service would get 85.16 percent of the summer range and 25.96 percent of the winter range, or, to average off the whole thing, 47 percent of unit G in carrying capacity.

Senator MURDOCK. On that 77,000 acres you have received nothing but your base property?

Mr. JENSON. That's right.

Senator MURDOCK. Now, you are talking about the carrying capacity on the range?

Mr. JENSON. This is the carrying capacity of the Federal range in the area.

Senator MURDOCK. That is, unit G?

Mr. JENSON. Yes, sir. We did it in the first way, took that first possibility; all the Indians wherever they are located, took the ratings that the examiners placed on them, put it against the carrying capacity of the range. The Indian Service would get 85 percent of the summer area in unit G, and 26 percent of the winter area in unit G; that is, putting all the base qualifications against the area of unit G.

Senator MURDOCK. May I ask you—Unit G includes the area between the black and green lines in Grand County?

Mr. JENSON. Here is the boundary of unit G, right down here. This is Willow Creek clear down here.

Senator MURDOCK. But you include all of that?

Mr. JENSON. Yes, sir.

Senator MURDOCK. I was wondering if you went down to the boundary between Uintah and Grand Counties?

Mr. JENSON. No; this part up here, being the summer range approximately all through here, and down here is the winter range.

Is there a question on this? This shows you what share of the feed out there they would get, providing we took all of the probable land in, and gave them a right, whether they fit into the code or not.

Mr. PATTERSON. Now, that is assuming that the areas of the grazing under the Taylor bill is allocated to this particular area?

Mr. JENSON. Will you state that again?

Mr. PATTERSON. That is on the computation you have made, there where you purchased, take the rights of Myrup, for instance; part of

his grazing rights are within unit G and part out. You are assuming all of those rights are within unit G, aren't you?

Mr. JENSON. That is right, assuming wherever the land is it has a right in there.

Mr. PATTERSON. You allocate it to G?

Mr. WRIGHT. What was your carrying capacity figure, Mr. Johnson?

Mr. JENSON. It totaled 39,049 A. U. M.'s, which is on a surface area of 426,000 acres, which is an average of 10.9 acres; carrying capacity of 14,024 on the summer range, 25,025 on the winter range.

The next step here, we divided that range up to how much the Indians took against all that acreage, broke it down to A. U. M.'s. Total Federal range carrying capacity remaining to the white settlers, in the summer area, was 2,081, or 14.8 percent of the area, less to the whites, conceding all that acreage to be qualified.

Senator MURDOCK. You mean giving the Indians everything they would be entitled to, unit G, on the base property you have described, regardless of whether they were allotted or not? That would still leave the white stockmen on the summer 14.84 percent?

Mr. JENSON. That's right. Leave the white users on the winter area some consideration, 74 percent.

Senator MURDOCK. Giving the Indians everything entitled to a base property, it would leave 74.04 percent for the whites?

Mr. JENSON. Or in total it would leave 52 percent of the total area for the whites. A comparison here in A. U. M.'s granted the white users in years before, 4,000 here in the summer, then under percentages over here, "percent of white users use remaining A. U. M.'s will permit." In other words, the white users still go on 49 percent of what they had been getting the year before, in summer area, and 69 percent of what they had been getting in the winter area. They could continue to that extent, or 66 percent of the total of what they had been getting to carry on full consideration of all lands ever submitted.

Then the next, if you have got that—as I say, I don't know just which way things were going here—

The CHAIRMAN. Let's take these considerations one at a time, or the policies one at a time. There are 10 conjecturals here. Does anyone care to interrogate as to the first conjectural policy?

Mr. LEECH. Mr. Chairman, I would like to say in connection with Mr. Jenson's testimony, they have set up these 10 possible ways, and all of these matters are still being considered by the two agencies, and the two agencies have not as yet determined on which one of those policies—

The CHAIRMAN. That is the reason I want anyone who wishes to interrogate now, on the conjectural policy, to do so as we go along. It will save time.

Mr. WRIGHT. I have a question. Do you have any information, Mr. Jenson, that would show the carrying capacity, or rather the grazing privileges that are granted at the present time on the purchased properties along Mill Creek?

Mr. JENSON. Not attached to this as purchased property?

Mr. WRIGHT. Yes.

Mr. JENSON. Yes.

Mr. WRIGHT. What is that figure?

Mr. JENSON. For the season 1940-41—this is considering the purchased properties, that is what you mean?

Mr. WRIGHT. Licenses that now exist.

Mr. JENSON. I will have to refer you to the district grazier. I don't know the licenses at this time.

The **CHAIRMAN.** We will pause here for 10 minutes.

(Recess until 3:45 p. m.)

The **CHAIRMAN.** The committee will come to order.

Mr. Jenson, you may proceed. Was there a question pending?

Mr. WRIGHT. Yes, sir, I had a question. I believe you said you did not have the figures on the number of livestock that are now being licensed on the base properties which were purchased by the Indians within unit G?

Mr. JENSON. No, I don't have that.

Mr. WRIGHT. Do you know how many livestock were run by the previous owners on that base property within unit G?

Mr. JENSON. That would be just the red on the map?

Mr. WRIGHT. Yes.

Mr. JENSON. I can give it to you in A. U. M.'s, not in stock. Summer area, they were getting—this would be the previous owners of the lands which the Indian Service purchased—getting 9,749 A. U. M.'s, summer area for the year 1940-41.

Mr. WRIGHT. They were all bought out by that time, nearly.

Mr. JENSON. Bought out, but there was that much stock running from the bases of that land.

Mr. WRIGHT. I meant to ask, do you have any figures on how many cattle the previous owners ran in that unit while they owned the property?

Mr. JENSON. No, I don't have that. We can dig it out, in some of this detail stuff. It can be secured. I have it, but I do not have it on this.

Mr. WRIGHT. We have a figure, for instance, of 75,000 A. U. M.'s. Do you recall whether that is correct or not?

Mr. JENSON. For the whole unit G?

Mr. WRIGHT. Yes.

Mr. JENSON. The carrying capacity of the range survey is the one I can give you; 39,000 A. U. M.'s.

Mr. WRIGHT. We have a figure, given to us by your Service, that the original owners ran 75,000 A. U. M.'s.

Mr. JENSON. May have been priority.

Mr. WRIGHT. Of course, before reductions began at that time, on the purchased property alone. Do you have the figure on the acreage of the purchased properties?

Mr. JENSON. Yes, the total acreage, 426,843—no, wait a moment—of the purchased properties, 31,045.

Mr. WRIGHT. And 31,045 acres of base property when in white ownership ran 75,000 A. U. M.'s, but under the present—

The **CHAIRMAN.** Is that true?

Mr. JENSON. I don't know.

Mr. LEECH. I believe you would have to refer to the dependent property surveys of this base property to see what priority rating was established through obtaining affidavits concerning the priorities. Are those records here, Mr. Moore?

Mr. JENSON. I think we would have them, but we would have to go back into the detail.

The **CHAIRMAN**. The committee is going to be very much interested in knowing that figure as authentically as possible. That will have some considerable weight with the committee.

Mr. LEECH. I will have that compiled, Mr. Chairman.

Mr. JENSON. The way we get that figure from the priority affidavits of the stock run on that base line before the Indian Service purchased it—

The **CHAIRMAN**. Wasn't that somewhere reduced to a conclusion by those who investigated? I know when claims are put in for stock permits, especially in the earlier part of the administration of the Taylor Grazing Act, the affidavits ran pretty high, sometimes.

Mr. PATTERSON. There was a difference between the claim and what was allowed.

The **CHAIRMAN**. What were the facts?

Mr. JENSON. The priority claims are as much as 10 to 20 percent higher than what the base property could probably do, so in all of this the priority claims exceeded the production of the base property. Therefore the production of the base property would be the limiting factor, controlling the qualification of each applicant.

Mr. WRIGHT. What I would like to point out in this connection is the comparison between the amount of cattle that were run from these base properties, when white-owned, and the total amount that will be allowed, not only by the purchased properties, but by that total of 77,000 acres, which, under one category, might be allowed as Indian base property. It is considerably less than 77,000 acres, considerably less public domain than the 31,000 alone earned when it was in white ownership.

Mr. JENSON. Then the 31,000 alone claimed priority use, is that what you mean?

Mr. WRIGHT. No; I mean the actual figures. I want to bring that out, as to whether that is a fact or not.

Mr. JENSON. I could not say the priority claims would greatly exceed what the 31,000 acres would support.

The **CHAIRMAN**. I suppose into that comes range conditions. It must, of necessity—of whether a certain number were actually supported, or whether it was an over-grazed area. A lot of those things, I think, would come into that consideration.

Mr. WRIGHT. Yes; that is very true. But it refers back to our position that the Indians at least thought they were buying the area that was being run by these white operators when they bought it.

Mr. JENSON. The second consideration given here, the second possible consideration which may be chosen, is to consider all base lands submitted prior to June 28, 1938, and using the range survey rating.

The **CHAIRMAN**. Isn't that the third consideration?

Mr. JENSON. This really is the next. The second is a comparative—the only difference is in the third item here, you only consider lands submitted in accordance with the specification of the code. It would be a difference of approximately 10,000 acres between the first and second. That is the 10,000 acres I showed you over here, that had not come into the record.

The **CHAIRMAN**. Does that fall in the category of being out of the base period?

Mr. JENSON. Out of the base period?

The **CHAIRMAN**. Yes.

Mr. JENSON. Well, it was not admitted as having a dependence for a grazing right.

Mr. LEECH. Under the code, Mr. Chairman, Mr. Jenson is talking about, these properties were not offered in application before June 28, 1938.

Mr. JENSON. Take it on that basis; the total of 67,132 acres, working out a summer operation, a winter operation, combining that into a year-long operation, the Indian Service lands which were submitted before June 28, 1938, would take 9,809 A. U. M.'s, or 69.95 percent of the summer range, 25.96 of the winter range, or 41 percent of the total range, taking that into consideration. That would leave 30 percent of the summer area for the whites, 74 percent of the winter area for the whites; or a total of unit G of 58 percent would be left to be divided up among the qualified white users.

Mr. WRIGHT. In other words, Mr. Jenson, on a comparison between those two categories, the white operators would have the same percentage of the area in the winter?

Mr. JENSON. In the winter it is exactly the same.

Mr. WRIGHT. The 10,000 acres would not count for the Indians?

Mr. JENSON. That is right. It would leave for the white 99.8 percent of what they have been getting for the previous years, in the summer area; and 69 percent of the winter area, that they would be getting. For a total, they would get 73.2 percent of what they previously had. That consideration summarizes down to just the land that came in before the closing dates for making applications.

Mr. WOHLKE. That 10,000 acres eliminated from this third consideration, was that Indian land, bought by the Indian Service, for the Indians, and which was not applied for before June 28, 1938?

Mr. JENSON. That is this acreage here, Indian allotment in unit E, Uncompahgre Indian Stockmen's Association land, ceded Indian lands, Ouray subagency Indian allotments in units D, E, F, and G, and amounts to 10,821 acres.

Mr. WOHLKE. That was not submitted by June 28, 1938?

Mr. WRIGHT. Mr. Jenson, you spoke of a code there. Would there be any difference in those figures if you used the 1935 code, or the 1940 code, or the present code?

Mr. JENSON. Are you talking of this part, a day of summation? My understanding is that all of the codes have that clause, June 28, 1938, of that date for submission.

The next one here worked out exactly the same way, only in this one we consider group A purchased lands only, and using the 1941 range survey. What I mean by group A, I referred to this map. That is the purchased lands which show here in red, the lands they purchased for the Indians. So this is the land we are mostly talking about. We worked out the amounts to some 31,045 acres they purchased. We got the summer operation, the winter operation, the year long. Over here, the carrying capacity, which controlled the whole thing. The Indian Service would get under that consideration 4,275 A. U. M.'s, or 30 percent of the summer area; would get 6.99 percent of the winter area, or 15.42 percent of the total area; leaving 69.51 percent of the summer area for the whites, and 93.01 percent of the winter area left

for white use, or 84.58 percent of the total unit G would be left for the white use, if you only take the lands that were purchased.

Here the whites would get an increase in the summer area, and 86 percent of what they have been getting in the winter area, or, in the total, 6 percent increase from what they have been getting in the past.

Mr. PATTERSON. A number of men called my attention to the fact, Mr. Chairman, that some people have come in this afternoon who have not filled out a card.

The CHAIRMAN. Anyone who came in this afternoon will kindly sign these cards so that the record may be clear.

Mr. WRIGHT. Mr. Jenson, would you mind repeating that same thing as to what the Indians would get under that arrangement?

Mr. JENSON. The Indians, under that arrangement, would get 69.51 percent of the summer range. On just the purchased lands the Indians would get 30.05 percent for the summer range, 6.99 percent of the winter range, or 15.5 percent of the total in unit G.

Mr. WRIGHT. Fifteen and a half percent?

Mr. LEECH. That is just the purchased properties.

Mr. JENSON. Purchased properties against the carrying capacity of the unit.

Mr. WOELKE. That would mean that the Indians would have paid \$296,000 for 15 percent of the carrying capacity of that unit?

Mr. JENSON. That is strictly in accordance with the code.

In the next possibility here, a different consideration, considering only lands in district 8, and giving them consideration regardless of date submitted, and using the 1941 range survey. In other words, there was a controversy, and always has been, of whether any of the lands outside the district have priority or not. This leaves the lands outside of the district, out of the picture, and only takes the lands within the district.

In that case, considering it that way, the Indians get 59.95 percent of the summer range, 8.02 percent of the winter range, or 26.67 percent of the total unit G carrying capacity.

Your next possibility there is considering only lands in district 8, and only lands submitted prior to June 28, 1938, using 1941 range survey. In other words, in this one, only the land that got in before the closing date was considered, and only the lands in the district are considered. A lot of individuals claim those are the only lands that have priority in the area which the Indian Service controls.

Under that consideration, the Indian Service would get 56.40 percent of the carrying capacity of the summer area, 8.02 percent of the capacity for the winter area, or 25.39 percent of the carrying capacity of unit G.

I am going over this hurriedly, but these percentage figures will be borne out by the other figures here.

The CHAIRMAN. Are there any questions so far?

Senator MURDOCK. May I ask this, When these charts are copied, will they be reduced for us to such a size that they can be included in the record?

Mr. LEECH. Yes, sir; Mr. Senator.

Mr. JENSON. I might state that they have already been photostated and reduced down to a size 14 by 8 inches.

Mr. PATTERSON. Mr. Jenson, let me ask you one question on your tabulation there. You do not take into account, I think you explained it under your last possibility there, you did not take into account that base property on the outside of that area, where permits were issued for use within the area; that was not taken into account?

Mr. JENSON. Not on the last one; no. They were just possible considerations set up. On the last one, base property out of the district is not given any consideration; that is only taking base property in the district. There may be some land outside of that unit still within the district given consideration. There is nothing outside of the district on there.

Mr. WRIGHT. May I ask another question, please? Mr. Jenson, did the range-survey party take into consideration the rather abnormally wet year in which the survey was made?

Mr. JENSON. On the range survey, getting the carrying capacity of Federal range, under supervision of another individual, in their formula, set up for their carrying capacity, they did take that into consideration.

Mr. WRIGHT. Did the Indian Service man participate in the range survey?

Mr. JENSON. As I understand the program, in the spring of 1941 arrangements were made whereby the Indian Service and the Grazing Service would participate in the range survey. Our crew got out, and one or two members worked about in May, and the Indian Service examiners had not got on the job. Our men were in the field and had the job done before the Indian Service got there. The only way Mr. Wagner contacted the members in the field—I think all were contacted—the field work on the Federal range survey we did, except the compiling. The Indian Service men have worked with the fellows in Salt Lake City on all the compilation of the field data.

Mr. WRIGHT. At the meeting you spoke of where this material was presented to Mr. Zimmerman, Assistant Commissioner of Indian Affairs, Mr. Rutledge of the Grazing Service and Mr. Arnold of the Indian Service, was anything said about this being acceptable material, and being accepted, or what do you recall?

Mr. JENSON. As I viewed it, it was left hanging in the air, nothing accepted or rejected.

Mr. LEECH. I might say, Mr. Chairman, none of this has yet been accepted by the two Services. It is merely being given due consideration.

The CHAIRMAN. That interests me very much, because I understand, I gathered from that statement that this whole rather intricate subject is a subject of study at the present time by the departments, or by those in the field, for the departments. Am I right in that?

Mr. LEECH. That is correct, Senator.

The CHAIRMAN. Are those studies going forward?

Mr. LEECH. The review and examination of this work that has been carried on by the range examiners, yes; that will be further reviewed.

The CHAIRMAN. I take it that is true of the Indian Service? They

are continuing with the study jointly with the Grazing Service. Is that true?

Mr. WOEHLEKE. I doubt whether there was very much direct participation by the Indian Service, Forestry, and Grazing people in these studies.

The CHAIRMAN. Do you mean to say they did not participate?

Mr. WOEHLEKE. They didn't have much of a chance, in the range surveys, as he stated.

The CHAIRMAN. He says they did participate.

Mr. WOEHLEKE. On the property surveys they participated.

The CHAIRMAN. Oh, yes.

Mr. WOEHLEKE. Not on the range surveys.

Mr. JENSON. The only part the Indian Service examiners played, on the range survey part of it, was in the compilation, which they did a great share of.

The CHAIRMAN. Addressing yourself to the question of whether the two Services are now engaged on the review of the data collected, rather than the survey itself, can you answer that, Mr. Woehlke? What I am getting at, it has been intimated from the last few statements that the departments themselves are considering this. This is an intricate question and they are trying to solve the question. That is true, is it not, Mr. Woehlke?

Mr. WOEHLEKE. Correct.

The CHAIRMAN. The committee is interested in getting around so that the question may be solved without the enactment of what might be unjust and unfair legislation. That being true, we are glad to know it, because it is a matter of progress.

Mr. LEECH. I might say, too, Mr. Chairman, after Mr. Jenson presented this to Director Rutledge and Mr. Zimmerman and Director Rutledge had Mr. Moore check and review part of this, most of it, and made a field trip with Mr. Wright, which, later, we will develop, and Director Rutledge looked at the whole thing as a land-management proposition, something that should be worked out, if possible. He had no particular interest in the Indians or in the white stockmen. He was merely looking at it from a proper land management and use of that area, and Mr. Moore, and also Mr. Wright, will touch on that shortly after Mr. Jenson is through. It all is still under consideration.

Mr. PATTERSON. One more question, Mr. Jenson. In your computation you did not take into account the base property that is outside of this Indian area, the black-boundaried district? You did not take into account the base property which uses for grazing purposes land on the inside of this area?

Mr. JENSON. You mean what rights the white user would have that would be affected except here? Whatever consideration they accept here would leave a balance over here to go to the white user. So this is a study of the qualifications of the Indian base lands submitted and the balance which would go to the white user would be set up on similar adjudications for the users.

The CHAIRMAN. The white user would be a nonresident user, so to speak?

Mr. JENSON. In most cases they are. I don't know as any of them would be in the area.

Mr. WRIGHT. Up to date, Mr. Jenson, no similar property survey has been made on white-owned-base property for this area?

Mr. JENSON. All those surveys are completed. All the compilations the same as this is completed, taking the balance left here and putting it against the white user that are qualified; that is all completed.

Mr. WRIGHT. The white users now in the area?

Mr. JENSON. If he was in the area during the winter of 1941 and 1942.

The CHAIRMAN. Are there any further questions on this?

Mr. WOEHLEKE. I might say just this, Mr. Chairman: The results of the labors of Mr. Jenson and his colleagues were so startling at the time they were submitted to Assistant Commissioner Zimmerman and our Director of Forestry, Mr. Arnold, that they were almost completely flabbergasted when they considered the amount of forage production capacity which they thought the Utes had bought and which this particular application of the Range Code, and so forth, would finally leave them with.

The CHAIRMAN. Now, the Range Code had been set up some time before, hadn't it?

Mr. WOEHLEKE. I think it has been set up since 1935 with numerous changes.

The CHAIRMAN. Your Service had access to the Range Code, did it not?

Mr. WOEHLEKE. Yes.

The CHAIRMAN. Did it not at all times have access to the Range Code, the Indian Service?

Mr. WOEHLEKE. Yes.

The CHAIRMAN. You are not going to tell us that the Indian Service really, with their eyes wide open, bought a cat in the bag?

Mr. WOEHLEKE. No, Mr. Chairman; they did not proceed to buy a cat in the bag.

The CHAIRMAN. You're telling us that because you were startled, notwithstanding the fact you had time to look into this purchase, you made a study of it and then you purchased the land, the Indian Bureau, mind you, not the Indians—they purchased the land for the Indians. Now, do you want to say you were flabbergasted, that you thought you had purchased something that was not there?

Mr. WOEHLEKE. No; I would not say that.

The CHAIRMAN. I would not say anything if I were you.

Mr. WOEHLEKE. What the Indian Service proceeded to buy was the private lands within the red or green lines in that area.

The CHAIRMAN. You wouldn't have bought those lands if they stood bare of any rights on the open public domain, now, would you?

Mr. WOEHLEKE. Under an agreement that was arranged.

The CHAIRMAN. Answer my questions. You would never have purchased those lands if they stood bare of any rights on the open public domain, would you?

Mr. WOEHLEKE. Of course not.

The CHAIRMAN. Why didn't you know what rights they had on the open public domain before you purchased them?

Mr. WOHLKE. We did.

The CHAIRMAN. You did, but you were flabbergasted to find out afterward what you didn't know.

Mr. WOHLKE. Flabbergasted because this particular application of the Range Code diminishes that right far below that which those properties enjoyed at the time we bought them.

Mr. GRAHAM. There is a difference in point of time that is significant, Mr. Chairman. When were these lands acquired, or the program initiated, Mr. Wohlke?

Mr. WOHLKE. 1935.

Mr. GRAHAM. There has been a sort of a code in existence during that period. The first one applicable here came into existence in 1938. There may be some explanation for a portion of that.

The CHAIRMAN. I take it now from Mr. Wohlke's statement that the Indian Service made no attempt to set up rights on the open public domain based on any code; never took any code into consideration, whether it was the code prior to 1928, or at 1938, or subsequent to 1938. They just bought and took the base lands, on the theory that the whites had certain rights on the open public domain, and never sought to determine those rights. Is there any correction to that statement?

Mr. WOHLKE. Yes. We did try to determine those rights, in the appraisal of the properties as we bought them, and we referred back to the number of cattle which they had customarily operated. As, for instance, in the case of the Taylor property, where the 630 acres plus the waters, springs on the public domain, controlled a total of between 45,000 and 50,000 acres. We bought that entire right from the Taylor family, and paid them on the basis of approximately \$45 per A. U. M. of the carrying capacity of the entire operation as such, and he had a license from the Grazing Service for that amount. When later on, a new edition of the Range Code is applied to the Taylor property, the result is rather startling. Yet we did buy that which Taylor had customarily controlled through the use of his base land and of his water improvements on the domain.

The CHAIRMAN. Well, now, supposing there was no Indian in the situation at all. Let's say that the Taylor lands—Taylor is the name of an individual in this instance—supposing the Taylor holdings had been purchased by a white man, and then the new code had come in. He would have been reduced accordingly, wouldn't he?

Mr. WOHLKE. I suppose so.

The CHAIRMAN. So he could make the same complaint. He would be startled and flabbergasted, too.

Mr. WOHLKE. After all, we do maintain that the Indians in this case deserve special consideration. They had this complex, this reservation, a million eight hundred thousand acres, and it was taken from them again. It was also recognized that they had a moral claim to special consideration.

The CHAIRMAN. Now, Mr. Wohlke, analyze that just a minute. You are under the Interior Department. The Interior Department

set up that Uncompahgre Reservation, didn't it, by an Executive order of the Secretary of the Interior?

Mr. WOHLKE. No; that was an Executive order—Presidential order.

The CHAIRMAN. It doesn't make any difference. It came through the Secretary of the Interior, and then it was taken away from them by the same authority; is that right? So that if you gave them something and took it away from them you are responsible for it, not the Congress.

Mr. WOHLKE. I don't know the exact situation as to how the taking was accomplished.

The CHAIRMAN. I go on this basis—that the Secretary of the Interior would not do an injustice to the Indians, who are under him.

Mr. WOHLKE. The Executive order setting up the Uncompahgre Reservation in 1882 was carrying out an action by Congress, and I doubt whether the Secretary of the Interior had very much to do with it except to validate it and turn it over to Mr. Havell to place on the records of the Land Office.

Senator MURDOCK. May I ask a question along that line? I am reading now, Mr. Wohlke, from a letter signed by Oscar L. Chapman, Assistant Secretary of the Interior, which has to do particularly with the question of whether or not the Uncompahgre Indians ever had any equity in the reservation set up for them, and this is what the Assistant Secretary of the Interior Department says:

It will also be noted from the excerpts herewith that the Indians were charged \$1.25 per acre for lands taken within the Uncompahgre withdrawal area, which is a rather clear indication that no tribal rights or equities to this area were established in the Uncompahgres by the Executive order of January 5, 1882, establishing the reservation. The Indian withdrawal was listed in 1898, pursuant to the act of June 7, 1897.

Now, Mr. Chairman, at this point, if there is no objection to it, in answer to what Mr. Wohlke said, I would like to submit the letter for the record.

(The letter is as follows:)

DEPARTMENT OF THE INTERIOR.

Washington, February 3, 1939.

ERNEST L. WILKINSON, Esq.,

Washington, D. C.

MY DEAR MR. WILKINSON: Reference is made to the conference held in the Indian Office on December 28, attended by you, at which time there arose for reconsideration the question whether the undisposed-of lands within the former Uncompahgre Reservation are subject to restoration to the Ute Indians of Utah under section 3 of the act of June 18, 1934 (48 Stat. L. 984).

The reservation in question was established by Executive order of January 5, 1882, and embraced more than 2,000,000 acres. There are enclosed excerpts from the records of this Department which clearly indicate that this large area was withheld from settlement and entry so that there would be ample lands available from which to make allotments to these Indians, in accordance with an agreement with them, ratified by the act of June 15, 1880 (21 Stat. 199). Under this authority 105 allotments, embracing approximately 11,000 acres, were made to individuals of the Uncompahgre Band on the Uncompahgre Reservation. Subsequently, some of these allottees relinquished their lands in order that they might obtain more desirable lands on the Uintah and Ouray Reservation. This condition has advanced to the point where, according to the last allotment schedule submitted, con-

taining selections on behalf of 500 Uncompahgre Indians, 507 of the selections were for lands on the Uintah and Ouray Reservation and only 83 retained their selections on the Uncompahgre Reservation. It will also be noted from the excerpts herewith that the Indians were charged \$1.25 per acre for lands taken within the Uncompahgre withdrawal area, which is a rather clear indication that no tribal rights or equities to this area were established in the Uncompahgres by the Executive order of January 5, 1882, establishing the reservation. The Indian withdrawal was lifted in 1898, pursuant to the act of June 7, 1897 (Stat. 87).

In view of the record upon this matter, it is our belief that the undisposed-of lands within the boundaries of the former Uncompahgre Reservation are not of the class intended for restoration to tribal ownership under section 3 of the Indian Reorganization Act. Any withdrawal of public-domain lands within the said area for tribal purposes would require special legislation.

Sincerely yours,

OSCAR L. CHAPMAN,
Assistant Secretary.

Mr. PATTERSON. I would like to ask Mr. Woehlke a question. If you have any faith in this so-called reservation, why did you go up to the reservation and purchase that which you already had?

Mr. WOHLKE. Mr. Patterson, we never claimed that that was a reservation. As Oscar Chapman wrote in that particular letter, any rights that the Uncompahgres might have had in that Executive order reservation of 1882 were extinguished by an act of Congress followed by the Proclamation of 1897. After that there was no more reservation and the Uncompahgres only had a moral claim.

Senator MURDOCK. He says they have no claim.

Mr. WOHLKE. I maintain they have a moral claim.

Senator MURDOCK. In the opinion of the Assistant Secretary, they had no such claim. I don't think he uses the word "moral," but he says no claim whatever, and no equity.

Mr. WOHLKE. In the records of the Indian Office under date of 1929 there is a long memorandum, worked out in the land division, establishing the fact that there is no legal claim by the Uncompahgre Utes to these 1,800,000 acres. I think we are all agreed on that point.

Senator MURDOCK. As to that, I don't think you should refer to the Uncompahgres. That is the area once included in it. I don't think we should refer to it as a territory or area in which the Uncompahgres have some right, whether legal, moral, or what.

Mr. WOHLKE. I think there is a moral claim because of the long history of the shrinkage of the Ute holdings throughout these two States, in Colorado and Utah.

Senator MURDOCK. I think, in consideration of the setting up of Indian reservations, you must bear in mind, when created this was a wide-open territory set-up. White settlers came in, and some adjustments were necessary. We are confronted, we, as Senators, and these other people as officials of the United States, white stockmen and the Indians stockmen, are confronted, today, with making some disposition of these lands which is equitable to everyone, and certainly equity does not include the establishment of large reservations which cannot be beneficially used by the Indians. But they are entitled to, on the other hand, every acre they can beneficially use, the same as the white men.

The CHAIRMAN. I say this, and it is my own individual view, after some 2 or 3 years of study of this subject here in this committee; that if we would take the Indian of America today, and treat him as an equal, and give him his status as an equal in American life, we would do a great deal more for him than to make a pet, and pamper him, and try to build something up, build his future on something that does not exist. If we take the Indian and say, "You have the same rights, and the same privileges, as any American citizen, but you will not have any more," we would do a whole lot more to build the Indian for the future than to make a hothouse plant out of him. I'm telling you that is my personal view.

Let's get away from this subject and ask if there are any more questions of Mr. Jenson.

Mr. GRAHAM. Without undertaking to prolong this discussion on moral obligation, in fairness, it should be observed that the letter from Assistant Secretary Chapman, from which Senator Murdock read the excerpts, while it does use broad language in referring, in using the word "equity," it was addressed to the attorney for the Indians, and addressed to the sole question of whether these lands in the old Uncompahgre Reservation were subject to restoration under the Wheeler-Howard Act.

Senator MURDOCK. Certainly you do not want to imply that Mr. Chapman will write one kind of a letter to an attorney, and another to someone else?

Mr. GRAHAM. Not inconsistently; no, sir.

Senator MURDOCK. I think I have a right to take a letter written by an official of this Government, written to an attorney, or Senator, and rely on the facts he is stating, the fact as he knows it to be, and I hope we have an Assistant Secretary of the Interior back there who will not state a letter to a lawyer in one way, and state it in a different way to someone else. I don't think Oscar Chapman would do that.

The CHAIRMAN. Mr. Jenson, I have a few questions I would like to ask, that can be cleared up. I want to state, from what I have gathered here today, I would like to have cleared up in my mind certain things. My views are not crystalized by any means. As I have seen it to date, it would seem to me that if the commensurate rights that really belonged to the predecessors of the Indians on these red lands, so called, were established now to the Indians, that certainly justice would be rendered to them. In other words, if in a holding of 320 or 640 acres, there were commensurate rights on the open public domain, and the 320 or 640 acres being base lands, if the predecessors in interest had commensurate rights on the open public domain, it would seem to me those commensurate rights would properly pass into the land. Now, if we can by some method, arrive at what they were, we will have gone quite a way toward solving one intricate problem. Do you know of anything that will enlighten us on that?

Mr. JENSON. In our adjudication work in the State of Utah, that principle has been held to, the right would be attached to the land

any time that the property is transferred from one individual to another. That right goes with the land. That right is based on three factors, the carrying capacity of that land, the production of the base lands, the prior use, or the dependence of that base land for winter use to make year-round operation; and the third factor would be, was it submitted to the Grazing Service for the grazing right. Then those three factors, in all adjudications, are set up as a qualification of the property, and the controlling factor of all of that is to take all of the land submitted by all individuals, whether in one like unit G, in the whole district, put that total qualification, determined by those three factors, in the carrying capacity of the range, which is the controlling factor, after all. And then each piece of property got its proportionate share of the carrying capacity of the range. That is the way this is done, that is what we have worked throughout the State of Utah, grazing districts 6, 9, part of 4, and all of district 8. It is done by the field examiners making the appraisal on production, terms of priority, going into all the records, so on all it can be considered the same.

The CHAIRMAN. Now, that is the basis of your study with reference to this subject, is it?

Mr. JENSON. Yes, sir; that's it exactly.

The CHAIRMAN. In the carrying out of this study you were in part joined by the Indian representatives?

Mr. JENSON. On this unit G we were, as far as the base property goes. They were there on every rating of the base property, measuring the hay stacks, and measured it all together. Then on the Federal range carrying capacity, we were unable to work it out. As I explained a little while ago, we did most of that, but on the compilation of both the Federal range carrying capacity, and on these studies carried on in 1941 and 1942, the Indian Service examiners worked right with the range survey examiners of the Grazing Service.

The CHAIRMAN. How did you agree?

Mr. JENSON. Not too well; agreed to the field studies before they left the piece of property. On these studies, we all worked them out together. That is what I was in charge of, the business of setting up the method of how to do it, conform to the code and the act. The rest of the boys did most of the compilation.

The CHAIRMAN. I am trying to find out where there was a divergence of conclusion.

Senator MURDOCK. Haven't you got some charts dealing with the individual pieces of land?

Mr. JENSON. I have every piece of property here, Indian allotment.

Senator MURDOCK. I believe, Mr. Chairman, that would bring out the point. Have you got that Taylor piece?

Mr. JENSON. I think so.

The CHAIRMAN. What is the history? Does anyone care to query? The Indian Service field men did not participate—does anyone care to query as to why the Indian Service field men did not participate all the way through?

Mr. WOHLKE. I believe in many instances, as Mr. Jenson explained, the range examiners of the Grazing Service got there and completed the job before the Indian Service examiners knew anything about it, or else they could not at that particular time participate, because they were engaged in other work. But there was that divergence of opinion, Mr. Chairman, about many of the basic factors in this range survey. You know that usually the technicians differ in their methods of range survey. In this case there was a pronounced difference between our regional office forester and the regional grazer's office here, on various factors in that range survey; so they did not get together on it.

The CHAIRMAN. One of the funny phases to this from your present statement, if the Grazing Service and John Smith, who was the owner of a base property, and was running livestock on the open public domain, should disagree, that would be quite natural. But that a department should disagree with itself seems to me to be a little out of line.

Mr. WOHLKE. I believe, Mr. Chairman—

Mr. PATTERSON. I would like to know if there is any disagreement as to the standard employed in arriving at your final results?

Mr. JENSON. For our standards, we used the same standards on all these properties that were purchased, the same standards used throughout the rest of the district.

Mr. PATTERSON. Did you agree upon those things?

Mr. JENSON. The Grazing Service and Indian Service examiners may have had some little differences, but nothing material.

Mr. LEECH. You worked under the approved range survey standards for all Federal agencies, didn't you?

Mr. JENSON. Yes; they have the Bureau of Survey standards set up. That is the standard used in this study. All Government agencies use those surveys. They set up the standards, and they are the standards used for the study.

Mr. PATTERSON. May I ask you, down in the Grand County country, there at the lower end of that map, where some red area is, did you examine a piece of property purchased from a Henry Woodman?

Mr. JENSON. Yes; he is on here.

Mr. PATTERSON. He had no grazing rights. He was a miner up at the Carbon country.

Mr. JENSON. That is part of the property that the Indians purchased.

Mr. PATTERSON. But it had no priorities.

Mr. JENSON. No.

Mr. PATTERSON. But you awarded a priority.

Mr. JENSON. On that, we brought out here sometime ago, at times the priorities are inflated a great deal. Finally, it was either one of two things, to limit the qualifications of any individual, either by his priority in time against numbers, or the production of base land. So we got so involved on priorities on this stuff, said everything has got priority extended; the carrying capacity of the land controls this whole thing—the carrying capacity of the base, I mean.

Mr. MORONI A. SMITH. Did you have much disagreement on the carrying capacity of the base lands, as you did on the Federal range lands?

Mr. JENSON. No; I think not. I think there was more contention on that than anything else.

Senator MURDOCK. On your base lands you came to an agreement?

Mr. JENSON. Yes. I took his question as to the carrying capacity of the Federal range.

Mr. SMITH. As I understand, you agreed much closer on the carrying capacity of the base lands than on the carrying capacity of the Federal range lands.

Mr. JENSON. We used the accepted standard against the Federal range and here they actually agreed right on the ground, have to apply their standards against the Federal range, to get its carrying capacity.

The CHAIRMAN. I believe, Senator, you wanted to go into one case.

Senator MURDOCK. I thought it would be enlightening to the committee. As I understand it, Mr. Jenson, you have a complete list of all properties indicated in red on the map here on your chart?

Mr. JENSON. Yes, sir.

Senator MURDOCK. There has been considerable talk about the Taylor tract. Point out what happened with reference to the appraisals they made.

Mr. JENSON. I can do that, all right. Is it N. R. Taylor? Is that the one?

Mr. PATTERSON. Yes.

Mr. JENSON. That shows a total purchase of 638 acres. This study had been carried out here along in 1936 and 1935, while the Indian Service was doing their purchasing. Had a representative go in the field and rate all the properties they were purchasing, in order to arrive at the value of that property. From here over [indicating] we have that rating made by the Indian Service. That is broken down into the kinds of crops growing on the area at that particular time, and broken down into how much it produced per acre. Then the same standard, changing that alfalfa and hay over to the animal-unit-months, is used here as it is used on the last one. The whole difference in the three studies would be the difference in the production at the time the examiner was on the property, and this one shows that the Indian Service Representative rated 638 acres there; changed it over to A. U. M.'s of feed, at that time, when he rated it a production of 1,360 A. U. M.'s or animal months of feed.

As this study progressed we had one of the Grazing Service examiners, during the winter of 1939 and '40, take that Indian Service's figures and apply the state averages for production against these lands.

Senator MURDOCK. For the purposes of the record, the one on the left hand column there is headed "Pearson."

Mr. JENSON. He is the man who made the ratings for the Indian Service. Croft is our examiner, who made the average comparison.

The CHAIRMAN. Why was that made by the Grazing representative at that time?

Mr. JENSON. Apparently there was quite a controversy going on between the regional grazer and the Indian Service representative, in Salt Lake City, as to the production of those lands.

The CHAIRMAN. That was before the purchase of the unit?

Mr. JENSON. This was before the purchase was made. The Indian Service rating was made some time before the purchases.

Mr. WRIGHT. 1939 was still before the purchase.

Mr. JENSON. This is 1939 and '40.

The CHAIRMAN. Still before the purchase at that time. The Grazing Service representative gave animal-unit months, 992, and the Indian Service gave animal unit months 1360?

Mr. JENSON. Yes, sir. Then they made this study, in the fall of 1941, which was a cooperative study, between the range examiners, the Grazing Service, and the Indian Service. At the same rate of production they rated it 825, and this agreement they both signed as to production at that time.

The CHAIRMAN. Before purchase?

Mr. JENSON. That was 1941, following the purchase.

Mr. WOEHLEKE. Mr. Jenson, could it be determined, from those records that you have compiled, what the Taylor property was licensed for, at the time Pearson made his survey in 1938 and 1939?

Mr. JENSON. It could be determined if you apply the code, whether it is the first one or the last one.

Mr. LEECH. I think we have that, Mr. Chairman.

Mr. JENSON. Apply the code as linked by the production of the base land or the priority. In every case here, the priority greatly exceeds the production of the base property.

The CHAIRMAN. I am interested in one phase, and I want to know if I have gained a wrong conception of it. I would like to know, this plat and the Taylor purchase indicates this: Pearson's estimate, Pearson representing the Indian Service, gave a value of 1360 A. U. M.'s; at the same time, or thereabouts, and before the purchase was made, of the property, the Grazing Service examiner came in and made a study, and gave the property a value of 992 A. U. M.'s. Now, you certainly must have had advice on that before you made that purchase.

Mr. WOEHLEKE. I am not certain whether we did have advice on that.

The CHAIRMAN. Here we are again, with the same proposition, the same Department, and same group, making an estimate. One shows that it is worth 1360, the other shows it is worth 992. You certainly were advised.

Mr. WOEHLEKE. At the same time, when Pearson made his estimate he also gave certain value to the improvements, the water facilities, stock waters on the public domain, from which Taylor operated.

The CHAIRMAN. I take it that certainly Croft, of the Grazing Service, would not do less, would he?

Mr. WOEHLEKE. I don't believe they gave any consideration to that.

The CHAIRMAN. How about that, Mr. Jenson? In our colloquy, here, Mr. Woehlke says there was a different basis for the estimates made by the Grazing Service representative, in that he took into consideration other elements.

Mr. JENSON. I would say the Indian representative made his original estimate, and probably included what they considered was the

value of the grazing rights to increase the production there to justify it.

Mr. WOHLKE. That is right.

Mr. JENSON. Either that, or the base properties were in better production, at that time.

Senator MURDOCK. Is that what you attribute the disparity to, that there might have been a difference in the productiveness of the land, at the time Pearson examined it, and at the time Croft examined it, and then also at the time of the joint examination?

Mr. JENSON. Yes, sir; difference in production, same farmer was farming it under the Pearson appraisal and the Croft appraisal.

Senator MURDOCK. The farmer on it when Pearson was there was there at the time they purchased, and the time the others were there? The Indian families were on it?

Mr. WRIGHT. Mr. Taylor did not leave the property until the fall of 1941. But is not this true, Mr. Jenson, Mr. Pearson made his appraisals, which included the 13 springs on the public domain, rated as public improvements, and Croft did not take the springs into consideration?

Mr. JENSON. I don't think he made a consideration of the springs.

Mr. LEECH. Did he make a field examination?

Mr. JENSON. These are a comparison of the State averages, what the State does. It puts the State averages for alfalfa production and grain production against those properties.

Senator MURDOCK. Can you tell from the chart what Pearson took into consideration?

Mr. JENSON. I don't know as it will include the springs; shows what the production on the land was at that time—alfalfa, some grass, some hay, so much pasture, summer grazing, aftermath.

Senator MURDOCK. Isn't that an appraisal of the production of the farm land, without any regard to the range?

Mr. JENSON. Yes, sir. Now in that range and spring factors in there, if they are in there, it is within those figures and does not show.

Senator MURDOCK. Is there sufficient disparity between the Croft appraisal and the Pearson appraisal to be accounted for by Pearson including the water holes and stuff?

Mr. JENSON. That would account for part of it; and a difference in production, or the difference in the State average, would provide for most of it. Croft put a State average against it.

Mr. WOHLKE. Croft did not make a field examination; he merely applied the State averages of the productivity of certain kinds of land at his desk, and did not take into consideration the 13 springs.

Mr. JENSON. No; in this study made by the Indian Service, and the last study made by the joint services, those are the only two comparable. In both cases the men were out on the property.

The CHAIRMAN. Taking those, first, by Pearson, that shows 1,360, and the last one, made jointly, shows 842.

Mr. JENSON. Those two studies are comparable as on base property.

The CHAIRMAN. Well, I wanted to emphasize in this discussion here, which has gone far afield from the matter that the Indian Serv-

ice, when it purchased these lands, had already made a study of it, and had opportunity for guidance from others along similar lines, and could have had further advice. They were in a position that they need not be flabbergasted or taken by surprise. They, at least, had an opportunity to know what they were buying, and they had at their disposal their own grazing service, set up under the Taylor Grazing Act, with its ample facilities, as evidenced by splendid appropriations that would have been making a little more every year. All of these years these were at their disposal so they could know exactly what they were buying.

Mr. WRIGHT. May I suggest, Mr. Chairman, that it would be enlightening to continue that example by showing the grazing licenses that have been issued each year of those studies?

The CHAIRMAN. I think that would be. I think, carrying out that thought, I tried to express that understanding when I expressed these thoughts. These are the thoughts of the individual, and the committee is not bound by them at all. The thought I tried to express was this: In order to render justice, it would seem to me, a high degree of justice would be rendered to the Indians if we would say to them, "You have purchased these base lands, with whatever commensurate rights are there, rights which the predecessors had on the open public domain."

Mr. WRIGHT. You would not be far off on that.

Mr. LEECH. Mr. Chairman, I will have that prepared. I don't have it available right now, as to the licenses each year, in connection with the Taylor property. I have it for 1939 and 1940, but we will have to assemble the figures on the rest of it.

Mr. WOHLKE. We would be glad to submit also, if the committee so desires, a compilation showing the properties purchased, date of the purchase, the appraisal by the Indian Service land field agents, and the rated capacity of the ranch property, as it was at the time of appraisal.

The CHAIRMAN. There is a question of whether or not these lands were property to be considered as base property, because the picture given by Mr. Wright this morning would indicate they were rather doubtfully base property; rather doubtful as to whether or not they produced forage or grasses or hay sufficient to carry for a considerable period during the year. My conception of base property is property that will carry for a period when the stock must be removed from the open public domain. I think that is basic to the whole proposition, and some of the picture I caught this morning of some of these lands that were purchased was they were just wild grasslands that were not being farmed. Am I wrong on that conception?

Mr. WRIGHT. Many of the lands purchased, especially up in the summer range country, are only range lands, that is very true. But those that happen to be located on creek bottoms produce natural winter feed, not necessarily by raising tame hay. All of these men that live up there will testify to that.

The CHAIRMAN. How about open pasture land out on the open public domain? Does that stand as base lands under the general application of the rule, Mr. Leech?

Mr. LEECH. It would for grazing privileges of the opposite season.

The CHAIRMAN. But not for a year-round proposition?

Summarization of ratings on base properties, Federal range survey carrying Capacity and year-long livestock operations on Indian properties and Federal range unit G, district 8, Utah

[All grazing service figures in roman type; all Indian Service figures in *italic*]

Possible considerations	Acre- age	Animal units per month on base farm lands plus animal units per month on base winter graz- ing	Summer operation							Animal units per month on sum- mer base	Winter operation				Percent of winter use on	Year-long operation						Carrying capacity			Animal units per month and percent of total Federal range-carrying capacity ¹ remaining, for white users in unit G						Animal units per month [granted white users] in 1940-41			Percent of white users 1940-41 use remaining animal units per month will permit			
			Available resources for spring-summer-fall use (6 months)								Available resources for winter use (6 months)					12-month livestock operation						Animal units per month and percent of total Federal range-carry- ing capacity granted to Indian Service															
			Quali- fied Federal range animal units per month for op- posite use to base use	Animal units per month, summer base	Total	Num- ber of cows total summer re- sources will support 6 months	Percent of summer use on		Quali- fied Federal range animal units per month for op- posite use to base use		animal units per month, winter base	Total	Num- ber of cows total winter re- sources will support 6 months	Base		Fed- eral range	Total base animal units per month avail- able	Total Federal range animal units per month quali- fied for	Total yearly re- source	Num- ber of cows total yearly re- source will upport 12 months	Percent of yearly use on		Sum- mer area	Winter area	Total	Summer area		Winter area		Total		Sum- mer	Winter	Total	Sum- mer	Winter	Total
							Base	Fed- eral range													Animal units per month	Percent				Animal units per month	Percent	Animal units per month	Percent								
1. Considering all base lands submitted by Indian Service regardless of date of submission and using 1941 survey.....	77,953	11,943	11,943	6,497	18,440	3,073	35	65	6,497	6,497	11,943	18,440	3,073	65	35	18,440	18,440	36,880	3,073	50	50	{ 11,943 85.16	6,497 25.96	18,440 47.22	{ 2,081	14.84	18,528	74.04	20,606	52.78	4,223	26,864	31,087	49.3	69.0	66.3	
2. Considering all base lands submitted by Indian Service regardless of date of submission and using Indian Service ratings.....	77,953	31,996	31,996	17,405	49,401	8,234	35	65	17,405	17,405	31,996	49,401	8,234	65	35	49,401	49,401	98,802	8,234	50	50	{ 31,996 85.16	17,405 25.96	49,401 47.22	{ 5,574	14.84	49,637	74.04	55,211	52.78	4,223	26,864	31,087	+31.99	+84.77	+77.60	
3. Considering all base lands submitted prior to June 28, 1938, and 1941 range survey ratings.....	67,132	9,809	9,809	6,497	16,306	2,718	40	60	6,497	6,497	9,809	16,306	2,718	60	40	16,306	16,306	32,612	2,718	50	50	{ 9,809 69.95	6,497 25.96	16,306 41.76	{ 4,215	30.05	18,528	74.04	22,743	58.24	4,223	26,864	31,087	99.8	69.0	73.2	
4. Considering all base lands submitted prior to June 28, 1938, and using Indian service ratings.....	67,132	26,279	26,279	17,405	43,684	7,281	40	60	17,405	17,405	26,279	43,684	7,281	60	40	43,684	43,684	87,368	7,281	50	50	{ 26,279 69.95	17,405 25.96	43,684 41.76	{ 11,291	30.05	49,637	74.04	60,928	58.24	4,223	26,864	31,087	+167.70	+84.77	+102.51	
5. Considering group A purchased lands only and using 1941 range survey ratings.....	31,045	4,275	4,275	1,748	6,023	1,004	29	71	1,748	1,748	4,275	6,023	1,004	71	29	6,023	6,023	12,046	1,004	50	50	{ 4,275 30.48	1,748 6.99	6,023 15.42	{ 9,749	69.51	23,277	93.01	33,026	84.58	4,223	26,864	31,087	+130.9	86.6	+6.21	
6. Considering group A purchased lands only and using Indian service ratings.....	31,045	11,453	11,453	4,683	16,136	2,689	29	71	4,683	4,683	11,453	16,136	2,689	71	29	16,136	16,136	32,272	2,689	50	50	{ 11,453 30.48	4,683 6.99	16,136 15.42	{ 26,117	69.51	62,359	93.01	88,476	84.58	4,223	26,864	31,087	+518.45	+132.13	+184.61	
7. Considering only lands in district 8, and giving them consideration regardless of date sub- mitted and using 1941 range survey.....	47,068	8,407	8,407	2,006	10,413	1,736	19	81	2,006	2,006	8,407	10,413	1,736	81	19	10,413	10,413	20,826	1,736	50	50	{ 8,407 59.95	2,006 8.02	10,413 26.67	{ 5,617	40.05	23,019	92.98	28,636	73.33	4,223	26,864	31,087	+33	85.7	92.1	
8. Considering only lands in district 8, and giving them consideration regardless of date of sub- mission but using Indian service ratings.....	47,068	22,523	22,523	5,374	27,897	4,650	19	81	5,374	5,374	22,523	27,897	4,650	81	19	27,897	27,897	57,794	4,650	50	50	{ 22,523 59.95	5,374 8.02	27,897 26.67	{ 15,047	40.05	61,668	91.98	76,715	73.33	4,223	26,864	31,087	+366.86	+129.56	+146.14	
9. Considering only lands in district 8, and only lands submitted prior to June 28, 1938, using 1941 range survey ratings.....	46,148	7,909	7,909	2,006	9,915	1,652	20	80	2,006	2,006	7,909	9,915	1,652	80	20	9,915	9,915	19,830	1,652	50	50	{ 7,909 56.40	2,006 8.02	9,915 25.39	{ 6,115	43.60	23,019	91.98	29,134	74.67	4,223	26,864	31,087	+44.8	85.7	93.7	
10. Considering only lands in district 8, and only lands submitted prior to June 28, 1938, using Indian Service ratings.....	46,148	21,189	21,189	5,374	26,563	4,427	20	80	5,374	5,374	21,189	26,563	4,427	80	20	26,563	26,563	53,126	4,427	50	50	{ 21,189 56.40	5,374 8.02	26,563 25.39	{ 16,381	43.60	61,668	91.98	78,049	74.61	4,223	26,864	31,087	+287.90	+129.56	+151.07	

¹ See the following table:

	Range survey carrying capacity			Indian service correlated carrying capacity		
	Animal units per month	Surface acres	Surface acres/Animal units per month	Animal units per month	Surface acres	Surface acres/Animal units per month
Total.....	39,049	426,343	10.92	104,612	426,343	4.09
Summer.....	14,024	164,212	11.71	37,570	164,212	4.37
Winter.....	25,025	262,131	10.47	67,042	262,131	3.91

Mr. LEECH. Summer range would not be entitled to more summer range; it thereby depends on the full use.

The CHAIRMAN. That is what I am driving at.

Are there any further questions on this?

Senator, I would like to know what your views are as to whether or not you think these should go in the record.

Senator MURDOCK. There are 28 of them; it seems to me they could.

Mr. JENSON. Yes, sir; we can give you copies to go into the record.

The CHAIRMAN. I think it would be enlightening to those who must read the record later on.

8	556	520.00		1.26			243.68	48	195.68
		400.34	Grazing			10.10	36.36		
	100	400.34				10.10	36.36		36.36
		638.05	Grazing			13.51	47.24		
	160	638.05				13.51	47.24		47.24
		646	Grazing			11.83	54.09		
	160	646					54.09		54.09
		5,992.08	Grazing			12.34	448.35		
	1,591	5992.08					485.52		485.52
		27.54	Alfalfa	1.33	30.54	4	146.16		
		19.00	Pasture			0.59	32.00		
		108.00	Grazing			48.25	8.52		
			Aftermath			1.00	28.00		
		5.50	Farmstead, etc.			0	.00		
	234	160.04					214.68	—48	166.68
		36.00	Alfalfa	0.78	28.10	4	112.40		
		13.00	Grass-hay	0.53	6.88	4	27.52		
		18.00	Abandoned field			2	9.00		
		6.00	Pasture			2.66	16.00		
		20.00	Pasture			0.63	32.00		
		3.00	Farmstead, etc.				0.00		
			Aftermath			1	49.00		
		4784.32	Grazing			13.97	342.38		
4	2,046	4880.32					588.30	—96	492.30
		798.76	Grazing(s)			14.16	56.39		
3	149	798.76					56.39		56.39
		640.00				12.10	52.89		
	160	640.00				12.10	52.89		52.89
		640.00				11.69	54.76		
	160	640.00					54.76		54.76
		159.91				7.39	21.63		
	40	159.91					21.63		21.63
5	12,210	31,045.73					6,196.29	636	5,590.29

LANDS NOT SUBMITTED TO GRAZING SERVICE PRIOR TO JUNE 28, 1938

H I		505	43	0	43	595	43													
		595	116	0	116	595	116													
	Pawnee	10,226	2,091	1,031	0	1,060	455	424		31	9,001	1,636	607						1,020	
	Indian allotments (unit E), purple	10,226	5,602	2,768	0	2,840	355	1,156		83	9,901	4,583	1,636						2,767	
	Uncapable Indian Stockmen's Association coded land (Indian Reserve)																			
	Ouray subagency (Indian Reserve), brown																			
	Indian allotments (units D, E, F, G) (Ducene Reservation), purple	10,821	2,131	1,031	0	1,103	498	424		74	9,901	1,636	607						1,020	
	Subtotals on lands	10,821	5,717	2,768	0	2,955	990	1,580		198	9,901	4,583	1,636						2,767	
	Not submitted prior to June 28, 1938																			
	Grand totals	77,953	18,440	8,289	6,497	3,674	47,068	6,417	2,008	1,990	30,885	8,027	1,852	4,491					1,684	
	On all Indian Service lands	77,953	49,401	28,154	17,405	9,848	47,068	17,192	5,574	6,551	30,885	21,304	4,962	12,051					4,511	

! This includes sufficient acreage to support 2,890 AUM's.
 * Plus tribal lands.

The CHAIRMAN. Mr. Wright, have you any questions to ask while Mr. Jenson is before us? Anyone else here?

Mr. WOEHLEKE. May I ask Mr. Jenson on what length of use of base property and of the Federal range the computations were based?

Mr. JENSON. What length of use?

Mr. WOEHLEKE. Was it 3 months on the base and 9 months on the range?

Mr. JENSON. The first thing that was done, the unit was divided into summer range and winter range. The summer range was used as being dependent upon winter rights, the winter base production for summer rights; therefore, completing 12 months use by using base and Federal rate.

Mr. WOEHLEKE. At the time the purchases were made, our appraisers proceeded to go on the formula of 3 months on the base property and 9 months on the public range; and, I believe, at that time the Grazing Service in 1935 and 1936 and 1937 was using the same ratio in the determination of its licenses.

Mr. JENSON. This has all been worked out on a 3-9, 4-8, 5-7 ratio. The thing that controls it is production of the base land divided into the carrying capacity of the range. Work it out the same way, and get the same answer. The only difference is if you use a 3-9 pyramid qualification, divide that into carrying capacity and get a lower figure; divide it out to reach the use of 5-7 or 4-8 you don't pyramid quite as high. All that 3-9, 4-8, 5-7 does is merely pyramid the qualification.

The CHAIRMAN. There was during the course, somewhere along here, a proposed agreement that seems to have been proposed or considered by Mr. Wright as superintendent of the Uintah-Ouray Indian Reservation and Mr. Charles F. Moore, regional grazier. I have here what purports to be a copy of that bearing the date, July 27, 1942. It sets out a provision, eight paragraphs. Mr. Wright, you are familiar with that, I take it?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. Would you care to discuss that, while we are on the subject?

Mr. WRIGHT. If you wish; yes, sir. May I have a copy of it to refer to, Mr. Chairman?

The CHAIRMAN. It is not in evidence yet because I want it to be identified as a foundation to some extent.

Mr. LEECH. This inspection, examination made by Mr. Moore and Mr. Wright was after this Jenson work was looked over by Mr. Rutledge and Mr. Zimmerman and the two local representatives were told to go out and look into the matter and come back with some recommendation to be considered by the two Services. That is what the Moore-Wright recommendations are, and it is supported by a map they prepared at that time. It has not as yet been adopted by the two agencies.

The CHAIRMAN. My understanding is that it has been approved by the Grazing Service, is that correct?

Mr. LEECH. It was approved, and submitted to Mr. Zimmerman. It has to be approved by both.

The CHAIRMAN. It has been approved by the Grazing Service?

Mr. LEECH. By Director Rutledge; yes, sir.

The **CHAIRMAN**. The reason for it being discussed at this time, I think it will enlighten those who have this matter in hand in the Department as well as the committee and will show that progress is being made. At least an honest attempt is being made to solve a rather difficult proposition.

Mr. LEECH. That is our position, Senator.

The **CHAIRMAN**. I wonder if you can put that little map up here somewhere? Perhaps Mr. Wright would care to have it up here as he goes along.

Mr. WRIGHT. Mr. Moore and I were instructed to go out and spend some time on this area, as Mr. Leech has said, to come back with some recommendations which we thought would work and maybe reach a solution of this problem. So we actually spent about 10 days out in the area examining boundary lines to see if we could recommend a boundary which seemed workable with reference to the people who are operating in any part of the particular area and to make a long discussion short, we came back with these recommendations: First, that the Ute extension area—what is within that black, modified by the green line on the big map—and unit G of Utah grazing district No. 8 should be identical, and that that area should be referred to as unit G or the Ute extension, either one, and to be represented by this red line on this map.

The **CHAIRMAN**. Which is the same as the green line on the big map?

Mr. WRIGHT. No, sir; it is different in this way: I will try to point it out so those in the room can see approximately the modifications. The boundary line goes something in this fashion, and leaves that lower area out of the proposed reserve. Then the line is approximately the same as this green line, except that it follows the topography and natural barriers all along this green line until it gets to this point here [pointing]. Instead of coming out here it goes on down to that point there and comes out about the same and then it coincides with the green line again. Now, that is approximately the area we delimited. It leaves out this township here and diminishes the reserve by about 40 sections.

Now, we recommended further that these scattered allotments that are out here in the public domain which belong to the Indians be released as soon as the Indians would consent to it, either to be purchased or exchanged for some of these base properties inside, and revert to public domain if any legal way could be worked out for that. We did that because many of the white operators out in this country find these allotments somewhat interfering with their operations. In discussing it with two or three of the Indian owners, they seemed willing to do that, since they are not using those lands themselves.

The basis of this new boundary line in this corner is a sharp precipice that follows that country all around there. You can drive in an automobile close enough so you can see a good deal of that and then you can drive about to this point [indicating] in an automobile. Then you have to take horses down in this country about 14 miles. We rode down to see this purchased property here, the Wilcox ranch or the old MacPherson ranch on Green River. This is a very rough country in here and both MacPherson and Wilcox have operated sheep and cattle from that base property in various numbers. I would not attempt to say the exact number, but it ranges all the way from 150

to 1,500 cattle in there. It is almost entirely independent of the rest of the area so far as the natural lay of the land is concerned and the use of it by cattle and sheep. You can get down in this country on a horse, and cattle have been driven from this area, I am told, down into this country. Also sheep, I believe, but it is very difficult to operate and very unmanageable to try to do that; and it has always been operated from Green River City down here by these owners. They stayed back up in there about 45 miles.

It seemed that might be cut off, logically, and used independently. The Indians would not necessarily lose the use of it at all because this is the only base property that controls that entire big block. It is very rough country and a lot of it is just bare rock and nothing in there at all. The Grazing Service in district 9 has already adjudicated the rights in there and issued a 10-year permit to the Indian Service for that property. It takes in most of that whole corner there, so from our standpoint the Indians would not lose any use or any right to that, and there has been some talk of selling it because it was so cut off. The reason it was bought was because the owner owned some of his homestead land on top here which is right in the heart of the Indian use, so he would not sell without selling the whole thing. That was purchased too. We always thought that Indian families might occupy that land, cut off by themselves and make very good use of it. But they have not seen fit to do it so far. Several of them have talked about it and said whenever this problem was settled they might run out there and consider it.

Other changes in the boundary line were made because of two reservoirs which have been built in this area [pointing] fairly recently, by the C. C. C. organization. They serve as watering facilities for the operators out in this area. It seems that the value of that land as grazing land is very poor. Since these reservoirs were there and served the operators out there we believed it might be excluded from the reserve also.

So that would limit the area that we recommended to be established as a grazing reserve for the benefit of the Ute Indians——

MR. PATTERSON. I would like to ask a question right there. You and Mr. Moore entered into these negotiations, as it were, with the idea you had a reservation there and that the reservation was going to be established by this proposed legislation? Of course, such an agreement would not be operative unless the Congress should confirm this reservation for you?

MR. WRIGHT. Of course we realized it had not been set up yet.

MR. PATTERSON. Up in the north end there you would be cutting out there and awarding to the Indians rights which have accrued there under the Taylor grazing bill.

MR. WRIGHT. No; we tried to arrange that so it would not interfere with any operators. It would either include certain operators or it would exclude them on natural barriers.

MR. PATTERSON. Have you conferred with the operators, the people to whom this land has been allocated?

MR. WRIGHT. We haven't even conferred with the Indians about it.

MR. PATTERSON. You represent the Indians.

MR. WRIGHT. We did not confer, because it had not been accepted.

MR. LEECH. I believe, Mr. Chairman, that more of these questions will be answered as the Moore-Wright proposal is read.

Mr. WRIGHT. The first one was that the two areas be identical. The second was that the Indian allotments be exchanged as soon as the Indians would consent to it and the State lands, totaling about 46,000 acres, within the area, be exchanged for ceded Indian lands, outside, for the lands in purple on the map.

Also, that a stock driveway should be recognized and maintained over lands both inside and outside the area. There are still three or four private land holdings within the area along Green River and one on Willow Creek that should be acquired for the Ute Indians, so that they would not remain inside the area. When the purchasing program was under way, they were not for sale, but they are now at the present time, as I understand. There are only three or four of these small properties. The southwestern portion of the area has always been used in connection with the Wilcox ranch at the mouth of Florence Creek. This portion should continue to be used with this old ranch now belonging to the Indians and could be operated independently of the proposed Uncompahgre reserve.

The grazing privileges within the area should be furnished to non-Indian folks, if legally qualified for such privileges, so long as the combined use of Indian- and non-Indian-run stock does not exceed the livestock carrying capacity of the range; the privileges to be granted to each qualified non-Indian stockmen to be in proportion to the use of the range for 1941.

Those are our recommendations. As I say, they were not accepted fully, and, therefore, they were not even discussed with the Indians, because they were still in suspension; they were not discussed with the non-Indian stockmen who would be affected, because we were not prepared to make them a proposition. We thought they could go to these gentlemen there—there are only about six of them affected, only six white men affected in here really—they are the Smiths, three or four Smith outfits. There are some of them here, I believe, and the men Mr. Johnson represents, Chuturas, Tyzack, and Crawford—six outfits altogether.

Now, I don't mean to say they are the men that have held this thing up all the time. Many things have held it up. But if they were provided for, this whole thing, we felt, could be settled amicably, and people would be able to use the area without confusion. So we propose to go to those men and tell them, "Here is the picture. You know the Indians as well as we do. Do you think they are going to use all that range in the next few years, maybe 10 or 20, we don't know what, and, if not, there are privileges for you; when the Indians do use it, there are no privileges for you." We thought perhaps they might be willing to bet on that proposition instead of running the risk of whether they could get permanent privileges under the Taylor Grazing Act in other places. We thought we could go to the Indians and describe the situation to them, and they perhaps would see it and say they thought it was a fair settlement, even an opportunity to increase their livestock up to the full capacity of that area if they had the opportunity and saw fit to do it, and it would stop the quarreling about carrying capacity and so forth. We thought it would work. I believe that is about the size of it.

The CHAIRMAN. We have a somewhat, not exactly similar, but somewhat similar, set-up over in Wyoming on the Padlock ranch. It is just similar enough that it might be referred to, but it is not analogous.

The whites were invited to come in and take up lands and cultivate them; and later the open public domain rights on which they had set up their agricultural units were cut off from them by the Indian Service. They were left with no outside rights, and hence they could not go forward with their agricultural activity at all. They just had to take what was given to them or leave it and get out. Most of them had to take it and get out. It is one of the saddest things I think I ever saw go into the public record and it certainly did not reflect any credit whatever on the Indian Service.

I am only thinking if you were to carry out this policy referred to in subdivision 8 here, and said to these six, "You come in and use these rights until the Indians have stuff enough to absorb the rights," how soon would they be cut off?

Mr. WRIGHT. That, of course, was the chance they would have to take; that is true.

The CHAIRMAN. It is only a question of whether the chance is to be taken or not. I don't care to indulge in it.

Mr. WRIGHT. I presume, Mr. Chairman, you will call Mr. Moore.

Senator MURDOCK. Let me ask you this question: What objections could you have to setting up the grazing rights of the Indians under the Taylor Grazing Act? Forget about the Indian reservation.

Mr. WRIGHT. We have no objections to that, if made a special grazing district. We think perhaps we could operate it better for the Indians than any grazing service could.

Senator MURDOCK. That is really my question; if it was set up under the Taylor Grazing Act, then you are giving the Indians the same kind of a proposition, the same deal that it gives the white livestock man; where, if you set up a permanent reservation, that is never needed by the Indians, you are depriving people of the use of it.

Mr. WRIGHT. We had in mind that this part of the grazing reserve, when legally established, will be administered by the Commissioner of Indian Affairs. It might be done under the Taylor Grazing Act, as a special grazing district, by Secretarial order, or any of those methods.

Senator MURDOCK. Of course the present Commissioner of Indian Affairs at one time took the very emphatic position on transferring what he described as "pygmy services," within the Indian Office, to the larger services. He particularly referred to the reclamation project, in the Indian Bureau, and said they should be transferred to the Bureau of Reclamation, and that forest lands in the Indian Service should go to the Forest Service. Of course, evidently, he has changed his mind since becoming Commissioner.

Mr. WRIGHT. I would say, on behalf of the Indians, they would naturally prefer to have the set-up as a reserve. They say the danger in the future is of some unfriendly Secretary taking in away from them. If it were set up by law they would feel more secure about it.

Senator MURDOCK. Experience certainly could not be worse than it has been with the reservation.

The CHAIRMAN. Right there, Mr. Wright, again, arises the suggestion—with all of your training and your natural interest in the welfare of the Indian, which is most commendable, do you see anything wherein the Indian would be injured by his having the same rights on the open public domain, commensurate with base property, as a white man would?

Mr. WRIGHT. Yes; I see some danger of that, Senator, in that it seems that the present Grazing Service organization, the district boards, practically control the actions of the Service, the issuing of licenses, and so forth, at least to a large extent; and they are composed of stockmen in the area who have interests in the area. Oftentimes it happens, maybe unconsciously or unintentionally, at least, they do not give the Indian quite the consideration that he deserves. That, at least, is my view of it.

Mr. PATTERSON. Mr. Wright, about the sum and substance of your proposal is, you and Mr. Moore have agreed to get together and work out an agreeable plan?

Mr. WRIGHT. Yes; I might say so.

Mr. PATTERSON. That is commendable, also.

Mr. JOHNSON. Did you have in mind the possibility of Indians losing their rights, under the Taylor Grazing Act, by nonuse, if they failed to stock this land? In other words, you could not have the Indians living on these lands purchased, they could not live there and operate them, and put up the hay unless—and lease these rights—unless the lessee controlled the ranch, and had control of all the hay and everything produced on that ranch. Isn't that really the theory? You would rather have it thrown into a private allotment for the Indians, under the Indian Service, so they will not lose their rights by nonuse?

Mr. WRIGHT. Yes; part of it.

Mr. JOHNSON. At this time they are not capable of stocking?

Mr. WRIGHT. Certainly not, suddenly.

Mr. PATTERSON. It might not apply to them if they pay no fees?

Mr. WRIGHT. It might not.

Mr. MORONI SMITH. Isn't the Indian able to finance to go into the stock business, almost any time now, go out and borrow money at any time with these loan associations, and borrow enough money on the cattle, and buy and stock this up next year, say?

Mr. WRIGHT. No; hardly that extensive. There is provision for credit to the Indians, yes; under—Mr. Woehlke will frown at me when I say it—forms about that thick, and questionnaires longer than the O. D. T., and so forth.

Mr. SMITH. Have you ever found out whether you have any right to go to the production credit association or the regional agricultural credit and get credit?

Mr. WRIGHT. We have attempted that a number of times and they have always turned us down as not being eligible because the land is not eligible for mortgage.

Mr. SMITH. Mr. Wright, I am a director and have been with the livestock credit association. With the credit the Indians have, I can't see why they can't qualify. It is all on his ability to operate livestock; consideration on the livestock themselves without a bit of land being mortgaged to him, practically.

Mr. WRIGHT. I don't know; these grazing boys have been telling us no matter how much land you have you can only run about 10 head.

Mr. SMITH. This is your idea right here. In the first place, the production credit association set up by the Government will make loans on the livestock themselves providing it is not too top-heavy and I don't see why they wouldn't make it to an Indian as well as a white man. Now we come out with the Reconstruction Finance going

to come back; want everybody, for the war purpose, to set it up again through the production credit. Hundreds of white men haven't the showing that your Indians have to get credit. Is it because, as an Indian, he cannot get it, or is it because——

Mr. WRIGHT. Well, it is chiefly that the answer to our request has been that their land could not serve as proper security.

The CHAIRMAN. It is a question of title.

Mr. WRIGHT. Question of title. 'We have not thought that was altogether sound. You can get yourself some clients, I believe, Mr. Smith.

Mr. SMITH. I was coming around to the point Senator McCarran made; in a little while, if they accept this thing you and Mr. Moore had arranged, I can see where we would be threatened for our existence; be extinguished from this unit G in no time. I think your finances could easily be obtained, probably within the next year or two. You could put us out of there, as far as the Indians——

Mr. WRIGHT. You told me, "These damned Indians will never have any stock." I thought you told me that.

Mr. LAKE BOWNS (Provo, Utah). Mr. Wright, don't you undertake in my judgment, to borrow money for these Indians, or anyone else, from them loan companies, or you're going to get yourself in trouble.

Mr. JOSEPH HASLEM (Jensen, Utah). I am Joe Haslem, chairman of the cattle section, advisory board, district No. 8. I would like to ask Mr. Wright a question, if I may. On this tour you and Mr. Moore made in July of unit G, you kind of was taking care more or less of the Indians in that area, as I understand—Indian licenses in that area?

Mr. WRIGHT. Ask Mr. Moore.

Mr. HASLEM. You stated there were six whites in there. How many head of livestock would that involve?

Mr. WRIGHT. Twenty thousand head of sheep, I believe.

Mr. HASLEM. You never with your recommendation recommended any more; there was a probability they could lease from the Indian department?

Mr. WRIGHT. That is right.

Mr. HASLEM. If they could not, what was your suggestion?

Mr. WRIGHT. I didn't make any.

The CHAIRMAN. As to this proposed agreement, I am wondering if it has any place in the picture at all. It has not been agreed to and really has only been tentatively innovated. I don't know as it plays any part in the picture, and don't know that it belongs in the record.

Mr. LEECH. Mr. Chairman, it is still being worked on.

The CHAIRMAN. Then I think perhaps it would be well to leave it off the record at the present time.

Are there any lands in this territory affected by any other rights than what we have listened to today?

Mr. THOMAS C. HAVELL (supervisor, Branch of Adjudication, General Land Office, Washington, D. C.). Mr. Chairman, this morning when I said I had examined the map on the wall and found it correct as far as the records of the Land Office is concerned but not complete; there is something in this area shown in the black line that was not touched upon. That is the naval oil shale reserve.

The CHAIRMAN. Where is that?

Mr. HAVELL. It numbers four townships.

The CHAIRMAN. When you say four, I wonder if for the record we could have them designated?

Mr. HAVELL. They are townships 12 and 13, south, range 18 and 19, east. I took that off the tax books of the Land Office in Salt Lake City day before yesterday. I understand that is a complete naval reserve but the grazing use of the surface has been assigned by the Navy Department to the Grazing Service; that is, they graze by permission, and it is probable that, as long as the oil shale is not developed by the Navy, that will remain so. That is part of the area under discussion today.

The CHAIRMAN. Now, Mr. Leech, have you anything to throw further light on that?

Mr. LEECH. That agreement with the Navy Department was made in 1935, turning over to the Grazing Service the grazing administration of those four townships. We collect the fees on the district under section 10.

The CHAIRMAN. To whom do you distribute them?

Mr. LEECH. Fifty percent to the State, twenty-five percent to the Treasury, and twenty-five for range improvements. The Navy gets no part of it.

The CHAIRMAN. I see; and you administer, you continue to administer this regardless of what the outcome of this might be, I take it?

Mr. LEECH. Unless some other arrangements are made we would continue to do so.

Mr. HAVELL. I would venture a guess, Senator, if that land should at any time be put into an Indian reserve it would be very natural that the administration of it would follow the use of the whole area. I venture that merely as a guess.

The CHAIRMAN. That is probably true.

Mr. HAVELL. That is, as long as the Navy permitted the use of the land for grazing and did not care to develop the oil shales.

Mr. SMITH. Mr. Chairman, could I ask him at what time they created that naval reserve; about what date?

Mr. HAVELL. I have the date, in fact, I have a copy of it—by order of the President, dated December 6, 1916.

Mr. PATTERSON. By reason of the oil shale location there, I guess?

Mr. HAVELL. Yes, sir.

The CHAIRMAN. Mr. Leech, have you something further that you wish to offer in explanation of those maps, or the studies made, or anything else, that would be enlightening to the committee?

Mr. LEECH. I believe not, Mr. Chairman, unless Mr. Moore wishes to add to it.

Mr. MOORE. I think Mr. Wright gave everything in detail.

The CHAIRMAN. You are with the Grazing Service as regional grazier of Utah, and have been since the 1st of May?

Mr. MOORE. Yes, sir; I think Mr. Wright gave it in detail. That is, our participation in this.

Mr. LEECH. In that study, Mr. Moore, you were merely going over it from the purely land use point of view, regardless of whether it affected the Indian Office or the white stockmen?

Mr. MOORE. Yes, sir.

The CHAIRMAN. Now, the whole trend of the afternoon's hearing, in fact, nearly all today, has pointed toward the regional unit G.

Does all of this controversy center on Unit G? Is everything else fairly in the clear? Are there any controversial matters pertaining to the old Uintah Reservation, or purple lands, or the white lands or the yellow lands or the green lands?

Mr. JOHNSON. There is this controversy which is coming up on that, as I tried to bring out from Mr. Wright; and a point, which he is well aware of, that the 1,200 head of cattle or horses which they were to graze on the forest reserve. The Indians could not maintain, and did not maintain, the number, and the Forest Service issued grazing permits or licenses to whites and during the last year it has been taken back. That is one of the points in controversy now. The thing which we are attempting to bring out, which I attempted to bring out through examining Mr. Wright, was this fact: the reason they are attempting to set up this, under Indian supervision, is they will not have to obtain their rights, but will have a windfall, or something to get money for the Indians, to lease out this property; at the same time not having to maintain those—don't have to farm or keep up the base property.

The CHAIRMAN. Right at that point, permit an interruption, please. We know from experience that the Grazing Service and the Forest Service and all of the services have, as time went on, looked to the betterment of the range; and on the basis of overgrazing there has been a continual curtailment in all of the service. Especially the Forest Service has rigidly curtailed every time a transfer is made; and they curtail for other reasons. Have the Indians sustained those same curtailments or have they not been sustained in their rights without curtailment? What explanation have we there, Mr. Wright? Would you care to answer?

Mr. WRIGHT. Yes, sir. In 1936, for instance, on that yellow land, the Indian and white stock were using 30,000 A. U. M.'s, and the grazing study showed that it would only carry about 15,000. Now, that was reduced to about 18,000 but the Indian stock, however, was not reduced. If that is your question, they were not reduced.

The CHAIRMAN. In other words, the white stock bore the reduction?

Mr. WRIGHT. It bore the reduction. The Indian stock has been increasing since that time, but I thought at first your question referred to whether the total stocking on the range had been reduced on the Indian lands, and that has been, materially, and wherever it has been overstocked with Indian stock it has been reduced.

The CHAIRMAN. Now, running through all of this, Mr. Wright, I gather this picture: The Indian livestock has not been sufficient, and is not now sufficient, to graze the territory; and they have, by reason of that, by permit or lease, or arrangements of some kind, given rights to the white settlers on all of these lands.

Mr. WRIGHT. I could not answer that by just saying "Yes." The western neck of that yellow land, for instance, is hardly usable by the Indians. It is 75 miles away from where most of them live, and it is a narrow neck of land, which can only be used in conjunction with the forest and adjacent lands.

The CHAIRMAN. Do you mean the western neck or eastern neck?

Mr. WRIGHT. The western neck of that yellow land. That has almost always been permitted to the white people. It could hardly have any value by itself.

The CHAIRMAN. Has it been a revenue producer to some extent?

Mr. WRIGHT. Yes, sir; that is one reason why the Indians don't use all of it. Another reason, as Mr. Johnson pointed out, is a rather loose arrangement with the Forest Service concerning Indian use of the summer range. Both the Forest Service officials and ourselves have to come to some decision on this question, but it seems that it must be decided in Washington, and it has not been. There has been a good deal of controversy about it, and that has discouraged the Indians to some extent. They don't know what to plan on for summer range. Outside of those two things, together with the competition that they have against the white people who use the Indian range, there is one other thing, which is minor—there are always a few scoundrels in the country who will oil the deal with the Indians with a bottle of whisky and get them to sell out their herds. We have had one experience of that kind, where an Indian family reduced their herd from 150 head to 40 head, over a period of 3 years, and I believe the man responsible for that loss is on McNeil Island now. There are a few cases like that. There are still a few ranges available for the Indian stock they are not using. They are permitted to whites.

The CHAIRMAN. Mr. Wright, while you are on that, are there not some of the irrigated allotments leased to the whites?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. About how much?

Mr. WRIGHT. Twenty-seven thousand acres this year.

The CHAIRMAN. What is the reason for that?

Mr. WRIGHT. As I mentioned this morning, the Indians—

The CHAIRMAN. What percentage of that is that of the total?

Mr. WRIGHT. About one-third. As I indicated this morning, perhaps the main reason is that the Indians are only removed by one generation from the time they were a nomadic people, instead of agricultural. Another reason is that the scatteration process aided a good deal, selling their lands; and another reason is the heirship problem we have in the Indian Service. It does not seem to work as it does with the white people. Usually white heirs sell to one member of the family, or in some way the land is kept together. That is the white custom. But among the Indians it is difficult to do that, as you know, for they cut it up into many small pieces, and it finally gets to the place where none of them have any interest in it and lease it and collect their money for it. I think those are the main reasons.

The CHAIRMAN. Are there any questions of Mr. Wright?

Senator MURDOCK. You say that condition is improving, at all, Mr. Wright?

Mr. WRIGHT. If you take it in terms of the amount of land, irrigable land, that has been leased, over the period of the last 7 years, and I am familiar with it, there is not as much leased now as there was before. But there has been more Indian lands come into use, at the same time, under their own stewardship. It seems to me there is a trend toward more farming by the Indians.

The CHAIRMAN. There is here submitted, pursuant to request from the Department of Interior, certain orders of restoration that have not yet been touched upon in this hearing. They are not in effect yet but have been formulated and signed by not promulgated. This goes quite at length and sets out, by legal subdivision, the lands affected. I take it you are familiar with this, Mr. Woehlke?

Mr. GRAHAM. Might I, at this time, offer for the record a letter from the Secretary of the Interior, transmitting these, with a brief explanation?

The CHAIRMAN. Would you care to explain what they are, and what their status is, and how they came to be in existence?

Mr. GRAHAM. I think Mr. Woehlke can explain better than I can the history of their formulation. Perhaps I can read the letter aloud. (Thereupon Mr. Graham read the following letter into the record:)

THE SECRETARY OF THE INTERIOR,
Washington, February 11, 1943.

HON. PAT MCCARRAN,
*Chairman, Subcommittee of the Committee on Public Lands and Surveys,
United States Senate.*

MY DEAR SENATOR MCCARRAN: In connection with the hearing to be held by the Subcommittee of the Senate Committee on Public Lands and Surveys at Vernal, Utah, on February 16 and 17, to consider H. R. 837, "A bill to restore and add certain public lands to the Uintah and Ouray Reservation in Utah, and for other purposes," you have informally requested that copies of two proposed orders signed by me on August 15, 1941, and September 16, 1941, pertaining to the subject matter of the proposed legislation, be furnished to your Committee. I am enclosing copies of the two papers for your committee's information, but I invite attention to the fact that for reasons which I will describe briefly they are not in effect, not yet having been released or promulgated as orders.

As you know, bills along the lines of H. R. 837, which would restore certain described lands to the Uintah and Ouray Reservation and which in addition would provide for the establishment within Utah Grazing District No. 8 of a special grazing reserve for the exclusive use of the Indians, have been introduced in several of the congresses. Throughout this period representatives of the Office of Indian Affairs and the Grazing Service have cooperated in devising arrangements by which the area represented by the proposed grazing service would be administered equitably for both the white stockmen and the Indians. Early in 1941 legislation appeared unlikely of enactment and representatives of the two agencies conferred for the purpose of reaching an agreement on definite boundaries of a reserve for the exclusive use of the Indians.

These conferences resulted in the preparation of the two drafts of orders. The first would restore to tribal ownership the undisposed-of opened surplus unallotted lands of the Uintah and Ouray Indian Reservation, under the authority of sections 3 and 7 of the Wheeler-Howard Act of June 18, 1934 (48 Stat. 984, 25 U. S. C. secs. 463 and 467), and was signed by me on August 15, 1941. The second would modify the boundaries of Utah Grazing District No. 8 and would temporarily withdraw and rewithdraw certain described lands under the authority of section 4 of the act of March 3, 1927 (44 Stat. 1347, 25 U. S. C. sec. 398d), in aid of the proposed legislation permanently to withdraw the lands as a grazing reserve for the exclusive use of the Indians of the Uintah and Ouray Reservation, including the Uncompahgres. This draft was signed by me on September 16, 1941.

Representations were made by and in behalf of the white stockmen that the lateness of the grazing season and the previous lack of specific information would make it impossible for them to arrange other plans for the coming winter grazing season and it was strongly urged that they be permitted to make their customary winter use in the unit. I therefore concluded on October 13, 1941, that promulgation of the orders should be withheld until May 1, 1942, which would permit further progress on the range and base property surveys then being made. In view of the apparent possibility that H. R. 5720, which had been introduced in the Seventy-seventh Congress, by Congressman Robinson and for which H. R. 7638 later was substituted, would be enacted, no formal action subsequently was taken to make the signed drafts of orders effective. In addition, from time to time Members of the Congress have requested the Department further to defer their promulgation.

As a consequence of all of the foregoing, I am retaining the signed drafts in my possession and the enclosed papers are to be regarded only as copies of proposals which have been made to me.

If the committee should, after the hearing, like any further information relating to H. R. 837, I shall of course be glad to supply a report.

Sincerely yours,

(Sgd.) HAROLD L. ICKES,
Secretary of the Interior.

ORDER OF RESTORATION—UINTAH AND OURAY INDIAN RESERVATION, UTAH

Whereas, pursuant to the provisions of the Act of May 27, 1902 (32 Stat., 263), as amended, the unallotted lands of the Uintah and Ouray Indian Reservation in the State of Utah, were made subject to disposal under the laws of the United States applying to public lands; and

Whereas there are now remaining undisposed of within said area approximately 217,000 acres of unallotted lands, which need closer administrative control in the interest of better conservation practices; and

Whereas, by relinquishment and cancellation of homestead entries within this area a limited additional acreage of land of similar character may later be included within this class of undisposed of land; and

Whereas the Tribal Council, the Superintendent of the Uintah and Ouray Agency, and the Commissioner of Indian Affairs have recommended restoration to tribal ownership of such undisposed-of surplus unallotted lands in the said reservation;

Now, therefore, by virtue of the authority vested in the Secretary of the Interior by Sections 3 and 7 of the Act of June 18, 1934 (48 Stat., 984), I hereby find that restoration to tribal ownership of all lands which are now or may hereafter be classified as undisposed-of opened lands of the Uintah and Ouray Reservation will be in the public interest, and the said lands are hereby restored to tribal ownership for the use and benefit of the Ute Indian Tribe of the Uintah and Ouray Reservation in Utah and are added to and made a part of the existing reservation, subject to any valid existing rights.

HAROLD L. ICKES,
Secretary of the Interior.

(As of February 11, 1943, this document is not in effect, never having been released or promulgated as an order.)

TEMPORARY WITHDRAWAL OF PUBLIC DOMAIN LANDS, MODIFICATION OF GRAZING DISTRICT NO. 8, AND REVOCATION OF TEMPORARY WITHDRAWAL OF SEPTEMBER 26, 1933, ALL RELATING TO LANDS IN UTAH

Under and pursuant to the provisions of the Act of June 23, 1934 (48 Stat. 1269, 43 U. S. Code, Section 315, et seq.), commonly known as the Taylor Grazing Act, and subject to the limitations and conditions therein contained, Utah Grazing District No. 8, as established by order approved June 22, 1935, as modified by orders of July 20, 1935, and April 13, 1938, is hereby further modified to exclude therefrom the following described lands:

SALT LAKE MERIDIAN

Ts. 16 to 18 S., R. 17, E., those parts east of Green River.

Ts. 16 to 18 S., R. 18 E., all.

Ts. 16 to 18 S., R. 19 E., all.

T. 16 S., R. 20 E., all.

T. 17 S., R. 20 E., that part northwest of the west rim of Willow Creek Canyon.

T. 18 S., R. 20 E., that part of section 3 west of the west rim of Willow Creek Canyon. Sections 4 to 8 inclusive; W $\frac{1}{2}$ and that part of NE $\frac{1}{4}$ Section 9 west of west rim of Willow Creek Canyon; W $\frac{1}{2}$ Section 16, Sections 17 to 20; W $\frac{1}{2}$ Sections 21 and 28, Sections 29 to 32 and W $\frac{1}{2}$ Section 33.

T. 19 S., R. 20 E., sec. 4, W $\frac{1}{2}$; secs. 5 to 8, incl.; sec. 9, W $\frac{1}{2}$; sec. 16, W $\frac{1}{2}$; secs. 17 and 18.

T. 15 $\frac{1}{2}$ S., R. 21 E., secs. 31, 32 and W $\frac{1}{2}$ of sec. 33.

T. 16 S., R. 21 E., sec. 4, W $\frac{1}{2}$; sec. 5, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$; secs. 6 and 7, all; sec. 8, W $\frac{1}{2}$; sec. 17, W $\frac{1}{2}$; sec. 18, all; sec. 19, N $\frac{1}{2}$ and SW $\frac{1}{4}$; sec. 30, W $\frac{1}{2}$; sec. 31, W $\frac{1}{2}$.

(As of February 11, 1943, this document is not in effect, never having been released or promulgated as an order.)

It is further ordered that Departmental withdrawal of September 26, 1933, made pursuant to authority contained in Section 4 of the Act of March 3, 1927 (44 Stat. 1347), withdrawing temporarily certain public domain lands in the Southern part of Uintah County, Utah, that were embraced in Executive order of January 5, 1862, from entry in aid of proposed legislation permanently to reserve the lands as a grazing reserve for the benefit of Indians and non-Indian stockmen of that area is hereby revoked and under authority of Section 4 of the Act of March 3, 1927, supra, the following described public lands are hereby temporarily withdrawn and rewithdrawn from settlement, sale, location, entry, and other form of disposition, for Indian use, in aid of proposed legislation permanently to withdraw said lands as a grazing reserve for the benefit of the Indians of the Uintah and Ouray Indian Reservation, including the Uncompahgres:

SALT LAKE MERIDIAN

T. 8 S., R. 22 E., sec. 19, all; sec. 30, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, lots 1, 2, 3; sec. 31, E $\frac{1}{2}$ NE $\frac{1}{4}$;

T. 9 S., R. 22 E., sec. 4, all; sec. 5, S $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$; sec. 6, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 7, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, lots 2, 3, 4; sec. 8, all; sec. 9, E $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 17, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 18, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, lots 1, 2, 3, 4; sec. 19, all; sec. 20, E $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$; sec. 21, all; sec. 28, all; sec. 29, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$; sec. 30, all; sec. 31, all; sec. 33, all.

T. 10 S., R. 22 E., sec. 4, all; sec. 5, all; sec. 6, all.

T. 8 S., R. 21 E., sec. 17, SW $\frac{1}{4}$; sec. 18, SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 19, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, lots 1, 2, 3, 4; sec. 20, all; sec. 21, all; sec. 22, all; sec. 23, all; sec. 24, all.

T. 8 S., R. 21 E., sec. 25, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$; sec. 26, N $\frac{1}{2}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$; sec. 27, all; sec. 28, all; sec. 29, all; sec. 30, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, lots 1, 2, 3, 4; sec. 31, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, lots 1, 2; sec. 33, N $\frac{1}{2}$, N $\frac{1}{2}$ S $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 34, N $\frac{1}{2}$; sec. 35, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$.

T. 9 S., R. 21 E., sec. 1, S $\frac{1}{2}$ S $\frac{1}{2}$; sec. 3, S $\frac{1}{2}$, lots 1, 2, 3, 4; sec. 4, S $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$; sec. 5, S $\frac{1}{2}$ SE $\frac{1}{4}$; sec. 7, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, lots 1, 2, 3, 4; secs. 8 to 15, inclusive, all; secs. 17 to 31, inclusive, all; secs. 33 to 35, inclusive, all.

T. 10 S., R. 21 E., sec. 1, all; secs. 3 to 31, inclusive, all; secs. 33 to 35, inclusive, all.

T. 14 S., R. 21 E., sec. 18, E $\frac{1}{2}$ SW $\frac{1}{4}$, lots 3, 4; sec. 19, all; sec. 20, NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$; sec. 21, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 28, NW $\frac{1}{4}$; sec. 29, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$; sec. 30, all; sec. 31, all.

T. 15 S., R. 21 E., sec. 6, W $\frac{1}{2}$; sec. 7, W $\frac{1}{2}$; sec. 18, W $\frac{1}{2}$.

T. 15 $\frac{1}{2}$ S., R. 21 E., sec. 31, all; sec. 33, SW $\frac{1}{4}$, lots 3, 4.

T. 16 S., R. 21 E., sec. 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, lots 3, 4; sec. 5, SW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, lots 2, 3, 4; sec. 6, all; sec. 7, all; sec. 8, W $\frac{1}{2}$ W $\frac{1}{2}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 17, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 18, all; sec. 19, S $\frac{1}{2}$ NE $\frac{1}{4}$, lots 1, 2, 3; sec. 30, E $\frac{1}{2}$ W $\frac{1}{2}$, lots 1, 2, 3, 4; sec. 31, E $\frac{1}{2}$ W $\frac{1}{2}$, lots 3, 4.

T. 8 S., R. 20 E., sec. 12, S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, lot 1; sec. 13, S $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$; sec. 21, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, lots 1, 2, 6; sec. 23, SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, lot 8; sec. 24, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 25, all; sec. 26, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 27, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, lots 3, 4, 5; sec. 32, lot 7; sec. 33, lots 6, 7; sec. 35, N $\frac{1}{2}$; sec. 36, NW $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 9 S., R. 20 E., sec. 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$; sec. 2, SW $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 3, S $\frac{1}{2}$; sec. 4, SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, lots 10, 11, 12; sec. 5, lots 1, 2, 3, 4; sec. 6, lots 5, 6; sec. 7 to 15, inclusive, all; sec. 16, N $\frac{1}{2}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$; secs. 17 to 31, inclusive, all; secs. 33 to 35, inclusive, all; sec. 36, NW $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$.

T. 10 S., R. 20 E., sec. 1, all; sec. 3, all; sec. 4, all; sec. 5, lots 1, 2, 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$; secs. 6 to 8, inclusive, all; sec. 9, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$; sec. 10, N $\frac{1}{2}$, SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$; secs. 11 to 14, inclusive, all; sec. 15, E $\frac{1}{2}$ E $\frac{1}{2}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$; sec. 16, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$; secs. 17 to 21, inclusive, all; sec. 22, E $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$; secs. 23 to 27, inclusive, all; sec. 28, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$; secs. 29 to 31, inclusive, all; sec. 33, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$; sec. 34, all; sec. 35, all.

T. 11 S., R. 20 E., sec. 3, lot 4, $S\frac{1}{2}NW\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}$, $SW\frac{1}{4}$; sec. 4, $S\frac{1}{2}NE\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}$, $SE\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, lots 1, 2, 4; sec. 5, all; sec. 6, all; sec. 7, $NE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, lots 1, 2, 3, 4; sec. 8, $SE\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}$, $SE\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$; sec. 9, $E\frac{1}{2}$, $E\frac{1}{2}W\frac{1}{2}$, $SW\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}$; sec. 10, all; sec. 11, $SE\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$, $SW\frac{1}{4}$; sec. 14, $W\frac{1}{2}E\frac{1}{2}$, $W\frac{1}{2}$; sec. 15, all; sec. 17, all; sec. 18, $NW\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, lots 1, 2, 3; sec. 19, $E\frac{1}{2}$, $E\frac{1}{2}W\frac{1}{2}$, lots 2, 3, 4; secs. 20 to 22, inclusive, all; sec. 23, $W\frac{1}{2}W\frac{1}{2}$; sec. 26, $W\frac{1}{2}W\frac{1}{2}$; secs. 27 to 31, inclusive, all; sec. 33, all; sec. 34, all.

T. 12 S., R. 20 E., sec. 3, $W\frac{1}{2}$; secs. 4 to 6, inclusive, all; sec. 7, $NE\frac{1}{4}$; sec. 8, all; sec. 9, all; sec. 10, $W\frac{1}{2}$; sec. 15, $W\frac{1}{2}$; sec. 17, $E\frac{1}{2}$.

T. 13 S., R. 20 E., sec. 18, $E\frac{1}{2}SW\frac{1}{4}$, lots 3, 4; secs. 19 to 21, inclusive, all; sec. 27, $SW\frac{1}{4}$; secs. 28 to 31, inclusive, all; sec. 33, all; sec. 34, $W\frac{1}{2}$.

T. 14 S., R. 20 E., secs. 3 to 10, inclusive, all; sec. 11, $W\frac{1}{2}W\frac{1}{2}$; sec. 13, $S\frac{1}{2}$; sec. 14, $S\frac{1}{2}$, $W\frac{1}{2}NW\frac{1}{4}$; sec. 15, all; secs. 17 to 31, inclusive, all; secs. 33 to 35, inclusive, all.

T. 15 S., R. 20 E., sec. 1, all; secs. 3 to 15, inclusive, all; secs. 17 to 31, inclusive, all; secs. 33 to 35, inclusive, all.

T. 16 S., R. 20 E., sec. 1, all; sec. 3, all; sec. 4, all; sec. 5, $S\frac{1}{2}$, lots 1, 2, 4, 5, 7, 8, 9, 10, 12, 14, 15, 16, 17, 18, 19; sec. 6, $W\frac{1}{2}SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22; sec. 7, $E\frac{1}{2}NE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}$, $SE\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, lots 1, 2, 3; secs. 8 to 15, inclusive, all; sec. 17, all; sec. 18, $E\frac{1}{2}$, $NE\frac{1}{4}NW\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$; sec. 19, $N\frac{1}{2}NE\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $SE\frac{1}{4}SE\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$; sec. 20, $N\frac{1}{2}$, $SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$; secs. 21 to 28, inclusive, all; sec. 29, $E\frac{1}{2}$, $E\frac{1}{2}W\frac{1}{2}$; sec. 30, $E\frac{1}{2}$, $E\frac{1}{2}W\frac{1}{2}$; sec. 31, $NE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, lots 1, 3, 4; sec. 33, all; sec. 34, all; sec. 35, $N\frac{1}{2}$, $SE\frac{1}{4}SE\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}$.

T. 17 S., R. 20 E., sec. 1, $SW\frac{1}{4}NE\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}$, $SE\frac{1}{4}SE\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}$, lots 2, 3, 4; sec. 3, $SE\frac{1}{4}NE\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}$, $SE\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, lots 3, 4; sec. 4, $S\frac{1}{2}N\frac{1}{2}$, $N\frac{1}{2}SE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}$, lots 1, 2, 3, 4; sec. 5, $SW\frac{1}{4}NE\frac{1}{4}$, $S\frac{1}{2}NW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$, $SW\frac{1}{4}$, lots 3, 4; sec. 6, $SW\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, lots 3, 4, 5, 6, 7; sec. 7, $SE\frac{1}{4}NE\frac{1}{4}$, $NW\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}$, $SE\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, lots 1, 2, 3; sec. 8, $W\frac{1}{2}E\frac{1}{2}$, $W\frac{1}{2}$; sec. 9, $NW\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}$, $W\frac{1}{2}$; sec. 10, all; sec. 11, all; sec. 12, $E\frac{1}{2}NE\frac{1}{4}$, $NW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$; sec. 13, $NW\frac{1}{4}NW\frac{1}{4}$; sec. 14, all; sec. 15, $E\frac{1}{2}$, $NE\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}$; sec. 17, $NW\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}$, $W\frac{1}{2}$; sec. 18, all; sec. 19, $NE\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$, $W\frac{1}{2}$; sec. 20, $NE\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $NW\frac{1}{4}NW\frac{1}{4}$, $SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, $SW\frac{1}{4}SW\frac{1}{4}$; sec. 21, $E\frac{1}{2}NE\frac{1}{4}$, $NW\frac{1}{4}NE\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}$, $SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$; sec. 22, $E\frac{1}{2}$, $W\frac{1}{2}NW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $SW\frac{1}{4}$; sec. 23, $N\frac{1}{2}NE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, $W\frac{1}{2}$; sec. 26, $NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$; sec. 27, $NE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}$; sec. 28, $N\frac{1}{2}$, $N\frac{1}{2}S\frac{1}{2}$, $SE\frac{1}{4}SE\frac{1}{4}$, $SW\frac{1}{4}SW\frac{1}{4}$; sec. 29, $W\frac{1}{2}$, $W\frac{1}{2}E\frac{1}{2}$, $NE\frac{1}{4}NE\frac{1}{4}$; sec. 30, $E\frac{1}{2}NE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, lots 1, 2, 3, 4; sec. 31, $E\frac{1}{2}$, $NE\frac{1}{4}NW\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, lots 1, 2, 3, 4; sec. 33, $E\frac{1}{2}$, $S\frac{1}{2}SW\frac{1}{4}$; sec. 34, $W\frac{1}{2}$, $NW\frac{1}{4}NE\frac{1}{4}$.

T. 18 S., R. 20 E., sec. 3, $SW\frac{1}{4}NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$, lot 4; sec. 4, $S\frac{1}{2}NE\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $S\frac{1}{2}$, lots 1, 2; sec. 5, $SW\frac{1}{4}NE\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, lots 1, 2, 3; sec. 6, $SE\frac{1}{4}NW\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, lots 2, 3, 4, 7; sec. 7, $E\frac{1}{2}NE\frac{1}{4}$, $SE\frac{1}{4}$, lot 1; sec. 8, $E\frac{1}{2}NW\frac{1}{4}$, $E\frac{1}{2}SE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$; sec. 9, $NE\frac{1}{4}NE\frac{1}{4}$, $W\frac{1}{2}NE\frac{1}{4}$, $W\frac{1}{2}$; sec. 17, $E\frac{1}{2}$, $E\frac{1}{2}W\frac{1}{2}$, $SW\frac{1}{4}SW\frac{1}{4}$; sec. 18, $SE\frac{1}{4}NE\frac{1}{4}$, $N\frac{1}{2}SE\frac{1}{4}$, $SW\frac{1}{4}SE\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$; sec. 19, $SE\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}$, $SE\frac{1}{4}$, lots 2, 3, 4; sec. 20, $S\frac{1}{2}NE\frac{1}{4}$, $NE\frac{1}{4}NW\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}$, $SE\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}$; sec. 21, $W\frac{1}{2}$; sec. 28, $W\frac{1}{2}$; sec. 29, all; sec. 30, $E\frac{1}{2}$; sec. 31, $NE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, lots 3, 4; sec. 33, $NW\frac{1}{4}$.

T. 19 S., R. 20 E., sec. 4, $W\frac{1}{2}SW\frac{1}{4}$; sec. 6, $SW\frac{1}{4}SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, lots 4, 5, 6, 7; sec. 7, $SE\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}$, $NW\frac{1}{4}SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, lots 1, 2, 3, 4; sec. 8, $E\frac{1}{2}NE\frac{1}{4}$, $W\frac{1}{2}NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$; sec. 17, $SE\frac{1}{4}$, $S\frac{1}{2}SW\frac{1}{4}$; sec. 18, $E\frac{1}{2}NW\frac{1}{4}$, $S\frac{1}{2}SE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, lots 1, 2, 3, 4.

T. 9 S., R. 19 E., sec. 12, $SE\frac{1}{4}SE\frac{1}{4}$, sec. 13, $E\frac{1}{2}$, $SE\frac{1}{4}NW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$; sec. 23, $SE\frac{1}{4}SE\frac{1}{4}$, lots 1, 4, 5, 8; sec. 24, all; sec. 25, all; sec. 26, $E\frac{1}{2}$, $SW\frac{1}{4}$, $SE\frac{1}{4}NW\frac{1}{4}$, lots 1, 3; sec. 27, $S\frac{1}{2}SE\frac{1}{4}$, $SE\frac{1}{4}SW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}$, lots 2, 3, 7, 8, 9; sec. 28, $E\frac{1}{2}SE\frac{1}{4}$, lots 1, 2, 3, 4; sec. 33, $E\frac{1}{2}E\frac{1}{2}$, lots 1, 2, 3, 4; sec. 34, all; sec. 35, all; sec. 36, $E\frac{1}{2}NE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}$.

T. 10 S., R. 19 E., sec. 1, all; sec. 3, all; sec. 4, all; sec. 7, all, south and east of river; sec. 8, all, south and east of river; sec. 9, all, south and east of river; secs.

10 to 15, inclusive, all; sec. 17, all; sec. 18, all, east of river; sec. 19, all, east of river; secs. 20 to 29, inclusive, all; sec. 30, all, south of river; sec. 31, all; secs. 33 to 35, all.

T. 11 S., R. 19 E., sec. 1, all; secs. 3 to 15, inclusive, all; secs. 17 to 23, inclusive, all; sec. 24, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, lots 3, 6, 7, 8, 11; sec. 25, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 26, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; secs. 27 to 31, inclusive, all; sec. 33, all; sec. 34, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$; sec. 35, E $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$.

T. 12 S., R. 19 E., secs. 1 to 23, inclusive, all; sec. 24, E $\frac{1}{2}$, NW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 25, E $\frac{1}{2}$ E $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$; secs. 26 to 36, inclusive, all.

T. 13 S., R. 19 E., sec. 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$, lots 2, 3, 4, 5, 7, 8, 10; secs. 2 to 11, inclusive, all; sec. 12, SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, SE $\frac{1}{4}$, lot 2; sec. 13, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$; secs. 14 to 23, inclusive, all; sec. 24, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, lots 1, 3; sec. 25, W $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, lots 3, 4; secs. 26 to 36, inclusive, all.

T. 14 S., R. 19 E., sec. 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, lots 1, 3, 4; sec. 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$; secs. 3 to 6, inclusive, all; sec. 7, SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$, lots 1, 2, 3, 4; secs. 8 to 11, inclusive, all; sec. 12, E $\frac{1}{2}$, W $\frac{1}{2}$ W $\frac{1}{2}$; sec. 13, E $\frac{1}{2}$, W $\frac{1}{2}$ W $\frac{1}{2}$; sec. 14, all; sec. 15, all; secs. 17 to 23, inclusive, all; sec. 24, E $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$; sec. 25, E $\frac{1}{2}$, W $\frac{1}{2}$ W $\frac{1}{2}$; secs. 26 to 28, inclusive, all; sec. 29, N $\frac{1}{2}$, SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$; sec. 30, all; sec. 31, all; secs. 33 to 35, inclusive, all; sec. 36, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, lots 1, 2, 4, 5, 6.

T. 15 S., R. 19 E., sec. 1, S $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$, lots 1, 4, 5, 7; sec. 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, lot 1; secs. 3 to 11, inclusive, all; sec. 12, E $\frac{1}{2}$ E $\frac{1}{2}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 13, E $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$; secs. 14 to 23, inclusive, all; sec. 24, E $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$; sec. 25, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, W $\frac{1}{2}$; secs. 26 to 36, inclusive, all.

T. 16 S., R. 19 E., sec. 1, all; sec. 3, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20; sec. 4, all; sec. 5, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$, lots 2, 3, 4, 5, 6, 7, 9, 11, 12, 13, 14, 16, 17, 19, 20; sec. 6, SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22; sec. 7, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, lots 1, 2, 3; sec. 8, E $\frac{1}{2}$, W $\frac{1}{2}$ W $\frac{1}{2}$; sec. 9, NE $\frac{1}{4}$, W $\frac{1}{2}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$; secs. 10 to 12, inclusive, all; sec. 13, N $\frac{1}{2}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 14, all; sec. 15, all; sec. 17, E $\frac{1}{2}$, SW $\frac{1}{4}$; sec. 18, lot 4; sec. 19, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, lots 1, 2, 3, 4; sec. 20, N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 21, all; sec. 22, E $\frac{1}{2}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 23, NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, W $\frac{1}{2}$; sec. 24, E $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$; sec. 25, all; sec. 26, E $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$; sec. 27, E $\frac{1}{2}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$; sec. 28, N $\frac{1}{2}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$; sec. 29, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 30, W $\frac{1}{2}$ E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, lots 1, 2, 3, 4; sec. 31, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, lots 2, 3, 4; sec. 33, W $\frac{1}{2}$; sec. 34, E $\frac{1}{2}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$; sec. 35, all.

T. 17 S., R. 19 E., sec. 1, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$, lots 1, 2, 4; sec. 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$, lots 1, 2, 4; sec. 5, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, lots 1, 2, 3, 4; sec. 6, all; sec. 7, all; sec. 8, NW $\frac{1}{4}$, S $\frac{1}{2}$; sec. 11, E $\frac{1}{2}$, SW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$; sec. 12, all; sec. 13, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$; sec. 14, all; sec. 15, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$; sec. 17, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$; sec. 18, all; sec. 19, all; sec. 20, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$; sec. 21, E $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 22, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$; secs. 23 to 25, inclusive, all; sec. 26, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 27, W $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 28, S $\frac{1}{2}$ SE $\frac{1}{4}$; sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 30, all; sec. 31, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, lots 1, 2, 3, 4; sec. 33, E $\frac{1}{2}$, E $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 34, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 35, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 18 S., R. 19 E., sec. 1, S $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, lots 1, 2, 3; sec. 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$, lots 1, 2, 4; sec. 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, lots 3, 4; sec. 5, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$, lots 1, 2, 3, 4; secs. 6 to 8, inclusive, all; sec. 9, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$; sec. 10, NE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 11, E $\frac{1}{2}$; sec. 12, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 13, W $\frac{1}{2}$ W $\frac{1}{2}$; sec. 14, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 15, W $\frac{1}{2}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, secs. 17 to 20, inclusive, all;

sec. 21, SE $\frac{1}{4}$, W $\frac{1}{2}$; sec. 22, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$; sec. 23, E $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 24, W $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 25, N $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 26, NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$; secs. 27 to 31, inclusive, all; sec. 33, all; sec. 34, E $\frac{1}{2}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 35, NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$.

T. 19 S., R. 19 E., sec. 1, NE $\frac{1}{4}$.

T. 10 S., R. 18 E., sec. 25, all south of river; sec. 26, all south and east of river; sec. 35, all south of river; sec. 36, all.

T. 11 S., R. 18 E., all east of river (unsurveyed).

T. 12 S., R. 18 E., all south of river (unsurveyed).

T. 13 S., R. 18 E., all (unsurveyed).

T. 14 S., R. 18 E., all (unsurveyed).

T. 15 S., R. 18 E., all.

T. 16 S., R. 18 E., Frac. sec. 1, lots 1, 2, 3, 4, 5, 6, 7, 8; Frac. sec. 3, lots 1, 2, 3, 4, 5, 6, 7, 8; Frac. sec. 4, lots 1, 2, 3, 4, 5, 6, 7, 8; Frac. sec. 5, lots 1, 2, 3, 4, 5, 6; Frac. sec. 8, E $\frac{1}{2}$, lots 1, 2, 3, 4; secs. 9 to 15, inclusive, all; Frac. sec. 17, E $\frac{1}{2}$, lots 1, 2, 3, 4; Frac. sec. 20, E $\frac{1}{2}$, lots 1, 2, 3, 4; secs. 21 to 28, inclusive, all; Frac. sec. 29, E $\frac{1}{2}$, lots 1, 2, 3, 4; secs. 33 to 35, inclusive, all.

T. 17 S., R. 18 E., sec. 1, all (unsurveyed); secs. 3 to 15, inclusive, all (unsurveyed); secs. 17 to 31, inclusive, all (unsurveyed); secs. 33 to 35, inclusive, all (unsurveyed).

T. 18 S., R. 18 E., sec. 1, all (unsurveyed); secs. 3 to 15, inclusive, all (unsurveyed); secs. 17 to 31, inclusive, all (unsurveyed); secs. 33 to 35, inclusive, all (unsurveyed).

T. 12 S., R. 17 E., all south & east of river.

T. 13 S., R. 17 E., all east of river (unsurveyed).

T. 14 S., R. 17 E., all east of river (unsurveyed).

T. 15 S., R. 17 E., all east of river (unsurveyed).

T. 16 S., R. 17 E., all east of river (unsurveyed).

T. 17 S., R. 17 E., sec. 1, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, lots 1, 2, 3, 4; sec. 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, lots 1, 2, 4, 6, 7; sec. 4, lots 7, 8; sec. 9, lot 3; sec. 10, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, lots 1, 2, 3, 4; secs. 11 to 15, inclusive, all; sec. 16, NE $\frac{1}{4}$ SE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, lots 1, 6, 7, 8, 9, 12; sec. 20, SE $\frac{1}{4}$ SE $\frac{1}{4}$, lots 4, 5, 9, 10, 13; sec. 21, E $\frac{1}{2}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, lots 1, 2, 4; secs. 22 to 28, inclusive, all; sec. 29, E $\frac{1}{2}$, E $\frac{1}{2}$ W $\frac{1}{2}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, lots 1, 3, 4; sec. 30, lot 8; sec. 31, lots 1, 9; sec. 32, NW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$, lots 1, 2, 5, 6, 11; secs. 33 to 36, all.

T. 18 S., R. 17 E., sec. 1, all; secs. 3 to 5, inclusive, all; sec. 6, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$, lots 1, 2, 7, 8, 11; sec. 7, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, lots 1, 2, 3, 4, 8, 9; secs. 8 to 15, inclusive, all; sec. 17, all; sec. 18, lots 1, 7, 8, 14; sec. 19, lots 1, 6; sec. 20, E $\frac{1}{2}$, NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, lots 1, 2; secs. 21 to 28, inclusive, all; sec. 29, E $\frac{1}{2}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, lots 1, 4, 5, 7; sec. 30, lots 7, 8, 9, 12; sec. 31, S $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, lots 1, 2, 3, 4, 5, 7; sec. 32, SE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$; secs. 33 to 35, inclusive, all.

T. 18 S., R. 16 E., sec. 25, lot 3; sec. 36, lot 1.

Administrative jurisdiction thereafter is hereby conferred upon the Commissioner of Indian Affairs, and like jurisdiction is hereby conferred upon the Grazing Service, as to the balance of the public lands embraced in the Uncompahgre Indian withdrawal of September 26, 1933.

This order is issued subject to all valid existing rights and withdrawals affecting any of the lands embraced therein. Any public lands within the exterior limits of the area included in this order, which are otherwise withdrawn or reserved, shall, upon the termination of such withdrawal or reserve, become part of this reserve, unless expressly otherwise provided in the order of revocation.

(Sgd.) HAROLD L. ICKES,
Secretary of the Interior.

(As of February 11, 1943, this document is not in effect, never having been released or promulgated as an order.)

The CHAIRMAN. I think, for the enlightenment of all interested, that someone should be prepared to indicate on the map exactly what lands are involved in this proposed withdrawal. Is someone here prepared to do that?

Mr. LEECH. The order referring to the Uncompahgre, Senator, refers to that in the green line. The other order refers to that purple there; in the old reservation.

The CHAIRMAN. Is that all the land involved?

Mr. LEECH. Yes, sir.

The CHAIRMAN. The one that would withdraw, for exclusive use of the Indians all of the white lands—I call them white, as they are so indicated on the map—within the black-green boundaries?

Mr. LEECH. Yes, sir; that is the order referring to the rest of the Indians.

The CHAIRMAN. So, if this order went into effect, no one not having a permit from the Indians would be permitted to graze livestock within the black-green lines?

Mr. PATTERSON. Mr. Chairman, let me ask you a question there; this proposed legislation now, this H. R. 837, what effect is it going to have upon these orders, if it were passed or rejected?

The CHAIRMAN. I don't know. I want to get at that.

We are going to take a recess here and, if there are no objections, we will have a night session. Then we will go on. In the meantime, whoever is interested in this order can explain to us exactly what it is all about. Then you can prepare your interrogatories and go ahead at that time.

Mr. DILLMAN. Mr. Chairman, may I request that the so-called Margold opinion be put in the record, in connection with the two orders just inserted?

(The document is as follows:)

**RESTORATION TO TRIBAL OWNERSHIP OF CEDED COLORADO UTE INDIAN LANDS—
OPINION, JUNE 15, 1938**

INDIAN REORGANIZATION ACT, SECTION 3—RESTORATION OF LAND TO TRIBAL OWNERSHIP—REQUISITES

For lands to be restored to tribal ownership under Section 3 of the Indian Reorganization Act (1) the Secretary of the Interior must find such restoration to be in the public interest and (2) the lands must be "remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public land laws of the United States."

INDIAN REORGANIZATION ACT, SECTION 3—CONSTRUCTION OF TERM "LANDS OF ANY INDIAN RESERVATION"—APPLICATION TO CEDED COLORADO UTE INDIAN LANDS

Lands capable of restoration to tribal ownership are lands which were part of an Indian reservation at the time the lands were opened to disposal and need not be part of an existing Indian reservation or adjacent thereto. At the time the lands of the Confederate Bands of Ute Indians were ceded and opened to disposal under the act of June 15, 1880 (21 Stat. 199), they were part of the Colorado Ute Indian Reservation.

INDIAN REORGANIZATION ACT, SECTION 3—CONSTRUCTION OF TERM "SURPLUS LANDS"—APPLICATION TO CEDED COLORADO UTE INDIAN LANDS

In permitting the restoration to tribal ownership of remaining "surplus lands" of any Indian reservation, the statute refers to lands ceded to the United States to be disposed of for the benefit of the Indians, and particularly lands so ceded which were left as surplus lands after allotment of the reservation to the Indians. The Colorado Ute Indian lands ceded under the act of June 15, 1880, come within this construction.

INDIAN REORGANIZATION ACT, SECTION 3—CEDED SURPLUS LANDS—EFFECT OF DESIGNATION AS PUBLIC LANDS

Where surplus lands remaining after allotment have been ceded to be disposed of for the benefit of the Indians, the designation by Congress of such lands as public lands does not of itself affect the equitable interest of the Indians in the lands or the application of section 3 to the lands so designated.

INDIAN REORGANIZATION ACT, SECTION 3—APPLICATION TO CEDED COLORADO UTE LANDS

The remaining undisposed of lands of the Colorado Ute Indian Reservation ceded under the act of June 15, 1890 (21 Stat. 199) *held* to be capable of restoration to tribal ownership under section 3 of the Indian Reorganization Act.

KIRGIS, Acting Solicitor:

At the instance of the Commissioner of Indian Affairs you (the Secretary of the Interior) have requested the opinion of this Office on the authority of the Secretary of the Interior to restore to tribal ownership under section 3 of the Indian Reorganization Act (June 18, 1934, 48 Stat. 984), the remaining undisposed of lands in Colorado ceded by the Confederate Bands of Ute Indians under the act of June 15, 1890 (21 Stat. 199). In phrasing the question, the Indian Office has asked whether section 3 is applicable to these lands in Colorado, "not situated adjacent to the existing Southern Ute Reservation." While this phrasing appears to restrict the question, it is believed that the Indian Office intends to request that all angles concerning the applicability of section 3 of the Indian Reorganization Act be determined. It is my intent to determine the matter in a comprehensive manner in view of the fact that the land involved is unusually large in extent, consisting of approximately 4,000,000 acres, and in view of the complicated legal and practical problems involved.

Section 3 of the Indian Reorganization Act reads as follows:

"Sec. 3. The Secretary of the Interior, if he shall find it to be in the public interest, is hereby authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public-land laws of the United States: *Provided, however*, That valid rights or claims of any persons to any lands so withdrawn existing on the date of the withdrawal shall not be affected by this Act: *Provided further*, That this section shall not apply to lands within any reclamation project heretofore authorized in any Indian reservation: * * *." (Further provisos deal only with Papago Reservation.)

This section lays down two prerequisites for the application of the section to ceded Indian lands. First, the Secretary of the Interior must find that the restoration to tribal ownership will be in the public interest. Secondly, the lands involved must be "remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public-land laws of the United States." The finding of public interest, while a requirement of law, involves the determination of administrative questions which need not be discussed in this opinion. It is sufficient to point out that a restoration is not a mandatory but a discretionary act to be weighed as a matter of public interest. The second prerequisite involves the determination whether, as a matter of law, the description of the lands subject to restoration applies to these ceded Colorado Ute lands. In making this determination the applicability of the various terms used in the description will be discussed.

I. THE COLORADO UTE AREA AS AN "INDIAN RESERVATION"

Lands to be restored must be surplus lands "of any Indian reservation." Therefore a first question involves the history and background of the Colorado Ute lands as an Indian reservation. In the first 20 years following the Treaty of Guadalupe Hidalgo with Mexico in 1848, the United States entered into negotiations with various of the Indian tribes occupying the area acquired from Mexico. Among the treaties made was one with the "Utahs" (December 30, 1849, 9 Stat. 984) for obtaining free passage through the "territory of the Utahs." In 1863 a treaty was made with the Tabeguache Band of Ute Indians (proclaimed December 14, 1864, 13 Stat. 673), by which the band relinquished its

right and interest in all lands within the United States except a designated area. The treaty expressly declined to recognize any title or right of the band to the area ceded or reserved except that possessed by the Indians under the laws of Mexico. It has been claimed that the Indians had no title or interest under the laws of Mexico in the lands which they occupied and were not recognized by the United States as having the right of occupancy conceded to other Indian tribes in the United States. However, whatever may have been the interest of the Ute Indians in the lands occupied by them in this period, the treaty of March 2, 1868 (15 Stat. 619), with various bands of Ute Indians, who have since been commonly known as the Confederated Bands of Ute Indians, established a reservation for these Indians having the same status as any other Indian reservation in the United States. This treaty set apart a defined territory, consisting of approximately 15,000,000 acres, for the "absolute use and occupation" of these Ute Indians. The status of this territory, as a reservation, has been uniformly recognized by the Congress, the Court of Claims (*The Ute Indians v. The United States*, 45 Ct. Cls. 440), and the Department. The definition of an Indian reservation by the Supreme Court in *Minnesota v. Hitchcock*, 185 U. S. 373, 389, 390, that an Indian reservation is created when from what has been done there results a certain defined tract appropriated to Indian purposes, clearly covers the reservation of the Utes established by the 1868 treaty. In 1874 (18 Stat. 36), this reservation was reduced by approximately 3½ million acres through a cession by the Indians in consideration of a specified perpetual annuity, and the Indians retained no further interest in the lands thus ceded.

The reservation of the Confederated Bands of Ute Indians, as diminished by the 1874 cession, was the subject of the 1880 act under which the Confederated Bands ceded the lands involved in this opinion. The specific provisions of the 1880 act, its purpose, and legal effect will be set forth in some detail later in this opinion. The actual result of the 1880 act, however, was that the Confederated Bands were divided into three groups, the Uncompahgre and White River Utes being located in Utah and the Southern Utes remaining in the southern portion of the reservation. All of the remainder of the reservation has been sold, set apart as national forests, or otherwise disposed of, except the 4,000,000 acres which are the subject of this opinion.

It might be claimed that in view of the above-described results of the 1880 act, the reservation of the Confederated Bands was actually extinguished and that, therefore, the lands involved in this opinion are not surplus lands "of any Indian reservation." In my judgment, even if the reservation of the Confederated Bands of Utes were held no longer to exist, that fact alone would not negative the application of section 3 of the Indian Reorganization Act to the remaining undisposed-of lands of that reservation. The phrase "of any Indian reservation" must be used in section 3 to describe the character and location of the lands at the time they were opened to disposal under the public-land laws. The lands which may be restored to tribal ownership must be lands which were part of any Indian reservation, not of any forest or military reservation or of any other class of lands. Section 3 cannot mean that the lands must now have the character of Indian reservation lands, as they are not reservation lands but lands capable of being restored to reservation status under the Indian Reorganization Act. Nor can section 3 mean that the lands must be located within the geographical limits of an Indian reservation. In many instances of surplus land cessions entire portions of Indian reservations were cut off from the reservations and opened to disposal, while in other instances, by similar legal instruments, areas located within the reservations were opened to disposal. Whether the lands opened to disposal were cut off from or out of existing Indian reservation is a matter of historical circumstance and not of legal significance. Moreover, nothing in section 3 requires the remaining undisposed-of lands to lie in any particular geographic relation to an existing Indian reservation. Such a requirement would ignore the well-known facts that the location of such lands is purely fortuitous and that the lands, by their very nature, are scattered tracts.

II. COLORADO UTE LANDS OPENED TO DISPOSAL UNDER THE PUBLIC LAND LAWS

The surplus lands of the Colorado Ute Indian Reservation were opened to disposal in designated ways under the public-land laws by section 3 of the act of June 15, 1880. The relevant parts of the section read as follows: "all the lands not so allotted, the title to which is, by the said agreement of the confederated bands of the Ute Indians, and this acceptance by the United States, released and conveyed to the United States, shall be held and deemed to be

public lands of the United States and subject to disposal under the laws providing for the disposal of public lands, at the same price and on the same terms as other lands of like character, except as provided in this act: *Provided*, That none of said lands, whether mineral or otherwise, shall be liable to entry and settlement under the provisions of the homestead law; but shall be subject to cash entry only in accordance with existing law * * *."

This act was supplemented by the act of July 28, 1882 (22 Stat. 178), which provided that that portion of the Ute Reservation lately occupied by the Uncompahgre and White River Utes shall be "subject to disposal from and after the passage of this act, in accordance with the provisions and under the restrictions and limitations of section 3 of the act of Congress approved June 15, 1880 * * *." These provisions clearly bring the remaining undisposed of lands involved in this opinion within so much of section 3 of the Indian Reorganization Act as refers to remaining lands of an Indian reservation heretofore opened * * * to sale, or any other form of disposal * * * by any of the public-land laws of the United States."

III. CEDED COLORADO UTE LANDS AS "SURPLUS LANDS"

The key question in connection with the application of section 3 to the remaining Colorado Ute lands, is, in my opinion, the question whether these lands come within the designation of "surplus lands" in section 3. The word "surplus" means that which remains over and above what is required. It might be argued that practically all lands ceded by Indians were surplus lands according to this definition, since they were doubtless considered as not being required by the Indians. However, Congress could not have intended that all remaining undisposed-of ceded lands should be available for restoration to tribal ownership, as such lands would embrace practically all of the remaining public domain. The Interior Department has taken the position that section 3 is not intended to cover all ceded lands but those ceded lands in which the Indians have retained an interest by reason of the fact that the lands were ceded to the United States to be disposed of by the United States in specified ways, the proceeds of the sale to be held for the benefit of the Indians. This type of ceded land was evidently in the mind of Congress at the time of the passage of the Reorganization Act. The debates on the bill in the Senate show that section 3 was discussed as a provision making possible the restoration of the use of the lands to the Indians in place of the proceeds to which they were entitled from any sale. (Congressional Record, 73d Cong., 2d sess., p. 11135.)

The reference to surplus lands in section 3 of the Reorganization Act refers, however, primarily to surplus lands remaining after the actual or contemplated allotment of the Indians, such surplus lands having been ceded to be disposed of for the benefit of the Indians. The term "surplus lands" has been used commonly in connection with the allotment system and allotted reservations to refer to the lands not allotted or set aside for allotment and not reserved for administrative or tribal purposes. In the consideration of section 3 in Congress, the term "surplus lands" was defined in this manner (Senate report of the Committee on Indian Affairs on S. 3645, No. 1080, 73d Cong., 2d sess.; Congressional Record, 73d Cong., 2d sess., p. 11136.) The policy of the general allotment act and the allotment acts for specific reservations was to settle the individual Indians as farmers on individual tracts of land and to open the remainder of the reservation to disposal to white people. The purpose was different from that involved in previous disposals of Indian land, since it was aimed at settling permanently and civilizing the individual Indians and at the same time opening their existing reservation to the advancing white settlers. The difference in purpose and effect between the conditional surplus land cession involved in the allotment acts and the previous type of cession in which the Indians were removed to another reservation to be held in common in the same manner as their previous reservation in which they then lost all interest is analyzed by the Supreme Court in the case of *Minnesota v. Hitchcock*, *supra*.

The 1880 cession agreement with the Colorado Ute Indians is one of the early examples of conditional surplus land cessions; in fact, the provisions of the 1880 act set forth a plan of allotment and disposal of surplus lands which became stereotyped in later allotment acts. A commission was appointed to make a census of the Indians, to select lands to be allotted, to survey sufficient of these lands for allotment, and to cause allotments to be made. The provisions of section 3 of this act, quoted above, are significant in that they provide for the disposal only of those lands within

the reservation "not so allotted." The legislative history of this 1880 act makes clear that the chief purpose of the act was the immediate allotment within the Colorado Ute Reservation of the individual Indians of various Ute bands and the opening to disposal of the remaining surplus lands. The opening up of the surplus lands was described as essential in view of the thousands of settlers and prospectors on the borders of the reservation who could not successfully be kept from entering the reservation by military or other means. The plan of allotment of the Indians was favored and bitterly opposed as the entering wedge in the allotment of the tribes generally throughout the United States. In fact, a general allotment act was pending in that session of Congress. (See House debates on the 1880 agreement, Congressional Record, 46th Cong., 2d sess., June 7, 1880, pp. 4251-4253.)

From the foregoing it definitely appears that the fact that this cession occurred several years before other allotment-cessions does not mean that this cession falls within the earlier type of outright cession and removal. This cession was rather a forerunner and a model of later allotment acts and differs in no important respect from these latter acts. The fact that two of the three main groups of Indians were subsequently not allotted within the borders of the Colorado Ute Reservation does not alter my conclusion. The 1880 act did not provide for establishing new reservations, but for supplying the Indians with allotments, and where allotments occurred outside the reservation, the Indians were to be charged a price of \$1.25 an acre to be paid from the proceeds of the land sold from the Colorado Ute Reservation. The allotments off the reservation were, therefore, in the nature of lieu allotments and, in the case of the Uncompahgre Utes, were made only because of the fact that insufficient agricultural lands were found within the Colorado Ute Reservation. (See Report of the Commissioner of Indian Affairs, 1881, at pp. 19 and 325, et seq.)

There can be no doubt that the surplus lands remaining after allotment were to be sold for the benefit of the Ute Indians. The original agreement between the Government and the chief of the Confederated Bands of Ute Indians which preceded the 1880 act contemplated an outright sale of the surplus lands remaining after allotment in consideration of an annuity of \$50,000. In Congress it was pointed out that there would be realized in 1 year from one mine within the Colorado Ute Reservation nearly 20 times the entire principal sum from which these annuities to the Indians would be paid. The land was described as rich in minerals and of great value. As a result of the realization of the complete inadequacy of the annuity as a consideration for the relinquishment of the Indian right of occupancy in these lands, and in order that "full justice" might be done the Indians, the original agreement was amended by the 1880 act to provide that after the United States had been reimbursed the amount of the annuities paid the Indians and other expenses connected with the act, any further proceeds received from the sale of the land should be placed to the credit of the Indians (Congressional Record, 46th Cong., 2d sess., June 7, 1880, p. 4261; June 12, 1880, p. 4487). The amended agreement as embodied in the 1880 act was subsequently accepted by the requisite number of Indians of the Confederated Bands.

The amended agreement was described by the Court of Claims in the case of *The Ute Indians v. The United States*, *supra*, page 464, as entitling the Ute Indians to receive all the proceeds of the reservation after the reimbursement and as providing for a transaction which was of no benefit to the United States, except the indirect benefit of opening a desirable territory to civilization. In the Court of Claims case the Indians were awarded a judgment for the value of the lands within the reservation which had been set apart for public reservations and thereby been excluded from sale. The Interior Department has consistently recognized that the Indians are entitled to the proceeds from the disposal of these lands (3 L. D. 296); (7 L. D. 191); (47 L. D. 560). The jurisdictional act which authorized suit in the Court of Claims provided that upon the rendition of final judgment the principal fund from which the annuities of the Indians were obtained should be abolished and from that date no further annuities should be paid. As a result, therefore, since the 1910 decision the interest of the United States in the proceeds of the sale to the extent of \$50,000 annually has not existed and the remaining undisposed-of surplus lands within the reservation have been subject to disposal for the unencumbered benefit of the Indians.

IV. EFFECT OF DECLARATION OF LANDS AS "PUBLIC LANDS"

From the foregoing it is my conclusion that the remaining undisposed-of lands within the Colorado Ute Reservation are "surplus lands" within the meaning of section 3 of the Indian Reorganization Act. There remains only the question whether these lands must nevertheless be excluded from the scope of section 3 because of the fact that in the 1880 cession and in the subsequent act of 1882 it was provided that the lands not allotted "shall be held and deemed to be public lands of the United States." It has been urged that in the usual cession of surplus lands remaining after allotment no declaration that the lands ceded shall be public lands is made. As a consequence it is argued that these lands are not Indian lands in accordance with the holding in the case of *Ash Sheep Co. v. United States*, 252 U. S. 159. In that case the undisposed-of ceded surplus lands of the Crow Reservation were held to be "Indian lands" within the meaning of a statute requiring the consent of the Indians to the use of the land for grazing purposes. The lands involved were ceded under the act of April 27, 1904 (33 Stat. 352), which provided that a designated portion of the reservation should be sold to the United States but that the United States should serve as trustee for the disposal of the lands for the benefit of the Indian.

In my opinion, the declaration in the 1880 act that the surplus ceded lands shall be public lands does not alter the fact that these lands are remaining surplus lands of an Indian reservation heretofore opened to disposal under the public land laws, within section 3 of the Indian Reorganization Act, even if the declaration lessened the interest of the Indians in the lands ceded during the time they were held by the United States and before they were sold. However, it is also my opinion that this declaration did not make the 1880 cession different in legal effect from the Crow cession or other usual surplus land cessions where the Indians were to receive the proceeds of the sale. The significant legal effect of these cessions is that the United States becomes a trustee for the disposal of the land ceded. Regardless of the particular language of the cession, the result is that the Indians retain an equitable interest in the land until they have received the consideration bargained for, and the United States becomes a "trustee in possession." *Minnesota v. Hitchcock*, *supra*; *Ash Sheep Co. v. United States*, *supra*.

Surplus ceded lands to be disposed of for the Indians are frequently referred to in acts of Congress and departmental actions both as public lands and Indian lands. An example of the application by Congress of the term "public domain" to ceded surplus lands which would be "Indian lands" under the *Ash Sheep Co.* case, *supra*, occurs in the act of May 29, 1908 (35 Stat. 460), under which the Cheyenne River and Standing Rock Reservations in South Dakota were allotted. In this act it was provided that the Indians might use the timber upon the ceded surplus lands so long as these lands remained a part of the "public domain," and yet the act provided that the United States should act only as trustee for the Indians in the sale of the lands. In the act of Congress dismembering the Great Sioux Reservation, a provision that the unreserved lands shall be restored to the public domain is used in two places with obviously different meanings. In section 21 it is provided that the unreserved land shall be "restored to the public domain" to be disposed of to actual settlers only, the proceeds to go to the Indians. However, it is then provided that if the lands are not disposed of at the end of 10 years, they shall be paid for by the United States at a designated rate, and that the lands so purchased should then become "a part of the public domain." The first provision restoring the lands to the public domain could have had no legal effect to alter the equitable interest of the Indians in the land until sold or purchased by the United States.

The evident purpose of designating lands ceded for disposal for Indian benefit as public lands or public domain is to indicate that the lands are subject to disposal under public land laws. Lands so designated by Congress would seem therefore to be peculiarly within rather than without the scope of section 3 of the Indian Reorganization Act which refers to lands subject to disposal under the public land laws.

Surplus lands ceded to be disposed of for the Indians are in fact qualified public lands and also qualified Indian lands. They are public lands in that the United States has the legal title and has secured from the Indians a release of their right of occupancy and has arranged to dispose of them, but they are

not public lands in the full sense of the term as they are to be disposed of only in limited ways and upon certain conditions. *Minnesota v. Hitchcock, supra*. It should be noted that both the 1880 and the 1882 acts concerning the Ute land qualified the reference to the land as public land and subject to disposal under the public land laws by stated conditions and restrictions.

Surplus lands are also properly designated as Indian lands in view of the interest of the Indians in the proceeds of any disposal of the lands. This equitable interest is the significant condition attached to the lands which distinguishes them from the public lands generally as Indian lands. Since this condition was attached to the lands ceded by the Confederated Bands of Utes, the undisposed of lands may be as appropriately termed Indian lands as the lands ceded by other Indian tribes to be disposed of for their benefit. Under the regulations of the Interior Department of July 25, 1912, for governing the use of vacant ceded land (Regulations of the General Land Office, 1930, p. 669) it was contemplated that remaining surplus lands, the proceeds of the disposal of which were for the benefit of the Indians, would be cooperatively administered by the Indian Office and the General Land Office, the Indian Office retaining jurisdiction of the use of the lands before they were sold and the General Land Office administering the final disposition of the lands. It is true that this administration by the Indian Office has not occurred in connection with these surplus Colorado Ute lands. The reason for that, however, is not the result of any legal difference but the result of practical considerations, since the Indians were, in fact, allotted only in the southern part of the reservation and since the surplus lands covered a vast area.

V. SUMMARY OF CONCLUSIONS

In view of the foregoing considerations, and in summary of my conclusions, it is my opinion that the undisposed of lands in Colorado ceded by the Confederated Bands of Ute Indians under the act of June 15, 1880, subject to the provisions and conditions set forth in that act, come within the designation in section 3 of the Indian Reorganization Act of remaining surplus lands of any Indian reservation open to disposal by the public land laws, and that they are, therefore, available for restoration to tribal ownership, provided the Secretary of the Interior finds the restoration to be in the public interest. It is immaterial as a matter of law whether the area to be restored is adjacent to the Southern Ute Reservation.

Approved: June 15, 1938.

OSCAR L. CHAPMAN,
Assistant Secretary.

(Recess until 8 p. m.)

The CHAIRMAN. The meeting will come to order.

Mr. Woehlke, if you would care to be heard at this time the committee will hear you.

Mr. WOEHLEKE. Thank you, Mr. Chairman.

The CHAIRMAN. Will you please state for the record your name and your official position?

STATEMENT OF WALTER V. WOEHLEKE, ASSISTANT TO COMMISSIONER, OFFICE OF INDIAN AFFAIRS, CHICAGO, ILL.

Mr. WOEHLEKE. My name is Walter V. Woehlke, Assistant to the Commissioner, Office of Indian Affairs, Chicago.

I would like to state to the committee that our regional forester, our technician, R. B. Millin, who has been concerned with this particular project ever since its very start, and who knows all of the technical details, and who is as well qualified to talk about the technical details as Mr. Jenson, is unfortunately sick and could not attend at this time.

I would like to try and get off the hot spot on which the chairman put me and see if I cannot get the cat out of the bag.

The CHAIRMAN. We will be glad to see her when she gets out.

Mr. WOEHLEKE. It really is not quite true that the Indian Service bought a cat-in-the-bag, when it purchased these properties, within the area designated by the black and green lines.

If I may be allowed to go back briefly to the year 1935 when the project got under way, at that time the 1,800,000 acres of the former Uncompahgre Reservation which were then public domain had been withdrawn from entry in aid of legislation to create a permanent Uncompahgre grazing reserve for the benefit and the protection of both the Indians, the Uncompahgre Indians, and the white stockmen. That particular withdrawal order created quite an uproar.

In 1935 at this meeting that was spoken of here this morning, according to our records the proposition was made that instead of reserving the entire 1,800,000 acres there should be created a reservation of approximately 750,000 acres and that this reservation should be added to the Uintah Ouray Reservation; and that in return the Indians would give up their rights to allotments on the public domain itself. That particular proposition was ratified at this meeting as shown in this agreement, a copy of which is in the record.

The proposal to create this reservation was then translated into legislation, into bills which were introduced. I believe Representative Murdock introduced them in the House at that time and Senator King introduced them in the Senate. One of the conditions of this particular agreement was that the whole area would be turned over temporarily to the Grazing Division for administration and that this administration by the Grazing Division should continue until December 31, 1936, or until the legislation passed. The legislation did not pass, and in 1937 similar legislation was introduced as a departmental measure. At that time the people of Duchesne County apparently connected the other issue, that of the restoration of the purple lands in there, of the ceded lands on the Uintah Reservation with the passage of this legislation. At that time, in 1937, another meeting was held at which the people of Uintah County reaffirmed their support of the acquisition program that had been launched by the Indian Service in this area. I think Mr. Stringham and various others supported that legislation at that time.

One of the conditions for the local support the Indian Service received in the proposed establishment of the Uncompahgre Grazing Reserve, or addition to the Uintah Reservation, was the agreement that the Utes would buy all of the privately owned lands in that area. The Indian Service went ahead and with the Ute money and the gratuity appropriation proceeded to make these purchases of the private lands. In making these purchases the Indian Service sent out experienced appraisers who went into the area, who consulted with the Farm Credit Association and the other various technical institutions knowing values, and also consulted with the Grazing Service in making the appraisal. They fixed the values of these ranch properties as going properties as integrated operations. I would like to have the privilege of introducing tomorrow a compilation showing the appraisal of each purchased property, and also the rating of that property as to its carrying capacity, as to what it was doing as a going concern, together with a list of the licenses issued by the Grazing Service in the administration of that area to the owners of the properties during the purchase period, as to the amount of stock that

each one was licensed by the Grazing Service to carry. From that angle, I believe we can fully justify the prices that we paid for those properties, and I am quite certain that we did not go out and buy a cat in the bag, or that we overpaid the individuals. I might also say that no pressure was put on the individuals to sell, none of any kind or variety; it was all on an entirely voluntary basis. There was no reason, no opportunity, no cause for putting pressure on them because the legislation to establish that particular area as their reserve had not yet been passed and there was no chance of putting on the pressure.

The CHAIRMAN. Did the agreement of June 20, or July 20, purporting to have been signed by quite a number—did that precede the appraisal?

Mr. WOHLKE. Yes; that preceded the appraisal.

The CHAIRMAN. The appraisal was made after the agreement was signed?

Mr. WOHLKE. Yes.

The CHAIRMAN. And the agreement was the initial step in the program?

Mr. WOHLKE. That was the initial step; yes.

The CHAIRMAN. Now, your program having its initial step in the agreement went forward from there. Did the owners of the lands now designated in red constitute any part of the group that signed that agreement?

Mr. WOHLKE. I am not quite certain.

The CHAIRMAN. What is your answer to that, Mr. Wright?

Mr. WRIGHT. Yes; some of them were present and signed the agreement.

The CHAIRMAN. About how many?

Mr. WRIGHT. I can tell you by looking at the agreement there.

Mr. PATTERSON. About 28.

The CHAIRMAN. Twenty-eight of the signers were owners of the land?

Mr. PATTERSON. Twenty-eight all told, including the officials. Here is the list.

The CHAIRMAN. How many of the list were owners of the lands designated in red?

Mr. WRIGHT. Ten is all I can find, sir.

Mr. PATTERSON. Who were the owners?

Mr. JOHNSON. And the rest of them, out of the others that signed the agreement were not the people here protesting because the majority of them were people that were not in unit G, people entirely from Vernal.

The CHAIRMAN. Let me get that straight; I don't quite follow you.

Mr. JOHNSON. Outside of the number which Mr. Wright indicated that signed this agreement—

The CHAIRMAN. That was 10 in number.

Mr. JOHNSON. Out of approximately 30, the rest of them were officials and were not representing the people that you see here, in this group, and protesting the action of the Grazing Service and the Indian Service. They had no rights to represent the people whom we represent.

Senator MURDOCK. Did they have any rights whatever other than the 10 who owned property in unit G, as we call it?

Mr. JOHNSON. None whatever except as advisory board members and as governmental officials.

The CHAIRMAN. Advisory board members of the grazing district?

Mr. JOHNSON. That is right, sir.

The CHAIRMAN. Had the grazing district been set up at that time?

Mr. LEECH. The grazing district north of the orange line had been set up June 22, 1935, but the Uncompahgre area was not made a part of the district until July 10, 1935.

Mr. WOHLKE. As a result of this agreement.

The CHAIRMAN. What I was getting at, when I started out with this query at this point, without desiring to interrupt you, you emphatically state that no inducement or coercion, or threat of any kind was offered or made to the owners of these lands to induce them to sell. But the program had been set up, in which program they play the part.

Mr. WOHLKE. Do you mean as to the signers of that agreement?

The CHAIRMAN. Yes.

Mr. WOHLKE. Probably; yes.

The CHAIRMAN. And the program had been set up in which part of them played the part to the extent that the surrounding territory was brought into the grazing district.

Mr. WOHLKE. The entire area of 1,800,000 acres had been withdrawn in 1933. Under this agreement it was put into the grazing district in order to enable that district to function properly. That is right.

The CHAIRMAN. This agreement to which you refer, there, is this agreement of July 10?

Mr. WOHLKE. Yes; and that, then, was supplemented and given effect by the agreement of July 19, approved July 20, between the Division of Grazing and the Indian Service.

The CHAIRMAN. But following that the program worked out quite smoothly for the acquisition of these lands designated in red.

Mr. WOHLKE. It went ahead right from there. We began optioning right after that. Then, as I mentioned before, this acquisition program, that was launched in 1935 was reaffirmed by certain people in Uintah County in 1937.

The CHAIRMAN. I am sorry, Mr. Woehlke, that Mr. Millin is not here. He is the gentleman to whom you referred as being ill?

Mr. WOHLKE. Yes; he is our regional forester.

(Off the record discussion.)

The CHAIRMAN. What I have in mind, is this, Mr. Woehlke; I hope some of my experiences are not leading me along a certain train of thought, but when I see a thing work out and everything click, when somebody tells me there was nothing used to force the issue, force the thing along, I like to have him elaborate on it.

Mr. WOHLKE. The program apparently clicked, and went along; and the owners in the area in question apparently were perfectly willing to sell at the prices which were offered at that time. As I said before this acquisition program was supported again in January 1937 by Mr. Seeley, the president of the Ashley Forest Cattle Growers Association, and by Mr. John W. Weaver, chairman of the Board of County Commissioners of Uintah County, and by Mr. Stringham, president of the Ashley Wool Growers Association, and also Mr. J. M.

Stewart, the Director of Lands of the Indian Office. If the committee would like, I would like to offer these letters for the record.

The CHAIRMAN. If you wish them to go in, they may go into the record.

(The letters are as follows:)

VERNAL, UTAH, January 20, 1937.

Mr. J. M. STEWART,

Director of Lands, Bureau of Indian Affairs, Washington, D. C.

DEAR SIR: As president of the Ashley Wool Growers Association, an organization of the persons raising and roping sheep in Uintah County, Utah, I wish to endorse the proposed Ute project, which I understand, contemplates the purchase of all privately owned lands between Hill Creek and Green River in Uintah County by the Bureau of Indian Affairs for the use of the Indians within the jurisdiction of the Uintah and Ouray Agency and the creation of a reservation out of these lands, together with the public domain in the above-mentioned area, and in consideration thereof, the relinquishment by the Indians of any claim they may have to other lands now not included in the reservation or allotted ground.

This will stabilize the livestock industry in this country and end a dispute that has existed for the past few years.

It is the hope of all the wool growers in this county that this matter may be settled at once.

Very truly yours,

B. H. STRINGHAM,

President, Ashley Wool Growers Association.

(Original on file, Office of Indian Affairs, Washington, D. C.)

VERNAL, UTAH, January 19, 1937.

Mr. J. M. STEWART,

Director of Lands, Bureau of Indian Affairs, Washington, D. C.

DEAR SIR: As president of the Ashley Forest Grazers Cattle Association, I wish to endorse the land-acquisition program of the proposed Ute project in Uintah County, Utah, as recommended by the Uintah and Ouray Indians.

The settlement of this matter will end a controversy that has disturbed the livestock industry of this county for the past few years, and as a representative of the cattle interests, which I represent, I am glad to endorse the plan and urge the settlement of this matter as soon as possible.

H. E. SEELEY,

President, Ashley Forest Grazers Cattle Association.

(Original on file, Office of Indian Affairs, Washington, D. C.)

UINTAH COUNTY, STATE OF UTAH,
CLERK AND RECORDER'S OFFICE,
Vernal, Utah, January 20, 1937.

Mr. J. M. STEWART,

*Director of Lands, Bureau of Indian Affairs,
Washington, D. C.*

DEAR SIR: As chairman of the Board of County Commissioners of Uintah County, State of Utah, I have examined the land-acquisition project submitted by Mr. Mark W. Radcliffe, in connection with the proposed Ute project in this county. After careful consideration thereof, I wish to advise you that I favor it, insofar as it affects this county.

I feel sure the consequences to the livestock interests in this county will be serious in the event the compromise reached between the livestock men and representatives of the Bureau of Indian Affairs concerning the boundary line of the lands to be used by the Indians is not carried out.

I hope this plan can be approved as soon as possible and this matter settled.

(Sgd.) JOHN W. WEAVER,

Chairman, Board of County Commissioners of Uintah County, State of Utah.

(Original on file, Office of Indian Affairs, Washington, D. C.)

The **CHAIRMAN**. Will you kindly state, or will someone here who has the information, state what price per acre was paid for these lands?

Mr. WOEHLEKE. Mr. Sallee, our land field agent who has made a compilation of that subject, should be able to. Mr. Sallee, will you tell the committee what average price was paid for the land acquired in the so-called Ute extension area?

Mr. ERNEST SALLEE (assistant land field agent, Indian Service, Salt Lake City, Utah). We figured a little over \$9 an acre.

The **CHAIRMAN**. What was the high price?

Mr. SALLEE. We didn't strike the high—we made an average of the total acreage purchased and it figured a little over \$9.

The **CHAIRMAN**. Let's have that now if it is convenient.

Mr. WRIGHT. \$48.30 an acre was the highest; \$2.50 an acre was the low.

The **CHAIRMAN**. How many units were purchased at \$40 an acre? How many individuals sold out at \$40 an acre?

Mr. WRIGHT. I don't know; my memory is that one tract at \$48 was about the only one purchased above \$40. We have a list here. It does not give the price per acre, however.

Mr. WOEHLEKE. Could we compile for the committee a complete record of all the properties, the prices paid therefor, the appraised value, the carrying capacity per ranch unit, as determined in these appraisals, and, together with that, supply the committee with the compilation showing the amount of livestock for which these properties were licensed by the Grazing Service during the purchase period?

The **CHAIRMAN**. Yes, certainly, that will be all right. We would be glad to have it.

Mr. WOEHLEKE. We will be glad to supply that in the morning.

The **CHAIRMAN**. You don't need to; you may defer it and supply it later. We will put it in the record. I suppose those who are interested would perhaps like to have it while on the hearing here, but it is not necessary.

Mr. WOEHLEKE. That is about the total of my remarks, in my effort to get the cat out of the bag.

The **CHAIRMAN**. I can see her tail, but I don't know about the rest of her! Is that all you care to say at this point?

Mr. JOHNSON. Mr. Woehlke, who called the meeting of the land-owners the representatives of the Grazing Service and the representatives of the Indian Department together at these meetings?

Mr. WOEHLEKE. Which meetings?

Mr. JOHNSON. Any of the meetings whereby this agreement was made and reaffirmed in 1937.

Mr. WOEHLEKE. I think the meetings in 1935 were largely called together by Mr. J. M. Stewart, the Director of Lands for the Indian Service.

Mr. JOHNSON. Do you know whether or not notice was sent to the users, whom we represent at this time, to appear?

Mr. WOEHLEKE. Which users do you represent?

Mr. JOHNSON. The sheepmen who do not have land within the area designated as unit G, or the area in the black and green lines on the map. Where these operators of sheep in this area notified who did not own land within the area?

Mr. WOEHLEKE. I could not tell you that, Mr. Johnson, except that there is in our files correspondence with Mr. Hugh Colton, which indicates that he was very active, not only in 1935 but also in 1934 and in 1932, in an effort to organize a district for the protection of the operators in this area, the Vernal area, against the introduction of these nomadic, transient herds.

Mr. JOHNSON. I hand you what is marked here a copy of a letter, United States Department of Interior, which is a letter to the register of Salt Lake City, dated November 27, 1933, and entitled "Lands withdrawn for Uncompahgre Indians," and ask if your office received such a letter; or did you have notice of such a letter with drawing certain lands therein described? This letter is from the Commissioner of the General Land Office to the register of the Salt Lake City office, informing him of the Secretary's action, on September 26, 1933, approving the recommendation of the Commissioner of Indian Affairs for the withdrawal of the land in a former Uncompahgre Reservation. Now, that land, withdrawn and known as the former Uncompahgre Reservation, is all of the land included in the orange line?

Mr. WOEHLEKE. Yes, about 1,800,000 acres.

Mr. JOHNSON. Thereafter, the Indian Department laid claim, by the Secretary's action, to this land included in the orange line, did they not?

Mr. WOEHLEKE. The land was withdrawn, as it stated there, temporarily withdrawn, in aid of legislation—that was the phraseology there—

The land be temporarily withdrawn subject to all existing valid rights and withdrawals in aid of proposed legislation permanently reserving the lands as a grazing reserve for the Uncompahgre-Ute Indians.

The CHAIRMAN. That, that you now refer to, all of the land within the orange line?

Mr. WOEHLEKE. That is right.

The CHAIRMAN. Now, the lands you are contending for now, as being properly to be applied to the Indians, is the land within the black and green line?

Mr. WOEHLEKE. Correct.

The CHAIRMAN. Will you tell the committee why you made known to the stock users, here, that you were going to withdraw a million-and-odd acres from their use, when, as a matter of fact, you were only going to contend for the use of the smaller area within the black and green line?

Mr. WOEHLEKE. I believe that it was the original intention to try and obtain legislation to reserve all of the 1,800,000 acres for the Uncompahgre-Utes and for the white stockmen operating within that area.

The CHAIRMAN. Well, the white stockmen operating within that area had already had a grazing district set up, of which that was a part.

Mr. WOEHLEKE. No; this was in 1933, before the passing of the Taylor Grazing Act.

The CHAIRMAN. All right.

Mr. WOEHLEKE. And in 1932 Hugh Colton had endeavored to organize a Vernal grazing district, under the act of 1928, which allowed the Montana users to organize districts, but he failed in that because that act was applicable only to Montana. Finally he was able to reach his goal through the Taylor Grazing Act.

Mr. JOHNSON. My purpose of cross-examination here is due to the fact that you have indicated, and he has indicated, there was no coercion in forcing these agreements and in obtaining sales of property from the landowners, of which, I think, if this is introduced into evidence and made a part of the record, it will show at this point there is coercion.

Mr. WOHLKE. That is already in the record.

The CHAIRMAN. If it is not in the record, we will put it in.
(The letter is as follows:)

UNITED STATES DEPARTMENT OF THE INTERIOR.

GENERAL LAND OFFICE,
Washington, November 27, 1933.

Lands withdrawn for Uncompahgre Indians.

REGISTER,

Salt Lake City, Utah.

Sir: On September 26, 1933, the Department approved the recommendation of the Commissioner of Indian Affairs that the vacant and unentered lands within the area embraced in Executive order of January 5, 1882, reserving lands for the Uncompahgre-Ute Indians, and restored to the public domain by the act of June 7, 1897 (30 Stat. 87), be temporarily withdrawn, subject to all existing valid rights and withdrawals, in aid of proposed legislation permanently reserving the lands as a grazing reserve for the Uncompahgre-Ute Indians. The land is described in Executive order of January 5, 1882, as follows:

"Beginning at the southeast corner of township 6 south, range 25 east, Salt Lake meridian; thence west to the southwest corner of township 6 south, range 24 east, thence north along the range line to the northwest corner of said township 6 south, range 24 east; thence west along the first standard parallel south of the Salt Lake base line to a point where said standard parallel will, when extended, intersect the eastern boundary of the Uintah Indian Reservation as established by C. L. DuBois, United States deputy surveyor, under his contract dated August 30, 1875; thence along said boundary southeasterly to the Green River; thence down the west bank of Green River to the point where the southern boundary of the said Uintah Reservation, as surveyed by DuBois, intersects said river; thence northwesterly with the southern boundary of said reservation to the point where the line between ranges 16 and 17 east of Salt Lake Meridian will, when surveyed, intersect said southern boundary; thence south between said ranges 16 and 17 east, Salt Lake meridian, to the third standard parallel south; thence east along said third standard parallel to the eastern boundary of Utah Territory; thence north along said boundary to a point due east of the place of beginning; thence due west to the place of beginning."

You will make the proper notations on your records and be governed accordingly.

Very respectfully,

FRED W. JOHNSON, *Commissioner.*

The CHAIRMAN. Have you concluded, Mr. Johnson?

Mr. JOHNSON. Yes, sir.

Mr. PATTERSON. Do you know what the board of county commissioners has to do, the official connection between them and the stock users over here, in the southern part of the county? Do you know?

Mr. WOHLKE. I don't know what official connection they had with the stockmen's association, except that it has been the policy of the Indian Service in these acquisition projects of obtaining the consent and approval of all interested parties.

Mr. PATTERSON. The consent?

Mr. WOHLKE. Consent.

Mr. PATTERSON. Do you mean to say any man on the board of county commissioners can consent to anything of that kind of a public character?

The CHAIRMAN. Was that consent addressed to the acquisition of the land in red? Is that what you refer to?

Mr. WOEHLEKE. I think it was the entire acquisition project, and I believe that the letters of these men, that Mr. Patterson has in his hands, usually express the idea that this was a good settlement of a very vexing situation.

The CHAIRMAN. What was it, or do you know? What was the condition of the owners of the land now designated in red, the financial condition, at the time this transaction was first consummated?

Mr. WOEHLEKE. I believe that at that time the livestock business was not particularly prosperous.

The CHAIRMAN. That was in what year?

Mr. WOEHLEKE. We began to take options in 1935, through '36, '37, '38, and '39. The purchases were finally concluded, I believe in 1941.

The CHAIRMAN. Now, do you know, does the record disclose, or does your knowledge indicate, as to whether or not the ranches on those creeks were involved in foreclosure proceedings?

Mr. WOEHLEKE. I could not tell you.

The CHAIRMAN. Can anyone give us information on that? Had any of those ranches been taken over by the mortgagee, by either foreclosure or consent judgments?

Mr. JOHNSON. Several of the ranches were heavily mortgaged.

The CHAIRMAN. On these creeks, the land now indicated in red?

Mr. SMITH. Mr. Senator, the matter was in strenuous difficulties financially; could not stock his ground.

The CHAIRMAN. Who couldn't?

Mr. SMITH. A. M. Myrup, during this period of '32, '33, and '34. He got Burnham, from Salt Lake City, to buy sheep, and furnish him sheep, to run on shares, on this land, to the extent of about 2,000 head, and along in 1935 or something—this was in '33—maybe '34, and in '35, they had a few sheep, I think in '33—maybe '34—but in '35, they had a few cattle, added a few cattle, 100, 200, maybe, to that extent, ended up in a 3-weeks' lawsuit between Burnham and Mr. Myrup about the settlement of these leased—

The CHAIRMAN. We don't care to hear about that.

Mr. WOEHLEKE. I believe, Mr. Chairman, that Hugh Colton, the attorney who was also representing the Vernal and various stockmen's associations at this meeting, had powers of attorney from the largest owners in that area to settle. Now we can easily determine whether any of these properties were in difficulties, by examining the authority to pay, and see whether any of the money of the purchase price went to the mortgagors.

The CHAIRMAN. That would be interesting.

Mr. WOEHLEKE. Could we procure that for you?

The CHAIRMAN. Yes. The reason I asked that question is your introduction into the record of these letters coming from the county commissioners, who probably also sit—I don't know whether they do here or not—but they sit as a board of equalization, in their respective counties, and they know the conditions of their people pretty well. I have known of cases where people, after the crash of 1929 and '30, and in '32 and '33, were so embarrassed that the banks, and other agencies, were always boasting to have the Indian Service take over the land, because it looked like the only way out, and the people—well, you may not call it coercion, but you can call it by anything you

like—they went along because the banks told them if they didn't go along, they would go off.

Mr. WOEHLEKE. At that time, shortly after the depression of 1932, the Pacific Southwest Trust Co., of Los Angeles, owned practically all of the cattle ranches in northern Arizona, almost throughout the State.

The CHAIRMAN. We had the same thing all the way through the intermountain country.

Mr. JOHNSON. May I make a statement and properly clarify these letters? I was county attorney for Uintah County at the time the various members of the grazing board met and on the board of county commissioners. This meeting was due—and by reason of the fact, called there for this purpose—that under the paper, the letter which I just submitted to you, it was the thought of the board of county commissioners, of the grazing boards and the various stockmen that the Indians were going to take even the territory south of Vernal, here, under their 1,800,000 acres. For that purpose, and that purpose alone, these letters were written, and these letters were sent to Mr. Stewart, and I think Senator Murdock received them while he was in the House.

Mr. WOEHLEKE. May I call your attention to the fact these letters were written in January 1937, long after the agreement with the Grazing Division for the administration of the 1,800,000 acres had been made.

Mr. JOHNSON. We had various meetings, as men here in this room can verify, on his matter, and these letters arose out of those meetings.

The CHAIRMAN. They must have arisen out of something.

Mr. PATTERSON. May I ask another question?

The CHAIRMAN. Yes.

Mr. PATTERSON. Do you know anything about this transaction yourself? Do you know any more about it than what these letters imply?

Mr. WOEHLEKE. I was not here personally, Mr. Patterson. I merely offered these letters for what they are worth, and I cannot go behind them.

The CHAIRMAN. Who representing the Indian Service was here, Mr. Woehlke?

Mr. WOEHLEKE. In 1937?

The CHAIRMAN. Yes.

Mr. WOEHLEKE. Mr. Wright, superintendent of the Uintah Ouray Agency, and Mr. Millin was the Regional Forester, with headquarters in Salt Lake, and Mr. Stewart took a leading part in the negotiations. He was the Director of Lands for the Indian Service.

The CHAIRMAN. Where is Mr. Stewart?

Mr. WOEHLEKE. He is now the king of the Navajos, superintendent of the Navajo Reservation, his old love.

The CHAIRMAN. Located where?

Mr. WOEHLEKE. Window Rock, Ariz. He has inherited the job of endeavoring to reduce the livestock, the sheep of the Navajos, to a point close to the carrying capacity, in face of the fact that the number they have now is insufficient to give them even a subsistence living.

Mr. PATTERSON. And he is taking them all. I am defending them.

The CHAIRMAN. Where are these various proceedings?

Mr. WOEHILKE. Mr. Millin is sick at Salt Lake City, and Mr. Wright did not come until 1936. Is not that right, Mr. Wright?

The CHAIRMAN. Then he was not here at the initiation.

Mr. WOEHILKE. During 1935, no, he was not here then.

The CHAIRMAN. Let's see; when the options were first taken, they began to be taken in 1936, after Mr. Wright's coming here?

Mr. WRIGHT. Two, I think, were taken before I came, Senator.

The CHAIRMAN. Mr. Wright, do you know of your own knowledge or from matters brought to your knowledge what was the financial condition of the owners of the lands along these creeks that were purchased at that time, or optioned at that time?

Mr. WRIGHT. Well, the one referred to by name, Mr. Myrup, apparently was in financial difficulties all right. He is the only one I recall. The Bown Livestock Co. was surely a solvent concern, or seemed to be. Mr. Taylor, mentioned in the proceedings, was very prosperous. I think most of the others were. Mr. Hazelbush seemed to be getting along first rate. Some of the others were considered solvent.

The CHAIRMAN. Who actually took the options?

Mr. WRIGHT. Carl Pearson of the Indian Service.

The CHAIRMAN. You were never along when the options were taken?

Mr. WRIGHT. No; I was not. Several of the men who sold came to the office to see me about the matter several times.

The CHAIRMAN. And did they come to advise with you on the matter of giving the options?

Mr. WRIGHT. No, sir; the options were nearly always taken before they came to see me, and usually what they came to see me about was if we could not hurry it up a little.

Senator MURDOCK. Were they using any coercion?

Mr. WRIGHT. There was none that I know of. They were anxious to sell.

Senator MURDOCK. What I mean is, were they using coercion on you?

Mr. WRIGHT. All they could muster; yes, sir.

The CHAIRMAN. Where did they go, those who optioned and sold?

Mr. WRIGHT. Several of them retired here in Vernal, and I don't know about several. At least two, and many of those who owned homesteads, as I mentioned this morning, up in the summer area, did not live in this part of the country anyway and remained just where they were.

Mr. PATTERSON. One further question in reference to the cat in the bag. Would you take what you paid for it?

Mr. WOEHILKE. I couldn't answer that question, because that depends largely upon the Utes, who contributed approximately two-thirds of the money to buy these properties.

Mr. PATTERSON. Suppose you get the rights which the Taylor grazing bill allows you; would you take what you paid for it?

Mr. WOEHILKE. What do you mean? Would we sell again?

Mr. PATTERSON. Yes.

Mr. WOEHILKE. You would have to ask the Utes. It is their property.

Mr. PATTERSON. Don't you represent the Utes?

Mr. WOEHILKE. No; I don't represent the Utes.

Senator MURDOCK. In the purchase of the lands in red by the Indians, by the tribe; that resulted in those lands being taken off the tax roll; is that right?

Mr. WRIGHT. Yes, sir.

Senator MURDOCK. So the county commissioners might have had some interest in that aspect of the situation.

Mr. WRIGHT. I never heard it expressed, Senator. I don't know.

Senator MURDOCK. I am just trying to clear up in my own mind why the county commissioners would be participating. I can see the loss of that acreage to the tax rolls. That would certainly get the county commissioners interested in that phase of it.

Mr. WOHLKE. That is correct.

The CHAIRMAN. Anything further, Mr. Wohlke? Any questions from anyone in the audience?

Senator MURDOCK. I would like to ask this question, Mr. Wohlke; There is not a question at all, is there, Mr. Wohlke, but that the orders signed by the Secretary of the Interior, which have yet not been promulgated, were induced by the Bureau of Indian Affairs?

Mr. WOHLKE. I believe that these orders were presented to the Secretary with the explanation that they would remove obstacles from the path of the legislation which had been contemplated since 1935.

Senator MURDOCK. Certainly the Bureau of Indian Affairs must have convinced the Secretary of the Interior that it was for the best interest of all people concerned, in order to get him to sign those orders; isn't that right?

Mr. WOHLKE. I believe that would be correct.

Senator MURDOCK. He could not lawfully sign them without being so persuaded.

Mr. WOHLKE. He could not logically sign them.

Senator MURDOCK. He could not lawfully, unless he was convinced that it was in the best interest for all people concerned.

Now, the evidence introduced here today certainly has brought me to the conclusion that the problem has not been thoroughly studied, and that even the experts who have been handling it have been unable to come to a conclusion, up to this time, as to just what should be done.

Now, with those facts confronting me, it is very difficult for me to say myself how the Secretary of the Interior, unless a lot of persuasion was used on him by the Bureau of Indian Affairs, would sign such orders.

The CHAIRMAN. In the face of such a law——

Mr. PATTERSON. And in the face of the committee investigation.

Senator MURDOCK. I think I have stated the hypothesis.

Mr. WOHLKE. I believe that these orders were signed in 1941.

Senator MURDOCK. That is right; nearly 2 years ago.

Mr. WOHLKE. At that time there was no investigation by the Public Lands Committee.

Senator MURDOCK. And isn't it a fact, Mr. Wohlke, to be frank and candid, that the Bureau of Indian Affairs has used for the last several years the threat of the return of the ceded lands to the Indians in order to force through the type of legislation that you people thought was desirable?

Mr. WOHLKE. The legislation as to the Uncompahgre area?

Senator MURDOCK. The whole thing has been joined together. You have constantly used that threat, have you not, to cause the return of

the ceded lands to tribal ownership unless that legislation went through and went through in the near future?

Mr. WOEHLEKE. I don't believe that is quite correct, Senator. We have been discussing the return of the lands, the restoration of the ceded lands ever since 1934, and ever since 1934 the Ute Indians have been requesting that we fulfill our promise, and return, restore these lands to them. I believe that the restoration of these lands, these ceded lands on the Uintah Reservation, did not become an issue until 1937, when certain people in Duchesne County injected that particular issue into the problem of the Uncompahgre reserve.

Senator MURDOCK. I think that is true. But since that time it has been used as a means of persuasion, at least, with the Representatives in Congress from Utah, to get this thing done. I make that statement myself.

Now, I would like to ask this further question: There is no question at all, is there, but what the Bureau of Indian Affairs has at least used sufficient persuasion on the Secretary of the Interior to cause him at least to sign the orders that have gone into the record today?

Mr. WOEHLEKE. I believe that the Office of Indian Affairs or the Commissioner of Indian Affairs presented the desires of the Utes for the restoration of this land to the Secretary after the Bureau of the Budget had reported adversely on the legislation to restore part of them and take the other part, the two-thirds, and throw them into the public domain without the——

Senator MURDOCK. Let me conclude by saying this, that you know of no other agency or no other person that has been interested in persuading the Secretary of the Interior to issue these orders, do you?

Mr. WOEHLEKE. Except the Ute Indians.

Senator MURDOCK. The Bureau of Indian Affairs.

Mr. WOEHLEKE. And the Ute Indians.

Senator MURDOCK. And the Ute Indians. That is all.

The CHAIRMAN. I would like to dwell on one further thought here, on this subject, because this bill is pending before the Congress, and the whole committee will have looked into this matter. It has been touched upon by Senator Murdock.

I am quite reliably informed, Mr. Woehlke, that it has been stated quite freely that the return of the so-called ceded lands and the setting up of the lands within the orange boundary under Indian control has been definitely held as an item, a club over the heads that have this matter in hand, to force through this legislation.

Mr. WOEHLEKE. I could not agree with that statement, Mr. Chairman. I don't believe there was ever any intention of holding these orders or using these orders as a club or a means of pressuring for the passage of this legislation at any time.

Senator MURDOCK. I wish you could have sat in, Mr. Woehlke, and listened to several sessions at my office between Mr. Zimmerman and Mr. Wilkinson and myself. I am sure you would come to a different conclusion.

Mr. WOEHLEKE. I did not take part in those.

Senator MURDOCK. No; I know that you didn't.

Mr. WOEHLEKE. In fact, Senator Murdock, this thing was pushed off on me.

Mr. GRAHAM. Mr. Chairman, I have here in the files which I brought with me copies of two memoranda from the Commissioner of Indian Affairs to the Secretary dated June 19 and June 12, 1941, transmitting these two orders. If they will be of any interest to the committee, I should like to offer them for the record.

The CHAIRMAN. May we see them?

I should like to question Mr. Haskell, the investigator for the committee. Mr. Haskell, will you state your name? What is your position?

STATEMENT OF E. S. HASKELL, INVESTIGATOR FOR THE COMMITTEE ON PUBLIC LANDS AND SURVEYS

Mr. HASKELL. Special investigator for the Subcommittee on Public Lands and Surveys.

The CHAIRMAN. How long have you been in this locality, Mr. Haskell?

Mr. HASKELL. One week yesterday.

The CHAIRMAN. During that time what have you been doing?

Mr. HASKELL. I have been interviewing the parties here and in Roosevelt who have appeared to be mostly concerned in the matters before the committee.

The CHAIRMAN. Has anything been stated to you as to the motive or purpose of making known publicly the demands for the restoration of the so-called ceded lands with reference to pending legislation?

Mr. HASKELL. Yes, sir; by some of those who signed this agreement of July 10, 1935.

The CHAIRMAN. They made statements to you?

Mr. HASKELL. Two or three of them have made the statement that those signatures were obtained "under duress," to quote them exactly, and that they would so testify at this hearing. They intended to so testify at this hearing.

The CHAIRMAN. I have before me what purports to be some notes taken by you. Were they taken on the ground?

Mr. HASKELL. Yes, sir; in the bank building in Vernal.

The CHAIRMAN. In the presence of the parties making them?

Mr. HASKELL. Yes, sir.

The CHAIRMAN. Do you know Mr. H. E. Seeley?

Mr. HASKELL. I believe he is present.

The CHAIRMAN. Here is what purports to be a note taken by you of Mr. Seeley's statement which reads as follows—please tell me whether or not this is substantially correct:

They scared us with an executive withdrawal of the Uncompahgre lands, then later they found out that they did not have any ceded lands. I don't know if anyone here has a copy of the opinion, though; anyway, we decided then that they did not have the rights they claimed they had. Then they bought those ranches out, those lands were set aside already for the cattlemen. Yes; the cattlemen apparently were satisfied with the prices they got for the ranches and there was no coercion. They bought the Myrup and Bown lands in order to get control of the water there and that practically gave them the summer range. I heard they were only running 500 head of cattle where they could run 3,000 or 4,000. Those 800 acres per capita are exclusive of the lands in unit G.

Is that substantially the statement made to you by Mr. Seeley?

Mr. HASKELL. Substantially, yes, sir; it is not completely verbatim, but it is nearly so.

The **CHAIRMAN**. Has anyone else made a statement to you concerning the ceded lands?

Mr. HASKELL. Two or three. I think Mr. Tyzack did, I am not sure. He was one of those present.

The **CHAIRMAN**. I make mention of this while you are on the stand, in fairness to you, Mr. Woehlke, because I think the Department should know what the feeling of people in the community is. Personally, I know nothing about it, but I think the statement made by Senator Murdock must have weight, because he has stated here that the reason why those ceded lands were used—were stated to be used as a—and I use the term “club” to bring this whole matter about. Now, it is the atmosphere of this proposition that I want you to clear up, if you can, Mr. Woehlke, because the atmosphere, leaving it as it is now, is one that is—

Mr. HASKELL. If my memory serves me correctly, some similar statement was made at the meeting at Roosevelt. I think Mr. Dillman can check me on that.

STATEMENT OF RAY DILLMAN, ATTORNEY AT LAW, ROOSEVELT, UTAH

Mr. DILLMAN. May I make one statement? As you have indicated, that was the feeling that prevailed and was in discussion in the first meeting we had at Vernal. There were about three of us opposing it on the ground that we felt the illegality of it at that time. Mr. Colton who signed this agreement came to me and said he wished I would keep out of it because he was representing all of the stockmen over in that section and they were the ones that wanted to get rid of their land and did not want us monkeying or interfering with the proposed sale. I think it is only fair to the Indian Service, but all the way through our group have felt that this matter—these Executive orders and proposals have influenced the action that has been taken.

The **CHAIRMAN**. Do you care to say anything more, Mr. Woehlke?

Mr. WOHLKE. I believe both Mr. Seeley and Mr. Dillman referred to the early negotiations in 1935. Am I correct on that?

Mr. DILLMAN. Mr. Woehlke, that meeting in Vernal, the original meeting, came shortly after the withdrawal of the ground in question, the ground in yellow, and that proposal came across on the west side of Green River and would affect some of our users over that way. I was one of the persons operating sheep at that time. Now, we came to that meeting over here and it was pretty well unanimously the opinion of the livestock people at Vernal that they would consent to a withdrawal of certain areas down in the vicinity of unit G if they would release the east side of Uintah County. Our people felt that even the stockmen of Uintah County were trading us off to get a release from this Executive order for the east side of Uintah County which covered their range. Then we have held various meetings at other times, a meeting at Roosevelt; and I have been in on conferences in Salt Lake City in which Judge Reeves of the Indian Department and others were present when these matters have been discussed; and all the way through there is and has been a feeling that these Executive orders were coming if things were not conceded to otherwise.

Senator **MURDOCK**. May I ask you this question? The Executive order is a withdrawal that was made in aid of legislation. I imagine

you are thoroughly convinced, are you not, Mr. Dillman, that that is the purpose of the withdrawal, that the aid intended is that you better give us what we are asking for by legislation or we will take the whole thing by Executive withdrawal?

MR. DILLMAN. That is true to a measure. We had some time in convincing some of the local people to join us in the scrap, on the ground that probably it could not be done, that all of this yellow area, in the yellow and orange line, could not be taken by Executive order. Some of us contended that those measures which were dignified by congressional act would require congressional acts to modify them, but, if created originally by Executive order, that probably Executive order could modify them; and it was not until this had gone quite a ways that Mr. Stringham, and some of them over here, joined with us, and concurred in that thought.

SENATOR MURDOCK. After the Executive order is once made withdrawing the area, I know of no way you can get rid of it except by congressional action. So I think it is one of the greatest things of legislation that has been devised up to date.

THE CHAIRMAN. Anything further, Mr. Woehlke?

MR. WOHLKE. It seems to me that there was almost complete unanimity in Uintah County as to the proposal for setting up this grazing reserve, and supporting the land acquisition project. On the other hand, the people of Duchesne County who were not interested in Uintah County problems, proceeded to inject the other issue, that of the ceded lands on the Uintah Reservation. The injection of the Uintah ceded land issue tied up these two particular projects. The 1937 letters that were introduced, those by Mr. Seeley and Mr. Weaver, all of them from Uintah County, reaffirmed their support of the Uintah County project as against the opposition of the Duchesne County people, who had no direct interest in the Uintah project.

MR. DILLMAN. May I make one statement? I believe in fairness to the Indian Department, that the record should disclose that the people generally, especially the Uintah County people and generally the people in unit G, have somewhat endorsed the general proposition of that withdrawal. Now, may I—and I think the Indian Department and the Indians, I know the Indians themselves, because I have been quite closely associated with them—have followed that thought quite largely. Now, I believe that the acquiescence by Uintah County was caused largely by reason of the original withdrawal. May I say, however, that, so far as Mr. Woehlke states that the people of Duchesne County have no interests in that area, even across Green River, and that unit, and even to the west of Green River in Uintah County, that area was used by people of Duchesne County for winter range and otherwise just the same as it was by Uintah County people. So we had a direct and vital interest in this whole matter, all the way through.

MR. ALLRED. I thought possibly I should stay out of this Uncompahgre set-up. I am more concerned with the matter of the ceded lands over in the other county; but I believe I attended every early meeting when this matter was first discussed, unless it was back before the Taylor Act was passed. I remember there was an attempt made to set up some district here similar to the Montana set-up—I am not at all familiar with that—however, as soon as the Taylor Grazing Act was passed I was made a member of the advisory board and when

the Indian Department representatives, here at this meeting, came out with a statement that they practically owned the Uncompahgre lands, it never did strike me right.

It did not seem right that they owned those lands that one time had been given to the State, and the State had school sections all through them. I never could convince myself that that was the case, and I argued almost alone on the advisory board at that time that it did not seem reasonable. But here is the situation; you talk about coercion, I don't know whether it was or was not; but, at the time the Taylor Grazing Act was passed, you people, a lot of you know, that the first district set up was across the line in Colorado, number 6, I think, and Utah proceeded to set up the other, 7 district. On accounts of that withdrawal, we were only permitted to make a district of that small area up there. The thing that happened, transient herds from all over the country, immediately headed this way. The Vernal people were frantic, just about to be swamped by the transient herds; being pressed by the statements from the Indian Department that they practically owned this Uncompahgre, that unless you fellows get on the job and agree to this 75,000 withdrawal the Secretary will proceed to restore the entire 1,800,000, which, of course, you can see, would upset the Vernal people's livestock set-ups. This is my recollection. I may be cloudy on some of these things, but that is my recollection, and how it all came about. The reason these Vernal people, as I say, took the interest they did in trying to get this bill passed, the people on Hill Creek were willing to sell.

A number of the advisory board fellows have said to me at times, "why, they are just giving us—the rest of it all belongs to them—just giving it to us." I said I would never concede that. Finally it was ruled by somebody in authority that they did not. Then the support was withdrawn. Any number of these fellows here who were active at that time, will tell you what changed their attitude. As soon as they know that the Indians did not own that, had no claim on it, that is when the tide turned, and plenty of reason for that.

Mr. Woehlke talks about the ceded lands coming in pretty much the same condition that caused us people to be concerned over these ceded lands. As district 8 was set up, fellows were being chased off the district 8, and that is the one unregulated part of the country left. The people south of Duchesne, a lot of small cattle operators were getting in bad shape, didn't know what to do, and went to the Indian Department, and rather asked, "Can't you do something about it? Can't you get authority to administer those lands? We have to have some relief. The Grazing Service won't pay any attention to us." That is the reason it appears that the people in Duchesne County were asking the Indians to take these lands; wanted somebody to administer. For some reason it was not public domain and the Grazing Service did not seem to be in a position where they could do anything about it. But we have been told, the statement has been made, that down at Washington, I understand, the Congressman has made the statement the Duchesne people have agreed to these things, what are we crying about? Well, we agreed partly for the same reason these people over here have agreed. I can tell you more about it when you get through with the Uncompahgre. I don't care to say anything more about it at this time but I will take it up later.

The **CHAIRMAN**. Are there any further questions, while Mr. Woehlke is on the stand, from the audience? I don't want any of you to be afraid to ask questions, whether you ask them in nice language or otherwise. Just ask them and we will understand what you mean.

I guess that is all, Mr. Woehlke.

Senator **MURDOCK**. Mr. Chairman, may I ask Mr. Graham a couple of questions in reference to these letters that he submitted? I think by all means they should go into the record.

The **CHAIRMAN**. Very well.

Senator **MURDOCK**. Are we to assume, Mr. Graham, from this letter concerning the 217,000 acres, which is the territory in purple, there referred to as the ceded lands, that the basis for the return of those ceded lands to tribal ownership, under the Wheeler-Howard Act, is contained in this letter of the Commissioner of Indian Affairs to the Secretary? Is that your purpose in submitting it for the record?

Mr. **GRAHAM**. So far as I know, sir. I had no personal connection with the submission of those at all, but I offer that as the letter of transmittal which accompanied the submission of the order as the records disclosed.

Senator **MURDOCK**. Before the Secretary signed the orders that have been introduced in the record, would he not ask the opinion of the solicitor of the Department as to the law in the question?

Mr. **GRAHAM**. I cannot speak from personal knowledge, but I am confident those orders were routed through and approved by the office of the solicitor.

The **CHAIRMAN**. Do you refer to the solicitor of the Bureau?

Mr. **GRAHAM**. No; the solicitor of the Department of the Interior.

Senator **MURDOCK**. And I assume that the committee may assume that this letter here which has been submitted is the basis for the signing of the order with reference to the 217,000 acres?

Mr. **GRAHAM**. That is my understanding, sir, unless there is something in addition which is unknown to me.

Senator **MURDOCK**. Now, with reference to the withdrawal of the Uncompahgre territory I assume that the committee may assume that this letter of June 12, 1941, addressed to the Secretary of the Interior, by the Commissioner of Indian Affairs, John Collier, is the basis for that?

Mr. **GRAHAM**. I so understand.

Senator **MURDOCK**. I think the chairman would be interested in reading them.

The honorable the **SECRETARY OF THE INTERIOR**,

(Through the Commissioner of the General Land Office.)

MY DEAR SECRETARY: Transmitted herewith for your consideration is a draft of order designed to restore to tribal ownership, for the use and benefit of the Indians of the Uintah and Ouray Reservation in the Utah, all of the undisposed-of opened lands lying within the former boundaries of the Uintah and Ouray Indian Reservation, embracing approximately 217,000 acres, which lands were opened to entry under the act of May 27, 1902 (32 Stat., 263), as amended.

Section 3 of the Indian Reorganization Act of June 18, 1934 (48 Stat., 984), provides in part, that:

"The Secretary of the Interior, if he shall find it to be in the public interest, is hereby authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of

the public-land laws of the United States: Provided, however, That valid rights or claims of any persons to any lands so withdrawn existing on the date of the withdrawal shall not be affected by this Act: Provided further, That this section shall not apply to lands within any reclamation project heretofore authorized in any Indian reservation: * * *

The lands proposed to be restored are primarily suitable for grazing purposes. Stockraising is the principal means available to these Indian people to maintain a livelihood. Only by increasing their grazing area will they be enabled to carry on the livestock industry on a scale sufficient to return a satisfactory measure of self-support. The lands involved, in their present status, are not susceptible of efficient administration. Apparently, the only manner in which proper administration can be provided is through return of the lands to the Indians.

On numerous occasions this matter has been the subject of discussions with the Indians, the superintendent and other interested persons. It is their belief that the lands should be restored to the Indians at once.

In view of the foregoing, it is recommended that all of the undisposed-of, surplus opened lands of the Uintah and Ouray Indian Reservation be restored to tribal ownership for the use and benefit of the Indians of the Uintah and Ouray Reservation, and that the lands be added to and made a part of the said reservation, subject to any valid existing rights.

Sincerely yours,

JOHN COLLIER, *Commissioner.*

GENERAL LAND OFFICE,
Washington, D. C., June 27, 1941.

There are no reasons appearing on the records of this Office why the foregoing recommendation should not be approved.

THOS. C. HAVELL,
Acting Assistant Commissioner.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, June 12, 1941.

The honorable the SECRETARY OF THE INTERIOR,
(Through Director of the Grazing Service.)
(Through Commissioner of the General Land Office.)

MY DEAR MR. SECRETARY: There is transmitted herewith draft of a proposed order withdrawing certain public lands in the State of Utah for the purpose of creating a special grazing use area for the benefit of the Indians of the Uintah and Ouray Reservation and in aid of proposed legislation permanently setting aside the lands as a reservation for these Indians.

The enclosed draft of proposed order will also partially modify the existing boundaries of Utah Grazing District No. 8 and cancel an earlier withdrawal made by the Department whereby the lands so withdrawn and not included in the proposed Indian grazing reserve will be administered fully by the Grazing Service.

The proposed Indian grazing reserve embraces the following-described area, and it is recommended that the area so described be approved as a grazing reserve for the exclusive use of the Indians above-mentioned:

SALT LAKE MERIDIAN

- T. 18 S., R. 16 E., sec. 25, lot 3; sec. 36, lot 1;
- Ts. 12 to 18 S., R. 17 E., those parts east of Green River, partly unsurveyed;
- Ts. 10 to 13 S., R. 18 E., those parts east of Green River, partly unsurveyed;
- Ts. 14 to 18 S., R. 18 E., all, partly unsurveyed;
- Ts. 9 and 10 S., R. 19 E., those parts east of Green River;
- Ts. 11 to 18 S., R. 19 E., all;
- T. 19 S., R. 19 E., sec. 1, NE $\frac{1}{4}$, unsurveyed;
- T. 8 S., R. 20 E., sec. 11, that part east of Green River; sec. 12, S $\frac{1}{2}$; sec. 13, all; sec. 14, S $\frac{1}{2}$ N $\frac{1}{2}$ and S $\frac{1}{2}$; secs. 21 to 27 and secs. 32 to 36 incl.;
- T. 9 S., R. 20 E., those parts south and east of Green River;
- T. 10 S., R. 20 E., all;
- T. 11 S., R. 20 E., sec. 3, lot 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$; secs. 4 to 10, incl.; sec. 11, SE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$; sec. 14, W $\frac{1}{2}$ E $\frac{1}{2}$, W $\frac{1}{2}$;

T. 11 S., R. 20 E., secs. 15 to 22; sec. 23, $W\frac{1}{2}W\frac{1}{2}$; sec. 26, $W\frac{1}{2}W\frac{1}{2}$; secs. 27 to 34, incl.

T. 12 S., R. 20 E., sec. 3, $W\frac{1}{2}$; secs. 4 to 6, incl.; sec. 7, $NE\frac{1}{4}$; secs 8 and 9, all; sec. 10, $W\frac{1}{2}$; sec. 15, $W\frac{1}{2}$; sec. 16, all; sec. 17, $E\frac{1}{2}$;

T. 13 S., R. 20 E., sec. 18, lots 3 and 4, $E\frac{1}{2}SW\frac{1}{4}$; secs. 19 to 21; sec. 27, $SW\frac{1}{4}$; secs. 28 to 33, incl.; sec. 34, $W\frac{1}{2}$;

T. 14 S., R. 20 E., secs. 3 to 10, incl.; sec. 11, $W\frac{1}{2}W\frac{1}{2}$; sec. 13, $S\frac{1}{2}$; sec. 14, $W\frac{1}{2}NW\frac{1}{4}$ and $S\frac{1}{2}$; secs. 15 to 36, incl.;

Ts. 15 and 16 S., R. 20 E., all;

T. 17 S., R. 20 E., secs. 1 to 11, incl.; sec. 12, $N\frac{1}{2}$, $W\frac{1}{2}SW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$; sec. 13, $NW\frac{1}{4}NW\frac{1}{4}$; secs. 14 to 22, incl.; sec. 23, $N\frac{1}{2}NE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$ and $W\frac{1}{2}$; sec. 26, $NW\frac{1}{4}$ and $NW\frac{1}{4}SW\frac{1}{4}$; sec. 27, $N\frac{1}{2}$, $SW\frac{1}{4}$, $NE\frac{1}{4}SE\frac{1}{4}$, $W\frac{1}{2}SE\frac{1}{4}$; secs. 28 to 33, incl.; sec. 34, $NW\frac{1}{4}NE\frac{1}{4}$ and $W\frac{1}{2}$;

T. 18 S., R. 20 E., sec. 3, $W\frac{1}{2}W\frac{1}{2}$; secs. 4 to 8, incl.; sec. 9, $N\frac{1}{2}NE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$ and $W\frac{1}{2}$; sec. 16, $W\frac{1}{2}$; secs. 17 to 20, incl.; sec. 21, $W\frac{1}{2}$; sec. 28, $W\frac{1}{2}$; secs. 29 to 32, incl.; sec. 33, $W\frac{1}{2}$;

T. 19 S., R. 20 E., sec. 4, $W\frac{1}{2}E\frac{1}{2}$, $W\frac{1}{2}$; secs. 5 to 8, incl.; sec. 9, $W\frac{1}{2}E\frac{1}{2}$, $W\frac{1}{2}$; secs. 16 to 18, incl.;

T. 8 S., R. 21 E., sec. 7, lots 3 and 4; sec. 17, $SW\frac{1}{4}$; sec. 18, lots 1 to 4, $E\frac{1}{2}SW\frac{1}{4}$ and $SE\frac{1}{4}$; secs. 19 to 36, incl.;

Ts. 9 and 10 S., R. 21 E., all;

T. 14 S., R. 21 E., sec. 18, lots 3 and 4, $E\frac{1}{2}SW\frac{1}{4}$; secs. 19 and 20, all; sec. 21, $W\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}$; sec. 28, $NW\frac{1}{4}$; secs. 29 to 32, incl.;

T. 15 S., R. 21 E., sec. 6, $W\frac{1}{2}$; sec. 7, $W\frac{1}{2}$; sec. 18, $W\frac{1}{2}$;

T. 15½ S., R. 21 E., secs. 31 and 32, all; sec. 33, $W\frac{1}{2}$;

T. 16 S., R. 21 E., sec. 4, $W\frac{1}{2}$; sec. 5, $N\frac{1}{2}$; $N\frac{1}{2}S\frac{1}{2}$, $S\frac{1}{2}SW\frac{1}{4}$; secs. 6 and 7, all; sec. 8, $W\frac{1}{2}$; sec. 17, $W\frac{1}{2}$; sec. 18, all; sec. 19, $N\frac{1}{2}$ and $SW\frac{1}{4}$; sec. 30, $W\frac{1}{2}$; sec. 31, $W\frac{1}{2}$;

T. 8 S., R. 22 E., secs. 19, 30, 31, and 32;

T. 9 S., R. 22 E., secs. 4 to 9, 16 to 21, and 28 to 33, incl.;

T. 10 S., R. 22 E., secs. 4, 5, and 6.

A recital of the facts leading up to the need and justification of creating this proposed reserve is as follows. By departmental order of September 26, 1933, all vacant and unentered lands within the area known as the Uncompahgre Reservation established by Executive order of January 3, 1882, comprising approximately the southern end of Uintah County, Utah, were temporarily withdrawn in aid of legislation to establish a permanent grazing reserve for the Indians. The Indian reserve now proposed embraces the southwestern corner of Uintah County, which is covered by the temporary withdrawal of September 26, 1933, and the northwestern corner of Grand County, which is not included in the 1933 withdrawal. The remainder of the public domain lands in Uintah County covered by the 1933 withdrawal not included in the reserve proposed at this time is being released from withdrawal and will be placed under the jurisdiction of the Grazing Service.

Subsequent to the temporary withdrawal of September 26, 1933, legislation has been recommended at different times to establish a permanent Indian grazing reserve, embracing the lands in Grand and Uintah Counties referred to above. The legislation proposed has not been enacted, although justified because of the fact that a land acquisition project was inaugurated in this same area under which practically all of the property of private owners therein has been purchased at a cost of over \$300,000, which money was made available from gratuity and tribal funds. On April 14 the Assistant Commissioner of the General Land Office advised us that there are approximately 615,590 acres of public domain lands within the two areas in Grand and Uintah Counties recommended for Indian grazing reserve purposes. As the lands in Grand County are included in grazing district No. 8, it is necessary to modify this grazing district to exclude these lands. Although the lands in Uintah County are within the exterior boundaries of this grazing district, the public domain lands in this county included in the proposed Indian reserve are covered by the 1933 temporary withdrawal mentioned, hence they did not become subject to the jurisdiction of the Grazing Service under the Taylor Grazing Act. However, under special agreement entered into on July 20, 1935, the administration of the lands was temporarily transferred to that Service.

It is necessary that the grazing reserve referred to herein be formally established and the proposed withdrawal of all public domain lands within that area be effected to protect the large investment of the Indians and the Government, as represented by the purchase of practically all non-Indian holdings and relative

commensurate grazing rights largely controlling the area. For this reason it further appears but proper that the entire area should be utilized by the Indians and be administered by the Indian Service. Accordingly, it is recommended that establishment of the grazing reserve referred to above be approved, that the enclosed draft of proposed order also be approved, which order will modify Utah grazing district No. 8 to exclude therefrom the lands in Grand County desired for Indian reserve purposes; revoke departmental withdrawal of September 28, 1933, and rewithdraw part of the lands temporarily under authority of section 4 of the act of March 3, 1937 (44 Stat. 1937) in aid of proposed legislation to make such temporary withdrawal permanent, and that pending enactment of such legislation, administrative jurisdiction over the public lands embraced within said area be conferred upon the Commissioner of Indian Affairs.

Sincerely yours,

JOHN COLLIER, *Commissioner.*

The records of this Office show the lands last described in the enclosed draft of proposed order to be vacant public lands covered by the Indian and Grazing Service orders referred to above, and there are no reasons appearing in the records of this Office why the foregoing recommendations should not be approved.

FRED W. JOHNSON,
Commissioner of the General Land Office.

I concur in the proposed modification of Utah grazing district No. 8 and in the administrative action recommended.

R. H. RUTLEDGE,
Director of the Grazing Service.

SEPTEMBER 10, 1941.

Establishment of a special grazing use area in the State of Utah for the benefit of the Indians of the Uintah and Ouray Reservation and the other recommendations contained in the foregoing letter from the Commissioner of Indian Affairs are hereby approved.

H. L. I.,
Secretary of the Interior.

The CHAIRMAN. Mr. Graham or Mr. Woehlke, is there anything further to offer?

Mr. GRAHAM. Nothing further; I would like to suggest at this time, Mr. Chairman, I might observe in connection with these memoranda, which have just been put into the record, as I stated a few moments ago, I am not in a position to state of my personal knowledge what attended the submission of these letters of transmittal, and I am speaking only on the basis of my experience in matters of that kind, of this substantial import—I should imagine these were attended by rather large amounts of discussions between the Indian Office and the Solicitor's Office and the Secretary. I do not, however, state that from my personal knowledge.

The CHAIRMAN. I take it from that, it is your belief that the letters alone were not the inducement for the orders to be signed by the Secretary.

Mr. GRAHAM. I personally feel rather confident of that, Mr. Chairman.

The CHAIRMAN. Are there any others who wish to be heard here at this time?

Oran F. CURRY (chairman, Ute tribal committee, Fort Duchesne, Utah). We have one of our old Indian chiefs here that would like to be heard.

The CHAIRMAN. Does he wish to be heard tonight?

Mr. CURRY. I will interpret for him.

STATEMENT OF PAWWINNEE, UNCOMPAHGRE COMMITTEE MEMBER, OURAY, UTAH, AS INTERPRETED BY ORAN F. CURRY

PAWWINNEE. Mr. Chairman, fellow citizens, I am going to convey my thoughts to you as I seem to gather by being here listening to you people talk.

I am Indian, as you can see. I have long lived upon this part of the country, which was in Hill Creek, Willow Creek, and the area which has been in question today, which has been in discussion today. However, I am originally from Colorado. My forefathers, rather, were from Colorado. Circumstances caused us to move into this country, of which, perhaps, the history has been disclosed to you.

The CHAIRMAN. Where was he born?

PAWWINNEE. I will come to that. I was born in Colorado.

I must have been very small boy. I cannot recall when my family moved here.

The CHAIRMAN. Ask him to what band he belongs.

Mr. CURRY. He will tell us that as he goes along.

PAWWINNEE. Migrated from Colorado, as I mentioned, because of circumstances. We came here, we moved upon this so-called Uncom-pahgre Reservation. I presume we came here because there was reason for coming here, and that at least we were led to believe that, among the things they had been promised, like all other promises made in the past by the Government. We came upon this reservation because of a certain act. They brought us here and made it possible for us to recognize this part of the country as our home.

The CHAIRMAN. Do you mind if I ask you questions as we go along? I notice you don't want to answer my question. Do you mind if I ask you questions? Does that interrupt you, or interfere?

Mr. CURRY. I will ask him.

PAWWINNEE. I am not at this time wishing to be interrupted. That is manner which white people have, to interrupt one another, and possibly cause a person to forget what he is going to say.

As I have said before, I came here while I was very small boy. Today you can see my hairs are turning grey. I have been on this reservation for a good many years. As I understand, I was led to believe that at the time we came here, or shortly upon our arriving here, this reservation was set aside and created, at which time it was a large tract of land. But up to shortly after, from what I again gathered, it was thrown open for the settlement, which I know very little about, only from hearsays; but as today, as I seem to understand, we are very proud of this little country which we have called our home.

Beginning 7 years ago, beginning with the time that we first negotiated for certain tracts of land, or holdings of these ranches, which have been discussed today, from each year, it seemed to be the same old thing comes up, for 7 years, continuously from one legislation to another, until up to date it would stand still just as it was 7 years ago. At that time a certain line was designated, upon which we, at least, we shall put our foot upon once more. That line hits down around somewhere that is called, designated, that part as the English name, "Oak Spring," within that area. How happy we were again, for once

more we were thinking that we were going, after all, to get this piece of land again, upon which we shall strive to become self-supporting, self-sustaining, again. But that seemed to be just another promise that fell at the wayside, like other things that the white men have done. We have stock, we have striven, through the encroachment of the white people, along in that country, we try to make our living all these years.

As I said before, these ranches were purchased at very high prices. I have seen nearly, possibly three hundred thousand or in the neighborhood of four hundred thousand dollars, there were certain tribal funds used, somewhere in the neighborhood of \$200,000; and likewise the appropriation funds used in order to make purchase of this land. We were led to believe, at the time these lands were purchased, that commensurate rights—or whatever the white man calls that—commensurate right of those base properties went with this land. Shortly upon the completion of these ranches, the white people who had promised they would vacate it, to give us that one more hope for our Indians to survive. I will point out how we have tried to manage this ranch. My son-in-law has occupied one of these places since that time, with only over a hundred head of cattle, and there are other Indians, my son, likewise, have cattle. This boy, and my son, happened to be one of the boys that is gone across the country to fight for you white people. I want to go into, briefly, just what is being done on these ranches, because of the remarks made that we want to live idly, and just hold that country. We are utilizing and making every effort to make those ranches pay. Every ranch that has been purchased has not been idled away, but there are people, Indians, who are making a go of those ranches. There are places there that you can see for yourselves. Some of you people doubt. You can see what has been done for the very short time that we have occupied those ranches. But it seems to me, since recently, we are just sitting there holding these ranches, and all around us are the white sheep men, who seem to take advantage of the fact, possibly, of the Taylor Grazing. We have been very fortunate, to a certain extent, to have the range, summer range, spring range, fall range, but we have no winter range. The white men are using the winter range which we are supposed to use. I am asking you, is it fair, after all we have done upon our own grounds, to which we have moral rights, that we have to beg, be as beggars? And here the white man all around us, who really does not own any property within this country, he can have the cream of that range. I would like to ask you, what do you think of it?

Here is another man, here, who has used his ranch up there, the ranch holdings, and it seems like he cannot go no place, because he is surrounded by the white sheep. Is that the way we were lead to believe? Is that the problem that was laid before us? This year finds me in very bad condition, so far as my sheep is concerned. The land that I have been allotted, it is just about like this floor here, you can imagine. Fortunately, there happened to be old Indian allotments up along White River, where we have to fall back on. If it was not for that, I don't know what I would have done this year. Is there any justice in that? I am asking you men, who seem to know everything, is there any justice in it, that the white man can go and take the cream of everything, and we, who originally lived there, and bought those places, had to go around and use land that has no feed? I suppose

that, however, the responsibility lies upon the grazing manager of this district. Likewise, over in our district it seemed to me that somehow we have been neglected. It makes my heart ache to think that we had to go through this again, when the white men can be glad at heart because he always seem to get what he wants. I am asking you men if that is a fair deal?

This winter it is very unfortunate for me, for us Indians, for the group there. There was no snow, and who got the cream of that range? Smith is a white man. He got the range where there was snow, and feed for their stock. But us Indians, we had to go out there where there was no snow up there. I trespassed, I believe, upon Smith's range, a little, but I had to get out of there because I know what the results would be. Likewise trespassed on another man. I don't want to get in trouble, therefore it is the same old story, I had to try to do the best I could. I went away from there. Therefore, this year, I suppose, my lamb crop will be way below, because my sheep starved this year, and while the white people, as usual, get the best, and they will have the lamb crop that we won't have. I am asking you again, is that a fair deal?

I would like to take you men out here investigating, like to take you over what we have to put up with. Today it seems to me the Indians, as a race, are a thing of the past. We know why. But then, at the same time, it seems to me we are still recognized as no one, nobody. There seems to be no adjustment in this matter. What are we to do? What is confronting us today?

The war condition, what does it mean? They speak to us and say, "Raise your foodstuff for the armed forces." Does not that speak for us to strive to raise all our foodstuff, to remember the war? Does that not speak that we ought to put forth every effort to do something to get behind the movement of our boys? It seems to me you men, who are well-educated men, can see things, can see these things, the bad condition which confronts not only you white people, but the Indian people.

Unfortunately I happen to have a son over in the Solomons. I likewise have two more boys who may be in the draft. And other boys, of other members, are going, possibly up into the hundreds. What are they fighting for? Who are they fighting for? You, everyone of you, and for all of us. What are they going over there to fight for? Why did they go? Why did they go? In support of this great war movement? Because they wanted to go? No; Uncle Sam called on them, and they went because they were asked to defend this country for freedom and democracy.

I mentioned awhile ago that, because of lack of funds, that we may never use that. They refer to us as the past. We are looking forward to tomorrow, not yesterday. We have funds available that are being used, and can be used, once this grazing set-up is complete. We have funds that we can stock with. Until it is settled we do not wish to enter into using our money for any purpose where we may have to lose, and in a final event be broke, because we are running on someone else's land.

I just wonder what reaction my little talk is having on you people. Just where did you picture us? Just who are we? Where do we stand, as Indian people? Have you not the heart to see the Indians have a little piece of this land? Or do you want to control it all,

like you have other surrounding countries? I understand you two men are from Washington, and you are in here for certain things which you know have been disclosed here. I am humbly speaking to you, and hearing such another man, one representative from Chicago, whom we happened to meet; but I did not happen to meet you men.

I have been fortunate enough to be delegated to Washington two times and three times just recently. I returned from there, and my trips have been seeking some way to better our condition; seeking some way that the white man, one time, at least, will wake up and open his heart, open his eyes, to the needs of the Indians. You white people, it seems to me, never hesitate, you never stop at anything, but what you get what you want. But while you get what you want, when an Indian wants it he has to beg for it.

Here I will go back to these men who we spoke of, who are not what you may call taxpayers in this country, but they are outsiders, not people of this country, not local people of this country, who seem to hold up this whole program; therefore, it seems to me you men who are here in the interests of our people should at least wake up and see what it is all about. Don't take it for granted that because you know everything there are some things beyond your reach. See for yourselves; don't take every body else's word.

That is all. Thank you.

The CHAIRMAN. Anyone else?

I think we will recess until 9 o'clock tomorrow morning at this point.

(Recess at 9:30 p. m.)

ADMINISTRATION AND USE OF PUBLIC LANDS

WEDNESDAY, FEBRUARY 17, 1942

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS,
Vernal, Utah.

The CHAIRMAN. The committee will come to order.

Mr. Wright was to furnish us with some data for the record this morning.

Mr. WOEHLEKE. Mr. Wright has not arrived as yet, Mr. Chairman.

The CHAIRMAN. All right; it's just a question of his turning in some data that I thought was quite necessary at some period during the course of the proceedings.

Now, yesterday we had before us the exhibit used by the witness, Jenson, and it was agreed that those records, in small form, should go into the record. Does anyone know whether or not they have been prepared?

Mr. LEECH. They will be photostated, Senator, and filed with the reporter.

The CHAIRMAN. We want those in the record, because they are exceedingly important to the committee. They show the study made by the Grazing Service, and part of the study made by the Indian Service, prior to the time of the purchase of unit G.

Now, we were also to be advised by the Indian Service as to how many livestock now range in unit G.

Mr. WOEHLEKE. Mr. Chairman, all that information will come when Mr. Wright arrives.

Mr. LEECH. Mr. Chairman, we will have prepared, also, a tabulation of the licenses granted in connection with that property. That is not quite finished, but it will be available in the next hour or so.

Senator MURDOCK. That is, the licenses that were issued prior to the time it was taken over by the Indians?

Mr. LEECH. Both, Senator. The licenses issued before and also after.

Senator MURDOCK. Senator McCarran, as I understand, is particularly interested in the licenses outstanding, in connection with those base properties, at the time the Indian Service optioned the land.

The CHAIRMAN. That is right.

Mr. LEECH. That will be furnished, beginning with 1935 and 1936, on through 1942.

The CHAIRMAN. In that connection, Mr. Leech, I am now going to touch upon a phase of this whole hearing that does not apply to this hearing, but to all of it. It comes out of this thought: Yesterday I drew to the attention of Mr. Woehlke the fact that the Indian Service

could have known the estimated carrying capacity of that range, as it had been determined, so far as the Grazing Service was concerned, because the records of the Grazing Service were available to the Bureau. On several occasions, in the course of our hearings, we have run across the information that those records are not public records, and the Grazing Service meticulously guards those records. I wonder if you are still pursuing that policy.

Mr. LEECH. My understanding, Mr. Chairman, is that the records and surveys are available to anyone.

The CHAIRMAN. To any interested party?

Mr. LEECH. Yes, sir.

The CHAIRMAN. This is aside the question that is before us immediately, but it arises because of my remark to Mr. Woehlke, yesterday, that they have the records available. It has always seemed to the chairman of this subcommittee, and I think, to the other members of the committee who have given it thought, that the records of the advisory boards, as regard the number of cattle allowed, or the number of livestock allowed, by the Board to the users of the open public domain, should be a matter of record, in that particular section, for the users on the public domain. This has been brought up, and has been drawn to the attention of Mr. Rutledge, at Elko, and other places. I hope that policy may be modified, so anyone interested in how many cattle some other fellow is running on the same range can look into the record.

Mr. JOHNSON. It has been the practice, for the past 2 months, that anyone looking at those records had to have written consent from the licensee.

Mr. LEECH. From the licensee himself?

Mr. JOHNSON. That is right.

The CHAIRMAN. I certainly would not okey that policy. I don't think that is in keeping with the policy. I think it should be an open record.

Mr. LEECH. The only records, certain records, are considered confidential, and they are not open for public inspection; but any application, and dependent property report, or the numbers granted, are public information.

The CHAIRMAN. I would think that would be the proper policy. That is what we have contended for. You say they are not open?

Mr. JOHNSON. I do.

Mr. LEECH. I will look into that, Senator.

The CHAIRMAN. It might be well for you to look into that matter, and clear it up.

There is a phase of this question to which the chairman wished to draw your attention. We have now listened for one solid day to the history of the Indians, and the history of the lands, as regard the Indians. There must be, somewhere in this matter of the history of the utilization of the open public domain, involved here, records of who has used it, and for what length of time, and with what number of livestock; and, it seems to me, for the enlightenment of the committee, we should commence to touch on this subject.

Now, you gentlemen who represent these people here as counsel, we look to you to marshal that evidence, and put it before us, if it exists.

Mr. PATTERSON. We have it.

The CHAIRMAN. Very well; you may proceed. Call your witness.

Mr. PATTERSON. I don't know how many there are here; Mr. Johnson and myself represent substantially all of the people on this particular area in question.

The CHAIRMAN. That is what I thought.

Mr. PATTERSON. If I may make a statement to the record, I think we might shorten the time a little bit.

The CHAIRMAN. Very well; that is what we are looking for.

Mr. PATTERSON. Then I think I can state the approximate truth, verified by some of the witnesses.

First, I would like to register our protest against any legislation of this character for these reasons: First, that the users have a substantial right which may be construed as a vested right in the proposed area of withdrawal; second, that the need of such an area for the benefit of the Indians is entirely unnecessary; and, third, that a program can be worked out among the users and the representatives of the Indians that will be entirely satisfactory to both sides. Now, that goes to any legislation which has been before us, legislation which has for its purpose the withdrawal of the area in black.

Now, we have this other question thrust upon us of these proposed withdrawals which have not thus far been promulgated by the Secretary of the Interior, and I would like to have the advice of the committee as to how that may be attacked. Now, I take it that the Secretary of the Interior would be perfectly free upon his own initiative to promulgate those orders at his pleasure and, of course, if they are promulgated it will be contended that that is the law governing this particular area, all of which we would dispute.

The CHAIRMAN. The trouble is, your course of dispute is rather long after one of those orders has become promulgated; it can only be set aside, largely, by an act of Congress; otherwise it becomes the law as far as an administrative order can be made, and it is binding on you.

Senator MURDOCK. I wonder if you would let me interpose there, Mr. Patterson. I wonder, Mr. Chairman—let me ask Mr. Havell a question. Under the Wheeler-Howard Act, which is the basis for the return to tribal ownership of the surplus open former reservation lands, what is necessary in the way of issuing a patent in order to convey the title from the Government to the tribe? Will either you or Mr. Graham answer that?

Mr. HAVELL. Senator, I don't know that any patent or any instrument is necessary other than an order that the Secretary might issue under authority of section 3, I think, of the Wheeler-Howard Act, to put the land back in a reservation status.

Senator MURDOCK. We are confronted with this situation; here is your land which, without any question now, is a part of the public domain. The only string attached to it is the payment of \$1.25 an acre. That is Government land, the same as anything else. Now, when you restore it to tribal ownership it seems to me it would require a patent or some instrument in order to do it. I wanted to bring that out and then to suggest this: In my opinion if and when the Secretary of Interior acts legally under the Wheeler-Howard Act in restoring that land to tribal ownership I doubt, then, that Congress could upset that kind of a transfer. I think without any doubt, as the

chairman indicated, that the withdrawal of this land in the black and green certainly could be set aside by Congress; whether it could be set aside after the transfer to the tribal ownership, I doubt.

Mr. HAVELL. Section 3 of the Wheeler-Howard Act says that the Secretary of the Interior—

if he shall find it to be in the public interest, is hereby authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation.

There is the authority of law for the transfer by the Secretary to tribal ownership of the surplus ceded lands.

Senator MURDOCK. They have construed that, without a doubt, to apply to lands of this type which are not now and have not been for years a part of any reservation.

Mr. HAVELL. I think, Senator, as we read yesterday in the statute opening the Uintah Reservation, the lands are restored to the public domain as public lands with the price of \$1.25 an acre for the Indians, but nevertheless they were ceded lands, lands ceded, and the Wheeler-Howard Act refers to the ceded land.

Senator MURDOCK. But once they become part of the public domain open to entry under the law certainly, then, they lose their status as reservation lands.

Mr. HAVELL. Correct.

Senator MURDOCK. We are agreed on that. Then, it seems to me that something would have to be done in the way of issuing patents in order to vest title in the tribe; and the reason I ask the question is just to settle my own mind as to what procedure you people have adopted in the restoration of these lands to tribal ownership.

Mr. HAVELL. Merely the order of the Secretary, predicated upon the Wheeler-Howard Act.

One other point you touched upon there, these ceded lands, while they are public lands, these lands are still ceded lands and, therefore, are not like the other public lands that never had a reservation status because the Wheeler-Howard Act, section 3, would not apply to any public lands but would only apply to public lands that had been in a reservation status and had been ceded, so while they are all public lands they are in a different category from the general run of open public lands.

Mr. GRAHAM. Mr. Chairman, I invite attention to a recommendation of the Commissioner of Indian Affairs dated August 10, 1934, to the Secretary of the Interior on this general subject. Senator Murdock, it was a listing of all of the lands in the United States subject to restoration under section 3 of the Wheeler-Howard Act. If the committee desires a copy it can be furnished for the record. It was approved by the Secretary on September 19, 1934, and constituted withdrawal of all of these lands, including the lands under discussion. That recommendation, as I recall, is printed in volume 54 of the Interior decisions. However, a copy can be furnished for the record if you so desire.

The CHAIRMAN. Did you say that constituted a withdrawal in 1934?

Mr. GRAHAM. Withdrawal from entry pending restoration.

The CHAIRMAN. Then these purple lands under your interpretation were withdrawn from entry in 1934?

Mr. GRAHAM. That is my understanding; yes, sir.

The CHAIRMAN. Did that follow the Taylor Grazing Act?

Mr. GRAHAM. Yes, sir; in the same year.

The CHAIRMAN. The Wheeler-Howard Act was passed that same year, wasn't it?

Mr. GRAHAM. The Wheeler-Howard Act, then the Taylor Grazing Act, and then this withdrawal.

Senator MURDOCK. I believe, Mr. Chairman, that the letters referred to might be helpful.

The CHAIRMAN. They may go into the record.

(The letter is as follows:)

DEPARTMENT OF THE INTERIOR,

August 10, 1934.

The honorable the SECRETARY OF THE INTERIOR,

(Through the Commissioner of the General Land Office.)

MY DEAR MR. SECRETARY: Section 3 of the act of June 18, 1934 (Public No. 383, 73d Cong.), enacted to conserve and develop Indian lands and resources and for other purposes, contains the following provision:

"The Secretary of the Interior, if he shall find it to be in the public interest, is hereby authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public land laws of the United States: *Provided, however*, That valid rights or claims of any persons to any lands so withdrawn existing on the date of the withdrawal shall not be affected by this Act: *Provided further*, That this section shall not apply to lands within any reclamation project heretofore authorized in any Indian reservation."

During the early years of our dealings with the Indians, the custom was to have individual or combined nations, tribes, or bands relinquish or cede to the United States large areas claimed by them, for which there was usually a cash or other consideration, and also the settling apart or reserving of certain lands within such ceded areas or from lands belonging to the United States and located elsewhere. These reserved lands thereafter became the recognized reservation of a tribe or band. In this way the Indians lost all identity with the ceded areas and their rights and interest therein were recognized as having been completely extinguished. In many instances such cessions, taken as a whole, embraced practically all of the lands now comprising many of the States of the West.

In years following, for reasons varying on the different reservations, portions of these diminished or newly established reservations were also ceded to the United States, the Indians receiving from the Government in lieu thereof a cash consideration, and other benefits. Such transactions were also recognized as carving or separating a certain area from a particular reservation, operating as an extinguishment of the Indian title. In this way the exterior boundaries of a reservation was further reduced. The lands thereby separated from a reservation were no longer looked upon as being a part of that reservation.

This brings us up to the period of about 1890, at which time there was adopted the plan of opening to entry, sale, etc., the lands of reservations that were not needed for allotment, the Government taking over the lands only as trustee for the Indians. Under this plan the Indians were to be credited with the proceeds only as the lands were sold, the United States not to be bound to purchase any portion of the lands so opened. (Undisposed of lands of this class remain the property of the Indians until disposed of as provided by law (*Ash Sheep Company v. United States*, 252 U. S. 159). Such lands are usually referred to as surplus lands of Indian reservations opened to public entry, and undoubtedly comprise the class of lands from which restorations to tribal ownership are to be made under the said section 3, if in the public interest. It can safely be said that it would not be to the interest of the public to restore to the Indians all undisposed of public lands that at one time were in Indian ownership but afterwards became the property of the United States by outright cessions from the Indian owners, because, as stated above, such action would mean the withdrawal in many States of all lands now available for entry as public domain. Such action undoubtedly would raise strong opposition in the various localities affected and have an undesirable bearing on the new Indian legislation.

In connection with this matter, attention is invited to section 16 of the same act, which authorizes the formation of tribal organizations and provides that tribes and tribal councils shall have authority "to prevent the sale, disposition, lease, or encumbrance of tribal lands, * * *"; also to section 18, which authorizes the Indians of any reservation, by a vote of a majority of the adult

Indians on the reservation, to exclude themselves from the operation of the entire act, referendum election for such purpose to be held within 1 year after approval of the act. It, therefore, will be some time before it is known definitely whether the Indians of any of the reservations will exclude themselves from operation under the act, and until tribal organizations can be formed and thereafter definitely determine which of the "opened" Indian reservation lands still undisposed of should be permanently restored to tribal ownership. Tribal organizations should have a voice in deciding which lands should be withheld from disposition. It is understood from informal inquiry in the General Land Office that, although there are "opened" lands on various reservations, there are only a very limited number of reservations where sales can actually be made. Nevertheless, there is a possibility that in the meantime some desirable undisposed of "opened" lands might be entered or filed upon by non-Indians and thereby prevent the restoration of such lands to tribal ownership. For this reason, action should be promptly taken to prevent, for the present, the further disposition of any of such lands by public entry, sale, or otherwise. A withdrawal of this kind would be merely of a temporary nature.

The following is a list of reservations where lands have been opened, the Indians to receive the proceeds of sale only as the tracts are disposed of. As a matter of convenience, citations to treaties, agreements, or acts, under which such "openings" occurred, are also furnished:

Arizona: San Carlos, agreement of February 25, 1896, ratified by act of June 10, 1896 (29 Stat. 388).

California:

Klamath River, act of June 17, 1892 (27 Stat. 52).

Round Valley, act of October 1, 1890 (26 Stat. 658).

Colorado: Utes, act of June 15, 1880 (21 Stat. 199).

Idaho: Coeur d'Alene, act of June 21, 1906 (34 Stat. 335).

Minnesota:

Boise Fort, act of January 14, 1889 (25 Stat. 642).

Deer Creek, act of January 14, 1889 (25 Stat. 642).

Fond de Lac, act of January 14, 1889 (25 Stat. 642).

Grand Portage or Pigeon River, act of January 14, 1889 (25 Stat. 642).

Red Lake, act of January 14, 1889 (25 Stat. 642).

White Oak Point, act of January 14, 1889 (25 Stat. 642).

Leech Lake, act of January 14, 1889 (25 Stat. 642).

Montana:

Flathead, act of April 23, 1904 (33 Stat. 302).

Fort Peck, act of May 30, 1908 (35 Stat. 558).

Crow, act of April 27, 1904 (33 Stat. 352).

North Dakota: Fort Berthold, act of June 1, 1910 (36 Stat. 455).

Oklahoma:

Cheyenne and Arapaho, act of June 17, 1910 (36 Stat. 533).

Kiowa, Comanche, and Apache, act of June 5, 1908 (34 Stat. 213).

South Dakota:

Cheyenne River, act of May 29, 1908 (35 Stat. 460).

Lower Brule, act of August 21, 1906 (34 Stat. 124).

Pine Ridge, act of May 27, 1910 (36 Stat. 440).

Rosebud, agreement of September 14, 1901, ratified by act of April 23, 1904 (33 Stat. 254).

Rosebud, act of March 2, 1907 (34 Stat. 1230).

Rosebud, act of May 30, 1910 (36 Stat. 448).

Standing Rock, N. Dak. and S. Dak., act of May 29, 1908 (35 Stat. 460).

North and South Dakota, act of February 14, 1913 (37 Stat. 675).

Utah: Uintah and Ouray, act of May 27, 1902 (32 Stat. 263, as amended).

Washington:

Colville, act of March 22, 1906 (34 Stat. 80).

Spokane, act of May 29, 1908 (35 Stat. 458).

Wyoming: Wind river, agreement of April 21, 1904, ratified; act of March 3, 1905 (33 Stat. 1016).

As a matter of explanation, it may be said that the Klamath River Reservation, mentioned in the list of reservations herewith, was established by Executive order of November 16, 1855. The surplus lands were opened to settlement, entry, and purchase under the laws of the United States by the act of June 17, 1892 (27 Stat. 52). As a consideration for the lands so opened, the Indians were to receive allotments, village sites, and \$1.25 per acre for lands disposed of to certain settlers. Apparently the lands within this "opened" reservation remaining disposed of at this time are of the class intended for withdrawal and should be retained from disposition until their need for Indian purposes has been investigated.

The Ute lands of Colorado, the areas covered by the act of June 15, 1880 (21 Stat. 199), as amended by the act of July 23, 1882 (22 Stat. 178), were deemed to be public lands of the United States and subject to disposal as such. However, the lands were to be sold, the proceeds to be first applied to reimbursing the United States for expenses incurred in connection with the administration of the act and the remainder to be deposited in the Treasury of the United States for the benefit of the Indians. In view of this provision, such of these lands as remain undisposed of are also looked upon as being of the class to be temporarily withdrawn from further disposition, as proposed, and, therefore, have been included in the above list.

The act of May 17, 1900 (31 Stat. 179), provided for free homesteads for the benefit of actual and bona fide settlers, and that all sums of money so released from payment of collection, which if not released would have belonged to an Indian tribe, were to be paid to such Indians by the United States. It is, therefore, not intended that this withdrawal shall apply to any lands of this class where the Indians were reimbursed by the United States for the value of such lands in accordance with the said act of May 17, 1900 (31 Stat. 179).

If there are lands on any of the reservations named, other than the areas covered by the said citations, that were "opened," and for which the Indian receives the proceeds when disposed of, it is intended that they be included in the withdrawal. Areas within regularly authorized reclamation projects are to be excepted.

It is, therefore, recommended that all undisposed-of lands of the Indian reservations named above that have been "opened," or authorized to be "opened," to sale, entry, or any other form of disposal under the public-land laws, or which are subject to mineral entry and disposal under the mining laws of the United States, with the exception of areas included in reclamation projects, be temporarily withdrawn from disposal of any kind, subject to any and all existing valid rights until the matter of their permanent restoration to tribal ownership, as authorized by section 3 of the act of June 18, 1934, supra, can be given appropriate consideration. The intention is to withdraw only lands, the proceeds of which, if sold, would be deposited in the Treasury of the United States for the benefit of the Indians. In the event it is found that there are lands of other reservations that should have been included in this proposed withdrawal, appropriate recommendation will be made to have the withdrawal extended to embrace such lands.

Sincerely yours,

JOHN COLLIER, *Commissioner*.

GENERAL LAND OFFICE,
Washington, D. C., September 15, 1934.

There are no reasons known to this office why the foregoing recommendation should not be approved.

FRED W. JOHNSON, *Commissioner*.

DEPARTMENT OF THE INTERIOR

OFFICE OF THE SECRETARY

Approved as recommended, September 19, 1934.

HAROLD L. ICKES,
Secretary of the Interior.

Mr. PATTERSON. I know it is idle for me to present evidence briefly on the legal phase to you two gentlemen here. I am confident that you know all about it.

For the benefit of the committee, and for the benefit of our record, I would like to state briefly our position in regard to these matters.

Now, you take the Wheeler-Howard Act—and, in fact all of these acts which provide for withdrawal and the setting up of reserves, even H. R. 837, which provides they are subject to valid existing rights. Here is a question that develops that I think is pertinent. I think the committee should have it before them. What is a right—what is a grazing right? If the law of the country has not defined that right, then Congress should define it, and I call it to the attention of the committee. As it is now, it is most elusive. There are some things which get better with age, like apple pie, for instance. But that cannot be said of these stock-grazing rights. The longer you have them the more elusive they become. Now, if these withdrawals are subject to vested rights—let's go back and analyze the Taylor Grazing Act for just a moment. It is our contention, gentlemen, that the Taylor Grazing Act is nothing new to the stockmen of this country; that the Taylor Act is a recognition of rights that have always existed, ever since the West was settled. Without a doubt the Congress of the United States, in enacting the Taylor Grazing Act, knew that it was the livestock interests that brought life to the West. It was the livestock interests that caused the settlement of the West. It was the livestock interests that built up the farms, built up the schools, built up the churches. It was the livestock interests that built up the towns, if you please, and you know the matter of settlement here in the West; that the towns are composed of livestock men. They are the convenient points to live, from which they administer their property.

Now, the Congress of the United States knew that, and the Congress of the United States provided for these specific rights. Wherein did they do so? The bill itself gives a preference to the men who used these rights, and it gave a preference to that man out on his farm, and it gave him a preference to the use of that range, that territory within his district. Now, is that a substantial right? Is it something that may be wiped away by the ruling of one of these departments even without notice? Certainly, it is not. Certainly, we inherited in the Taylor Grazing Act a substantial right; and that was what was said for it by Judge Stevens in his *Red Canyon Sheep Co. Case v. Ickes*.

Now, we have to define that right. We don't know how to deal with these things unless we can define this right. What right have the Smiths or any of these people upon the public range or the Indian reserve or the public range proper unless we know the character of that right? Congress has never defined that; the Grazing Division has never defined it. They have construed it one way in this instance and another in this instance, and there is nothing so astounding to me, even flabbergasting, as to see a couple of these strawbosses under one outfit come in and attempt to adjudicate with reference to the rights of these users without letting the users know a thing about it. Certainly that is not the law. You must give some stability to the Grazing Act. The President of the United States declared it was for the purpose of protection of the soil and to stabilize the livestock industry. How are you going to stabilize the livestock industry under such a set-up as you have here, with two departments seesawing over them with utter disregard of the rights of the occupants? That is exactly what we have.

So I make that point to this committee, that if they are not satisfied with the definition of these terms as thus far established by the courts, then let the committee define the rights of an occupant of the

public range. Certainly, they have rights. Judge Stevens compares it with a water right. I think that is the best comparison you can get. It is a substantial right. You cannot come along, day after tomorrow, or some other time, and revoke that right. It must be something substantial; otherwise—take these boys out here; I will enumerate them to you. The Taylor Grazing Act provides department heads may get together and agree upon policy. They cannot agree upon a policy and put these men out on an area and permit them to go out and spend their money and develop that area for a week, or for a day. It must be a policy that will stabilize. That is the purpose of the act.

So when these men got together with this agreement of March 4, 1940, what did they say? They said, "Livestock men, go out now. The Taylor Grazing Administration, the Taylor grazing fellows, are going to administer this act. You have preferences by reason of your location here; you have preferences by reason of your investments, you have preferences by reason of the law which has recognized a right that existed from time immemorial. You go out upon that land, it is yours." Having thus agreed, they come along here weeks or months later and say, "We gave you nothing, get off. I'll take Smith off and give it to you, or I will take you off and give it to Smith." That is exactly what they proposed in amending that line-up. They are not taking into account either the giver or the taker, not taking into account those things. The straw bosses get together and regulate this thing but the right does not vest in them. The right vests in the users of this range under the Taylor Grazing Act; that is where it vests and certainly the Congress of the United States, if the question is still in doubt, should define those terms.

So, I say that if the Secretary of the Interior ever had a right under the act of 1927 or the act of 1934 to make withdrawals he lost that by reason of the fact that he permitted his straw bosses to go in here and compromise that situation and cause these men to go out on the public domain and build up their improvements and stabilize their industry. That is what it means.

The CHAIRMAN. Do not the rights of your users date back farther than that so called agreement? It goes way beyond that. I don't believe the agreement was so weighty to be considered in the matter. It seems to me the rights date from use. A right is a thing acquired by use. When you lose the use you lose the right. These rights have the same nature as what we knew in the early laws, incorporeal hereditaments, belonging to the owner of the base property.

You have a new situation under the American system because you have absentee right holders in the open public domain, and that is what you are coming to here. You have men living far remote from the domain in question but who have used it by travel, depending on seasonal conditions and the like, traveling great distances to use it for a season, and then they drift back again. You have those particular rights that you have to consider in here because if you base your rights exclusively on the land that is now in the ownership of the Indians, and that was formerly in the ownership of the whites in this area involved, then you have far more land, far more territory than is anywhere near utilization. You are now coming to the question of those who use and those who have from early years used that domain,

although they are not residents nor base landholders in the domain itself.

Mr. PATTERSON. That is right. We have had, though mentioned here, Mr. Chairman, that the stranger coming in here monopolizing this land—I don't think that obtains in this particular district. I think they are referring to the Smiths. We will show you that the base property comes up to this line, here, and show you other base property, outside of those lines, whose permits are granted within the area. Of course, these questions are administrative questions; but when the Grazing Division has agreed upon this, through the cooperation of the local boards, and through the cooperation of all interested parties, and they say, "John Smith, you have this right," that has been adjudicated, and that is their right; and I am not trying to go behind that adjudication. But I am trying to give it some sense, trying to define this right, so we will know how to deal with it.

The CHAIRMAN. The trouble, Mr. Patterson, in this case, is, as the chairman views it, right now you are going to have to deal with some rights that have not been adjudicated, but that do, in all probability, exist by reason of long years of use. The actual use of the facilities is the thing that determines the right.

Mr. PATTERSON. But in the adjudication, as based upon that use, you cannot very well go behind it.

The CHAIRMAN. Of course that brings it to a finality.

Mr. PATTERSON. That is right; and I say it is final as far as the Grazing Division is concerned, as far as the Indian Office is concerned, and the Secretary of Interior is concerned. So far as Congress is concerned, they cannot affect these vested rights. We are going to be in the predicament of these poor devils up here in Wyoming and Montana. Is it possible they can go up there and pick a man up, after he has spent his life's blood and his own earnings there, and move him out? Certainly that was not the spirit of the law and not the intention of the law. This thing must be stabilized. What do they mean when they say the purpose of this act is to stabilize the livestock industry? What does the President mean when he says it is the purpose of the act to stabilize? I emphasize the word "stabilize" to present this problem.

The CHAIRMAN. I think, Mr. Patterson, and I don't want to interrupt you, I think you could, with some degree of propriety, rest upon the knowledge that this committee has, based on experience and training and whatever knowledge we may have—we have to apply it to facts and I respectfully suggest, notwithstanding your argument, all of which we see and visualize, that we must have some facts. Theory we know, but the facts we must get. So I respectfully suggest that you prepare, and present to the committee as promptly as possible, the facts that will bear out your theory of the law.

Mr. PATTERSON. Very well. Now, yesterday my statement here may be slightly argumentative, as compared to the evidence given by Mr. Wright. However, I expect Mr. Wright and Mr. Moore—I know that Mr. Moore is the best grazing man they have had in Utah since the organization of the law, but now I will give you the names of those who have permits upon this area. It was stated yesterday, there were a few Smiths in there outside of the Indians, three Smith families. They are three brothers, and each of them with fairly good sized families; each of them were zealous, competent, energetic, industrious,

not associated together, except in a general way. Each owns their own outfit; about 10 or 12 individuals. If the sheep were divided up, according to actual ownership, they might have about 1,500 head each. But within that area we also have Louis Thorne—

Senator MURDOCK. Which area, within the black and green lines?

Mr. PATTERSON. Yes; then we have Marvin Broom, V. Johnson, O. H. Nielsen, Clive Sprouse, Bert Smith, Butters and Smith, M. A. Smith, Emory Smith, Blanche Smith, Dave Smith, Dave Seeley, Adair Tyzack, Steve Cheturas, Dommenick Erymande, Royal Smith, A. H. Smith, Est., Epr Burchell, Roy Bartholemew, and perhaps others. There are about 18 to 24 users of that area, and if their cattle were transposed into sheep there would be between twenty-five and thirty-five and forty thousand sheep. I take it you can get that specific information from the record which the Grazing Division will furnish.

The CHAIRMAN. That is what I called for this morning, and drew the attention of Mr. Leech that it had not gone into the record. How many livestock, of several kinds, have been using that range?

Mr. JOHNSON. That record is available now.

Mr. LARSON. The record he speaks of was for the past grazing season; and the other record that you called for will be here in a few minutes.

The CHAIRMAN. Pardon me for interrupting you. The records should go in at this time, perhaps after you make your statement.

Mr. PATTERSON. Now, then, as compared with the expenditures shown here by the Department, for the benefit of these Indians—I think it was around \$290,000—we will show that the expenditures, and I believe the record further shows that Indian rights approximating 35,000 sheep, that is, if they are cattle rights and were transposed into sheep rights, it would be around 35,000—as I recall, Mr. Wright's testimony; that is, that there is one thing that we call the Grazing Division's attention to, that we question their statement that they have twelve or thirteen hundred head of cattle. Now, as against those expenditures, in order to run fifteen or eighteen thousand head of sheep, the Smith brothers have spent in excess, or right around, three-quarters of a million dollars, and that all of these other users of this range have expended accordingly. That they own in excess of 100,000 acres of land in their own rights. They have purchased that land to fill out a year-around grazing unit.

Mr. WRIGHT. How many men own that much?

Mr. PATTERSON. The three Smith families.

Mr. WRIGHT. Three men?

Mr. PATTERSON. No; twelve or thirteen of them.

Mr. WRIGHT. That would be 8,000 acres average for each man.

Mr. PATTERSON. Taking them in a group, altogether—

Mr. WRIGHT. I am comparing it with the Indians, the Indians having an average of 300 acres of this.

Mr. PATTERSON. Well, if you feel that you were rooked in the purchase of these lands—

The CHAIRMAN. Now, gentlemen, let us avoid these little shots at each other. I'll do the shooting.

Mr. PATTERSON. They attempted to say here yesterday that they were deceived in this matter, and I don't think they were.

I think perhaps from here out we can use our witnesses, Mr. Chairman.

Mr. LEECH. Mr. Chairman, I will have Mr. Larson, the district grazier, read that report into the record and then turn it over to the reporter.

**STATEMENT OF L. WAYNE LARSON, DISTRICT GRAZIER, DUCHESNE
GRAZING DISTRICT, VERNAL, UTAH**

Mr. LARSON. The tabulation that I have here is a record of the licenses issued in unit G for the summer season of 1942, and the winter season of 1942-43.

The CHAIRMAN. That is licenses issued, and it gives the names of the parties?

Mr. LARSON. Yes, sir.

Roy Bartholomew, 20 cattle from May 1 to October 31, 1942, or October 31. E. S. Birchell, 15 cattle, from May 1 to October 31. Lafe Bown & Sons, has winter use of 5,000 sheep from November 1 to May 1.

Mr. WRIGHT. May I ask whether they are inside of the described area there?

Mr. LARSON. Lafe Bown's would be partly in and partly out, mostly outside of the area of the green line there.

Mr. PATTERSON. But he has one herd entirely within, of about 2,000.

Mr. LARSON. Five thousand; that would be off and on.

Mr. WRIGHT. Just on for watering purposes, isn't it, Mr. Larson?

Mr. LARSON. The allotment he has in there would go back across that line, in about three or four places, but the bulk of his allotment is outside of that green area.

Mr. LEECH. Mr. Larson, you have a map available, do you not, showing those?

Mr. LARSON. Yes, sir.

Mr. LEECH. That can follow this presentation.

The CHAIRMAN. Very well.

Mr. LARSON. Jack Brewer, 180 cattle, 10 horses, for the summer season. These are all for 6 months' periods, either winter or summer, and it would shorten the time if I just stated that.

The CHAIRMAN. Very well.

Mr. LARSON. Marvin Broome, 180 cattle for the winter season. Steve Cheturas, 1,350 sheep, from November 16, 1942, to April 15, 1943—that is shorter than the regular winter season. J. L. & M. L. Downard, 90 cattle for the winter season. That is 50 percent use in this unit, and 50 percent use in grazing district 7.

Mr. WRIGHT. May Mr. Larson tell, while he is reading these, whether they are inside of that area under discussion?

The CHAIRMAN. Of course, the presumption was that this was a presentation of rights within the area.

Mr. WRIGHT. Part of unit G is outside of this area, and that is why I asked that might be stated.

The CHAIRMAN. Part of unit G is outside of the area?

Mr. WRIGHT. Outside of the green line; yes, sir.

The CHAIRMAN. There seems to be an adjustment of those lines that has never been agreed upon by anybody, as far as the committee knows, up to date. We had the black line first, then the green line. Yesterday there was presented another set-up that had entirely different lines.

Mr. LARSON. I will explain those that are not licensed fully within the green and black lines.

Senator MURDOCK. With reference to the last one you read, as I understood you, you said they had 6 months within this area and 6 months in another grazing area?

Mr. LARSON. Yes, sir; in grazing district 7, across the river to the west.

Senator MURDOCK. That is a 12-month operation?

Mr. LARSON. Six months in this unit, and the other part in unit 7. In this particular case, he crosses on the ice during the wintertime, back and forth.

Dominique Eyhermandy, 1,500 sheep for the summer season and 1,315 sheep for the winter season. Alfred L. Johnson, 150 cattle for the winter season. O. W. Neilson & Sons, 50 cattle for the summer season and 45 cattle for the winter season. D. R. Seely, 1,800 sheep from December 1 to May 1. Albert Smith Investment Co., 2,500 sheep from November 15, to April 1. Blanche, Moroni, and Emory Smith, 2,500 sheep from November 1 to April 15. David G. Smith Estate, 4,500 sheep from December 1 to April 1. Louis Thorne, 150 cattle for the summer season and 150 cattle for the winter season. Sarah Hackford, 1,500 sheep summer season and 1,500 sheep winter season.

Mr. PATTERSON. What was that name?

Mr. LARSON. Sarah Hackford. This is an Indian.

Mr. PATTERSON. Are some of these Indians?

Mr. LEECH. Beginning right now, you are reading the Indians.

Mr. LARSON. I have read one that is an Indian license.

Mr. JOHNSON. Who is that?

Mr. LARSON. Dominique Eyhermandy. He has Indian grazing privileges.

Mr. PATTERSON. Is he an Indian or Spanish?

Mr. WRIGHT. Frenchman.

Mr. PATTERSON. He should not be classified with the Ute Indians for the purposes of this tabulation.

Senator MURDOCK. The Indians you refer to now, I assume, are Indians that own, individually, their own base property. Is that right?

Mr. LARSON. I cannot—

Mr. WRIGHT. Well, he has only read one, Sarah Hackford. She, individually, owns her own base property; yes, sir.

Senator MURDOCK. And has been awarded a grazing right, under the Grazing Act formula? I want to develop this. If I am right in my assumption, it is that there are some Indians who own their own base property, and who have been awarded grazing rights, under the Taylor Grazing Act, the same as a white operator. Is that right?

Mr. LARSON. That is right.

Senator MURDOCK. Is that so in the Sarah Hackford case?

Mr. WRIGHT. Yes, sir; that is right.

Senator MURDOCK. Is that right, Mr. Larson, that Sarah Hackford has been awarded a grazing right, under the Taylor Grazing Act, the same as a white operator?

Mr. PATTERSON. What number has Sarah Hackford?

Mr. LARSON. Fifteen hundred sheep.

Mr. JOHNSON. Isn't it a fact that Eyhermandy leases Indian property, and he has had a license issued, using the Indian property as base?

Mr. WRIGHT. He is one of the lessees. We took over from A. M. Myrup; it was a 5-year lease, and we considered it an existing right, when it was purchased. This Frenchman was leasing from A. M. Myrup, and the 5 years are not up yet, and he occupies the base property that Myrup formerly owned, and gets a license from the Grazing Service on the base.

The CHAIRMAN. The title has passed from Myrup to the Indians?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. You recognize the lease as binding, and carry it over?

Mr. WRIGHT. Yes, sir.

Mr. LARSON. The Ouray Cattle Association have 430 cattle, 55 horses, 280 sheep, for the summer season; and 850 cattle, 55 horses, 2,400 sheep, for the winter season.

Senator MURDOCK. That is an association?

Mr. LARSON. That is an association of Indians; yes.

Mr. PATTERSON. May I ask a question there? That is a use permit, without use, isn't it? They don't actually have that number of stock?

Mr. LARSON. Yes; from the reports that we get, I think they have that number; possibly a few more.

Mr. JOHNSON. Is this permit based on any land purchased from the whites by the Indian Department?

Mr. LARSON. This license has been issued since 1935, and is based on allotments, as I understand it, near Ouray; Indian allotments.

Mr. WRIGHT. My understanding is that it is based on that clause, in the 1935 agreement, which said that Indians should be issued licenses regardless of their technical commensurability.

Mr. JOHNSON. Mr. Wright, are any lands included as base property, in this license issued to the Ouray Cattle Association, which you purchased from the whites?

Mr. WRIGHT. Yes; quite a long list of them.

Mr. JOHNSON. In other words, you are receiving licenses, based upon this property, which you purchased in unit G from the whites.

Mr. WRIGHT. Mr. Wagner can answer that better than I can.

**STATEMENT OF JOE A. WAGNER, ASSISTANT RANGE EXAMINER,
UNITED STATES INDIAN SERVICE, UINTAH AND OURAY INDIAN
AGENCY, FORT DUCHESNE, UTAH**

Mr. WAGNER. We have, in the past, attempted to show that the Indians were using their base properties for their licenses, and at the same time to get a nonuse license on part of the property. Under that, what we were trying to do, was show that if an Indian family had 100 head of cattle, and they settled on one of the properties, that had a priority, or a base, built up, of 200 head, we asked for a 100 head, active head, and the 100 head nonuse.

Mr. JOHNSON. However, that does not answer my question. Is this license, granted to the Ouray Cattle Association, based upon any of the properties which you purchased from the whites? That is, the Taylor lands, or the Myrup lands?

Mr. WAGNER. I believe I can answer your question this way; we try to take base property, and the Indians living on that base property apply for the license. The Ouray Cattle Association used their 1935 agreement, and those allotments that they had used on their first application.

Mr. JOHNSON. Then the Taylor property and the purchased property was not used by the Ouray Cattle Association?

Mr. WAGNER. No; they were not.

Mr. LARSON. We have one more, the Sibelb Bros., Indian license, 35 head of cattle for winter use.

The CHAIRMAN. Are those Indians?

Mr. LARSON. Yes.

The CHAIRMAN. What is the total number of cattle there, for which licenses are issued, in that unit G? What is the total number of the cattle, and total number of sheep, for which licenses have been issued in unit G?

Mr. LARSON. I haven't that total, Senator.

The CHAIRMAN. It might be well if we had that.

Mr. LARSON. There is one I probably missed, H. A. Tyzack, 1620 sheep for the winter season.

Mr. PATTERSON. Did you mention Mr. Thorne?

Mr. LARSON. Yes.

The CHAIRMAN. Is there anyone here who has the permits or licenses, issued by the Grazing Service to the predecessors in interest to the Indians, on the red lands?

Mr. LEECH. That is being prepared now, Mr. Chairman, and it will be here shortly.

The CHAIRMAN. That, to my way of thinking—I speak as an individual—is exceedingly important in this whole matter, because, looking back, as I stated yesterday, it seems to me that this matter can be solved with a considerable degree of equity and fair play, if the Indians are given the commensurate rights which their predecessors in interest would have if they were now the owners and on the land. I think that you should forget all about color and race, and everything else. Supposing that a colonization outfit moved in, a group of Portuguese, say, moved in, and said, "We are going to colonize that, and we are going to buy these lands"? I think they would go about it more systematically and thoroughly than the Indian Service did. In other words, find out what they were going to buy, before they bought it; find out what rights those lands held on the open public domain. It seems to me that the Indians are entitled to the same situation. That is my individual view—they are entitled to the set-up; in other words, entitled to the same rights on the open public domain as their predecessors in interest were, or would have been entitled to. When you say that, it seems to me you have said it all. That gets down to the other proposition; I cannot, for the life of me, see why this problem is brought to a senatorial committee; why it has not been thrashed out and settled up a long time ago, by the two bureaus, the Grazing Service and Indian Service. If some of these bureaus would shake hands once in a while, and get together, it would save a lot of time.

Senator MURDOCK. I am in full agreement with your statement, Mr. Chairman.

Mr. JOHNSON. Mr. Larson, does that list of the licenses, and the numbers you have just read, disclose to this committee the hold-over licenses granted the Indian department by the Division of Grazing?

Mr. LARSON. No.

Mr. JOHNSON. There have been hold-over licenses granted at the request of the Indian Service upon lands purchased from the whites in unit G.

Mr. LARSON. I cannot say for sure, on that, although I do recall, in the records, or, in going through the records, where some were issued, but I think they were on the purchased property.

Mr. JOHNSON. If those hold-over permits were made active, it would tend to cut down each and every licensee within the area, in numbers.

Mr. LARSON. Undoubtedly it would affect the licenses there.

Mr. JOHNSON. The Indian Service has service through hold-over licenses.

The CHAIRMAN. Before you go too far into that the committee would like to know what hold-over licenses are.

Mr. JOHNSON. Where the individual has no cattle, he has sold his lands, his commensurate rights are for a thousand head of sheep, but he has only 500.

The CHAIRMAN. That is a nonuse.

Mr. JOHNSON. That is right, nonuse. However, this indicates that the Indian department does have nonuse licenses.

The CHAIRMAN. That was explained here a moment ago, by the gentleman who is now testifying. In other words, he used an illustration, if an Indian had a hundred head of cattle, and the base had been accustomed to serving 200 head of cattle, that the Indian would get a use permit for a hundred and a nonuse permit for a hundred. That is not unusual; that is practiced in many places.

Mr. PATTERSON. But it adds on to the total.

The CHAIRMAN. Of course, it adds on to the total, because it is an even balance to the open public domain. There is no question about that.

Mr. JOHNSON. This indicates, however, that the Indians have been granted nonuse permits and have been entirely protected.

The CHAIRMAN. Here is another thing in that nonuse permit; doesn't your range code, and your local agreement, cover that with a limitation?

Mr. LARSON. Yes, sir.

The CHAIRMAN. You have a limitation as to the length of time that a nonuse permit will be in existence. What is it; 2 years?

Mr. LARSON. Two years.

Mr. PATTERSON. That does not apply to Indians; does it? You can see the hazards of nonuse permits, as far as the Indians are concerned; they are not required to pay anything.

The CHAIRMAN. I didn't know anything about that; never had that brought to my attention before.

Mr. LEECH. Provision was made, Mr. Chairman, for the issuance of nonuse licenses, or permits, with a 2-year limitation, under the new code. However, showings can be made, and the actual conditions and facts that govern the particular nonuse permit, we take into consideration. We consider many things in that—climate, weather conditions, conditions of rain, the economic situation as to the length of time this nonuse would be in existence.

The CHAIRMAN. Under the new code, or the old code, what do you take as a basis for your nonuse consideration? In other words, do you say, "Well, this property did have and did carry at one time 200 head of cattle; the owner is now cut down to 100 head by reason of certain conditions; at one time it did have 200 head, therefore, we will grant a nonuse for 100 head"?

Mr. LEECH. That is correct.

The CHAIRMAN. Or do you take this other angle, and say, "This property would carry 200 head, but it never did have 200 head, and they only have 50 head now. Let him hang on indefinitely for 50 head nonuse"?

Mr. LEECH. He would be limited to the 50 head, Senator, because he was not qualified with more than the 50 head.

The CHAIRMAN. That is right. That seems to be in conformity with the general practice.

Mr. LEECH. That is the general practice.

The CHAIRMAN. Do you apply your base period applications to these Indian lands?

Mr. LEECH. The period of 1929 to 1934, the priority period, would apply to those lands, but they would be limited to the commensurate rating of those lands. We were perfectly willing to rate those on their commensurate ratings.

The CHAIRMAN. I don't know whether this statement is proper at this time, but I will make it anyway and take a chance on it.

It has never been my view that any great consideration, from the standpoint of use commensurability or the base period application, should apply to an Indian any more than it would apply to a white man. In other words, if, under the program that has been carried out here for the last 10 years, Indians, through the Indian Service, would purchase lands that had formerly been used by white settlers, they should be chargeable, with notice, before they purchase those lands, notice as to what the carrying capacity on the open public domain is, of their respective units to be purchased. I don't think any great consideration should be given to the Indian after he purchases; that is, any greater consideration than was given to the white man before he sold. I think the Indian, or the Indian Service, should be chargeable with notice, should know that land has been allotted a certain right on the open public domain, and that is all they are going to get. If you go otherwise than that, Mr. Leech, you go into a field that is just too unfathomable; you cannot come out with any system at all.

Mr. LEECH. The way all of these properties look to the Grazing Service, they are so much property.

The CHAIRMAN. That is all right; that is what I mean; that brings it back again to the proposition. I am talking too much again. I'll quit talking now. That brings us back to the proposition that I took up with my friend here yesterday, of the Indian Service. In other words, they were chargeable when they purchased these lands, chargeable with this notice that those lands had a certain carrying capacity on the open public domain, and no more; and they should have gone on the records, and, if the records were available, should have gone to those records and fortified themselves. With that in mind, well, if they did not, then they bought something that is a cat in the bag, as I said yesterday.

Mr. WOHLKE. May I state, Mr. Chairman, that is exactly the procedure that we followed. We consulted the records and asked the Grazing Service as to the licenses that were issued to these particular properties, and we ourselves estimated the carrying capacity of it, the productive capacity of the base property; and estimated the carrying capacity of the rights on the public domain. On the basis of all of these facts, which we would like to present by and by, we made our purchases. Subsequently we requested, in view of the depleted and overgrazed condition of the range in there, that we be issued nonuse licenses, in order to give the range a chance to be rehabilitated and to come back.

The CHAIRMAN. On the face of that, here is what you have come to now; you have requested an order for an absolute withdrawal of this whole territory; you have not only asked for the rights that you say you recognized as belonging to those properties before you bought them, but now you want those rights, and you want the rights of everybody else cut off, by this Executive order. That is what you are clamoring for now.

Mr. WOHLKE. Mr. Chairman, I do not quite agree with the suggestion that we want to cut off any other rights of white people within that area; that is supposed to withdraw——

The CHAIRMAN. You're asking for the withdrawal of everything inside that black line, using that black line for convenience.

Mr. WOHLKE. It is a fact the withdrawal now was covered by the withdrawal of 1933.

Senator MURDOCK. Still in existence?

Mr. WOHLKE. Yes; that is withdrawn now.

The CHAIRMAN. How does it come these people have rights in there?

Senator MURDOCK. It was withdrawn subject to valid existing rights.

Mr. WOHLKE. What really happened was that after the Grazing Service, the Division of Grazing, took over the administration of the entire area, including this area, that within the green lines, they were to administer that particular area, temporarily, until the legislation that had been agreed upon in 1935 could be passed.

The CHAIRMAN. That legislation, if it were passed, the legislation which is now pending in H. R. 837—what would that do to the existing rights of the white people?

Mr. WOHLKE. It would not do anything whatever. Existing rights would still be there, and we would have to recognize them. The question comes down to what are the existing rights, and so far as we can judge, a great many of the sheep that were dislocated in Colorado, because of the formation of the district there and the application of the Taylor Grazing Act, were then shunted into this area especially for the winter grazing. Later, our friends, the Smith family, who had claimed rights outside of this area, but still in district 8, were arbitrarily shifted by the Grazing Service from outside of this area, where they were customarily grazing, into this area which they had not utilized before. And now, as I understand Mr. Patterson's claim, that since they were shifted into this area, where they had no prior use, under the Taylor Grazing Act provisions, they have established certain rights, vested rights, as he claims, in unit G.

Mr. PATTERSON. I think you misunderstood——

The CHAIRMAN. Let me interrupt you right there. Isn't it true that the Indian Service, your office, is now trying to establish exclusive rights to the use of the public domain within the black and green lines, to the exclusion of all whites?

Mr. WOEHLEKE. No, no; we are not trying to do that. It is subject to all valid existing rights.

Senator MURDOCK. Now, Mr. Leech, if I may interrupt right there, is the statement of Mr. Woehlke true, that when the Smith people, as I understand his statement, were crowded out of certain grazing areas in Colorado——

Mr. WOEHLEKE. No; district 8.

Senator MURDOCK. I mean district 8. They then were shifted into this unit G; that is, into the area within the black and green lines. Is that true, Mr. Moore?

Mr. MOORE. Of course, I was not here at the beginning. I think Mr. Smith could answer that, whether he had been using this area there previous to this time or not.

Mr. MORONI SMITH. Yes; I will take that up when I go on the stand. If you would just as soon, I would say "Yes."

Senator MURDOCK. Well, here is a statement made by Mr. Woehlke. If you agree with him, that throws an entirely different light on the thing, to me.

Mr. PATTERSON. Mr. Smith has been there since 1912, continuously, within this area.

Mr. WRIGHT. Within the green lines? Do you claim that, Mr. Smith?

Mr. SMITH. Yes, sir; since 1912; that area up there, unit G; and we grazed in common, unit G, and have just east of it. We crossed the river from the west side. That is the first place we landed, in unit G. In order to get room, we had to extend over beyond those black and green lines, some 12, 15 lines over to them other creeks. Myself, I am speaking for my ownself, and we come back on to this other in the spring. We just took it, took the feed for all the other livestock and my own, to take care of that area, of all the feed on those two areas, to take care of the livestock that was on them at that time.

The CHAIRMAN. Boiling that down to a point, Mr. Woehlke, do you recognize the rights of stockowners, or stockgrazers, in unit G, outside, other than the Indians?

Mr. WOEHLEKE. Yes.

The CHAIRMAN. Do you recognize the Smiths' rights in there?

Mr. WOEHLEKE. No.

The CHAIRMAN. Do you recognize the rights of these other men whose names have been mentioned here by the graziers?

Mr. WOEHLEKE. No; that is, not those like Chuturas, Tyzack, Crawford, Seeley, and so forth.

The CHAIRMAN. Do you recognize those?

Mr. WOEHLEKE. No.

The CHAIRMAN. How many do you recognize out of the number mentioned by the grazer?

Mr. WOEHLEKE. Mr. Chairman, at the present time that area is administered by the Division of Grazing, and all we can do is to protest

against their actions in granting licenses to people who, according to the facts in the case, are not entitled to a license therein.

The CHAIRMAN. How many do you protest? How many of the licensees do you recognize as entitled to licenses or rights, and how many do you protest? I think that will boil it down.

Mr. WRIGHT. I think, to be as accurate as possible, we protested three and questioned two. Two of the Smith family outfits and three from Colorado. We protested three and questioned the other two. These other small users we have never protested, to my knowledge.

Senator MURDOCK. May I read section 3, Mr. Chairman, of the proposed bill, H. R. 837?

The Secretary is hereby authorized and directed, subject to any valid existing rights to establish an Indian Grazing Reserve within the boundaries of Utah Grazing District No. 8 by selecting and setting apart public lands adjacent to the base properties of the Indians of the Uintah and Ouray Reservation for the exclusive use and benefit in common for the said Indians.

Now, if I understand your construction, it is that you do recognize some of the rights that have been referred to as existing valid rights.

Mr. WOHLKE. We would have to, of course.

Senator MURDOCK. Which would have to be honored under this law. Of course, when you get down here to " * * * For exclusive use and benefit in common for the said Indians," it is ambiguous as to how it can be exclusive and at the same time recognize rights. It is a little difficult for me to understand.

Mr. WOHLKE. That particular bill has not come to the attention of the Department; no request for a report has been made.

Senator MURDOCK. This is the same bill that Robinson introduced, on the request of the Indian Office, during the last Congress. It was requested.

The CHAIRMAN. I don't think you should take that attitude, Mr. Woehlke. This bill has been before Congress; your Department has considered it. You tried to urge it through the last session of Congress. I think you ought to be fair with the committee. This thing of jockeying around, saying no report has been called for—this bill has been before Congress for a number of years. I don't like that attitude, to be frank with you. I want to know something; isn't it true that the only rights you recognize within this area, or propose to recognize, are mineral rights?

Mr. WOHLKE. I believe that the mineral rights were not—weren't they reserved to the United States by the terms of that bill?

Senator MURDOCK. Here is the provision on that:

The establishment of such a grazing reserve shall not restrict prospecting, locating, developing, mine entering, leasing, and patenting the mineral resources in such reserves under the mining and leasing laws applicable to the public lands of the United States.

That is one of the things that I insisted on in the legislation which, to my mind, should still be protected.

Mr. WOHLKE. Was not that same provision in the original bill which would have added that area to the Uintah-Ouray Reservation?

The CHAIRMAN. Mr. Woehlke, what do you mean in your interpretation? What do you mean by a "valid existing right"?

Mr. WOEHLEKE. A right which has been established through customary prior use and which has been recognized in the past as attaching to any particular area within that territory.

The CHAIRMAN. Let's get at this a little bit more, and see if we can get somewhere. Supposing that the Grazing Service, also a bureau in the Interior Department, were to establish the grazing rights on this area, unit G. That is, both as to the Indians and as to the whites based on the range code, and on everything else that they apply ordinarily to an ordinary case. Would you, without further comment, accept that? I am speaking now of you, as a representative of the Indian Service—when I say "you" I mean the Indian Service.

Mr. WOEHLEKE. The kind of a determination that was made under the present version of the range code is exemplified by the property survey and the compilation made by Mr. Jenson, for instance.

The CHAIRMAN. I don't know about Mr. Jenson, that was a way of presenting it. My question goes directly to this, you have the Bureau of Grazing set up within the Interior Department; you have the Indian Bureau set up within the Interior Department, coexistent, coexisting within the Interior Department. Now, the Interior Department looks to the Grazing Division to determine grazing rights; they have set up their codes and established regulations. If they were to say, "We will adjudicate the rights of whites and Indians within that area G," would you accept that adjudication and be ruled by it?

Mr. WOEHLEKE. May I answer that question, Mr. Chairman, in this way: As you stated before, that measure of the right of a ranch property to the use of the public domain should be that customary use which has been made and which has been established, so that it is our contention that on that basis we bought the base properties in that area, and with that base property we acquired and paid for, with the advice of the Grazing Service as to the commensurability of those properties at that time, the rights to the use of the public domain. We paid the price to cover that commensurability, as established at that time, and upon that basis we feel that we are entitled to that use of the public domain that was established at the time of the purchase, or in 1935, or during that period, and minus, perhaps, certain deductions in order to bring the stocking down to the estimated carrying capacity.

The CHAIRMAN. Now, as I understand it—either you or the Grazing Service will correct me if I am wrong—as I understand it, that was practically the study presented to us yesterday by Mr. Jenson.

Mr. WOEHLEKE. No; I hate to disagree with the chairman, but that was not produced at all. That was purely a rating of the base properties as to the productivity and an estimate of what that productivity would entitle them to as a year-round operation on the public domain. For instance, at the time when we acquired the base property the ratio was 3 months production for use on the base property and 9 months on the public domain. Under the Jenson computation, that ratio has been shifted, and it is now a 40-percent on the base property and 60 percent on the public domain, or a different ratio which cuts down the public domain privileges.

The CHAIRMAN. I take your analysis to mean this; you're not willing to accept the decision of your brother department.

Mr. WOEHLEKE. That particular compilation was presented to the Assistant Commissioner and to the Chief Forester of the Indian Service here last April, and they refused to take any action upon it.

The CHAIRMAN. Supposing, let's take a homely case. Supposing that I, as an individual in the stockgrazing business, had gone in there and purchased the lands along those creeks. I would be bound by the decision of the Grazing Service, wouldn't I, as to my rights on the open public domain?

Mr. WOEHLEKE. Yes.

The CHAIRMAN. Why should you take any different position from what you would apply to me as an individual?

Mr. WOEHLEKE. Because of the circumstances under which the original agreement in 1935 was entered into.

The CHAIRMAN. All right; that is your only reason, that is the only difference. Is that right?

Mr. WOEHLEKE. We proceeded, Mr. Chairman, on the basis of delimiting the area geographically at that time. That was the basis and everybody agreed to that basis. It was then proposed to erect this particular geographical area as an addition to the Uintah Ouray Reservation, provided we would go in there and buy out the private owners of lands and that then the area would fall under the administration of the Indian Service.

The CHAIRMAN. But you heard the testimony here yesterday as to the atmosphere that surrounded the making of that agreement, and then you have the outstanding feature, you are threatening with withdrawal of vast acreages, and so on and so forth, all of which enters into the spirit of that agreement; and you must not lose sight of that, and the committee is not going to lose sight of it. The committee is going to try to aid you in getting a fair solution of this thing, as best we can. We hope to be able to do it; we think it could be done. I am speaking now frankly. I think it could have been done a long time ago, if you would sit down with the Grazing Service, and have more confidence in the Grazing Service. I think the Grazing Service by and large, with minor exceptions here and there, is doing a pretty fine job of organizing the open public domain. If you would be governed by their efforts—the trouble with you is that you don't want to trust your codepartment. You want to set up a dynasty of your own in here.

Mr. WOEHLEKE. The Grazing Service were to administer the entire area and also the area in green there, temporarily, and all decisions, and actions affecting administrative policy in that area would be subject to the concurrence of the Commissioner of Indian Affairs.

The CHAIRMAN. Yes.

Mr. WOEHLEKE. We maintain that that agreement set that area apart from the rest of the district, and that we were entitled to a voice in the administrative decisions that were made in there. We have exercised that voice in the proposed adjudication of the commensurate rights.

The CHAIRMAN. Carry that to its final conclusion. If you do, then you will do exactly what I think you want to do, and that is that you will set this area, up inside of the black and green line, as an exclusive

area for the Indians to use, to exclude the whites. I think that is the ultimate end you are now discussing. In other words, the Grazing Service can apply all of their technicalities, their rules, and range codes, and, when they get through, the Commissioner of Indian Affairs will say "No," and keep on saying "No," until finally you have that whole area set up and the whites excluded from it. If that is your object, it does not impress the chairman as having that spirit of fairness that I like to see in range matters. The reason for that is, this country lives on agriculture, largely, and livestock raising is a part of agriculture. Indians have to be taken care of, and must be taken care of. But they must not be taken care of to the exclusion of the whites, or better than the whites. No one class should be set up against another. You agree with me that much, don't you?

Mr. WOELKE. Certainly.

Mr. LEECH. Mr. Chairman, Mr. Larson has the totals, and also is in a position to give you the licenses in connections with the purchased property.

The CHAIRMAN. Before the licenses—

Mr. LEECH. The licenses from the beginning of the Grazing Service.

The CHAIRMAN. I think that might go into the record, please. You are reading now the licenses issued to the original owners of the purchased property?

Mr. LARSON. I will read first to complete the record on the present licenses of operators in unit G. For summer use there is a total of 3260 sheep and 918 cattle and horses. For winter use, a total of 1,525 cattle and horses and a total of 22,420 sheep.

Mr. PATTERSON. Have you transposed all of that into sheep?

The CHAIRMAN. Do those include the Indian owners and the white inhabitants?

Senator MURDOCK. That is for the season, '42-'43, the summer of '42 and the winter of '42-'43?

Mr. LARSON. Yes, sir.

The CHAIRMAN. Will you give us, if you please, the licenses that were issued prior to, or at the time of, the purchase of the property, the base property by the Indians?

Mr. LARSON. Well, there is a record of the licenses issued to owners of the purchased properties.

The CHAIRMAN. That is, the predecessors of the Indians?

Mr. LARSON. That is right.

The Bown Livestock Co., we have no record of licenses being issued to them. Apparently that property was purchased before or taken out of the picture before licenses were issued in 1935 and '36.

The Albert Blank property, 1936, 1937, 900 sheep, 175 cattle, 15 horses for the summer season of 1936; 810 sheep, 159 cattle, and 13 horses for the winter season of 1936-37. For 1937-38, 159 cattle for the summer season, 810 sheep and 3 horses for the summer season; 159 cattle for the winter season of 1937-38. For 1938-39, 175 cattle, 10 horses for the summer season and the same number for the winter season.

Mr. PATTERSON. Are you still reading for Albert Blank?

Mr. LARSON. Yes.

The CHAIRMAN. That is quite voluminous. I think it would be well to file that in the record. We will have to consider that anyway.

(The tabulations are as follows:)

Licenses issued to operators of unit G for the summer grazing season, 1942, and the winter grazing season, 1942-43

Name	Number	Summer, 1942, use	Federal range	Animal-unit months	Number	Winter, 1942-43, use	Federal range	Animal-unit months
Roy Batholomew, Ouray, Utah	20 cows	May 1-Oct. 31, 1942	50 percent	60				
E. S. Birchell, Ouray, Utah	13 cows	do.	75 percent	68				
Late Brown & Sons, Provo, Utah						Nov. 1, 1942, to Apr. 30, 1943.	75 percent	4,500
Jack Brewer, Ouray, Utah	1180 cows (10 horses)	May 1-Oct. 31, 1942 do.	50 percent do.	570				
Marvin Broome, Ouray, Utah					180 cows	Nov. 1, 1942, to Apr. 30, 1943.	15 percent	1,162
Steve Chuturas, Meeker, Colo.					1,350 cows	Nov. 16, 1942 to Apr. 15, 1943.	100 percent	1,350
J. L. and M. L. Downard, Price, Utah					90 cows	Nov. 1, 1942, to Apr. 30, 1943.	50 percent	270
Dominique Eyhermandy, Ouray, Utah	1,500 sheep	May 1-Oct. 31, 1942	60 percent	900	1,350 sheep	do.	100 percent	1,620
Alfred N. Johnson, Vernal, Utah					150 cows	do.	50 percent	450
Alfred N. Johnson & Sons, Ouray, Utah	30 cows	May 1-Oct. 31, 1942	60 percent	180	45 cows	do.	do.	1,135
D. R. Seely, Pagoda, Colo.					1,800 sheep	do.	100 percent	1,440
Albert Smith Inv. Co., Salt Lake City, Utah					400 sheep	do.	do.	320
Blaine, Meroni, Emory Smith, Salt Lake City, Utah					2,500 sheep	Nov. 15, 1942, to Mar. 30, 1943.	do.	2,250
David G. Smith Estate, Salt Lake City, Utah					do.	Nov. 1, 1942, to Apr. 15, 1943.	do.	2,750
Louis Thorne, Ouray, Utah	150 cows	May 1, 1942, to Oct. 31, 1942			4,500 sheep	Dec. 1, 1942, to Mar. 31, 1943.	do.	3,600
H. A. Tyzaek, Vernal, Utah			60 percent	540	150 cows	Nov. 1, 1942, to Apr. 30, 1943.	50 percent	450
Sarah Hackford, care of C. C. Wright, Fort Duchesne, Utah	1,500 sheep	May 1, 1942, to Oct. 31, 1942	75 percent	1,350	1,620 sheep	Nov. 1, 1942, to Mar. 15, 1943.	100 percent	1,134
Ouray Cattle Association, care of C. C. Wright, Fort Duchesne, Utah	438 cows 55 horses	do.	50 percent do.	1,647	1,500 sheep	Nov. 1, 1942 to Apr. 30, 1943.	do.	1,800
Sibbel Brothers, care of C. C. Wright, Fort Duchesne, Utah	280 sheep	do.	do.	1,647	1820 cows 55 horses 12,400 sheep 35 cows	do. do. do. do.	75 percent do. do. 100 percent	6,234 210
		Total animal-unit months.		5,315		Total animal-unit months.		15,247

Unit G and F.

*Record of license issued to owners of purchased properties, Feb. 17, 1943***Brown Livestock Co. (No record of license issued.)****Albert Blank:**

	900 S	175 C	15 H	5/1/36-10/ 1/36,	100% F.R.	1,850 Aum's.
(36-37)	810 S	159 C	13 H	11/1/36- 4/30/37,	100% F.R.	2,004 Aum's.
	159 C			5/1/37-11/ 1/37,	75% F.R.	
(37-38)	810 S		3 H	5/1/37- 5/ 1/38,	75% F.R.	2,201 Aum's.
	159 C			11/1/37- 5/ 1/38,	100% F.R.	954 Aum's.
		175 C	10 H	5/1/38-11/ 1/38,	150% F.R.	
(38-39)		175 C	10 H	11/1/38-11/15/38,	50% F.R.	648 Aum's.
(39-40)		250 C	10 H	5/1/39-11/ 1/39,	85% F.R.	2,106 Aum's.
		250 C	10 H	11/1/39- 5/ 1/40,	50% F.R.	2,106 Aum's.

D. R. Seely:

		125 C	15 H	5/1/36-10/31/36,	100% F.R.	840 Aum's.
(36-37)		113 C	13 H	11/1/36- 5/ 1/37,	100% F.R.	756 Aum's.
(38-39)		125 C	15 H	11/1/38-11/ 1/38,	50% F.R.	525 Aum's.
		125 C	15 H	11/1/38- 5/ 1/39,	70% F.R.	525 Aum's.

C. Erickson. (No record of license issued.)**I. Kofford. (No record of license issued.)****R. H. Dalrymple. (No record of license issued.)****W. R. Hazelbush:**

(36-37)	350 C	25 H	5/1/36- 6/30/36,	100% F.R.	} 1,500 Aum's.
			9/1/36-10/31/36,	100% F.R.	
	350 C		11/1/36- 4/30/37,	100% F.R.	} 2,100 Aum's.
(37-38)	350 C		11/1/37- 5/ 1/38,	100% F.R.	
	200 C		5/1/37-11/ 1/37,	100% F.R.	} 3,475 Aum's.
		25 H	5/1/37-12/ 1/37,	100% F.R.	
(38-39)	400 C		6/1/38-11/ 1/38,	25% F.R.	} 1,275 Aum's.
		25 H	6/1/38-11/ 1/38,	50% F.R.	
	1,000 S		11/1/38- 5/ 1/39,	50% F.R.	} 1,800 Aum's.
(39-40)	1,000 S		11/1/38- 5/ 1/39,	75% F.R.	
	1,000 S		5/1/39-11/ 1/39,	75% F.R.	} 1,800 Aum's.
	1,000 S		11/1/39- 5/ 1/40,	75% F.R.	
(40)	1,000 S	25 H	5/1/40-10/30/40,	50% F.R.	675 Aum's.

**John C. Ray &
Loran Wilcox**

	2,000 S	300 C	40 H,	5/1/36-10/15/36,	100% F.R.	4,070 Aum's.
		270 C	26 H,	11/1/36-4 /30/37,	100% F.R.	1,776 Aum's.
1936-37						
1937-38	2,000 S		10 H,	5/1/37-7 /1 /37,	100% F.R.	820 Aum's.

Carlos & Loran Wilcox:

1938-39	2,000 S		10 H,	5/1/38-10/15/38,	75% F.R.	1,691 Aum's.
1939-40	2,000 S		10 H,	5/1/39-10/15/39,	75% F.R.	1,691 Aum's.
1940	2,000 S		10 H,	5/1/40-10/15/40,	75% F.R.	1,691 Aum's.

Ray Wilcox:

1937-38	270 C	26 H,	5/1/37-5 /1 /38,	100% F.R.	2,664 Aum's.
1938-39	270 C	26 H,	5/1/38-5 /1 /39,	50% F.R.	1,777 Aum's.
1939-40	270 C	26 H,	5/1/39-11/1 /39,	100% F.R.	} 2,664 Aum's.
			11/1/39-5 /1 /40,	50% F.R.	
1940	270 C	26 H,	5/1/40-10/30/40,	100% F.R.	1,776 Aum's.
1940-41	270 C	26 H,	11/1/40-4 /30/41,	25% F.R.	444 Aum's.

H. C. Goodman. (No record of license issued.)**N. A. Norma, and Lester Taylor:**

1936-37	800 C	20 H,	5/1/36-10/31/36,	100% F.R.	
	720 C	18 H,	11/1/36-4 /30/37,	100% F.R.	
1937-38	720 C	18 H,	5/1/37-5 /1 /38,	75% F.R.	
1938-39	800 C	20 H,	5/1/38-5 /1 /39,	50% F.R.	
1939-40	800 C	20 H,	5/1/39-5 /1 /40,	50% F.R.	4,920 Aum's.
1940-41	800 C	20 H,	5/1/40-5 /1 /41,	50% F.R.	4,920 Aum's.
1941	600 C	20 H,	5/1/41-10/30/41,	50% F.R.	1,860 Aum's.

Non-use

H. Halverson. (No record of license issued.)

Charles Brown:

1936-37	100 S	45 C	5/1/36-11/1/36, 100% F.R.	390 Aum's.
	90 S	31 C	11/1/36-4/30/37, 100% F.R.	294 Aum's.
1937-38	90 S	31 C	5/1/37-4/1/38, 100% F.R.	441 Aum's.
1938-39	100 S	45 C	5/1/38-4/1/39, 50% F.R.	278 Aum's.
1939-40	100 S	45 C	5/1/39-11/1/39, 85% F.R.	364 Aum's.
	100 S	45 C	11/1/39-12/1/39, 50% F.R.	364 Aum's.

A. M. Myrup:

1936-37	50 C	25 H,	5/1/36-10/31/36, 100% F.R.	450 Aum's.
	40 C	25 H,	11/1/36-4/30/37, 100% F.R.	390 Aum's.

Wild Brothers:

1936-37	450 C	15 H,	5/1/36-10/31/36, 100% F.R.	2,790 Aum's.
	400 C	15 H,	11/1/36-5/1/37, 100% F.R.	1,045 Aum's.
1937-38	400 C	15 H,	5/1/37-11/1/37, 100% F.R.	3,735 Aum's.
	400 C	15 H,	11/1/37-5/1/38, 50% F.R.	
1938-39	440 C	15 H,	5/1/38-11/1/38, 50% F.R.	1,830 Aum's.
	140 C	15 H,	11/1/38-5/1/39, 50% F.R.	
1939-40	300 C	15 H,	5/1/39-11/1/39, 50% F.R.	1,890 Aum's.
	300 C	15 H,	11/1/39-5/1/40, 50% F.R.	1,890 Aum's.
	140 C	(¹)	5/1/39-5/1/40, 100% F.R.	1,680 Aum's.
1940	300 C	15 H,	5/1/40-10/30/40, 50% F.R.	945 Aum's.
	135 C	(¹)	5/1/40-10/30/40, 50% F.R.	405 Aum's.
1940-41	300 C	15 H,	11/1/40-4/30/41, 50% F.R.	945 Aum's.
	150 C	(¹)	11/1/40-4/30/41, 50% F.R.	450 Aum's.

L. Blattler. (No record of license issued.)

V. Erickson. (No record of license issued.)

C. S. Thompson. (No record of license issued.)

A. Wardle:

1936-37	150 C		5/1/36-10/31/36, 100% F.R.	960 Aum's.
	135 C	5 H,	11/1/36-1/15/37, 100% F.R.	595 Aum's.
	70 C		1/15/37-4/30/37, 100% F.R.	
1937-38	135 C	5 H,	5/1/37-12/31/37, 100% F.R.	1,260 Aum's.
	135 C	5 H,	4/1/38-4/30/38, 100% F.R.	
1938-39	135 C	15 H,	5/1/38-5/1/39, 100% F.R.	

W. Stevens:

1936-37	100 C		5/1/36-10/31/36, 100% F.R.	600 Aum's.
	90 C		11/1/36-4/30/37, 100% F.R.	540 Aum's.
1937-38	90 C		5/1/37-5/1/38, 100% F.R.	1,200 Aum's.
1938-39	100 C		11/1/38-11/15/38 50% F.R.	80 Aum's.
		10 H	4/15/39-4/30/39 50% F.R.	
1939-40	100 C	10 H	5/1/39-11/1/39, 50% F.R.	440 Aum's.
	100 C	10 H	11/1/39-12/1/39 50% F.R.	
			4/1/40-5/1/40.	
1940	500 C		5/1/40-5/30/40 100% F.R.	500 Aum's.
	500 C		6/1/40-10/30/40 70% F.R.	1,750 Aum's.

W. Asiums. (No record of license issued.)

N. Dalton. (No record of license issued.)

Mr. WRIGHT. Mr. Chairman, may I make one explanation? Take, for instance, the Bown Livestock Co. and A. M. Myrup; the options to purchase their lands were taken in 1935, before the Grazing Service got organized. These two operators had begun to liquidate their livestock for some time before the Grazing Service got organized; they were almost completely liquidated. No licenses show for those two larger outfits at the time. There are some other smaller outfits that were in the same category, for some other reasons.

The CHAIRMAN. I am interested in that larger outfit you mentioned. What is the name of it?

Mr. WRIGHT. A. M. Myrup.

The CHAIRMAN. You say they were liquidated, or did liquidate their livestock; is that right?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. Can you, or is there anyone here that can tell this

¹ Non-use.

committee whether or not they were liquidating or being liquidated?

Mr. WRIGHT. I would not attempt to tell that, Mr. Chairman.

The CHAIRMAN. Well—

Mr. PATTERSON. Mr. Bown is here. He would know about it.

The CHAIRMAN. Off the record.

(Off-the-record discussion.)

Mr. DILLMAN. I was representing Mr. Myrup, as his attorney, in several other matters during that time. He was not being liquidated.

The CHAIRMAN. The reason I make that remark is that I know of many cases where the bearing—where the Indian agencies were taking in assets and turning them into cash.

Mr. DILLMAN. A lot of that had been done by many, but not as far as Myrup. He was in a position where he could protect his land holdings during that period of time.

The CHAIRMAN. In order to do that, did he have to liquidate his livestock?

Mr. DILLMAN. Quite a while before this, I believe.

The CHAIRMAN. Did the dimensional situation enter into it?

Mr. DILLMAN. Partly; yes.

The CHAIRMAN. I am at a loss at this point to see who gave impetus to the sale in the first instances, to this program where the Indians bought the lands in the creek bottoms. No one has explained the sale to me.

Mr. DILLMAN. Myrup was not in a position where he had to sell at that time. He was getting in better shape, gradually was restocking.

Mr. JOHNSON. May I ask Mr. Larson one or two questions?

The CHAIRMAN. Surely.

Mr. JOHNSON. Mr. Larson, during the fall or most of November or December of 1942 the Grazing Service created boundaries throughout district No. 8 for the various licensees?

Mr. LARSON. When do you mean?

Mr. JOHNSON. 1942 and 1943, was it not, during November or December 1942?

Mr. LARSON. It was the fall of 1942.

Mr. JOHNSON. And those boundaries and private licenses, allotments, were established on a 10-year basis in the majority of instances?

Mr. LARSON. They were to be operative until the licenses themselves, or the interested people, got together to change them.

Mr. JOHNSON. And was a 10-year license or allotment granted unit G?

Mr. LARSON. Ten-year permit?

Mr. JOHNSON. Yes.

Mr. LARSON. No.

Mr. JOHNSON. Was any arrangement made to take care of Smith Bros., Tyzack, Chuturas, and others, if the Indian Service gains control?

Mr. LARSON. In other areas?

Mr. JOHNSON. Yes.

Mr. LARSON. No.

Mr. JOHNSON. What is the attitude of the Division of Grazing relative to these men, if the Indian Service takes it over?

Mr. LARSON. I believe Mr. Leech can answer that better than I.

Mr. LEECH. By that question, Mr. Johnson, you mean if they were not granted as grazing privileges in unit G where would they go?

Mr. JOHNSON. That is it.

Mr. LEECH. Well, I don't know.

Mr. JOHNSON. May I ask Mr. Larson one question; were you not present at a meeting, Mr. Larson, when Mr. Griswold explained to these individuals in unit G what would happen to them?

Mr. LARSON. Yes, sir.

Mr. JOHNSON. What was Mr. Griswold's explanation?

Senator MURDOCK. Who is Mr. Griswold?

Mr. MOORE. Mr. Griswold is a grazier, in charge of our range management.

Senator MURDOCK. He was representing the Grazing Service?

Mr. MOORE. In Utah.

Mr. JOHNSON. What was Mr. Griswold's explanation at this meeting?

Mr. LARSON. He said that if the area was taken from the Grazing Service administration, then they would have to deal with whoever took it over, and, as far as the Grazing Service is concerned, they would be out.

Mr. JOHNSON. Out?

Mr. LARSON. Yes.

Mr. JOHNSON. Therefore there is no plan to take care of them at all by the Grazing Service?

Mr. LARSON. Not as far as I know.

The CHAIRMAN. Well, we have the Grazing Service right here. We have Mr. Leech right here. Let us assume that these orders become effective, as they are now pending, or, let's assume that the legislation now pending should become the law. Where would the Grazing Service sit in the picture?

Mr. LEECH. It would not be the Grazing Service, Mr. Chairman.

The CHAIRMAN. It would be the Grazing Service *functus officio*, wouldn't it?

Mr. LEECH. As to privileges that were granted, that would have to be determined, under that act, by the vested rights that they had there.

The CHAIRMAN. It would be determined, not by the Grazing Service but by the Indian Service?

Mr. LEECH. Or the agency that was administering it.

Mr. PATTERSON. I would like to ask a question there. Supposing it should develop that this area was not a part of the public domain? What becomes of the inherent right of these people to share in the public domain?

Mr. LEECH. I would refer the question to Mr. Graham over here.

Mr. GRAHAM. Will you state the question again?

Mr. PATTERSON. Should it develop that this area was not a part of the public domain—

Mr. GRAHAM. You mean the area between the green and black lines?

Mr. PATTERSON. Yes; and that the Taylor Grazing Administration had no jurisdiction over it. What becomes of the right of these people who have gone and settled upon the public domain set-up there, put up improvements for the livestock business? What becomes of their right to share that public domain under the Taylor Grazing Act?

Mr. GRAHAM. The only answer I can give you is my understanding that these negotiations, which have been had between the two agencies, contemplated something in the nature of taking care of those people for some indefinite period of time.

Mr. PATTERSON. You don't answer my question.

Mr. GRAHAM. That is as concisely as I can give it.

Mr. PATTERSON. I agree with you on that.

Mr. GRAHAM. I think you are asking for an answer to an administrative question rather than a legal one.

The CHAIRMAN. There is involved here a so-called agreement that is in the record. You had that agreement in mind when you gave your answer?

Mr. GRAHAM. Yes, sir.

Mr. PATTERSON. Yes; that's right.

The CHAIRMAN. Of course, it is a question in my mind, under the terms of that agreement, what becomes of the agreement if this bill went into effect. The Grazing Service, as I understand it, was to administer until the matter was settled by law, by an act, isn't that right?

Mr. LEECH. That is right.

The CHAIRMAN. That is my recollection of the so-called agreement.

Mr. LEECH. That is right.

The CHAIRMAN. That being true, when this bill is passed, if it should be passed, then the Grazing Service would be automatically out. Is that right?

Mr. LEECH. This bill provides for the creation of a grazing reserve.

The CHAIRMAN. Under the Indian Service.

Mr. LEECH. Yes, sir.

The CHAIRMAN. So that the Taylor Grazing Act has no provision for your administration of a grazing reserve under the Indian Service?

Mr. LEECH. No, sir; that is right.

The CHAIRMAN. We have a somewhat similar condition that we investigated down in southern Nevada where a bombing range was set up, and the question of what became of the individual rights, mineral right holders, in the bombing range. The result was they simply moved in and condemned the property, appraised and condemned the rights, and moved the parties out. They simply were moved out, and that was all there was to it. That is what we might look for in a condition of this kind; these rights may be liquidated.

Mr. PATTERSON. They would have to be paid for, these rights that arise as a result of this contract.

The CHAIRMAN. The question would be the establishment of the rights and then so on and so forth. We are now getting into the realm of conjecture again.

Mr. GRAHAM. Mr. Chairman, I take it that the agreement to which we referred, as such, would be out, upon the enactment of H. R. 837. However, I suggest that the latitude which would be given to the Secretary of the Interior, under the language of section 3, would still afford discretion to recognize the same factors which are now in the agreement. I do not say they would be recognized. I don't know. I only point out that they could be.

The CHAIRMAN. The only trouble I note with that, and it is the same trouble I noted in the two letters of transmittal, Mr. Secretary Ickes is a very, very busy man. He has some very serious matters on his hands. He must necessarily rely upon many of the agencies under him. I don't think Mr. Secretary Ickes was fully advised as to the history behind this matter before he signed those orders that have not

been promulgated; and I don't believe that the letters that are in the record now, which were letters of transmittal, from the Indian Service to Mr. Ickes, at all fairly present the picture. I am sorry to say that. But from the picture presented yesterday, and that which is being presented today, I cannot help but say it.

I draw your attention, Mr. Graham, to section 3, the language in line 1: "For the exclusive use and benefit in common of the said Indians." Please note that it says "for the exclusive use and benefit." If that language remains in the bill it all works down to the point—you might as well take it by the two ears and look it right in the eye—it simply means, when this is set up, that exclusive use and benefit will be the ultimate object.

Mr. GRAHAM. I think that is contemplated.

The CHAIRMAN. I think we ought to be fair with each other here; be frank about it.

Senator MURDOCK. I am going to say this, Mr. Chairman: We find as I see the picture, the setting up of a communal ownership of your base properties, and a communal ownership, or at least a collective ownership, of your range rights. In my opinion that is quite contrary to what we want in the United States of America, even for the Indians.

Mr. PATTERSON. Mr. Chairman, may I make a statement into the record here for the benefit of all my clients?

I have talked to all of these boys with reference to cooperation with the Indians there, and there is not a single one of them that objects, in the least, to the Indians coming in there and having exactly the same treatment as they received under the Taylor grazing bill; and they are willing to cooperate in every way possible; and, if I might be permitted to emphasize another point, it would be of benefit to the Indians if they went in there and worked their livestock with these particular people, because they would have some incentive to go along and take care of the stock. As it is now, they have the rights and they farm the rights out to the white boys to run their stock for them. I think it would be decidedly of benefit to the Indians themselves, to go in there and cooperate with the fellows that know the stock business.

Senator MURDOCK. Mr. Patterson, I wonder if you would be willing to go one step further? Supposing we would take all of the base properties now owned by these Indians, whether individually or collectively, and then determine their range rights, on the basis of that base property, irrespective of their livestock holdings at the present time.

Mr. PATTERSON. Yes.

Senator MURDOCK. Would you be willing to do that under the Taylor Grazing Act?

Mr. PATTERSON. Yes; providing that the base—

Senator MURDOCK. That is the conclusion that I am coming to; that we should take all of the Indian base properties, regardless of their character, and regardless of present livestock holdings, and then, under the Taylor Grazing Act, or under that formula, award to them whatever grazing rights the base properties there support, and settle this thing on that basis.

Mr. PATTERSON. On that basis, of all base property prorated equally; yes.

Mr. JOHNSON. With the qualification, if those properties which while in the hands of their predecessors lost the rights by nonuse, that the Indians lose their rights by nonuse?

Senator MURDOCK. No; I would say this—regardless of whether the base properties lost their rights prior to acquisition by the Indians or not.

Mr. PATTERSON. Or had any rights.

Senator MURDOCK. Or had any rights. I would be willing, and I think it would be fair today to say that the Indian Agency—to say to them, "We will take all of the base properties that you have under the Taylor Grazing Act formula; we will set up your range rights, and settle this question on that basis." In my opinion, that would be equitable to the Indians and also to the whites. Then in the future, of course, whenever they bought base properties, whatever range rights were pertinent to the base property, they would get them.

Mr. PATTERSON. You are talking about unit G?

Senator MURDOCK. It seems to me, if we could come to a solution of that kind it would be equitable to everybody and we would have this rather difficult question out of the way.

STATEMENT OF N. J. MEAGHER, BANKER AND LIVESTOCK OPERATOR, VERNAL, UTAH

Mr. MEAGHER. Senator Murdock, to grant those rights that you suggest would be totally disproportionate to the great number of the whites.

Senator MURDOCK. I recognize that, but, as a white man, I am even willing to go that far.

Mr. MEAGHER. The law, it seems to me, Senator, as Senator McCarran has said, is for all. Let it be administered fairly, proportionately, for all. Nobody wants advantages over the Indians, none whatever, here in this area. But let me suggest to you, in one instance I am very well aware of, where an outfit has commensurate property, for 20,000 head of sheep, on the winter area, for the full 6 months; he is cut down 66 percent of that, there is only room for that 34 percent, they say. Why should, therefore, the full carrying capacity of the total lands owned by the Indians be considered as base property, and they be given, on the public domain, a 9 months' use?

Senator MURDOCK. If you are asking me that question, I think here is the answer; take this proposal here; the first one submitted by Mr. Jensen yesterday. Considering all base lands submitted by the Indian Service, regardless of date of submission, and using the 1941 survey, as defined there, under that proposal, 49.3 percent of the summer range would be available to the white man, 69 percent of the winter range would be available to the white man, or 66.3 percent of the total for the year would be available to the white man in unit G. Now, it seems to me that if Mr. Jensen is correct in this proposition here that the white man would not be too generous if he were willing to accept that proposition and settle this question.

I just saw Mr. Wright—I don't know whether he was nodding at the fairness of the proposition or not, but I thought he was. I would like to ask him if the proposition that I make would not be fair to the Indians.

Mr. WRIGHT. I agree with what you said formerly, Senator Murdock. I think I have consistently held that, too; perhaps not in full agreement with the other members of the Indian Service, but I have always been willing to accept the area for the Indians based on the same principles of adjudication that you would apply if white people owned them. If those properties that you mentioned there could be given that kind of a rating, I would not have any fear about Indians coming out all right on that proposition.

The CHAIRMAN. That formula there is not the accepted formula by the Grazing Service now?

Mr. WRIGHT. Not necessarily; and I would like to add this: That it seems to us that these ratings were made on the base properties about 1 year after the Indians began to occupy them. The Indians went on without equipment and without capital, and the places did look rather bad. We don't think it was quite fair to rate those properties as they existed at that moment and give them commensurability on that basis. But we thought, in view of the history we tried to present of those, that they should be rated on the license granted to the previous owners. If that could be done, for my part, I would readily accept it.

Senator MURDOCK. I think along those lines somewhere, Mr. Wright, is a solution of this problem.

Mr. JOHNSON. If he is sympathetic to having the same principles apply against the Indians as to the whites, under the rules and regulations of the Division of Grazing he should not expect this committee or the Grazing Board or any other authority to recognize the rights according to the estimate of Mr. Larson this morning of Myrup and the Bown Livestock Co.

Senator MURDOCK. I think we can go a little further with the Indians.

Mr. LEECH. Anyway, we can work it out as perfectly agreeable to the Grazing Service.

The CHAIRMAN. I want to say this, as regards your statement, Mr. Johnson; your statement runs along the theory that if certain use was not made for a certain period of time, the right was lost. That has worked havoc and, to my mind, injustice in many cases due to the fact that we passed through one of the most critical financial periods in the history of this country just about the time that base period drops into. I have known of a great many cases where I thought it was working a terrible hardship and unfairness. But it is a pretty difficult problem to solve, looking at it from any angle. My idea in this case is that the same doctrine and same rules and the same code be applied, forgetting the purchase by the Indians entirely. Supposing the predecessors in interest were still sitting there; the same rules and regulations that could now apply to them could apply. Who could complain?

Mr. JOHNSON. It does not apply because the rights of Mr. Smith were not taken into consideration. The Grazing Service themselves admit they do not recognize the rights of Chuturas, Tyzack, and the Smith family. The area is the same; it cannot be enlarged. By increasing the number of people, reinstating these permits of the Indians, you are decreasing the area and increasing the number of sheep, because you are putting more people in there and putting more sheep in there, and these fellows must suffer.

Mr. PATTERSON. They all suffer alike.

The CHAIRMAN. Haven't they been running in there for years?

Mr. JOHNSON. That is right.

The CHAIRMAN. Doesn't the Grazing Service have that before them? Do they not adjudicate on that?

Mr. JOHNSON. We had a license, over in Colorado district No. 1, for 600 head of cattle. It is true that the thing hit when we could not increase our numbers, and we have lost that right; and if we go back to them and ask for those rights, under the Taylor Grazing, come in to the Board, they will say, I am sorry, but there is that lapse of time. I think you are setting a precedent here that is dangerous.

Senator MURDOCK. You recognize that we are confronted here with a controversial question; confronted with two Executive orders that have been signed, but not promulgated. We are confronted with a proposition that needs compromise, and a little give and take on both sides. Are you willing to do that, representing the men that you do?

Mr. JOHNSON. I have not talked to the men.

The CHAIRMAN. Are you through Mr. Meagher?

Mr. MEAGHER. It seems to me, finally to determine what is fair for the Uncompahgre Indians, from the information that I got yesterday, I judge that the Uintahs and the White Rivers have been taken care of pretty well. But, as far as the Unitahs are concerned, if they had territory in Colorado, and this area down here was turned over to them, without more knowledge—and certainly without the knowledge of the President and his Executive order—as to the area they were given, it seems to me they were beaten. Now, if they were beaten on account of that, and if that land, the Government recognizing it, was thrown into public domain, then it seems to me that the homesteaders acquiring rights down there, those rights have been recognized, and so must the rights of the grazers, of the men who used it for livestock rights. In my opinion those are similar, and if the Indian Service goes in and buys the patented lands, I think they cannot well and fairly deprive the whites of the rights of grazing there, any more than the Government should say to the Indians, "We wipe you out." They are trying to correct an error made, and if the Government at this time—I mean the Indian Service—attempts to wipe out the rights of the white men there, they are doing a similar injustice as the Government has done in regard to the Indians.

The CHAIRMAN. There is no question about it, Mr. Meagher; there is no question about it.

Mr. MEAGHER. Therefore—this is not testimony, but it is a conclusion I have drawn—I don't know whether you wish to hear it.

The CHAIRMAN. Very well.

Mr. MEAGHER. My suggestion would be, if the Government made a mistake, that mistake must not be thrown on to the white grazer of this area. If the Government has made a mistake with the Indians and cheated them in any way, let the Government pay by an appropriation. Therefore, I would say this, if the Indians now desire an area to be held under their own jurisdiction, they must take only that which they have acquired, through purchase and the rights of grazing that go with them and also the rights that they had during the priority years. If they had, during those years, but 1,380 head of cattle and 4,000 head of sheep for the Uncompahgres those, it seems to me, should

be fully granted to them because if they wanted to they could apply that as a free grazing right for the small numbers that they have.

Now, another thing that you mention that has been detrimental to the owners of livestock during the hard years; the same applies to the Indians. Their hands are tied absolutely unless the Indian Service helps them, and how should the Indian Service help them? Take them by the hand and spend an enormous amount of money for it? Perhaps they have not got the stock to stock the range that those lands permit them to put on there. I would say that in all fairness there should be attached to the bill an amendment to grant them an appropriation of sufficient money, whatever the funds should come from, to buy the necessary stock at this time so that the range could be stocked for them for that proportion which they are entitled to.

The CHAIRMAN. Thank you, Mr. Meagher.

Well, Mr. Smith?

Mr. MORONI A. SMITH. While this question is on I would like to say Mr. Patterson had in mind that he had offered to settle on the basis of the Taylor Grazing; has been settling or trying to settle it with these equal rights to the Indians and us. But for them to go out and take in some of the allotments over in the Uintah and put them into this picture, that did not have priority, it greatly deprives the whites and unequalizes us unless it was scattered clear over the district No. 8. We are bunched into this part here, and, as the evidence showed, taken some from district 8 and want to bring them into this allotment here. You understand that vacates the land over in there and applies more stock into this area so that all these things would have to be adjusted with the service on the basis of what is fair in that line.

Mr. PATTERSON. Mr. Smith—

The CHAIRMAN. Let him be at ease. If he wants to stand up, that is all right; if he wants to sit, that is all right.

Mr. PATTERSON. Start in and give the set-up of yourself and your two brothers as you operate. Give us the dates and the amount of money that you have invested and the use you have made of unit G.

STATEMENT OF MORONI A. SMITH, SALT LAKE CITY, UTAH

Mr. SMITH. Would you like to have my name? Moroni A. Smith, born 1875, at Lehi City, 30 miles south of Salt Lake City.

I was born on a ranch, or farm, we called it, and haven't been away from that farm life. I have been following up that activity ever since; helped my father along on his farm, and began my business along early in my teens or later in my teens to accumulate some money to go into the livestock business, particularly the sheep business.

We entered business in 1897, I did, and my brothers just a year before that. We grazed our sheep at all times up in the public domain west of this boundary line until late 1900.

The CHAIRMAN. Just a moment. I have to tie you into the record. West of what boundary line?

Mr. SMITH. West of this Uintah Indian lands. It was public domain, and we operated there from the first, up until 1900.

Senator MURDOCK. West of the yellow line?

Mr. PATTERSON. On the Green River?

Mr. SMITH. Yes; and west of that, in public domain. There wasn't any forest reserve at that time.

In 1900 we secured a lease—myself, Alfred Smith, and David Smith, and four of the Austin boys, brothers, in Lehi, and about four people from Heber—500,000 acres, approximately, of the west end of this reserve, taking in about four or five townships there over to where you see this purple. I start there and running north it took about 5 or 6 townships and all of that in the reserve. That is now in the reserve, you understand; all that green in the reserve.

The CHAIRMAN. How about the yellow?

Mr. SMITH. Went to the Duchesne River, that river that you see running up there west of the yellow, and came right out and included all of this here. That was Indian reserve with that yellow boundary and all that open area. We held that from 1900 for a 5-year lease.

The CHAIRMAN. From whom did you get that lease?

Mr. SMITH. From the Indian department, and it was a 5-year lease that expired in the spring of 1905. That was renewed until the opening of the reserve, which was August 1905. We were on the reserve with the sheep at that time, and we had been issued permits by priority on that reserve, without any land owning by reason of our priority by which we now hold them permits.

When, after it was open they left them in the public domain; all that white area became public domain and we operated our sheep from 1905 or 1906. That was the first year that we became active on the public domain, and during all this time we had this leased. We come down onto this public domain that is now in district 8, and grazed it in common with various other herds.

The CHAIRMAN. Let me clear that up. During the time you had the lease from the Indians, which was 4 or 5 years, you grazed that basin in there and you also grazed down south of the yellow line?

Mr. SMITH. Yes, sir. This was all spring and fall range, this west end up here that we now own part of, and at least, it was more or less of a spring, fall, and summer range, and we came down on that district 8 here to do our wintering, more particularly—no; in the beginning not many sheep there until after 1905. We strayed on this part west of Green River. It furnished the feed for our people—nobody but Indians, and they had no stock. But as the settlements came in they brought a lot of fresh sheep with them, that is, a lot of herds, and it overcrowded that area. Along about 1907 one of my brothers went across the river and then another one went across the river a few years later. It was 1912 before I crossed the river, and I crossed with two herds.

The CHAIRMAN. Into what territory did you go, "across the river"?

Mr. SMITH. Either had to wait for the ice to freeze or we crossed down there, just about at the Nine Mile Ferry. It is about 10 miles south of Ouray, I guess; maybe it is 20. I crossed into this area that comes into the green and black.

The CHAIRMAN. Into unit G?

Mr. SMITH. Sometimes we grazed there all winter. Sometimes part of us would graze there. There was not room enough for any amount of sheep, hardly; and during the midwinter we would get over west there another 15 miles, and then back again, go back home, and put in a month or 6 weeks on this unit G. But in 1928 and 1929 I stayed in there with about thirty-three or thirty-four hundred sheep the entire winter—in 1928 and 1929 in this unit G—I never went out of it until springtime.

Mr. PATTERSON. Let me ask you a question there. Did you use that unit G every year to some extent?

Mr. SMITH. Yes; I think we could say we put in 40 or 50 percent of our use there maybe, and sometimes to the extent that we put in all the use if there was feed there to consume. If there was not feed and there was various other competition we had to move to find the feed, somebody else had been there—

Mr. WRIGHT. Mr. Smith, may I ask you a question to clear up some of the statements made here in the past? As to what you have said, as far as I am concerned, I am willing to take your word for it, of course; but how do you account for this statement getting into the records of the Grazing Service? It says:

In the file of Moroni A. Blanche and Emory G. Smith in the office of the district grazer, Grazing Service, Vernal, Utah, the first application for grazing license filed by Moroni A. Smith in 1935 states that his customary use of the public domain has been as follows: "All that part of public range south of Duchesne River, east of Antelope Creek, north of Nine Mile, and west of Green River in Duchesne and Uintah Counties, also on public ranges east of Green River, known as Bates Knolls, Sunday School Canyon, that area between Bitter Creek and Willow Creek, at times on Deadman and Coyote Basin north of White River."

Mr. SMITH. We was using it all in common; but I have two herds of sheep; one herd of sheep more or less on the west side of Green River sometimes, and sometimes took them both across; always landed on unit G. Either had to cross at Ouray Ferry or over on the Nine-Mile Ferry, on the east. We had access to that neck of the Uintah Indians there, and we came down through that to the Ouray Ferry, or just to this other south of it about 10 miles.

Now in 1910 they held their sales of this land at public auction.

The **CHAIRMAN.** What land?

Mr. SMITH. A public sale of the Ute Indian lands was offered for sale, practically all of them the white homesteaders; all that was not homesteaded was offered for sale. We purchased, but we were entitled to not very much; and, again, in 1912 they held some sales, and I don't remember that we purchased very much; and in 1917. But I purchased out a lot of my neighbors that did buy at these public sales, until, in 1920, I owned about twenty-five to twenty-seven thousand acres in the family.

Mr. PATTERSON. Your family?

Mr. SMITH. We, my family; which we own at this time.

Mr. PATTERSON. You go over and point out about where your commensurate property lies; your base property.

Mr. SMITH [indicating]. Right in here. I have 9,000 acres, this township; in this township here I have 36 or 37, maybe, and a little bit in here with a trail on it; and over in here I have 3,000 acres, some of it in green; not in green, right in here.

The **CHAIRMAN.** For the record, in order to get into the record how to indicate where you are pointing, I wonder if there is anyone to assist us in giving those locations.

Mr. PATTERSON. How would it do if we file a description?

Mr. SMITH. I can give it to you from memory, the townships.

The **CHAIRMAN.** Do you know the townships from memory?

Mr. SMITH. The townships, that is all you care about.

The **CHAIRMAN.** Very well; we would like to have a record of what the townships are.

Mr. SMITH. Right here, 3 south, 10 west, Uintah special meridian; and in 3 south, 9 west; also, some of it in 2 south, 9 west. Then it comes down to 3 south, 8 west, with about five or six thousand acres. There is 31,000 acres in this tract here, in 4 south and 5 south, 8 west. Then we came down here and purchased from people that did buy these, among the first sales, until we have had some three thousand acres in this area, right here, since 1915.

The CHAIRMAN. What number is that?

Mr. SMITH. That would be townships 2, 3, and 4 south, 1 and 2 west; also, 3 and 4 south, 1 and 2 east.

Mr. PATTERSON. How far is that from the line of unit G?

Mr. SMITH. Unit G? Well, I would say it was 10 or 12 miles from my land into this 5,000 acres I now own; bought some from the county and the Uncompahgres, up to 5,000; and I guess it would be 10 or 12 miles from here to unit G.

Mr. PATTERSON. Now, describe that area there as to the use, the seasonal use of that land.

Mr. SMITH. Use these lands through here to do our lambing on in May and June. We summer about 40 percent of our sheep on our own land here in township 3 south, 10 west; and we have a Forest Reserve permit right up in this area here where we now have 3,200, I think, thirty-one or thirty-two hundred.

Senator MURDOCK. That is on the Wasatch Forest.

Mr. SMITH. The Uintah Forest. Them was the permits we more or less got, by being prior users, when they put this Indian area into the Forest Reserve.

Mr. PATTERSON. That is the green immediately west of the yellow.

Senator MURDOCK. That is now called the Uintah or Wasatch?

Mr. SMITH. Uintah Forest Reserve have taken part of the Uintah up here north of the Duchesne River, here, and put it into the Wasatch and Uintah.

Mr. WRIGHT. Do you produce any hay or grain feed on those properties?

Mr. SMITH. Never attempted to cultivate any land. I am strictly in the grazing business which was what I went into it for. We buy our grain and buy our hay. We haven't done anything of that at all except put up a load or two.

Mr. WRIGHT. Did I understand you to say, when you first started to give the testimony that you did not think that the Indian lands up within the Uintah Reservation could be used as base properties for the grazing down in this Ute extension area?

Mr. SMITH. Not when they did not have this prior period. That would be unfair to the white man to have them using base properties against the priority periods. However, if the whole district would take the jolt I would be willing to. But I have confined us to in this—this Uintah District. If you confine it to that, I will say yes.

Senator MURDOCK. Let me understand you there. If all of the Indian lands, all of the base properties, are considered and their grazing rights would be spread out throughout the entire district 8, as I understand you, regardless of the priority situation, you would be willing to go on?

Mr. SMITH. To the extent of them occupying these holdings, here; not the whole tribe, but to the extent they are going to utilize this Unit G.

Senator MURDOCK. Then you are talking only about the base properties in Unit G?

Mr. SMITH. Yes; that is what I'm talking about, the base properties in Unit G.

Senator MURDOCK. Now, you are using, as I understand you, some grazing lands that you purchased from the Indians. You are using that as your base property. Is that true?

Mr. SMITH. Yes.

Senator MURDOCK. You take the position now, by reason of the priority factor, you are unwilling to allow the Indians to use the same character of land as base property?

Mr. SMITH. Under the grazing code they only went back to 1929.

Senator MURDOCK. I say, you are unwilling, because of the priority factor, to allow them to use the same type of land that you use as base property.

Mr. SMITH. Well, I would like to say this, that the Indians have got most of the farm lands cultivated, and I have had grazing lands. They did not operate the livestock nor have priority on them; and I don't think it would make very much difference; but it should not be the burden of this district, this little unit. If it was scattered all over the district, we might not be hurt very much, then.

Senator MURDOCK. That is the statement that I thought you had made; if the rights of the Indians be scattered throughout the entire grazing district 8, then nobody could be hurt very much.

Mr. SMITH. Well, I concede with you there.

Senator MURDOCK. I don't want you to concede. What I am stating, I am just trying to get at a solution of the thing.

Mr. SMITH. To the extent that if it affects these Indians in here, not to the extent that it affects me—ain't never asked for any rights; ain't doing it now. It is the ones involved in this area here.

Mr. PATTERSON. Now, Mr. Smith, tell us about your investments in there.

Mr. SMITH. In view of the fact we were restricted to very small purchases, individually I have purchased most of this from various other people that did buy and went out of the business. There was several people from the East come out and invested when the sales were on; and I bought out about three or four of my neighboring outfits; and it took that. But this was all done before 1915. I had practically all these purchases made from outside, except two purchases we made in the last 2 years, that I am not including in this twenty-six or twenty-seven thousand acres. But after it got into the drift land it cost more money than it would for sale. The restrictions to the sale prevented me from buying much; and I paid for these lands an average of \$3 per acre, when I bought them from other people; it cost me that. At the same time the whole average cost me \$3. I put the improvements on them to the extent of over a dollar an acre; fences, irrigated water developments, spread the water, little cabins to live in. I have spent over a dollar an acre on these improvements. That would be \$4 an acre on this twenty-six or twenty-seven hundred acres.

Senator MURDOCK. Are all of your privately owned lands fenced?

Mr. SMITH. No; just some of them.

Mr. PATTERSON. What are your other investments, there, in your business? What other investments have you?

Mr. SMITH. We have the sheep, and the horses, and the outfit and equipment.

Mr. PATTERSON. Exclusive of the sheep, what investments have you in forest or anything else; investments in order to run your sheep?

Mr. SMITH. We have our forest rights, and our Taylor grazing rights, that have been granted under this decree down there; thirty-one hundred of them in this area, and twenty-five hundred in this unit G. But in getting into this unit G, we were granted a permit in common the first year; and, in order to administrate it, these boys from Vernal were coming in there—naturally we come down across the river here and here. It would have been uneconomical for us to go any further here and we attempted, without any knowledge of these withdrawals being in effect, these agreements we spoke of. We accepted such parts for temporary allotments in here for administration purposes. It would not have been good administration for us people to come way over here; to go way over here some place, when we were running in common down here part of the time. We settled back into here; I did. But the brothers and their families will give you some of their own—

Now, these was about the usual routine of the three brothers. They purchased other lands up in this area. They will describe that themselves.

Mr. PATTERSON. Do you know about what acreage they have of the State lands; what patented acreage is in the State lands?

Mr. SMITH. I understand one of them had some 50,000 acres in the family estate.

Mr. PATTERSON. Do you know about what the other family had?

Mr. SMITH. I think they had some thirty-five thousand, around thirty or thirty-five thousand.

Mr. PATTERSON. What would be the aggregate of the three of you?

Mr. SMITH. The three of us?

Mr. PATTERSON. Yes.

Mr. SMITH. One hundred twenty-five thousand acres, or better.

The CHAIRMAN. Are you an association?

Mr. SMITH. No, no; we have never been—we have been running in the neighborhood, community neighbors. No; no more neighborly than any other operators in there.

Mr. PATTERSON. Generally, Mr. Smith, a plan of operation of your brothers was about the same as your own plan of operation?

Mr. SMITH. I would say up to 1920, anyhow.

Mr. PATTERSON. Up until 1920, did your brothers have rights in unit G, or their descendants?

Mr. SMITH. Yes; I saw by the records in their existence that they have some rights in unit G, in here.

Mr. PATTERSON. Have they used that over a period of years, to your knowledge?

Mr. SMITH. They have used it just a little longer than I had; a little earlier than me. I came across in 1912, here, and they came across a few years earlier than I did.

Mr. PATTERSON. What investment, if you have the knowledge now, what was the total investment of yourself and two brothers and their descendants in that area in the livestock business?

Mr. SMITH. I would say it run up toward \$800,000 to a million dollars, in sheep and lands.

Mr. PATTERSON. Exclusive of the sheep, if you misunderstood me. I want to correct myself—in order to carry on your sheep operations, what are your investments, aggregate?

Mr. SMITH. I would say it would be—without going into the figures—\$500,000 or better.

The CHAIRMAN. In land, and improvements on the land. Is that right?

Mr. SMITH. Yes; the cost of the lands, improvements.

Mr. PATTERSON. Forest rights?

Mr. SMITH. Oh, yes; probably exceed that, of the forest evaluation.

Mr. PATTERSON. And you and your brothers, or their descendants, have been operating in there continuously since about 1912?

Mr. SMITH. Since 1900.

Mr. PATTERSON. Do you know of anything else you want to state for the record here?

Mr. SMITH. Well, I don't know of anything about the holdings. Only we bought these holdings where they appeared to be the most useful to us, and we went along, and in the early beginning, not long after 1912 or 1915, I endorsed these bills, proposed bills that was before Congress, and particularly the Colton bill, to have it put in to some regulation. The Colton bill was picked up by Edward Taylor, in Colorado, and went into a law. But before that he was very active and the brothers were supporting Colton with his bill. In fact, maybe we had initiated a great deal of it.

Mr. PATTERSON. Take your use from the area confined in unit G; that represents the extreme inter-use, does it; that is, is that where you are in the dead of winter?

Mr. SMITH. Yes.

Mr. PATTERSON. Then the areas, including your private areas, from there clear up to the summit of the mountain, were used fall and spring?

Mr. SMITH. That's right; and summer.

Mr. PATTERSON. Going to and from the forest?

Mr. WRIGHT. May I ask one more question?

Mr. Smith, in this report of the field investigation, of the General Land Office, it is stated, in addition to what I read a moment ago, which indicated that you had not had any previous continuous use in unit G; it goes on to say, "None of the area described by Moroni A. Smith in his first application is located in what is known as unit G, Utah Grazing District No. 8, but is located in what is now designated as units F and H, outside the exterior boundaries of the proposed Ute extension area." In your testimony today you deny that, is that the idea?

Mr. SMITH. That—I did not include unit G, probably, in that early date; but we had to go through unit G, all the time, to get over into Bates Knolls, and put in such time as we—when I applied I had been using it in these drives.

Mr. WRIGHT. Priority period?

Mr. SMITH. Previous to 1933; from 1912 up to the present time.

The CHAIRMAN. I wonder, Mr. Wright, if you would care to tell us from what record you are reading and how that record was made.

Mr. WRIGHT. This record was an investigation concerning the claims of certain named stockmen to grazing privileges on the proposed Ute extension area, the former Uncompahgre Indian Reservation,

located within the Utah Grazing District No. 8; and it was made by the Office of Field Investigations of the General Land Office.

The CHAIRMAN. The General Land Office?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. Is that available for use of the committee?

Mr. HAVELL. That is available. I think the investigator already has a copy of the report. I might say that investigation was requested by the Indian Office about the time the special agents were transferred from the Secretary's office to the Land Office. We loaned our services to the Indian Office for the purpose of making that investigation.

Mr. PATTERSON. May I inquire; there would be no unit G at the time the application was made in 1935, would there, Mr. Wright? I don't see how you could have known a lot about it.

Mr. WRIGHT. Unit F, unit H, and unit G came into existence at the same time. The only purpose I had was to indicate the source of the information that the Indian Bureau had, to the effect that some of these men did not have prior use in this area.

Mr. PATTERSON. Let me ask Mr. Smith; you now have a permit in that area?

Mr. SMITH. Yes.

Mr. PATTERSON. Adjudicated by the Grazing Division?

Mr. SMITH. Yes, sir. I would like further—in a report that we made to the Grazing Department, by request, this is dated June 27, 1934—but it does not refer to that. We put this in the hearing. That was about 2 years ago, when they commenced investigating, or making a survey, of the Indian lands in this unit G. The Department came and kind of got another statement that they asked for, voluntary statement.

Senator MURDOCK. Which department?

Mr. SMITH. Well, the Grazing Department came and asked for this statement, some time along about 1940 or '41. This is the statement we made about the use of the range. I would like to read it into the record. It is on one of their forms. This is a copy they made out of that. We have their forms and their files—the Grazing Service.

Mr. PATTERSON. That is also a copy of a report that you made to the Grazing Service?

Mr. SMITH. Yes. Now, this was around 1940, the fall of 1940, or during '41. I said, "The area we use, all that part of district 8 west of Green River, district 8 west of Green River, also everything east of Green River to Bitter Creek that includes unit 8 and Bitter Creek is 6 or 8 miles." You can see it running down there. "Including Tabiola, the west bench in the north end of unit G, Agency Draw," that is on Pack Mountain, right along the borders of those lines, running around, through, and dodging around the Pack Mountains. "The east end of the Agency Draw"—that is over the hill on the Willow Creek—"Sunday School Canyon"—that and the Bates Knolls and west of Bitter Creek to White River. Bates Knolls was the south end, and that is about 15 or 20 miles south there. It is just in that neck; that is the center of unit H; that is the area that we use. We also were on the north side of White River, and used that part between Chapeta Grove and the Colorado State line. We were using that pretty well.

Mr. PATTERSON. Well, you can't say your report does not cover the entire area.

Mr. SMITH. No; it doesn't cover the entire area, it does not cover the east side of district 8. But the purpose of this report will show we would be entitled to an allotment, so desired, even to the extent of part east of this unit G; and these are temporary administrative allotments we have set up today. They have been set up for temporary and for administration purposes, but the use, in common, included all this. Now these Vernal fellows, they grazed all the territory from Vernal, here, down through here, to Watson, and winter range covered as much area as we did.

Mr. PATTERSON. Now, don't get into anything that does not concern your own affairs.

The CHAIRMAN. In my early experience I was a member of the Legislature of the State of Nevada. There was then pending a bill which provided that sheep should not graze within 5 miles of possessory holdings—the legislature moved to amend the bill by striking out the letter "R" from the word "graze."

We'll pause here and take a recess until 1:15.

(Recess until 1:15 p. m.)

AFTERNOON SESSION

The CHAIRMAN. The committee will be in order.

In connection with the statement of Mr. Moroni Smith, please state to the committee, Mr. Leech, whether or not the Taylor Grazing Service has set up commensurate rights for Mr. Smith and others in unit G.

Mr. LEECH. Yes, they have been issued licenses in there, Mr. Chairman.

The CHAIRMAN. For how long?

Mr. LEECH. Since the beginning of the grazing district. Mr. Larson will give the numbers and the periods of time.

The CHAIRMAN. And the names, would you do that, Mr. Larson?

Mr. LEECH. That is, of the three Smiths.

The CHAIRMAN. Have you others besides the Smiths?

Mr. LEECH. Yes; we have everyone in that unit.

The CHAIRMAN. That is what I mean. We have already placed that in the record this morning, the tabulation.

Mr. LEECH. He will read those of the Smiths now.

Mr. LARSON. The Albert Smith Investment Co. has 2,500 head of sheep from November 15 to April 1.

The CHAIRMAN. That is on what is known as unit G?

Mr. LARSON. Yes, sir. Blanche, Moroni, and Emory Smith have 2,500 from November 1 to March 1; and David G. Smith estate, 4,500 from December 1 to April 1.

The CHAIRMAN. That is all in unit G?

Mr. LARSON. Yes, sir.

Mr. EMORY G. SMITH, Salt Lake City, Utah. I think Mr. Larson read that on Blanche, Moroni, and Emory wrong. It is until April 15, instead of March 1.

Mr. LARSON. You say it should be April 15?

Mr. SMITH. Yes.

Mr. LARSON. That is right.

The CHAIRMAN. Whatever it is, they are adjudicated rights, as far as the Taylor Grazing Service is concerned, in unit G.

Mr. LARSON. Allotments have been set up for use, with the numbers of livestock.

The CHAIRMAN. Well, now, in arriving at your deductions in that respect—and either of you gentlemen may answer—I take it that you made a study of the use, and made the time during which it was made, and the number?

Mr. LEECH. Is that what you actually did? Is that the way you did it?

Mr. LARSON. Well, these are not a result of a study, such as Mr. Jenson presented, but they represent what they should have, based on the priorities, less deductions that have been taken by everyone.

The CHAIRMAN. But you took the physical facts, did you not, as you found them?

Mr. LARSON. Yes, sir.

The CHAIRMAN. And you went thoroughly into the record, as thoroughly as you could get from the records?

Mr. LARSON. Yes, sir.

Mr. PATTERSON. Mr. Chairman, may I state something here that I think perhaps the committee does not know? That is this; there has been an agreement between the Grazing Division and the Indian Department and the users, whereby they have divided up this area, defined the boundaries; they have all agreed to it and subscribed to it.

The CHAIRMAN. Where is that agreement? What form is it in?

Mr. PATTERSON. It may be only marked out, but they get a permit to graze a specified bounded area.

The CHAIRMAN. Who does?

Mr. PATTERSON. The users.

Mr. LEECH. Mr. Larson can explain that, Mr. Chairman.

The CHAIRMAN. Is it an agreement of record? How is it formed; so we may make it of record?

Mr. PATTERSON. Well, the users just accepted the decision of the two boards in relation to these matters.

The CHAIRMAN. What two boards?

Mr. PATTERSON. Indian and Grazing.

The CHAIRMAN. That is opening out another subject, I think. At least—I may not grasp it—

Mr. PATTERSON. It was new to me.

The CHAIRMAN. When did that come into existence?

Mr. PATTERSON. Mr. Smith or Mr. Moore can tell you.

The CHAIRMAN. Mr. Moore, you represent the Grazing Service, and you are the regional grazer for the State of Utah?

Mr. MOORE. Yes, sir.

The CHAIRMAN. Do you know of any agreement, acquiesced in by the Indian Bureau, the white users of the open public domain, and the Grazing Service?

Mr. MOORE. To designate the areas upon which these licensees would operate, we hold what you would call range-line agreement meetings, and those people involved meet and agree upon their boundary lines. Sometimes it is individual allotment, and sometimes—I notice this one here, we had three people in this allotment.

The CHAIRMAN. What allotment is that?

Mr. MOORE. Isaac and David Smith and Smith Investment Co.

The CHAIRMAN. Is that in unit G?

Mr. MOORE. Yes, sir. That is all unit G that I am speaking of. Then, at that meeting they go into a formal agreement, and the people present sign it.

The CHAIRMAN. Let's see that. Now, this looks to be a request made by the users.

Mr. MOORE. Yes, sir.

The CHAIRMAN. Do the Indians figure in this?

Mr. MOORE. N. Wagner, who signed here, was present.

The CHAIRMAN. Who is he?

Mr. MOORE. He worked for the Indian Service, assistant junior range examiner. He testified.

The CHAIRMAN. Have you gentlemen seen this?

Mr. PATTERSON. No; I just know the general form. I know of these organizations and meetings, going on down in the southern part of the State, with the graziers. They get all of the fellows together and say, "Here, agree upon a line." They usually agree. It is a progressive step they are making in the whole procedure. I assume this follows that. I drew some of the agreements myself. I am sure I did not draw this one.

Mr. MOORE. Yes; that is the usual procedure.

The CHAIRMAN. Perhaps, in fairness, we had better defer this until the Indian Service is here.

Mr. SMITH, you have testified to the length of time that you have been in this business and to the amount of land that you have acquired, during your tenure, and to the service that you put it to in Uintah County. What do you contribute in the way of taxes?

Mr. MORONI SMITH. Contribute?

The CHAIRMAN. Yes; what do you pay in taxes?

Mr. SMITH. My taxes; I am in three counties, in Wasatch—

The CHAIRMAN. Take Uintah first.

Mr. SMITH. Why, I think that Uintah would be \$2,000.

The CHAIRMAN. A year?

Mr. SMITH. Yes.

The CHAIRMAN. And you hold how much land?

Mr. SMITH. We hold 26,500 acres, previous, a long ways back, with an additional 8,000 acres; 35,000, a little better, altogether, in the three counties.

The CHAIRMAN. Now, in Uintah County I think you placed thirty-odd-thousand acres, didn't you?

Mr. SMITH. No, in Uintah, only about 5,000 in Uintah.

The CHAIRMAN. How much of your livestock is in Uintah County?

Mr. SMITH. Assessed in Uintah County during the winter time, practically. Two herds of my sheep, in Uintah County, costs around \$500 apiece, besides 5,000 acres of land and 3 cents per acre—that would be about the taxes.

The CHAIRMAN. You are assessed at the rate of 3 cents per acre?

Mr. SMITH. Three cents on the dollar, valued at a dollar an acre.

The CHAIRMAN. You have a standard value in the State of \$1 an acre on the land?

Mr. SMITH. No, only in Uintah County, excuse me.

The CHAIRMAN. State the assessment.

Mr. SMITH. What I have, that 5,000 acres in Uintah, value it at \$1 an acre, and 3 cents on the dollar.

The CHAIRMAN. Now, what do you pay in Duchesne?

Mr. SMITH. Our taxes amount there to around \$3,000, in the three counties.

The **CHAIRMAN.** In Duchesne how much?

Mr. SMITH. Well, I would say it is about \$400 in Duchesne; five to six hundred dollars in Wasatch.

The **CHAIRMAN.** How many livestock are you running?

Mr. SMITH. Six thousand in the winter time; breeding use.

The **CHAIRMAN.** Where do you run those, principally, in the winter time?

Mr. SMITH. I have a permit.

The **CHAIRMAN.** Never mind your permits; where do you run them?

Mr. SMITH. District H, west of Green River, 3,100; and this 2,500 in unit G.

The **CHAIRMAN.** How many sheep are you assessed on?

Mr. SMITH. For the full number. They go out and count them—

The **CHAIRMAN.** Why be evasive about it? Let's be frank. How many sheep are you assessed?

Mr. SMITH. Assessed for—I would like to ask my son, but it is approximately 95 to 98 percent of what we have, their count, assessed whatever their count is.

The **CHAIRMAN.** You have not answered my question yet. How many livestock are you assessed?

Mr. SMITH. I would say from fifty-eight to fifty-nine hundred.

The **CHAIRMAN.** In all of the counties?

Mr. SMITH. Yes; the assessment is made in the county area on the 1st day of January.

The **CHAIRMAN.** What county are you usually running in the 1st day of January?

Mr. SMITH. Uintah.

The **CHAIRMAN.** How many sheep are you assessed for in Uintah County?

Mr. SMITH. Assessed for 5,800 head, I would say, 5,900.

The **CHAIRMAN.** What is the value, for assessment purposes, of the head of sheep in Uintah County?

Mr. SMITH. It would be around \$3.50 and \$4 in the past—

Mr. PATTERSON. How are the sheep valued now for purposes of assessment?

Mr. SMITH. Have been in the past—I don't know as they made an assessment in 1943.

The **CHAIRMAN.** Will someone please answer this question? Why we are taking up the time here? The Indian who testified through an interpreter yesterday, does he hold a permit on unit G? Can someone else answer that?

Mr. LARSON. Pawwinnee does; yes.

The **CHAIRMAN.** For what number of livestock?

Mr. LARSON. No; I must correct that; he does not hold one in unit G, but he does within the area bounded by the green and the black lines.

The **CHAIRMAN.** That is unit G.

Mr. LARSON. Not all of it.

Mr. GRAHAM. That is not identical, Mr. Chairman.

The **CHAIRMAN.** I took it all as being in G. If we are going into the lines here, we are going to get lost.

Mr. LARSON. The boundary of unit G is down Willow Creek, goes into unit G here. Pawwinnee runs in this territory here.

The CHAIRMAN. How many sheep?

Mr. LARSON. I don't know as I have that here, but it is around a thousand head.

The CHAIRMAN. How much base land has he to run those sheep?

Mr. LARSON. I could not say.

The CHAIRMAN. Can anybody answer that? How much base property has Pawwinnee to run a thousand head of sheep? Has he any base property? Does anybody care to answer that?

Mr. CURRY. We'll have to wait until Mr. Wagner comes.

The CHAIRMAN. How much base property has the man for whom you interpreted last night?

Mr. CURRY. I couldn't tell you.

The CHAIRMAN. How many sheep does he run?

Mr. CURRY. Over a thousand head.

The CHAIRMAN. Has he any base property?

Mr. CURRY. I don't know; not from what I have gathered so far.

The CHAIRMAN. Certainly the Grazing Service should be able to tell us.

Mr. LARSON. I could not tell you—I could tell you to the extent of the original application, which listed some of the Indian allotments near Ouray.

The CHAIRMAN. Indian allotments, out of unit G?

Mr. LARSON. Yes; but within the black and green lines.

The CHAIRMAN. Does the Indian who testified last night, through an interpreter, hold those allotments as his allotments, or are they allotments of other Indians given to him by some process?

Mr. LARSON. I think they are in common, but I cannot answer that definitely.

The CHAIRMAN. I am just trying to figure out how the allotments are made, how you can give him a license to run. Have you any explanation of that?

Mr. LARSON. He had been using that part of the Federal range for a number of years, during the priority period, and, when the Taylor Grazing Act became effective, he went on using that range.

The CHAIRMAN. The Taylor Grazing Act, when it became effective, put its operation into effect on the basis of base property. There have to be rights that were based on base property. Am I correct in that?

Mr. LEECH. Under the agreement of 1935, Mr. Chairman, I believe that the use of the Indians could continue, without reference to the commensurate rating. That is under the agreement of July 19, 1935.

The CHAIRMAN. Have we that agreement in the record?

Mr. LEECH. Yes, sir; it was placed in the record.

The CHAIRMAN. Now, then, the user, in this instance, would require no base property?

Mr. LEECH. I would so apply the agreement; yes, sir.

The CHAIRMAN. Now how extensive does that agreement go? In other words, does every Indian have the right to run livestock, without base property?

Mr. LEECH. The agreement provided that privileges would be granted to the Indians that were operating there, without reference

to commensurate ratings. I believe I am stating it correctly, Mr. Chairman, without looking at the agreement.

The CHAIRMAN. Would that extend, in this case, all over this area represented by the map that we have on the wall?

Mr. LEECH. I would say in the orange line; yes, sir.

The CHAIRMAN. Within what?

Mr. LEECH. Within the orange line, covering the Uncompahgre withdrawal.

The CHAIRMAN. How about the rest of this area here, did they run livestock without base property?

Mr. LEECH. That would be the only part that is in a grazing district, that in the orange boundaries?

The CHAIRMAN. I see. In other words, that which is within the yellow line is not a grazing district?

Mr. LEECH. No, sir; that is the Uintah Reservation, in the yellow line; and the orange line is the part in the grazing district, under the agreement of 1935.

The CHAIRMAN. Does your jurisdiction at all extend into the territory bounded by the yellow line?

Mr. LEECH. No, sir; we have nothing to do with that.

The CHAIRMAN. It has never been formulated into a grazing district?

Mr. LEECH. Yes, sir.

The CHAIRMAN. The purple lands are not in the grazing district?

Mr. LEECH. No, sir; they are not in a district.

The CHAIRMAN. Do the Indians that live along the creeks, indicated by the red in unit G, have commensurate rights out in the territory along the black and green line?

Mr. LEECH. I will have to ask Mr. Larson.

Mr. LARSON. No, sir.

The CHAIRMAN. You have accorded them no rights beyond the black and green line?

Mr. LARSON. There are other Indians that have had licenses along Bear Creek and White River, but they are in the same status as Pawwinnee's case.

The CHAIRMAN. Now, does Pawwinnee belong to the group that is provided for within the black and green lines, or does he belong to another group? There are three groups mentioned in this hearing—the White Rivers, the Uintahs, and the Uncompahgres. I have some trouble trying to pronounce that last word.

Mr. LARSON. I understand he is an Uncompahgre Indian; yes.

The CHAIRMAN. Not holding any base property within unit G; is that right?

Mr. LARSON. Yes.

The CHAIRMAN. Well, then, what was this plea made for last night, that he used to evoke the tears of so many here? What was the plea made for? I thought we were dealing with the question of unit G.

Mr. JOHNSON. The plea was made, due to the fact that since the Indian department has purchased some of these ranches in the red, that Pawwinnee's son-in-law, and some of the member of his family, have been placed on those ranches.

The CHAIRMAN. Not for Pawwinnee himself?

Mr. JOHNSON. That is the way I got it yesterday, after talking to his son-in-law, after the meeting last night. I was so informed.

Senator MURDOCK. You don't mean Pawwinnee was not talking for himself, also?

Mr. JOHNSON. He may have been speaking for himself and his family.

Mr. LEECH. Mr. Chairman, reading from the agreement, this is what it reads:

Should there be any Indians within the ceded Uncompahgre Reservation who desire use of these lands for their own livestock, it is agreed that they be given prior right to an allocation of range within grazing district No. 8 irrespective of what their technical commensurability may be.

The CHAIRMAN. You use the words there, "within the ceded lands."

Mr. LEECH. I mean within that orange line.

The CHAIRMAN. But you read the word "ceded." What does that mean? I thought "ceded" referred to something outside of unit G. Am I wrong in that?

Mr. LEECH. Well, the word "ceded" appears in that agreement, but as used in this agreement it meant the area within the orange line.

Mr. WOHLKE. I believe, Mr. Chairman, it was used inadvertently.

The CHAIRMAN. There is so much in this that does not belong in here that I am not surprised.

Mr. JOHNSON. Mr. Chairman, what we were talking about yesterday is that the whites thought that this was Indian ceded lands that was used for the purpose of making this agreement with the Indian department.

Mr. PATTERSON. Well, it was restored in 1905; restored to the public domain. That is the equivalent of a ceded area.

Mr. JOHNSON. Which was not ceded technically.

The CHAIRMAN. I am only trying to get the matter by way of record somewhat clarified. It is an involved situation, and the more clarity we can work into the record the better off we'll be.

Mr. DILLMAN. There is one item that has not been brought out that probably should be brought out.

The CHAIRMAN. Does it pertain to the subject matter now?

Mr. DILLMAN. Yes; it does. The blue lands up in the Altonah area are allotments that belong to the Uncompahgres. I think that ought to be considered in connection with this use by the Uncompahgre group.

The CHAIRMAN. All right; that is off again on a different line.

Mr. SMITH. Could I ask Mr. Leech one question?

The CHAIRMAN. Yes; surely.

Mr. SMITH. Mr. Leech, in effect, you have been issuing these permits on the prior use of the number of livestock customarily used without any consideration to any land commensurability to the Indians?

Mr. LEECH. I would not know on the particular cases, Mr. Smith. Mr. Larson would be the one to say as to these individual cases.

Mr. SMITH. Your agreement states that out.

Mr. LEECH. That may be done; yes.

Mr. SMITH. And the priority use of the livestock.

Mr. LEECH. It doesn't mention the priority.

The CHAIRMAN. Who made that agreement?

Mr. LEECH. It is signed by the acting director of the Grazing Service, the Commissioner of Indian Affairs, and approved by the Secretary of the Interior on July 20, 1935.

The CHAIRMAN. Is that the one you referred to a moment ago?

Mr. LEECH. That is the one that I read from a moment ago.

(The agreement reads as follows:)

JULY 19, 1935.

The honorable the SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: Representatives of the Division of Grazing in the Interior Department and the Indian Office met in conference July 18 and agreed on a plan for the management of the unentered lands within the ceded Uncompahgre Reservation, Utah.

It was agreed that any action taken to place these lands under range management should be consistent with any prior valid withdrawal from entry, including the withdrawal from homestead entry by the Secretary of the Interior dated September 23, 1933, of the ceded Uncompahgre lands in Utah. This withdrawal was prior to the Executive order of November 26, 1934, promulgated pursuant to the Taylor Grazing Act, approved June 28, 1934 (48 Stat., 1267).

Under these conditions we recommend that the ceded Uncompahgre lands in Utah which were temporarily withdrawn from homestead entry on September 23, 1933, be placed temporarily under range management in accordance with the provisions of the Taylor Grazing Act until December 31, 1936, or until the passage of the bill by Congress creating the new Uncompahgre Reservation if it occurs prior to that date. If the Commissioner of Indian Affairs believes that the people of Utah living within or interested in grazing district No. 8 have been working in good faith for the passage of the bill reestablishing an Uncompahgre Reservation and it has not been passed by Congress by December 31, 1936, he agrees to continued administration of the ceded Uncompahgre lands by the Grazing Division of the Interior Department until the said bill has been passed by Congress or until he believes the above-mentioned people have ceased to work for the enactment of said bill. The Commissioner of Indian Affairs shall concur in all matters affecting policy relative to the administration of the ceded Uncompahgre lands. We understand that the stockmen and other interested parties who attended a meeting at Vernal, Utah, on July 10 have agreed to the above conditions.

It is further agreed that these lands now in grazing district No. 6 in Utah, which it is proposed shall form a part of the Uncompahgre Reservation, shall be included with the ceded Uncompahgre lands in grazing district No. 8 in Utah; that only temporary grazing licenses which do not create in the licenses vested rights of any kind in and to these lands shall be issued for grazing livestock within the modified grazing district No. 8; and that the right, title, and interest of the Indians in and to the ceded Uncompahgre lands shall in no way be jeopardized.

Should there be any Indians within the ceded Uncompahgre Reservation who desire the use of these lands for their own livestock, it is agreed that they be given prior right to an allocation of range within grazing district No. 8 irrespective of what their technical commensurability may be.

Respectfully,

JOHN COLLIER,
Commissioner of Indian Affairs.

JOHN F. DEEDS,
Acting Director, Division of Grazing Control.

Approved, July 20, 1935:

HAROLD L. ICKES,
Secretary of the Interior.

The CHAIRMAN. Mr. Woehlke, before you came in a matter was referred to, which I thought it best to defer, in consideration of you gentlemen, until you had returned. It is apparently some kind of an agreement under date of October 12, 1942. It reads as follows:

We, the users of the Federal range in grazing unit G, Duchesne grazing district, request that we be permitted to make our own allotment boundary lines, both individual and group, for the reason that we think that we can better make more workable units due to our intimate knowledge of the area involved.

It is requested that these agreements be approved by the advisory board of this district after the range division and boundaries have been agreed upon by the users.

It is understood that these agreements can be changed by Grazing Service regulations, but it is requested that no changes be made until the range survey has been completed and the utilization checks have been made.

It is understood that should any differences arise relative to the division of Federal range, the Grazing Service representative will act as arbitrator, assisted by two disinterested Grazing Service employees.

This is signed by a number of people of whom, I am advised, a representative of the Indian Service is one.

Are you advised of that so-called agreement, and what does it mean?

Mr. WOEHLEKE. I am not familiar with that, but probably Mr. Wright is.

Mr. WRIGHT. Not just from the reading.

The CHAIRMAN. That is in 1942, this past year.

Mr. WRIGHT. Our grazing examiner, the young man who spoke here this morning, has signed it, that is true.

The CHAIRMAN. That would look as though it were an agreement, at first blush, at least. How many agreements up to date have we encountered?

Mr. WOEHLEKE. I would say that was a request, rather than an agreement. Apparently no agreement was reached on that request.

Mr. JOHNSON. Apparently that is a memorandum agreement, and another one follows it, which was signed at that meeting, after the division of the range was made.

The CHAIRMAN. Where is that one? Is there another agreement?

Mr. LEECH. I think you will have to have Mr. Larson and Mr. Moore on that, Mr. Chairman.

The CHAIRMAN. How about that?

Mr. MOORE. The procedure—I was not here at these meetings—that we followed, we call these users together and make this for them to agree on, an administrative line to set these fellows into administrative units, and if they sign, why, you have what you have here. If they don't, then it is up to us to establish this line. Of course, they always have the right to protest, which is under the Taylor Grazing Act.

The CHAIRMAN. Did they establish the line?

Mr. MOORE. Yes; these people established the line.

The CHAIRMAN. You agreed to it?

Mr. MOORE. Yes, sir.

The CHAIRMAN. You acquiesced?

Mr. MOORE. Yes, sir.

The CHAIRMAN. That all pertained to unit G?

Mr. MOORE. Yes, sir.

The CHAIRMAN. That was an agreement that affected the rights of the whites, as well as the rights of the Indians, within the district?

Mr. MOORE. Yes, sir.

The CHAIRMAN. Within unit G?

Mr. MOORE. Yes, sir. For the winter's operation.

The CHAIRMAN. Not alone for this winter's operation; nothing in here to limit it.

Mr. MOORE. No reason why that cannot continue.

The CHAIRMAN. Has this been observed by those in interest here?

Mr. JOHNSON. I signed that, representing some of the stockman.

Mr. PATTERSON. Mr. Smith signed it, acceded to it.

Mr. SMITH. We did not want to sign that; already had an allotment set up. We passed up to the Grazing Department for them to set up, and we acquiesced in what they set up.

The CHAIRMAN. When you acquiesced to what they set up, what did you think you were acquiescing to?

Mr. SMITH. The district lines, already drawn on the map; already discussed the thing in conference, and these boundary lines were set up from other years, on the map. We applied; we was to have that other three sections, extra, and it was left up to the Grazing Department to determine this, and we acquiesced, and accepted that.

The **CHAIRMAN.** Did you get the three sections extra?

Mr. SMITH. Yes.

By the way, give up three sections to the farmer, fenced their farm—that is the allotments of three given up, next to these farmers on the creek bottoms.

The **CHAIRMAN.** I regard this as somewhat significant, Mr. Wright, don't you regard it so?

Mr. WRIGHT. Well, as I recall it, it was for operational purposes, and regarded as temporary. It might be continued, by mutual concurrence, from year to year.

The **CHAIRMAN.** This does not limit it to a year.

Mr. WRIGHT. That was my understanding, however.

The **CHAIRMAN.** It does not limit it to a year, by its terms, at all.

Mr. WRIGHT. It was my understanding that it was for operational purposes, and I still think it is a good thing, the best way to get along.

The **CHAIRMAN.** You think it is a good way to get along?

Mr. WRIGHT. Yes.

Mr. PATTERSON. As they have been enforced in other areas, it is supposed to be permanent; a permanent outline for their territory, subject to any adjustments that the Grazing Division may care to make.

The **CHAIRMAN.** Let me ask the Grazing Division, when you ask for this accordingly, usually, not in this case particularly, but in all cases, do you look for it to be of a permanent nature?

Mr. MOORE. I certainly hope it is.

The **CHAIRMAN.** It settles a very vexing question, sometimes.

Do you see any objection, Mr. Woehlke, why this should not go into the record?

Mr. WOELKE. No objection at all to having it go into the record.

The **CHAIRMAN.** You acquiesce to it?

Mr. WOELKE. No, I do not; I don't know anything about it. I believe, with Mr. Wright, that it is operational, an agreement made for this current grazing season.

The **CHAIRMAN.** My dear sir, it does not show anything current about it.

Mr. WOELKE. But I believe that still is the case, that they will have to have another agreement next year.

The **CHAIRMAN.** There being no objection to it, and it seems to be authentic, it will go into the record at this point.

(The agreement is as follows:)

VERNAL, UTAH, October 12, 1942.

This agreement entered into on this date by users of the Federal range of unit G.

It is agreed that Otto W. Nielson shall have the Federal range within the following described boundaries for winter usage: Beginning at a point of the intersection of Willow Creek with Green River thence south and west down Green River to a point on the south end of Horse Bottom where sec. line common between sec. 4 in T. 9 S., R. 19 E., and sec. 9 in T. 10 S., R. 19 E., thence east along this section line to the SE corner of sec. 4, T. 10 S., R. 19 E., thence diagonally to the NE. corner of said section, thence east approximately 1¼

miles along sec. line to the divide of a prominent drainage thence southwesterly along the divide of the drainage for approximately 1 mile to the State line of sec. 6, T. 10 S., R. 20 E., thence east along this sec. line to its intersection with Willow Creek approximately one-half mile above the Humphries Place, thence northeasterly down Willow Creek to the point of beginning.

Mr. Otto Neilson and Mr. Clive Sprouse, E. F. Birchell shall receive for summer usage the Federal range along the bottom of Green River from the intersection of Willow Creek with Green River southwesterly along Green River to the south end of the long bottom located in sec. 31, T. 10 S., R. 18 E., Mr. Nielson will have a normal drift with his cattle to the south of this allotment during the winter.

Mr. E. F. Birchell shall receive the Federal range within the following described boundary for winter usage. Beginning at a point at the intersection of Hill Creek and Willow Creek, thence up Hill Creek to the township line between 10 S., and 11 S., R. 20 E., thence east along this line to its junction with Willow Creek, thence down Willow Creek to the point of beginning.

Mr. Ray Bartholomew shall use the Federal range within the following described boundary beginning at the intersection of the south township line of 10 south R. 20 E., with Willow Creek, thence west along this township line to a ledge on the top of the divide of the drainage between Hill Creek and Willow Creek, thence southerly along the east rim of this ledge to approximately the $\frac{1}{2}$ sec. line running through sec. 29, thence east on this line to east $\frac{1}{4}$ corner of sec. 9, T. 11 S., R. 20 E., thence following northerly along the top of the divide to the south sec. line of sec. 3, T. 11 S., R. 20 E., thence east along this section line to its intersection of Willow Creek, thence down Willow Creek to the point of beginning.

It is understood that Emory, Blanche, and Moroni Smith shall have watering privileges for their sheep on Bartholomew ditch located in the SW $\frac{1}{4}$ of sec. 2, T. 11 S., R. 20 E.

Mr. Marvin Broome shall receive the Federal range for winter usage within the following described boundary: Beginning at a point on Willow Creek where the SW $\frac{1}{2}$ sec. line in sec. 11, T. 11 S., R. 20 E., intersects Willow Creek thence west along this line to a point approximately one-third mile east of the W $\frac{1}{4}$ corner of above section thence southwesterly along the divide of the drainage between Carlyle Wash and short drainage into Willow Creek to a point approximately one-fourth mile west of the SE corner of sec. 14 T. 11 S., R. 20 E., thence from the SW corner of sec. 14 southeasterly to a rim on the divide of the drainage between Broome Canyon and short drainage into Willow Creek.

This line shall be posted by a member of the Grazing Service at a place that will be most practical for the use of this area. Thence south along this rim to approximately the S $\frac{1}{4}$ corner of sec. 23 thence east along this section line for approximately one-eighth mile to the east rim of Pack Mountain running approximately through the center north and south of sec. 26 T. 11 S., R. 20 E., thence south along this rim to a point approximately to a divide of the drainage of Small Canyon located in the NE corner of sec. 28 of the above township thence easterly and north along a divide of the drainage of the NE $\frac{1}{4}$ of sec. 26 NW $\frac{1}{4}$ of sec. 25 and SE $\frac{1}{4}$ of sec. 24 T. 11 S., R. 20 E., to its intersection with Willow Creek thence down Willow Creek to the point of beginning.

Mr. Louis Thorne shall receive the Federal range for winter usage within the following described boundary. Beginning at a point on Willow Creek approximately at the north boundary of Mr. Thorne's property thence SW along the divide of drainage to the east rim of Big Pack Mountain located approximately at the SW corner of the NE $\frac{1}{4}$ of sec. 26 T. 11 S., R. 20 E., thence south along the east rim of Pack Mountain to a point approximately at the SW corner of sec. 26, T. 11 S., R. 20 E., thence east along this sec. line to its intersection with Willow Creek thence down Willow Creek to the point of beginning. It is further agreed that Mr. Thorne shall have a normal drift with his cattle to the south of this allotment in sec. 31, T. 11 S., R. 21 E., sec. 36, 35 T. 11 S., R. 20 E.

Signed:

Louis M. Thorne.
E. S. Birchell.
O. W. Nielson and Sons.
S. L. Bartholomew.
Clive Sprouse.
Marvin Broome.

Witnessed:

Joseph Haslem (board member).

J. Harold Reader.

Hyrum E. Seeley.

It is agreed that the Federal range users in unit G shall receive the Federal range in the following-described areas.

Moroni, Blanche, and Emory Smith shall receive as a private allotment the Federal range for winter usage within the following-described boundaries: Beginning at a point on Green River where the north section line of sec. 9, T. 10 S., R. 19 E., intersects the river, thence east along section line to the N corner of said section, thence north and east diagonally to the NE corner sec. 3, T. 10 S., R. 19 E., thence due east along section $1\frac{3}{4}$ miles thence southeasterly along the ridge between drainages to a point approximately $\frac{1}{4}$ mile east of SE corner of sec. 1, T. 10 S., R. 19 E., thence due east along section line to intersection with Willow Creek, thence south and east along Willow Creek to the intersection of Hill and Willow Creeks, thence up Hill Creek to Brown Canyon water hole located in sec. 32, T. 10 S., R. 20 E., thence due west to approximately $\frac{1}{4}$ mile to a north rim of Brown Canyon, thence along said north rim to a westerly direction to a point where the rim stops, thence northeasterly along divide of drainage to the SE corner sec. 36, T. 10 S., R. 19 E., thence along the south section line of said section continue along section line to north $\frac{1}{4}$ corner of sec. 35, T. 10 S., R. 19 E., thence along divide north of King Canyon to north $\frac{1}{4}$ corner of sec. 27, T. 10 S., R. 19 E., thence along divide in northwesterly direction along divide to intersection of Green River approximately 15 chains SW. of corner common to secs. 29, 30, 19, and 20, T. 10 S., R. 19 E., thence in a northwesterly and easterly direction along Green River to point of beginning. It is further understood that Mr. Otto Nielson has a normal drift south of his winter allotment into the north part of the Moroni, Blanche, and Emory Smith allotment. Also that Clize Sprouse, Otto Nielson, and Ephrium Birchell shall have summer usage with cattle along the bottom of Green River following within the boundaries of the above-described allotment. It is also understood that should emergency arise that the Indian sheep on Wild Horse Bench will have a right to trail to water on Willow Creek through the above allotment to the water hole normally known as Squaw Crossing.

The Indian Service shall receive as a individual allotment for the herds run by Eyhermandy, Backford, Santio, and Contonuts the Federal range within the following described boundaries beginning at a point on Green River 15 chains SW of corner common to section 19, 20, 29, and 30 T. 10 S., R. 10 E., thence southeasterly along a ridge north of King Canyon at a point which is the N $\frac{1}{4}$ corner section 27 T. 10 S., R. 19 E., thence south easterly along a divide to the N $\frac{1}{4}$ corner of section 35 T. 10 S., R. 19 E., thence due east along section line for $1\frac{1}{2}$ miles to the NE corner of section 36 T. 10 S., R. 19 E., thence SE. along line to a point where the north rim of Brown Canyon thence along north rim of Brown Canyon to an easterly direction to Hill Creek at a point where Brown's Canyon empties into Hill Creek thence southwesterly along Hill Creek to a point where a road takes out on the east side of Hill Creek below Myrup's ranch thence up this road which is also up Big Pack Draw to a point where the road leaves Big Pack Draw which point is approximately 10 chains north of a east $\frac{1}{4}$ corner of section 19, T. 11 S., R. 20 E., thence along this road where the rim forms a divide between the drainage of Hill Creek and Big Pack Draw, thence southwesterly along the rim which is a divide between Hill Creek and Big Pack Draw to a point approximately the west $\frac{1}{4}$ corner of sec. 1 T. 12 S., R. 19 E., thence south along township line approximately $5\frac{1}{2}$ miles to the southeast corner section 36 T. 12 S., R. 19 E., thence north and westerly down Hill Creek approximately (7 miles) to a point where River Road Canyon empties into Hill Creek thence NW up the river road canyon to a point which is a bottom of Wild Horse Bench south dugway, which is approximately center of section 28 T. 11 S., R. 19 E., thence southwesterly down Cat Canyon to the west $\frac{1}{4}$ corner of section 6 T. 12 S., R. 19 E., thence around an area $\frac{1}{2}$ set as a watering hole known as No Man's Land to a point $\frac{1}{2}$ mile west to Tabyago Spring thence due west to the head of a canyon that flows into a watering place on Green River known as Dutches Hole, thence northeasterly and westerly along Green River to the point of beginning.

Dave Seeley and Steve Chuturas shall receive the Federal range in the following described area for winter uses. Beginning at a point on Green River known as Dutches Hole thence following down Green River to a point where the south section line of sec. 1 T. 13 S., R. 17 E., intersects Green River thence up a small canyon to a ledge of Petters Point in sec. 12 T. 13 S., R. 17 E., thence in a southerly direction traversing approximately to the center of sec. 12, 13, 24 to the south rim of Big Canyon at approximately the west $\frac{1}{4}$ corner of sec. 19 T. 13 S., R. 18 E., thence following south and east along the south rim of Big Canyon to its head in sec. 15 T. 14 S., R. 18 E., thence south and east to a rim of a point on the divide of the drainage of Big Canyon and Winter Canyon, thence easterly to Winter Canyon thence down Winter Canyon to SW corner of sec. 12 T. 14 S., R. 18 E., thence following east rim of Winter Canyon to a point approximately at the SW corner of sec. 36 T. 13 S., R. 18 E., thence northerly to a rim of Pine Canyon thence following along west rim of Pine Canyon to a point approximately on the SW $\frac{1}{2}$ section line of sec. 24 T. 13 S., R. 18 E., thence west to the east rim of west Tabyago Canyon, thence following down the east rim of said canyon to a point approximately in the center of sec. 36 T. 12 S., R. 18 E., thence north across neck of bench to west rim of east Tabyago Canyon hence following the west rim of east Tabyago Canyon to a point approximately $\frac{1}{2}$ mile east of Tabyago Spring thence west to Tabyago Spring, thence due west to the head of a canyon draining into Dutch Hole watering place on Green River to the point of beginning.

H. A. Tyzack, Smith Investment Co., and David G. Smith shall receive the following Federal range for use in common within the following-described boundary. Beginning at Tabyago Spring thence east to the rim of east Tabyago Canyon thence southerly following the west rim of said canyon to a point approximately in the center of sec. 36 T. 12 S., R. 18 E., thence to the east rim of west Tabyago Canyon thence south along this rim to a point approximately on east west $\frac{1}{2}$ section line of sec. 24 T. 13 S., R. 18 E., thence east to the west rim of Pine Canyon thence south along this rim to the head of Pine Canyon thence westerly to the north and east rim of Winter Canyon thence along this rim to approximately the SW corner of sec. 2 T. 14 S., R. 18 E., thence up Winter Canyon to a point east of a rim of drainage of Big Canyon and Winter Canyon, thence easterly to a rim of east Tabyago Canyon, thence south and easterly up this rim to a point approximately W. $\frac{1}{4}$ corner of sec. 19 T. 14 S., R. 19 E., thence east along head of Tabyago Canyon to the intersection of a road located on the east side of sec. 19 T. 14 S., R. 19 E., thence easterly along this road to the fork of the drainage of Cottonwood Canyon thence following north along the west rim of Cottonwood Canyon to west Squaw Canyon thence north down Squaw Canyon to approximately the NE corner of sec. 15 T. 13 S., R. 19 E., thence following north rim of west Squaw to Hill Creek thence northerly along west rim above Hill Creek to where the west Squaw road hits Hill Creek approximately NE corner of sec. 1 T. 13 S., R. 19 E., thence down Hill Creek to a mouth of river road canyon thence west up River Road Canyon to the intersection of Wild Horse Bench road, thence south and west along a road down Cat Canyon to its intersection of Tabyago Canyon thence down Tabyago Canyon to No Man's Land at Tabyago Spring it is understood that No Man's Land will consist of an area approximately $\frac{1}{2}$ mile wide on either side of Tabyago Spring for approximately 1 mile east of said spring this water shall be used jointly by Indian Service sheep to the north, Tyzack, Smith Investment and David G. Smith, Seeley and Chuturas sheep for watering.

Lafe Bown shall receive as an individual allotment the Federal range for winter usage within the following described boundaries: Beginning at a point approximately $\frac{1}{8}$ mile east of the northwest corner of sec. 6, T. 12 S., R. 20 E., thence south along the rim of Big Pack Mountain to the west $\frac{1}{4}$ corner of sec. 6, T. 12 S., R. 20 E., thence due south along township line to its intersection of Hill Creek at approximately the SW corner of sec. 31, T. 12 S., R. 20 E., thence up Hill Creek to the mouth of Green Canyon, thence south along the east rim above Hill Creek to approximately the west $\frac{1}{4}$ sec. 31, T. 14 S., R. 20 E., thence east along the rim to a point opposite the old oil drilling in sec. 32, T. 14 S., R. 20 E., thence east along the road across Flat Rock Mesa to the SE corner sec. 34, T. 14 S., R. 20 E., thence north along the road to the point on a rim at the head of Ute Canyon approximately west $\frac{1}{4}$ corner of sec. 24, T. 14 S., R. 20 E., thence north and east along a rim to the south section line of sec. 6, T. 14 S., R. 21 E.,

thence east along the section line to the SE corner sec. 6, T. 14 S., R. 21 E., thence due north to the northwest corner of sec. 6, R. 14 S., R. 21 E., thence due east along section line to its intersection with Willow Creek, thence north down Willow Creek to the south $\frac{1}{4}$ corner sec. 31, T. 11 S., R. 21 E., thence following the section line west to the south $\frac{1}{4}$ corner sec. 35, T. 11 S., R. 20 E., thence south following the rim of Big Pack Mountain to the north section line of sec. 15, T. 12 S., R. 20 E., thence west following section line to NE corner sec. 16, T. 12 S., R. 20 E., thence north down the main drainage of Big Pack Draw to the intersection of north section line of sec. 4, T. 12 S., R. 20 E., thence due west following the section to the rim of Big Pack Mountain, the point of beginning. It is also understood that Lafe Brown will have the watering privileges on Hill Creek at the mouth of Ernie Canyon, Green Canyon, Fairbanks Crossing, and above the Rock House Dam. It is also understood that Indians will have the normal use in east Squaw Canyon with cattle from the Jick Taylor ranch. It is also understood that Mr. Louis Thorne will have a normal trail right for his cattle to go from his ranch on Willow Creek to the summer range and return.

Moreni, Blanche, and Emory Smith shall receive an individual allotment of the Federal range within the following described boundaries: Beginning at a point on the west rim of Big Pack Mountain approximately $\frac{1}{4}$ mile east of the NW corner of sec. 6, T. 12 S., R. 20 E., thence east along the section line to its intersection with Big Pack Draw, thence southerly up this drainage to the northeast corner of sec. 16, T. 12 S., R. 20 E., thence due east along section line to its intersection of the rim of Big Pack Mountain, thence northerly along the rim of Big Pack Mountain to its intersection of the north section line of sec. 2, T. 12 S., R. 20 E., thence due east along section to its intersection with Willow Creek, thence down Willow Creek to the intersection of the south boundary of the Louis Torne property, thence due west along section line to its intersection of the rim of Big Pack Mountain to approximately the east-west $\frac{1}{2}$ section line in sec. 23, T. 11 S., R. 20 E., thence northwesterly to the northwest corner of sec. 12, T. 11 S., R. 20 E. (see note allotment for Marvin Broome), thence west to a ridge between the drainage of Carlyle Draw and small drainage of Willow Creek, thence north along this divide to a point approximately $\frac{1}{4}$ mile east of the west $\frac{1}{4}$ corner of sec. 3, T. 11 S., R. 20 E., thence due east to the intersection of Willow Creek, thence down Willow Creek to the south boundary of sec. 2, T. 11 S., R. 20 E., thence west along the divide of the drainage between this canyon and Carlyle Draw to the west $\frac{1}{2}$ corner of sec. 10, T. 11 S., R. 20 E., thence due west to a rim on top of Big Pack Mountain, thence north following the east side of this rim to its intersection of the north line of sec. 4, T. 11 S., R. 20 E., thence due west along section line to its intersection with Hill Creek, thence south along Hill Creek to the Myrup Ranch to the point approximately the west $\frac{1}{4}$ corner of sec. 20, T. 11 S., R. 20 E., thence westerly to the rim of Big Pack Mountain, thence south along rim of Big Pack Mountain to the point of beginning.

A. L. Johnson shall receive an individual allotment of the Federal range within the following described boundaries: Beginning at a point where the south township line of T. 31 S., T. 21 E., intersects Willow Creek, thence due west to the northwest corner sec. 5, T. 14 S., R. 21 E., thence due south to the SW corner sec. 5, thence due west on section line to its intersection of a high rim, thence south along rim to head of Ute Canyon in sec. 24, T. 14 S., R. 20 E., thence east to the rim of Ute Canyon, thence east along the north rim of Ute Canyon to Willow Creek, thence down Willow Creek to the point of beginning.

Indian cattle operated by Glen Reed shall receive the Federal range within the following described boundary: Beginning at a point opposite the north rim of the Ute Canyon on Willow Creek, thence west to the north rim of Ute Canyon, thence west along this rim to the east $\frac{1}{4}$ corner of sec. 24, T. 14 S., rim to the W $\frac{1}{4}$ corner of same section, thence south following a road to the north quarter corner of sec. 16, T. 15 S., R. 20 E., thence southeasterly along the south rim of Mail Canyon to its mouth, thence due east to the south rim of Dry Canyon, thence east along this rim to Willow Creek, thence down Willow Creek to a point of beginning.

It is agreed that the Federal range lying south of the above described allotment in unit G shall be used by Indian stock for spring and fall and summer usage

except that it is agreed that Louis Thorne shall use in common on the summer range with the Indian cattle.

Witnesses:

C. S. JOHNSON.
H. E. SEELEY.
J. HAROLD READER.

Signed: D. R. SEELEY.
STEVE CHUTURAS.
LOUIS THORNE.
Indian Service by JOE WAGNER.
H. A. TYZACK.

VERNAL, UTAH, October 13, 1942.

This being an attachment to the request of the users in unit G that they be permitted to make their own allotment boundary lines, the undersigned users as shown on the request of October 12, 1942, were parties to the agreements and descriptions of allotments described under that authority. All other users of the unit who are not parties to the request were drawn off allotments by the Grazing Service and assistants and they acted as arbitrators in the matter, keeping in mind setting up workable units for these users.

L. WAYNE LARSON,
District Grazier.
EDMUND H. MURDOCK,
Grazier Aide.

Witnessed:

CLYDE S. JOHNSON.
LOUIS M. THORNE.
JOE A. WAGNER.
J. HAROLD READER.
H. E. SEELEY.

VERNAL, UTAH, October 13, 1942

It is agreed between the Grazing Service and the undersigned users that if the agreements for allotments as outlined in the agreement of unit G on October 12, 1942, are in any way broken up by users not a party of the request to set up range allotments in unit G, or if readjustment is made, the undersigned users will not be bound by the agreement of October 12, 1942.

(Signed) D. R. SEELEY.
STEVE CHUTURAS.
H. A. TYZACK.
L. WAYNE LARSON,
District Grazier.

Witnessed:

JOE WAGNER.
J. HAROLD READER.
H. E. SEELEY.

VERNAL, UTAH, September 10, 1942.

STEVE CHUTURAS,
Meeker, Colo.

DEAR LICENSEE: This is to notify you that a meeting will be held September 21, 1942, at Vernal, Utah.

The purpose of the meeting is to have the users work up their proportion of Federal range in unit G.

The following have been notified to be present: W. L. Bartholomew; Lafe Bown and sons; Jack Brewer; Steve Chuturas; J. L. and M. Downard; Dominique Eyhermandy; Alfred L. Johnson; O. W. Nielson and sons; D. R. Seely; Albert Smith Investment Co.; David G. Smith; Blanche, Moroni, and Emory Smith; Louis Thorne; H. A. Tyzack; Indians, care of C. C. Wright.

You will note the names as listed above. Will you please notify any other interested parties whose names do not appear?

This is an important meeting, and you are requested to be present. If you cannot be here, please give your power of attorney in writing to someone to act for you in your absence.

Yours truly,

L. WAYNE LARSON,
District Grazier.

VERNAL, UTAH, October 12, 1942.

We, the users of the Federal range in grazing unit No. G, Duchesne grazing district, request that we be permitted to make our own allotment boundary lines, both individual and group, for the reason that we think that we can better make more workable units, due to our intimate knowledge of the area involved.

It is requested that these agreements be approved by the advisory board of this district after the range division and boundaries have been agreed upon by the users.

It is understood that these agreements can be changed by Grazing Service regulations, but it is requested that no changes be made until the range survey has been completed and the utilization checks have been made.

It is understood that should any differences arise relative to the division of Federal range, the Grazing Service representative will act as arbitrator, assisted by two disinterested ~~advisory board members~~ Grazing Service employees [in writing].

Signature

Signed by:

Dominique Eyheramandy; O. W. Nielson & Sons; D. R. Seely; Steve Chuturas (by D. Johnson); Jack Brewer; Clive Sprouse; W. L. Bartholomew; Louis M. Thorne; Marvin Broome; E. S. Birchell; H. A. Tyzack; Indian Service by Joe A. Wagner.

Mr. PATTERSON. I would like to say this: The Grazing Service operates upon this, they notify a man this decision has been accepted and the boundaries set pursuant to the request.

We have two other short witnesses, Mr. Chairman.

The CHAIRMAN. I want to say to these counties that are affected by the district under consideration, that sometime before we conclude I think it would be entirely proper that some representatives of the municipal government might come forward to make such expressions as he deems proper, bearing on the subject of the tax structure and the economic set-up of the respective communities.

Senator MURDOCK. Mr. Chairman, I believe there are members of the boards of both Duchesne and Uintah Counties here. They have expressed a desire to do that very thing to me.

The CHAIRMAN. That is fine. However, we will not break in on this. Go ahead, Mr. Patterson. I just want to be reminded of that before we conclude.

Senator MURDOCK. There is also another group representing small livestock men, especially in Duchesne County, whom we must hear sometime before we finish.

Mr. PATTERSON. I'll call Mr. Thorne and Mr. Broome.

The CHAIRMAN. In my feeble way I'm trying to aline the Smith case, which is now running out to its conclusion.

Mr. Wright, in your investigation and your study of this subject, is there any doubt in your mind that the Smith people have utilized the territory embraced within unit G?

Mr. WRIGHT. Well, that doubt is based upon that investigation, made by the General Land Office, and it still exists. I do not wish to contradict or dispute what testimony Mr. Smith has given here today; but that was why we doubted whether they have sufficient rights, as they claimed, within unit G; and it seems to me it might be fair to ask that this entire report by the General Land Office go into the record.

The CHAIRMAN. It is quite voluminous. I think it can go on file with the committee without going into the record. While we have to try to make the record as complete as we can, we are still bound by the limits of the amount allotted to us for the transcript, and while we would like to have it go into the record to make our official reporter smile, at the same time we have to make someone else smile back in Washington.

(The report of the investigation referred to was filed with the committee and will be found accompanying the original copy of this transcript.)

Mr. WRIGHT. There is testimony of reliable men in this investigation; affidavits that say, in short, that these Smiths, not all of them, I think, if I may say so, the other Smiths said they did not have continuous use for 2 consecutive years during the priority period in unit G.

The CHAIRMAN. Have you those other men here?

Mr. WRIGHT. Gilbert Wild was one of them and David Seeley was one of them.

Mr. WOEHLEKE. Mr. Chairman, could I read into the record a few brief extracts from the report of the field examiner, Mr. Moulton?

The CHAIRMAN. I am wondering if it would not be better, in view of the fact that this is to become a record of the committee, to let it rest at that. I think it would be more enlightening to the committee. You might read a few extracts that serve your purpose and you will not read any that will not serve your purpose. If the committee reads them they will read them all.

Mr. WOEHLEKE. On the other hand, Mr. Smith here has given certain testimony, which is quite extensive, and which goes into the record, while we have been unable to offer anything so far.

The CHAIRMAN. What is to prevent you?

Mr. WOEHLEKE. May I offer this?

The CHAIRMAN. Why not the original? How about the maker of the record, is he unavailable?

Mr. WOEHLEKE. Yes; he is available.

The CHAIRMAN. The maker of the record is the best witness. Let him testify on what he made the record.

Mr. PATTERSON. I want to say—

The CHAIRMAN. Just a moment.

STATEMENT OF H. D. MOULTON, FIELD EXAMINER, GENERAL LAND OFFICE, DEPARTMENT OF THE INTERIOR, SALT LAKE CITY, UTAH

Mr. MOULTON. My name is H. D. Moulton, field examiner for the General Land Office.

The CHAIRMAN. Now, I understand that you made a record in this matter and we would like to hear from you.

Mr. MOULTON. Well, the report, Mr. Chairman, is rather voluminous.

The CHAIRMAN. I'm not talking about the report, Mr. Moulton, we want your findings, if you please.

Mr. MOULTON. Well, I made an investigation, in March and April last year, 1942, particularly as to the rights of three users of the range in unit G. The first one was Steve Chuturas, generally known as

"Little Steve"; and the second was Edmund Crawford and D. R. Seeley, either as individuals or operating as a partnership; and the third was H. A. Tyzack, whose claim to grazing permits was based on use from predecessors in interest, by the name of Spiros and John Charchales.

The CHAIRMAN. This investigation was made for what department?

Mr. MOULTON. As a field examiner of the General Land Office at the request of the Bureau of Indian Affairs. It came to me through the regular channels and was assigned to me for investigation.

The CHAIRMAN. Did you confer with the Grazing Service?

Mr. MOULTON. Yes; I conferred with the Grazing Service and with the Indian Service.

The CHAIRMAN. You may proceed.

Mr. MOULTON. Well, the licenses which had been issued by the Grazing Service in unit G to these several parties were based on properties used during the priority years by these parties or their predecessors in interest, in Colorado, for summer use in Colorado. My investigation disclosed that with regard to "Little Steve," that he had operated from certain properties, locally known as lime kiln, 15 miles south of Meeker, in Colorado; but that his operations from those properties did not cover any 2 consecutive years in the priority period from 1929 to 1934 or any 3 years which the range code in effect at that time required. The range code made the requirement that the base property must have been used in that manner, that is, for 2 consecutive years or for any 3 years in the 5-year period. His use of the lime kiln property, which was offered as a base for his grazing privileges in grazing district No. 8—and in 8 he had been assigned to unit G—did not commence until 1933. In other words, his use from that property in Colorado had not started until 1933 and, while he wintered that year in Utah grazing district No. 8, that was the extent of his use from that particular property in Utah No. 8.

The CHAIRMAN. Your base period is from '34 to '39?

Mr. MOULTON. No; 1929 to 1934. So he went into Utah No. 8 in the winter of 1933-34. Then the Taylor Grazing Act was enacted in June 1934, and his use subsequent to that, of course, was not taken into consideration in the adjudication of the grazing privileges. He has made representations to the Division of Grazing, to the advisory board here in Vernal, which did not coincide with what I found in my investigation with regard to his use of that Colorado property in connection with his winter grazing on unit G. In other words, he represented to the Grazing Service officials and to the advisory board of district No. 8 that he had operated from this lime kiln property in Colorado, the year preceding 1933-34, which, if my investigation had found was a fact, would have brought him within the requirement of the 2-year consecutive use. That is, it would have tied up the base property in Colorado with the winter use of the public domain in unit G. However, my investigation failed to disclose any use by him in Colorado with which he could properly be credited for the claim in Utah, or any other place as far as that is concerned, during the priority period. It had been confined to 1 year.

The CHAIRMAN. Did you take your findings up with the Grazing Service?

Mr. MOULTON. The Grazing Service was given a copy of my report, as I understand it, Senator, immediately after its submission. The

Indian Service was given a copy of the report and the Grazing Service was furnished a copy. During the course of my investigation I conferred frequently with the various Grazing Service officials and Indian Service officials with whom I came in contact, and it was necessary to contact them in order to obtain the information that I desired.

In that connection, I was given very full cooperation by the members of both services, and, as I say, immediately upon submission of my report to Washington, I understand the copies were furnished to the two Bureaus.

The CHAIRMAN. That is one case. Now, how about the others?

Mr. MOULTON. Well, then, with regard to Crawford and Seeley, my investigation showed they had established a right in Colorado from a property that appeared in the record as the Howard property, which is located in Rio Blanco County, on the corner of the Rio Blanco County line, Colo., which they have purchased from the Carbon Emery Bank, which had foreclosed a mortgage on the property along in 1932. Mr. Crawford at that time was connected with the Carbon Emery Bank at Price as assistant cashier and also as a field man for them. They have numerous loans to sheepmen scattered all over Utah and western Colorado, and Mr. Seeley had been associated with Mr. Crawford for a number of years in the Bown livestock property, which appeared in this hearing as one of the properties acquired by the Indian Service in their purchase program, in letters shown in red along unit G.

The CHAIRMAN. Unit G?

Mr. MOULTON. Unit G; yes, sir. As I say, Mr. Crawford was connected with the bank, the bank held a mortgage on the Howard property, foreclosed, and Mr. Crawford at that time was currently ready to get into the livestock business. He made an arrangement with the bank and took over the Howard property; was allowed to run it a year for the bank, and, in 1932, and early in 1933, they acquired the property. Well, with that property there were 1,200 sheep. Prior to that time—prior to the purchase of the property by Crawford and Seeley—the Howard sheep had always wintered in Colorado, on what is known as Colorado Grazing District No. 1, which is east of the Colorado-Utah line. After Crawford and Seeley acquired the property, their representations made to the Grazing Service were to the effect that they had brought those 1,200 sheep from the Howard property to the Bown Livestock property on unit G. In order to enlighten you further in that regard, Mr. Crawford at the time the Bown Livestock Co. property was acquired by the Indian Service, was president of the company, and Mr. Seeley was a stockholder in it—had been operating here on unit G on the property not owned by the Indian Service. When they bought the Howard property, in Colorado they still retained at that time their interest in the Bown Livestock property here in Utah and continued to operate them during the first year of the ownership of the Howard property in Colorado, and had been representing that these 1,200 sheep had been brought over to the Bown Livestock property on Hill Creek, and that they had entered on the public domain in unit G of district 8 in the winter of 1932–33, and came the winter of 1933–34, which would have established a priority for the 1,200 sheep on the public domain on unit G.

In 1934 they returned to Colorado, having acquired another property, in addition to the Howard property, with all of their sheep. About that time, I take it, was when the transfer of the Bown Livestock Co. property on Hill Creek was made to the Indian Service. Anyway, my investigation was conclusive that they had brought this 1,200 head of sheep over to the Hill Creek area in those 2 years, and the intimations were very strong that they had wintered on the same range that had been heretofore used by the same band of sheep while on the property of Howard during the first 3 years of the priority period. In other words, the 1,200 sheep had remained in Colorado, on the area that had been formerly used by Howard; and they had not actually entered on the public domain in unit G. Further, the only base property set up by Mr. Crawford and Mr. Seeley upon which they predicated their claim to privileges in Utah was the Howard property, in Colorado, and the allegation that these 1,200 sheep had wintered in Utah from that property.

In examining the records of the Grazing Service at Meeker, it developed that the Howard property had been surveyed—this dependent property survey—to determine the animal-unit-months carrying capacity. In the adjudication, the rights of Crawford and Seeley in Colorado got full credit for the commensurability of the Howard property which had been extended in granting them privileges in Utah, and in Colorado Grazing District No. 1. Hence any privileges granted them over here at that time made it appear that there had been a sort of a pyramiding of the base property; that is, to apply it in both places. So they had no base property for consideration in the adjudication, made in connection with the Colorado privileges, that were applicable to unit G of grazing district No. 8 in Utah.

In regard to Mr. Tyzack, his rights are predicated upon a purchase by him of three homestead properties on Nine Mile, 3 miles out of Meeker, Colo., formerly owned by three different individuals who, during the priority period, from 1929 to 1934, leased their properties to various operators who were summering their sheep in the area from Utah. Among them were these men, Spiros and John Charchales. They had two of the properties comprising approximately 1,300 acres under lease for at least 3 of the years in the priority period—4 years, in fact. They also had the third property leased for 2 years, but not consecutively.

In other words, Spiros and John Charchales had qualified those properties under the range code—two of those properties. They had entered the Charchales sheep; had wintered them on unit G during the time they were leasing these properties in Colorado. Therefore, that so far as Mr. Tyzack is concerned, my investigation disclosed that he had an established priority that his predecessors in interest had established a priority from these Colorado properties on unit G in Utah Grazing District No. 8, to the extent of approximately 900 to 1,000 sheep. They used the Colorado property about $3\frac{1}{2}$ months during the summer, lambled on other properties in the general area, and used the property, such as purchased by Mr. Tyzack, during the latter part of the summer until they started to trail back into Utah.

My investigation showed that Mr. Tyzack was probably in unit G of grazing district No. 8 in Utah, to the extent that his rights had

been established, from Colorado property, formerly leased by Spiros and John Charchales. That is the result of my investigation.

As I went along, my instructions in regard to the investigation were to cover these three parties first and to submit a report; and that it was the desire to enlarge the investigation to include other users in this area. It named the men that are included in this, the Smith group, as I recall, which included Mr. Moroni Smith, Blanche Smith, who was Mr. Moroni Smith's wife, his son, Emory Smith, and the Albert J. Smith Investment Co., David G. Smith estate, Smith & Butters, and David G. Smith, individually.

As I went along, knowing I would afterward be called on to complete the investigation—that the scope of it was to be enlarged, and I would ultimately have to report on these other men also—I obtained such information as I could. But I did not obtain complete information in regard to any of these other parties, and I am not in a position to state any definite conclusions in regard to their rights or privileges.

The CHAIRMAN. Right there, is there any note made by you in the excerpts that have now become a part of the files of this committee, or will be, pursuant to the suggestion the Indian Bureau has made—your last expression that you did not make a full and complete investigation as to the Smith holdings; is that correct?

Mr. MOULTON. Yes, sir; I am absolutely not prepared to come to any conclusion in regard to them. As I say, it worked in generally in connection with my investigation that I was engaged on. I did make query, but I have not any definite basis for any information.

The CHAIRMAN. Your conclusions are quite definite as regard the three whose names you have mentioned?

Mr. MOULTON. Yes, because I completed that investigation.

The CHAIRMAN. Those were the three assigned to you for investigation?

Mr. MOULTON. Yes, sir.

The CHAIRMAN. And you were advised to watch out as you went along?

Mr. MOULTON. Yes, sir; I knew these others were going to be assigned to me for investigation.

The CHAIRMAN. You would not want this committee to be influenced by any expression that you might make with reference to other than the three whose names you have given us?

Mr. MOULTON. No; I would not. The excerpt that was read was from the records of the Grazing Service here in Vernal. That is public property, and does show that when Mr. Smith first filed his application for a grazing license it restricted his customary use to a rather limited area and that as he filed successive applications he enlarged it considerably. But that is a matter of public record, no conclusion involved. I am just quoting from that. He stated in the application—

Mr. PATTERSON. May I ask a question? Don't you know it is a fact, Mr. Moulton, that the Grazing Division, in selecting the area, the rights of the occupants to the public range, is not required to select that user in a particular area? That is, where Mr. Smith really asked for an allotment in units F and H, the Grazing Service consistently placed him in G. They are not required to give him

the exact area that he grazed in the past; don't you understand that?

Mr. MOULTON. I am not qualified, Mr. Patterson, to say.

Mr. PATTERSON. I judge from your analysis of the *Tyzack* case that you predicated, did you not, on the fact that that was the specific area, in chief?

Mr. MOULTON. No doubt.

Mr. PATTERSON. In any of the others you base your doubt upon the fact they have some use of this specific area, whereas it is within the province and power of the Grazing Division to locate them in H, whereas he was using G in the past?

Mr. MOULTON. I'm not familiar with the rules of the Grazing Service in that regard, Mr. Patterson.

The CHAIRMAN. Any questions, Mr. Wright? Mr. Woehlke?

Mr. HAVELL. Mr. Chairman, I would like to say that it became necessary for Mr. Moulton to be taken off of this work in order that he might do special work in another State in connection with the activities of the war. So his failure to complete the examination is due to the war conditions.

Mr. WRIGHT. I might say, Mr. Chairman, that I believe the request was made of the General Land Office to make this investigation to bring out the facts just as Mr. Moulton has described them. There has been a good deal of controversy and a good many things stated as facts about a lot of these cases that are not facts; until it seems desirable to have a disinterested party investigate them. This is the first time I have heard Mr. Moulton give an oral report of it, and I think it is very enlightening. If all of the phases could have been completed, it might serve as a basis of dispelling a good many disputes. That is the purpose of it.

Mr. WOEHLEKE. May I ask him a question or two?

The CHAIRMAN. Certainly.

Mr. WOEHLEKE. As you went along in your study of the *Crawford* and *Tyzack* cases, you have said you gleaned by the wayside any information you could about the Smith family, and their particular applications and grazing privileges?

Mr. MOULTON. Yes, sir.

Mr. WOEHLEKE. And practically the only information about the Smith application was derived from their applications, as made to the Grazing Service?

Mr. MOULTON. That and unsupported statements. It is my custom—

Mr. PATTERSON. I do not understand that.

Mr. MOULTON. I say that, and unsupported statements of people. As I go along I have contacted the interested parties. I have never talked to Mr. Smith or any of the Smith group about what they are doing; all that was taken was the Grazing Service records and files.

Mr. WOEHLEKE. Then the Grazing Service files, according to your study of these files, indicated that the application from most of the Smith family, the prior use was usually placed in what is now known as unit H of district 8, and a very little of it was claimed in what is now known as the Ute extension area, that area included in the green lines?

Mr. MOULTON. That is what the applications show, Mr. Woehlke. On the other hand, that is not conclusive at all as to the prior use, be-

cause in the early years of the operation of the Taylor Act, to understand the full implications of it, oftentimes they did confine this customary use to a certain area which they afterward changed materially. That was nothing unusual in that it was done by a great number of applicants. I believe it was all new to them, and sometimes they would be entirely mistaken about where the original customary use was.

Senator MURDOCK. May I ask you, you say that was frequently done. Are you speaking from experience now?

Mr. MOULTON. I have had considerable experience; yes, sir. When the Grazing Service was initiated, I was at that time in the Division of Investigations of the Interior Department and we cooperated with the Grazing Service in getting started. I have had occasion to examine a large number of applications for grazing licenses and I note that the applicants would sometimes be very indefinite as to where they had had their customary use and it would be changed in other subsequent applications. There was nothing unusual about that.

Mr. PATTERSON. May I ask you a question there? When did you make that investigation with reference to Mr. Smith?

Mr. MOULTON. I have not made the investigation with reference to Mr. Smith.

Mr. PATTERSON. You referred to the prejudicial part of the record. When did you see that?

Mr. MOULTON. I made my investigation in March and April 1942.

Mr. PATTERSON. Did you see the statement which was read here this morning where he said he had used unit G consistently?

Mr. MOULTON. All of those statements are incorporated in my report, Mr. PATTERSON, from the first to the last.

Mr. PATTERSON. Then your report would clearly show that he did use unit G?

Mr. MOULTON. Show it was described in the later application on file.

Mr. PATTERSON. That was on file at the time you made your investigation for your report?

Mr. MOULTON. Of course it was, and I quoted all of the applications, in each instance, for each party, from the first application on through to the last application of record.

Mr. PATTERSON. Now, you understand he was applying in the first instance, for permit on F and H, and necessarily he gave the use of that particular area. But the Grazing Division placed him over in G, so he would be emphasizing what he wanted, his use of those particular units.

Mr. Chairman, I would like to make a statement to the record on that.

The CHAIRMAN. Just a moment; keep it straight. Mr. Moulton was called by reason of the Indian Service saying he was here, and the chairman thought it was best to have Mr. Moulton amplify his statement, or excerpts from his statements, as they appear in the record, read by the Indian Service. I think Mr. Moulton has, up to this point, clarified his statements.

I want to say this, now, individually, I don't think Mr. Moulton would care to be bound by the statement read by Mr. Woehlke from the record, nor does he care to have the committee bound by the statement he has just made with reference to the case of the Smiths.

Mr. MOULTON. I think I stated that, Senator. I don't want to be bound by this. I have not completed my investigation.

The CHAIRMAN. That is entirely clear, and the committee understands it entirely. I again draw the attention of the Indian Service to the fact that we do not want to be bound by mere excerpts. But we want the original matter, and the whole of it, as nearly as we can have it.

Senator MURDOCK. It is my opinion that the witness is being decidedly fair to the Indians, and also to Mr. Smith.

Mr. JOHNSON. Mr. Moulton, the first application from Steve Chuturas, was submitted by Mr. Chuturas through a protest, which was filed with the Division of Grazing, the grazing board of district No. 8, was it not?

Mr. MOULTON. As I recall it was; yes.

Mr. JOHNSON. And therein he alleged that, during the qualifying years of 1929 to 1934, he was engaged in the sheep business, to qualify in the area known or designated as unit G, and identified on the map as the lines between the black and green—

Mr. MOULTON. What is your question, Mr. Johnson?

Mr. JOHNSON. He alleged, in his protest, that he ran sheep within that given area, known as unit G, between the years of 1929 and 1934, for his qualifying years?

Mr. MOULTON. There was an allegation, yes, to that effect.

Mr. JOHNSON. And in that application he set up described lands, situated in the county of the Rio Blanco, State of Colorado, did he not?

Mr. MOULTON. As base lands, base property; yes.

Mr. JOHNSON. Now, did you, in making your investigation, check with the owners of the particularly described lands to determine whether or not they had been leased during those priority years?

Mr. MOULTON. I did not check with the owners of that property; no. Mr. Chuturas' license had been issued, according to the records, in the grazing office here in Vernal, on a showing by him, presented, I believe, by Mr. Hugh Colton, acting as his attorney, in which it was set up that he had operated from these properties, during the priority years, to the extent necessary to qualify for the privileges in Utah grazing district No. 8. My investigation disclosed that he had not operated from those Lime Kiln properties in those years; that he had then gone to Colorado, and, in about 1932, the first year, had leased the James ranch in Rio Blanco County, Colo., north of Meeker, and a considerable distance from the Lime Kiln property; that he had summered there, and had come over to Utah grazing district in the winter; and that in the following year he had leased these so-called lime kiln properties, south of Meeker, and had again come over to grazing district No. 8, in that winter and in subsequent winters. I do not believe I stated to the committee, in regard to his use in unit G, over here, that, while my investigation did show that he had wintered his sheep within the exterior boundaries of Utah grazing district No. 8, at least 3 of the 5 priority years or for at least 2 consecutive years of those priority years, it did not indicate that he had actually spent 2 consecutive years, or any 3 of the priority years, on the area which is now included in unit G. This investigation showed that Mr. Chuturas made a circle in his operations, circling in and out of Colorado, and coming out for wintering. He came down White River from Meeker. He also operated in the general vicinity of Meeker, from the time he went over into Colorado; and he would trail down the White River, through the

Colorado grazing district No. 1, in the fall. Some years he got caught in heavy snows, and he was a long time on the trail, and he really never got to unit G. The years he did get there, he was there just a short time. My investigation shows that, I think, very definitely; and that he did not actually have his sheep on what is now unit G for any 3 years in the priority period, or any 2 consecutive years; but that he did winter his sheep, during the priority years, sometimes on Utah grazing district No. 8, sometimes stopping around Watson, in that area, and not reaching unit G at all.

Mr. JOHNSON. Did you check the land to see whether his predecessors had operated in unit G or unit F?

Mr. MOULTON. We checked the records of the Grazing Service in that regard, and I could find no use by any predecessor of Chuturas in Utah. The winter use in Utah there had been brought to my attention—there had been a Basque on the property I—

Mr. JOHNSON. Nick Arimos, was that the name?

Mr. MOULTON. It could have been, it was a Basque name. This was at the time there was nothing available, no evidence I could find that there had been any use at all from that property during the priority period except by Chuturas. After I submitted my report it was informally brought to my attention in this area that this Basque had leased these Lime Kiln properties, and according to the information I received then, he had not entered in Utah, but it is possible that he did. I would not state definitely in that regard. In my investigation I made every effort I could to ascertain whether or not there was any priority attached to that land, and I was unable to find it.

The CHAIRMAN. Has a priority, has a right, been granted by the Grazing Service to this man in question?

Mr. JOHNSON. Yes.

The CHAIRMAN. What is his name?

Mr. JOHNSON. Steve Chuturas. I have been laying a foundation to introduce certain files in the possession of the Division of Grazing. They are the originals, and we will have to duplicate them by copies.

The CHAIRMAN. Division of Grazing has come to a conclusion on the matter and has granted a right. Is that right?

Mr. JOHNSON. That is right, sir; 1,500 head of sheep.

The CHAIRMAN. Is this committee going way back into these records?

Mr. JOHNSON. I see no necessity for it, but since the statement—

Senator MURDOCK. Who is questioning his right?

Mr. JOHNSON. The Indian Department, sir, is questioning his rights, stating they find out he did not run in this area designated as unit G, in district 8, and we are here qualified with the records, and the Division of Grazing office, if you see fit to go into it. It shows it has been determined by the Division of Grazing.

The CHAIRMAN. We are going to have to terminate this some place. I don't know; we do not wish to be unfair about it at all, but it seems to me we have to get to some conclusion.

Are there any further questions of Mr. Moulton?

Mr. PATTERSON. May I make a statement, in response to what he said, relative to the administration of the Taylor grazing bill? It is the practice of the officials of the Taylor grazing bill, although they try to say to all claimants in reference to prior use—and, of course, claimants would come in and say, "I want that particular area"—but it is entirely consistent for the administrator to say, "Well, this area is

taken up; you have used this area all your life, but that is pretty well taken up, and it will eliminate some difficulty if you will take this area, where you have never used it." The only pertinent fact is, Have they the basic rights somewhere within the area? I think that is the practice; that is admitted.

The CHAIRMAN. The chairman wishes to express commendation for your frankness. Mr. Moulton, in the matter. I think you have given us some light that is worth while, that has clarified a record that we think should have been clarified. That is all the comment we have to make right now on this matter.

Mr. PATTERSON. I'd like to call Mr. Thorne. Will you state your name for the record?

STATEMENT OF LOUIS M. THORNE, OURAY, UTAH

Mr. PATTERSON. Where do you live?

Mr. THORNE. Ouray.

Mr. PATTERSON. Is that within the so-called "Back area," or unit G, of district 8?

Mr. THORNE. Well, the post office at Ouray, Utah, but my holdings are up in this area here.

Mr. PATTERSON. Where do you run your stock?

Mr. THORNE. I have summered them in this area, in here.

Mr. PATTERSON. Where have you wintered them?

Mr. THORNE. Adjacent to the home ranch there in the foothills, in the feed yard.

Mr. PATTERSON. You have a permit in the southern part of that for the summer range?

Mr. THORNE. Yes, sir.

The CHAIRMAN. Is that a permit from the Grazing Service?

Mr. PATTERSON. Is it a permit from the Grazing Service?

Mr. THORNE. Yes, sir.

Mr. PATTERSON. What kind of ranch property do you have?

Mr. THORNE. Ranch property?

Mr. PATTERSON. Yes.

Mr. THORNE. Well, it is an ordinary ranch for producing hay, grain, and other crops.

Mr. PATTERSON. How many acres are in cultivation?

Mr. THORNE. One hundred fifty-four.

Mr. PATTERSON. What do you grow?

Mr. THORNE. Alfalfa, hay, oats, barley, wheat, and potatoes.

Mr. PATTERSON. How many ton of alfalfa do you put up in an average year?

Mr. THORNE. Average year, 200 ton.

Mr. PATTERSON. Do you know where you could go for summer range if you were excluded from that area?

Mr. THORNE. I do not.

Mr. PATTERSON. Did you ever talk with any of the grazing officials with reference to the sale of your rights?

Mr. THORNE. Yes; I have asked them a time or two. As I understood it, if they were to buy all property where range rights were involved—

The CHAIRMAN. Who was to buy?

Mr. THORNE. The Indian Department.

The CHAIRMAN. I don't think that is the question. The question, as I caught it, is did you ever talk with the Grazing Service with reference to your rights?

Mr. PATTERSON. I mean to say, the Indian Service. Go ahead and say what was said to you in relation to the sale of your property.

Mr. THORNE. Well, I asked Mr. Wright one time if they were going to purchase that part of the country in there. He said they were not. They had contemplated it in the start of the program, but the money has not been forthcoming, and they had had to drop certain areas and cut down on the areas they had contemplated purchasing.

Mr. PATTERSON. Did they ever indicate to you, Mr. Wright, or any of the other officials, that you were trespassing upon Indian lands and that it would be advisable for you to sell?

Mr. THORNE. No.

The CHAIRMAN. Are there any further questions?

Mr. PATTERSON. I believe that is all. I would like to call Marvin Broome.

STATEMENT OF MARVIN BROOME, OURAY, UTAH

Mr. BROOME. My name is Marvin Broome, and I live on Willow Creek.

Mr. PATTERSON. Will you indicate on the map where you live?

Mr. BROOME. Just about right in there.

Mr. PATTERSON. Right on the edge of this area we have been discussing?

Mr. BROOME. Yes, sir.

Mr. PATTERSON. Do you have grazing rights from the Taylor grazing bill within that area, the black and green?

Mr. BROOME. Winter grazing rights in unit G; yes, sir.

Mr. PATTERSON. Where do you graze in the summertime?

Mr. BROOME. White River in the summertime. I was to get a permit up here, in this part of the country, but I was advised not to go up there.

The CHAIRMAN. You were what?

Mr. BROOME. I was advised not to go up there until this trouble was settled.

The CHAIRMAN. Who advised you on that?

Mr. BROOME. Mr. Wright, and other officials over there.

The CHAIRMAN. Where does your permit exist? To what territory does it apply?

Mr. BROOME. You mean my home ranch?

The CHAIRMAN. Yes.

Mr. PATTERSON. Your permit to graze; he is asking you what area is it in?

Mr. BROOME. Well, I guess—do you mean winter grazing?

Mr. PATTERSON. Any time.

The CHAIRMAN. Any time you had a right to graze in there; what do you graze? Where do you graze?

Mr. BROOME. West of the Willow Creek foothills.

The CHAIRMAN. How many cattle?

Mr. BROOME. One hundred eighty.

The CHAIRMAN. How long have you run in there?

Mr. BROOME. Ever since 1911.

The CHAIRMAN. And how long have you lived there?

Mr. BROOME. All my life.

The CHAIRMAN. Was your family there before you?

Mr. BROOME. Yes, sir; got a family there.

The CHAIRMAN. Your father and mother lived there before you?

Mr. BROOME. No, no.

The CHAIRMAN. Did you come in there, at first, to take up that piece of property?

Mr. BROOME. Yes, sir.

The CHAIRMAN. You took it up when it was raw land?

Mr. BROOME. Yes, sir.

The CHAIRMAN. You broke it, and cultivated it?

Mr. BROOME. Yes, sir.

The CHAIRMAN. And utilized the territory surrounding it, for your cattle?

Mr. BROOME. Yes, sir.

The CHAIRMAN. How much land have you?

Mr. BROOME. I have 480 acres there.

The CHAIRMAN. Cultivated?

Mr. BROOME. Well, there is about 350 acres of cultivation.

The CHAIRMAN. What do you raise?

Mr. BROOME. Alfalfa hay and grain.

The CHAIRMAN. Do you feed your cattle during any part of the 12 months of the year?

Mr. BROOME. Yes, sir; that is one thing I do do; put up the hay; and I feed them cattle.

The CHAIRMAN. Is it alfalfa hay?

Mr. BROOME. Yes, sir.

The CHAIRMAN. You feed your cattle about how long during each year?

Mr. BROOME. Well, this was an uncommon winter; did not feed so heavy. The ordinary winter starts in along about Christmas and continues on to the 1st of April.

The CHAIRMAN. Then you turn them out along about that time?

Mr. BROOME. Begin to turn out, and feed a little, you know.

The CHAIRMAN. How many stock do you turn off, from 1 year to another, to market?

Mr. BROOME. Well, it depends on how we cut down on the herd. That is, in some years I sell more calves than in others; in other years I carry more.

The CHAIRMAN. Are you running a hundred all the time, stock cattle? Are you running more than 180? Do you run more than 180?

Mr. BROOME. No, no.

The CHAIRMAN. How many do you turn over a year? Would it be cows or heifers?

Mr. BROOME. There has been several years, there, that I have sold over a hundred calves, out of that, besides cutting down on some of the old cows and keeping some of the young stuff.

The CHAIRMAN. Do you have a family there?

Mr. BROOME. Yes, sir.

The CHAIRMAN. Of whom does your family consist? Your wife and how many children?

Mr. BROOME. My wife and four boys and one girl.

The CHAIRMAN. Are they living with you now?

Mr. BROOME. No; one boy is in the Army and the other boys—one boy is in school and the other two boys are with me on the ranch.

The CHAIRMAN. What do you pay in taxes to this county?

Mr. BROOME. I paid this year \$324.

Mr. PATTERSON. How many tons of hay do you produce?

Mr. BROOME. Between three and four hundred tons.

Mr. PATTERSON. A year?

Mr. BROOME. Yes, sir.

Mr. PATTERSON. Have you been over the area purchased by the Indian Agency, for the benefit of the Indians, in that country?

Mr. BROOME. Yes; I have been practically all over this country, except in this Moonwater country. I never did go in there.

Mr. PATTERSON. Had you observed the hay crop produced there in the past year?

Mr. BROOME. Do you mean in this area here?

Mr. PATTERSON. Yes.

Mr. BROOME. I could not vouch for that.

Mr. PATTERSON. Have you been up and down the creek?

Mr. BROOME. Up and down the creek, before the Indians thought of it.

Mr. PATTERSON. Since the time the Indians took that over, what would be your judgment as to which produced, as to who produced, a greater amount of hay, the people who owned them or the Indians, on all of those ranches that have been bought for the Indians?

Mr. BROOME. Well, I could not vouch for that.

The CHAIRMAN. I think I would excuse him on that one, if I were you.

Mr. PATTERSON. Have you discussed the probable sale of your property with any of the Indian officials?

Mr. BROOME. I did, at the time when Mr. Paige proposed this here reservation. He started in and he said, "We will take over to Willow Creek, and we will extend it over to Green River." But time went along, until it is now 1943, and he started in 1935. You can see this here crooked line—that number of years has caused quite a lot of conflict in drawing the lines and kept them down along these places.

Mr. PATTERSON. Did he ever canvass you for selling your property, ask you to sell to them?

Mr. BROOME. He called a meeting in here in 1935, and he says this, he says: "You fellows that want to sell out will sign an agreement; if you don't sell," he says, "we will not force you out of the country or cause you to sell out if you want to stay there, but," he says, "if you want to sell, why, you sign up the agreement." So we all signed up, and that is the reason my name is on that list.

Mr. PATTERSON. Did he say anything, offer you any inducement, say anything might happen, if you did not sell?

Mr. BROOME. No, sir.

Mr. PATTERSON. Then I misunderstood you. I thought there was something intimated that you were making use of the Indians' lands.

Mr. BROOME. He said if we wanted to sell we could sign up with him, but he said he would not force anybody to sell unless they wanted to.

Mr. PATTERSON. Was there anything to the effect that you were making use of Indian lands?

Mr. BROOME. No, sir.

Mr. WRIGHT. Mr. Broome, where do you summer, have your permit to summer range down on White River? Point out on the map where that is. That is, approximately.

Mr. BROOME. It would be up from my place, right in here, right about in there.

Mr. WRIGHT. Are you satisfied with that range and that permit?

Mr. BROOME. No; I was not, at the time. I had a little trouble with the sheepmen in there. They wanted to see me moved out if they could have arranged for me to get out.

Mr. WRIGHT. In our conversation, when you came down to my office, one time—I am trying to recall it, and maybe you can help me out—I am not sure, but it seemed to me you said you would rather summer where you had been accustomed to, on White River, than to move.

Mr. BROOME. Well, I made that statement because of this here; they wanted to move me up here, and this was not settled; and they said they would advise me not to go in there until it was settled.

Mr. WRIGHT. Did you ever run up on the Moonwater country?

Mr. BROOME. No, sir.

Mr. PATTERSON. You say Mr. Wright advised you not to go into this area?

Mr. BROOME. Yes.

Mr. PATTERSON. Did he say why?

Mr. BROOME. He said this was pending; this here case was pending, and was not settled, and he would advise me not to go into it until it was settled up.

Mr. PATTERSON. Not to go into that area?

Mr. BROOME. Yes, sir.

Mr. PATTERSON. Now, Mr. Chairman, if there is any dispute whatever about the period of time Mr. Smith has used that area, in unit G, there are at least 10 men that can testify to it.

The CHAIRMAN. I don't know what the other member of the committee may think, but I am going to tell you what my individual views are. I go on the general principle that when a matter has been adjudicated, by an authority that has jurisdiction to adjudication, I am going to follow that adjudication, unless something is shown that it should be upset. Now, the Grazing Service has adjudicated the matter, as I understand it, with reference to Mr. Smith, and that is in the record—if it is not, it will be in. Personally I am only one member of a committee here, please understand that. You may have to satisfy others. Personally, that would be conclusive with me. If you go beyond the adjudication, there is no limit to which you may not have to go.

Senator MURDOCK. I think you have stated the only position that the committee can take. Certainly the administrative body has jurisdiction, and, when that body is acting, I do not think a legislative committee has any business going beyond that.

Mr. PATTERSON. I think that is right. We accept their adjudication.

The CHAIRMAN. That adjudication, as regards the Smiths, and others, is in the record; is it not?

Mr. LEECH. I will have to ask Mr. Larson, Mr. Chairman.

Mr. PATTERSON. I understand they are putting it in the record.

Mr. LEECH. It is on the list Mr. Larson put in this morning.

The CHAIRMAN. All of the commensurate rights are in that list, and all of the other rights are on that list?

Mr. LEECH. Yes; the licenses that have been granted; yes, sir.

The CHAIRMAN. Are there others here who are contending for licenses, whose licenses have not been granted by the Grazing Service?

Mr. LARSON. Not to my knowledge.

Mr. PATTERSON. Unless there is some document, or something we would like to put in the record later.

The CHAIRMAN. Does anyone care to be heard on this subject, with reference to the rights? I am referring now to unit G, the territory embraced within the black and green line, which seems to be the principal territory under contention, here, on this map.

It looks as though we might be getting through this. Could it be possible we are getting toward an end here?

Has the Indian Service anything further?

Mr. WRIGHT. The items that you requested yesterday, Mr. Chairman, the income of the Indians, and another document that you requested a little later, that is not quite complete, the compilation on the purchased properties. If you recall, you said you would like to have that compilation of the ratings, on the purchased properties, by our land appraisers. It is not quite finished, yet, but we are getting that.

The CHAIRMAN. That will show the commensurability and value on the whole?

Mr. WRIGHT. Yes.

The CHAIRMAN. As regards the Grazing Service, have we completed the record, as far as you care to make it, Mr. Leech?

Mr. LEECH. Yes, sir, Mr. Chairman.

The CHAIRMAN. Mr. Johnson, have you anything further to offer on unit G?

Mr. JOHNSON. I do not believe so, Mr. Chairman.

The CHAIRMAN. Mr. Patterson?

Mr. SMITH, do you speak for the house of Smiths?

Mr. SMITH. I spoke up until 1920. Their activity was very much the same as mine until that date. They can come on the stand and state from that time on.

The CHAIRMAN. I take it that it might be conceded that the other members of the Smith family would run along the same line and corroborate your statement?

Mr. SMITH. I think that would be very much the same.

Mr. PATTERSON. I made a statement in the record this morning, and the boys are right over here.

Mr. JOHNSON. I take it that the record now discloses that the rights of Mr. Chuturas, Mr. Seeley, Mr. Crawford, and Mr. Tyzack are established by the Grazing Service, and—

The CHAIRMAN. If that be the fact you will have to confer. You have to make your own record here on this thing.

Mr. JOHNSON. I understand, Mr. Larson, the information you furnished shows that it has been established that permits were granted in these cases.

The CHAIRMAN. I think your question goes to this, if I am not mistaken, has a license been granted to the parties whose names you have mentioned by the Grazing Service within unit G?

Mr. JOHNSON. May I ask him those questions to make certain?

Mr. LARSON, has a license been granted to H. A. Tyzack in the area known as unit G upon the map, between the lines that are black and green?

Mr. LARSON. Yes.

Mr. JOHNSON. For how many head?

Mr. LARSON. The record I gave to the committee would show that.

Mr. JOHNSON. Has there been a license granted to Steve Chuturas?

Mr. LARSON. Yes.

Mr. JOHNSON. To David Seeley and Mr. Crawford?

Mr. LARSON. Yes, sir.

Mr. JOHNSON. Are those licenses in good standing at this time?

Mr. LARSON. I know nothing that would not put them in that standing.

Mr. LEECH. They are temporary licenses, Mr. Larson?

Mr. LARSON. Yes; that is right.

Mr. JOHNSON. By "temporary" you mean, pending this settlement?

The CHAIRMAN. No; all licenses are temporary licenses. The permits are 10 years. All licenses are for 1 year, and permits are for 10 years. Am I correct in that?

Mr. LEECH. That is right.

Mr. WRIGHT. Mr. Chairman, that leaves the impression that the last three named cases are entirely settled. What, if I might ask, was the procedure to conduct the case, the hearing, so that these men will have a fair chance to present all of their claims in the testimony that has been made and might be made in the future?

Mr. LEECH. The procedure is provided for in the Federal Range Code, under section 9. It provides for a local hearing, where the witnesses are brought in, sworn, testified, and are subject to cross-examination. The examiner renders a decision, from which an appeal may be taken to the Secretary of Interior.

The CHAIRMAN. That is the range-adjudication procedure?

Mr. LEECH. That is the code; yes, sir.

The CHAIRMAN. Of course, that is not in the province of this committee at all.

Now, I am going to again let what we might call the termination of this particular phase of our investigation end here, and I will make a personal expression again. I want to emphasize that it is entirely personal.

It does seem to me that this whole matter should be clarified, and concluded very promptly. It does seem to me that by heavy expense the Government of the United States has set up an administrative facility for its open public domain; that is, for the grazing rights on the open public domain. It does seem to me that with all departments of Government looking to the individual to submit himself to that jurisdiction, all departments of Government likewise should submit themselves to that jurisdiction. It seems to me to be a lost effort to say that while we recognize the Grazing Service and its rights to adjudicate and determine, at the same time some department of Government or some bureau will not recognize those rights.

I think this whole matter could have been settled a long time ago, and should be settled very promptly now by a conference between the Indian Service and the Taylor Grazing Service; and, if that is

done, it seems to me that legislation, if legislation be necessary, could go forward. If no legislation is necessary, and I doubt very much if any is necessary, as to the adjudication of the rights along the lines I have suggested, then the matter will have been closed. Now, that is a personal, individual view of the chairman of this subcommittee. I think it can all be settled and settled in 2 or 3 days by sitting around a table and recognizing the rights of individuals.

In that regard, I want to make this expression again, that the Indian should be regarded as an individual. If this was a group of any particular class moved into this territory—and today they, as individuals or their organization, have purchased the base lands—and we would look to the base lands to be the basis for rights on the open public domain, and this would settle that, it should settle it with reference to the Indians just the same. They should be treated as individuals. They should be treated fairly; but no more fairly than the individual who works by their side in this struggle for a livelihood in this community, because, when it is all said and done, the Indian gets the best of it anyway, because he does not pay taxes, he does not support the local community. That is a matter of gratuity extended by the Government to its wards. That is all right; no one should criticize that. But we should also, at the same time, look to the white man as the supporter of the community, as the taxpayer, and, therefore, the voter of the Government that pays the taxes, and, eventually, pays the taxes of the Indians. That is the thought of the individual no less than the expression of an individual.

We will pass on to some other phase of this question, if there are other phases to be heard.

Mr. ALLRED. In the interest of my own safety, I think I should explain why I am here.

The CHAIRMAN. Well, I'm going to tell you something, you are perfectly safe here.

Mr. ALLRED. A couple of weeks ago I received a letter from Mr. Haskell—I don't know how he got my name down at Washington unless I have such good friends in the Indian Department—advising me as to this hearing and asking if I would go to the trouble to notify the people in Duchesne who might be concerned with any features of this bill, and see that they knew about the hearing; also, to advise them that he would be in the country and would be glad to contact them and to attempt to help them out in any way in presenting views on these matters at this hearing. When Mr. Haskell arrived I got in touch with him and asked him if he thought we would be permitted to present some other matters not definitely tied to this Indian bill that we speak of.

The CHAIRMAN. May I interrupt you there? With reference to the purple lands, so designated on the map, they are lands that were not purchased by those who sought to acquire private ownership, and they are lands that either would be or have been returned to the Indian jurisdiction; am I correct?

Mr. ALLRED. Did you say they had been returned?

The CHAIRMAN. Have been or would be, under one of these orders.

Mr. GRAHAM. Under the orders; but not under H. R. 837.

The CHAIRMAN. Have they been returned?

Mr. GRAHAM. They have not.

The CHAIRMAN. They are the lands, as I try to grasp the picture, that after many years have not been acquired by private ownership. Is that right?

Mr. HAVELL. That is right.

The CHAIRMAN. I take it, from what I know from my experience and what I have heard here, that they are lands largely valueless. Is that correct?

Mr. WRIGHT. They are of some value, Senator.

The CHAIRMAN. For what purpose?

Mr. WRIGHT. Grazing purposes.

The CHAIRMAN. Are they not largely rocky tracts, or alkaline beds, and the like?

Mr. WRIGHT. No; not exactly.

The CHAIRMAN. I am wondering, now, how they escaped being acquired into private ownership?

Mr. ALLRED. Well, I will give you my opinion. I think this can be borne out. They were the lands that the purchaser did not see fit to pay 50 cents an acre for. They were offered for 50 cents an acre, and, it is my understanding nobody appeared to be interested. At a number of sales, I take it, they did not want to pay 50 cents an acre.

The CHAIRMAN. The proposition is, by this order, to take them back into tribal jurisdiction. Is that right? Under the Wheeler-Howard Act, they are to be taken back, if the orders go into effect; and they will go back to the jurisdiction of the Indian Service. That will then preclude those who have been using them in the past from using them in the future, excepting as the permit may be granted, by the Indian Service. Is that correct?

Mr. WOHLKE. That is correct, Mr. Chairman. They could be used under a continuation of the present system. They are now under permit; some 72 percent of those ceded lands are now under permit to the customary users.

The CHAIRMAN. In other words, the Indian Service is granting permits to white users, for whatever purpose they want them.

Mr. WOHLKE. For grazing; yes.

The CHAIRMAN. That system would be continued, as far as you know?

Mr. WOHLKE. Yes; we are now preparing to issue 5-year permits on these lands.

Senator MURDOCK. May I ask this question: Is the Government being given credit for the money that is being received by the Indian Bureau in leasing these lands?

Mr. WOHLKE. The Government?

Senator MURDOCK. I mean, as against the \$1.25 an acre which the Indians are supposed to get, in case of sale?

Mr. WOHLKE. No; the receipts from the permitting of those ceded lands go to the Ute Tribe.

Senator MURDOCK. That is what I understand. But the Government, as I understand it, gets no credit, as against the \$1.25, so-called "trust," which was reserved or imposed against them.

It is very difficult for me, Mr. Chairman, to understand under what law or under existing conditions, why the Indian Bureau has jurisdiction over the lands, and why they have any business whatever in permitting the use of them to someone else. But that is neither here nor there.

The **CHAIRMAN**. As I understand it, to clarify it as best I can, if the order is going into effect the trust is immediately removed; the trust obligations are immediately removed. The lands then return to the Indian jurisdiction, and the Indians may do with them as they see fit.

Senator **MURDOCK**. Under existing conditions they are doing that very thing; even though they belong to the public domain.

The **CHAIRMAN**. Although they belong to the public domain; but they are giving no credit to the Government under the rental return.

Mr. **WOEHLKE**. I believe Mr. Havell has explained the status of those lands. He could do that very much better than I could.

The **CHAIRMAN**. We would be very glad to hear from you, Mr. Havell.

Mr. **HAVELL**. Thank you, Senator. I think that there is very little that I could add to what has already been said.

The lands are the lands that were ceded when the reservation was opened, and they were not sold, not homesteaded. We have \$1.25 Indian burden on them. The lands have since been withdrawn.

Senator **MURDOCK**. How is that achieved?

Mr. **HAVELL**. By order of the Secretary, I think that was.

Mr. **WOEHLKE**. Yes.

Under the provisions of the Indian Reorganization Act.

Mr. **HAVELL**. Under the Wheeler-Howard Act. They were withdrawn from further disposition.

Senator **MURDOCK**. By the act itself?

Mr. **HAVELL**. Under authority of the Wheeler-Howard Act.

Mr. **GRAHAM**. Senator Murdock, I think the document I put in the record this morning included all these reservations.

Senator **MURDOCK**. Very well.

Mr. **HAVELL**. So that the present status is—they are ceded Indian lands with a burden of \$1.25 an acre, withdrawn under the authority of the Wheeler-Howard Act.

The **CHAIRMAN**. Of course, Mr. Havell, the \$1.25 obligation immediately disappeared when the withdrawals took place; you could not do it otherwise. In other words, the \$1.25 provision applied to the lands subject to sale. When they were not subject to sale, certainly the trust could no longer follow.

Mr. **HAVELL**. Well, Senator, I think that the lands are still impressed with the \$1.25 an acre. If the withdrawal is lifted, the \$1.25 charge still stays with the lands or until they are put in a permanent reservation status; whereupon the \$1.25 an acre would disappear.

Senator **MURDOCK**. My opinion is that the law restoring them to the public domain has been absolutely ignored. I don't know whose fault it was, whether it is because of the ambitious grasping of the Indian Department, in control of them, or whether it is the rather indefinite attitude on the part of the General Land Office.

Mr. **HAVELL**. Senator, as we said this morning, under authority of section 3, of the Wheeler-Howard Act, the lands have been withdrawn. There was legal authority for that, and the Secretary has acted within that authority by withdrawing them.

Mr. **PATTERSON**. Mr. Chairman, on behalf of myself, my clients, and I believe, all the stockmen in this country, especially those who have attended, we wish to express our appreciation for your coming here and giving to us a fair and practical hearing in this matter. We

believe you have accomplished something for the stockmen of this section of the country, and for the Indians as well.

The CHAIRMAN. Thank you very much, Mr. Patterson. I believe there are some other questions to be heard.

Mr. ALLRED. I did not expect to handle it. I called these fellows together, and lined up some fellows better able to handle these meetings than I am, but I am authorized to speak for the people of that country, and would prefer that the names I handed you this morning, that these men be asked to give the particular subjects. I really don't believe I have any authority other than calling them at Mr. Haskell's request to get this thing lined up.

The CHAIRMAN. Is Mr. B. O. Colton here?

Mr. ALLRED. He has been connected from the beginning and is familiar with the interests of these people here—how those things affect them. We prefer that he try to outline them for you.

Senator MURDOCK. May I ask you this question; From your knowledge of the use of the lands in purple there, which are referred to as the ceded lands, by the white people of Duchesne County, would it, in your opinion, serve the public interest if all of those lands were restored to tribal ownership?

Mr. ALLRED. I was going to suggest, Senator Murdock, before this hearing is through—I believe we would all be more than satisfied before the Secretary puts that order into effect if he would make a thorough investigation; and if he then determines it is for the best interests of the public, I think our objection would be withdrawn.

Senator MURDOCK. The point I wish to make is this, certainly Congress, in passing the Wheeler-Howard Act, contemplated that the term "public interest" not only included the interest of the Indians, but also included the interests of the entire public that might be interested in those particular lands.

Mr. ALLRED. I think when Mr. Colton gets through he will have thrown some light on that.

The CHAIRMAN. Will you state your name, address, and position, for the record?

STATEMENT OF B. O. COLTON, MEMBER DUCHESNE COUNTY PLANNING BOARD, ROOSEVELT, UTAH

Mr. COLTON. My name is B. O. Colton, and I reside in Roosevelt, Utah. I presume the official position from which I would speak would be as a member of the Planning Board of Duchesne County.

The CHAIRMAN. Any statement that you see fit to make, based on your knowledge, and experience, and observation, will be welcomed by the committee.

Mr. COLTON. I think I would prefer to say, Senator McCarran, that if the statement which you just made to the interested parties, with reference to the grazing area, in the black and green lines—well, as to getting around the table and discussing the differences that might obtain there, settling the question cooperatively, in a good neighborly way—could apply to this other area, that would be about all we would need to satisfy us.

Senator MURDOCK. You are referring to the lands designated in purple on the map?

Mr. COLTON. I refer particularly to those and the things that pertain to them and their effect upon the white population as well as the Indian population.

Senator MURDOCK. Inasmuch as the Grazing Division has assumed no jurisdiction whatever over those lands, in and around the table conference, concerning them. I assume, from the statement you have made, that besides the Indian Bureau and the Grazing Service there should be some representatives at the table of the people who have actually used the lands during the last 25 or 30 years, or whatever it has been, in order to get the full picture?

Mr. COLTON. When you say representatives of the people who have used them, do you mean the local residents?

Senator MURDOCK. Yes, surely.

Mr. COLTON. Certainly they would expect to be represented.

Senator MURDOCK. That is the point I want to bring out.

Mr. COLTON. I think in all past operations, as far as the governmental, the Federal governmental, agencies making the so-called Uintah Basin studies, that has not obtained. A brief statement of that development of those studies would probably clarify the position of the white group in that area.

This area, Uintah Reservation, in the yellow line, set apart as an Indian reservation in 1861 by Presidential proclamation and later by congressional action, was restored to the public domain, certain portions of it subject to entry under homestead law, with the exception of the Government town sites. That was the only way provided for the disposition of those lands for quite a period of time. After it appeared that homesteads would no longer be entered, or no further homesteads would be entered, then the so-called land sales were arranged. Two were held at Provo and one at Duchesne, and the provision for the sale of those lands was that they should bring at least 50 cents per acre, and as much above that as anyone would bid.

Senator MURDOCK. What department of the Government handled the sale, if you recall?

Mr. COLTON. I really do not know.

Mr. HAVELL. The sale of the ceded lands was handled by the General Land Office through the district land office at Salt Lake City.

Senator MURDOCK. In my opinion, it should have been by the General Land Office.

Mr. HAVELL. That is right.

Mr. COLTON. The lands in purple on the map are the remaining lands, as has been stated here before, that were not sold at either of those sales, and in total acreage aggregate about 220,000 acres or a little less than that. Now, those lands are scattered promiscuously throughout the area and, while the term was objected to yesterday, to our minds it has perhaps a more definite application as a nuisance factor in the relationships that obtained between the white and Indian peoples than its value might be to either.

Roads, canals, developments of any nature, or improvement of any nature in irrigation matters are all more or less related to what happens to those lands. Difficulties obtain and have obtained in various ways that make them really a nuisance factor, as stated. The people who entered the homesteads in this area are not there now, whose homesteads were entered under a withdrawing right, and few, if any, of the people who drew rights and entered the homesteads have remained.

Most of those were very much disappointed and soon sold, relinquished, or moved off their lands and left them, most of them selling their rights.

The difficulties obtained in the development of the area, particularly as to the development of irrigation canals, have been long and difficult for these homesteaders. They were handicapped, as no other people have ever been handicapped, in this area in Utah or the surrounding territory. I think in the matter of Federal and State regulations governing the use of timber, and obtaining water rights, rights-of-way, game laws, and in more other ways, which were detrimental to them, and really expensive to them, this holds.

They were led to expect in considerable degree some definite water supply. They were disappointed in that. Finally under decree of the Federal court, the water-right matter was settled. The Indian lands took practically all of the low water of the Uintah and its tributaries and the Lake Fork and its tributaries. The Duchesne River water supply was more ample and there is still some available water in the Duchesne that the Federal court decree has stipulated, in the final settlement, by representatives of the United States, for the Indians, and the representatives of the numerous irrigation companies and individuals. About the only thing they gained in the settlement of that water contention was a limitation placed upon the seasonal amount of water that the Indian lands were entitled to, a limitation of acreage of Indian lands entitled to water.

The CHAIRMAN. By your former expression, I take it, you mean what is sometimes called the duty of water?

Mr. COLTON. The actual acreage to which the Indians were entitled to water is definitely and specifically set up under State finance.

The CHAIRMAN. The amount of water necessary per acre was established?

Mr. COLTON. Yes; agreed to; yes. That left these settlers many years without any water excepting a meager supply in high-water time, many years an ample supply in high-water time, and in some years, the occasional better years, a pretty good supply throughout the year. But nothing to be depended on. They have been under the necessity of developing water rights, or water supply, rather, for supplemental means, that they could; and, with the help of the Government, now have, for a certain part of the area, succeeded in developing a good supplemental water supply in the area toward the eastern part of the reservation boundary line. Yet, as far as the white lands are concerned, without supplemental water supply they are dependent upon the high water and the water not used by and for Indian lands.

In the matter of rights-of-way, as yet an important factor in the development of that area, there is one specific instance where a right-of-way is needed in modification of the canal system. Foreseeing that need, the irrigation company began operations several years before the failure of a hazardous flume, which cut them off from a certain part of the water supply they had previously had. The interference of the claimed authority over the ceded lands affecting two 40-acre subdivisions, and authority which surely exists in the yellow area, the grazing area, over two subdivisions, I should say, three, because a very small corner of a third division is affected—that has materially and definitely stopped the development or the enjoyment of water supply that certain interests might have had.

Efforts were made to secure the consent of the Indian officials and the local tribal business committee and to secure that right-of-way, which was essential to the development of the needed modification. Finally, failing in results, a definite application was filed in June 1941 with the Salt Lake City land office, and forwarded to the General Land Office, covering particularly those subdivisions mentioned on the grazing lands, and on the two 40-acre divisions. Today no action has been taken on that application, which was made more than a year ago. That year has elapsed and in the past 2 years definite benefits have been denied those people, because of the fact they could not secure the approval of that right-of-way.

I should add here, also, that under the more generous operations of the local Indian Service officials, they were permitted to begin construction on a separate application for right-of-way across some Indian allotments to which the owners agreed. The appraisal was made and double the appraised value was deposited with the Indian Service at Fort Duchesne. On the statement of the superintendent the construction was begun at the hazard of the people themselves, was entered upon. They spent some \$3,600, a little over; had already acquired a water right which was in opposition to their own for a thousand dollars. A part of the benefit of the water supply, which has gone to waste and has been used excessively on other lands during the past two seasons, would have been obtained, I believe, if permission to have used that completed piece of canal had been granted. However, even that has not been granted.

I repeat, there is a nuisance factor here that is of more importance than the value of these lands. Consent has been granted or been given to the restoration of the purple lands south of Duchesne and Strawberry Rivers to be returned to the public domain. Sixty-one thousand acres of scattered lands over the remaining area, it is expected, under the order restoring those lands to Indian ownership, would go to the Indians, and these nuisance factors will continue to be a source of irritation between the white people and the Indian people indefinitely. If that 61,000 acres of land had been bought at the minimum price for which the lands were offered, it would have brought the Indian people \$30,500, an inconsequential sum when it comes to the constant irritation already between the two groups of people.

The group of white people there feel if they could have sat down with the Indian Service and the Indians themselves, or representatives of the Indians, and discussed this problem, as they have discussed their water problem or problems for the past 12 years, they may have gotten somewhere on an agreement. But as it is we are not agreed.

The CHAIRMAN. Let's go into that. Let me interrupt you there to go into that nuisance factor, as it pertains to the two 40's that you speak of. I take it that these are in a strategical position.

Mr. COLTON. At the end of it is, though it all is not; the strategical position is at the head of the canal.

The CHAIRMAN. Your statement is to the effect that application has been sent on for approval to Washington and has not been heard from?

Mr. COLTON. Yes, sir.

The CHAIRMAN. Now, the local administration has been consulted in this matter.

Mr. COLTON. Yes, sir.

The CHAIRMAN. And their tentative approval given?

Mr. COLTON. Yes; as far as the right-of-way across allotted lands—

The CHAIRMAN. All of these, of course, would have to be subject to approval from Washington.

Mr. COLTON. Not only subject to approval from Washington, but in the application made and filed in the Salt Lake City Land Office in June 1941 it was sent back to the Indian Service officers, officials on the reservation, for the action of the Indian business committee; and we met the same obstacle that had been met in appeal to them right at the outset.

The CHAIRMAN. That is, you met the objection of the business committee?

Mr. COLTON. I have been informed by the superintendent—I am the engineer for that particular company—and I have been informed by the superintendent that he rather expected the approval of the right-of-way, as far as crossing the allotted land is concerned, which is only one part of the line to be granted. But information was contained in the letter that the approval of the right-of-way from the river, which is the essential part of the matter, would probably be denied, because the Indian business committee had continued its unfavorable action on the matter.

The CHAIRMAN. What have you to say to that, Mr. Wright?

Mr. WRIGHT. I think that is about as Mr. Colton has stated the case, except if you try to interpret the way the Indian business committee felt about it and the reasons by which they arrived at their denial of the right-of-way he speaks of, over tribal lands, it would take an hour or so perhaps and I don't think you want that.

Senator MURDOCK. The tribal lands you refer to are what?

Mr. WRIGHT. The two 40's at the upper part of the canal.

Senator MURDOCK. Those are actually tribal lands, or subject to be transferred to tribal lands?

Mr. WRIGHT. No, sir; actual tribal lands, in the yellow, and the two ceded 40's are in the purple. Then there are three allotted lands, isn't that correct?

Mr. COLTON. Some 35 others to be applied for when we feel it is safe to go forward.

Mr. WRIGHT. Now, the business committee so instructed us, and has the authority to either grant or deny the lease in the first instance for a right-of-way. Mr. Colton was over two or three times, and some other men came with him, and presented the case to the committee themselves, and they denied it. They tried again and they denied it, I believe, three times.

Mr. COLTON. Three times; yes.

Mr. WRIGHT. They went into the matter, from their viewpoint, and discussed it a day at a time, very thoroughly. The burden of their objection, I believe, without trying to explain it all, was that they were afraid that if this right-of-way were obtained it would open an opportunity for the Ouray Park Irrigation Co. to get some of their water that was based on the right-of-way. First, the right-of-way went way up the country, considerably farther than the proposed one, and intercepted some important springs, up there, that are claimed by the Indians. Later the right-of-way route was changed to avoid

the interception of those springs, and the Indians were a little more favorable to it. But they did deny it, nevertheless, and our instructions now are that the canal right-of-way must be submitted to the General Land Office, and that the General Land Office—I am not clear as to whether the General Land Office has final authority to grant that right-of-way over the objection of the tribal business committee or not, but up to date they have not done it—so we have had quite a lot of correspondence, and requests for more maps, and more description, and more recommendations and so forth, and it is still pending.

The CHAIRMAN. How much land would the canal cover if it were constructed?

Mr. COLTON. Do you mean for the entire length of it?

The CHAIRMAN. Whatever it was constructed for, for a project.

Mr. COLTON. Oh, you mean the land it would cover. Well, that system, combined in the entire system of the company, covers some 16,000 acres of irrigable, classified lands, Nos. 1 and 2 in the recent soil surveys. Those surveys give a total of 20,000 acres, but we depreciate that.

The CHAIRMAN. That land is in private ownership?

Mr. COLTON. Yes, sir.

The CHAIRMAN. By the whites?

Mr. COLTON. Yes, sir.

The CHAIRMAN. There would be no benefit going to the Indians from the canal?

Mr. COLTON. No; except as it passes through allotments. The lessee on one allotment said if it were his matter he would be glad to grant a right-of-way on the 40 east. He would be glad to get it for water use, watering stock, but he was a lessee.

The CHAIRMAN. How many of those lands are now under cultivation?

Mr. COLTON. There have been, in the past, some 60 families living in that area. Today there are about 23. They are farming a little over 1,500 acres of land at the present time.

The CHAIRMAN. Those are white families?

Mr. COLTON. Yes.

The CHAIRMAN. This new project, under the canal, would accommodate how many families?

Mr. COLTON. It is not new; that is the point. The Ouray Park Irrigation Co. is the consolidation company of the two former irrigation companies, and is the same as the Ouray Valley Irrigation Co. and the former Colorado Park Irrigation Co. The two companies have since consolidated, and their interests are all one. Now, the old Colorado Park Canal, leaving the Uintah River, crosses the deep creek at a point which has developed into a very deep, hazardous crossing. After a number of years, the flume that has crossed that chasm has collapsed. It collapsed in 1940. This canal route was built on the enlargement of an Indian, a small Indian canal, and the same water rights that that canal had. It was finished and carried the water. The same water rights that supplied that canal are the water rights involved in the present modified right-of-way applied for. No other rights, excepting a small right on the creek, would be involved.

The CHAIRMAN. What inconvenience, or difficulty, is there as regard the Indian water rights?

Mr. COLTON. None whatever. That is a misapprehension, on the part of the Indians, because their water rights can be in no way legally

connected with the right-of-way. Their water rights are decreed, under Federal court decree, and stipulated and conditioned and limited; and the secondaries are all made to the Indian rights, so that they are prior entirely.

The CHAIRMAN. I don't know that we can do anything for you, by going into this matter at length. It largely addresses itself to the large question, namely, the jurisdiction of the open public domain. I can see a merit in your position.

Mr. COLTON. This is the point; we have had experience, time and again, in acquiring rights-of-way that cross Indian land, tribal lands, allotted lands, reservation lands, military lands, public lands, but we have never had difficulty like this before. Now we are throttled, by the action of a group of five Indians. I don't say that disparagingly, but I do assert that it is prejudicial. The action is not taken with the same consideration and concern that the project engineer who was on the ground and gave approval, nor the representatives of the Government, who have visited the area, had given it. They agree that this right-of-way should be granted, but still it is not granted, and nothing is being done about it, seemingly.

The CHAIRMAN. The right of eminent domain does not prevail?

Mr. COLTON. Apparently not, as far as the Indian Committee is concerned.

The CHAIRMAN. Have you tried it out in the courts?

Mr. COLTON. No; and we don't want to. That is about the last thing we want to try. With 20 families to meet that expense, we don't think anything like that should be necessary.

The CHAIRMAN. It would look as though it would not be, but sometimes you cannot tell.

Mr. COLTON. May I introduce, briefly, some things that pertain generally to this area?

The CHAIRMAN. Are there members of the Indian Business Committee here?

Mr. ORAN CURRY. I don't see any reason why we should ponder upon this at this time. We have a place of business. If Mr. Colton feels like he would like to meet with us again, we might be able to adjust the misunderstandings. I can't see any reason why he should expect you people to intercede for him.

The CHAIRMAN. I am going to tell you something. If you don't think the Congress of the United States has anything to do with the Indian agency, maybe you had better try us out, and you might change your mind.

STATEMENT OF MRS. LORINA IORG, ACTING SECRETARY OF UINTAH AND OURAY TRIBAL BUSINESS COMMITTEE

Mrs. IORG. For a number of years I acted as secretary of the Ute Indian Tribe. I would like to ask Mr. Colton if he is familiar with the objections that the tribal business committee had; why they were objecting. I would like him to state exactly his idea of what they were objecting to.

The CHAIRMAN. That is what we called for from other witnesses, although we were unceremoniously cut off.

Mr. COLTON. We were furnished, by the superintendent, a copy of the minutes of the tribal reaction, after our own appearance at their

hearings, and those minutes give to me the valid reasons which they had. They were, without exception, an expression of interference with water rights that the Indians had on other lands or lands of their own on which they could use the water. I say again, that is beside the question and that is really the main objection. There was, as Superintendent Wright stated at the beginning in a presentation to the office only, not to the committee, never to the committee, an intention to take the water from a certain group of springs. The water filing was made and that water filing still stands. The benefit of that water supply flowed down the river and can be taken at the head of the canal just as they could by being intercepted, except that certain losses in transit might be saved to the whole section rather than to this little group.

Mrs. IORG. No Indian could benefit from the use of this canal.

Mr. COLTON. I should perhaps qualify that by saying that the Colorado Park Irrigation Co., as such, entered into an agreement, for the purpose of carrying certain water rights, I presume with the Indian Service, or the United States, or Mr. Henry Harris and certain other Indians; under what head, I don't know—covering the carrying of between three or four hundred acres of water for Mr. Harris. After that agreement was affected, the stipulated price for it, the annual charge for carrying that water, was 13 cents an acre. They called the Ouray Irrigation Co., as a successor in interest to the Colorado Park Irrigation Co., for, by reason of the consolidation, they continued to carry that water for that stipulated price. Upon the failure of the flume across Deep Creek, which I have mentioned, the company made known, in its application, the impracticability of trying to supply the amounts to Mr. Henry Harris, and certain other Indians, under this arrangement, with water through that canal route. But they have expressed themselves as being willing to continue that agreement, although they have explicitly said they do not feel that is a fair price. But, under necessity, they would still continue to carry the water for those Indians, over the new canal, constructed on the right-of-way applied for, to the Indians, if required, at the same price, although they don't think this is fair. Mr. Henry Harris has definitely concluded, or at least, stated, and we were given to understand, that he did not want the other water that way. Then, as a matter of exercising good faith with that group of Indians, the company was asked to relinquish its right-of-way on the old canal, which they did without question, the good faith of the Indian business committee being exercised in their behalf in the new application. I don't know whether that covers the water as expected, but that is it.

I might state in connection with that relinquishment, it was made providing the company would be relinquished from any obligations to carry water to any—

Mrs. IORG. My understanding was that it was owned by Henry Harris, and it was up to them to pay for the upkeep of that canal and for the use of the way. After the flume was out of it, they wanted to move away and leave it up to the Indian to get his water the best way he could. That is the way I understand it.

Mr. COLTON. Well, the fact is that the company, as I said before, anticipated the failure of that flume long enough beforehand, and made application for the right-of-way. Had it been granted, provisions for supplying water to Mr. Henry Harris, and the other Indians—

they still wanted them to carry it through the line-up—would have been available; and it has been available, anyway, under the canal system of the Indian Service that supplied areas both above and below Mr. Henry Harris and the other Indian lands.

Mr. WRIGHT. May I amplify that a little, Mr. Colton? Don't you recall that the first application, which was made after the failure of that flume that you speak of contemplated going way up by the Uriah Heep Springs; and that the reason the Indians objected to the right-of-way was because it would take it up there? Later, when the right-of-way was modified, so as not to intercept those springs, the flume had failed.

The proposition was made that your company contribute something to the reconstruction of the old flume, and that Henry Harris contribute something himself, and perhaps the Indian Service contribute—help in what way they could—labor and trucks and so on, because he demanded his old ditch, and old right-of-way, and old flume. Your company said they could not do that unless and until the new right-of-way was granted. If the new right-of-way was granted, you might probably contribute something. Then, in the meantime, you would relinquish your rights to the old right-of-way. Furthermore, you expected Henry Harris and his family to use their influence with the business committee to get the new right-of-way. At that point they thought that was impolite, or something of that sort, and refused to do it. Isn't that about it?

Mr. COLTON. In part, that is right, Superintendent, but not accurate. The fact is, that the upper part of the canal route, involving the delivery from the springs, was never prepared in a form at all. It was submitted to you and the project engineer, as a matter of discussion, and it was thought to be inadvisable to present it that way. So the point of diversion was changed to flow down the river, expecting only to pick up the water that would reach that point, and then continue the construction on the line from there. Now, the fact is that the application, across the Indian allotments, that was actually filed, prior to the filing of the right-of-way, in the land office; was filed before the failure of the flume. It was filed in November of 1939, and the flume failed in September of 1940.

Mr. WRIGHT. I was sure of that.

Mr. COLTON. An expenditure of the thirty-six-hundred-and-some-odd dollars, I spoke of, was at the risk of these people, in the spring of 1940; and Mr. Henry Harris could have had the water, which flows down Deep Creek, through that ditch, even in 1940, if that right-of-way had been opened, across those two allotments, down to the Park Canal, across these two forties of ceded lands.

As to the other feature, we visited Mr. Henry Harris, after discussion with you folks, in the office with—I might intercede and say it was a matter affecting his own good, and the good of these people; and that if he wanted to remain in his own canal; if these people could be benefited; under the grant of the new application, for a new right-of-way, that they would contribute to the replacement of the flume, for him alone, without them in the picture, to the extent of \$100, as I remember.

Mr. CURRY. The fact of the matter is before the meeting, you went to my father-in-law, and took that matter up to him. It was through his protest that the committee did not grant that right-of-way. He

said you people had not lived up to your agreement to furnish the water. If you were to move your ditch, he said, he could not see any way to get any water, unless he got it out of No. 7, which he did not want to do. That is the answer to the whole problem.

Mr. COLTON. Mr. Henderson, the project manager, was taken over the line, and shown how the water could be delivered to Mr. Harris, without any difficulty. Mr. Harris never considered that, and, contrary to the statement that he would not use any influence to help us secure it, the truth was that he said he would be in bad grace with the tribal committee. I think they took that position.

Mr. CURRY. That was because of the fact that Mr. Harris said—that has been the only meeting we have ever discussed that with Mr. Harris, prior to our meeting. There have been no meetings, since he has changed his mind, at any other time. We know nothing about that.

Mr. COLTON. We do not care to continue this matter. We feel, in this situation, that the tribal business committee should not be vested with the right, or the authority, or privilege, to refuse grants of right-of-way. We feel that an application might be referred to them, for their opinion, that is okay. But not as a matter of obstruction, which it has been, in this case, and can be in any other improvement which is proposed, by any company. I know another situation in which the company is proceeding to use channels across grazing lands, with only a grant. That is, a verbal grant of the members of the tribal business committee.

Mrs. IORG. Are you insinuating that the members of the tribal business committee are not capable of making a decision?

Mr. COLTON. No insinuation of the kind.

Mrs. IORG. You have been coming out and saying it.

Mr. COLTON. I am the owner of a homestead of 150 acres. In the grant of my title there is no authority relinquished to me to refuse a right-of-way across that to anybody or any interest or anybody whose need is such that they need apply for right-of-way. They can apply, as far as I am concerned. I am subject to the order of the court. All the say I have is whether I will accept the damages or present my case to a court and let the court decide whether or not a grant for right-of-way should be given.

The CHAIRMAN. In that respect, I think anyone who is familiar with the law of the arid and semiarid States—and I take it to be true in Utah as it is in any one State—will agree that the realty is always subservient to the dominant estate of a right-of-way over it for the conveyance of water. I think it is true, undoubtedly, in this State, so that that principle is recognized in law; and while the intimation is not to be indulged in that this group are not capable of forming a decision on the thing, the question is, Does the spirit of the law and the spirit and policy that has prevailed in our system in arid regions prevail in the judgment of the business committee? The business committee may well take into consideration the spirit of the community in which it lives and within which it must apply, whether it be an Indian committee or white committee or an Indian individual or a white individual. That makes very little difference. The spirit of the law is the same all the way through. It impresses me that unless there is something more to it than what I have heard, reason and

justice should enter into the proposition to derive the greatest good for the greatest number.

Mrs. IORG. We have a number of rights-of-way that are granted for various purposes. Never has the committee objected to any right-of-way where it was beneficial to either the Indian or the white; always tried to cooperate with them, as far as I know, in working with them for a number of years.

The CHAIRMAN. I'm glad to hear that. That should prevail here. It seems to me there may be a chance to get together on this one, too, some of these days.

Mr. CURRY. The fact is, at the time this matter was called to our attention we were unaware of the details of the whole thing, the irrigation set-up that he speaks of. Therefore, we did not know just what to do and therefore I made that trip to my father-in-law. But during the course of our meetings one of the committee members got up and said he felt like it was a sad move for us not to comply with the wishes of the people who were striving to make their living but there were other members that overruled him. It was not all the committee that took that stand. Therefore, I feel like it is unfair when he seemed to think we were all opposed. There was consideration given, and I feel like it should have been his duty to come back to us and talk it over with us instead of corresponding like he has, continuously, back and forth, to get it through some other means of getting that right-of-way. I feel like we could have adjusted that; so I don't think he ought to lay the burden upon us.

The CHAIRMAN. No burden is laid upon anybody now at all. The committee does not regard a burden is laid upon anybody. There seems to be a controversy here. Get together and settle it and have it over with for the good of the community. What do you say to that?

Mr. CURRY. I have to wait to see what the committee says until he has a chance to meet with us again.

Mr. COLTON. Oh, I can always come back and come back. I got to the point where I thought it was no use.

Mr. SMITH. Mr. Chairman, in speaking about these purple lands, I am interested in them because I have lands adjoining them. I have studied out about what could be done there if this law had been followed out in the opening where the Government would have paid for all of those lands and took them over and executed this trust that you speak of; put them in the public domain. It would have been subject now to leases to the adjoining landowners or included in the Taylor Grazing, and the Indians can lease any of this public domain that lays next to the adjoining landowners under the Taylor Grazing Act which is in operation, to my knowledge, to a certain extent; and I think they're a fair service. But in the State of Utah there has not been lands enough that have been included in the Taylor Grazing and the section 15 leases to adjoining owners. Isolated tracts have not been put into effect and are very little understood in this State. If those come into the public domain and actually belonged to the public domain they would come under that section of the Taylor Grazing Act subject at least to the adjoining landowners or to purchase as isolated tracts or to be absorbed into the Taylor Grazing Service.

Senator MURDOCK. What, in your opinion, would be a fair price for the Government to pay?

Mr. SMITH. Well, I think those rough lands would be probably 50 cents; some lands worth \$1.25.

Senator MURDOCK. They were offered for 50 cents, were they not?

Mr. SMITH. Yes; they were offered at 50 cents, but nobody was interested in buying them. After the 1917 sale, for some reason, they did not care to put them up again, as they don't bring a very satisfactory price, and don't care to make any more offers of sale; and subsequently they are left there and us stockmen understand they did go to the public domain. We used them as such until here 4 or 5 years ago they attempted and tried to have Mr. Wright offer leases, and were leasing some of this land, paying a nominal lease, just to get along and keep good neighbors. I have been doubting very much whether the Indian Department really had a title to authority. But rather than contest this thing we have been willing to pay this nominal lease waiting for the development of something. The proposition was that the authority would go to the Indians, and this in the south would come into the public domain. So really it does not make much difference where that went through; but I would say that the Government should take a settlement on this trust you have been speaking of and take these lands over in the public domain and let section 15 of the Taylor Grazing Act take care of them so we could buy them or lease them to the adjoining property and preference. I think the thing would be settled up satisfactory.

Mr. WRIGHT. I was going to raise a question a while ago, Senator Murdock, when you said you had very great doubt about the authority of the Indian Bureau to administer these lands, or something to that effect. It has now been repeated. Now a great many of these people here today are getting permits for grazing purposes on those lands from us. My instructions were to administer those lands, let permits, do with them the same as we do with other Indian lands. We have been doing it since 1937. Is there anyone here that could make some kind of a definite statement that we do not have the authority, or that for the present, we do have it? I don't like to be put in a position, from now on, of these people coming to me and saying, "You are kidding us, you haven't got any authority." That is the question I would like an answer to.

Senator MURDOCK. I repeat again, anybody that can read the law under which the reservation was opened and can come to any conclusion other than the fact that the lands were returned to the public domain, must have a versatile mind, more versatile than I have. I can only read into that the fact that the lands were returned to the public domain. If they were, then they ceased to be Indian lands. Now the only string attached to the return of the Indian lands to the public domain was that, if and when they were sold, the Indians would receive \$1.25 an acre. I think, if the General Land Office had been as jealous of its own jurisdiction as the Indian Bureau is, it would be administering those lands today, and the fact that the sale of the lands was made, made not by the Indian Bureau—why? They were not Indian lands. The sale was made by the one agency that has jurisdiction over the public domain, and did exercise it at that time. That agency was the General Land Office.

Of course, that is just the opinion of a very humble lawyer, but it is my opinion.

Mr. ALLRED. May I clear up what Mr. Wright brought up?

The CHAIRMAN. Yes.

Mr. ALLRED. I don't think he would lease lands that he could not have authority to lease. I know him too well. But I know that the agent ahead of Mr. Wright—attempts have been made to acquire use of those lands, and two agents ahead of him told the fellows that went to them, "We have no jurisdiction over those lands." As I stated some time yesterday, when there came a need for somebody to come to the rescue of these Duchesne people, I have had the understanding that Mr. Wright took it up with somebody, and got authority to administer these lands. He has not mentioned that. I think that is one of the reasons where you got ability. I am positive Mr. Paige made that statement in my presence, that they had no jurisdiction over the so-called ceded lands. I am kind of one of the old-fashioned fellows who wondered whether the Indians do have a claim on it.

The CHAIRMAN. "Ceded" means "returned, or turned over to another authority by the controlling agency." What is the history of this piece of land? The history is that it was once a reservation, and by act of Congress it was thrown open to the open public domain. It was not ceded by the Indians; it was made the open public domain by an act of Congress. It was not a cession in any way that I can see. An act of cession had to be made by an act of the then jurisdictional power, and that was not done. It was done by an act of Congress. To call them "ceded lands" seems to me, and has seemed to me all the time, a misnomer. They became public lands of the United States, open public domain. The only provision was that when, as, and if they were sold, they would take an amount of money equal to \$1.25 per acre for all acres sold, and this would be turned over to the Indians that had formerly occupied the land. It was not a consideration; it was a grant. It was a grant made by Congress of \$1.25 an acre, not in consideration for the cession at all. The language of the law does not permit of such an interpretation; so I am at a loss to know how they are returned to the status that they are by the Wheeler-Howard Act, or by any other act. If they were part of a reservation, part of which had been ceded by the Indians, that would be one thing, but they were not. They were effected by the act of Congress, not by the act of the jurisdiction of the Indian people.

Senator MURDOCK. I don't believe that the ability of Congress can be set aside by the order of the Secretary. The only thing that rests in my mind is this: Whether or not, under the Wheeler-Howard Act—I know of no provision in it which would authorize the Secretary of the Interior to place it back under the Indian agency. The only provision of the Wheeler-Howard Act that I know is the provision that they may be returned to tribal ownership. Certainly that very provision contemplates that they are not lawfully in Indian ownership. If they be not in tribal ownership, certainly the status of tribal ownership does not exist, and the only way it can be accomplished is by the authority of the Secretary of the Interior acting within the authority of the Wheeler-Howard Act.

Mr. WRIGHT. Senator, don't you think, in the interest of the people of this basin, those affected, the white people and the Indians, this matter should be cleared up and decided and determined whether I have any authority?

Senator MURDOCK. I want to say this to you; I have never talked with you about any Indian affairs; never heard you before, but I am greatly impressed with the practical way with which you handle things, and the fairness with which you handle them. I am inclined to think, if you had more to say in the affairs of the Uintah Basin, nine-tenths of these problems and questions would be solved right here on the ground.

The CHAIRMAN. I have no disposition to go on with this discussion. I think, however, in order that the record may be clear, it would be well if I would read a portion of the withdrawal recommendation put into the record this morning. I will not read all of it. That recommendation sets forth a history of the procedures by which these things have been accomplished for a long period of years. I pick up in the middle of it [reading]:

This brings us up to the period of about 1890, at which time there was adopted the plan of opening to entry, sale, etc., the lands of reservations that were not needed for allotment, the Government taking over the lands only as trustee for the Indians. Under this plan the Indians were to be credited with the proceeds only as the lands were sold, the United States not to be bound to purchase any portion of the lands so opened. Undisposed-of lands of this class remain the property of the Indians until disposed of as provided by law (*Ash Sheep Co. v. United States*, 252 U. S. 159).

Mr. Colton, have you concluded?

Mr. COLTON. Mr. Chairman, there are features of this situation, covering its entirety, that was related to this unit G, and has a bearing on what has been said, and what may be done with these so-called ceded lands or unsold lands on the reservation, that I think others of the group I belong to would like to present, and expect me to say something in a short, general way.

Now, Mr. Woehlke said here yesterday that a group from Duchesne injected this matter of the ceded lands into this set-up in 1937. I don't know whether it had any appearance in any of the bills presented to Congress before that time or not. I presume, however, it had. The action of the Duchesne people in 1937, at a meeting in Roosevelt in October, was the subsequence of a meeting held in Salt Lake City on September 16 of the same year, at which members of the Indian Service were present, a goodly number of them. Among them were Superintendent Wright and Mr. Woehlke. I was present at that meeting, by invitation, it being a meeting of the so-called "steering committee" of the Uintah Basin—studies which were being conducted by governmental agencies to determine the resources, worth-while resources of this area. Preceding this time, in 1934, Duchesne County had got in such a status, economically, that an appeal was made to the government of the State, and it looked almost as if the county offices would have to be closed because of lack of resources and moneys to pay the serving officers. The Governor with some others visited the area and held a meeting at Roosevelt.

The outcome of that meeting was the appointment of a committee of one local man and two members whom the Governor appointed from outside the basin to consider ways and means to better the situation as it pertained to the economic situation in Duchesne County; not only pertaining to the county, but the people and the welfare, particularly, of the white people on these lands who were of necessity sustaining the county and paying the taxes. These men voluntarily accepted the

responsibility of trying to do something to solve that problem; and the outcome of that was easily attained because the Government of the United States was then proceeding under the Resettlement Administration and other agencies to ascertain the reasons for conditions in places such as this, the reason for them, and remedies to be made if possible. Soil surveys and economic studies and water supply and range studies were the result of that effort. This entire area, as to white lands, with the exception of a few very small units, was covered by soil surveys; and economic studies were made which ascertained that the income of the average farmer in the area was almost negligible, if charged for the benefit of the home plant that would come by reason of the occupancy. The income of the average farmer was almost a minus quantity.

Soon the Indian Service took part in those investigations. They had been appealed to at the outset, especially in water-supply matters, because it was thought by the local people that many of the Indian lands, which had been allotted, had so deteriorated that many water rights were really not being used; and that it would be preferable for them to sell them rather than to accept the small amounts they received as rentals in many cases for those lands. I myself have visited the project engineer and had spoken to him and asked him if a soil survey were attempted if the Indian Service would accept the results of an agency of the Government authorized to do that. He stated that he thought a good deal of good could be done from that.

Well, to cut the matter short, the final result was the organization of a steering committee to direct those basin studies. Mr. Woehlke and Mr. Wright were members of that committee. In late 1937 I was invited to become a member. This was the first meeting I attended, September 16, 1937. Things that were presented at the initial meeting—this was a 2-day conference—at the initial meeting, on the first day, really greatly surprised me. The morning meeting was occupied in the presentation of technical data along the lines presented by the Grazing Service here yesterday, supporting the idea that there were only grazing resources enough in this area to support the Indian program. Then a tentative Indian program was presented, a copy of which I have here. That was presented by Mr. Woehlke himself. When that was read I might best describe my feelings by the use of the word he used yesterday—I was flabbergasted. In that meeting, when range matters began to be discussed, I let it be known that this meeting, this other meeting, was being contemplated. The date had not been definitely set, but that Congressman Murdock would be present at that meeting. Immediately Mr. Stewart, who has been named here as an Indian Service representative having special assignments, arose and said, "It is too late for any such meeting."

That was a meeting called to consider range matters pertaining to the people who lived in this area. "It is too late for any such meeting; their consent has already been granted to accomplish the proposals of this program by the range interests of the Uintah Basin." I asked him when this happened. He referred to this meeting held here, at Vernal, in 1935. I knew nothing about it. I was not range-minded.

The CHAIRMAN. Did you say 1935?

Mr. COLTON. 1935; yes, sir. That meeting was held at Roosevelt. At that meeting the first thing we were confronted with was the read-

ing of a telegram from the Commissioner of Indian Affairs, offering the use to us, without rental fees, of these purple lands for a period of 5 years, if we would consent in that meeting to this legislation—the legislation then before Congress. Well, that, in and of itself, did not set well; and the action of our group was a refusal to ratify anything until these basin studies were completed. Now those basin studies have largely been completed.

MR. WOHLKE. May I interrupt to ask whether this second meeting, this meeting of which this telegram from the Commissioner of Indian Affairs was received, was not the steering-committee meeting?

MR. COLTON. It was a meeting of the residents of this area, at which Congressman Murdock was present, held in the Roosevelt Church Hall at Roosevelt.

MR. WOHLKE. It was not the steering-committee meeting?

MR. COLTON. No; it was a meeting of the residents interested in range matters.

Well, the matter finally went on and on and on, until in 1941 we were confronted with the same situation that others have been confronted with, the restoration of these lands, under threat, if this legislation was not acceded to; and under that, and under the influence of a letter from the Congressman, I with five other men, representative of Duchesne County Planning Board, then took action, following a meeting called for the purpose of securing the will of those who would come. We acquiesced by letter in the passing of this legislation, which meant the granting or returning of that 61,000 acres to the Indian people, and the returning of 159,000 acres to the public domain, and the creation of this area across Green River, which we understood at this time was to be limited to 500,000 acres instead of the area as contemplated now. I do not need to go any further there. There are others who can cover this matter from here on.

But the interests of these people who are handicapped by reason of the fact that all of these Indians were accumulated in an area—the Uncompahgres had been accumulated in the Uintah Basin Reservation. Western Colorado had largely gotten rid of its Indian problem, and it was concentrated in this Uintah Reservation; and here, surrounded by forest reserves, and special-use permits on forest lands and grazing lands, the range interest, or resources, of this group of people become very, very limited, almost nothing. People from over the Wyoming boundary come in from the forest to the north; people from the Ashley Valley area. I don't say this with any idea that they should not be licensed.

I was raised here, not born here; but I know this area. I know the needs of these people. They have extended their interests westward, and before the people got on the ground, and got it established, the stockman of the Ashley Valley were well over into the Ashley National Forest, the forest just north of the yellow lands on the reservation. The people from the west had taken the Strawberry area, people from Heber, Utah County; and people from the south could come in on the south. Now these people are to be limited, with almost no range resources. That, to me, was such a serious problem, because I was raised on a small farm, where my father depended on this small farm with what work he could secure on the side. He didn't know what it was to send a hoof on to the forest or range lands; and all other benefits were denied to him, general gratuitous benefits, until

they got to the point where sometimes special help had to be provided by legislation, and the Government, and its money expended by the Indian Service in the development of this area was almost, at times, the sole salvation of the well-being of these people.

Strange things have happened in that area. Today, despite the prediction we could never come back—of course we are under an unusual and perhaps not to be expected to be continued condition—but today we have a degree of prosperity that has never been equaled, unless it was in the height of the alfalfa feed period for these people.

Now, as to the value of those ceded lands, that 61,000 acres; it might have a trading value. But that trading value will become a nuisance factor more than any other thing. Thank you very much.

The **CHAIRMAN**. Thank you very much. Is there anyone else who wishes to be heard?

STATEMENT OF BERT LUSTY, PRESIDENT, DUCHESNE LIVESTOCK ASSOCIATION, DUCHESNE, UTAH

Mr. LUSTY. My name is Bert Lusty, Duchesne is my residence. I am representing the Duchesne Livestock Association, a small grazing association of 59 members, who graze 3,023 cattle on district 1, of the Uintah Forest. Those members own the big end of that part laying south of the Duchesne River, white on the map, and right north of a small green strip of forest. The privately owned land is mostly owned by the members of this association.

The **CHAIRMAN**. That is to the east of the reservoir; right?

Mr. LUSTY. The purple ground lays north of the green in the lower part of your map, between that and the Duchesne River. This is it [indicating]. Strawberry River runs down here, the Duchesne River down to this point, and down here and over to there, contiguous to this district 1 of the Uintah Forest. In that ground is about 110,000 acres of so-called ceded ground.

Members of our association have been using a big part of that ground for 32 years, to my knowledge. Up until the last 3 or 4 years, it was just run on. The privately owned ground contains practically every water hole, and the best of the grazing, in that ground. Now, in the last few years, we have been insisting on some kind of supervision of the so-called ceded ground. At the present time we are operating under permits, issued by Mr. Wright. Those permits are much more satisfactory than we were running under before; but we cannot see any permanency in them, under the Indian set-up. As we understand, the Indian Department is supposed to let out their grazing privileges by bid to the highest bidder. While there will not be too many come in and bid on some of that ground, from the way it lays, at the same time it is not a permanent set-up; and we would like, if this bill is contemplated, legislation that that could be transferred to some of the grazing set-up. Our preference, on account of location, and the set-up, has been that this part, in there, would be added to a district of the Uintah Forest. They already have issued permits to practically every fellow that runs in there, for the summer; and, without any expense to amount to anything, without any other set-up, they could still handle our spring and fall range there.

That is about all I wish to say, unless somebody wants to ask questions.

The CHAIRMAN. Are there any questions?

Mr. WRIGHT. I'll ask you to clear up one point. You implied, Mr. Lusty, that we were now advertising to the highest bidder.

Mr. LUSTY. Mr. Wright, I will illustrate that. Mr. Wright has been just as fair as any agency could be, with us, and has issued the permits, according to our commensurate property, there, without any competitive bidding at all.

The CHAIRMAN. That is the way we understood it.

Mr. L. J. GILBERT. I concur in what Mr. Lusty has said. That would be all I would have to say.

The CHAIRMAN. You are concurring in what he is saying. Didn't you care to add anything more? Your locality is a little different than Mr. Lusty's is it not?

STATEMENT OF L. J. GILBERT, REPRESENTING THE ARCADIA CATTLE ASSOCIATION

Mr. GILBERT. This blue ground, right in here, most of that is being leased by the white settlers.

The CHAIRMAN. What group do you represent? What do you call yourself?

Mr. GILBERT. The Arcadia Cattle Association.

The CHAIRMAN. Have the Indians, in that territory to which you pointed, any cattle or livestock?

Mr. GILBERT. None that I know of.

Mr. WRIGHT. They don't run in that locality.

The CHAIRMAN. They lease to you fellows?

Mr. GILBERT. Yes, practically all this ground is leased.

The CHAIRMAN. That is the blue ground that they lease?

Mr. GILBERT. Yes, most of it.

The CHAIRMAN. Indians living in there?

Mr. GILBERT. Yes; there is—I could not say—I think there are two or three families.

Mr. WRIGHT. That is right.

The CHAIRMAN. Do they live in there?

Mr. GILBERT. Yes.

The CHAIRMAN. The others are not living there?

Mr. GILBERT. No.

The CHAIRMAN. Where do they live?

Mr. GILBERT. I could not say.

The CHAIRMAN. When you arrange to get your lease, with whom do you deal?

Mr. GILBERT. With the Indian Agency.

Mr. LOUIE GALLOWAY, Roosevelt, Utah. How long had you been using that land that you spoke of, leasing from the Indians? You also leased the purple land you referred to first. I would like to know how long you had been leasing that land.

Mr. GILBERT. This purple land?

Mr. GALLOWAY. Yes.

Mr. GILBERT. Three or four years.

Mr. GALLOWAY. Did you use it prior to that?

Mr. GILBERT. Have been using it practically all the time ever since I have been here.

Mr. GALLOWAY. How long have you been there?

Mr. GILBERT. Thirty years, off and on.

The CHAIRMAN. We have another group here, Mr. Allred. Have you any others of that group? I have the name of Mr. Galloway here. Is he present? Will you please state your name and place of residence?

STATEMENT OF LOUIE GALLOWAY, ROOSEVELT, UTAH, SUPERINTENDENT, MOON LAKE WATER USERS' ASSOCIATION

Mr. GALLOWAY. My name is Louie Galloway and I live at Roosevelt. I am employed by the Moon Lake Water Users' Association, as their superintendent.

The CHAIRMAN. Please be seated, if you care to.

Mr. GALLOWAY. Practically everything has been said that is essential, in the way the ceded land affects the Moon Lake project. I might add that the Moon Lake project is a project constructed by the Bureau of Reclamation, to furnish supplemental water for all of the home steaded lands lying well, I will say, that are irrigated from the Lake Fork River, and from the west, south side of the Uintah River, except the Uintah Independent Irrigation Co., consisting of about 3,000 acres, and the Big Six Co., that takes care of, we will say, roughly, a thousand acres, I don't know exactly how much.

The project consists of about 50,000 acres of irrigated ground, cultivated, and it has been—the larger number of acres of that land is idle now. But our interest in this problem was mainly the 61,000 acres of the ceded land, that is proposed, under the bill, to be returned to Indian ownership; and we think that is vital to our water users, because, in nearly every case, they are using it now. They have used it; and it is a resource that is utilized by them.

No mention has been made here—in earlier days it was important to get cedar posts. Out there largely they used fire wood for heating purposes. Of late more coal is used; but that still has some value. Now, this area has been a source of supply, along with other areas, for this purpose. We feel like, as has been stated here, the value to the Indian Department is not great enough, but, in fairness to all concerned, it would be much better to have this land pass to the public domain. Then, in some instances, it really should be privately owned, rather than have it go to the Indian Department to be administered permanently by the Indian Department. I might add this: I view land that goes to the Indian Department as a part of the resources, that we have been depending on, as being permanently taken from us. I don't look at it as a permanent benefit long. True, we are leasing it, and may continue, but I cannot feel that we can depend on that feature. I have understood they contemplated developing the Indian utilization range lands, particularly to the point they use it themselves, and it is not available to whites.

I should like to ask Mr. Wright—I have never understood exactly—but I should like to ask Mr. Wright just what he does contemplate, as near as he understands the program of the Department; what he contemplates doing with the 61,000 acres, after they have possession. If they do not get possession, do they propose to continue to lease it?

Mr. WRIGHT. We propose to continue to issue permits on them for the present; it is nearly all under white use. It has been proposed to offer them in exchange, so as to consolidate the scattered Indian lands. A proposal has been made to offer them in exchange, together with a small western portion of the yellow land, there [pointing] for exchange of some green lands on the National Forest, to make a reasonable operating unit out of the Indian lands, instead of having only spring and fall range, and have this scatteration throughout the basin.

Mr. GALLOWAY. Now, changing to one other thought that has been expressed.

Mr. WRIGHT. Let me make that clearer, Mr. Galloway. That is only with our scattered ceded land, and other scattered allotted lands; not with the exchanges I spoke of with the National Forest. Of course, no applications have come in about that.

Mr. GALLOWAY. It was mentioned that, because of the period in which this land was homesteaded, the natural grazing resources surrounding the area had been acquired by other interests, not residing in the basin. That has been a problem that we felt should be stressed, even in this hearing, because we had hoped, when the Moon Lake Project was talked of, we were negotiating with the Government for the construction of this project. The expression was made, time and again, in my presence, by stockmen particularly, that the future was bright. They had been curtailed in their use of those natural resources, but the future was bright. They were thinking of the Taylor grazing lands in particular but the experience is that the improvements have not been realized in that particular. That does not necessarily bear with this particular—I don't believe I have anything more to say unless someone desires to question me.

Mr. DILLMAN. Mr. Galloway, from your knowledge of the general opinion and desire of people, if any of the purple, or ceded lands, are taken from the Indians, is it the general attitude they should be reasonably compensated for them?

Mr. GALLOWAY. Yes. Those with whom I work are very definite in their expression that they do not want to rob the Indians of any equity they have, whatever. I think we have a tendency to lean the other way—want to see the Indian receive a little more than his just dues, in this matter, in all justice. For my own part, I feel that way. They certainly should not be deprived of any equity they have, and should be compensated for it.

Senator MURDOCK. I make this observation for an attorney representing an Indian, before a court of claims, who takes the position—and not that it makes any difference, but I agree with him—that if the ceded lands, so-called ceded lands, are made a part of the grazing district, or made a part of the forest reserve, that he then would have a good cause of action against the Government for the \$1.25, the same as he did on the forest lands, and it is his intention, if such disposition of the land is made, to ask for that payment of \$1.25 an acre. As I look at it the Indians could not make a better settlement than to allow it to be made a part of either a grazing district or the forest reserve today.

Mr. DILLMAN. May I ask you a question on that? None of the area, within that former reservation, has been taken in under the Taylor grazing administration. Now, if we should follow the proposal that

the purple land should be—or follow it out that they are—a part of the public domain; but unless something is done to sell them, under your statement, where would the Indians ever get any compensation for those purple lands?

Senator MURDOCK. If they remain a part of the public domain, and do not either become a grazing district or a part of the forest district, I would say the Indians would never be compensated; but, certainly, the minute we get the Indian question settled and their interest extinguished, they will either be added to a grazing district or a forest reserve. The Indians, then, in my opinion, would be entitled to \$1.25 an acre.

Mr. DILLMAN. If the total area, under the Taylor Grazing Act, of 80,000,000, or whatever it is, is acceded to, then there won't be any possibility of putting it under the Taylor Grazing Act without some amendment or modification. If that condition prevailed, would it be your thought that, by the reason of the fact they have been arbitrarily by Congress, taken away from the Indians, they should be compensated for, through some appropriation?

Senator MURDOCK. Certainly there is no question about it; they certainly are entitled to compensation.

Mr. DILLMAN. In line with the thought they would be offered for sale. When those lands were offered for sale, at the Government sales, all of the water holes and water courses were bought up at 50 cents, or more, and the persons who purchased those felt that they could dominate and control the surrounding range. Now, had it been known at that time that they could not do it, and that the Taylor Grazing Act was coming into operation, very probably quite an acreage of that purple land would have been sold. But if they could dominate it without purchase, why, it was just as effective. Now, I believe that should be considered, in arriving at the value of some of these ceded lands.

Senator MURDOCK. I do, too. I might state this, that I got a bill through Congress; it was my bill that went through, providing, as I recall it now, for the payment of \$840,000 to the Indians for their coal lands, which was vetoed by the President. I think that indicated my position on compensating the Indians. I have never been able to understand that action on the part of the President; it is one of the things that was done that I never could understand.

STATEMENT OF HARVEY McKEE, VERNAL, UTAH

Mr. McKEE. I am Harvey McKee and my address is Vernal, Utah. We are a few farmers up here, at the upper end of the valley, west of here. We wish to appeal for some public domain. We feel that our rights have probably been taken a little there, in that we have run in that vicinity for the last 50 years, our stock and cattle; and we feel we should have some consideration in helping us take care of those stock. We have farming land there which is the heart of the valley, we figure; but due to no adjacent lands there that we can get to we are not able to feed many stock.

We have a little forest range in the summertime, which takes care of our cattle about $4\frac{1}{2}$ months out of the year.

The CHAIRMAN. What do you do with them the rest of the time?

Mr. McKEE. We feed them in the corral. The reason we are making this appeal is that we would like to have some public domain there

for our cattle, which we have run in there before this Taylor Grazing Act went in; and we have been cut out.

The CHAIRMAN. Do you know what is known as the base period?

Mr. McKEE. Yes; I understand the base period, from 1929 to 1935 or 1934—

The CHAIRMAN. Does that affect you?

Mr. McKEE. I will tell you how it did affect us. Right at that time our land, from drought, didn't have a means of raising crops at that time. About that time, I will admit, our stock were meager, didn't have any, although we did run on some of this public domain what stock we did have. Some years we were there and some years we were not; but, as I see it, those basic years were placed right at that time, and that was the time that we had a drought, and were unable to take care of many stock, and those basic or priority years are what cut us out.

The CHAIRMAN. We have had somewhat the same problem all over the western country presented to us. It is a very difficult problem to find a solution for. I have always hoped some solution would be found whereby those who were unable to use the public domain during that base period, or 2 years out of it, could find some solution; but I have not run across one yet. I don't know whether the Grazing Service has or not. It works both ways. If you open that base period to all you do an injustice to the others. It so happens that sometimes the present system is rendering an injustice.

Mr. McKEE. May I ask this, what is this younger generation going to do? For instance, I have a boy that will be 18 next spring. He is going to be called into the service. He is going in to fight for America's rights. As I see it, we haven't very much rights, as far as our stock industry is concerned here; and our farming activity and stock activity is all we have. We small farmers have no chance to grow at all or sustain our livelihood.

The CHAIRMAN. How many cattle did you run, formerly, on the open public domain?

Mr. McKEE. Thirty head was our permit allotment for the Ashley Forest. We used to run a little there, for the spring of the year, from 6 weeks to 2 months, then we gathered them up and put them onto the forest.

The CHAIRMAN. Now, the Taylor Grazing Service denies you rights to that?

Mr. McKEE. I haven't been able to get much response from your Taylor Grazing, and our division No. 8; not much cooperation on this.

The CHAIRMAN. Have you gone before the advisory board?

Mr. McKEE. The board was just elected here; I believe it was day before yesterday. We asked them to have a hearing, and they said they were so busy that we could not get a hearing with them before this meeting, so that is why we are trying to make an appeal here for ourselves.

The CHAIRMAN. What do you know about that, Mr. Leech?

Mr. LEECH. I imagine, Mr. Chairman; he is referring to the new board members who have just been elected. I would like to ask Mr. Larson.

Mr. LARSON. The first time that I have been acquainted with this problem was, I think, day before yesterday, or 2 or 3 days ago, when

he spoke to me about it. I was not aware that he had asked for a hearing, at any of the recent advisory board meetings.

The CHAIRMAN. Did you make application before—

Mr. McKEE. No; I went to make an application, and I was informed that there was no need; I might just as well forget it; that my chances were negligent.

The CHAIRMAN. Who gave you that information?

Mr. McKEE. I think it was the fellow that was in before this man Taylor; possibly it was Mr. House; some of the other fellows can verify.

The CHAIRMAN. Did your whole group receive the same advice?

Mr. McKEE. I know of two other fellows that claim they received the same advice.

The CHAIRMAN. Is there something wrong with that corner of the earth you have out there?

Mr. McKEE. They're the best lands in this valley, as far as farming is concerned.

The CHAIRMAN. Upon what theory did they say you had no chance?

Mr. McKEE. Did not apply for this through those basic years. I'll admit it was later that we asked for this grant.

The CHAIRMAN. In other words, you were shut out by the dead line. Is that it?

Mr. McKEE. Yes, sir.

Mr. LARSON. As I say, I have not been aware of this until 3 days ago. From what he says, that would be the case.

The CHAIRMAN. Why didn't you make application before the date to cut off applications?

Mr. McKEE. Well, as I said before, we were in a drought, and we did not have many stock, a few milk cows around the place, possibly a calf or two. I believe it was in 1932 I ran 10 head of cattle on Little Mountain; possibly should not have been there, but they were.

Mr. LEECH. I would suggest that he file his applications with Mr. Larson, and Mr. Larson will attempt to work it out.

The CHAIRMAN. It would be fine if he could meet with that whole group, if possible, and see what can be worked out as worth while.

Thank you, Mr. McKEE.

Mr. ALLRED. In the general summarization of all the range problems I would like to have 10 minutes for that purpose, if you please, Mr. Chairman.

The CHAIRMAN. Very well.

STATEMENT OF HORACE ALLRED, ROOSEVELT, UTAH

Mr. ALLRED. Mr. Chairman, the people of Duchesne County, that section, that have been doing all the hollering here today were concerned mainly with this area up in here. These advisory board fellows all told us in Vernal—but, anyway, we have a number of range problems here that we tried to explain to Mr. Haskell the other day and said we would like to present, if we had time.

In the first place, we discussed some of this 1,200 head permit that is claimed by the Indians on the forest up here, and I think it has been further explained that whatever concessions they get, whatever compromise is arrived at, whatever settlement, will be at the expense

of the people that are now using these ranges, namely, these people in here, except—

The CHAIRMAN. Just a moment on that, that 1,200 head, I think the statement was made here the other day, in substance at least, that that has not been used, perhaps only in part. What do you know about it?

Mr. ALLRED. My understanding is that, as Mr. Wright stated the other morning, there was an understanding between the people handling the Indian affairs and the forest people, at the time the forest was created, that certain Indians, and the Indians asked Mr. Wright if they were not permitted, but the forest supervisor felt the Indians were never permitted there—there were allotments made, privileges extended to certain Indians, and the number for each Indian was defined originally.

The CHAIRMAN. We have changed to 1,200 head, presumably having the right on the forest up there. This is all rather confusing. If there are some forest officials here, we would be glad to have their expression.

Mr. JOHNSON. Mr. Chairman, we were ready to present—when this matter was brought to our attention we looked into it, and we would like to have the representative of the Forest Service make a statement as to the history and what has happened in there.

Mr. ALLRED. I had not expected to get in the middle of a battle. That is just one of the items I expected to mention. I will go ahead until somebody stops me. That 1,200 head, as I understand it, in the beginning, was on there for a year or two, I don't know how long; but it appears not so very long. It was for some reason or another. It began as far as I remember, that dates back some 25 years. I don't remember of any cattle being recognized on the forest, Indian cattle, as having a right there, other than might have drifted on, except that belonging to the Wash permit, on the Dry Gulch division of Ashley Forest. That is undisputed, on the district I run on, and the Wash uses are there. They built a right, the same as the rest of us, and he is a good stockman. We have no objection to him being there; we are not attempting to say this does not belong to the Indians. I want to picture to you that if it is determined they are to have that 1,200 head, or 800 head, on this area it will simply mean that 800 head of white cattle must move off. That is one of the items that affect these people.

This has not been mentioned; I asked Mr. Leech to include this, I expected to be talking here. When the Taylor Grazing Act was set up, I was a member of the advisory board over here; thought this was public domain; knew this was; sent in an application for grazing permits and followed the program all the while, until it was determined, a few years after the act had been in operation, that priority was the thing to determine rights. Very few of us could qualify for rights, under that priority; so we rather dropped it, hoping some day to get strength enough to go in and have them give it some consideration again. But this area here [indicating], and possibly some of this other area, rightfully, we think, belongs to us.

There are some two thousand families in here. Sixteen hundred of them are making homes on ranches and farms, living out here a hundred miles from the railroad; no market for anything except live-stock products; and the only thing we can use—we contend we are

more dependent on the use of these ranges than if we were over somewhere else, and could raise other crops to sell. There is no question about our rights to the use of these ranges, by the Taylor Grazing people, except that the Secretary approved of these rules that included the priority period, which caught us off. We are still there, trying to make a living; and we are apparently going to have to give up so much of this country over here. We are being permitted to lease the Indian lands, to lease them the last few years, as somebody outlined. But, under an agreement with the forest people, we have been required to take care of a number of their cattle. It is not the reduction of our numbers so much as it is the shortening of the season, which means the same thing. That condition is getting tougher all the time, up here. On a part of the range there are Wyoming sheep, which belong over on the other side. They acquired that right early, before the people that settled this country. They have ranges we feel like we should have, and we would like to have some way of getting them back. That is another one of the things.

Now, coming up to the Johnson bill, I talked to Mr. Haskell a little about it, the other day, and he thought it might be all right to mention it. I understand they are going to freeze those permits, so they cannot be redistributed, under any conditions. That means these boys, this man who spoke a while ago, boys like his son, are going to come back and find out, while they were gone we sewed these forest rights up in the hands of the fellows that have them. There are lots of cases where large operators, in parts of the State, will have a thousand head, or even rights for two or three hundred head. Any number of people here would be tickled to death to get 25 or 30 head of good range cows on the range. They can raise 30 head of cattle, get them out every year, and just about double their income. There are lots of reasons why they should be given those little rights. Mr. Greenlea, president of the cattle association which I am a member of—if he had been here, he could have presented it better, in this matter, and go into details. Unless somebody wants to get up and enlarge on it, I want to leave you people with a clearer memory of why this group of people, in here, are so much concerned over what appears to be little things. They have their backs against the wall. If it had not been for W. P. A. two-thirds of us would have been gone.

Mr. DILLMAN. Mr. Allred, in reference to the Johnson bill, which you say contemplates freezing those rights, what is the general opinion and desire of the stockmen in that vicinity, with reference to that provision of the Johnson bill?

Mr. ALLRED. The local people that have considered it, that I have known of, were decidedly against it, although the American National Livestock Association is supposed to represent the cattle industry and does represent the large operators, and the last two conventions have passed resolutions in favor of it. I understand the wool growers were against it. The local people, of course, take exception to it for it will retard the further existence of these people here and give them little relief.

Mr. WRIGHT. May I ask one question there? Suppose you and your association had what you thought was an arrangement or an agreement with the national forest for 1,200 head on that forest. Would you be willing to give it up if somebody needed it worse than you did? Do you think you would do that?

Mr. ALLRED. No; I don't think so.

Mr. WRIGHT. Isn't that what you are asking from the Indians?

Mr. ALLRED. I am not authorized to speak for anybody. If we had not used those ranges for the last 25 years or 3 or 4 years we would have lost the right. We built those rights up with the permission following the regulations of the forest department, and all the time with the understanding that the continuous use is the establishing right. I think there is a lot of history to the land of the forest people there, that they want to have this matter discussed. But we contend, Mr. Wright, that along with the rest of the use, our contention, as I said in the start, and I don't say it disparagingly about the Indians, but I am trying to picture the effect it will have on these people here if they have to move off this range.

The CHAIRMAN. Is there a representative of the Forest Service here?

**STATEMENT OF C. E. FAVRE, CHIEF OF RANGE MANAGEMENT,
INTERMOUNTAIN REGION, UNITED STATES FOREST SERVICE,
OGDEN, UTAH**

Mr. FAVRE. I am chief of grazing region 4, of the Forest Service. I think we might discuss a little bit the background and how the permits came into effect.

The CHAIRMAN. That is, the 1,200 head?

Mr. FAVRE. I understand the 1,200 head are part of those that are now admitted on the Wasatch Forest, over on the extreme west side. But the people interested in here—now, I understand Mr. Allred wants to discuss the 800 head we put on the Ashley Forest.

It seems in about 1906, by an exchange of letter between the Secretary and the representatives out here, it was agreed there were certain named Indians that would get some permits free of charge. This letter which I have here, signed by Capt. C. V. Hall, then acting Indian agent, requested that free permits be given to certain named Indians. He said in the letter:

The following is a statement of the Indians with the number of head of cattle which would probably be affected if the free period could be arranged.

He goes on to explain who they are.

* * * On the head waters of the Uintah—

There is a little statement here before that, that I had better read:

Referring to your communication of the 3d instant, "Land 31494, 1906," relative to the securing of a free privilege to graze Indian cattle on the forest reserve recently created from the Uintah Reservation, I have the honor to report as follows:

"During the summer grazing months Indian cattle have been in the habit of grazing high up on the mountains on the headwaters of the following streams: North fork of the Duchesne River, Rock Creek, east and west forks of Lake Creek, Whiterocks, and Uintah Rivers.

The areas, therefore, that the Indians desired to utilize in summer grazing for their cattle would lie in townships—

He enumerates them here as shown on the board—

The Indian cattle would not graze over the entire portion of these townships, but principally along the banks of the streams heretofore mentioned and covering areas of a mile or two from such streams.

The following is a statement of the Indians, with the number of head of cattle which would probably be affected if the free permit could be arranged: Headwaters, Uintah and Whiterock River: Harry E. Harris, 125 head—

and so forth. He goes on, I don't know that we need to enumerate all of these. Here are some 2,400 head that were grazed, but I should say probably there are 30 names, Indians, together with the number of stock for each. Then he brings out:

While this number of cattle have been heretofore grazed on the upper reaches of the streams mentioned, I have been endeavoring to have the Indians understand that it is not absolutely necessary to graze all their cattle high up on the mountains, and in all probability if they were allowed free permits for 50 percent of the number of head shown in the above list it would be reasonably satisfactory to them.

That is where we get the 1,200 head.

The CHAIRMAN. Is that right a promiscuous right or individual right to the individual Indians?

Mr. FAYRE. The contention is, as I think these others also show, that there was the individual right, because it also points out specifically certain Indians, that is, in this letter, which is dated May 10, 1906.

The CHAIRMAN. What year?

Mr. FAYRE. May 10, 1906. Mr. Adams put in the names of the people concerned, and then in the Acting Commissioner's letter of May 25, 1906, he has this to say at the end—

Senator MURDOCK. Commissioner of what?

Mr. FAYRE. Office of Indian Affairs.

He says [reading]:

This Office renews its recommendation that the Indians named be granted free grazing privileges on the forest-reserve lands for 50 percent of the number of head shown in the report of the acting agent.

Then Secretary Wilson soon approved that, under date of June 1, 1906.

Senator MURDOCK. Secretary of which Department?

Mr. FAYRE. The Department of Agriculture, James Wilson. He says in part:

The forest officer in charge of the Uintah Forest Reserve has been informed that it is the opinion of the Forester that the request of the Indians to be allowed to graze about 1,200 head of cattle and horses in the Uintah Forest Reserve free of charge, should be granted unless there is some objection unknown to him, and the officer was directed to report by wire whether or not any material objection exists.

Then, again, on August 2, 1906, the Acting Secretary of the Interior, writing to the Secretary of Agriculture, says this:

Referring to your letter of June 11, 1906, relative to free-pasturage privileges on the Uintah Forest Reserve to certain Indians of the Uintah Reservation, I have the honor to transmit herewith a copy of a letter from the Acting Commissioner of Indian Affairs, dated the 25th ultimo, in relation thereto.

The Indian Office reports that the matter was submitted to the acting agent in charge of the Uintah and Ouray Agency, and that he reports in substance that there is no objection to the arrangement suggested in your letter, and that a driveway has been agreed upon and established.

I, therefore, have the honor to request that you will issue instructions to the forest inspector in charge of the Uintah Forest Reserve to allow the 1,200 head of cattle owned by the Indians to graze on the reserve free of charge in exchange for the right to cross Indian lands.

So that is the basis, some of the principle bases, of why we think the permit to specific Indians that the Secretary agreed to—as you go on through this, follow the administration from then on through, there are about two more instances where this same matter is brought up.

In a letter from Ranger Adair, of the Indian agency here, on October 15, 1916, Adair again refers to it, using the words "certain Indians of the Uintah Reservation." That is, he refers to them by name. In 1917 Supervisor Jepson, who then had charge of that portion where the 1,200 are running, over on the Wasatch, again refers to the individuals that he had been talking about. That is about all there is in the record. That shows specifically that they might have been talking about individual Indians.

As the administration has gone on, however, I think there has been no doubt but what they have gradually drifted; both the Indian Service and the Forest have gradually drifted into a consideration of any Indians who might want to graze cattle there, to the number indicated here. Whether that is not according to secretarial regulations, if they had in mind—I will leave it to you men and your judgment—the permit was granted to individuals. So much for that phase of it.

Senator MURDOCK. Let me ask this: There is nothing in those letters to indicate anything but individual permits were considered?

Mr. FAVRE. You notice some reference where they may say "the Indians." Specifically, the parts I read to you indicate in their approval that they said—they asked for certain Indians, and they were approved for their request. So I think it referred to the Indians named, both by the Interior Department and by the Secretary of Agriculture, when he said, "I approve the request."

Mr. WRIGHT. It seemed to me from what you read there that it said "free grazing privileges for the Indians."

Mr. FAVRE. "For the requests," wasn't it?

Mr. WRIGHT. Were free individual permits ever issued?

Mr. FAVRE. I understand we have never issued a permit, but allowed by letter or agreement with your office that the Indians could put up so many cattle.

Mr. WRIGHT. Undoubtedly those individuals started out as indicated in this letter. Wouldn't that to some extent, at least, indicate it was not contemplated to issue individual permits, but simply to issue a sort of privilege for that number for whatever Indians could use it? Might it not be interpreted that way?

Mr. FAVRE. I think we have grown into that; that while the original was set up for these named individuals here in Captain Hall's letter, because that is what the Secretary asked for—he asked for these named individuals, and then they probably issued them this way for awhile, I suppose, or allowed these individuals to go up with stock and gradually got into letting anybody go up because at first there were not many settlers in there. In fact, in those early days, I guess, there were not any settlers to start with. I guess the settlement was after 1906.

Mr. WRIGHT. The settlement started about that year. Anyhow, one of the main things, I think, that Captain Hall had in mind, in requesting this, was free grazing, then, for these individuals that had been using it, because, understanding, this was an Indian reservation before it was put in a forest reserve. Then the Congress finally, I think, in 1931,

paid them \$1.25, or whatever it was, for the land, which discharged all responsibility to the use of that land.

Mr. FAVRE. As we go on, this exchange or this free use was granted more or less because of the free crossing of whatever white people's stock there was going up there. The whites were running stock and they would drift, as I understand it, early in the year. You gentlemen know how stock drifts from the ranches; they were turned out and would drift across the Indian lands onto forest lands, and that drift, as I understand these early letters here, in 1917—it is pointed out that an agreement of the supervisors here and the agent, Mr. Kneal, superintendent, agreed back there that there was considerable drift of the stock over the range for perhaps as much as 3 to 6 weeks in going to and from the forest. That is, they were not urged across the Indian lands. There was no fence along that line between the green and the yellow, so there was a drifting back and forth of the cattle of both the whites and the Indians on those land. In one letter I find that the supervisor agrees that inasmuch as these 800 head are off and on the forest, probably they were only on there, he said, about a third of the time, so he thought that grazing only a third of the time for 800 would about equal the amount of forage that the white stock consumed in going across the Indian lands, gradually this way, going up in the spring, grazing some, because that is better spring range than the higher range is. Then as they come out in the fall, they again grazed on the area, so he thought that was about equal and about right.

**STATEMENT OF W. B. RICE, ASSOCIATE REGION FORESTER,
OGDEN, UTAH**

Mr. RICE. I was afraid Mr. Favre was not going to bring out that, in the original letters of 1906 between the two secretaries, the Secretary of Interior agreed to this free drift across the Indian reservation. I think that is in the original correspondence.

Mr. FAVRE. That is.

Now, since 1917 I don't know whether that boundary line has been fenced across there or not.

Mr. WRIGHT. Yes, around 1934.

Mr. FAVRE. Since that has taken place there has been a definite division of stock, as I understand it now. The cattle of the white folks are trailed across the Indian lands, not grazed any more, as they used to. Isn't that right?

Mr. WRIGHT. That is right.

Mr. FAVRE. Drive them across the Indian lands and put them on the forest. That means white cattle are on the forest throughout the season and fully consumed the forage on there. Further than that, in about 1922 the Indian use fell off. I guess it began falling off before that, but from about 1922 to 1934 according to all the records that we have there, the use has been for about 100 to 200 head of cattle. Now the Secretary's regulation, as you know, governing all people, whether Indian or white folks, was that in order to maintain a preference it must be through use. Along in the early days, along about 1920, along about 1922, about 1 to 2 years of nonuse was all that was granted until it was considered that your permit had elapsed.

Since then, the last few years, that has been rather liberalized. But in those days 1 or 2 years was about all that any individual could hope to maintain a grazing preference, without using it. So the fact that the Indians, whether we consider it as use for certain-named Indians, or whether we consider it passing back and forth of the stock, or any of those other matters upon which the use of this range is based, it went out of use, those permits went out of use, or that privilege of using the range ceased to be used.

At the same time, or within 2 or 3 years, as I say, the supervisor personally justified under the regulation of the Secretary the fact that since he was not getting any more of these Indian stock on here, either by permit or otherwise and they had not asked for nonuse, which, according to the regulations he probably could not have approved of for more than a couple of years anyway, he was fully authorized and fully justified in giving permits to other individuals. Now, the settlers were coming in and taking up these lands and needed cattle to make a go of their living on these raw lands, so he gave them permits. Now, the permits that were given out were small. I guess the average permit for using these ranges now to white folks would be in the neighborhood of 26 head. So they were put on with perfectly good preferences under the Secretary's regulation. Now then, after these people have used it under permit and under the Secretary's regulations for this period of years, they have established preferences and must take care of those stock. In fact, under 10-year term permits, now, which the Government considers are contracts they cannot be broken. So the white folks have perfectly good preferences on there.

The Indians' permits have lapsed and the replacement of those Indian cattle on there is impossible unless we would greatly overgraze the range. This would disturb the watershed, which we could not do under the secretarial regulations. Therefore it amounts to just one of two things, either take off the small permit that got in their privileges under the secretarial orders, or not allow the Indian cattle to be admitted.

The CHAIRMAN. Are you confronted with the problem now by which the Indians are offering the cattle for grazing permits on the forest?

Mr. FAVRE. Yes; and we have been, for the last 2 or 3 years. But we have consistently held during the last 2 or 3 years that we cannot put the Indians on unless the Indians take some of the white cattle which formerly would have been on the forest and graze them for a period in the spring down on their better spring range. This would shorten our season on the forest. Then, in turn, we would take the cattle of both the white people and some of the Indians' on the summer range. We have been making that kind of a deal for several years and, as I understand the people here, the permittees, that is perfectly agreeable. But the permittees contend that they have to make this deal with the Indian Service annually, which does not give them a chance to know how they are going to run their stock each summer. They are up against an arrangement of making adjustments every summer on their Indian cattle, and they never know how many they are going to run nor how. That, I think, is bringing the thing to a head.

We are perfectly willing to set a certain grazing season up there. We are perfectly willing if the Indian Service can take those cattle for a part of that grazing season down on their spring range and then

let us take a part of their Indian cattle up on the summer range which will be a 50-50 proposition, all right. But we cannot take less than a 50-50 proposition.

Senator MURDOCK. In other words, you are doing everything that you can, under the rules and regulations of the Forest Service, to operate with the Indian Agency, to take care of the 800 cattle. Is that right?

Mr. FAVRE. That is right.

The CHAIRMAN. Very well, thank you very much.

Mr. DILLMAN. On the 400 head that have been transferred over onto the Uintah Forest, were those recognized as individual transfers, or was it the private transfers that you recognized?

Mr. FAVRE. At the time we took that over there, I think we took over so many Indian cattle. I think we were under this arrangement. We have, since the original letters were out, considered they were more or less private. That idea has grown with us.

Mr. DILLMAN. As far as that transfer goes, acquiesced in the theory they were tribal and not individual.

Mr. FAVRE. So far they have; they may be able to work it up over there. If they can, we are tickled to death to help take care of the Indians. Now, the situation over there, they seem to be getting at it pretty well.

Mr. WRIGHT. All right on the Wasatch.

Mr. FAVRE. None of these small owners have gotten into their preference further than that, got some reductions over there through a forfeiture or two, I believe, put the Indian cattle in on that forfeiture, I believe.

Mr. RICE. Mr. Chairman, may I make a short supplemental statement there? This may involve a little repetition, but it needs to be emphasized.

The exchange of letters that both the Forest Service and the Indian Service, I think, recognized originally, at least, as an agreement, provided two things. The Secretary of Agriculture agreed to permit the grazing on the national forest free of charge of 1,200 Indian cattle which he specified. Now, I don't think that it matters a great deal whether we consider it as permits to individuals or permit to the tribe. In either case it comes out the same way. Now, in return for that the Secretary of the Interior agreed to the crossing of the white cattle across the Indian reservation; and the Indian agents, from 1906 to 1937, at least, interpreted "crossing" in accordance with the customs of the day, permitting them to drift across at will, sometimes taking, according to the records, as much as 6 weeks. At the present time the Indian Service is interpreting that according to the customs of the present day; they are driven across and get comparatively little feed. We have no complaints to make about that except to state it as part of the record.

Now, in permitting the grazing of 1,200 head of cattle, free of charge, on the forest, the Secretary of Agriculture specifically waived the regulations in that case. That is, the grazing without charge is a waiver of the Secretary's regulations. He specifically mentioned that waiver, but he also mentioned this other. So I think the Forest Service was justified in assuming with that concept that the Indian cattle should be grazed under the existing regulations of the Department. The one point that Mr. Favre did not bring out is that this nonuse

lasted for a period of 13 years and, in accordance with regulations in effect at that time, and in effect now, 13 years of nonuse would lapse the privilege.

The CHAIRMAN. Yes.

Mr. DILLMAN. May we ask how many head are recognized by the forest of this 800 head now?

Mr. FAVRE. Between one or two hundred.

Mr. WRIGHT. Our records show about 600.

Mr. FAVRE. Two hundred head is continuous use; you are trading on the 600.

Mr. WRIGHT. We are getting 600 cattle on the forest, and we understood it is a result of this agreement. Any other use on the Indian land is being paid for by the users.

Mr. FAVRE. Being paid for, but you are taking part of our grazing service now.

Mr. WRIGHT. Yes; as a cooperative measure.

Mr. FAVRE. Two hundred head is what we are recognizing as an established preference; that has been kept there throughout this period every year since 1906. There has been a use of probably as much as 200 head, and that is what we would be willing to continue, this preference for 200 head as a regular permit. The rest of it would be a trade between grazing seasons. That is, if you take a certain part of our grazing period we could take some to the Indians.

Mr. DILLMAN. Let me ask further, if you are now recognizing the rights of the Indians on the forest for 200 head, are you recognizing that as to individuals, and, if so, what individuals?

Mr. FAVRE. What is the name of that fellow?

Mr. EARL C. SANFORD (forest supervisor, Ashley National Forest, Vernal, Utah). His name is Elmer Wash.

Mr. WRIGHT. May I make the observation there, in that connection, Elmer Wash runs a little over 300 head of cattle on the national forest, and Sapaniese Cuch runs 171, not that either of these men have a permit from the national forest; they never have had that. We have a record, Mr. Rice, of 13 years of nonuse. I don't believe it is entirely nonuse; some small numbers continued or whether or not—

Mr. RICE. Yes; there is this 200 head continued without a break. If I inferred otherwise, I was in error.

Mr. WRIGHT. During the last 7 years they have recognized the lease permitted the full number on the Wasatch Forest—that is, 1,200 sheep, which is equal to 400 head of cattle—without issuing any permits, and up to 600 head, according to our interpretation, on the Ashley. Now, I realize this is another one of those problems; we are trying not to make an issue of it. It can be settled around a table. We have been hoping, every year, it would be.

The CHAIRMAN. I think it should be. I don't know whether it falls into this committee's jurisdiction or not. We have listened to it.

Mr. WRIGHT. The essence of it could be thrashed out and settled. It has been a conflicting problem, which interferes with the permanent plans the Indians might make. We have been willing to try to get some settlement or compromise or whatever is necessary, but we don't seem to be able to.

The **CHAIRMAN**. We have now been running about 5 hours, and I would like to terminate this. I think it will be best to recess until a later hour. The committee will adjourn now, to meet at 7:30 o'clock this evening.

(Recess until 7:30 p. m.)

(At the request of the chairman, the four letters referred to by Mr. Favre in his testimony were inserted in the record. They are as follows:)

DEPARTMENT OF THE INTERIOR,
UNITED STATES INDIAN SERVICE,
UINTAH AND OURAY AGENCY,
Whiterocks, Utah, May 10, 1906.

COMMISSIONER OF INDIAN AFFAIRS,
Washington, D. C.

SIR: Referring to your communication of the 3d instant, "Land 31494, 1906," relative to the securing of a free privilege to graze Indian cattle on the forest reserve recently created from the Uintah Reservation, I have the honor to report as follows:

During the summer grazing months Indian cattle have been in the habit of grazing high up on the mountains on the headwaters of the following streams: North fork of the Duchesne River, Rock Creek, east and west forks of Lake Creek, Whiterocks, and Uintah Rivers.

The areas, therefore, that the Indians desire to utilize in summer grazing for their cattle would lie in T. 2 N., Rs. 1, 2, 3, 4, 5, 6, and 9 W. of the Uintah Special Base and Meridian.

The Indian cattle would not graze over the entire portion of these townships, but principally along the banks of the streams heretofore mentioned and covering areas of a mile or two from such streams.

The following is a statement of the Indians with the number of head of cattle which would probably be affected if the free permit could be arranged:

Headwaters, Uintah, and White- rocks River:		Headwaters of Lake Fork Creek— Continued.	
	Head		Head
Henry E. Harris	125	Joe Arhi	15
Rose Daniels	30	Rough	50
Nephi Lehl	75	Green Stick	100
Bob Ridley	40	Billy Woods	25
John Duncan	50	Headwaters of Rock Creek:	
Big Tom	25	Tapoots	150
Uncle Sam	25	Mountain Sheep	75
Jim Atwine	25	Towanta	75
Headwaters of Lake Fork Creek:		Wanrodes	150
Charley Mack	100	Sokmikent	100
William Wash	500	Bill	30
Toorooroose	100	John Henry Kodge	30
Square John	25	Joe Bush	50
John Starr	100	Headwaters of the Upper Duchesne River:	
Pearank	50	Tonegats	50
Terras	10	Jasper Pike	50
James Randlett	60	Jesse Copperfield	50
Frank Bannocky	60		
Grace Wash	40		

While this number of cattle have been heretofore grazed on the upper reaches of the streams mentioned, I have been endeavoring to have the Indians understand that it is not absolutely necessary to graze all their cattle high up on the mountains and in all probability if they were allowed free permit for 50 percent of the number of head shown in the above list it would be reasonably satisfactory to them.

Very respectfully,

C. V. HALL,
Captain, Fifth Cavalry,
Acting United States Indian Agent.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, May 25, 1906.

The honorable the SECRETARY OF THE INTERIOR.

SIR: On April 10 the Department referred to this Office for proper action a letter from the honorable Secretary of Agriculture, dated April 5, relative to the request of Acting Agent Hall that the Indians of the Uintah Reservation, Utah, be granted free grazing privileges on the forest reserve lands formerly included in the Uintah Reservation. The Secretary said that if the agent would describe as nearly as possible the areas outside of the 250,000 acres reserved as grazing lands on which they desired to graze their stock, and would state the maximum number of horses and cattle they desired to graze on the locations referred to, the Forest Service would look into the matter and would take such action as the circumstances warranted.

On May 3 Acting Agent Hall was requested to furnish the information desired. The Office is now in receipt of a reply from the acting agent, dated May 10, giving the information asked for. A copy of the letter is transmitted herewith for the use of the Secretary of Agriculture. The Office renews its recommendation that the Indians named be granted free grazing privileges on the forest-reserve lands for 50 percent of the number of head shown in the report of the acting agent.

Very respectfully,

C. F. LARRABEE,
Acting Commissioner.

The SECRETARY OF AGRICULTURE.

SIR: Referring to your letter of June 11, 1906, relative to free pasturage privileges on the Uintah Forest Reserve to certain Indians of the Uintah Reservation, I have the honor to transmit herewith a copy of a letter from the Acting Commissioner of Indian Affairs, dated the 25th ultimo, in relation thereto.

The Indian Office reports that the matter was submitted to the acting agent in charge of the Uintah and Ouray Agency and that he reports in substance that there is no objection to the arrangement suggested in your letter, and that a driveway has been agreed upon and established.

I, therefore, have the honor to request that you will issue instructions to the forest inspector in charge of the Uintah Forest Reserve to allow the 1,200 head of cattle owned by the Indians to graze on the reserve free of charge in exchange for the right to cross the Indian lands.

A copy of Acting Agent Hall's letter is herewith enclosed.

Very respectfully,

THOS. RYAN, Acting Secretary.

JUNE 1, 1906.

The honorable the SECRETARY OF THE INTERIOR.

SIR: I have the honor to acknowledge receipt of your letter of May 29 with its enclosures from the Honorable Commissioner of Indian Affairs. The forest officer in charge of the Uintah Forest Reserve has been informed that it is the opinion of the Forester that the request of the Indians to be allowed to graze about 1,200 head of cattle and horses in the Uintah Forest Reserve free of charge should be granted unless there is some objection unknown to him, and the officer was directed to report by wire whether or not any material objection exists.

I have the honor to be, sir,

Very respectfully,

JAMES WILSON, Secretary.

The CHAIRMAN. The Committee will be in order. Who is among those present who wishes to be heard? We will try to hear everybody tonight, if we can. Mr. Willard Day, any statement you care to make we will be glad to hear.

**STATEMENT OF WILLARD DAY, COUNTY COMMISSIONER, DUCHESNE
COUNTY, CHAIRMAN OF COUNTY PLANNING BOARD**

Mr. Chairman, I think perhaps I had better go to the map.

I might say in the first place, that my family homesteaded in this district in 1910. I was a member of a family of five boys. My folks

got hold of some of the high powered sales articles sent out by the Government. Of course, today, we call it propaganda. It was all about the good land and good water situation in this country; and they moved here on purpose so that their boys could have a chance.

Now, I will take this up from the county official's standpoint. I will give the county line, as near as I can. I think I am right that this is Duchesne County, coming down this way, in here [indicating].

We have no enmities, as far as the Indian people are concerned. It seems to me there is a chance there, or a possibility—the way things worked out, it has been whites here against the Indians, rather than coming to a solution that would satisfy everybody. We used to herd cows up in here. I don't know that we were even encroaching on the Indians' right at that time. Most of them moved in here, under those terms, and there was plenty of land and plenty of water; moved the stock in here, with them, and, later on, we found out this used to run across there. They used to graze up there; figured they had rights up here. There was one that came in here, and ran the stock on that. That situation has somewhat changed, until now the yellow is as we find it; the blue is where the Indians' farms are. It is claimed they are in the best part of the farming district, and to some extent that is true. It leaves the small pieces here. There are a few families still living there. This part belongs to the Forest, and this belongs to the Indians, the yellow belonging to the Indian Grazing; and, as for this purple, we have not decided who owns this.

But, from a county official's angle, there are a few people in here that are standing the tax burden of that territory; very few. I think we have already heard statements of how near collapsing the County Government was, a short time ago; and, we feel that when the solution of this problem is arrived at, most certainly the county government should be considered. You can see the vast amount here, and here, and this amount in here, that is available to farming; not paying the tax burden.

I checked for 2 years; asked the county clerk for a check on 2 years that I thought might be comparable, as far as prosperity is concerned; so I asked for the year 1927, the assessed valuation of the county then. It was around \$6,700,000. Then I asked for 1940, which I felt would be comparable, and the assessed valuation then was \$3,140,000. Now, something has happened, in here, to make that change; and I contend that part of what has happened has happened in connection with the decisions here; this public domain.

Now, the fellow who used to have small herds, that run on what is titled Taylor grazing ground, is out. The larger fellows come in from other parts, and that leaves us with the problem of taxation, among this small group here. Now, it seems to me, it would be plain for the committee to see, taking the line the county does, there is an injustice to the few people who live there, on that tax problem. I don't know how you are going to settle this other. I would not say that it does not make a lot of difference; but whether or not it does, I would like to bring to the attention of the committee that there should be some way that these departments, here, and here, should be considered in a tax settlement. We hope that, some time, legislation will be presented, where some of the burden is borne by some of the other departments that receive the benefit from the county government.

The CHAIRMAN. Let me say that the matter that you have just touched upon has been a matter of consideration and study by the Members of the Senate for some years. Some bills have been introduced on that subject. No agreeable plan has yet been worked out; but that something has to be done to compensate the respective States for the land that is taken off the tax rolls by the Federal Government is very apparent. Something has to be done, sometime or another in the not far distant future. Your State, Arizona, New Mexico, Nevada, and Idaho—those States are very materially affected.

Mr. DAY. That is all I wish to present.

Mr. PATTERSON. To what do you attribute your loss?

Mr. DAY. In the study, the blackboard study, one of the larger contributing factors was the loss of the small herds.

Mr. PATTERSON. The small herds?

Mr. DAY. Yes; cattle and sheep.

Mr. PATTERSON. Do you sustain any loss from the Forest Service?

Mr. DAY. From the Service? That is right, from the livestock upon the Service; well, you would find here, if the small farmer owned the stock that was grazing here, instead of coming in from this other direction—

Mr. PATTERSON. Do you think the herds have diminished?

Mr. DAY. Yes; the local herds.

Mr. PATTERSON. Has there been any loss by reason of land conditions, land withdrawals?

Mr. DAY. Yes.

Mr. PATTERSON. Depreciation in the value of land?

Mr. DAY. There is no question about it. That is what I am speaking of.

Mr. PATTERSON. Is it depreciation, or loss from the tax roll?

Mr. DAY. I don't get your question.

Mr. PATTERSON. Well, has the land failed to come upon the tax roll, for taxation; or has it been a depreciation in the value of lands?

Mr. DAY. Well, there has been both; been a depreciation in the value of the land. I might say this, there were hundreds of people came in here, on the assumption of what the Government stated, that this was very good land, and had a good water right. There were many, many people came in here on the poorer lands, and you will find many of them have pulled out and left. That has contributed.

Mr. PATTERSON. Has that happened in the last 2 years?

Mr. DAY. No.

Mr. PATTERSON. Over a series of years?

Mr. DAY. Over a series of years.

Mr. PATTERSON. You gave the figures here of a loss of about a million dollars in a certain length of time, in 2 years or more.

Senator MURDOCK. It was a loss of \$3,000,000.

Mr. DAY. Six million to three million dollars between the years of 1927 and 1940. That is why I based the conclusion that something had happened from our range set-up on this land. Our planning board findings prove it; and our planning board finding proves that these people are not going to be able to maintain themselves, and the tax burden they have on them now, unless something can be done to adjust this.

The CHAIRMAN. What is your rate per hundred on State and county taxes?

Mr. DAY. State and county runs around 0.0035.

The CHAIRMAN. Isn't it worse than that?

Mr. PATTERSON. 0.0035. What is your remedy? What do you suggest?

Mr. DAY. Well, the Planning Board—their suggestion was to acquire some of these lands from someone or another by Government purchase, or somehow, so this range could be restored to the people that lived in here.

Mr. PATTERSON. That is, getting it back into private ownership to pay taxes.

Mr. EMORY SMITH. Since the Taylor Grazing Act was enacted there has been two small operators admitted to that district H, and some of the large operators have been reduced; but there are more sheep there in unit H today, in Duchesne County, than there was before the Taylor Grazing Act was enacted.

Mr. DAY. Do you mean more local sheep that belonged to the people of the community?

Mr. SMITH. Yes.

Mr. DAY. I am not too well acquainted with that.

Mr. PATTERSON. How has it been the last 2 or 3 years? Has it picked up some in the last 2 or 3 years or gradually receded?

Mr. DAY. I am of the opinion that it has picked up some in the last 2 or 3 years.

Mr. FAVRE. Mr. Day, you said that land in green up there inside of the yellow line, is that where your permittees run their cattle, do you know, up above the Indian reservation? Do your people, permittees, run up there?

Mr. DAY. I am not sure.

Mr. FAVRE. You made the statement that they came from this Wyoming country. I question whether there is Wyoming sheep or cattle running on this side of the mountain. There might be, however; and I was asking for information. I don't think there is.

Mr. DAY. Well, what I know, I heard the statement from our county assessor, that this group here is grazing over here; getting out without being taxed. It was getting no revenue out; so I imagine there must be some grazing over there.

Mr. FAVRE. I wonder how much that amounts to; or if it is some of the Vernal sheepmen that run up there?

Mr. DAY. Definitely stated from Wyoming; and probably expensive to go get the herds, as it would be for what you would get out of them. That was the statement.

Senator MURDOCK. Haven't you an arrangement with Wyoming on the tax situation—the division of taxes? They range so long on your county, in this State, part of the year and part of the year in Wyoming?

Mr. DAY. I just know the statement that was made by the assessor, that these people were using that right; and we have not been able to get the taxes for it.

Mr. FAVRE. And the cattle we were talking about a while ago that crossed this Indian land, and come from this Duchesne County, in Roosevelt, through there; some few of your cattle that run upon the forest there, as I understand it. Is that right?

Mr. DAY. That is my understanding, too.

The CHAIRMAN. Anyone else who cares to be heard?

STATEMENT OF LEON CHRISTIANSEN, COUNTY SURVEYOR, REPRESENTING THE COUNTY COMMISSIONERS OF UINTAH COUNTY

Mr. CHRISTIANSEN. Uintah County has the same problem, on the tax situation, that was stated for Duchesne. Eighty-five percent of the area of the county is tax exempt; that is, it is in Government owned, Government controlled, or withdrawals. Here we have the Forest Service, Uintah Indian Reservation, the Grazing Service, the National Dinosaur Monument, the naval oil reserves, and other withdrawals of that nature. It leaves approximately 15 percent of the land to carry a tax burden for the entire county.

Up until the passage of the Taylor Grazing Act, we were getting along, on the rolls, each year, several thousand acres, from new homesteads. Of course, after the passage of the Act, that gradually has dwindled until, at the present time, there are very few lands being added on to the tax roll. In addition to that, the Indian Service, in their purchase program, have taken all of these lands, of course, from the tax rolls.

The CHAIRMAN. What was the taxable value, the assessed value, of the lands taken from the tax roll by the purchase within unit G?

Mr. CHRISTIANSEN. I could not give it; maybe Mr. Wright would know it, offhand.

Mr. WOHLKE. I think we will be able to produce that.

Mr. CHRISTIANSEN. I could find it, from the records downstairs. But not only that, all of the stock that were originally taxed, in there, of those owners, also passed off of the tax roll, leaving the rest of the county to carry that burden, also.

The CHAIRMAN. You are the assessor of the county?

Mr. CHRISTIANSEN. No, sir; county surveyor. I have handled the records.

The CHAIRMAN. How do you, in Utah, fix the value of your livestock? Do you fix it by a State board, or by county board?

Mr. CHRISTIANSEN. Usually the State board recommends the valuation, of various classes of livestock, which is then approved, or changed, as the case might be, by the county board.

Mr. PATTERSON. They fix the value; the State board fixes the value?

Mr. CHRISTIANSEN. Yes.

The CHAIRMAN. At what do you fix the value of cattle?

Mr. CHRISTIANSEN. Cattle vary over quite a range. This year, they run from about fifteen to fifty dollars.

The CHAIRMAN. And sheep?

Mr. CHRISTIANSEN. If I am not mistaken, ewes are \$5. Somebody can correct me on that.

Mr. EMORY SMITH. Four dollars.

Mr. PATTERSON. Do you make a distinction, in dairy herds, in your cattle?

Mr. CHRISTIANSEN. Yes; range cattle take one amount, and dairy another. Of course, this dairy cow, the cows and your pure-blooded cattle, have one evaluation, and range cattle another.

Since the passage of the act the question was brought up there that livestock had increased in Duchesne County. That is not the case in Uintah County. After the passage of the Taylor Grazing Act, especially after the act was operating, there was a large reduction in the numbers of livestock on the assessment rolls. Now, at one time I had

that information, but I cannot give it offhand. But there was a gradual decrease from the time the act went into effect until about 1940. As I see it, after awhile they have started to come back up again. Of course, that reduced our revenues from the taxes all the way through, and with the continued withdrawal of the lands, as Mr. Day states, we must have some relief on the tax set-up.

Senator MURDOCK. Let me ask you this: There seems to be a lot of sheep that are grazing both in Utah and Colorado. Now, is there any agreement between your county and the adjoining counties in Colorado on the distribution of taxes?

Mr. CHRISTIANSEN. They are taxed on the basis of the number of months in each location, as are our other cattle. We have a large number of cattle that also go in that area in the summer range at Blue Mountain, handled the same way. The same way with your sheep from Wyoming sections; they come into the summer range, on the north end of the county, and most of us are down here on the south summer range.

Mr. PATTERSON. Where do you feel the chief shortage in the administrative funds for the county or all of it?

Mr. CHRISTIANSEN. Reduction through the entire structure.

Mr. PATTERSON. Well, but your school funds are taken care of by State distribution. Where are you short? Why do you need any funds?

Mr. CHRISTIANSEN. For instance, we will take our roads. Uintah County has 1,500 miles of county roads to maintain. Under the present set-up, of course, we have a county levy, and the license-plate money. If it was not for that license-plate money from the State of Utah, we could not operate.

Mr. PATTERSON. But you would get other State funds for roads; wouldn't you?

Mr. CHRISTIANSEN. State roads are independent; we don't have anything to say about the State roads.

Mr. PATTERSON. Where do you feel the chief shortage; in funds to administer the affairs of the county?

Mr. CHRISTIANSEN. Mr. McKee can answer that.

STATEMENT OF J. R. McKEE, PRESIDENT, MOSBY CATTLE ASSOCIATION, TRIDELL, UTAH

Mr. McKEE. Mr. Christiansen, I understood, made a statement that the school fund was not affected this way. But it is affected, because the county supplies 16 mills, on our school funds, direct, besides what they get from the State. That comes out of the funds that are collected in the county, and out of the 35 mills that is levied against the county, and the general fund, the county fund, is broken up into several different funds. We have a general fund that is very depleted, and are not able to operate on it. Every year for the last 2 or 3 years, for the last several years, another fund has had to be created, which is called an efficiency fund, or general-indebtedness fund, that has to be turned into the general fund, to take care of it; so the county has not been able to operate on the funds it has received.

Senator MURDOCK. You haven't any railroad at all in the county?

Mr. McKEE. No railroad. We had a little gas company here, but the gas well went dry, and we don't even have that now.

Mr. PATTERSON. Do you have a utility fund?

Mr. McKEE. There might be some, from the Utah Power & Light Co., but most of the farms are served here by the R. E. A. I don't think that pays any utility tax.

Mr. CHRISTIANSEN. No, sir; none of those funds are taxed at the legal limit.

Mr. McKEE. I might say here, too, we get a little fund from the Forest Service. I believe it is 25 percent of your permit fees that are collected there. That is turned over to the county, and the school gets half, and the county administration gets half.

Senator MURDOCK. You get some from the Taylor Grazing Act?

Mr. McKEE. Not a thing from the Taylor grazing, contending a man who owns Taylor grazing rights does not pay any. He pays the same taxes as the man who owns cattle and keeps them on his own private property; he pays taxes on the private land and he also pays the same taxes on his cattle and sheep as the man who has Taylor grazing rights.

Mr. LEECH. Mr. Chairman, the 50 percent of the fees collected, under the Taylor Grazing Act are paid to the State and are distributed to the counties from which that money comes.

Mr. McKEE. What I have understood, this maintenance that goes to keep up the range, nothing comes into our county records unless it comes direct to the schools. I would not have any record of that, but it might come direct to the schools, but it goes to keeping up the improvements on the range, but direct to the county government. To my knowledge there is nothing coming in.

Mr. PATTERSON. Nothing comes into the general fund?

Mr. LEECH. It is paid to the county, and, under the State legislation, it is expended, on the advice of the advisory board.

Senator MURDOCK. Here is the provision on that in the Taylor Grazing Act—

fifty percentum of the money received under this Act during any fiscal year shall be paid at the end thereof by the Secretary of the Treasury to the State in which the grazing districts or the lands producing such moneys are situated, to be expended as the State legislature of such State may prescribe for the benefit of the county or counties in which the grazing districts or the lands producing such moneys are situated: *Provided*, That if any grazing district, or any leased tract is in more than one State or county, the distributive share to each, from the proceeds of said district or leased tract, shall be proportional to its area in said district or leased tract.

Mr. PATTERSON. Just as he said, it is devoted to some special purpose, where the county does not really get it.

Mr. McKEE. It goes to the advisory board, I have understod, here for the Taylor Grazing Act. They have been putting it on the range improvement, improvement of the range.

Mr. CHRISTIANSEN. One other thing, as these lands pass into the various ownerships the county is not relieved of the responsibility of roads or policing or the other duties that are carried on by the county.

Mr. DAX. Mr. Chairman, I understand that the man from the Forest Department can correct me on this if I am wrong, but I understand that you asked for a certain percentage of that back to be spent on the forest. Do they do that?

Mr. FAVRE. Additional to our 25 percent, the county gets 25 percent of the gross receipts of timber sales and everything, and we get another 10 percent. That goes on roads and trails on the forest, and then we collect out of the grazing fees 20 percent. That goes on range improvements, but your 25 percent is not touched.

Mr. DAY. Well, I remember receiving a letter——

Mr. FAVRE. It comes back to the school, or it comes to the State and the counties in which it originated, to be spent pretty largely as they designate. Your county commissioners can say whether it goes to schools and roads, I think.

Mr. DAY. I remember receiving a letter from the board asking if they could not use 10 percent of what they paid on their land——

Mr. ALLRED. I would like to ask the county commissioners from those two counties if they have ever interested themselves in trying to get that law repealed that took this 50 percent of money away from us that was so badly needed and gave it back to these advisory boards?

The CHAIRMAN. I'm not going to take up the time of the committee on that, I am sorry to say. It would not do any good. It would not do any good if you told us all about it.

Are there any others who care to be heard on this matter?

Let me make a remark here that I have customarily made at the opening of these meetings. I want it impressed seriously on those who have attended these meetings, and the committee means exactly this when we say it: We are asking for frank, candid, honest statements. We ask for those statements from individuals, from private citizens, and from public officials as well, from people who are connected with the government service, and from those who are in private life. We expect to get those candid statements frankly given to us. No one need have any fear of any statements they make before this committee. If there is any attempt or ever would be any attempt at reprisal on the part of any departmental individual or departmental head either in the way of punishment to be meted out to the individual or to the public official, our attention will be drawn to it, and I can give you my word of honor that the reprisal will not take effect, and the individual who does it will find himself cut off from a meal ticket in short order. We mean that because we want people to be frank with us and candid with us. We are trying to bring the Government of the United States out into the field so that the people may get the benefit of their governmental activity, so that anyone here who has anything to say need have no fear of reprisal, no fear of punishment, no fear of any hardship being worked upon you. Do I make myself clear on that?

Now, is there anyone here who cares to be heard on any subject pertaining to this matter that we have been considering for 2 days?

Mr. DILLMAN. The letters that were written by Mr. Hall, the Indian agent, were not introduced in evidence. I wonder if they should not be a part of the record disclosing, as they do, the names of those permittees, the Indian permittees, who were listed.

Mr. FAVRE. I will be glad to make copies of them.

The CHAIRMAN. Have them sent to the official reporter at Reno, and they will be placed in the record at the point where Mr. Favre gave his testimony.

(The data referred to are inserted with the letter introduced earlier by the Forest Service.)

Mr. WRIGHT. Senator, if you are ready now, I would offer this material that you called for yesterday concerning the income of the Indians and also the material which described the purchases of the properties on unit G. I can give you a short summary if you care to have them recited.

The CHAIRMAN. There is a gentleman here who wanted to be heard. Did you care to be heard further, Mr. McKee?

Mr. J. R. McKEE. I would like to be heard on this range proposition, as I represent a cattle association.

The CHAIRMAN. Very well.

Mr. McKEE. I would like to point out where we are located. We are located in this area right here. [Indicating.] You can see we are pretty well surrounded by Indian lands. We homesteaded that land, the settlers there. We see the necessity of having some range land to go with it and some livestock, and so we started to ask for permits on the Forest Department, from the forest range and we received those permits. We did not know at the time there was anything that the Indians had, any rights that they had there at all. There wasn't any Indian cattle there that we knew anything about. But in the last few years, I think it was about 1935, then this came up that has been spoken of here today, that there was to be 1,200 head of Indian cattle allotted on these forest rights.

Well, we have been cut down in our numbers. We have been cut down in the time we had to run and our feed has been cut off until we haven't got much left. Now, we have been in conferences with Mr. Wright and several other people, trying to settle this, and I think it was decided in conferences at Roosevelt that the way to settle it was to let the heads of departments and legislative bodies or somebody settle it. Now, I think it is the only way it will ever be settled, to say whether the Indians have a right there or whether the whites. We want to know. If the Indians have their rights, well and good, we have nothing against the Indians. I live as a neighbor to Indians that have been running cattle there the last 7 years, I guess, since 1935. They did not run any there before, and we want to know whether they have the right or whether they have not, and the association wants to know now as soon as we can whose rights they are. If we haven't got any we will have to quit.

The CHAIRMAN. Do those Indian cattle run on the yellow land?

Mr. McKEE. Not very much; they do, yes, sir; along the river here.

The CHAIRMAN. Where did you say they are running?

Mr. McKEE. Here. [Indicating.]

The CHAIRMAN. That is the Forest Service?

Mr. McKEE. That is where they are running; that we are talking about.

The CHAIRMAN. Running cattle in there?

Mr. McKEE. Yes, sir.

The CHAIRMAN. Have they permits to run in there?

Mr. McKEE. You have heard what the Forest Department had to say about those permits; they have run in there for 7 years.

The CHAIRMAN. What do you know about that, Mr. Favre?

Mr. FAVRE. That is the 800 head we were talking about there before the recess. We contend since 1922 up to 1934, over that 13-year period there was only from 100 to 200 head in actual use of that, that actually used the range, so that those old original permits granted free of charge in 1906—some certain specific individuals—dies out on account of nonuse from 1922 to 1934. In that time these individuals, small owners, applied for permits under the secretarial regulations and were allowed permits because there were none of those 800 head in there except this 100 to 200 head. So now these individuals have permits for

the amounts of the full carrying capacity of the range. Now, we cannot put the Indians back in, we claim; for more than 100 to 200 head unless there is a reciprocity trade there of some kind. That would make a 50-50 proposition in a trade so that the permittees can run their stock down on the Indian lands for a while and in turn later we could take on Indian stock and the whites.

The CHAIRMAN. Let me ask you something; are there stock running in there for which there is no permit?

Mr. FAVRE. No; that is—

Mr. PATTERSON. They have nonuse permits?

Mr. FAVRE. Who?

Mr. PATTERSON. Indians?

Mr. FAVRE. No; they never have had nonuse permits.

The CHAIRMAN. Then the stock running in there are running under permit?

Mr. FAVRE. Yes.

The CHAIRMAN. The stock he complains of in the Forest Service are running under permit?

Mr. FAVRE. Yes; under this reciprocity arrangement for whatever is more than 100 or 200 head. We make a trade so the white people can use the Indian lands for awhile in the spring, and then we take them on in the summer. That is a trade, annually our responsibility to take care of 100 to 200 Indian stock at the present time, and the rest of it, the white people.

Senator MURDOCK. You say you have annual agreements on that trade, the white men using part of the yellow lands. Has that been done in the past?

Mr. FAVRE. For the last 4 or 5 years, I guess; maybe longer.

Senator MURDOCK. Is that what you are complaining about?

Mr. McKEE. As far as us entering into the trade, when we talked there about this trade, Mr. Wright said the Indians had nothing to do with giving this yellow lands, that the Indians acquired that right through the letters that have been read here in the conversation that was carried on. The letters was carried on when the reservation was first thrown open, and the forest was made a forest. He said the right that we get is one day's right to run our cattle from our farms on to the forest for that 800 head, or whatever the amount is, 1 day. And we have had to negotiate each year, with the Indian Department for the right to run cattle on this area here, which has been no good to us and we never did consent to the exchange at all. It was not our trade. Somebody else did it for us when the trade was made.

The CHAIRMAN. You have a permit on the forest, haven't you?

Mr. PATTERSON. On the green?

Mr. McKEE. On the green, not any place else.

The CHAIRMAN. You complain of the Indians running cattle on the green?

Mr. McKEE. Which has reduced our permits and also made it so that our land that we have got there is practically worthless.

The CHAIRMAN. My understanding now from the Forest Service is that the Indians are not running in there excepting the 200 head. Is that right?

Mr. FAVRE. That is for the seasonable use until we make this trade. I understand it is largely up to the people whether they want to make this trade or not.

The CHAIRMAN. Have they in times past?

Mr. FAVRE. Yes; I understand the people agreed to it.

Mr. McKEE. Some of them have and some of them haven't.

Senator MURDOCK. Have you actually lost the number of stock that has to be decreased because of an interagency agreement?

Mr. McKEE. That is what we have been allowed; any time a man would lose out of the picture for 1 year, and put in for a hold-over, he loses his rights, and the association, the amount of cattle they run now is less than it was several years ago, and I think before we used to go on the forest lands about the 1st of May. Then it was changed until the 15th of May and then when the Indians come in they said, "We will make the trade with the Indians and get their land down there for the earlier season." So they put it up to the 6th of June, so that gave us about the 6th of May before we could even go onto the Indian grazing lands. So we only gain about 9 days' time in the trade we would make, from the 6th of May until the 15th of May.

Mr. LYNN ORSER (Roosevelt, Utah). Isn't it a fact, Mr. McKee, in the summer of 1936 there was a meeting between the forest officials, the permittees, and the Indian Department asking that some exchange be made whereby this reciprocity trade arrangement could be made, and that after several meetings there was no agreement come to and the reason was that later the officials agreed for the summer of 1936 that they would make a temporary arrangement and after that time they would make permanent settlements so that these permits could be issued both by the Indian Department and the Forest Department covering a number of years? Wasn't that at the meeting that was held at Roosevelt between the three departments?

Wasn't that the understanding you had?

Mr. McKEE. There have been several. I don't know what years they were. Seems like they were about the year 1940 or 1939 when we met. Then these Departments, the Indian Department and the Department of Interior and the Department of Agriculture were to try and make a settlement between the Indians and the whites; and so it would be settled.

Mr. PATTERSON. What business does the Indian Department have interfering with your rights up in the green?

Mr. McKEE. That is what we wanted to know. But you have heard it stated here by Mr. Wright that they should have had 1,200 head of cattle on the forest through an arrangement made between the Secretary of Interior and Secretary of Agriculture.

The CHAIRMAN. The Forest Service says they are not enjoying those rights now.

Mr. McKEE. We have them on our forest.

Mr. FAVRE. We have them on there, due to this trade that we made. Anything in addition to the 100 or 200 head is on account of the trade that we made to provide that exchange range on Indian lands, and then take the Indians out.

Mr. McKEE. I understand the trade only was for the right to drive our cattle across in one day. I think we have the papers in our association to substantiate that.

Mr. FAVRE. It is our position here that any Indian permits in addition, at least, to the 200, will have to be a basis of 50-50 trade for graz-

ing lands. This is, they will furnish 2 weeks' feed for 500 head of white cattle, if we are expected to furnish summer feed for 500 head of Indian cattle. That would have to be during the grazing season which you have up on the forest lands.

Mr. McKEE. There has been a misunderstanding between the association I am representing and the Indian Department on that matter.

Mr. FAYRE. The Indian Service might have a different slant on it; that is true.

Mr. WRIGHT. Perhaps I should say, Senator, we do have a misunderstanding there as it affects these fellows.

Mr. McKEE. It also affects the Indians. Our understanding was that this grazing that was allowed the Indian free on the national forest was in return for free crossing permits to the forest permittees and for waiving the regulations with reference to advertising to the highest bidder. Those two things are granted, free privileges to the Indians' stock on the forest and our demands increased from this period. I don't remember how many head there were; but we built up the number of Indian cattle that ranged on the forest to about 600 head in the Ashley Park; and that was of necessity the reason the other men had to be cut down in time. But we provided, in lieu of that, spring and fall range on the yellow range lands. These particular men may have gotten left out of it, some way or other; we left that to the Forest Service.

The CHAIRMAN. I think it had better be looked into locally.

Thank you very much, Mr. McKee. Now, Mr. Wright, what did you wish to bring up at this time?

Mr. WRIGHT. The agricultural income of the Indians for last year, 1942, was \$150,000. These are round figures, Mr. Chairman.

The CHAIRMAN. Is that from the total entire area, entire population?

Mr. WRIGHT. Yes, sir.

The CHAIRMAN. Nothing to do particularly with unit G?

Mr. WRIGHT. It includes their operations in unit G.

The CHAIRMAN. It also includes the other areas?

Mr. WRIGHT. Yes, sir.

The total income from leased agricultural irrigated lands as \$19,909. The total income from grazing permits was from the ceded lands south of the river—I believe you asked for it to be divided between the south and the north—from the ceded lands south of the river \$878; from the ceded lands north of the river, \$526; from the Ute extension area, or unit G, whichever it is called, \$1,060; and from the Indian grazing reserve, \$2,498; a total of \$4,900 from grazing permits; and a total of approximately \$20,000 from agricultural leases; a total of \$150,000 from agricultural income from the different livestock operations and farming.

The CHAIRMAN. From leases, \$4,900 from what?

Mr. WRIGHT. Grazing permits.

The CHAIRMAN. And from leases?

Mr. WRIGHT. \$20,000.

The CHAIRMAN. From agricultural pursuits?

Mr. WRIGHT. \$150,000.

The CHAIRMAN. Of that \$150,000, how much came from livestock; do you know?

Mr. WRIGHT. That came to around \$70,000.

The CHAIRMAN. And the balance was \$60,000. What did that come from; the sale of what?

Mr. WRIGHT. Grains and hay and crops produced on the lands, some from garden produce.

The CHAIRMAN. Does that money pass through your office?

Mr. WRIGHT. No, sir.

The CHAIRMAN. How do you handle it?

Mr. WRIGHT. Pardon me, the livestock income, mostly, does pass through our office; but the other does not. It is estimated, by our field men, as best they can.

The CHAIRMAN. I see, thank you, Mr. Wright.

Mr. WRIGHT. Very briefly, on this purchase of property, this summary shows that the figures are a little less than have been discussed here, because three of the properties are not included in the summary and tabulation, and the tabulation was made before the purchases were closed. The total price paid, \$293,000; total acreage purchased, 31,000 acres. The base A. U. M.'s, that is, the A. U. M.'s on this base property was 16,000.

The CHAIRMAN. That is estimated by whom?

Mr. WRIGHT. Our appraiser, Mr. Carl Pearson.

The CHAIRMAN. Before the purchase?

Mr. WRIGHT. Sixteen thousand five hundred.

The total operations, as reflected by licenses from the Grazing Service, on all the properties that had licenses, was 3,001 cattle units or animal units. This did not, as I mentioned this morning, include the two large properties which consisted of approximately half of the acreage. According to our boys there, who made this compilation, by applying the same ratios and the same proportions to those unlicensed properties, the total animal units would be 6,021 yearly.

The CHAIRMAN. That is animal units carrying capacity?

Mr. WRIGHT. Yes, sir. That is what the Grazing Service licensed the properties for, before they were purchased.

The CHAIRMAN. Have you any check on that, Mr. Leech?

Mr. LEECH. On this 6,021 animal units I believe that would compare with the list Mr. Larson put in this morning.

Mr. WRIGHT. I will offer this for the record. They would take it from that list, all except those unlicensed properties.

(The documents are as follows:)

Totals of compilation as of Jan. 23, 1942, of Indian purchased lands, with license information

Total purchase price	\$293,917. 01
Total acres purchased	31,527. 83
Base animal units per month	16,520. 00
Range 9-3 ratio, total animal units per month	54,096. 00
Total operation animal units yearly	6,021. 00
Total unit license, year of purchase:	
Cattle and horses	2,201. 00
Sheep	4,000. 00
Total animal units	3,001. 00
Units established priority period:	
Cattle and horses	3,928. 00
Sheep	25,830. 00
Total animal units	9,074. 00

NOTE.—2 or 3 tracts have been purchased in addition to the above.

Licenses issued on lands purchased

	Sheep	Cattle	Horses	Animal units per month
1936 summer range.....	3,000	2,545	140	18,370
1936 and 1937 winter range.....	900	2,308	115	13,820
1937 summer range.....	2,900	2,355	97	14,207
1937 and 1938 winter range.....	900	2,268	105	12,208
1938 summer range.....	2,100	2,490	116	7,436
1938 and 1939 winter range.....	1,100	1,690	116	6,326
1939 summer range.....	3,100	1,765	121	13,983
1939 and 1940 winter range.....	1,100	1,905	111	10,408
1940 summer range.....	3,000	1,605	96	9,848
1940 and 1941 winter range.....	None	1,520	61	4,209
1942 summer range.....	None	600	20	1,860

NOTE.—The above licenses were issued to the owners of the property purchased by the Indian Service. In the above figures are not shown the properties already purchased or under options prior to the summer of 1936 and does not include any Indian licenses or property. These unlisted properties comprise about half the total estimated carrying capacity.

Ute extension area grazing permits income—Uintah and Ouray Agency, Fort Duchesne, Utah, Feb. 17, 1943

Year	Amount received from non- Indians	Amount received from Indians	Total
1938.....	¹ \$1,053.50	\$375	\$1,428.50
1939.....	¹ 1,735.00	375	2,110.00
1940.....	¹ 2,980.50	400	3,380.50
1941.....	¹ 980.00	740	1,720.00
1942.....	¹ 1,060.00	575	1,635.00
Total.....	7,809.00	2,465	10,274.00

¹ This includes Dominique Eyhrimandy, one of the lessors from Myrup. He had just obtained a loan from the bank and signed a 5-year lease with Myrup when the Indian Service purchased the Myrup holdings. Since then he has been paying the Indians \$900 per year for the privilege of using the base property for 1,500 head of sheep. Over the 5-year period he has paid \$3,550.50 of the total \$7,809 received from non-Indians.

The above figures in no way indicate the stocking or animal units per month use of the above area.

Uintah and Ouray Reservation grazing permits income

Year	Amount re- ceived from non-Indians	Amount re- ceived from Indians	Total
1938.....	\$2,602.55	\$29.00	\$2,631.55
1939.....	2,125.49	118.81	2,244.30
1940.....	2,490.50	127.87	2,618.37
1941.....	2,494.29	¹ None	2,494.29
1942.....	2,489.49	¹ None	2,489.49
Total.....	12,202.32	275.68	12,478.00

¹ The Indians have not charged any of their own members during the years of 1941 or 1942. During December 1942 the tribal committee passed a resolution again charging Indian stock. The estimated revenue from Indian stock alone in 1943 will be in excess of \$450.

The above figures in no way indicate the stocking or animal units per month of the above area.

Uintah and Ouray ceded lands grazing permits income south of Duchesne-Strawberry River

Year	Amount received from non-Indians	Amount received from Indians	Total
1938	\$2.80	1 None	\$2.80
1939	313.04	1 None	313.04
1940	662.14	324	986.14
1941	728.23	540	1,268.23
1942	878.45	430	1,308.45

NOTE.—The above figures do not indicate the animal units per month use.

Uintah and Ouray ceded lands grazing permit income, north of Duchesne-Strawberry River

Year	Amount received from non-Indians	Amount received from Indians	Total
1938	\$49.10	1 None	\$49.10
1939	183.42	1 None	183.42
1940	207.75	1 None	207.75
1941	459.58	1 None	459.58
1942	526.31	1 None	526.31

¹ Because the Indians have not paid any fee does not mean that they have not used the ceded lands. The figures shown are not any indication of animal units per month use.

*Uintah and Ouray (3 bands combined, 1942)***Income from agriculture:**

Total agricultural income.....	\$150,023
Total number families having agricultural income.....	240
Income per family.....	\$4.36
Total number enrolled families.....	438
Income per family (total number considered).....	\$255
Income from leased land: Income from agricultural leases.....	\$19,909.97

FORT DUCHESNE, UTAH, July 9, 1938.

LAND VALUATIONS AND RELATIVE RANGE CONTROL UTE EXTENSION AREA, UTAH**INTRODUCTION**

In attempting to ascertain actual and true valuations in a large grazing area, such as that within the proposed Ute Extension Indian Reservation boundaries, one is confronted with several factors which heretofore have not been so apparent. The primary problem at hand is to ascertain land values as affected and governed by the range control which deeded base property may hold. Prevailing opinions in this area and generally among stockmen is that a tract of base property with good range control is increased in value to the extent of the full carrying capacity of the ranching unit, including the range control. Local bankers acclaim this fact on the presumption that a ranch with no range control was practically no value as compared with one which does.

The matter has been of increasing importance during the past few years since range control classifications have become more pronounced with present determinations and future indications of regular legalized range control as established by the Taylor Act and its resultant bureau, the Division of Grazing. In order to reach the most reasonable basis for land valuations, a policy is being proposed in this office wherein actual and reasonable carrying capacities are established for the base units, then applying the increase as extended by the range control and capitalizing per animal unit at a fair figure on land holdings for the total carrying capacity. This policy can best be explained by making reference to the attached tabulation of the tracts proposed for purchase of the Ute extension area and presenting the studies, investigations, and reasons for the several items therein.

en-
are
ionres
ds
tes
ng,
nd
nt,
ng
he
nd
onnd
ds
ds
18
re,
le,ne
w
ne
od
in
et
d-
k
d
et
y,
et
se
s,
ne
e
f
l
l

	good water.)		
42	Koffard, Isabel (Summer grazing with water control in Post Canyon.)	Dec. 6, 1937	Feb. 21, 1938
44	Dalton, Newell (Summer grazing on Steer Ridge and valley tributaries.)	Oct. 6, 1938	Jan. 12, 1939
45	Halverson, Chris (Summer grazing on scattered tracts. Largely definite and good water control.)	Jan. 1, 1940	Jan. 5, 1940

1 1939-40 year.

2 Season 1938-39.

Comparison of base property ratings on Indian Service purchased properties in unit G, Duchesne Grazing District 8, Utah

Land reference No. and local name of property		Pearson's ratings, 1936								Croft's ratings, 1939-40								Palmer-Croft-Krause & Belcher, November 1941								
		Production				Conversion		Utilization		Production				Conversion		Utilization		Production				Conversion		Utilization		
Ref. No.	Name	Acres	Crop	Per acre	Total in tons	Animal unit months per ton or acres per animal unit month	Total animal unit months	Animal unit months deducted for domestic stock and other use	Total animal unit months available, range stock	Acres	Crop	Per acre	Total in tons	Animal unit months per ton or acres per animal unit month	Total animal unit months	Animal unit months deducted for domestic stock and other use	Total animal unit months available, range stock	Acres	Crop	Per acre	Total in tons	Animal unit months per ton or acres per animal unit month	Total animal unit months	Animal unit months deducted for domestic stock and other use	Total animal unit months available, range stock	
3, 4, 6	Blank, Albert	52 3½ 14½ 55	Alfalfa Grass hay Pasture Grazing (s) Aftermath Grazing (w) Unused Grazing (s)	3.07	160	4 16 29 1¼ .86 10 3½	640 21 29 39 63 6 204 1,002		640	52 3½ 14½ 55	Alfalfa Grass hay Pasture Grazing Aftermath Grazing (w) Unused Grazing (s)	2 1 3½	104 3½	4 2 1½ 1¼ 86 10 4	416 7 29 39 63 6 180 740			52 3½ 14½	Alfalfa Grass hay Pasture Aftermath Grazing Unused	2.44 3.90	127.05 13.73	4 4 ½ 1 12.52 66.72 0	508 55 29 63 0 0			
8, 4, 20	Wild Bro	61 14.55 719.68 920.23 28 27 152 270 57 3 719.82 1,199.82	Alfalfa Grass hay Pasture Grazing Aftermath Waste Summer grazing	3.2 2.4	90 65	4 4 .8 5 1 0 3.2	360 260 190 54 57 0 228 1,149		1,002	28 27 152 270 55 3 719.82 1,199.82	Alfalfa Grass hay Pasture Grazing Aftermath Waste Summer grazing	2 2 2 5.8 1 4	56 27	4 2 8 5 1 4	180 740 224 54 190 54 55 180	120	620	28 27 152 270 55 3 719.82 1,199.82	Alfalfa and grass Pasture Grazing Aftermath	1.16	63.84	4 8 10.18 1	721.72 255 75 106.55 55	—72	649.72	
9	Seeley, Dave	640	Summer grazing				2.96	1,149	1,149	640	Summer grazing			4	757	84	673	1,199.82	Grazing			491.55	—192	299.55		
23	Blattler, Louis	636.4	Summer grazing				3	210	210	636.4	Summer grazing			4	160		160	636.4	Grazing			5.86		109.20		
26	Erickson, V	638.66	Summer grazing				2.96	216	216	638.66	Summer grazing			4	159		159	636.4	Grazing			7.54		84.35		
27	Erickson, G. A.	638.66	Grazing				2.96	216	216	638.66	Grazing			4	160		160	638.66	Grazing			7.80		81.85		
2	Myrup, A. M.	640 175 575 175 6,000 2,191.51 8,941.51	Alfalfa Pasture and tillage Aftermath Grazing Grazing	3	525	4 1.6 1 4 4	2,100 359 175 1,500 438		216	640 175 575 175 6,000 2,191.51 8,941.51	Alfalfa Pasture Aftermath Grazing Grazing	2 1.6	350 1.6	4 1 1 4 4	1,400 359 175 1,500 548			3,982	8,941.51	Alfalfa Aftermath Grazing	1.45	253.06	4 1 14.21	1,012.24 175 616.77		
5	Taylor, N. R.	84 46 60 272.2 6 10	Alfalfa Rye pasture Pasture Grazing (w) Bare Farmstead-road Alfalfa aftermath Grazing-till (w) Grazing (w)	3.1	260	4 ½ 1 10 1 2 25	1,040 92 60 27 84 55 2	4,572	4,572	84 46 60 272.2 6 10	Alfalfa Rye pasture Pasture Grazing Bare Farmstead-road Aftermath (alfalfa) Grazing-till Grazing	2 1½ 1 10 1 1 25	168 10	4 ½ 1 10 1 1 25	3,982 672 92 60 27 672 84 55 2	3,682	8,941.51	Alfalfa Rye pasture Pasture Farmstead-road Aftermath Pasture Grazing	1.67	140.38	4 0.5 2 1 17.64	1,804.01 562.00 92.00 3.00 0.00 84.00 60.00 24.49	—96	1,708.01		
1	Brown, Charles	638.21 5.5 30.5 7 43 74	Alfalfa Hay and Bare Unused Pasture Grazing Aftermath	2.72 .65	15 20	4 4 1.38 10.6 3.5	60 80 31 7 10	1,360	1,360	638.21 5.5 30.5 7 43 74	Alfalfa Hay bare Unused Pasture Grazing Aftermath	2 .65	11 20	4 4 1.38 10 15	992 44 80 31 7 15	144	848	638.21 5.50 154.50	Alfalfa, pasturage Grazing	2		19.86 7.78	825.49 11.00 7.78	—84	741.49	
18	Watkins, S. Pumphy	160 9 42 104 5 96 65.4 321.4	Alfalfa—bare Pasture Grazing Waste Grazing Grazing	.75		4 1.4 8.66 8 1.33 8	188 3 30 12 72 8	188	188	160 9 42 104 5 96 65.4 321.4	Alfalfa Pasture Grazing Waste Grazing	.75		4 1.4 8.66 1.33 8	177 3 30 12 72 8	72	105	160.00 13.00 308.40	Alfalfa Grazing			18.78 26.00 29.89 10.75		18.78		
24	Nelson, Virgil	640 640 200 200	Summer grazing			3.33	125 192 60	125	125	640 640 200 200	Grazing			4	125 160 50	48	.77	321.40 640.00 640.00 200.00				36.75 91.05 91.05 14.63		36.75		
45	Halverson, H.	640 200 200	Summer grazing			3.3	60 60	60	60	640 200 200	Summer grazing			4	160 160 50		160	640.00 640.00 200.00	Grazing			7.03 13.67 14.63		91.05		
19	Bown-Rock-House	60 320 140	Alfalfa Grazing—past(s) Grazing(s) Aftermath	2.5	150	4 2.96 8.23 1	600 108 17 60		60	60 320 140	Alfalfa Grazing Grazing Aftermath	2	120	4 2.96 8.23 1	480 107 1 60		50	60.00 460.00	Alfalfa Aftermath Grazing	0.68	40.87	4 1.00 22.77	163.48 60.00 20.20		14.63	
35	Thompson, C. S.	520 400.34 400.34	Summer grazing	2.69		3.3	785 100 120	785	785	520 400.34 400.34	Summer grazing	2		4	664 100 100	108	556	520.00 400.34 400.34	Grazing	1.26		243.68 36.36 36.36	48	195.68		
36	Dalrymple, R. H.	638.05 638.05	Summer grazing			2.7	240 240	240	240	638.05 638.05	Summer grazing			4	160 160		160	638.05 638.05	Grazing			10.10 10.10 13.51 13.51 11.83	36.36 36.36 47.24 47.24 54.09		36.36	
42	Kofford-I	640 640	Summer grazing			2.96	216 216	216	216	640 640	Summer grazing			4	160 160		160	640 640	Grazing			11.83 54.09	47.24 54.09		47.24	
19	Bown Livestock	350 5523.15 5873.15	Bottom pasture Grazing			1.66 4.16	210 1,326 1,536		210	350 5523.15 5873.15	Bottom pasture Grazing			1.66 4 1,591	210 1,381 1,591		1,591	5,992.08 27.54 19.00 108.00 5.50 36.00	Grazing			12.34 448.35		54.09		
7	Wardle, Austin	27.54 19 108 5.5 160.04 31	Alfalfa Pasture Grazing Aftermath Waste-farmstead	3.4	95	4 59 4.15 1	380 32 26 28	1,536	1,536	27.54 19 108 5.5 160.04 31	Alfalfa Pasture Grazing Aftermath Waste-farmstead	2 55	55	4 1 1 1	220 19 27 28		1,591	5992.08 27.54 19.00 108.00 5.50 36.00	Alfalfa Pasture Grazing Aftermath Farmstead, etc.	1.33	36.54	4 0.59 48.25 1.00 0	485.52 146.16 32.00 8.52 28.00 0.00	1485.52		
14 A, B, C, D.	Hazelbush, W. C.	13 18 5 6 20 164 380 3 308 218 2651.40 1062.92 4880.32 638.76 140 20 798.76 640 640 640 159.91 159.91	Alfalfa Grass hay Oat-hay and corn Alfalfa-grass broom Pasture Pasture Grazing Grazing Aftermath Road, etc. Mountain meadow Mountain grazing Grazing Grazing S. Grazing(s) Grazing(s) Grazing(s)	3.8 2.3 3.47 3.3 2.3 2.3 1.67 5.8 67 1 1.66 4 4.99 3.04 2½ 10	120 30 62½ 16 20 98 66 67 308 131 664 213 2,509 210 60 2	4 4 4 .38 .62 98 66 67 308 131 664 213 2,509 210 60 2	466 466	466	160.04 31	13 18 5 6 20 164 380 3 308 218 2651.40 1062.92 4880.32 638.76 140 20 798.76 640 640 640 159.91 159.91	Alfalfa Grass-hay Grain-hay-corn Alfalfa-broom Pasture Pasture Grazing Grazing Aftermath Road Meadow Meadow Grazing Grazing Summer grazing Grazing Grazing	2 1 3.47 2 1 1 1.67 5.8 1 1 1.66 4 4 2,190 4 35 2	62 13 62½ 10 6 20 98 66 67 308 131 664 213 2,509 160 60 10	248 26 250 40 6 20 98 66 67 308 131 664 213 2,509 160 60 10	60	234	160.04 36.00	Alfalfa	0.78	28.10	4 2 2.66	214.68 112.40	—48	166.68		
37	Goodman, H. C.	640 640	Summer grazing			3.04	210 210	210	210	640 640	Summer grazing			4	197 160	48	149	798.76 798.76 640.00	Grazing(s)			14.16 56.39		56.39		
44	Dalton, Newell	640 640	Summer grazing			2.96	216 216	216	216	640 640	Summer grazing			4	160 160		160	640.00 640.00					12.10 12.10 11.69	52.89 52.89 54.76		52.89
34	Asimus, W.	159.91 159.91	Summer grazing			2.66	60 60	60	60	159.91 159.91	Summer grazing			4	40 40		40	159.91 159.91					7.39 21.63	21.63		54.76
Total		30,926.80					16,136		16,136	30,926.80					13,338	1,128	12,210	31,045.73					6,196.29	636	5,560.29	

1 Total acreage shows 118.93 acres more than shown by Pearson (by legal description).

TRACTS PROPOSED FOR PURCHASE

The several tracts or base properties within the boundaries of the Ute extension area are presented. Carrying capacities, capitalization figures, etc., are respectively listed, except for two large tracts on which additional inspection for carrying capacities are yet necessary.

LAND CLASSIFICATIONS AND CARRYING CAPACITIES

The land classification and respective production on carrying capacity figures on which total capitalization for land and improvements is used are from records as established by the surveys and inspections of the Land Division, United States Indian Service. Records are at hand as obtained by the Division of Grazing, but these records were taken hurriedly, usually at the rancher's own word, and are not as dependable as those now made by the Indian Service land field agent.

In estimating the production of hay land or the carrying capacity of grazing land, much has been dependent upon an appraiser's own estimate, as well as the facts presented by the rancher. However, the several assertions received and the inspection made have afforded reasonable bases for average estimates on the several land classifications.

Hay production in some cases has been increased on the record of hay land for deeded property by the disclosures that part of the cultivated land extends outside of the deeded property. Again, some productivity is credited to lands which are typed as cultivated but now are bare or being resown. Tract 18 (Sarah Pumphrey Watkins) for instance, shows no hay crop at present time, but the bare cultivated land with its water right should be given a reasonable, though reduced credit for production.

Pasture and grazing land are generally of two separate types. First, the winter feeding grounds of the lower home ranches on Hill Creek and Willow Creek contains pastures with limited irrigation and/or dry native grazing, the pasture lands with high carrying capacities are mostly rich stands of good palatable rye grass. Dry native grazing, with less carrying capacity, lies in the valley bottoms or along and above the canyon slopes. The other distinct types of grazing land is that of the summer grazing area, mostly at the head-quarters and along the upper courses of the Hill Creek and Willow Creek watersheds. The carrying capacities listed for such tracts are considered as fair and not too liberal, although exceedingly dry years would affect a market decrease. The Division of Grazing had tentatively applied a carrying capacity, generally, of 30 head per section for the grazing season, but this has been subject to considerable dispute. Inspections, especially for the present year, disclose a better carrying capacity for most of these grazing tracts. In some cases, such as the Wilcox holdings, a less conservative and more liberal estimate is applied because of the credit attached to the excellent care and preservation of the owned and adjoining range which has existed over a period of years.

BASE PROPERTY COMMENSURATE RATINGS

Commensurate ratings on base properties are listed from the records of the surveys and inspections of the Indian Service, and where possible from the Division of Grazing reports. As mentioned before, the carrying capacities of the summer grazing tracts as tentatively and generally applied by the Division of Grazing are in such dispute that these respective ratings have been deleted from the tabulation for the present time.

The commensurate ratings are presented by animal-months and the representative year-long animal units as carried by the base properties. The general estimated rate for hay per cow-month is one-fourth ton and this figure is applied in all cases for hay commensurability. The application is simplified on the basis that the total hay production in tons is thus increased four times to the total number of cow-months. Carrying capacities of grazing lands are applied to the acreage classifications whereby the total number of units fed during the stated period are determined. This number multiplied by the total number of months grazed establishes the commensurate rating in cow-months. The designated yearly proportion of the number fed for that proportionate part of the year, or the total number of cow-months divided by 12 months produces the number of animal units year-long in commensurate ratings. For instance, a grazing tract of 640 acres with an established carrying capacity of 15 acres per head for 6 months would produce the following rating: 640 acres divided by

15 equals 42.66 head for 6 months; 42.66 times 6 months equals 255.96 cow-months: $\frac{1}{2}$ times 42.66 or 255.96 divided by 12 equals 21.33 units year-long.

These commensurate ratings are the figures which are applied to the total capitalization of the ranching unit after the resultant total carrying capacity of the base property and range is determined. This is further explained in the next proceeding items.

RESULTANT USES RECORD OF TOTAL CARRYING CAPACITY ON BASE PROPERTY AND FEDERAL RANGE AT 3-TO-1 RATIO

Federal range permits for grazing units in district 8 of the Division of Grazing, where lie the lands of the Ute extension area, allow a 3 to 1 ratio on the public domain for base property commensurate ratings. Prior use and availability to the surrounding range determine the permit classifications. Most of the stockmen now operating fall within the class 1 permits. Some of the grazing homesteads are not classified because the owners have not been operating stock during the past few years, but have leased their holdings to other stockmen. However, the regular 3-to-1 ratio is applied so as to follow a consistent policy for land valuations. Further, the lease operations by other stockmen usually affect a class 1 permit as attached to such leased grazing tracts.

The total carrying capacity of a ranching unit, inclusive of the range control, is increased by 3, which means the commensurate rating added to itself 3 more times, or the base figure multiplied by 4. A base property with a commensurate rating of 100 animal units would earn a permit for 300 on the public domain, thus extending the total carrying capacity to 400 for the entire ranching unit. This is the figure used for capitalization purposes.

PRESENT LICENSE

The present licenses as issued by the Division of Grazing are based upon their commensurate records at the 3-to-1 ratio. This ratio is also understood as 3 to 9; that is, for 3 months commensurability on the base property the rancher is entitled to 9 months on the public domain. In nearly all cases the commensurate ratings are in excess of the ratings as established by the surveys and inspections of the Indian Service land field agents. It should be stated, however, that hayland acreages and productions, as recorded by the Division of Grazing, are excessive as compared with those of the Indian Service, which would, accordingly leave a much smaller balance for their records of grazing lands on the home ranches. The larger carrying capacities and ratings for pasture and grazing lands as established by the land field agents thus make up for some of the differences. It is safe to assume that any dependent property surveys which might be made by the Division of Grazing within a reasonable time in the future will establish no ratings less than those from the Indian Service records, and minimum ratings for capitalization purposes are thus safely assured at this time.

CAPITALIZATION

A sound capitalization figure in this area has been difficult to determine. It is apparent at the start that the total capitalization of livestock and land should be decreased by \$30 per animal unit, since this figure well represents an average price per animal unit over a period of years. The studies and theories of several sources have been used. M. H. Saunderson, of the Montana Experiment Agriculture Station, has reached a total figure of \$85 per animal unit, or \$55 per animal unit for the land alone. The Federal Land Bank of Berkeley has stated that the land capitalization in an area such as this should not exceed the average price of livestock, which would mean \$30 per animal unit.

Figures taken on the earning power balance of the average ranching unit in this area are well determined as comparable with those established by the Nevada State Agricultural Experiment Station. Receipts as applied against costs on ranches with good range control nets an average earning-power balance of \$4.50 per animal unit. Capitalizing this figure at 6 percent produces a total capitalization of \$75 per animal unit, including the animal itself. Deducting the average price of mixed stock at \$30 per head leaves a figure of \$45 per animal unit for land and allied equipment. This amount represents an applicable average between two other extremes which have been proposed. Further, it well sup-

ports the disclosures of prevailing and asserted market values for land in this area and is likewise in line with certain classified assessed valuations on county tax records. It is believed that the \$45 capitalization figure on land and improvements is fair for the purpose of supporting regular appraised valuations, especially when these appraised valuations and the indicated purchase prices will usually remain at a figure considerably below the total amount of capitalization.

GENERAL SUPPORT

As will be noted on the attached tabulation sheets, several ranching units can be capitalized on the land and improvements at a figure considerably in excess of the present-requested prices. By applying fair basic valuations to the land classifications, with a consideration for lands and settings which afford natural shelters, feeding grounds and drifts, a recognition of the labor and difficulties in making improvements and otherwise applying values which can be ascertained under all conditions, appraisals can be established which will be well supported by the capitalization process. This means the opinions of disinterested stockmen, banking officials, and general local and relative viewpoints.

Extremely important is the basic land value for summer grazing tracts. This has been generally designated in the area at \$5 per acre, especially because of the range control attached. It is now ascertained that certain grazing lands of the Bown Livestock Co. and A. M. Myrup in this area, now purchased by the Indian Service at the \$5 per acre valuation were very much desired during the pending purchase by a large Colorado livestock company at \$6 per acre. The assessed valuations of Grand County, Utah, wherein these lands are mostly located, indicate an actual value of \$5 per acre; furthermore, the tax rate is high.

Most of the summer grazing tracts are held by the original patentees. The value to them is well represented in the fact that it was necessary, by law, to maintain residence for 25 man-months and make improvements to the extent of \$1.25 per acre before patent could be obtained.

In nearly every case the prices as now requested for the ranching or grazing tracts are very much reduced from the figures as originally requested. In those cases now justified by the capitalization process the requested prices have finally been reduced to the asserted minimums as listed.

CARL L. PEARSON,
Assistant Land Field Agent.

SALT LAKE CITY, UTAH, January 22, 1942.

MR. C. C. WRIGHT.

Uintah and Ouray Agency, Fort Duchesne, Utah.

DEAR MR. WRIGHT: In view of the importance of the compilation requested in office letter of January 5, 1942, signed by Mr. William Zimmerman, Jr., Assistant Commissioner, and which can most simply be referred to as a report on range rights of base properties, Ute extension area, we believe it advisable that supplemental information and review be given you so that relative details and supporting evidence of our contentions will be readily at hand. Preferable to a lengthy narration on the detailed history of the project would be brief discourses under the major and important headings of the compilation, whereby historical details will be recalled and support of the applicable contentions will be more immediately available. In additional support of understandings, directions, etc., reference is made to attached exhibits as they may apply.

The important factors can well be introduced by a brief review of the general understandings which were affecting the land acquisition and proposed reservation project.

Endorsements of the project by stockmen active in the Ute extension area, by livestock association officials, by county officials, and by reputable inhabitants of the area can be easily recalled. A written endorsement referred to as the "Vernal agreement" and letters of endorsement from influential parties just mentioned are on record. (See exhibits 1, 1-A, 1-B, 1-C.)

Although the Bown and Myrup purchase prices, generally known by other landowners of the area, should have served as a basis for attempts at fair and reasonable prices, it was nevertheless necessary that we seek and initiate negotiations in nearly every instance. The attitude of these potential vendors

was that their holdings largely controlled the grazing privileges in the proposed Ute extension area, and that a "fair price" should be paid for their holdings. Several expressed the concern that legislation for a definite reservation boundary, evident at the time, would permit the Indian Service to exercise pressure on the sale of their holdings by the threat of withdrawing grazing privileges on an established Indian domain. In anticipation of a definite reservation boundary as provided for by the original agreement, and in a liberal consideration of the grazing privileges which would be difficult to duplicate, every effort for fair treatment toward these landowners was continually exerted.

As the project continued and as base holdings were optional, a more definite demarcation line for a practical reservation boundary became necessary. Under date of November 1, 1938, we proposed a line which followed natural barriers and which largely incorporated range rights attached to the base properties under completed and proposed purchases. (See exhibit No. 2.) The predominating theme of this proposal was that we avoid any overlapping or interference with range control areas of neighboring stockmen, even though this meant the deletion of approximately 70,000 acres from the area proposed in the original agreement. This proposal also gave careful consideration to the estimated carrying capacity of the incorporated range, with the intention that such carrying capacity would not exceed the limits of the 9-3 ration permitted by base property commensurate ratings. In view of potential additional ratings on Indian allotments within the area, it was believed that the estimated animal units per month incorporated in the public range was conservative.

While actively engaged in the project, contacts were continually made with Division of Grazing officials in an attempt to keep our policies consistent with their rules and regulations. This was especially important in the study of valuations on lands as they were affected by grazing privileges. Throughout these contacts there was never any dispute as to the 9-3 ration applicable in this area, nor was there any argument as to the definite attachment of grazing privileges to the base property. Among others, two instances can be cited as of special importance.

Early in 1938, Mr. Dean Seeley and Mr. Carl L. Pearson conferred with Mr. Archie Ryan and Mr. C. M. Kerr, of the Division of Grazing, at their offices in Salt Lake City, with the intent to determine the assurance of grazing privileges as may be attached to base properties. Mr. Ryan repeatedly assured them that such grazing rights were definitely attached to the base property and not transferable with livestock. On July 7 certain Indian officials met in the office of Mr. Richard B. Millin at Salt Lake City, in an effort to determine, with the contemplated assistance of Division of Grazing officials, valuations on base properties as may be affected by grazing rights. The Grazing Service was represented by Mr. C. P. Seeley, now regional grazer. The 9-3 ration and the assurance of grazing privileges being attached to base properties was constantly referred to and was in no instance disputed.

Moreover, all vendors realized the existence and advantages of the established ration and that their properties would be commensurately rated for such grazing privileges.

It is indicated in Mr. Zimmerman's letter of January 5 that the rules, regulations, and standards of the Division of Grazing as applicable at the time of our purchase project shall govern the policy now proposed. This is especially important in view of the changes which had subsequently existed in the Division of Grazing codes and even in some of their interpretations.

The prevailing understanding of the Taylor Grazing Act was that it intended a more fair and equitable distribution and balance of public-domain range rights. The so-called priorities of several range ranchers greatly outranked the number of livestock commensurate on their base properties. If the numbers established during the priority period were to be maintained, it would often mean the acquisition of additional base property to increase the commensurate rating. This tended to create an attractive market for desirable grazing and irrigated hay lands. At the same time, the owners of such marketable lands could have reasonable assurance of extended grazing rights on the basis of their commensurate ratings and the distribution and balance of available range. Yet, besides commensurability, nearly all of the Ute extension holdings also held priorities.

In a progressive series recognized as foundation material leading toward conclusions, the major and important factors of the compilation report are now set forth:

CARRYING CAPACITY AND PRODUCTION—LAND CLASSIFICATION

Appraisal records present carrying capacities and production estimates as of the date of appraisal. These estimates were believed conservative and in all cases were below the claims of landowners. Hay-land ranches were largely appraised in the spring of 1938, and thus at a season when only estimates were possible. Land classification figures were surveyed and platted for accurate acreages.

On September 14, 1939, we presented a complete commensurate record in accordance with certain requests in office letter of September 14, 1939. (See exhibit No. 3.) Measurements of hay cuttings, including the second, had recently been taken on the Blank ranch and served as a basis for average productions on other ranches of the area, the respective comparisons also being given consideration. These ratings were also affected by the comparative lack of moisture in 1939, whereby some depreciation in irrigation supply and also in grazing and pasture forage was noticeable; also by the fact that potential hay lands under irrigation right were given a small production rating in the appraisal reports but were classed as "cultivated—bare" in the later report so as to remain consistent with the Division of Grazing assertions that such land types could not be credited commensurately. While this 1939 report is more conservative than some of the figures on appraisal reports, the differences are so slight as to be ineffective in supporting other than our present contentions. Furthermore, the later record has been used in our former contentions to the Division of Grazing; it serves as a better range and average over the periods involving the purchase cases, and it is the record being used by Mr. Wershing in other reports.

It is important that you note certain conditions which influenced our production and carrying capacity records. It is realized that during the "transition period," where purchased lands were being liquidated by former owners, cultivation and irrigation activities were decreased. Yet, it is indicated that our assertions as to production and capacity be based on the periods of negotiation. Even though we concede a deletion of credit for potential hay lands under irrigation rights as contended by the Division of Grazing, we believe we can take issue with any failure to realize the increase in hay production as affected by irrigated hay lands extending, in some cases, off of the patented property. In accordance with the important letter of March 23, 1938, signed by Mr. Zimmerman and approved by the Secretary of the Interior, values and production are not credited definitely to the so-called public domain plots under hay production, but are reflected in the value and production of patented land. It should be realized that under the homestead laws, patents were issued by regular legal descriptions. It was not possible for the applicant to obtain a patent on a metes and bounds description which would have enabled him to outline a definite irrigable and farming tract in deep canyon bottoms such as are common to this area. It is apparent that the limits of aggregate 40-acre descriptions could not incorporate the entire acreage of the canyon bottoms and it is further apparent that irrigation officials took cognizance of this condition in surveying irrigation applications. If the policy of the Division of Grazing is to give no credit for the reflection of such production, then it appears as rather questionable that grazing permits be issued to squatters who have no commensurate hay production except that which is tilled on the public domain, viz., Nelson and Brewer, both located south of Ouray, Utah.

The Division of Grazing has recently presented figures on production and carrying capacities of the Ute extension base properties. It appears that a State average on alfalfa hay production of 2 tons per acre has been applied to our accurate deeded hay acreages. This would be very conservative for application to the excellent stands witnessed in 1938, on such properties as Blank, Hazelbush, Taylor, and Wild, even with a deletion of that production reflected by unpatented plots.

COMMENSURATE RATING ON BASE PROPERTY AND APPLICATION OF 9:3 RATIO ON PUBLIC DOMAIN

The commensurate rating on base property is, of course, the conversion of the production and acreage figures to animal unit months. The dependability of the 9:3 ratio has already been discussed above. The conversion of the animal unit month into animal units presents the total operation consistently for the 3-month period, the 9-month period and the total year. (See detailed explanation in exhibit No. 18.)

GRAZING LICENSES ISSUED AT TIME OF PURCHASE AND PRIORITY RATINGS

Our letter transmitting the compilation points out the general ineffectiveness of disclosing the licenses issued during the year of purchase payment. However, the information is no doubt effective in showing that certain vendors continually held grazing privileges as supported by their priority ratings, and also as should be supported by a much higher commensurate rating than the Division of Grazing now implies for the properties. Interpreting the factor in office letter of January 5, "the total number of animal units year long for which the base property was licensed by the Grazing Service during the year of purchase," as the year of option or the year in which purchase payment was made and title actually transferred, it must be realized that in either instance most of these properties were involved in a "transition" period in which the vendors were liquidating or ready to liquidate. It is accordingly recommended that the priority rating be given the important consideration. Totally, and in several cases individually, the priority ratings outrank the commensurate ratings.

VALUATIONS AND PURCHASE PRICES

Prior to the active work of the undersigned on the Ute Extension Project, the extensive and far-flung Bown and Myrup properties had been appraised and optioned and were under purchase proceedings. The values placed thereon had been determined on the support of the existing range-control conditions; the stockman and the banker realized that the locations controlling range and water reflected in themselves the values of the patented lands. As the project continued for the acquisition of the remaining lands in the project area, studies were made to support the basis of valuations and extend the vendors fair and reasonable treatment. Reference to a series of exhibits, attached herewith, and brief comments as to their nature, should present the general history and facts of the procedure and policy finally established.

Exhibit No. 4.—Letter of March 17, 1938. J. M. Stewart, Director of Lands, to T. W. Wheat, Assistant Director of Lands. This letter pointed out the difficulties involved in the contracting of range rights, water holdings, etc., as part of an operator's deeded property.

Exhibit No. 5.—Letter of March 22, 1938, Carl L. Pearson, assistant land field agent, to J. M. Stewart, Director of Lands. The subject of this letter was largely that "a broader interpretation of definite purchase designations is more important than at first appeared." It disclosed that a reflection of all values in patented lands would endanger the appraisal record as appearing fantastic, if all values were not somehow accounted for. It also suggested a partial remedy by reference to the appropriation act of August 9, 1937, which provided for the purchase of "* * * improvements on former public domain lands for said Indians."

Exhibit No. 6.—The important letter of March 23, 1939, William Zimmerman, Jr., Assistant Commissioner, to Carl L. Pearson, assistant land field agent, and approved by the Secretary of the Interior. The policy and procedure of our land acquisition work was largely a result of this letter. In carrying out these instructions for a reflection of all values in patented lands, the reasons for values, etc., were set forth under "Remarks" in the appraisal records.

Exhibit No. 7.—Letter of May 23, 1938, Carl L. Pearson, assistant land field agent, to J. M. Stewart, Director of Lands, which gives further evidence to the values of grazing rights, considered by the vendors, and their understandings that such grazing rights were attached to their properties.

Exhibit No. 8.—Letter of August 2, 1938, Carl L. Pearson, assistant land field agent, to J. M. Stewart, Director of Lands. As evidenced also in exhibit No. 7, this letter strongly supports the attitudes and understandings that range rights were attached to base properties and that the values of patented lands and payments for same reflected the attachment of those range rights. Incidentally, this is an important document in further supporting the fact that the Division of Grazing could not transfer Wilcox grazing rights to other properties.

Exhibit No. 9.—Letter of May 26, 1938, Carl L. Pearson, assistant land field agent, to C. C. Wright, superintendent. The assessed valuations as applied to Ute extension properties are disclosed as being high. These high valuations were consistent with our studies of values in that commensurate ratings and range control were considered as an enhancement of value. Again, there is a general recognition of the range control being attached to the property.

Exhibit No. 10.—Telegram of June 12, 1938, J. M. Stewart, Director of Lands, to William Zimmerman, Jr., Assistant Commissioner. Although the policy established by the letter of March 23, 1938, remedies the general situation whereby appraisal records would reflect a total true value in patented lands, there had remained some concern in cases such as the proposed N. R. Taylor negotiation, where large range control was held by stockwater filings. This was discussed with Mr. Stewart while he was in the field, with the recommendation again presented to Washington, per the telegram for use of the provision in the appropriation act to purchase improvements on former public domain lands.

Exhibit No. 11.—Letter of June 16, 1938, William Zimmerman, Jr., Assistant Commissioner, to J. M. Stewart, Director of Lands. This letter was in answer Jr., Assistant Commissioner, to J. M. Stewart, Director of Lands. This letter to Mr. Stewart's telegram and explained that after consultations with the Solicitor, no legislation was existent for the purchase of improvements, etc., on public domain lands of the Ute extension area. Our suggested remedy was disqualified by the use of the term "former public domain lands." This situation was remedied the following year by amended legislation for the appropriation which deleted the word "former" and which was resultingly helpful in presenting a more disclosive appraisal on the Taylor holdings.

Exhibit No. 12.—Letter of July 12, 1938, Carl L. Pearson, assistant land field agent, to J. M. Stewart, Director of Lands.

Exhibit No. 13.—Report and plan on Land Valuations and Relative Range Control, Ute Extension Area, Utah, as prepared by Carl L. Pearson, assistant land field agent. The letter of July 12 (exhibit No. 12), transmitted the report and plan on land valuation and relative range control. This was largely the result of certain conclusions gained at the aforementioned meeting of July 7 in Mr. Millin's office and the foundation of studies which had been taking place. The transmittal letter gives more evidence of the general understanding of range control attached to properties by the disclosure of certain private land negotiations which had recently occurred at purchase price figures similar to our valuations in the Ute extension area, and which were supported by assurances of definite range control. In this very connection you will recall that a large Colorado sheep outfit was attempting to purchase the Myrup properties, subsequent to his option, at a figure per acre higher than our values. The range control of the Myrup lands were undoubtedly recognized in this attempted negotiations, and even though Myrup had begun his liquidation proceedings, there appeared to be every confidence that the range rights, in view of priority and commensurate rating, would remain intact for the sheep outfit who desired the holdings. The plan and report on land valuations was largely one to support purchase price figures on a capitalization basis, wherein the reflection of all values in patented lands and improvements thereon were given fair and reasonable consideration.

Exhibit No. 14.—Appraisal report on tract No. 7 (Austin Wardle), which is representative of the method employed in disclosing valuations and which follows the policy as established in office letter of March 23, 1938.

As indicated in several of the discourses on the foregoing exhibit references, the intention is not only to support our methods and reasons for valuations but also to give evidence to general and specific understandings on the range control which was being acquired. The persistent understanding of all vendors was that they were selling their entire operations, inclusive of all range rights and control. Moreover, our options specify the deeded land and "rights appurtenant thereto."

The control of stock waters in the Ute extension area by these acquired holdings and also by certain Indian allotments is well realized. Easy or practical access to water on the entire summer range, and often on a large part of the winter range, is not possible without trespassing on these lands.

It is believed that this supplementary report and the supporting exhibits will be important in upholding our contentions and in serving as ready reference for the featured factors of the compilation on base properties. It should also recall the prevailing attitude and opinion which was so often expressed by ranchers and other inhabitants of the basin. "Congress might as well pass the Ute extension boundary bill. The Indians now own all the commensurate property in that area anyway."

Sincerely yours,

CARL L. PEARSON,
Assistant Land Field Agent in Charge.

UINTAH AND OURAY AGENCY,
Fort Duchesne, Utah, January 23, 1937.

Mr. J. M. STEWART,
Director of Lands, Bureau of Indian Affairs,
Washington, D. C.

DEAR MR. STEWART: I am enclosing herewith endorsements on the Indian Reorganization Act land acquisition Ute project, recently prepared by Mr. Mark W. Radcliff, land field agent.

You will find three separate endorsements representing the Board of County Commissioners of Uintah County, the Ashley Forest Grazers Cattle Association, and the Ashley Wool Growers Association.

This letter will constitute the endorsement also of the superintendent and the extension agent of this jurisdiction, whose signatures appear below. I have been advised that a separate endorsement by Mr. J. E. White, credit agent of this district, has been mailed to you and that another separate endorsement, signed by the chairman of the tribal business committee, will be mailed not later than January 26.

It has required some little time to obtain all these endorsements. Mr. Hugh Colton, county attorney of Uintah County, has assisted materially in this.

But may we add that an early acceptance of the options now held and a settlement of this entire land-acquisition program is highly desirable.

Respectfully yours,

C. C. WRIGHT, *Superintendent.*
K. G. SLAUGH, *Extension Agent.*

SALT LAKE CITY, UTAH, January 22, 1937.

Mr. J. M. STEWART,
Director of Lands,
Office of Indian Affairs, Washington, D. C.

DEAR MR. STEWART: The acquisition of additional lands for the Uintah and Ouray Indians as delineated in the proposed Ute project prepared by Land, will materially increase the range capacity and contribute much to the establishment of a balance between Indian-owned irrigated land and grazing areas.

This accomplishment will permit an increase and extension of the livestock industry for the Uintah and Ouray Indians, which at present is fast approaching the saturation point due to a lack of land which is suitable for grazing purposes.

This opportunity for extending the livestock industry for these Indians will evidently be reflected in an increase income per family and should assure a definite upward economic trend for the group.

For these reasons this office wishes to approve the Ute project as submitted by Land, and urges that this area be acquired at the earliest possible date.

Sincerely yours,

J. E. WHITE, *Credit Agent.*

FORT DUCHESNE, UTAH, September 14, 1939.

Mr. C. C. WRIGHT,
Superintendent, Uintah and Ouray Agency, Fort Duchesne, Utah.

MY DEAR MR. WRIGHT: This is in connection with office letter of August 25 and your relative requests for any possible disposition on commensurability as supported by dependent property surveys of tracts in the Ute extension areas.

I am of the opinion that we should determine the figures for animal unit months on the base properties of the area, all of which will disclose the amount of range land earned at the existing 3 months to 9 months (or 1 to 3) ratio now standardized in this grazing unit under the Division of Grazing.

Accordingly, there is enclosed herewith a tabulation of all tracts within the Ute extension area, including those under negotiation which lie outside the boundary. The tabulation presents all lands lying inside and outside the boundary and the total of same. It is further distributed into items showing tracts now acquired, those under acquisition and option, and those yet pending negotiation. All items are resultingly cross totaled and brought forward.

Under existing rules and regulations of the Division of Grazing we would expect that the total amount of animal-unit months on the base properties could be increased three times to determine the amount of commensurability earned on the public domain. Under such regulations, the base properties now negotiated, including the Taylor holdings, would control the entire area. However, prior use of the range controls by the vendors may yet strongly affect the actual number of animal-unit months on the public domain. Prior use figures in support of the ratios asserted by base properties alone cannot be completely determined at this time. Future unit months on the range may also be affected by the use made of such range by the Indians.

It is yet necessary that figures more accurate than the total licenses issued in the area be determined for its total public domain carrying capacity. The Division of Grazing has not made dependent property surveys on base properties, except for asserted productions of the landowners. The attached tabulation presents accurate acreages on land classifications and very conservative estimates on productions and carrying capacities. It assures us of sufficient base property for application of all Federal range licenses now existing in the area, provided prior use figures will also contribute to the proper extent.

No figures are applied to commensurability for range springs on the report. This is due largely to the fact that no rules and regulations for same have been definitely applied in this area; also that all springs, except the Taylor holdings, are on or adjoining patented lands and thus are not very effective in controlling an area. Nevertheless, the Taylor springs definitely control an area comprising at least 8,000 animal-unit months, this being in addition to that earned by his base property. Accordingly, the total carrying capacity of the Ute extension area should be reduced by this figure when determining the total of animal-unit months available on the public domain.

Sincerely yours,

CARL L. PEARSON, *Assistant Land Field Agent.*

UINTAH AND OURAY AGENCY,
Fort Duchesne, Utah, March 17, 1938.

MR. T. W. WHEAT,
*Assistant Director of Lands, Indian Office,
Washington, D. C.*

DEAR MR. WHEAT: This will refer to your telegram of March 15 concerning land purchases within the Uintah extension area.

Unless some ways and means can be devised to allow the vendors valuation for their improvements on public domain and the valuation for springs and other living stock water controlled by them then a good deal of our acquisition work may abruptly cease, because these types of purchases should first be cleared before we attempt to consummate the small untroublesome purchases within the project area. If we go forward now and purchase the so-called untroublesome holdings, we would have uneconomic purchased tracts on our hands and thus become subject to higher price pressure by the remaining vendors as represented by those controlling public lands and who have improvements thereon, etc.

The situation is really critical, and it seems to me that it might well be handled by placing the total valuation on the lands and improvements actually owned, and execute an option for the total price which would cover, of course, the improvements on public land and the control of springs, etc., thereon.

Supplemental to the option but not made a part thereof the vendor could be required to execute an agreement to the effect that he would quitclaim to the United States all right, title, and interest to his improvements and the water control on the public lands. This quitclaim deed to be executed simultaneously with the option.

Will you please bring this matter immediately to the attention of Mr. Zimmerman and of Mr. Stinson and try and work out something acceptable to the Department? Mr. Pearson should be advised very promptly by air mail and in detail in the matter in care of the Fort Duchesne Agency.

Very truly yours,

J. M. STEWART, *Director of Lands.*

MARCH 23, 1938.

Mr. CARL L. PEARSON,
*Assistant Land Field Agent,
Care of Superintendent, Uintah and Ouray Agency.*

DEAR MR. PEARSON: This is in further reference to the matter of land purchases within the Uintah extension area, and especially with respect to the interest of grantors in improvements, water holes, springs, etc., on the public domain.

In the appraisal of ranch properties, all of the elements of value, including their location with respect to availability of water holes, springs, grazing privileges, buildings, and other improvements located on the public domain, should be considered. This is especially true where the public-domain lands hold a strategic position with respect to the remainder of the ranch property. The fact that a private-ranch owner has the benefit of land and water on the public domain, a large part of which benefit is due to improvements made with his own time and money, would undoubtedly be ample justification for or be reflected in a higher valuation being placed on the privately owned land than would ordinarily be placed on such land if these benefits were not available. Therefore, although it is not possible for us to utilize any of our Indian Reorganization Act or tribal funds to purchase improvements, springs, and grazing privileges on the public domain, and they should not be appraised as such, it is entirely fair and proper, in arriving at the value of the privately owned lands, to consider the added value of these lands arising from the use which they control of improvements, springs, and grazing privileges on the public domain. Whether that added value may bear a relation to the actual value of the improvements, springs, or grazing privileges on the public domain must be dependent on the circumstances existing in each instance and is a matter on which the appraiser must exercise his best judgment.

The above method of appraisal appears to be further justified when it is realized that ultimately the public-domain lands in question will be made available for Indian purposes as a part of the proposed Indian reserve through enactment of the pending Ute reserve bill or as preference rights under the Taylor Grazing Act, if the privately owned properties are purchased by us and the Taylor Grazing Act is made applicable to this area.

It is understood that the vendor will agree, at the time the option is accepted, to tender a quitclaim deed of any and all right, title, and interest he might have in springs, grazing privileges, and improvements located on the public domain, the consideration in the quitclaim deed to be nominal only.

In cases where options have already been accepted, such as the Bown and Myrup tracts, it will not be possible to apply the above-mentioned arrangement to those purchases.

WILLIAM ZIMMERMAN, JR.,
Acting Commissioner.

Senator MURDOCK. Mr. Wright, can an Indian sell his livestock without permission from you, or someone at the Indian Office?

Mr. WRIGHT. Yes; if they are what we call unrestricted property, Senator, not designated by the brand, "I. D." If not branded "I. D." he has that privilege; yes, sir. That is within the law.

The CHAIRMAN. What is the brand "I. D."?

Mr. WRIGHT. Interior Department.

The CHAIRMAN. Why is that?

Mr. WRIGHT. That denotes restricted property, so-called, showing that the herd or the basic breeding herd from which the cattle originated was derived from restricted funds, either Government funds restricted and the Ute funds, or something of that sort.

Mr. PATTERSON. If the Indian financed himself in these trades, and gets them in, he can deal on them?

Mr. WRIGHT. Yes, sir.

Mr. PATTERSON. But if the Government finances the transaction for him, if it comes from the Indian funds, then the Government retains a limit on them?

Mr. WRIGHT. That is right. I might explain that a little bit further. The unrestricted cattle can legally be sold without a permit, but many times many of the Indians prefer to have a permit and to be protected by that permit so they request it and it is granted.

Thee CHAIRMAN. Are there any further questions?

I want to ask the two Services here, the Indian Service and the Grazing Service, is there anything to prevent you from getting together and settling this matter promptly? This is a matter of administrative settlement, and why couldn't it be done?

Mr. WOHLKE. I believe we are fairly close on an agreement with the Grazing Service.

Mr. LEECH. I believe so, Mr. Wohlke.

The CHAIRMAN. Have the stock growers, the private individuals, been brought into consideration; either they or their advisory boards or their associations, or anything of that kind?

Mr. LEECH. I believe they can all be gotten together, Mr. Chairman.

The CHAIRMAN. Now, listen gentlemen; this is a vital matter to this community. The Members of the Senate of the United States are carrying heavy burdens. The Nation is at war, and we must return immediately to Washington to delve into other problems far, far afield from these. You gentlemen are in the field, and you have these matters at your finger tips. We have sat here for 2 days and listened to it. It is my individual view as to what can be done, I believe it could be settled in no time. The committee is going to ask you to take upon your shoulders now the responsibility, and we hope you may see fit to bring this matter to a speedy conclusion, so that you will bring contentment to this community and settle this thing. I think it can be done. I don't think it is such a serious matter that it cannot be settled, and settled with a high degree of efficiency and justice and satisfaction. Are you willing to undertake it?

Mr. LEECH. Yes, sir.

The CHAIRMAN. How about you?

Mr. PATTERSON. I will say for the users, they will do everything possible to cooperate with the Department.

The CHAIRMAN. Fine. With that in mind, I don't believe there is anything else to come before the committee.

Senator MURDOCK. Mr. Chairman, I think I would be delinquent personally and also, as a Senator from the State of Utah if I did not take just a few minutes, at this time, to thank Senator McCarran in behalf of the people of the Uintah Basin and everyone interested in these controversies for the time and the patience and the industry and the trouble that he has gone to; to leave everything else in Washington and come clear out here to this session at this time of the year to help us in the settlement of these local controversies. Now, it is nothing at all for me, it is my duty, without any question, to come to this part of the State and every other part of the State, as your Senator, to do everything that I can to help you in the solution of your problems and to listen to your complaints. But I am very doubtful whether, in the entire history of the Senate you can find a precedent for what Sena-

tor McCarran has done on this occasion, and I think, Senator, that I can safely say in behalf of the people of this section of Utah that they are indeed grateful to you and appreciative from the bottom of their hearts for the fact that you have been willing to come out here and give this matter your attention.

The CHAIRMAN. I just want to say to everyone here, that I have enjoyed the 2 days that I have been here. I like to rub shoulders with my fellow men wherever and whenever I can; and when this matter is amicably and justly settled I will feel the happiest man in the outfit, because I think we will have done something worth while. I thank you very much, Senator Murdock, and I thank the people of this community for their courtesy to me since we have been here.

Just before closing, I wish to extend the thanks of the committee to Mr. Haskell, the chief investigator, for his diligent work in this matter, and for the fine arrangements he has made in bringing the material before us.

The committee will stand adjourned.

(The committee adjourned at 9:15 p. m.)

×

THE LIBRARY OF THE

JUN 17 1943

UNIVERSITY OF ILLINOIS

ADMINISTRATION AND USE OF PUBLIC LANDS

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON PUBLIC LANDS AND SURVEYS UNITED STATES SENATE SEVENTY-EIGHTH CONGRESS

FIRST SESSION

PURSUANT TO

S. Res. 241

(76th Congress—Extended by S. Res. 39, 78th Congress)

RESOLUTIONS AUTHORIZING THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS TO MAKE A FULL
AND COMPLETE INVESTIGATION WITH
RESPECT TO THE ADMINISTRATION
AND USE OF PUBLIC LANDS

PART 7 REVISED

WASHINGTON, D. C.
JUNE 15, 16, AND 21, 1943

Printed for the use of the Committee on Public Lands and Surveys

THE LIBRARY OF THE
AUG 16 1943
UNIVERSITY OF ILLINOIS

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1943

COMMITTEE ON PUBLIC LANDS AND SURVEYS

CARL A. HATCH, New Mexico, *Chairman*

ROBERT F. WAGNER, New York	GERALD P. NYE, North Dakota
JOSEPH C. O'MAHONEY, Wyoming	CHAN GURNEY, South Dakota
JAMES E. MURRAY, Montana	RUFUS C. HOLMAN, Oregon
PAT MCCARRAN, Nevada	JOHN THOMAS, Idaho
CHARLES O. ANDREWS, Florida	RAYMOND E. WILLIS, Indiana
MON C. WALLGREN, Washington	EDWARD V. ROBERTSON, Wyoming
ABE MURDOCK, Utah	
EDWIN C. JOHNSON, Colorado	

W. H. McMains, *Clerk*

N. D. MCSHERRY, *Assistant Clerk*

SUBCOMMITTEE ON SENATE RESOLUTION 241 (76TH CONG.)

PAT MCCARRAN, Nevada, *Chairman*

CARL A. HATCH, New Mexico	GERALD P. NYE, North Dakota
JAMES E. MURRAY, Montana	RUFUS C. HOLMAN, Oregon
CHARLES O. ANDREWS, Florida	
MON C. WALLGREN, Washington	

E. S. HASKELL, *Chief Investigator*

ELIZABETH HECKMAN, *Secretary*

CONTENTS

Statement of—	Page
Chapman, Oscar L.....	2405, 2419, 2425, 2431, 2446
Graham, Leland O.....	2406, 2423, 2451
Leech, J. H.....	2411, 2447
Muck, Lee.....	2451
Nebeker, Frank K.....	2423, 2430, 2446, 2465
Rutledge, R. H.....	2419, 2426, 2430, 2442
Smith, Moroni A.....	2439, 2465
Stringham, B. H.....	2406, 2448
Wilkinson, Ernest L.....	2433, 2450
Woehlke, Walter V.....	2452, 2456
Wright, C. C.....	2406, 2412, 2426

ADMINISTRATION AND USE OF PUBLIC LANDS

TUESDAY, JUNE 15, 1943

UNITED STATES SENATE,
SUBCOMMITTEE OF THE
COMMITTEE ON PUBLIC LANDS AND SURVEYS,
Washington, D. C.

The subcommittee met, pursuant to call, at 10:30 a. m., in room 224 of the Senate Office Building, Senator Pat McCarran (chairman of the subcommittee) presiding.

Present: Senators McCarran (chairman) and Abe Murdock.

Also present: E. S. Haskell, investigator.

For the Department of the Interior: Oscar L. Chapman, Assistant Secretary; Leland O. Graham, Assistant Solicitor; J. H. Leech, Chief of Lands of the Grazing Service; R. H. Rutledge, Director of Grazing, Salt Lake City, Utah; C. C. Wright, Superintendent, Uintah and Ouray Indian Agency, Fort Duchesne, Utah.

Others: Frank K. Nebeker, of the Tower Building, Washington, D. C.; B. H. Stringham, of Vernal, Utah; and Moroni A. Smith, of Fort Duchesne, Utah; Ernest L. Wilkinson, of Ogden, Utah, and Washington, D. C., attorney for the Ute Indians.

Senator McCARRAN. This meeting will come to order.

This is a regularly called meeting of the subcommittee of the Committee on Public Lands, and especially are we going to address ourselves in inquiring into matters pertaining to the problems that have presented themselves to the committee at Vernal, Utah.

The committee went to Vernal, Utah, pursuant to many requests to hold hearings there, and we held quite extensive hearings, quite complete hearings, at the conclusion of which it appeared that, at least to the chairman of the committee there present, that an amicable settlement of all of the differences was almost immediately in the offing.

We have been inquiring since as to what had become of the old settlement, and what the status of the thing was, and with that in mind we called this meeting here, thinking that we would have the bureaus here, and the heads of the departments. We did not think at the time that it was necessary for those individuals who were interested in the problem to come on here. We so advised Mr. Smith and some others, but we are very glad to see them here, and we are glad that they may listen in and give us such advice or suggestions as they see fit as we go along.

We have with us today the honor of having Assistant Secretary of the Interior Oscar Chapman, and I would like very much to have Mr. Chapman make a preliminary statement, if he sees fit.

Mr. CHAPMAN. Thank you, Senator.

We, in our Department for the last 3 days beginning Friday, have had the bureaus that are interested in the administration of this area together and have tried to work out what we thought was an equitable agreement regarding the management of this area; that is, equitable to all of the parties interested in the area. We have had the Indian Office, the General Land Office, and the Grazing Service, and they have come to some agreement among themselves as to how they feel that it should be administered. Mr. Lee Graham, who represented the Secretary and the Department at your hearing in Vernal, Utah, is here this morning, and he is prepared to make a full and complete statement of the details of that agreement and the general position.

I would appreciate it if you would have Mr. Graham to make a statement at this time.

Senator McCARRAN. Mr. Graham, we will be glad to hear from you.

Mr. GRAHAM. Mr. Chairman, I have no extended statement to make; as Mr. Chapman pointed out, there have been a series of negotiations between the Grazing Service and the Indian Office, which began shortly after the Vernal hearings concluded.

We met with those representatives at Fort Duchesne, and later at Salt Lake City, and finally in Washington. Out of those negotiations has come this agreement, which has now been accepted by representatives of both agencies, and has been approved by Secretary Ickes.

Senator McCARRAN. In that regard, may I ask whether the private individuals, the users of the public domain, were consulted at the formation of this agreement?

Mr. GRAHAM. They were not directly represented at the time of the last negotiations in Washington. However, it is my understanding that they were approached, and that meetings were held with them at some stage in Utah.

Senator McCARRAN. Now, I understand that there are individual users here.

Mr. Smith, Mr. Moroni Smith; and are there any individual users here?

Mr. Stringham is here also, I think. Mr. Stringham represents a group of users. Is that correct?

Mr. STRINGHAM. I represent the taxpayers of Uintah and Duchesne Counties, as well as the stockmen.

Senator McCARRAN. You are also, as I understand it, chairman of the advisory board, but not representing that advisory board in your capacity here.

Mr. STRINGHAM. That is correct.

Senator McCARRAN. Are there any others here who are individual users?

Mr. Wright, you are the superintendent of that Indian agency?

Mr. WRIGHT. Yes.

Senator McCARRAN. And we are glad to have you here, and one or two of the Indians are here.

Mr. WRIGHT. Three of them are here.

Senator McCARRAN. Very well, Mr. Graham.

Mr. GRAHAM. I have here a copy of the agreement and the attached map that I will offer for the record, rather than to burden the listeners by reading the entire thing aloud. I think it would be helpful if I would merely sketch what its effect is.

Senator McCARRAN. I think that that would be sufficient.

Mr. GRAHAM. In the first place, the area which has been in controversy is to remain a part of Utah Grazing District No. 8. The order which was signed by the Secretary of the Interior in August or September of 1941, I believe it was, is rescinded, is not to be promulgated—that is, the order affecting the Uncompahgres—I am not referring to the Uintah order, which is a separate matter.

Senator McCARRAN. I must apologize, but I think that I am getting so that I do not carry things in detail in my mind as I used to, and I would like very much, in view of the fact that I have traveled a lot of ground since I was out there, if you would just go over the thing again to designate on the map what these colors represent.

Mr. GRAHAM. It is my recollection, Senator McCarran, that the area delineated in green, that is on the east side in green and on the west by a black line, which I believe is the Green River—that area is the area described in the order signed by the Secretary of the Interior which, would set up a temporary grazing reserve for the Indians.

That order was not promulgated, and, in view of this agreement, it is not to be promulgated.

The area indicated in black, on the east, and, again, by the Green River on the west, I understand, represents a tentative agreement which was reached early in 1935 or the early part of July of 1935, with the users of this area.

Senator McCARRAN. That is the area bounded in black?

Mr. GRAHAM. That is correct. Now, the area that is involved here, and which is the subject of this agreement, I understand, follows in a general way the entire black area, here, with the elimination of the smaller area.

Senator McCARRAN. Will you repeat that?

Mr. GRAHAM. In general, the area which is the subject matter of the proposed agreement, to which we are addressing ourselves, is the same as the area indicated in black on this map, with certain minor differences.

I am sorry, I am told it is the green line. I was under the impression it was the black.

Senator McCARRAN. Let us go back a little way; the black line on the west is the Green River. Is not that right? And on the east it is an established line, established by some sort of arrangement. Is not that true; or is that true?

Mr. GRAHAM. I do not believe that black line on the east has any significance today; I understand that at one time it marked the boundary of a proposed agreement, of 1935.

Senator McCARRAN. My understanding of your first statement was that the green boundary line was to go out, now, because that was the line in controversy, as I recall. I may be wrong in that, and you can correct me.

Mr. GRAHAM. The line is not necessarily out, Senator. The particular order which was signed by Secretary Ickes in 1941 is no longer to be effective, and it is not to be promulgated.

Senator McCARRAN. That had to do with the green line.

Mr. GRAHAM. Yes, sir.

Senator MURDOCK. Was it ever effective? You say it is not to be effective. It never was effective, was it? It was never promulgated.

Mr. GRAHAM. It is not the intention to promulgate it.

Senator MURDOCK. Let me ask one or two questions here. In arriving at the agreement that you say that you have arrived at, were the parties who entered into the agreement informed as to these tentative orders of the Secretary, and were they frequently mentioned in your discussions?

Mr. GRAHAM. I do not recall they were mentioned, Senator MURDOCK. Of course they are a part of the record made in the hearings.

Senator MURDOCK. We have seen this morning, in your discussion of the thing, they seem to be the outstanding thing in your mind, is this order that was signed by the Secretary, as I understand it, or the two orders, but were never made effective.

Now, the purport of my question is this: In arriving at the agreement, which you say has been arrived at, were these orders constantly held in the background as a threat in forcing the agreement or bringing this agreement about?

Mr. GRAHAM. No; I think not.

Senator MURDOCK. Well, do you not know whether they were or not, when you say you think not?

Mr. GRAHAM. I do not know what was in the people's mind.

Senator MURDOCK. Did you participate in the agreement?

Mr. GRAHAM. I participated in the negotiation of the agreement, and I was responsible for a large part of the clerical draftsmanship of the agreement.

Senator MURDOCK. Do you know that the Indian Service have, for months and months, been demanding that these orders become effective?

Mr. GRAHAM. I cannot say that I know that; no.

Senator MURDOCK. You know that somebody has been very urgent down there in doing a lot of spade work in order to get them issued, do you not?

Mr. GRAHAM. I cannot say that I know that personally, Senator; I do not. I know that the orders were actually signed, and it was one step in my presentation merely to indicate what their current status was.

Senator MURDOCK. Do you know of any organization or any department down at the Interior Department, other than the Indian Agency or the Indian Office, that has been requesting the issuance of these orders?

Mr. GRAHAM. No.

Senator MURDOCK. The Grazing Service has not been anxious to have them issued, has it?

Mr. GRAHAM. I assume not.

Senator MURDOCK. You know of no other agency down there but the Indian Department that is at all interested in promulgating those orders?

Mr. GRAHAM. No; I do not know any agency.

Senator MURDOCK. Now, in the discussions on this agreement did not the officials of the Indian agency, or the Indian Office, constantly refer to these orders?

Mr. GRAHAM. Not within my hearing.

Senator MURDOCK. Not within your hearing?

Mr. GRAHAM. No, sir.

Senator MURDOCK. I think that that is all, Senator.

Senator McCARRAN. You may proceed.

Mr. GRAHAM. As I said, the area will now remain a part of Utah Grazing District No. 8. That is, under the order that we have been just talking about, it would have been eliminated from Utah Grazing District 8. The Grazing Service will issue a blanket permit to the Ute Indian Tribe for the area to which I have referred, the area which is the subject of this agreement. The Indian Office will have the active administration of this area for the period of the permit, which is 10 years.

Senator McCARRAN. Who will have that?

Mr. GRAHAM. The Indian Office.

Senator MURDOCK. Was that perfectly agreeable to the Grazing Division, to turn over the administration of this large grazing area to the Indian Office?

Mr. GRAHAM. I should make this statement right at this point, Senator Murdock. I do not think that we can say that the entire agreement is exactly what either agency would like to have. I would like to make it perfectly clear that there have been extended negotiations; there have been concessions, I think, on both sides by both agencies, and this represents a fair and honest attempt to arrange a compromise between the interests represented and the two agencies, so that I could not say that everything is agreeable to the Grazing Service, or that it is agreeable to the Indian Office, in the sense that it is exactly what they would like to have.

Senator MURDOCK. It would be fair to state at this time that the Grazing Service would have preferred to administer this large tract of grazing land themselves. Is not that right?

Mr. GRAHAM. I cannot speak for the Grazing Service.

Senator MURDOCK. I know that you are not speaking for them, but you are speaking as a participant in this agreement.

Mr. GRAHAM. I think that that would be a fair statement; yes.

Senator McCARRAN. Commencing with the statement that it is to be administered by the Indian Service, will you continue from there? How is it to be administered, and what rights, if any, will the users now in that territory have?

Mr. GRAHAM. There are six white users in this area who, I believe at this point, it is sufficient to say are in the northern part of the area. Those persons, I might name at this point:

Steve Chuturas; H. A. Tyzack; David Smith estate; Albert Smith Investment Co.; Blanche, Moroni, and Emory Smith; and D. R. Seeley.

It will be recalled that the eligibility of these six users to graze in this area has been something of a controversial matter for some time. Under this proposed agreement, the Indian Office is obligated to issue to these six users, first, a 5-year permit to graze in this area in winter range. The particular lands are not indicated in the agreement, but the agreement does say that it shall be in winter range. It shall be for the same numbers of livestock that were grazed by these six operators during the winter season of 1942-43, and licensed to them by the Grazing Service during that season.

The period of use—

Senator McCARRAN (interposing). May I interrupt right there? Is that seasonal use comparable to the present use made by these six white users?

Mr. GRAHAM. The period of the year?

Senator McCARRAN. Yes, sir.

Mr. GRAHAM. I am just coming to that. They are to be given use during each winter season for a period of not to exceed 5 months, which I believe is substantially the maximum use being made now, with the exception of one, or perhaps two, of the six operators who may have a 5½-month use in there. Some of the others, the lowest is 3½, and several of them are 4 or 4½, so in general it is the intention that they will be given substantially the same use as they have had in the past.

Senator McCARRAN. And the same season?

Mr. GRAHAM. Yes; and the same numbers.

Senator McCARRAN. The period is 5 years.

Mr. GRAHAM. The permit is 5 years.

Senator McCARRAN. Yes, sir.

Mr. GRAHAM. Not a license; a permit for 5 years.

Senator McCARRAN. Right there, do you mind this interruption?

Mr. GRAHAM. Not at all. Go ahead.

Senator McCARRAN. One reason is that along about 10 minutes of 12 I must leave to go on the floor, and I would like to get as much of the view of it as I can before I leave.

Why did you depart from the 10-year permit that is customary when the permits are issued by the Grazing Service?

Mr. GRAHAM. If you will permit me, I think that I can answer that by going right on from where I was.

The first permit is to be for a period of 5 years. It is in the form and that is attached to the agreement as an exhibit, which is the same form as is now issued by the Grazing Service, with such formal adaptation as is necessary merely because a different officer will sign it. I think it will be the superintendent of the reservation, rather than the regional grazier of the Grazing Service.

That 5-year permit is to be renewable for an additional period of 5 years, on the same terms.

In substance, it amounts to a 10-year permit; and I believe that there are two reasons why there are two 5-year periods instead of one 10-year period.

I think the first reason is more or less historical and accidental. I believe that at some stage of the negotiations between the operators, the white operators, the Indians, and the representatives of the two agencies, a proposal for two 5-year periods was made.

The second reason may be that different maximum reductions are provided during those two 5-year periods.

Senator McCARRAN. Reduction of herds?

Mr. GRAHAM. Reduction of herds.

Senator McCARRAN. By the white users?

Mr. GRAHAM. Yes, sir. The maximum reduction that can be made in the permit, during the first 5-year period, is 10 percent. The maximum that can be made during the second period is 15 percent, but in either case that reduction is to be made only if there is an actual need for the use of land by Indian-owned livestock.

Senator McCARRAN. What are the fees charged, if any?

Mr. GRAHAM. The fees to be charged there are to be the same as those now charged elsewhere in Utah District 8. In other words, these are to run right along with the Federal range fees, whatever those might be; the Indian Office is to furnish the Grazing Service

copies of the permits that are issued to the six white operators, and the Grazing Service will attend to the collection of the fees, the processing of their distribution, and so on, in the usual manner, just as is done in the case of any other fees collected under the Taylor Act, which means that a possible 75 percent of those fees will be available, when appropriated, for expenditure back on the land from which they were collected.

Senator McCARRAN. Now, the improvement of the range is to be conducted by the Indian Service, or the Grazing Service? Those fees are supposed to be plowed back into the range.

Mr. GRAHAM. That is the part that I was just referring to, the possible 75 percent. The 50 percent of the fees collected will go back to the States, or will go back to the State of Utah for the benefit of the county in which it was taken. Apparently that is all in Uintah County.

In the matter of the improvement of the range which is not being used, and which will not be used by the white operators, I assume that is to be a matter for handling by the Office of Indian Affairs.

Senator McCARRAN. Now, is all inside of the black line affected by this tentative agreement—all that is bounded there?

Mr. GRAHAM. I would like to ask Mr. Leech to answer that question. I am afraid that I am a little confused on these lines myself.

Mr. LEECH. Senator, the agreement that Mr. Graham has spoken of will be an adjustment of both the black and green lines. But, just to point it out very easily on this map, we can take this green line, and that will be the agreement, except we mark this line out and lift it up, the way I am indicating now [indicating on map], which would be the south line of sections 1, 2, 3, 4, 5, 6, and the south line of sections 1, 2, 3, and 4, in township 10 south; the range is range 21 and 20 east; if you will just rub that green line out and lift it up to the upper part there.

Senator McCARRAN. That would throw everything south of that east-west line, that you put on with a pencil, out into the public domain again.

Mr. LEECH. Yes, sir; and we would bring the line south, you see, right along to this green line.

Senator McCARRAN. From there it would follow the green line south.

Mr. LEECH. That is right, sir.

Senator McCARRAN. When you got down to where your pencil is now, you still follow the green line.

Mr. LEECH. We are still following the green line, Senator, coming right on around.

Senator McCARRAN. That between the green line and the black line, up there where you indicated, would be thrown out into the public domain?

Mr. LEECH. Yes, sir; it would be a part of the grazing district, the Federal range eastward; yes, sir.

Senator McCARRAN. Then I take it that there has been some slight reduction of the area. My guess would be that at least.

Mr. LEECH. I believe it runs around 40,000 acres, or 40 sections.

Senator McCARRAN. Thrown out into the public domain?

Mr. LEECH. It stays back in the Federal range; yes, sir.

Senator McCARRAN. Well, now, as to all within the boundaries, using the green line as the east boundary and the Green River as the west

boundary, all within those boundaries is the territory affected by this proposed agreement?

Mr. LEECH. That is the area that is covered by this agreement, the Green River on the west, and this green line on the east, with that adjustment of 40 sections that I indicated; and that would be the unit in which the Indian Office would administer, and the 10-year permits to the 6 men that Mr. Graham named, for the grazing of livestock.

Senator McCARRAN. What is there to insure the six white users of their ordinarily used territory, to which they testified at the other hearing? What is there in the agreement that the Indian Service must carry out to insure their continued use of certain lands within the bounded areas, to which they have been accustomed to use?

Mr. LEECH. You are referring to the particular areas rather than as to numbers and seasons. I take it.

Senator McCARRAN. We have the seasons. You said the season was a certain season, the winter seasons, of about 5 months; the individuals you have named.

Now, at the Vernal hearings, if I recall correctly, they testified as to the particular area in which they had been accustomed to range their livestock. Now, what is there now to insure those white users of a continuation for the period of the permit of the lands which they have been accustomed to using?

Mr. LEECH. The agreement, Senator, is specific only to this extent: It assures them of use of Federal range, as distinguished from Indian-owned land or allotments, and by Federal range we mean the public domain, at the same fee, of course, and in the winter range. Now, the extent to which they may regard that as a complete protection to use the identical land that they have been using, I am sorry that I cannot say that but they are assured of winter range, and not somewhere else in the area.

Senator McCARRAN. Well, of course what I am interested in—and I am interested to the extent of having it clear—supposing, using a particular fictitious name, supposing Bill Jones had been running sheep in that area for the last 15 or 20 years, and he had been accustomed to ranging over a certain part of that area; that is where he has his camp outfits set up, and his natural facilities, and he naturally would like to go back there at stated seasons to range his sheep.

Now, is there anything in this agreement that would insure that the Indian Service would carry out the same policy, and allow Bill Jones to go back into the same territory?

Mr. CHAPMAN. Perhaps Mr. Wright could answer that for you.

Mr. WRIGHT. As I understand it, the users within that particular area have, up to the last year, used the area in common; and the agreement provides for these two 5-year permits by the Indian Service for that same area. But there may be adjustments made with the Indian users in common also in that winter area; and, in addition to that, if the Indians absorb all of that area, in the 10-year period, and the tribe's permit is renewed for it, then the Grazing Service agrees to find grazing privileges in district 8 for these gentlemen.

That is, in comparison with other permittees.

Senator McCARRAN. Very well, Mr. Graham.

Mr. GRAHAM. I think that with Mr. Wright's last reference to this provision about finding a place for the white operators, that just about concludes the scope of the agreement.

Senator McCARRAN. I am not quite clear on that expression, "finding a place for the white operators," if they have a place. In other words, when the Grazing Service was set up it was one of the great problems that the Grazing Service had to solve, trying to establish what were the rights on the open public domain, which rights were based on usage, running over a period of years, for certain classes of sheep, and then the seasonal usage, that became a question.

Now, those things have to a large extent, by and large, been worked out. In some instances they have worked an injustice; and in some instances they have been fairly well worked out. But now we are dealing with a new area in here—that is, a comparatively new area; it is going under a new jurisdiction, and the testimony shows that six white users have for many years used that particular area for livestock.

Now, my recollection is that each one testified to about the area in which they ranged.

Now, I am wondering if any consideration is being given to those users to say, "Well, you will be assured of having the use for 5 years, under permit, of the range that you have been accustomed to use; and the season is such and such."

Do you understand what I am driving at, Mr. Graham?

Mr. GRAHAM. Yes.

Senator McCARRAN. Is there anything to carry out that policy?

Mr. GRAHAM. There is nothing that will constitute an absolute guaranty that a permittee can run in any precise designated area; that is correct. However, I think, in fairness, it should be pointed out that neither under Grazing Service administration, or at least that has been the Interior Department's position, that no permittee has a right to graze in any particular area of land; at least until he receives his permit, of course.

Senator McCARRAN. Now, you are going into the category of a permit, you see. Now, that might have been true, and I am not altogether certain that you are entirely correct on that. It seems to me, and I will stand corrected if I am in error on this, but it seems to me that the Grazing Service sought first to establish what was the territory, and the boundaries of it, that an individual user was accustomed to use, and the number of livestock that he was accustomed to range in that particular area.

There was a clash then between Smith and Jones as to whether or not Smith used more of it, and what line Jones recognized, and so on. But, by and large, they straightened that out, so that Jones would have the right to use the land he had been accustomed to use.

That is my understanding of what was worked out. I may be mistaken. Somebody can correct me if it is not true.

If Mr. Moroni Smith used a certain number of sections or townships up there, during a period of time, is there anything in the agreement that would say to Moroni Smith, "You would have the

privilege of using this, under permit, for 5 years; the territory that you have been accustomed to use."

Mr. GRAHAM. Not that specifically; no.

Senator McCARRAN. I just wanted to get that clear.

The only assurance would be that the territory would be in district 8, and would be under the jurisdiction of district 8.

Mr. GRAHAM. It is a little more specific than that. It refers to winter range.

Now, it is my understanding that the area that we are talking about, that in the north part of the area that we are talking about, that is winter range, whereas the summer range lies below that.

Under the agreement, these six people could not consistently be given privileges a long distance away from where they have been accustomed to operate. They would still be in that winter range, because the agreement says so. It does not say that they shall run on this or that particular described land.

Senator MURDOCK. May I ask this? Is the boundary well established between what is known as winter range and summer range?

Mr. GRAHAM. I do not know that it is marked anywhere except by physical characteristics.

Senator MURDOCK. That is what I mean. Is it well enough apart by physical characteristics? I would like to have anyone answer that.

Mr. LEECH. I would say, Mr. Chairman, that the winter range has been designated by the range examiners of the Grazing Service, and also the spring and fall and the summer.

Now, of course, there is some use made of the spring and fall, to far into the summer, but that is something that they just have to handle on the ground.

But the winter range is pretty well defined by the use that is made, and the range examiners have marked that out.

Senator McCARRAN. Have these six white settlers, whose names have been given by Mr. Graham, have they used any part of that territory for summer range in the past?

Mr. LEECH. Not these six people; not to my knowledge, Senator.

Mr. Wright may correct me.

Mr. WRIGHT. Not to my knowledge, either.

Senator McCARRAN. It has been used as a winter range?

Mr. WRIGHT. Yes.

Senator McCARRAN. All right; you may proceed.

Mr. GRAHAM. To amplify what Mr. Wright said a few minutes ago about the situation at the end of this 10-year period; that is, the period represented by the two 5-year permits to the six white operators; the agreement provides that they will be issued a 10-year permit at the expiration of the second 5-year period.

Senator McCARRAN. Is that optional or directive?

Mr. GRAHAM. It is directive, under the agreement, subject only to the possibility that actual Indian needs, for Indian-owned livestock, may reduce that possibility. In that event the Grazing Service is obligated under the agreement to satisfy the qualified demands of

these six operators on other Federal range; that is, outside the area which is the subject matter of the agreement.

Senator MURDOCK. Is that the way your agreement reads, the Grazing Service is bound to satisfy them?

Mr. GRAHAM. Yes, sir. May I read just a small portion of this?

Upon the expiration of the second—

this is paragraph 2 of the agreement—

Upon the expiration of the second 5-year period, said permittees or their successors in interest will, upon compliance with the rules and—

those are the six that I named some time ago—

will, upon compliance with the rules and regulations of the Secretary of the Interior, be issued 10-year permits to graze in the area outlined on exhibit B—

that is this map—

and described in exhibit C—

which is a list of the lands—

insofar as the actual needs for Indian use may, in the judgment of the Secretary of the Interior, then permit. To the extent that satisfaction of the qualified demands of said permittees or their successors in interest may not at that time be possible in said area, by reason of actual needs for Indian use, as determined by the Secretary of the Interior, the Grazing Service will undertake the satisfaction of such demands on other Federal range.

Senator McCARRAN. That is going to give somebody a headache, and I think it is going to be Dick Rutledge, to find some other range when it is already allotted and permittees on it.

Senator MURDOCK. I take it, Mr. Graham, that the whole agreement was entered into with the distinct understanding that Indian use of the entire area is only a remote possibility, even after the 10-year period?

Mr. GRAHAM. Senator Murdock, I do not believe that you could get the two agencies to agree on how remote that possibility is.

Senator MURDOCK. It is referred to there as only a possibility.

Mr. GRAHAM. That is right.

Senator MURDOCK. Maybe I should not have used the word "remote," but it has been considered and referred to as only a possibility.

Mr. GRAHAM. It is regarded as a possibility, at the end of the 10-year period, or during that period. How remote it is I am sorry that I cannot say.

Senator McCARRAN. Anything further, Mr. Graham?

Mr. GRAHAM. No. I think that that gives a sufficient sketch at this point, of the scope of the agreement. I will suggest that a copy of it with the map be placed in the committee's record.

Senator McCARRAN. That will be done.

(The agreement is as follows:)

COOPERATIVE AGREEMENT FOR THE ADMINISTRATION OF UTAH GRAZING DISTRICT
No. 3 (DUCESNE)

This agreement, by and between the Grazing Service and the Office of Indian Affairs, both of the Department of the Interior, Witnesseth:

WHEREAS Utah Grazing District No. 8 (Duchesne) was established by an order of the Secretary of the Interior dated June 22, 1935, and modified by orders dated July 20, 1935, and April 13, 1938, under the authority of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269), as amended; and

WHEREAS there are now included within the exterior boundaries of said district not only Federal range but private lands, State lands, and Indian lands, both tribal and allotted, by virtue of the ownership of the latter of which the Ute Indian Tribe of the Uintah and Ouray Reservation and individual Indians of said Tribe are entitled to certain grazing privileges under the Taylor Grazing Act and the rules and regulations promulgated thereunder by the Secretary of the Interior, which privileges have not been formally adjudicated; and

WHEREAS by an agreement between the Division of Grazing Control and the Office of Indian Affairs, approved by the Secretary of the Interior July 20, 1935, administration of the area of the former Uncompahgre reservation withdrawn from entry by an order of the Secretary of the Interior dated September 26, 1933, lying within the boundaries of Utah Grazing District No. 8, was temporarily placed under the Division of Grazing Control; and

WHEREAS the complex land pattern in said district has been productive of problems in the adjudication and management of the Federal range lying therein; and

WHEREAS it appears that such problems can best be solved through the medium of administration of a portion of said district by the agency in charge of the affairs of said Tribe of Ute Indians;

NOW, THEREFORE, the Grazing Service and the Office of Indian Affairs hereby agree as follows:

1. The Grazing Service will issue to the Ute Indian Tribe of the Uintah and Ouray Reservation a 10-year permit, without charge, in the form hereto attached and marked "Exhibit A," for the use of the Federal range lying within the boundaries of that part of Utah Grazing District No. 8 outlined on the attached map, marked "Exhibit B," and described in the attached list, marked "Exhibit C," and the Office of Indian Affairs will assume administrative jurisdiction and management thereof. This permit shall be renewable upon expiration.

2. The Office of Indian Affairs will issue permits, in the form of the sample hereto attached and marked "Exhibit B," to Steve Chuturas, H. A. Tyzack, David Smith Estate, Albert Smith Investment Company, Blanche, Moroni, and Emory Smith, and D. R. Seeley, or to their successors in interest, to graze upon Federal range in the area outlined on Exhibit B and described in Exhibit C, such permits in each instance to be (a) for use of the winter range in said area, (b) for the number of livestock for which the applicant therefor received a license from the Grazing Service for use during the winter season of 1942-1943, and (c) for the maximum period during each winter season, not exceeding five months, for which the range may be used consistently with good range conservation practice. Said permits each will be for a period of five years, with a right of renewal, upon compliance with the rules and regulations of the Secretary of the Interior, for one additional period of five years. Said permit each will be subject to a reduction of not to exceed 10 percent during the first 5-year period and a reduction of not to exceed 15 percent during the second 5-year period, provided that such reductions shall be made only if, in the judgment of the Commissioner of Indian Affairs, they are necessary for the purpose of distribution of use by Indian-owned livestock of Federal range in the area outlined on Exhibit B and described in Exhibit C. Upon the expiration of the second 5-year period, said permittees or their successors in interest will, upon compliance with the rules and regulations of the Secretary of the Interior, be issued 10 year permits to graze in the area outlined on Exhibit B and described in Exhibit C, insofar as the actual needs for Indian use may, in the judgment of the Secretary of the Interior, then permit. To the extent that satisfaction of the qualified demands of said permittees or their successors in interest may not at the time be possible in said area, by reason of actual needs for Indian use, as determined by the Secretary of the Interior, the Grazing Service will undertake the satisfaction of such demands on other Federal range.

3. The fees charged for the permits issued under paragraph 2 hereof will be in accordance with the prevailing fees charged in Utah Grazing District No. 8, as now provided for in section 8 (b) of the Federal Range Code, approved September 23, 1942 (7 F. R. 7685), or as changed with the approval of the Secretary of the Interior. The Office of Indian Affairs will furnish copies of the

permits issued under paragraph 2 hereof to the Grazing Service, which will collect the fees and process the distribution thereof under section 10 of the Taylor Grazing Act.

4. Nothing in this agreement shall be construed as creating any vested right, title, interest, or estate in or to any of the Federal range in the area outlined on Exhibit B and described in Exhibit C, the intention of this agreement being merely to provide for a medium of administration of grazing privileges in said area.

5. The remainder of Utah Grazing District No. 8 (Duchesne) will continue to be under the administrative jurisdiction and management of the Grazing Service.

6. This agreement supersedes the agreement between the Division of Grazing Control and the Office of Indian Affairs, approved by the Secretary of the Interior July 20, 1935, to which reference is made in the preamble of this agreement, insofar as the former agreement and any renewals thereof provided for the grazing administration of the area outlined on Exhibit B and described in Exhibit C, attached to this agreement.

(Sgd.) R. H. RUTLEDGE,
Director, Grazing Service.

(Sgd.) WILLIAM ZIMMERMAN, J.,
Assistant Commissioner, Office of Indian Affairs.

Approved June 14, 1943.

(Sgd.) H. L. ICKES,
Secretary of the Interior.

EXHIBIT A

UNITED STATES DEPARTMENT OF THE INTERIOR

GRAZING SERVICE

State: Utah
Utah (Duchesne) Grazing District No. 8

10-YEAR GRAZING PERMIT

(Under the act of June 28, 1934 (48 Stat. 1269), and amendments)

The term of this permit is from July 1, 1943, to June 30, 1953.
Ute Indian Tribe of the Uintah and Ouray Reservation.
(Permittee)

Date: July 1, 1943.

Fort Duchesne, Utah.
(Address)

In accordance with paragraph 1 of the agreement between the Grazing Service and the Office of Indian Affairs, approved by the Secretary of the Interior June 14, 1943, you are hereby authorized to graze livestock upon the Federal range within the boundaries of the area outlined on the attached map and described in the attached list, such use to be in accordance with good range management and conservation practices as directed by the Commissioner of Indian Affairs, to whom administrative jurisdiction and management of the area have been delegated.

This permit is subject to the issuance of permits by the Office of Indian Affairs to Steve Chuturas, H. A. Tyzack, David Smith Estate, Albert Smith Investment Company, Blanche, Moroni, and Emory Smith, and D. R. Seeley, or to their successors in interest, to graze upon Federal range in the said area, in the amounts and upon the conditions set forth in paragraph 2 of the said agreement, such permits to be subject to termination upon the enactment of H. R. 837 (78th Congress), or similar legislation, providing for the restoration of undisposed-of surplus, opened lands of the Uintah and Ouray Reservation and for the establishment of an Indian grazing reserve within the present boundaries of Utah Grazing District No. 8.

This permit shall be renewable upon expiration, provided that it or any renewal thereof shall be subject to termination upon the enactment of legislation of the nature described above.

Director of Grazing.

EXHIBIT D

UNITED STATES DEPARTMENT OF THE INTERIOR

OFFICE OF INDIAN AFFAIRS

Contract No. _____

State: Utah
Utah (Duchesne) Grazing District No. 8

5-YEAR GRAZING PERMIT

(Under the act of June 28, 1934 (48 Stat. 1269), and amendments)

The term of this permit is from July 1, 1943, to June 30, 1948.

Steve Chuturas.
(Permittee)

Date: July 1, 1943.

Meeker, Colorado.
(Address)

Pursuant to the agreement between the Grazing Service and the Office of Indian Affairs, approved by the Secretary of the Interior June 14, 1943, you are hereby authorized to graze on the Federal range in the special Indian unit in Utah (Duchesne) Grazing District No. 8, the number and class of livestock (Allotment or Unit)

indicated herein for the periods and within the area described below, which is the equivalent of 1,350 animal-unit months of feed each year. All livestock six months of age or over will be counted as a part of the total number of livestock allowed under this permit, and fees will be charged accordingly.

1,350 sheep, 100% on Federal Range, from November 16 to April 15 of each year, on lands shown on attached map.

This permit will cease to be effective as to any of the lands described herein immediately upon the elimination of said lands from the grazing district or upon the enactment of H. R. 837 (78th Congress), or similar legislation, providing for the restoration of undisposed-of, surplus, opened lands of the Uintah and Ouray Reservation and for the establishment of an Indian grazing service within the present boundaries of Utah Grazing District No. 8. Furthermore, this permit is subject to termination in whole or in part by the superintendent at any time because of:

- (a) Noncompliance of the permittee with rules and regulations now or hereafter approved by the Secretary of the Interior;
- (b) Loss of control by the permittee of all or a part of the property upon which it is based;
- (c) Failure of the permittee to demonstrate that the actual commensurate rating of the base property upon which it is based is equal to the estimated rating of such property at the time of the issuance of this permit.

This permit is subject to temporary adjustment if the necessity raises to protect or conserve the public lands affected.

THIS PERMIT IS SUBJECT TO THE CONDITIONS PRINTED ON THE BACK HEREOF

Accepted _____,
Permittee._____
Superintendent, Uintah and Ouray Reservation.

CONDITIONS

1. If the permittee desires any use of the Federal range different, either as to time or numbers, from that provided for in this permit, he must notify the superintendent in writing of the change desired at least 30 days before the beginning of each grazing period described in the permit. Failure on the part of the permittee so to notify the superintendent will result in the permittee's being liable for the full grazing fee even though he makes no use or only partial use of the range, provided the range is available and usable.

2. Each year during the term of this permit and before the beginning of each grazing period provided for in the permit, the permittee will be furnished a notice of the fees, fixed or determined by the Secretary of the Interior, chargeable

for that period. Fee payments must be made to the regional grazier in the manner and within the time specified in the notice.

3. This permit shall be void during any period of delinquency in the payment of fees.

4. This permit is subject to the Taylor Grazing Act and the rules and regulations promulgated thereunder by the Secretary of the Interior.

Senator McCARRAN. Have you anything to say, Mr. Leech?

Mr. LEECH. No, sir, Senator; I have not.

Senator MURDOCK. Before Mr. Graham finishes, may I ask this question:

Were the needs of the Indians for grazing land, Mr. Graham, at all considered from the formula established by the Grazing Service, and which is applicable to white grazers?

Mr. GRAHAM. Only to this extent, Senator Murdock; it will be recalled that in the Vernal hearings rather comprehensive tabulations were put in the record by different range examiners, on what the demands of these Indian-acquired properties would be, if they were adjudicated under a number of different assumptions.

Senator MURDOCK. That is the very thing that prompted my question.

Mr. GRAHAM. The best that I can say in response to your question is that there never has been an agreement between the two agencies on what the real demand of those properties should be. In other words, the controversy which was apparent at Vernal I do not think ever has been settled. For that reason the agreement does not take into consideration or, rather, the agreement does not expressly refer to any particular demand or adjudication. In fact, the agreement expressly recites at the outset that these rights have not been formally adjudicated, and that is one of the factors entering into the entire compromise arrangement.

Senator McCARRAN. Does anyone else care to be heard, Mr. Secretary?

Mr. CHAPMAN. I would like for Mr. Rutledge to make a statement regarding this general picture, if he would, at this time.

Mr. RUTLEDGE. Very well, sir.

Senator McCARRAN. Would you explain to the committee exactly what you understand by this proposed agreement, and how it meets with your judgment in the premises?

Mr. RUTLEDGE. Mr. Chairman, I have approved this agreement.

Senator McCARRAN. Vehemently?

Mr. RUTLEDGE. Well, I have approved it, and I should like to say that nobody ever held any club over my head about any order or anything else.

Senator MURDOCK. May I ask you this: Did you have knowledge, when you approved the agreement, that such tentative orders were in existence?

Mr. RUTLEDGE. I knew that they were somewhere around.

Senator MURDOCK. And you knew that they had been for a number of months, did you not?

Mr. RUTLEDGE. Yes, sir.

Senator MURDOCK. And you knew, did you not, that the Indian Office had been urging the Secretary of the Interior to make effective those orders?

Mr. RUTLEDGE. Well, I am not sure that I know how active they were, in urging the Secretary. I knew that the orders were in existence.

Senator MURDOCK. I do not want you to make it a matter of degree, as to how vehemently or vigorously they were urging it. You did know, did you not, when you approved this agreement, that they were very anxious to have these orders made?

Mr. RUTLEDGE. Well, I do not know that I can say that I was. So far as I am concerned, there was nobody holding any club over me; that is what I would like to make clear.

Senator MURDOCK. I am sure that nobody could hold a club over you and that you pay little attention to it; and I know that the orders have been held as a club over my head, and every time that the matter comes up it is called to my attention very vigorously that "if you do not do something right away that these orders are going to be made effective."

Now, of course, they may be more particular as to the use of such clubs over people in the Department than they are Members of Congress, but they have not let me forget for 1 minute that those orders were down there, all ready to be issued, on a moment's notice, unless something was done up here in Congress; and I was just wondering, and the reason that I asked this question was to find out whether they were called to your attention at the time that you approved this agreement.

Mr. RUTLEDGE. No; they were not mentioned to me.

I might say this, that those orders were floating around somewhere, and I think that it was in January that I was in here and I had a little talk with Mr. Chapman as to the status of those orders, and from that time on it just dropped out of my mind, and I was not worried by any orders.

Now, if I might continue on this whole thing—

Senator McCARRAN. Now, Mr. Rutledge, do you recall our hearings at Glenwood Springs; you will recall how this committee first came into the picture was that a group of white users came down there to Glenwood Springs, Colo., to give us their version of the subject. At that time I held a rather hurried hearing, so that they might get their expressions on the record, and then promised them that hearings would be held at Vernal. You were there.

Mr. RUTLEDGE. Mr. Chairman, I was not notified of that evening meeting in Glenwood Springs, and I did not attend it.

Senator McCARRAN. That is correct; because it was rather a hurried-up meeting; just simply because I did not think that the white settlers should come all of that distance, although they were late in getting there I thought it best to hear them so that we would see what the problem was. But you have had this matter before you for a long time. It has been a matter of some very serious contention, and I always had the idea that you had in your own mind a plan that would work out and would be satisfactory; but I never heard you express it.

I am wondering if this plan does meet with your entire approbation?

You have no club over your head now.

Mr. RUTLEDGE. It is very difficult to bring that right out that way. I think if I had a free hand I might be able to devise a plan; but with

the Indians and whites in there, I do not know that I could devise a plan that would satisfy both sides.

Probably if I had it all in my own hands I would say that we just set up a district there, and we would treat the whites and the Indians just the same; although I know that there are difficulties in that.

We have one of those down in New Mexico, a district where we are trying to handle whites and Indians under the Grazing Service; and I am beginning to think that I do not know just exactly how to handle Indian users. And when this question of the Indian Service taking jurisdiction of that area comes up, personally, I would just as soon they would handle it. It is easier for me, because I will admit that there are questions that come in on Indian users and the management of Indians that I am not skilled in at all.

Now that is for that part.

Now, we have been discussing this thing for years, and we have reached deadlocks, here and there, in all directions; and I felt in this approach that we should agree, so that we can get this thing settled and get the livestock men to know where they stood, and the Indians to know where they stood, and get busy on something else.

Now, this is not probably an ideal thing, I am satisfied that both the Indians and the Indian Service, and the whites, can find objections to this agreement. But to me this agreement is an attempt to compromise or arbitrate an almost impossible situation, and for that reason I was willing to let the Indian Service take the jurisdiction of it and administration of it, and I thought that we had pretty good provisions here for the white stockmen.

Senator McCARRAN. That is going to put them under probably three jurisdictions; that is, if they use the forest, that will be one; and if they use the open public domain, that will be your service; and then, if they go into this, they will be under a third jurisdiction.

Mr. RUTLEDGE. That is right.

Senator McCARRAN. Which, of course, is not a happy situation, if we could get away from it.

Proceed, Mr. Rutledge.

Mr. RUTLEDGE. I want to give my impression of the position that this leaves these white stockmen in, or places them in. They have the 5-year permit and then a guaranty of another 5-year permit and then a guaranty of a second 10-year permit.

In other words, there is a lay-out here which covers them for 20 years.

In the first 5 years they are guaranteed against any reduction exceeding 10 percent.

Now, that is not a statement that they will be cut 10 percent, but it guarantees them against a cut of more than 10 percent. The two things are quite different.

Senator McCARRAN. They would only be cut 10 percent in the event that the increase of livestock by the Indian was such as to require that. I take it that that is the intent.

Mr. RUTLEDGE. That is right. It is specified in here, and I do not know too much about Indians and the way they increase their livestock, but if I was a white man I would bet that there would be no demand from the Indians with actual livestock there in 5 years.

Then the next 5 years they are guaranteed again against the cut of more than 15 percent, and the thing is still an even bet. These

stockmen gamble all the time on everything else, and I have to gamble with them.

Now, on the last part, the succeeding 10 years, there is nothing said there about a limit of reduction, but it is a commitment. I think, to give them fair consideration; and if the Indians at that time do not have the livestock in a bona fide way, we are not trying to say that they have got to have them on a certain date, and this, that, and the other thing. We cannot get into that refinement. I think that they will go right on the second 10-year period with a pretty good set-up.

Now, I do not know what we can see in the future, Mr. Chairman, on this. I do not know what Congress might do about it, or what might happen in 10 years, or 20 years; and I believe that we have a proposal here that will work, and with a fair degree of equity between the two sides.

Now, maybe I had better say that this is a kind of a horse-trading proposition with me. It is a way out, to do the best we could on it.

Senator McCARRAN. I would not like a situation to arise such as was presented to us in Wyoming, in the Padlock ranch incident. That is where the whites had been invited, and urged, to come into the territory and settle; and after having done so, and after having set up their homes, and established themselves—and it is only a stock-raiser's territory, and nothing more—they were told that they could have no more rights on the open public domain, which simply meant that their deeded holdings had to go on the market, as it was at that time: which, to my mind, is one of the most damnable outrages that any bureau every worked on the white group, or any other group.

I think that it is a crime that will go down with the Indian Service until the Indian Service has been forgotten. I think it is something that never can be forgiven, by any man who has any sense of justice in his make-up.

Now, I would hate to be a member of a committee that would look with favor upon a repetition of that condition. That is the only thing that I have in mind, and I want to say very frankly here that if it is a question of saying to these white settlers, at the end of 5 years, "We have not the stock now, but the tribal funds, or the Federal Government funds, justifies us in saying that we are going to have the stock in a year, and therefore you are going to be reduced 10 percent or 15 percent," that just does not ring up with the spirit of the making of this agreement. If we are going to enter into this agreement, let it be an open agreement, openly arrived at. That is my individual view, and not the view of my committee. They are not bound by it.

Mr. RUTLEDGE. I agree with this, Mr. Chairman, that in the making of an agreement of this kind, and its application, I assume that it is going to be handled honestly and fairly.

I have got to assume that.

Senator McCARRAN. I have not said this before, and it is probably my fault for the omission, that anyone here at the table who is interested in this subject has a right to inquire and query those who discussed the subject.

Going back now to Mr. Graham, if we may.

If you, Mr. Smith, or your representatives here, or anyone here, desires to query Mr. Graham, be at liberty to do so now.

Mr. GRAHAM. May I make just one more brief statement?

A consequence of this agreement which has not yet been mentioned, and the Grazing Service can correct me if I am wrong, it is my understanding that whereas under the existing arrangement—that is, up until today—between the Indian Office and the Grazing Service, for the administration of Utah district No. 8, only temporary licenses can be issued in the area.

Under the agreement, which has been approved by the Secretary, the remainder of Utah 8, outside of this area that we have been discussing this morning, will, of course, be administered by the Grazing Service, and I assume that the consequence of that will be that that land will now be the subject of 10-year permits. Is that correct, Mr. Leech?

Mr. LEECH. That is correct.

Mr. RUTLEDGE. That is possibly a pretty strong consideration in my approach to this agreement, that we get this irritation focused on this area and the rest of it we go ahead and do business on.

We can settle the question on another million and a half acres.

Mr. NEBEKER. Mr. Graham, were any of the white users consulted about this agreement at all?

Mr. GRAHAM. It is my understanding, Mr. Nebeker, that they were consulted from time to time by representatives of both the Grazing Service and the Indian Office in Utah. They were not physically present in Washington during the last week; no.

Mr. NEBEKER. Well, any information that you have on that subject is something that you obtained from someone else. You do not know as a fact that they ever have been consulted about it?

Mr. GRAHAM. I know it on awfully strong hearsay.

Mr. NEBEKER. I am inquiring for my own information.

Did any of them assent to this arrangement?

Senator MCCARRAN. Is there anyone present at the table who has the facts? He may answer that question.

Mr. WRIGHT. May I reply, Mr. Nebeker, that in our office in Fort Duchesne, after the Vernal hearings were concluded—about 3 weeks afterward—Mr. Smith—in fact, all of the six non-Indian users—met with us there and discussed this entire situation again and were offered a proposal somewhat similar to this, but not as favorable to them, in my judgment; and they did not accept it.

They wrote a statement of their own and submitted it to Mr. Rutledge and to me, stating why they did not accept it, and that was transmitted to the Bureau here in Washington before these later negotiations.

Mr. NEBEKER. I would like to ask Mr. Graham a legal question:

This agreement is entered into between the Grazing Service, on the one side, and the Indian Service, on the other. You are the two parties to the agreement, are you not?

Mr. GRAHAM. Those are the two parties: yes, sir.

Mr. NEBEKER. Well, now, supposing that in 2 years from now, the two of you feel, or these two divisions feel, that that agreement should be modified; is there anything to prevent that being modified at that time?

Mr. GRAHAM. I think, Mr. Nebeker, that only Congress could prevent that, to answer your legal question.

In other words, if any two parties enter into a contractual arrangement, I suppose it is within the scope of their powers to modify it themselves.

But we are assuming, I hope, that the agreement which has now been entered into, and which is the result of extended negotiations, will be carried out by both parties.

Mr. NEBEKER. As a matter of fact, this arrangement, that has been agreed to now, is simply a Damocles sword to hold over the head of these white men. It simply says this:

That is what we are giving you out of this agreement and be satisfied with it, because if you do not we will cancel the whole thing. Now, is that not about where they are in this arrangement?

Senator MURDOCK. May I suggest Mr. Nebeker, that that sword is not only over the heads of the white men interested, but Mr. Graham stated the only agency and the only instrument that could stop a modification of the instrument is Congress.

Now, it might be very appropriate, just at this point to say this: That unless Congress did the bidding of the Department, that that same sword is up here constantly, with the threat that, if you do not do this, the whole thing will be set aside, according to the orders that we are now holding down here in abeyance.

Mr. NEBEKER. That is precisely what I had in mind, Senator.

Mr. GRAHAM. May I make one correction, Senator Murdock? My understanding is that the one order is not to be held in abeyance. It is regarded as if it never existed.

Senator MURDOCK. But the Secretary of the Interior could very readily sign his name to another one, and I know of no power in this Government today that can stop him. If you know of one, I wish that you would point it out.

Mr. GRAHAM. No, sir; that is correct, but I wanted the record also to be correct that the one order may be regarded as abrogated.

Senator MURDOCK. And I might say this, that, in the signing of those orders, I do not believe that the rights of the white men were given that much consideration. And also want to say this, that I have taken the position, right from the beginning of this controversy, that I wanted every Indian on that reservation, that needed grazing land to have it; and that he was entitled to it under exactly the same formula, as I saw the picture, as any white grazer. But evidently that is not a satisfactory solution.

Mr. NEBEKER. If I may make a statement now, I would like to say that we want it distinctly understood, so far as my clients are concerned, and that is Mr. Moroni Smith and his family and his brother, that we are not acquiescing in any part of this arrangement, and we are protesting against it at this time, and we want to have that made a matter of record.

In the first place, we have vested rights, that is, we have rights there now, and we do not propose to waive them. That matter is something that Mr. Graham and I would not agree upon. We had a somewhat similar dispute over it, in a case that went to the court of appeals of this district, and if it was not established in that case that a qualified permittee has a property right, which cannot be taken away from him without due process of law, then the case did not decide anything.

Senator McCARRAN. That was in the circuit court of appeals?

Mr. NEBEKER. The Court of Appeals for the District of Columbia, the Red Canyon Sheep Co. We had that precise issue. If I am not taking too much time, I would like to explain it.

Senator McCARRAN. Take all of the time you want.

Mr. NEBEKER. This involved grazing district No. 4, in New Mexico.

Senator McCARRAN. The committee can get the case; you do not need to dwell on that.

Mr. NEBEKER. I was going to state briefly the facts that were involved.

My clients, the plaintiffs in the case, were qualified permittees, and they had lands adjacent to these grazing lands. The district had been created without any strings at all, just as district No. 8 has been, and these people made application for permits, the plaintiffs did, and they were issued licenses, and there was no question at all but what they had all of the qualifications of a permittee under the laws of that district. But the Secretary of the Interior decided, or had in fact entered into a tentative agreement to exchange lands in that district with one Harvey, of El Paso, for land in the Lincoln National Forest, adjacent to the district, and that exchange involved the very land upon which my clients had pastured their sheep for many, many years, long before the district was created; and furthermore that exchange of land was authorized by an act of Congress, specifically authorized by an act of Congress.

I brought suit against the Secretary, to enjoin the carrying out of that agreement, and interfering with our rights in that district.

The district court held against me, and I took it to the court of appeals, and the court of appeals upheld the rights of those grazers.

Now, we are not mere interlopers on these lands, by a long shot. We have got legal rights there, and God knows we have moral rights. Any people that will go upon those God-forsaken lands, in that section of the country and build up an industry, as these men have done, are entitled to consideration.

Not only that, but at this critical time, I would rather have some men that are growing sheep and food there than to gratify the sentimental notions of somebody here in Washington about how those lands ought to be administered.

Mr. CHAPMAN. May I make one statement for Senator Murdock; one point that he raised? I want to say that I am recommending to the Secretary to appoint a committee of three, one of the Grazing Service, and one of the Indian Service, and a third outside person, to make a study and determine the rights of, both of the Indians and the white users in that area, based on the property rights.

Senator MURDOCK. But Mr. Assistant Secretary, should not such an examination, if it has not already been made, and if it has not been conclusively established by the evidence already before this committee, that if there is to be an examination of that kind made and conclusions reached, that certainly that should take place before we enter into an agreement?

Mr. CHAPMAN. That has not been done yet, Senator.

Senator MURDOCK. But we are confronted, as Mr. Nebeker said, with an agreement, that you must take this, or I am just afraid that those orders will loom up in the sky again.

I would like to ask Mr. Rutledge this question, which is prompted by the statement made by Mr. Nebeker:

Are we not confronted out there, Mr. Rutledge, with this situation: The Indians today are not using even the lands that they have available for grazing today to their full capacity?

Mr. RUTLEDGE. Well, are you referring to this particular area?

Senator MURDOCK. I am referring to the grazing lands that are now Indian lands, set aside exclusively for the Indians. They are not being grazed to their full capacity today, by the Indians; are they?

Mr. RUTLEDGE. I think that that is true as to this area, and if you spread it over—

Senator MURDOCK. It is true of this area up here, this Indian grazing land.

Mr. RUTLEDGE. Well, I have a little different impression, Senator, on that, but possibly Mr. Wright can tell you more clearly than I can.

Senator MURDOCK. Is that true, Mr. Wright, that the Indians are using all of this grazing land in yellow here on this map?

Mr. WRIGHT. I do not think that could be answered yes or no, but I would like to explain it if you wish.

Senator MURDOCK. They also have rights on the forests, as I recall the evidence at Vernal, for 1,200 head of cattle up there.

Mr. WRIGHT. They claim rights on there; yes.

Senator MURDOCK. That is not being fully used by the Indians.

Mr. WRIGHT. It is this year; yes, sir.

Senator MURDOCK. And then we come to this situation down here, involving this large part here, where it is admitted in the agreement that it is only a possibility, that within 20 years the Indians will not need it.

Now, if the Indians will not need it within the 20 years, it is certainly evident to me that they will not fully utilize the lands that are now needed to take care of the six white permittees in there. If they cannot use the lands that are set apart for them in this agreement to their full capacity, then livestock that could be grazed on those lands would either not be denied a right to graze there or the Indian Service will have to go out and lease that land to other people in the area to come in and fully utilize it. Is that not true?

Mr. WRIGHT. Is this not also true, though, Senator Murdock, that there has been uncertainty for many years, ever since the reservation was opened there, as to the grazing privileges and opportunities for the Indians in that area, and the Indians could never bank on certain grazing privileges or certain areas to which they were able to graze their stock?

Senator MURDOCK. I could not answer that. But the information that I have had ever since I have been a Member of Congress is that they are not fully utilizing the lands that are now set apart for them and which they own.

Then we come to the picture of the ceded lands, jurisdiction of which was taken since I became a Member of Congress, by the Indian Service, as opposed to the General Land Office. We find that instead of the Indian utilizing those lands for grazing, that they leased them to certain white settlers in the area.

That is true, is it not?

Mr. WRIGHT. With permits, yes.

Senator MURDOCK. Now, we are confronted with the fact that they want all of the ceded lands, and they want this vast territory here

set aside as another grazing area, with the probability that it will not be needed in the next 20 years.

Now, in this time when we should be fully utilizing every foot of grazing land that we have got in this country for the raising and fattening of livestock of some kind, either the Indians will have to import white settlers in there to graze that or the land will remain idle. Is that not true?

Mr. WRIGHT. I do not think that that is quite a true statement.

Senator MURDOCK. Well, what will happen?

Mr. WRIGHT. I think that the situation is about this; in this new area that you speak of, the summer range is not fully utilized at the present time by the Indians, because it has only been within the last 2 or 3 years that they felt like they had a right to use it. But a tremendous increase has taken place in the last year or two, from 600 head to 1,390 head of cattle; that is quite an increase, in about the last 3 years.

Now, there is room for perhaps 600 or 700 head more, on the summer range, in that new area; and one or two good calf crops will fill that capacity. I think that there is no question but that the Indians would fill that capacity within the next year or two, if they have assurance that it belongs to them for their use.

Senator MURDOCK. That is the summer range.

Mr. WRIGHT. Yes.

Now, with respect to the winter range, there is that uncertainty of use still existing there, and uncertainty of tenure, as far as the Indians are concerned. They will be very reluctant, in my judgment, to increase their stock to use that winter range, so long as there is provision for non-Indians. It is chiefly sheep range anyway, and the Indians are not inclined to the sheep business as much as they are to the cattle business. So I think that during a 20-year period they may not fill it to capacity, but they certainly would not have to import people in there to use it.

This agreement would provide for the users which have been accustomed to using it, under the same arrangements that they had used it under public domain.

Now, with respect to the Indian grazing reserve, which is shown in yellow on the map, it is true that for many years the Indians have not used it to full capacity, but it was almost impossible for them to do so because it is spring and fall range, and not spring, fall, and summer range—the complete unit—and so therefore they had to make exchanges and agreements with the national forests in order to get complete operating units.

Now, in making those exchanges, the Indians became confused many times; and they will run a herd of cattle on the national forest, and the forester will make a complaint against them for some violation, perhaps, and they will say, "Well, we will go out of business. They do not want us in the forest, any way."

Those conditions are responsible for their lack of full use on that area. In this particular year, it is used almost 100 percent by the Indians.

Senator McCARRAN. Mr. Wright, pardon me for the interruption, and all of those who are interested here.

A very hurried hearing here this morning indicates that there is quite an absence of a meeting of the minds on this perplexing prob-

lem. It did seem to us when we concluded at Vernal that we were approaching what looked to be a fairly happy solution. It is necessary for the chairman of this committee to go on the floor of the Senate almost immediately. I want to make the suggestion to all concerned here, especially to Mr. Chapman for his being here, that, in view of the fact that he has suggested, by a statement here to Senator Murdock, in answer to Senator Murdock, that a further study be made of this subject.

The chairman of this committee is now going to suggest that in view of the fact that we are trying to arrive at a solution here, that is apparent, that the whole matter remain now in abeyance for further study, during which time no executive orders of any kind will be made by the Secretary, and the matter will stand in status quo, with the study going on, and this committee will lend itself to aid in the study. If the Interior Department wishes to set up its own study group, that is its business. But it seems to me that we are not in any position to say that this is an agreement that would meet with anywhere near approbation. I will be glad to have an expression from the Assistant Secretary if that meets with his ideas, and with those of the Senator from Utah.

Mr. CHAPMAN. Senator, I will report this to the Secretary.

I would like to see this agreement put into effect, and operate under it rather than the present status that they are now operating in, and I think that it would be more equitable for them as a matter of fact. We will proceed and make such recommendations to the Secretary for a committee to make that study.

Senator McCARRAN. In the meantime no departmental or executive orders of any kind will be made.

Mr. CHAPMAN. Other than proceeding under this agreement?

Senator McCARRAN. I would prefer that we not proceed under this agreement until you had brought the matter back to this committee again, if we might have that consideration.

Mr. CHAPMAN. I will discuss that with the Secretary for you.

Mr. RUTLEDGE. Mr. Chairman, we pretty near have to proceed under the first part of this agreement and issue permits.

Mr. CHAPMAN. There are certain necessities there.

Mr. NEBEKER. Why not proceed under the Grazing Act?

Senator MURDOCK. That would be my opinion, Mr. Nebeker. If we could proceed to administer these lands under the Grazing Act, giving the Indians exactly the same rights that the white man has got, it is the solution and, in my opinion, the one solution for the problem.

Senator McCARRAN. Gentlemen, and those present, I think it best to recess at this time, and I think that we will meet again tomorrow morning. In the meantime everybody will give his best thought to see whether or not my suggestion has any merit.

The Chairman has received word from Senator Johnson of Colorado expressing regret for his inability to be present. The Senator desires the record to show that he is opposed to H. R. 837.

I think it would be well to meet at 10 o'clock tomorrow morning.

(Whereupon, at 12 o'clock m., the committee adjourned until 10 a. m., tomorrow, Wednesday, June 16, 1943.)

ADMINISTRATION AND USE OF PUBLIC LANDS

WEDNESDAY, JUNE 16, 1943

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS.

Washington, D. C.

The subcommittee met, pursuant to recess at 10 a. m., Senator Pat McCarran presiding.

Present: Senators McCarran (chairman), Abe Murdock.

Also present: E. S. Haskell, investigator.

The CHAIRMAN. The committee will come to order.

Mr. Chapman, we are going to ask you to make any statement that you see fit at this time, growing out of our recess of yesterday.

Mr. CHAPMAN. Mr. Chairman, with reference to the closing of the session yesterday, the suggestion was made about abandoning this agreement, and the administration of it in the Department at this time, and proceeding with a committee to make an investigation of the base property rights of all the people involved in that area. I discussed this matter with the Secretary this morning, Mr. Muck and myself. The Secretary is sympathetic to this point: He said he would like to put the agreement into effect now as an administrative matter but that he would listen with a sympathetic ear to appointing a committee to make a study of the base property rights.

The CHAIRMAN. That agreement, if it is put into effect, reflects this condition: that one vital party to the agreement has been entirely eliminated. That is the white users. They have not been consulted in the premises at all which, speaking personally, does not ring up with the ring of propriety that I think it should have. It does seem to me that there are three parties to this situation—the Indians, the Interior Department acting through its Grazing Service, and the white users. The whole object of the Grazing Service when it was set up was twofold—one, to preserve our public domain in the best possible condition, and, secondly, to serve the people fundamentally who use the domain.

Now, the two users of the domain, for the purposes for which the domain is used, are the Indians, on the one hand, and the whites on the other, and one of those parties has been entirely eliminated, which does not seem to me to be the right thing. I am sorry the Secretary is taking this attitude, because it seems to me the study would very probably have worked out a happy, a very happy solution.

Senator MURDOCK. I might say this, Mr. Secretary, that I am also informed that the Indians themselves have not been given an opportunity to present their rights, except through the Indian officials.

The CHAIRMAN. What do you mean, the Indians, the Bureau, Bureau officials?

Senator MURDOCK. No; the Indians themselves. I understand they have an attorney representing them in the Court of Claims, and certainly he should be representing them in this matter. My information is that they had no part whatever in the agreement, so it makes it, as I see it, nothing more than an agreement between different agencies of the Department of the Interior.

Mr. NEBEKER. May I submit a suggestion along this same line?

The CHAIRMAN. Yes, sir.

Mr. NEBEKER. In addition to what Senator Murdock says, there is this fundamental situation back of all this movement on the part of the Indian Office to get control of these lands within the irrigation district so far as that part of it is concerned.

The CHAIRMAN. The irrigation district?

Mr. NEBEKER. The grazing district, I beg your pardon. This grazing district could not be created at all except upon Government lands, must be public lands, must be public domain without any strings to it. That is the only kind of lands that the act authorizes to be set up in a grazing district.

Now, if it is to be set up for a single purpose, and the act makes that entirely clear, it is for the purpose of using the lands to the very best advantage in connection with the stock industry, horses, sheep, and cattle, and to bring about increased production.

It is not an experiment in sociology at all; it is a place whereby the best use of this land can be made and the best use of these lands can be put to the purposes I have mentioned. Now, that is the full extent of the Secretary's power. I do not know what he attempts to do, but the full extent of his power is to administer it entirely for that purpose and if I understand this agreement, or this order, he now threatens to promulgate, to put into effect, an order which is not along that line; it does not accomplish that purpose, and it is purely ultra vires so far as any authority in the act is concerned.

Mr. RUTLEDGE. I am just a little bit puzzled with this whole thing. As I read the minutes of the meeting at Vernal, which I did not attend, I got the distinct impression that this matter was referred to the Indian Service and to the Grazing Service to be worked out as an administrative matter. I do not know that that is entirely accurate, but I think that is correct.

The CHAIRMAN. That perhaps goes a little further than was my recollection. The Indian Service and the Grazing Service, at the close of the hearings, stated that they were, I think they put it, very close together.

Mr. RUTLEDGE. Yes.

The CHAIRMAN. And they being very close together, it looked to the committee as though they were so close that they would be able to work out a solution.

Mr. RUTLEDGE. Well, now, may I follow that a little further. I am not raising any question here, except a question in my own mind.

After that hearing the members of the Indian Service met in my office in Salt Lake, and we considered this thing from all angles, and we put up a proposition almost like this one, even though it was not signed as is this one, but it was something which could be taken to the stockmen and to the Indians, and it was submitted very informally,

and again I was not present, but there was a certain amount of discussion of this proposal, and the records show and the letters that we got back show that the white users at least, and maybe the Indians themselves, said "nothing to it." And that, "And we are going to stand pat on this and that and the other."

I thought that was one attempt to settle this administratively.

Now, so far as I am concerned, and as I looked at it when I went in there, the question was to meet with the Indian Service and see what we could get together again and present to these men a real attempt to meet some of their objections.

Now, if we are going to administer that we have got to make some progress, and if one attorney says, "nothing doing," you aren't going to get any progress here, and another one on the other side says "nothing doing," why we are just wasting our time, and I think we have got something here that is another attempt to use the best information we have to get the entire matter settled and go on. If we have a lawsuit here why it will be interminable.

Senator MURDOCK. Was anything said to you whatever about the two-hundred-and-some-odd-thousand acres of ceded land which, according to Mr. Nebeker, are to be immediately, by the order of the Secretary of the Interior, returned to tribal ownership?

Mr. RUTLEDGE. Well, I am not in a position to discuss that ceded-land issue. I admit that when I get into the question of ceded land I get lost and some lawyer has got to bring me out of it.

Senator MURDOCK. I think it is a rather considerable thing. I did not know if you had anything to do with it.

Mr. RUTLEDGE. No: not very much.

Senator MURDOCK. So that about two-hundred-and-sixty-some-odd thousand acres of ceded land which, without any question under the law, was made a part of the public domain, and under some theory or other the Indian Bureau for the last few years, as I am informed, has assumed jurisdiction over those lands and has leased them out to different white stockmen; under what authority I am at a loss to know, and now, if Mr. Graham is correct in his statement, the minute that this agreement is signed, then the Secretary intends immediately to promulgate that order returning all of that land to tribal ownership. In my opinion, that is not equitable treatment.

Mr. RUTLEDGE. Is that expressed in the agreement?

Senator MURDOCK. I do not think that it is in the agreement, but Mr. Nebeker made that statement this morning and, as I understand, this agreement will be made effective at once.

The CHAIRMAN. My understanding of yesterday was that if this agreement was accepted, and went into effect, that no departmental or Executive orders would be issued with reference to any of the lands. That is the way I got it. Am I right in that understanding?

Mr. CHAPMAN. In yesterday's discussion my remarks referred only to the order relating to this grazing reserve being established, and no discussion has been had concerning the order concerning ceded lands.

The CHAIRMAN. Can someone tell us directly as to whether or not there is in contemplation the promulgation of an order affecting the ceded lands?

Mr. CHAPMAN. As for myself, I could not speak for the Secretary or what he is going to do about it. I have not discussed it with him for quite sometime, about the time of the hearing in Utah.

The CHAIRMAN. All right. Now, we will have to start some place to get anywhere. There has been brought before the committee here, and before those who are in attendance on the committee, a proposed agreement between two agencies of the Government, the Indian Bureau and the Grazing Service. Now, have copies of it been furnished to the interested parties, to the representatives of Duchesne County?

Mr. CHAPMAN. I am sure it has not been to anyone.

Mr. NEBEKER. We have received no copy. You speak of the tentative one that was submitted here.

Mr. CHAPMAN. Yes.

The CHAIRMAN. Now, do we not, in order to see if we can agree, do we not have to have for the consideration of the interested parties copies in their hands, and must we not then take up the matter, item by item, and see wherein there is a difference of opinion, and wherein there might be some change worked in that would affect the interest of all the parties? Would it not be advisable, Mr. Graham, even at the expense of a day's time, to have these people furnished with copies and then have them come in and testify wherein they see that they are going to be injured by the execution of this agreement?

Mr. CHAPMAN. May I say this, Senator, that this agreement was completed only a very few minutes before we arrived at this hearing yesterday morning. It was the intent of the parties involved in the discussion that each respective bureau would take this agreement and discuss it with their constituents that they were dealing with, the Indian Service with the Indians, and the Grazing Service would discuss it with their respective people. In the meantime, we deemed this to be purely an administrative matter that we have to proceed upon, but it was the intent that those people should have a chance to discuss it with our people, but we feel we have to proceed on some administrative formula.

As Mr. Rutledge has said, these permits have got to be issued and we want to get going on them.

Senator MURDOCK. May I ask you this question, Mr. Secretary: Do you think that an agreement should be made on this tract of land that is designated on the map there in black and green lines without at the same time disposing of the question with reference to the ceded lands?

Mr. CHAPMAN. I think if you handle this agreement matter, Senator, as worked out on this tentative agreement, I think you can handle the other matter as a separate matter entirely and equitably to all people interested. I do not see where anybody is losing any of his equities by settling this controversy by this agreement now.

Senator MURDOCK. Suppose that immediately on agreeing to it, if such an agreement is possible, that the Secretary would then go ahead and promulgate the order that affects these ceded lands?

Mr. CHAPMAN. That would be another administrative action dealing with a different matter.

Senator MURDOCK. It is all one matter. You have got one segment out there in that particular area that for years and years and years now, without interruption, have used the ceded lands.

Mr. CHAPMAN. I agree with you that that is a grazing problem too, but I think this agreement settles this one part of it now.

Senator MURDOCK. Well, yes; that is just it; but in settling that then if the Secretary of the Interior is right in his position, why

these lands which are subject to the terms of the Wheeler-Howard Act, then he can ignore the rights of the white people who have been using them, which certainly would be done if this order goes into effect, and immediately transfer all of them to the tribal ownership.

Mr. CHAPMAN. Well, of course, I am not going to question the Secretary's authority to do that.

Senator MURDOCK. No; I would not expect you to do that.

The CHAIRMAN. Well, now, coming back to the subject, does my suggestion meet with any approbation here? How can we discuss a matter that has not been submitted to the interested parties?

Mr. RUTLEDGE. This, I don't know, Senator, that we need to get this on the record, but we have handed a copy to you, didn't we, Mr. Stringham?

Mr. STRINGHAM. I read a copy.

Mr. RUTLEDGE. Just as soon as it was off the typewriter, and then yesterday afternoon after our meeting here, we tried, many of us, all afternoon to get Mr. Nebeker and Mr. Stringham and the others together and we were not able, and time gets away from us in this town.

The CHAIRMAN. The committee is doubly interested in this matter, to be of assistance. It wishes to be of assistance to all parties. We have no favorites to play; we are just simply trying to work out a problem that seems to have many rather difficult angles. We will have to start some place if we are going to finish anywhere. Now it seems to me that it would be well if the Indians had a copy of this agreement, if the white users had a copy of this agreement, and then sit down off by themselves somewhere and study it and say, "This is what we object to; this is what we are going to advocate before the committee," and come up here and present your objections, wherein are you going to be injured by the execution of this agreement, and let's talk it over around the table then and see if we cannot work it out, and let's do it as promptly as we can.

Now, the statement has been made here that the Indians have not been consulted at all, and that the white users have not been consulted. I understand that the attorney for the Indians is here and has not been consulted.

STATEMENT OF E. L. WILKINSON, ATTORNEY FOR THE INTERESTED INDIAN TRIBES

Mr. WILKINSON. Mr. Chairman, I had no part in the negotiations with respect to the interdepartmental agreement that was presented here yesterday. I have, however, had an opportunity at all times to present my views to the Indian Bureau with respect to the termination of this controversy. And, in order that the committee may be entirely acquainted with those views, I should say that the Indians would very much prefer that this entire controversy, including that of the ceded lands which Senator Murdock has just talked about, be handled by legislation, rather than by interdepartmental agreement of this kind; and if I may take the time this morning, I would just like to make a tentative statement as to our position.

The CHAIRMAN. You are representing, now, the Indian council.

Mr. WILKINSON. I represent, Mr. Chairman, the three bands of Ute Indians on this reservation.

The CHAIRMAN. Do you represent all three bands?

Mr. WILKINSON. All three bands.

The CHAIRMAN. You are doing fine.

Mr. WILKINS. N. I should say also that that—

The CHAIRMAN. I knew there would be a qualification.

Mr. WILKINSON. I am representing them, Senator, under a contract, approved by the Secretary of the Interior, with respect to their litigation against the United States. I have not represented them on other general matters; up until October last they were represented by a Capt. Raymond Bonnin; he represented them on their general matters. Unfortunately at that time he died and I have now been informed by a delegation that is here that they want me to represent them on their general matters too. Consequently all of the time I have had since they arrived I have been trying to acquaint myself with the details of this controversy. While I have known of it over the last 5 years, my knowledge thereof has been largely in connection with the claims that they have against the United States.

In making this statement to the committee this morning, I want to say that I do not profess to be acquainted with all the minutiae of evidence or details in the matter. I have not read the report of the hearing held at Vernal; that is, I have not read it personally, but someone in my office has read it and has given me a summary of the proceedings.

From the standpoint of the Indians themselves, we take the position that it would be preferable from their interest, preferable from the white interest, preferable from everyone's interest, that this be handled by legislation rather than by any interdepartmental agreement.

Now, yesterday, on behalf of these white owners, objection was made to this interdepartmental agreement on the theory that it is just an interdepartmental agreement which can be changed by the parties at will. They can say they don't like the agreement with respect to the grazing. Some future Secretary can terminate the agreement, or some future Grazing Service can terminate this agreement, at will, subject, of course, to any vested rights which may have accrued to the owner of those vested rights and you know that they are somewhat uncertain. In other words, it is the uncertainty of this very situation that has prevented us, as Indian tribes, over the last period of years from building up our grazing herds. If we had known definitely and absolutely what our rights were, we would have gone ahead and had larger herds than we have at the present time.

Second, under the plan as proposed here, or, as announced here yesterday, the Indian Service is to have jurisdiction over this grazing area. I noted, however, that the fees for grazing are to be paid to the Grazing Service; and it was objected here yesterday that, with respect to the white owners, that that meant that they had three departments of the Government to deal with. It would seem to me that if this could be handled by legislation, so that the rights of the Indians are actually determined, and their rights put in a definite area the jurisdiction of which is vested in Indian Affairs with no white owners in that area at all, that administration would be very much simpler, and that many of the problems that we have at the present time, and which I fear will continue to exist, might be eliminated.

Now, in the third place, one of the difficulties that the Indians have in this situation as Senator Murdock knows, because I have dealt

with him on the matter for several years, is that we have certain claims against the United States that we want determined once and for all along with this controversy. Now I have talked to Senator Murdock on the matter, and he has always taken the position that enabling legislation of that kind should be given at the same time as the administration of this controversy is settled so that the whole thing could be ironed out.

Now, fourthly—

The CHAIRMAN. Right there, let me interrupt you there. It would be the view of the chairman of this subcommittee, until the committee tells me otherwise, that that is an issue that does not come under our jurisdiction—the claims of the Indians. I do not think that we have anything whatever to do with it, and I do not think we would want to take up the time of the committee, at least until the committee tells me otherwise, to determine the claims of the Indians as to any matters over which we do not have jurisdiction. That is a different proposition entirely, as I view it.

MR. WILKINSON. Well now, on that, Senator, if I may, let me say this: That one of the things that moved the Department in the first place to consider the creation of the grazing district, or grazing reservation in the Uncompahgre area, is that some 2,000,000 acres there at one time were a part of the Uncompahgre Reservation of these Indians.

By Presidential or Executive order, in the nineties, or right after the turn of the century, I am not sure as to the exact year, this reservation was taken from these Indians. These Indians in the first place were put into Utah, out of Colorado, because the Government wanted the Colorado land. Judge Nebeker yesterday remarked that this after all was a God-forsaken country and that anyone who did build it up was entitled to a good deal of credit, to which I agree. On the other hand, the whites went there of their own choice. The Indians did not go there of their own choice. They would have much preferred to have remained in Colorado, near Gunnison, but they were removed from Colorado into Utah, and later on this Uncompahgre Reservation was taken from them by Executive order. The Indians themselves have always felt that there was no right to take the land from them; they wanted the entire 2,100,000 acres of the reservation. The Secretary of the Interior and the Indian Bureau after looking into it for a long time felt that the best thing that could be done was to set up a grazing reservation for them. Now, the proposal to set up a grazing reserve was an effort to try to settle this controversy, and we have been holding off bringing litigation with the hope that this solution legislatively would settle that matter so that there would not have to be any litigation over these lands.

As a matter of fact therefore the matter of this Uncompahgre grazing district here is really inseparable from the litigious claims that the Indians have against the United States.

But let me go on and say, a further objection that we have to interdepartmental agreements of this kind, assuming that legislation could be had as an alternative, is that we would like to see the ceded land situation, the Uncompahgre area situation and the whole thing, settled at one time and give us the right at that time to wash up any remaining dispute in the Court of Claims.

Now, from the summary that I have been supplied with of the hearing at Vernal, I understand that it was the position of the chairman, and Senator Murdock, that the Indians were entitled, in the determination of their grazing rights in the Uncompahgre area, to the same grazing rights on the public range as if that land had been owned by whites. Now I am talking particularly with reference to the land that has been purchased during the last 7 to 10 years by the Indians; and I understand, and I want to be corrected if I am wrong in this statement, that it was the position of the chairman, and Senator Murdock, that the rights that the Indians were to be given in that public domain included those rights that were attributable to the lands they purchased from the whites at the time of purchase.

The CHAIRMAN. It has always been my position in this matter that the policy of the Grazing Service has been a commensurable right, based on the property and its productiveness, and its power to support certain stock; and that was a standardized, well-recognized principle. The base property, either in water or land, or both, was essential to a commensurate right on the open public domain.

Now, if we would forget the racial distinction here and take the base property that has been purchased by the Indians and give it its commensurability on the open public domain the same as whites have commensurable rights on the open public domain, it always struck me that it would solve the whole thing. At least it would solve the whole thing with the same degree of effectiveness that the Grazing Service has solved some very intricate problems in times past. There have been injustices rendered by the Grazing Service, but they were minimized down about as far as human ingenuity could minimize them. I simply make that remark to cover the whole area of the West.

Mr. WILKINSON. Senator, I find myself, as representing the Indians, in entire accord with you on that basic principle.

Now, let me go ahead, if I may, and say how I think it ought to be applied in this situation. These Indians, as I have said, from 1935 to 1939, did purchase, largely with their own money, large tracts of land in this area.

They were told, I have been advised, that the purchase of these base properties would include all of the grazing rights in this particular area. You can appreciate therefore that the Indians, having permitted their money to be spent for that purpose, are very much concerned now with anything that varies in any way from those representations that were made at that time.

I am told, for instance, that they were told that their rights on the public domain, for grazing purposes, would be in the ratio of 9 to 3. That is, nine cattle on public domain for every three that they could raise on the land which they purchased.

The CHAIRMAN. Well, that is not the rule of the Grazing Service, as I understand it. If I am in error on that, I wish to be corrected.

Mr. WILKINSON. May I just inquire as to what the rule is? I realize that there are modifications.

Mr. RUTLEDGE. We do not associate in that way at all. If I get the 9-to-3 picture in my mind, the Grazing Service works first on the basis of the land devoted to the base property, the home ranch, or whatever it may be, which is the nucleus of that outfit.

Now, if I may, to illustrate and get it plain, if we take one of those ranches up there that produces 100 tons of hay—and in that climate or at that elevation, it took a ton of hay normally to winter a cow—then we would say that that base property is commensurate for 100 head of cattle. And then, from there, we would try to work out if that 100 head of cattle stay on there. This may be where you get your 3 to 9, if that hundred head of cattle stays on that land for 3 months then, from that, we try to work out a range set-up which will take care of that 100 head of cattle for 9 months.

The CHAIRMAN. For 9 months.

Mr. RUTLEDGE. Yes; if we use that for an illustration.

The CHAIRMAN. Yes; that sustenance will be furnished for those cattle.

Mr. WILKINSON. Of course, I am just giving just approximate figures. I know that there is bound to be a variation because of the varying character of the land and the varying stock raised on the land. I am just trying to get a rough idea.

Now the Indians find themselves in this situation, that they purchased this land and, immediately after they purchased the land, they find all these questions were raised as to their rights on the public domain; and at the time they purchased the land they felt that they ought to have the same right in this public domain as the vendors of the land that they purchased.

Now if, in the administration of these Indians' rights on the public domain, they are to be given the same right as the vendors of the land that they purchased, and if they are to be given rights based on their allotted lands, both within this area and immediately adjacent to this area, the same as white owners are given, including the other tribal lands that this tribe owns—if we can have a determination of their rights based on this formula and it can be worked out in a fair way, I say that the Indians will be satisfied. They do not want any more than they are entitled to. But they do not want to take less than they are entitled to.

Now it seems to me, and I think it is true, that the adjustment of this difficulty has been in the application of the formula. Apparently there have been varying yardsticks by the various bureaus of the Department of the Interior. I am not criticizing them for that. I recognize it is a very difficult problem, and I have already stated that I am not sufficiently acquainted with the details to be anywhere near an expert on it. But it does seem to me that the solution of this problem ought to be this: There ought to be a sound determination of the grazing rights to which these Indians are entitled, by virtue of the land that they always have owned, and by virtue of the land that they acquired from 1935 on, based on the rights that the white vendors had at the time they sold those lands to the Indians.

Senator MURDOCK. If the chairman would let me interrupt you there, suppose it isn't, Mr. Wilkinson; suppose that the white vendors had been given certain rights by the Grazing Service at some time in the past, but that good range surveys, which we call upon the Grazing Service to conduct all the time, indicated that the rights first created, or earlier created, to those lands, were out of proportion to the base property; would not you think that, in such an event, the Indians should be subject to the same limitations as the white vendees of the land?

Mr. WILKINSON. Yes, sir; I think, Senator, the Indians ought to be accorded the same terms.

Senator MURDOCK. That is exactly my position.

Mr. WILKINSON. I will agree, in that treatment by the Department.

Senator MURDOCK. That has always been my position, that the Indians are entitled to exactly the same rights which the white man had. Now, at the hearings at Vernal we had 10 different propositions, submitted by the Grazing Service, concerning this property of the Indians.

Now it seems to me that at least one of those propositions would be acceptable to the Indian Service, but evidently they are not.

Mr. WILKINSON. Well, as to that, Senator, not having been in on these interdepartmental negotiations, I do not know, but I say this: The particular fact that the Grazing Service presented 10 different alternatives would indicate to me that they were pretty much uncertain as to their application.

Senator MURDOCK. I think not. I think that the reason they did it was that they knew they were dealing with another agency that was going to be hard to suit, and they had to make the conditions as comprehensive as possible.

Mr. WILKINSON. Now, with respect to the hypothetical question you put, Senator MURDOCK, because of varying rights, because of more efficient administration, I say this: that I do not think that that hypothetical situation is a situation that applies in this case, and for this reason. As I understand the facts, I do not understand that there is anyone who has raised the question that these white vendors to the Indians received a larger amount of rights than they were entitled to. That has not been in the picture, as I understand it. No one has made the contention yet.

The situation, as I understand it, though, is this: that at the time some of this land was purchased for the Indians, with Indian money, the purchase was made on the assurance to them that it would give them all the grazing rights in this area.

The CHAIRMAN. Who gave them that assurance?

Mr. WILKINSON. My understanding is the Bureau of Indian Affairs.

Now, in saying that, I want to be fair to all. I do not know the names of the individuals who gave them the assurance. Therefore I would not want to pin it on any one person, but there is no doubt that that was the Indians' understanding all of the time.

In that connection, this becomes important—that at the time this land was purchased, with Indian money, not all of these white owners had made their respective application for their grazing rights.

Now, we do not feel, as to which I understand the chairman of this committee is in agreement, that the Indians should be penalized because, with respect to certain of the land that they purchased, no formal application had been made at that particular time. I have not heard that anyone is saying that they should be penalized, but the point I want to make is that, if the Indian tribe is given this same right on the range, for the land they purchased, as well as the land they had, we might be able to come to some agreement.

The CHAIRMAN. What do you mean by "the land they had"?

Mr. WILKINSON. The land they had.

The CHAIRMAN. Yes.

Mr. WILKINSON. All the certain allotted lands of individual members of the tribe, which they had, and I think no one would question that. Such land may be classified into two divisions—first, allotted lands, within the particular area which it is proposed shall be made into a grazing reserve, and second, their allotted lands outside and adjacent to this area.

Now, in that connection, let me point this out, Mr. Chairman—

The CHAIRMAN. Well, with reference to a white man's right in the open public domain, he might have allotted land in the midst of the open public domain that did not sustain animals heretofore. I do not believe he would get commensurability on it.

Mr. WILKINSON. Well, I understand that this man—

The CHAIRMAN. Am I right on that, Mr. Rutledge?

Mr. RUTLEDGE. It has got to have some productive capacity, to rate anything; that is right.

Mr. WILKINSON. Now, let me just say this: take the case of Mr. Moroni Smith—I understand that Mr. Smith has some land that he owns in the fee simple, grazing land south of the Indian grazing lands, the land that is marked in yellow on the map. Is that right?

Mr. SMITH. Well, it is located down through the center of the white area, on the Duchesne River, on both side.

Mr. WILKINSON. It is largely grazing land.

Mr. SMITH. Yes.

Mr. WILKINSON. Well that land of yours is taken into consideration in determining commensurability of your rights in the public domain, isn't it?

Mr. SMITH. It is, if I have a prior use of livestock to it. That prior use of the livestock, previous to the Taylor Grazing Act, based on the number of livestock that the individual is entitled to graze at any time.

The CHAIRMAN. I do not think we are getting anywhere there. I think we had better stay with your statement. In other words, I think we had better get those facts from a different source.

Mr. WILKINSON. The fact, as I understand it, is that Mr. Smith would be entitled because of the ownership of this grazing land, together with his ownership of the cattle on the land, to certain rights on the public domain, even without other base property.

Now, on the other hand the tribe owns the grazing lands represented in yellow on the map. While such lands do not have the same quantity of rights for grazing purposes as the ordinary type of land, nevertheless they are owned by the tribe and they should be taken into consideration just the same as if they were owned by white persons.

Now, I am sticking to the thesis with which I understand the chairman agrees, that we want the same consideration for those lands as if they were owned by the whites.

Now, I therefore, Mr. Chairman, propose this alternative, and I am doing it merely on the theory of trying to be helpful in solving this controversy: I think that the Robinson bill, which is before this committee, section 3 should be amended in the following particulars:

First, that there be set up a grazing unit for these Indians, the size of which would be determined in exact accordance with the commensurable rights of the Indians. I say the size of this grazing unit for the Indians should be determined in accordance with the rights

which they have, by virtue of the land which they have, and that they owned and that they purchased.

The CHAIRMAN. Let me interrupt you.

Mr. WILKINSON. Surely.

The CHAIRMAN. These red lines on this map are lands that were purchased by the Indians from white settlers.

Mr. WILKINSON. That is as I understand it.

The CHAIRMAN. Now, if the white settlers had remained on those lands, and had not sold to the Indians, they would have had commensurate rights in the open public domain. Is that correct?

Mr. WRIGHT. That is right.

The CHAIRMAN. Now, then, when you change the race or color, why should that change the rights on the open public domain?

Mr. WILKINSON. I do not think it should.

The CHAIRMAN. That is the position I have taken on this matter.

Senator MURDOCK. That is the position that I have taken, right from the beginning, that that would be a permanent solution, and be equitable and do equity to everyone.

Mr. WILKINSON. May I suggest this, Mr. Chairman, with respect to the Robinson bill, that section 3 be amended, in the first place, so as to accord to these Indians such rights—set up a grazing unit in which these Indians will have the rights that they had, by virtue of the ownership of the property that they had, and the rights that the whites had to the property which the Indians purchased.

Secondly, I would provide in the Robinson bill that that unit be administered by the Bureau of Indian Affairs. My reasons for that are these:

First, under that plan there would be no whites in that particular area to object to its administration by Indian Affairs.

Second, I think, and I have had considerable experience in this, that the Department of Indian Affairs is in a position to administer between the Indians themselves, better than any other bureau. One reason for that is that the Bureau of Indian Affairs knows the rights of the various Indians. Many of the Indians in this area do not even speak English, and the Bureau of Indian Affairs has to protect the rights of John Doe, for instance, as against Richard Roe. I think the Bureau of Indian Affairs is in a position to do that, and I cannot see any objection to that, if all of this area is for the benefit of the Indians.

Senator MURDOCK. The Grazing Service, Mr. Wilkinson, itself appreciates that. As I understood them yesterday, they agreed that the Indian Bureau can do a better job than they can, even if there are some white settlers in there. I was surprised at that testimony; but it was given here yesterday.

Mr. WILKINSON. I understand that, and I think that statement of opinion is right, and I think it is even more right where all Indians are included in it.

Now, what I am trying to do is to work out a solution of the whole problem, so that the whites thereafter will not be in this area at all—they will be subject only to the administration of the Taylor Grazing Act in accordance with the rights they have by the Grazing Service.

There is another reason, and that is that the control of liquor ought to be in accordance with the applicable rules of the Indian Service.

Now, the second suggestion I would have in the Robinson bill is that some machinery be set up for the actual determination of these Indian rights. I have indicated to you that we feel the same about this, that we would vastly prefer to have this done by legislation than through administrative orders. Now, as to that machinery, I haven't any particular formula to apply. Perhaps the suggestion made here yesterday, by Mr. Chapman, that a committee should be set up, one for each agency (the Indian Bureau and the Grazing Service) and some independent person; but I think it ought to be done as a matter of legislation, so that we will not have these shifting policies and shifting opinions.

Now, finally, and I say this with great regard for the Department of the Interior, since this grazing district was in the first place evolved as part of payment for one of the claims of the Utes against the United States, if they are willing and inclined to go along here and not insist on anything extra because of the claim that we have against the United States, we think that the committee ought to be willing to grant us some additional provisions in the bill which will permit us to settle all of our disputes against the United States in the Court of Claims.

The CHAIRMAN. You have a long-range view on that, one that I cannot go along with.

Mr. WILKINSON. I appreciate the long-range viewpoint on it, but Senator, let me—

The CHAIRMAN. You are commencing a 2- or 3-year job there.

Mr. WILKINSON. Let me put it to you this way, that what I propose here this morning is predicated upon the theory that with respect to grazing rights we would be no better off than the white citizens. Now, if we go along on that theory, then I think Congress ought to go along with the theory that we be accorded certain rights with respect to proposed suits that we contemplate bringing against the United States.

The plan that I have proposed is just in rough outline. I am offering it, Senator, out of a sincere attempt to see if we cannot get something done. I think this plan has the element of simplicity and, to a certain extent, finality, and I submit it for the consideration of the committee.

The CHAIRMAN. Thank you, Mr. Wilkinson.

Now, gentlemen, I have to retire here and the hearing should go on as far as it can go, and Senator Murdock will preside; and I again revert to the proposition that perhaps we can get farther if these various factions are given an opportunity to see this agreement and to study it for a day or two, and then return here, and let's go over it and then buckle right down and see where the white users object to this, and wherein it might be modified or changed, and let them present their objections or the objections the Indians might have, and so on and so forth. I am in hopes we can work something out, but I do think it is a tripartite proposition. I think there are three parties here that must be considered, if you are going to get anywhere on this plan.

Personally, I have expressed my own views and my views only. I would not go along with this plan at all; I would turn all the grazing over to the Grazing Service of the United States of America, and let them administer it under the regulations and laws of the

Grazing Service, and I would forget all about class distinctions in the whole thing.

That would be my way of working it.

Senator MURDOCK. Mr. Chairman, as chairman of the committee, would you agree with me that if the hearings are recessed at this time, with the understanding that all those interested could give consideration to this agreement, that it would be well for them to consider the agreement, and that there would be no Executive order issued?

The CHAIRMAN. Oh, I think any agreement should include that.

Senator MURDOCK. During the time that this committee will be attempting to determine the issues?

The CHAIRMAN. I made such a statement to Mr. Secretary Chapman with reference to the interdepartmental set-up, which has nothing to do with this at all. Anything that is set up, with all of the hardship that is being worked on the stock-raising industry of America today from every angle, it is an inopportune time to hinder it in any way by the issuance of Executive orders or departmental orders of any kind whatever. They are burdened with hardships enough; their men have been taken from them and have gone into the armed services; they are working men of an age who should not be working at all; men are working on the range past the years when they should be out there, and they are trying to do the very best they can; they are curtailed by vehicles, they can't go from place to place, they haven't the gasoline to do it; they haven't the help; and it seems to me that the Secretary should not promulgate any order. But that is not for me to say, that is only my view on it.

Mr. RUTLEDGE. Mr. Chairman, have you got a few minutes?

The CHAIRMAN. Yes; I will take a few minutes.

Mr. RUTLEDGE. I listened to Mr. Wilkinson with a great deal of care, and I can see that he has an objection there. But I can see that it is going to take time to work it out. We cannot get a bill passed in a day or two; it will be thought over and over and over, and it may be 1 year, 2 years, or even 5 years.

Now, we are faced with a situation that needs handling. As to this so-called agreement, and these matters have been raised about the commensurability of property, I have been able to keep myself somewhat aloof from the details and arguments and so forth concerning this thing. And in working out that agreement we did it with this thought in mind, that here is a block of land that has white users on it. It would be fine if we could make it all Indian area, but there they are right in the middle of the thing, almost; you can't segregate them.

Now, I am going to stick my neck right out on this thing, with all the discussion that has been made about the carrying capacity of that territory, and the commensurability of the land, I believe that there is enough feed in there to meet the commensurable demands of the lands that the Indians purchased, and that there is still pretty close to enough to take care of these whites. I think we get ourselves into a very unfortunate position when we get to thinking that it has got to be all one or all the other and, with that thought in mind, that is just exactly how we tried to approach it, or I did, that we are doing maybe by a short cut; but in the back of our

minds we have all that mass of figures that Mr. Leech has presented to you.

And as to the purchases, we come around on that every time when we say that the Indians are entitled to a certain percentage of summer range, and they are entitled to a certain percentage of winter range. Whether you use the Grazing Service figures, or the Indian Service figures, or what you use, we come out pretty close to the same figure, and that agreement is based upon that kind of thinking. I don't know whether we want to talk too much about the agreement, but we started right off by saying that these whites are to get the same treatment that they had, the same terms; that they are to get the same permits that they had last winter, and we want to issue those permits; that is the first step.

The CHAIRMAN. That is that they have had.

Senator MURDOCK. Same permit that they had last winter, to start off with.

Mr. RUTLEDGE. Same permit they had last winter, to start off with. That is a 5-year period; and then, just in order to safeguard the thing, and I say it is a safeguard to the whites, we say that there shall be no more than a 10 percent decrease in the first 5 years, and then as a further safeguard we say that there shall be no more than 15 percent during the second 5 years; and it is only contingent upon the Indians having the funds to put in to increase the size of their herds.

So I think we get ourselves in a situation here, in discussing theories, that leads us to an unsettled situation, an unsettled state of mind. That agreement is a meeting of the minds of the Indian Service and of the Grazing Service. Here is something practical; we can do this, based on the facts; and you can stay here for another 10 years and you are going to come out almost with the same situation.

The CHAIRMAN. Well, that might be true, Mr. Rutledge, but at the same time I think that all parties should have a chance to study it and give us their views on it.

Now, what I would like to do is this: I would like to have the white users, represented here by counsel and in person, who are interested in this matter, have an opportunity for a day or two, at least such time as they like, to study this thing; and I would like to have them call in the Grazing Service, or any other service they want, and discuss the matter by themselves.

I would like to have the Indians have the same opportunity. I would like to have these three agencies have the opportunity, for a day or two, to make a study individually. But I would like this, Mr. Secretary, if I can get it. I do not know if you have a right to bind your principal or not, if we can arrive at an agreement here, that it will be the policy of the Department to promulgate no orders whatever, assuming the emergency that we are now in. Now, you do not have that right, perhaps, and I do not want to bind you.

Mr. CHAPMAN. Nothing except this particular grazing order.

The CHAIRMAN. Is there a representative here from Duchesne County? The whole tax structure of Duchesne County is very much affected by these lands in purple up there; and that is another problem that is involved here. In a way, it is and yet not involved, but it is involved in this whole question.

Senator MURDOCK. I do not see, Mr. Chairman, how you can settle the thing; you refer to the sentiment of the population out there; I do not see how you can settle the grazing rights. I think the whole thing must be settled, and I agree with Mr. Wilkinson; while the agreement here may serve very well as a temporary solution of the thing, that ultimately it should be settled by legislation so that in the future neither the white man nor the Indians can have their rights interfered with by reason of the adoption of a different policy by a different Secretary of the Interior.

The CHAIRMAN. I am going to say something now; I am going to say it on the record; something that has been said by someone who is closer to one of the Departments than I am; I think we are making a mistake, for the Indians, at least, a mistake that will be far-reaching for them, not in this case alone, but in every case, to consider their rights separate and apart in determining the quantity, from the white race. I think that they must eventually become amalgamated into this country as citizens, they are citizens, they vote, they should not be discriminated for nor against because of their race, nor their color, nor their condition.

That brings me to this subject, that, I think, in reclamation and in grazing that those two services should be for the United States Department of Reclamation to deal with, all reclamation problems in the Indian country, and the Grazing Service should deal with all grazing problems in the Indian country. I am not alone in that, because Mr. Collier, in a speech he made, emphasized that very policy. Whether he has changed his mind on that, I do not know.

Senator MURDOCK. That same argument was made—of course, we did not have the Reclamation Service, but the Forest Service, and I think Education—that very argument was made by the first Commissioner of Indian Affairs.

The CHAIRMAN. As long as we continue with this policy of having a Grazing Service and a Reclamation Service belonging to the Indian Bureau, and we are considering the Indians as a group apart from our population, and whether they get the best of it or the worst of it, they should not get either one, they should be treated on an equality.

Now I regret again that I must go, but I think we have served some purpose here, and if you can form into groups and make a study of this proposed agreement, with respect to the white settlers, I respectfully recommend that you make an appointment with Mr. Rutledge and the other gentlemen here, and the Indians, and also the representative of Duchesne County, and have a conference with those gentlemen, and see if you cannot iron out your differences; get them to understand you and you understand them.

That same is true of the Indians. I do not know whether you can get somewhere or not, but you can try this. I think it is worthy of a trial, to be frank with you.

When would you wish to reconvene; how about Friday morning?

Mr. RUTLEDGE. Well, we would not need that much time.

The CHAIRMAN. Well, let us reconvene at 10 o'clock Friday morning, then.

(Whereupon, at 11:15 a. m., a recess was taken until Friday at 10 a. m., June 18, 1943.)

ADMINISTRATION AND USE OF PUBLIC LANDS

MONDAY, JUNE 21, 1943

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE
ON PUBLIC LANDS AND SURVEYS,
Washington, D. C.

The subcommittee met, pursuant to call, at 3 p. m., Senator A. Murdock presiding.

Also present: E. S. Haskell, investigator.

Senator MURDOCK. Senator McCarran requests me to say that he regrets very much that he cannot be with us, at least for a while, this afternoon. He is now engaged on some appropriation bill over at the Appropriations Committee room, and in the telephone call just now he tells me that it will be impossible for him to come over for at least half an hour, and that we had better go ahead.

The committee is now ready to receive any reports, or suggestions, or recommendations that any of the officials or others interested in this matter wish to let us have.

Secretary Chapman, we will be glad to hear from you.

Secretary CHAPMAN. Our people have been working since last Wednesday's meeting with both groups interested in the territory, trying to come to some agreement. This prepared statement, I think, comes very close to expressing what I believe they have pretty generally agreed on.

Since the meeting of this committee on Wednesday of last week, representatives of the Department have had a number of conferences with the white stockmen and their attorney, and also with the delegates of the Indian tribe and their attorney.

At these conferences the informal agreement, approved by the Secretary last week and also the proposed legislation, were considered in great detail. As a result of these conferences, it seems to be the consensus that a legislative solution of the problem is preferable and that to that end the Robinson bill, H. R. 837, which has been favorably reported upon by the Department of the Interior, and which has passed the House, and is now before the Senate Committee on Public Lands and Surveys, approaches the solution desired by the parties. Two amendments, however, seem to be desired by the interests involved. These two amendments are as follows:

(1) Section 1 of H. R. 837 provides that about 60,000 to 70,000 acres of Indian ceded land shall be restored to Indian ownership, and that the Indian title to an additional 160,000 acres of land, which the Secretary also has authority to restore to Indian ownership, shall be taken by the United States.

Because of this solution, the Indians insist that such amendment should also provide that they be entitled to recover for the value of this land in the Court of Claims, and that there be other refinements of existing legislation relating to their right to sue. I have been informed that the white livestock operators have no objection to these provisions.

(2) The parties have been considering an amendment to section 3 relating to the creation of the grazing reserve. I understand that Mr. Wilkinson, representing the Indians, and Mr. Nebeker, representing the white sheepmen, have pretty much agreed upon a proposed amendment to section 3, which they will submit.

While I am not in a position to commit the Department to the language of either amendment as formulated, you may be assured that they will have our sympathetic consideration.

I understand that if the Committee on Public Lands and Surveys is agreeable to the proposed legislation, the parties have no substantial objection to the intradepartmental agreement operating in this interim.

In this connection it has been agreed that the permits which are to be issued under the intradepartmental agreement will provide that they are subject to termination upon enactment of the proposed legislation.

I think they have put considerable time in on this, and it looks like they have come to some conclusion, or an agreement on it.

I wish you would inquire of some of the parties on both sides and see if they are still in agreement on this, and if they still believe in it. They have put in considerable time in studying it.

Senator MURDOCK. Do any of you care to ask any questions concerning the statement just made by the Secretary?

Mr. NEBEKER. I would like to make a statement, Mr. Chairman, in connection with the Secretary's statement.

Senator MURDOCK. But do you not desire to interrogate the Secretary?

Mr. NEBEKER. No; I do not, because his memo is quite explicit.

Senator MURDOCK. Is there anyone else here at the table who desires to interrogate Secretary Chapman? If not, we will hear from you at this time, Mr. Nebeker.

Mr. NEBEKER. I wanted to say that, so far as the first part of that memo is concerned, mention is made of the fact that conferences have been held with the attorney representing the white sheepmen. I have had no notice. There has not been anything done in my presence about anything other than what is mentioned in the last part of the memorandum. That is the only thing I have been brought into consultation about, that and the agreement.

Secretary CHAPMAN. Yes.

Mr. NEBEKER. That is all new to me; the first part of what you are proposing there. I am not saying what our position would be on it; but I would like to read it over.

Senator MURDOCK. Do you have reference to the statement made by Secretary Chapman about what is known as ceded lands?

Mr. NEBEKER. Well, it is the first part of his memorandum; it was almost Greek to me, some of it.

Secretary CHAPMAN. Do you refer to the Robinson bill, that I spoke of?

Mr. NEBEKER. No; where you say it has been considered. Do you want to hear from me as to what it is?

Senator MURDOCK. We will be glad to hear from you.

Mr. NEBEKER. Section 1 of H. R. 837 provides that about 60,000 to—

Secretary CHAPMAN. Well, I inserted the figures 70,000, to make it read "about 60,000 to 70,000 acres." There was a question about the exact acreage.

Mr. NEBEKER. Sixty to seventy thousand.

Now, does that mean the tract that we have referred to as the proposed area?

Secretary CHAPMAN. No; there is no connection.

Senator MURDOCK. I think, Mr. Nebeker, it would be well to have Mr. Leech, or some other official of the Department, point out to you, here, the lands that are referred to in that connection.

Mr. NEBEKER. I think that—

Secretary CHAPMAN. Let Mr. Leech point that out on the map.

Mr. LEECH. These are the ceded lands, Mr. Nebeker, in the Indian reservation, outlined here in yellow, north of the Strawberry and Duchesne Rivers. They have nothing to do with unit G that we have been talking about.

Senator MURDOCK. I think Mr. Leech was right in saying it was outlined in yellow, but the ceded lands are the ones that are shown on the map in purple. Is that right?

Mr. LEECH. That is correct.

Senator MURDOCK. And that the total acreage of ceded land is approximately what?

Mr. LEECH. About 220,000 acres.

Senator MURDOCK. And the sixty to seventy thousand acres referred to a public, rather than a tribal, ownership. It would be the ceded land, shown in purple, there, north of the Duchesne and Strawberry Rivers?

Mr. LEECH. Yes, sir.

Mr. NEBEKER. North and East.

Secretary CHAPMAN. That is right.

Senator MURDOCK. North and East.

Mr. LEECH. And the other ceded lands mentioned, south of the Duchesne, also indicated in purple.

Mr. NEBEKER. That is in the next section.

Mr. LEECH. Section 2.

Mr. NEBEKER. Well, now, that clears up what I did not know about because I was not present when that was discussed.

Mr. M. A. SMITH. I wish to say that I was present, and Mr. Nebeker was not, and I approved of that first section; at least, I had no objection to it from our standpoint, in the other bill; the ceded land there and the old reservation.

Mr. NEBEKER. Well, I will blame my client, rather than someone else, for not informing me.

Senator MURDOCK. Does that conclude your statement at this time?

Mr. NEBEKER. Let me now read the second paragraph, please. [After an interval:] That is all I have to say.

Senator MURDOCK. Mr. Stringham, do you wish to be heard at this time?

Mr. STRINGHAM. Just a moment, before the Secretary leaves.

I understand this record is being taken and will be available to our people back home.

Senator MURDOCK. That is correct.

Mr. STRINGHAM. Well, not that it makes so much difference to me personally that I am not mentioned in the splendid report of the Secretary, but when this goes back home and our people back there read it they are going to say, "Where is Stringham? Was he drunk when all these conferences were had?" And, in all fairness to my people, I think it should show that I was present.

Secretary CHAPMAN. I am sure that it will be noted that you were present in the conferences.

Senator MURDOCK. I will be glad to assure anyone who has any doubt about your presence that you were here.

Mr. STRINGHAM. I understand that, Mr. Chairman, but I understood the Secretary as he read it he left out any mention to my name as being present at any time.

However, I just have a short statement here, very short; and I thought I might read it for the purposes of the record.

Senator MURDOCK. Certainly.

STATEMENT OF B. H. STRINGHAM, REPRESENTING THE TAX-PAYERS OF UINTAH AND DUCHESNE COUNTIES, UTAH

Mr. STRINGHAM. My name is B. H. Stringham.

I am representing the taxpayers of Uintah and Duchesne Counties, Utah, with a population of 20,000. My expenses are being paid by these two counties, which can ill afford this expenditure.

This problem, which is dual in nature, has been a source of serious irritation for the past 8 years, entailing the expenditure of much time and money by those concerned.

It is not understandable by our people why this problem has not been solved before now, inasmuch as the parties involved, both the Indians and the whites, have been in substantial agreement for several years past.

As to the present proposed agreement between the Grazing Service and the Indian Service, we think this is a step forward, but in no way a proper, final solution; and we acquiesce in it with the definite understanding that all parties concerned support the final enactment of H. R. 837 with amendments as worked out between representatives of the whites and the Indians.

It is our opinion that H. R. 837 would be much more satisfactory, both to the Indians and to the whites, if it included also the restoration of the 61,000 acres of ceded lands north of the Strawberry and Duchesne Rivers, back to the public domain, for the reasons that this land lies in small pieces; it is unfenced, and, in most cases, adjacent to white owners. It is not susceptible to blocking, and will always be a source of trouble to both parties.

We think that the Indians should be compensated by the Government for all ceded lands restored to the public domain in this area.

We want to hold a sympathetic, cooperative attitude toward the Indian population of our two counties. We express deep appreciation to the Public Lands Committee for its patient handling of these problems, and we particularly commend the Chairman, Senator Mc-

Carran, and Senator Murdock, for their untiring efforts. You have done our people a great service.

Senator MURDOCK. Does that conclude your statement, Mr. Stringham?

Mr. STRINGHAM. That is all.

Senator MURDOCK. Is there any one around the table that wishes to ask any questions of Mr. Stringham?

Mr. WILKINSON. Mr. Chairman, may I ask Mr. Stringham a question?

Senator MURDOCK. Mr. Wilkinson.

Mr. WILKINSON. Mr. Stringham, in your prepared statement you stated that the citizens of these two counties, as I understand it, would of course prefer that this sixty to seventy thousand acres also be restored to public domain?

Mr. STRINGHAM. That is correct.

Mr. WILKINSON. And that the Indians be compensated for it?

Mr. STRINGHAM. That is correct.

Mr. WILKINSON. I think that you are aware of the fact that my clients in the past have expressed a desire that the whole 220,000 acres be restored to them. I think you are aware of that, are you not?

Mr. STRINGHAM. That is right.

Mr. WILKINSON. Well, now, although I appreciate the desire, and appreciate that what you have said is based on instructions that you have received from home, if we can agree on everything else in this matter, I take it that you are not going to seriously object to the restoration of this sixty or seventy thousand acres to Indian ownership?

Mr. STRINGHAM. That is right.

Senator MURDOCK. Any other questions?

All right; we are ready now to listen to anyone else that wishes to enlighten us on this matter.

Mr. NEBEKER. There is just one further qualification I want to make to this statement of the Secretary as to that agreement, the agreement between the Indian Office and the Grazing Division.

That statement hardly states my position, because I have definitely, in all of the prior conferences, taken the position that we are utterly opposed to the administration of this grazing matter by the Indian Office.

We are perfectly willing to take the administration of the grazing district, of course, but if anything should happen to this bill, for example, if it could not be enacted, I do not want to be put in the position of having consented to any part of the agreement, because we do not like it. It gives to the Indian Office power to make curtailment of our licenses or permits at their discretion; it is left entirely to them. There is no guide but their conscience.

While undoubtedly the head of the Indian Office is a very competent gentleman, and he understands their problems, I do not know that there is anybody in that office that knows very much about the sheep farmers, and it is the sheep problem that they are concerned with now. They are conducting something different, and we do not want it.

Now, I am agreeing to the provisions of this bill with the understanding that it is more likely, in doing that, to get it through at once, and then, that the agreement is overboard.

Senator MURDOCK. May I interrupt you to ask this question, Mr. Nebeker? Does not the legislation that is before us now, and the proposed amendment, compensate between the jurisdiction of the Uncompahgre area by the Indian Bureau?

Mr. NEBEKER. No; not outside of this area that will be set off to the Indians.

Senator MURDOCK. No; that is true.

Mr. NEBEKER. That part that is set off to the Indians by that act; they have complete jurisdiction over that. But the area there, as you know, that is to be left to the Secretary, with only such guides as have been inserted in the bill.

Senator MURDOCK. Yes; but in all probability the area will remain, will it not, and will conform to the area designated here, on the map, in the black and green lines?

Mr. NEBEKER. Well, I do not know. That is projecting the question as to what is in the mind of the Indian Office; what they will do; what they will recommend to the Secretary, and, I understand, that in order to satisfy the grazing rights of the Indians, based on their property and prior use, that it will not take all of that area; that there will be a substantial part, on the north of that area, that would not be needed in the interest of the Indians.

Senator MURDOCK. Well, I am glad to hear that; but I thought that I should ask the question.

I take exactly the position that you do, and have for many years, that the jurisdiction over all grazing on the public domain, and even on the Indian land, should be under the Grazing Service. Even at this hearing I find that I am in disagreement with the Grazing Service officials themselves.

Mr. NEBEKER. The only reason that I do not make a more detailed objection to that agreement, is that I understand it will be superseded, if this legislation is enacted, and it will be out the window.

Mr. WILKINSON. Mr. Chairman, may I just make this statement?

Senator MURDOCK. Mr. Wilkinson.

Mr. WILKINSON. Our acquiescence in the instant agreement is conditioned on it being an interim arrangement; is also contingent, of course, upon the understanding of everyone here that they will work for this legislation, and upon the acceptance of this legislation by the Committee on Public Lands and Surveys, we of course recognize that the committee must be converted to it.

Senator MURDOCK. Yes; you must recognize that we still reserve the right to consider the proposals.

Mr. WILKINSON. Yes; but the point I want to make is that all the parties interested are agreed that the legislation is the remedy we seek, and that our acquiescence in the intradepartmental arrangement is contingent upon getting the legislation.

Mr. NEBEKER. I think that is a very good statement.

The only statement that Mr. Wilkinson made that we might object to is the inference that there is a matter of enforced labor in it; they have got to go ahead and do some more work.

Mr. WILKINSON. I have been considering this problem for a good many years and all I have found in it so far has been work.

Senator MURDOCK. That is all I have found in it, too.

Mr. WILKINSON. I think that—

Senator MURDOCK. Mr. Muck?

STATEMENT OF LEE MUCK, ASSISTANT TO THE SECRETARY, IN CHARGE OF LAND UTILIZATION, DEPARTMENT OF THE INTERIOR

Mr. MUCK. I think that possibly the solution which we have offered, and in which I took a large part, is the only one that will really work until we do have legislation. We have within this area an overlapping of jurisdiction, which has always been there, and which has resulted, I think, in these continued controversies. I believe sincerely that an end will be put to that.

And I beg to differ with you, Mr. Nebeker, for saying the Indian Service has no experience in conducting grazing administration.

It has conducted grazing administration on Indian lands, through its Division of Forestry for many, many years—at least 30, that I recall; so I am satisfied that the administration of the Indian Service in this area will be just as effective and cooperative as that of the Grazing Service. The agreement will eliminate definitely this overlapping of jurisdiction, which has caused all of this controversy. I do not think there is any question about it. There has been a difference of opinion as to technical procedures which the agreement will bring to an end.

Senator MURDOCK. What are the recommendations with reference to section 3 of H. R. 837?

Secretary CHAPMAN. Why, Mr. Wilkinson has that, I believe, or Mr. Graham.

Mr. GRAHAM. This is a copy. The language which I am about to read was worked out in conference between Mr. Nebeker and Mr. Wilkinson, and it would be as a substitute for the last sentence in the present draft of H. R. 837, the last sentence of section 3 thereof:

The area of the public lands to be set aside shall be determined by the Secretary with due regard to the conservation and orderly use of the public lands, and the improvement and development of the livestock industry depending upon the public range, in Utah Grazing District No. 8: *Provided*, That in making such determination the Secretary shall consider the needs of any lands purchased for said Indians during the last 10 years on the basis of their prior use and productive capacity at the time of their purchase: *Provided further*, That the creation of such reserve shall not deprive the Ute Tribe or individual members of the Ute Tribe from being granted grazing licenses or permits based on lands not considered in determining the size of such reserve.

Senator MURDOCK. Are there any further statements or questions now by anyone?

Mr. Rutledge, do you care to say anything?

Mr. RUTLEDGE. No; I do not think so.

Senator MURDOCK. Mr. Wright?

Mr. WRIGHT. I do not think so, Senator.

Senator MURDOCK. Mr. Ryan?

Mr. RYAN. No, thank you, Senator.

Senator MURDOCK. Mr. Graham, do you have anything to add?

Mr. GRAHAM. No; I have nothing further, Senator.

Senator MURDOCK. Mr. Leech?

Mr. LEECH. No, sir.

Secretary CHAPMAN. What do you think of this agreement?

Mr. LEECH. I believe the agreement will work; yes, sir, Mr. Secretary.

Senator MURDOCK. Mr. Woehlke?

Mr. WOEHILKE. Senator, the agreement and the legislation are both compromises, and as such they are not satisfactory to any of the parties involved, including the Indian Office; and I doubt whether any measure could solve the problem of the demands made upon the range in the Uintah Basin, because there is always a far greater demand than any possibility of supplying it.

As you know, there are 2,000 small irrigation farmers who must have a certain amount of livestock in order to make a substantial living; and they have not got access to public range, because there isn't any.

As I said to Senator McCarran, out there at Vernal, the only solution that I see, the permanent solution of that problem of the Uintah Basin, is a vast W. P. A. project, after the war, and the building up of a second range.

Senator MURDOCK. Well, if there is no further statement to be made, are there any further questions to be asked?

Mr. WILKINSON. Mr. Chairman, I take it that these questions you are asking for now are comments on section 3.

Senator MURDOCK. I thought that anyone else that wished might comment on it.

Mr. WILKINSON. We have this further amendment, of course, to offer with respect to such section 2. Would you like to take that up now or later?

Senator MURDOCK. Well, anything that you wish to bring up.

Mr. WILKINSON. Before reading this, Mr. Chairman, may I—

Senator MURDOCK (interposing). Is this an amendment which you intend to propose to—

Mr. WILKINSON (interposing). Section 2.

Senator MURDOCK. To section 2?

Mr. WILKINSON. Let me tell you just shortly what this amendment does.

Senator MURDOCK. All right.

Mr. WILKINSON. Section 2, of course, restores approximately sixty to seventy thousand acres of land to the Indians for their own use.

Section 2 also provides that, except as provided in section 1 hereof, the Secretary of the Interior shall not have the power to restore any other lands in Utah to Indian ownership, and that with respect to the balance of said lands within the former Uintah Indian Reservation they, approximately 160,000 acres, shall become the absolute property of the United States.

Now, because Indian title to these 160,000 acres of land will be taken from the Indians, an amendment is necessary permitting us to go into court and get compensation, and, as a part of this entire plan, it requires certain other legislation, so that section 2, as amended by this, will read as follows, if you will kindly follow it:

SEC. 2. Except as provided in section 1 hereof, no undisposed of opened lands in Utah shall be added to any reservation under the provisions of section 3 of the act of June 18, 1934 (48 Stat. 984), and any such—

and from there on we strike the balance of section 2 and insert new language after "such" and the new language is this—

Senator MURDOCK. After the word "such"?

Mr. WILKINSON. After the word "such."

Senator MURDOCK. You strike the rest of the section?

Mr. WILKINSON. Strike the rest of the section, and it reads then:

• • • and any such undisposed-of open lands located within the boundaries of the former Uintah Indian Reservation in said State are hereby declared to be the absolute property of the United States free from any trust restrictions: *Provided*, That suit may be instituted in the Court of Claims under the provisions of the Act of June 28, 1938 (52 Stat. 1209), as amended, to recover for the Indian tribal ownership in the lands hereby taken: *Provided further*, That if in any suit instituted under said Act of June 28, 1938 (52 Stat. 1209), the court shall find that any band or bands of Ute Indians entered into a treaty with the United States, negotiated by an agent thereof, whereby such band or bands agreed to surrender, give up, or relinquish to the United States their possessory right of occupancy in and to certain described lands, and in substantial compliance with the provisions thereof, did give up, surrender, or relinquish to the United States such right of occupancy and that the United States, notwithstanding its failure to ratify said treaty or treaties assented to or accepted the benefits of such giving up, surrender, or relinquishment, it is hereby declared that such action shall be sufficient grounds for equitable relief and the court shall enter judgment in favor of said Indians for the value of said lands as of the time the right of occupancy thereto was given up, surrendered, or relinquished to the United States; but such judgment shall not as respects such cause of action include any increment, interest, or equivalent thereof, from the date of taking to the date of judgment, as an element of just compensation or otherwise, and this limitation is not severable from the other provisions of this proviso: *Provided further*, That in any suit instituted under said Act of June 28, 1938, the court shall set off against the plaintiff the value of the beneficial use of land purchased by the United States under any emergency appropriation or allotment, the title to which has been vested in the United States in trust for the benefit of such plaintiff, but there shall not be set off any expenditures made by the United States (1) prior to the time the cause of action sued upon arose, or (2) under the Act of June 18, 1934 (48 Stat. 984), as extended (49 Stat. 1260, 1967) or (3) for educational purposes, it being the intent of Congress that any and all bands of the Ute Indians may assert any and all claims which have accrued to them since they acknowledged themselves to be under the exclusive jurisdiction of the United States (9 Stat. 984), except those actually litigated and determined in the cause entitled, "*The Ute Indians v. The United States*" (45 C. Cls. 440), decided May 23, 1910, and that the United States may set off against any amount found due on any claim asserted any and all payments made thereon and the gratuitous expenditures provided for in section 5 of the said Act of June 28, 1938, as modified by this proviso: *Provided further*, That in any suit instituted under said Act of June 28, 1938 (52 Stat. 1209), the Supreme Court of the United States shall have authority to review, as in other cases, any final judgment, or any judgment relating to the right of the plaintiff to recover but which reserves for further proceedings the determination of the amount of the recovery and the amount of the offsets: *Provided further*, That in awarding compensation to the attorney or attorneys prosecuting any suit under said Act of June 28, 1938, the Court of Claims, or the Secretary of the Interior, as the case may be, shall consider all services rendered by said attorney or attorneys under said Act, including services rendered before the members and committees of Congress, the departments of the Government, and the courts, with respect to all suits instituted thereunder and that actual expenses of said attorney or attorneys heretofore or hereafter incurred or expended in the prosecution of any suit instituted under said Act shall be paid as provided in the contracts approved by the Secretary of the Interior under which such suit is instituted.

Now, I am instructed to inform the committee that, provided an amendment of that kind is suitable to the committee, that then the Ute Indians would consent to the taking by the United States of this approximately 160,000 acres of land, to which they hold Indian title at the present time.

Now, let me just point out one thing in that connection. The members of the committee may say, perhaps, "Well, of course, that is simple; the Indians ought to consent to it; they can go into the Court of Claims and get compensation for it."

But it is not quite that simple, because when we go into the Court of Claims to get compensations for the lands taken, then under existing legislation, the United States can set off against any recovery all gratuities that the United States has ever expended for these Indians. So actually the Indians are, from one point of view, much better off with the land, because they have the land; it is theirs, complete ownership, complete Indian ownership; whereas if they go into the Court of Claims and get compensation for it, they are subject to a set-off for gratuities; and that is one reason why the Indians, and why the Indian Office has certainly not been in favor of the United States taking this land; at least I can say that from one point of view the Indians would be better off to keep the land.

But if they can get jurisdictional provision of the kind I have just read I am authorized to say that the Indians would consent to the whole proposal, giving us approximately sixty to seventy thousand acres of land.

Senator MURDOCK. The question is suggested here by the investigator to this subcommittee, Mr. Wilkinson, with reference to the basis of ownership of ceded land.

Mr. WILKINSON. I shall be very happy, if I may, Mr. Chairman, to make a short statement on that question.

I regret that I have not had time, as yet, to read the testimony taken at Vernal. I understand, however, that at that hearing the question of the legal status of the unsold lands in the old Uintah Reservation was discussed. There seemingly was some misunderstanding as to the legal status of those ceded lands, and I would like, if I may, to explain what I feel to be the exact legal status of those lands.

Senator MURDOCK. I know, but my position all of the time has been that, under the laws by which the land was taken from the Indians and made public domain, that, as I construe the statute, there is no string or restriction or qualification whatever, except that, if and when the lands were sold, the Indians were entitled to some part of the proceeds.

Mr. WILKINSON. May I come to that, then?

Senator MURDOCK. All right.

Mr. WILKINSON. The chairman has stated essentially the language of the act of 1902. Let me read the pertinent part of it.

By act of Congress of May 27, 1902 (32 Stat. 245, 263) Congress provided for the allotment of land within the Uintah Reservation to members of the White River band of Ute Indians, said allotment to take place on October 1, 1903, after which date "all the unallocated land in said reservation shall be restored to the public domain."

The act further provided that—

* * * the proceeds of the sale of the lands so restored to the public domain shall be applied, first, to the reimbursement of the United States for any money advanced to said Indians to carry into effect the foregoing provision; and the remainder, under the direction of the Secretary of the Interior, shall be used for the benefit of said Indians.

Now, since that time all of the land except this 220,000 acres has been sold, and I presume that the proceeds of it have been paid over to the Indians, after the deduction of the expenses of the United States.

Now, this bill would restore some sixty to seventy thousand acres of that to the Indians, and the balance would be taken absolutely by the United States, and the question, as I get it from the chairman,

is. Why is not that already absolutely the property of the United States? I take it that that is your question.

Senator MURDOCK. That is the question.

Mr. WILKINSON. Now, in my opinion, and, again, this is based on a considerable study of the judicial decisions of the Supreme Court, the only significance of the statute of 1902 is that thereby the United States obtained a cessation of these lands in trust for the limited purpose of sale. Remember that the statute of 1902 was later assented to by the Indians themselves, in the form of an agreement; they later agreed to it.

I recognize there has been some controversy, in the record, as to whether there was an agreement on their part, but I am assuming, for the present, there was. Based on that assumption I then stated that the only effect of that agreement is that they cede the title to the United States, merely for the purpose of sale, because the proceeds were still to be paid to them they still held Indian title to this land, subject, however, to the United States in the interim managing it as the United States desired.

Now, as evidence that that construction is correct all proceeds, all moneys that have been received from these lands (proceeds of sales as well as proceeds of use) have during that time, been paid over to the Indians.

It has been administered by Indian Affairs.

Senator MURDOCK. Well, I am a little misinformed on that, if your statement is correct. My understanding is that the lands were never administered by the Office of Indian Affairs until 6 or 7 years ago, when they, as it was developed at Vernal, stepped in and took jurisdiction, without any authority whatsoever, so far as I was able to see.

Mr. WILKINSON. Well, now, if I am wrong, Senator, I want to be corrected; the gentlemen here certainly know, and I would like them to state just what the facts are.

Senator MURDOCK. Mr. Wright, could you put us straight on that?

Mr. WRIGHT. I believe that the ceded land was not administered by the Indian Office, so far as I know, prior to June 1937. The reason they were not was because—or the reason they were administered after that, put it the other way, was that they were withdrawn from further disposal by public sale or homestead entries, by secretarial order. I think the one that created the Grazing Act did that.

I am a little confused on the date. At least the Indian Service did not exercise administrative authority over it prior to 1937, and it has done so since that time.

Senator MURDOCK. So that, for a period, then, subject to the enactment of the Statute of more than 30 years ago, the Indian Office had not asserted, or attempted to assert, any jurisdiction whatever over those lands?

Mr. WRIGHT. That is right.

Senator MURDOCK. One further question. Did you state, Mr. Wright, that the jurisdiction by the Indian Office was asserted as a result of an order, Executive order?

Mr. WRIGHT. Well, that is my understanding. I find I am a little confused on that; to state just which order it was; but it is my understanding it is the result of a later order.

Senator MURDOCK. Can you throw any light on that, Mr. Woehlke, with reference to the order?

Mr. WOEHILKE. I do not know of any such order, except a direction by the Commissioner of Indian Affairs to the superintendents to begin the active administration of that area.

As I understand it, at the opening of the Uintah Reservation to entry, there was quite a large acreage left; and in the beginning I understand that acreage was leased out to private parties, and the Indians received what they called grass money.

Senator MURDOCK. That was prior to the —

Mr. WOEHILKE (interposing). Prior to 1937. And after the bulk of the land—the Indian lands—was sold nobody knew exactly what was left; and the value of this land for grazing purposes was so relatively small that the Indian Office got out of the habit of doing anything about it. That is the situation, as I understand it, at least.

Then, in 1934, when a survey of these unsold lands was made, then the Secretary issued an order withdrawing them from further sale, and reserving them for the purpose of restoring them to the tribe, under the Wheeler-Howard Act.

The survey indicated that the lands were being overgrazed; and that the users were very much worried about the inclusion of other grazers, who were being affected by the operation of the Grazing Act, outside of the reservation area; and who flocked on to this reserved areas—on to these open lands—to the detriment of the people who had been using them for all these years. So in 1937, in order to end this intolerable situation, in order to give some protection to the actual users of the land, the superintendent was instructed to assume jurisdiction of them, and to issue permits to the prior users. That is about the situation, as I remember it.

Senator MURDOCK. Then that assertion of jurisdiction was by the direction of the Bureau of Indian Affairs, or the Commissioner of Indian Affairs?

Mr. WOEHILKE. No, the jurisdiction over those lands rested in the Secretary of the Interior, all these years; and he, in 1937, issued an order prohibiting the further sale, for the purpose of restoring that land to the Indians.

Then it became necessary to administer the lands, some form of administration, and the Commissioner of Indian Affairs then directed the superintendent to issue permits to the users of the lands.

Now, the withdrawal order of 1933, of September 26, 1933, of the Uncompahgre area, stated that that whole Uncompahgre area of 1,800,000 acres was withdrawn for the purpose of creating a grazing reserve for the benefit of the Utes, and directed the Commissioner of Indian Affairs to issue permits. This land, of course, was not in the same status as the land which had been sold. The title to the Uncompahgre area was in the United States. The Indians might have a moral claim for compensation, but they had no legal title to the land. On this area the Secretary of the Interior directed the Commissioner of Indian Affairs to issue permits. On this land which was within the reservation, and which had been opened to sale, and which had been withdrawn from such sale, there the Commissioner of Indian Affairs reassumed jurisdiction, after a lapse of some 20 years, during which time it was not being administered at all. But

the jurisdiction and the authority, though, we believe, had always been there; ever since the land was first opened to entry.

Senator MURDOCK. Well, Mr. Woehlke, could we ask you to do this for the committee—to supply us with copies of the several orders which you have referred to; that is, of the Secretary of the Interior, withdrawing it in 1934; then any orders or communications passing between the Secretary of the Interior and the Commissioner of Indian Affairs relating in any way to the assumption or the assertion of jurisdiction over these lands by the Commissioner of Indian Affairs?

Mr. WOEHKE. Yes; I would be glad to furnish it.

Mr. WILKINSON. Mr. Chairman, I will try then to make this brief.

Senator MURDOCK. Yes; we would like to have it in time to include in the record, Mr. Woehlke, if you can get them to us tomorrow or the next day.

(The documents and communications are as follows: The withdrawal order of September 26, 1933, and accompanying letter appear on pp. 2175-2176 of the printed transcript of hearings at Vernal, Utah.)

DEPARTMENT OF THE INTERIOR,
Washington, June 22, 1933.

Memorandum for Mr. Zimmerman, Office of Indian Affairs.

During hearings before a subcommittee of the Committee on Public Lands and Surveys of the United States Senate, which were held recently in the city of Washington, the authority of the Indian Office to administer ceded Indian lands was repeatedly challenged.

At the hearing on Monday, June 21, Senator Murdock requested Mr. Woehlke to submit any documents relating to the dates upon which administration was assumed by the Indian Office and any authority therefor. I enclose in this connection regulations of the Department governing the administration of Indian ceded lands approved by the First Assistant Secretary of the Department of the Interior on July 25, 1912. These regulations have not been rescinded and are still in effect with respect to the administration of ceded Indian lands.

This one document in itself provides, in my opinion, sufficient evidence to dispel the misunderstanding which has surrounded this entire question. It is suggested that you hand it to Mr. Woehlke with the request that he submit it with such other documents as he may have in mind when making his response to the request of Senator Murdock.

LEE MUCK,
Assistant to the Secretary in Charge of Land Utilization.

JUNE 23, 1937.

Mr. C. C. WRIGHT,
Superintendent, Uintah and Ouray Agency.

DEAR MR. WRIGHT: I have your letter of February 10 with further reference to granting grazing privileges on the ceded lands within the boundaries of the old Uintah and Ouray Reservation.

In view of your recommendations in this matter, in which Mr. Richard B. Millin, regional forester, concurs, a grazing permit may be issued to the Uintah Basin Cattle Growers' Association by the tribal business committee, in accordance with the plan set forth in the above-mentioned letter, pursuant to the tribal constitution and bylaws. It is our opinion that the issuance of a lease would not be justified. We also feel that it is not advisable to grant grazing privileges for periods in excess of 1 year on these ceded lands until final action is taken on the proposed legislation to reestablish the old Uncompahgre Reservation.

Sincerely yours,

WILLIAM ZIMMERMAN, JR.,
Assistant Commissioner.

Approved June 28, 1937.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

INDIAN LANDS

REGULATIONS GOVERNING USE OF VACANT CEDED INDIAN LANDS

DEPARTMENT OF THE INTERIOR.
Washington, D. C., July 25, 1912.

To Officers in Charge of Indian Reservations and Registers and Reservoirs of United States Land Offices.

GENTLEMEN: Regarding the question of jurisdiction over Indian lands after they have been opened for settlement and entry, under date of November 27, 1911, the First Assistant Secretary of the Interior addressed the Commissioner of Indian Affairs as follows:

"JURISDICTION OVER RELINQUISHED INDIAN LANDS

"NOVEMBER 27, 1911.

"THE COMMISSIONER OF INDIAN AFFAIRS.

"SIR: You have submitted the question of jurisdiction over lands within Indian reservations after they have been opened to settlement and entry.

"The question is perhaps not one so much of jurisdiction as one involving the rights of the Indians to the use and benefit of the lands after provision has been made extinguishing the Indian claim and making disposition of the lands. You note that such lands may be divided generally into two classes: (1) Those which the United States has purchased from the Indians and paid for, the Indian claim thereto being thus completely extinguished; and (2) those which the United States agrees to dispose of for the benefit of the Indians, without, however, becoming bound to purchase the lands, whereby the claim of the Indians remains unextinguished until the lands are finally sold.

"The Department agrees with you that as to the first class the Indians have no further concern and that after the cession such lands are properly under the jurisdiction of the General Land Office.

"The Department also agrees with you that the Indians are rightfully entitled to the use and benefit of the lands coming within the second class until they shall have been finally disposed of, with the condition, however, that the use thereof shall in no wise interfere with the speedy sale or other disposition provided by law. There should be no difficulty in properly handling such cases through joint cooperation between your office and the General Land Office. There can be no objection to permitting the use of such lands by the Indians or for grazing purposes for the benefit of the Indians, provided always that such use is so controlled as to not interfere with the settlement or sale of the lands. You will in all such cases confer with the General Land Office, with a view of adopting such rules and regulations as may be necessary to secure to the Indians any income that may be properly derived from the lands and at the same time to secure their early sale or settlement, as the law may direct.

"In respect to the Round Valley Indian Reservation in California, specifically referred to by you, the act of October 1, 1890 (26 Stat. 658), provides for the survey and allotment of the agricultural lands to the Indians in severalty, for the reservation of a reasonable amount of grazing and timber lands, and for the survey of the remainder of grazing and timber lands into tracts of 640 acres, and the sale of the same, the proceeds thereof, after paying the expenses, to be placed in the Treasury of the United States to the credit of the Indians.

"The act of February 8, 1905 (33 Stat. 706), directed that all the lands relinquished from the Round Valley Indian Reservation under the act of October 1, 1890, supra, should be surveyed, reappraised, and thereafter be subject to settlement and entry under the provisions of the homestead laws of the United States, and that all the lands thus opened to settlement remaining undisposed of at the expiration of 5 years from the taking effect of the act might be sold and disposed of for cash, the proceeds to be disposed of as provided in the act of 1890.

"Under these provisions of law this reservation clearly falls within the second class, and the Indians are entitled to possession of the lands until the same shall have been settled upon, entered, or sold. You will immediately confer with the General Land Office, with a view to entering into an arrangement along the lines suggested herein.

"A copy of this letter will be sent to the Commissioner of the General Land Office for his information and guidance.

"Very respectfully,

"SAMUEL ADAMS,
"First Assistant Secretary."

To put into effect the foregoing rulings of the Department and to provide for concurrent supervision over the lands involved, wherever situated, for the protection and benefit of the Indian owners and protection of prospective settlers, the following instructions are issued:

1. Up to date of entry, sale, or settlement, the lands in class 2 shall be under the jurisdiction of the Bureau of Indian Affairs and under the immediate supervision of the officer in charge of the Indian reservation where the lands are situate.

2. The officer in charge of the Indian reservation will prepare permits for grazing purposes in favor of responsible persons on the form approved by the department September 1, 1911 (5-175a), to which shall be added the following:

It is understood and agreed by the permittee that he will place no improvements upon the lands covered by this permit without first securing the written consent of the officer in charge of the reservation, and all fences and other improvements which he shall place upon the lands shall remain thereon at the expiration of the permit and become the absolute property of the equitable owner of the soil.

It is also understood and agreed by the permittee that from and after the date of any bona fide settlement, sale, or entry of the lands covered by this permit, or any part thereof, this permit becomes void as to the lands so affected, and the permittee agrees and hereby stipulates that he will not interfere with or in any manner attempt to prevent any person from making settlement, filing, or entry upon any of the lands included in this permit.

The penalty for violating the foregoing conditions and stipulations will be the summary revocation of the permit.

3. No permit shall be issued for a longer period than 1 year, and all permits shall be subject to the approval of the Secretary of the Interior.

4. Before executing a permit in favor of any person the officer in charge of the reservation will first ascertain from the land office of the district in which the lands are situated if said lands are applied for or are included in any entry of record. And thereafter, upon the execution of a permit, he will furnish the said land office with a description of the lands, the name of the permittee, and length of term, the same to be posted in the land office for the information of the public.

Any and all permits executed under these instructions shall be subject and subordinate to any valid settlement made or maintained under the public-land laws.

5. The officer in charge of the reservation is charged with the duty of preventing all trespassing on lands in class 2, the collection of trespass fees, and the prosecution of trespassers as provided by law.

6. After date of entry, sale, or settlement the lands in class 2 shall be under the jurisdiction of the General Land Office; and any permit in effect at such date shall cease and determine, and if occupied by any Indian such Indian's right of occupancy shall cease.

7. It shall be the duty of the local land officers to furnish the officer in charge of all Indian reservations within their jurisdiction monthly lists of all applications for entry or purchase, as well as all relinquishments filed, embracing lands in class 2, and to furnish also information when requested as to particularly described tracts.

F. H. ABBOTT,
Assistant Commissioner of Indian Affairs.

Approved July 25, 1912.

S. V. PROFFIT,
Assistant Commissioner of the General Land Office.
SAMUEL ADAMS,
Assistant Secretary.

(Taken from Circular and Regulations of the General Land Office, January 1830, pp. 669-671.)

DEPARTMENT OF THE INTERIOR,

August 10, 1934.

The honorable the Secretary of the Interior.

(Through the Commissioner of the General Land Office.)

MY DEAR MR. SECRETARY: Section 3 of the act of June 18, 1934 (Public No. 383, 73d Cong), enacted to conserve and develop Indian lands and resources and for other purposes, contains the following provision:

"The Secretary of the Interior, if he shall find it to be in the public interest, is hereby authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened to sale, or any other form of disposal by Presidential proclamation, or by any of the public land laws of the United States: *Provided, however*, That valid rights or claims of any persons to any lands so withdrawn existing on the date of the withdrawal shall not be affected by this Act: *Provided further*, That this section shall not apply to lands within any reclamation project heretofore authorized in any Indian reservation."

During the early years of our dealings with the Indians, the custom was to have individual or combined nations, tribes, or bands relinquish or cede to the United States large areas claimed by them, for which there was usually a cash or other consideration, and also the setting apart or reserving of certain lands within such ceded areas or from lands belonging to the United States and located elsewhere. These reserved lands thereafter became the recognized reservation of a tribe or band. In this way the Indians lost all identity with the ceded areas and their rights and interest therein were recognized as having been completely extinguished. In many instances such cessions, taken as a whole, embraced practically all of the lands now comprising many of the States of the West.

In years following, for reasons varying on the different reservations, portions of these diminished or newly established reservations were also ceded to the United States, the Indians receiving from the Government in lieu thereof a cash consideration, and other benefits. Such transactions were also recognized as carving or separating a certain area from a particular reservation, operating as an extinguishment of the Indian title. In this way the exterior boundaries of a reservation were further reduced. The lands thereby separated from a reservation were no longer looked upon as being a part of that reservation.

This brings us up to the period of about 1890, at which time there was adopted the plan of opening to entry, sale, etc., the lands of reservations that were not needed for allotment, the Government taking over the lands only as trustee for the Indians. Under this plan the Indians were to be credited with the proceeds only as the lands were sold, the United States not to be bound to purchase any portion of the lands so opened. Undisposed-of lands of this class remain the property of the Indians until disposed of as provided by law (*Ash Sheep Company v. United States*, 252 U. S. 159). Such lands are usually referred to as surplus lands of Indian reservations opened to public entry, and undoubtedly comprise the class of lands from which restorations to tribal ownership are to be made under the said section 3, if in the public interest. It can safely be said that it would not be to the interest of the public to restore to the Indians all undisposed-of public lands that at one time were in Indian ownership but afterward became the property of the United States by outright cession from the Indian owners, because, as stated above, such action would mean the withdrawal in many States of all lands now available for entry as public domain. Such action undoubtedly would raise strong opposition in the various localities affected and have an undesirable bearing on the new Indian legislation.

In connection with this matter, attention is invited to section 16 of the same act, which authorizes the formation of tribal organizations and provides that tribes and tribal councils shall have authority "to prevent the sale, disposition, lease, or encumbrance of tribal lands, * * *"; also to section 18 which authorizes the Indians of any reservation, by a vote of a majority of the adult Indians on the reservation, to exclude themselves from the operation of the entire act, referendum election for such purpose to be held within 1 year after approval of the act. It, therefore, will be some time before it is known definitely whether the Indians of any of the reservations will exclude themselves from operation under the act, and until tribal organizations can be formed and thereafter definitely determine which of the "opened" Indian reservation lands still undisposed of should be permanently restored to tribal ownership. Tribal organizations should have a voice in deciding which lands should be withheld from disposition. It is understood from informal inquiry in the General Land Office that, although there are "opened" lands on various reservations, there are only a very

limited number of reservations where sales can actually be made. Nevertheless, there is a possibility that in the meantime some desirable undisposed-of "opened" lands might be entered or filed upon by non-Indians and thereby prevent the restoration of such lands to tribal ownership. For this reason, action should be promptly taken to prevent, for the present, the further disposition of any of such lands by public entry, sale, or otherwise. A withdrawal of this kind would be merely of a temporary nature.

The following is a list of reservations where lands have been opened, the Indians to receive the proceeds of sale only as the tracts are disposed of. As a matter of convenience, citations to treaties, agreements, or acts, under which such "openings" occurred, are also furnished:

Arizona: San Carlos, agreement of February 25, 1896, ratified by act of June 10, 1896 (29 Stat. 388).

California:

Klamath River, act of June 17, 1892 (27 Stat. 52).

Round Valley, act of October 1, 1890 (26 Stat. 658).

Colorado: Utes, act of June 15, 1880 (21 Stat. 199).

Idaho: Coeur d'Alene, act of June 21, 1906 (34 Stat. 355).

Minnesota:

Bois Fort, act of January 14, 1889 (25 Stat. 642).

Deer Creek, act of January 14, 1889 (25 Stat. 642).

Fond du lac, act of January 14, 1889 (25 Stat. 642).

Grand Portage or Pigeon River, act of January 14, 1889 (25 Stat. 642).

Red Lake, act of January 14, 1889 (25 Stat. 642).

White Oak Point, act of January 14, 1889 (25 Stat. 642).

Leech Lake, act of January 14, 1889 (25 Stat. 642).

Montana:

Flathead, act of April 23, 1904 (33 Stat. 302).

Fort Peck, act of May 30, 1908 (35 Stat. 550).

Crow, act of April 27, 1904 (33 Stat. 352).

North Dakota: Fort Berthold, act of June 1, 1910 (36 Stat. 455).

Oklahoma:

Cheyenne and Arapaho, act of June 17, 1910 (36 Stat. 533).

Kiowa, Comanche and Apache, act of June 5, 1908 (34 Stat. 213).

South Dakota:

Cheyenne River, act of May 29, 1908 (35 Stat. 460).

Lower Brule, act of August 21, 1906 (34 Stat. 124).

Pine Ridge, act of May 27, 1910 (36 Stat. 440).

Rosebud:

Agreement of September 14, 1901, ratified by act of April 23, 1904 (33 Stat. 254).

Act of March 2, 1907 (34 Stat. 1230).

Act of May 30, 1910 (36 Stat. 448).

Standing Rock, N. and S. Dak.:

Act of May 29, 1908 (35 Stat. 460).

Act of February 14, 1913 (37 Stat. 675).

Utah: Uintah and Ouray, act of May 27, 1902 (32 Stat. 263, as amended).

Washington:

Colville, act of March 22, 1906 (34 Stat. 80).

Spokane, act of May 29, 1908 (35 Stat. 458).

Wyoming: Wind River, agreement of April 21, 1904, ratified by act of March 3, 1906 (33 Stat. 1016).

As a matter of explanation, it may be said that the Klamath River Reservation, mentioned in the list of reservations herewith, was established by Executive order of November 16, 1855. The surplus lands were opened to settlement, entry, and purchase under the laws of the United States by the act of June 17, 1892 (27 Stat. 52). As a consideration for the lands so opened, the Indians were to receive allotments, village sites, and \$1.25 per acre for lands disposed

of to certain settlers. Apparently the lands within this "opened" reservation remaining undisposed of at this time are of the class intended for withdrawal and should be retained from disposition until their need for Indian purposes has been investigated.

The Ute lands of Colorado, the areas covered by the act of June 15, 1880 (21 Stat. 199), as amended by the act of July 28, 1882 (22 Stat. 178), were deemed to be public lands of the United States and subject to disposal as such. However, the lands were to be sold, the proceeds to be first applied to reimbursing the United States for expenses incurred in connection with administration of the act and the remainder to be deposited in the Treasury of the United States for the benefit of the Indians. In view of this provision, such of these lands as remain undisposed of are also looked upon as being of the class to be temporarily withdrawn from further disposition, as proposed, and, therefore, have been included in the above list.

The act of May 17, 1900 (31 Stat. 179), provided for free homesteads for the benefit of actual and bona fide settlers, and that all sums of money so released from payment or collection, which if not released would have belonged to an Indian tribe, were to be paid to such Indians by the United States. It is, therefore, not intended that this withdrawal shall apply to and lands of this class where the Indians were reimbursed by the United States for the value of such lands in accordance with the said act of May 17, 1900 (31 Stat. 179).

If there are lands on any of the reservations named, other than the areas covered by the said citations, that were "opened," and for which the Indians receive the proceeds when disposed of, it is intended that they be included in the withdrawal. Areas within regularly authorized reclamation projects are to be excepted.

It is, therefore, recommended that all undisposed-of lands of the Indian reservations named above that have been "opened," or authorized to be "opened," to sale, entry, or any other form of disposal under the public land laws, or which are subject to mineral entry and disposal under the mining laws of the United States, with the exception of areas included in reclamation projects, be temporarily withdrawn from disposal of any kind, subject to any and all existing valid rights, until the matter of their permanent restoration to tribal ownership, as authorized by section 3 of the act of June 18, 1934, *supra*, can be given appropriate consideration. The intention is to withdraw only lands, the proceeds of which, if sold, would be deposited in the Treasury of the United States for the benefit of the Indians. In the event it is found that there are lands of other reservations that should have been included in this proposed withdrawal, appropriate recommendation will be made to have the withdrawal extended to embrace such lands.

Sincerely yours,

JOHN COLLIER, *Commissioner*.

GENERAL LAND OFFICE,
Washington, D. C., September 15, 1934.

There are no reasons known to this Office why the foregoing recommendation should not be approved.

FRED W. JOHNSON, *Commissioner*.

DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY

Approved, as recommended, September 19, 1934.

HAROLD L. ICKES,
Secretary of the Interior

Mr. WILKINSON. My understanding is that during this period, irrespective of whether or not the Indian Office was actually doing the administration thereof, that this so-called grass money that they got from the land was paid over to the Indians.

Senator MURDOCK. I think, too, Mr. Woehlke, that we should have an account or a statement of whatever moneys were received and

turned over to the Indians during this period of time between the 1902 statute—is it?

Mr. WILKINSON. Between the opening of the reservation in 1905 and the present.

Senator MURDOCK. Yes; on down to 1937. I would like to know just how much that amounted to.

Mr. WOEHLEKE. Mr. Wright can probably supply that from the agency records.

Mr. WRIGHT. I think so. It will take some little time, Senator, to make that accounting.

Senator MURDOCK. Yes. Would you get it to us as soon as you can?

Mr. WILKINSON. Now, I rely, Mr. Chairman, on four cases of the Supreme Court of the United States to support my views on this subject.

The first case is that of the *United States v. Brindle*, which is to be found in 110 U. S. 688, and which was decided in 1884, by an opinion, unanimous opinion, of the Supreme Court, written by Mr. Chief Justice Waite.

Now, this opinion, you will notice, precedes the 1902 agreement by some 18 years, so I think that the Indian Office knew what the law was with respect to this kind of an agreement.

In that case, the Delaware Tribe of Indians had, in 1854, entered into a treaty, the pertinent provisions of which are analogous to those in the case at bar.

The Delaware Treaty provided:

ART. 1. The Delaware Tribe of Indians hereby cede, relinquish, and quit-claim to the United States all their rights, title, and interest in and to their country—

and then describing it.

ART. 2. The United States hereby agree to have the ceded country * * * surveyed as soon as it can be conveniently done, in the same manner that the public lands are surveyed; * * *. And the said President will as soon as the whole or any portion of said lands are surveyed, proceed to offer such surveyed lands for sale at public auction, in such quantities as he may deem proper being governed in all respects, in conducting such sales, by the laws of the United States respecting the sales of public lands; * * *.

ART. 3. The United States agree to pay to the Delaware Tribe of Indians the sum of ten thousand dollars; * * *. And as a further and full compensation for the cession made by the first Article, the United States agree to pay to said Tribe all the moneys received from the sale of the lands provided to be surveyed in the preceding article, after deducting therefrom the cost of surveying, managing, and selling the same.

Now, in the Ute statute, the only agreement on the part of the United States was that they would pay to the Indians the proceeds after deducting their expenses. In the Delaware Treaty the United States agreed to pay the \$10,000 plus the money that they got from the sale of the land.

Now, the plaintiff in that case, the *Delaware case*, was the receiver of public money, and he had charge of the sale of the lands ceded by these Delaware Indians, the sale to the public.

If, under the statute, these lands were public lands, he was entitled merely to his official salary. If, on the other hand, they were still Indian lands, notwithstanding the conveyance, he was entitled to addi-

tional compensation over and above his salary, and he sued for this additional compensation on the theory that they were still Indian lands, notwithstanding the conveyance to the United States; and the Supreme Court so held and said:

* * * the cessions to the United States were in trust, to survey, manage, and sell the lands and pay the net proceeds to, or invest them for the Indians. There was never a time that the United States occupied any other position under the cessions than that of trustees, with power to sell for the benefit of the Indians. In equity, under the operation of the treaties, the Indians continued, until sales were made, the beneficial owners of all their country ceded in trust. Of this we have no doubt. * * *

Now, I think, as a matter of fact, the facts in that case were even more in favor of the United States than they are in the present case because there was an absolute consideration paid immediately by the United States, yet the Supreme Court held they were Indian lands in trust.

Now, in 1902, which is the year our statute was passed, the Supreme Court decided the case of *Minnesota against Hitchcock*, 185 U. S. 373.

In that case the Chippewa Indians had ceded to the United States, under an act of June 14, 1889, certain lands in the former Red Lake Reservation in Minnesota. These lands were also to be allotted to individual Indians, and the balance sold for the account of the tribe.

By another statute the United States had ceded to the State of Minnesota all public-school sections on the public lands within that State. The State of Minnesota claimed that under the latter statute it was entitled to the school sections within the land ceded by the Chippewa Indians, and sued to enjoin the Secretary of the Interior from selling these school sections for the account of the Chippewa Indians.

The Supreme Court refused the relief, saying:

* * * the cession was not to the United States absolutely but in trust. It was a cession of all the unallotted lands. The trust was to be executed by the sale of the ceded lands and a deposit of the proceeds in the Treasury of the United States to the credit of the Indians, such sum to draw interest at 5 percent, and one-fourth of the interest to be devoted exclusively to the maintenance of free schools among the Indians and for their benefit.

The lands were held to be Indian lands, even though they had been ceded to the United States.

That case was followed and applied in *United States against Mille Lac Band of Chippewa Indians*, 229 U. S. 498. I shall not take the time to give the facts there; they are similar to the other case.

A more recent case of the Supreme Court is that of *Ash Sheep Co.* against the United States, reported in 252 United States 159. In that case a statute provided that—

Every person who drives or otherwise conveys any stock of horses, mules, or cattle, to range and feed on any land belonging to any Indian or Indian tribe, without the consent of that tribe, is liable to a penalty of \$1 for each animal of such stock.

The Crow Indians had "ceded, granted, and relinquished to the United States" all of their "right, title, and interest" to a part of their reservation within the State of Montana. As in the case of the Ute Indians, the United States was to sell that land for the account of the Crow Indians. The question involved in the case was whether or not they, having been ceded to the United States, were still Indian

lands, so that any cattlemen who drove cattle over these lands offended the statute.

The Supreme Court held that they were still Indian lands, and upheld the imposition of the penalty against the grazing of sheep on these lands.

Now, the Court said, at page 243:

Taking all of the provisions of the agreement together, we cannot doubt that, while the Indians by the agreement released their possessory right to the Government, the owner of the fee, so that as their trustee, it could make perfect title to purchasers, nevertheless until sales should be made, any benefits which might be derived from the use of the lands would belong to the beneficiaries and not to the trustees, and that they did not become "public lands" in the sense of being subject to sale, or other disposition under the general land laws. *Union Pacific R. R. Co. v. Harris*, 215 U. S. 380, 388, 30 sub. C. T. 138, 54 L. ed. 246. They were subject to sale by the Government, to be sure, but in the same manner and for the purposes provided for in the special agreement with the Indians, which was embodied in act April 27, 1904 (33 Stat. 352), and as to this point the case is ruled by the *Hitchcock and Chipewea cases*, supra. Then we conclude that the lands described in the bill were "Indian lands" when the company pastured its sheep upon them, in violation of section 2117 of Revised Statute, and the decree in No. 212 must be affirmed.

Now, let me say this final word. It is my considered opinion, after having read all the decisions, that this is still Indian land. If I turn out to be wrong, then we will not recover for them in the Court of Claims. So I cannot see that anyone is damaged, in any event. If they are not Indian lands, then we won't get anything for them.

Mr. M. A. SMITH. In relation to these lands, and the jurisdiction since the opening of the reservation in 1905, all of the unentered lands, the homesteaders, and all the unsold lands before they were sold, was used by the livestock men, just as any other public-domain lands were used, without objections from the Indians or the United States Land Office, until some time in 1937 or 1938, as Mr. Wright said.

I heard of the making and issuing of permits, but I have not, up to date, received any notice from them myself, personally. However, I heard a Mr. Clay made a deal with Mr. Wright for some permit, something like about 6,000 acres, of these lands. In other words, up until these last 3 or 4 years, I think it was about 1938 or 1940, that they were attempting to take jurisdiction of these Indian lands; but at all times, from the time that reservation was opened, there was no attempt to administer them by the Indian Office, these unsold lands, at all, or the United States Land Office. They just remained just like any other public lands.

Senator MURDOCK. May I ask this question: Who has agreed to the proposed amendment to section 3?

Mr. STRINGHAM. May I ask what that is?

Mr. WILKINSON. That is the Uncompahgre part.

Mr. STRINGHAM. I have, Senator.

Mr. NEBEKER. I am not, Mr. Chairman, agreeing to it. I was landed this draft by Mr. Wilkinson, when we met late this afternoon, and I said that I would receive it and look at it.

Mr. WILKINSON. Mr. Nebeker, the chairman is referring to section 3, not 1.

Mr. NEBEKER. Oh!

Senator MURDOCK. To section 3.

Mr. NEBEKER. Oh, I have agreed to that. That is the amendment, now, as drafted by Mr. Graham.

Mr. GRAHAM. With your help, Mr. Nebeker. I think the first half of it was yours.

Senator MURDOCK. Mr. Woehlke, does the Indian Office agree to it?

Mr. WOHLKE. Yes.

Senator MURDOCK. And Mr. Wilkinson?

Mr. WILKINSON. Mr. Chairman, my position is just this, that we have here a complicated situation, one, the question of the ceded land, and the other the proposed jurisdiction amendments. I am agreeing to it, if we can agree on the whole thing. We want the whole thing settled.

I cannot, under the instructions from my client, agree to it unless we agree to the whole thing, and then I can. That is, if we can agree to all amendments here presented, then I will agree to the amendment to section 2.

Senator MURDOCK. What is the attitude of the Grazing Service? Are they agreed to it?

Mr. RUTLEDGE. No, sir; we have not been asked to agree to it; and I do not think that I could express agreement to it, because, as has been pointed out, the Department always takes the final action on a bill. And after that is written in the bill, then it would come to the Department for a report; so I think it would be improper for me to say, except personally, that we agree to it. I will say this, I think they are working along the right track, and I have not any real objection to that approach to it.

Senator MURDOCK. I think the present acting chairman of the committee realizes thoroughly the position of the Director in this matter, and that it would be improper, probably, for him to take a position; and I assume that it is understood by all of us that if and when an amendment is offered that it will be referred to the Secretary of the Interior for his views.

Now, is there any further comment?

Mr. MUCK. The Department has committed itself to certain language in the bill, as it now stands; and no representative of the Department is in a position to say that he will agree to a change in that language.

Senator MURDOCK. Yes; I understand that. Well, now, if there are no further statements by anyone, I do not see any necessity for remaining in session longer.

Mr. NEBEKER. I would like to say just a word with regard to this amendment that has been submitted at length by Mr. Wilkinson. I do not wish to take the position that he is wrong in regard to the law of the case. It is a matter, in other words, that we are not very much concerned with, as I understand it; but I do think that probably such a rider as that to the whole bill is very likely to delay and interfere with the enactment of the bill we are primarily interested in getting through; I do not know whether my judgment about that is correct or not, but it seems to me that that is raising a controversial matter that is very hard to determine, whereas the bill without it is rather simple, rather easily understood, and in a short time, it seems to me that it ought to be in a position to be enacted.

It brings in complicated matters, and I am interested now in getting this bill through as soon as possible. If we could get it through tomorrow, all the better.

At the request of Moroni A. Smith, I desire to offer for the record a brief prepared by the attorney who represented him and his associates at previous hearings before this committee, relative to the matters under consideration at the present hearing.

(The brief is as follows:)

**BRIEF AND MEMORANDA IN BEHALF OF MORONI A. SMITH AND ASSOCIATES, NOW
USERS OF GRAZING DISTRICT NO. 8, UTAH, UINTAH, DUCHESE COUNTIES**

(By Knox Patterson, attorney)

The proponents of the proposition that all of this land in question is essentially public lands of the United States, and subject to the direct control of the Grazing Division, desire to call the committee's attention to the following facts bearing directly upon the equities of this contention, and showing the direct and inequitable results to the citizens occupying these lands, should this area revert to the control of the Indian department.

These proponents, at least the older generations thereof, made by long and continued use of these lands. That while they were public domain previous to 1933 from about 1907 to present date, year after year they have continuously used these lands for winter grazing without protest or objection from any source whatsoever, subsequent to the enactment of the Taylor Grazing Act, such use has been under the administrative authority of the Grazing Division.

As the result of such continuous use of this area and reliance upon it, a use that has been recognized by the Government of the United States in years past, and a use that has become common to all prior users of the public range, of district No. 8, Utah, these proponents have made large and extensive investments in ranch property and ranch improvement, to secure to them stabilization, and in the growing of livestock, and created special legal preference and under valid rights of the Taylor Grazing Act, and vested rights over all nonusers previous to 1933 or 1934, including the Indians.

The proponents have reduced their patented areas to the highest state of cultivation conformable to good livestock practice, and have at all times maintained themselves to preserve their herds when the public range would fail as the result of drought, or otherwise; that at all times their fee ownership of land and investment in improvements and in agricultural pursuits has been on a par and consistent with the use of the public range; that subsequent to the administration of these public areas under the Taylor Grazing Act, such investments and improvements have continued, and are on a plane consistent with the administration policy, and have cooperated in every way possible to conform to, and much above the requirements of the administration regulations; and all such have been done with a feeling of security and from a legal position, that the Government policy would at all times be consistent with the proponents' use of said lands, their base properties, and the final stabilization of their inherent grazing rights, customs of the United States, and the common laws prevailing in the United States.

That such expenditures and investments in land and improvements have contributed very materially by heavy taxes to the upkeep of schools, county government, State government, and welfare interests in general, and without such investments and ownership of property by proponents and other livestock interests of these areas, the municipal governments of the area would be short of practically all revenue for the maintenance of civic and municipal government.

That by reason of such investments and the encouragement of the Federal Government in the use of the public range, even long before the enactment of the Taylor Grazing Act, and in particular under the spirit of the Taylor grazing law, these proponents declare their vested rights in and to the use of the lands allocated to them under the Taylor Grazing Act, and confidently assert that such rights cannot be legally dissipated by the claims of the Indian department or of the Indians themselves, especially under claims of the Indian department and said Indians of recent origin and without any foundation in fact, against proponents in the prior use of these 1,800,000 acres (withdrawal of 1933) in Uintah and Duchesne Counties, Utah.

That a destruction or denial of the rights of these proponents to the lands in question would result in extreme and excessive deterioration of all of their base

property, even to the extent of eventual loss of the said property of these proponents by depriving them of their year-round established operations, and to the several municipal governments supported thereby. That such base property can only be used in connection with these public lands of which they are wholly dependent for 6-month winter use.

That a loss of these base properties would result in materially increasing domestic animal food, such as hay, grain, and other products so greatly in need in a national sense to maintain production on the highest possible level.

To deny to these proponents the continuing use of such lands would be a desecration of rights already held sacred, and make the claim of ownership of property a Government mockery. It would virtually destroy whole sections of our western country and lay waste the greatest industry of the West.

Let it be further understood that this section of country is quite remote to transportation facilities, especially railroads, and that all of the agricultural areas capable of producing foodstuffs for livestock should be maintained to the maximum degree, and that only through a recognition of base property where primary agriculture is carried on in support of livestock can this progress be maintained. Agriculture is essential to the livestock interest and the livestock interest is essential to agriculture.

Proponents are not denying the rights of Indians who have succeeded to ranch property in the areas which had grazing commensurability, and they are heartily in accord with the policy suggested by Senators McCarran and Murdock at the Vernal meeting that Indians owning noncommensurate property should be treated exactly as white men and given no special favors because of the fact that they are Indians. Even then such Indians enjoy a preference in treatment in the fact their properties and livestock are not taxable. Of course, an extended practice of buying commensurate property for the Indians would result in material losses to taxing units in the community and State, as Indian real and personal property are not now taxable in Utah, and apparently exempt from paying grazing fees.

Proponents respectfully petition the committee to maintain the status quo; that is to say, control of such area by the Grazing Division of the United States of all the areas here involved in the interest of the common rights of people and in the interest of a stabilized livestock industry.

Any recognition of tribal Indian rights in this area would result in utmost confusion and place in jeopardy the rights of all of those long-established and recognized uses; it would create an unsettled condition requiring years to solve.

Let it be understood that the problems of my proponents are typical; here, in order to maintain from 12,000 to 15,000 sheep, actual cash subsisting investments have been made to the extent of from \$300,000 to \$350,000. This means actual investment. This will give the committee the situation as to the bona fide users of the land areas in question and perhaps include contiguous areas.

If it is the Government's and Congress' desire to confiscate these rights and grant this area to the Indians, who were given their citizenship by law in 1906, then proponents insist they should be paid for their vested rights under the condemnation laws of the United States or by agreement such as has been practiced in the purchase of other ranch property in that area; otherwise, to grant the property to the Indian without relief would be confiscation of property under the Constitution.

Respectfully submitted,

MORONI A. SMITH AND ASSOCIATES.
By MORONI A. SMITH.

Mr. WILKINSON. May I say this, Mr. Chairman?

Senator MURDOCK. Yes, Mr. Wilkinson.

Mr. WILKINSON. I appreciate, Judge Nebeker, what you have said. As a matter of fact, to be candid with you, what we wanted was considerably more than is in this amendment, and I cut it down to this size in order to make it a little easier to get enacted into legislation. On instructions from my clients, however, I cannot consent to section 3, as redrafted here, nor can I consent to giving up 160,000 acres of this land to the north, which my clients want, unless we get an amendment of this kind. We are making a concession on the two amendments in order that we can get these jurisdictional amendments through.

Senator MURDOCK. Anything further?

Mr. STRINGHAM. There is just one further understanding we had, verbally, and that is that in the issuance of these permits, under this intradepartmental agreement, it shall be stipulated in the permit that these permits become void at the time of enactment of this legislation. That does not mean a great deal, but it will to the boys who receive the permits.

Mr. GRAHAM. Along the line of what Mr. Stringham has just mentioned, it will be recalled that I offered for the record, on the first day that this subcommittee met, a copy of the agreement, which had been approved by the Secretary, to which were attached certain exhibits, including the form of permit from the Grazing Service and the Ute Indian Tribe, and the form of permit to be used for issuance by the Office of Indian Affairs to these 6 white users.

Since that time the provision to which Mr. Stringham has just referred has been incorporated in the forms, and it may be well if I would substitute those in the record, one copy of each of the revised forms.

Senator MURDOCK. I think that would be appropriate at this time so that there will be a complete record.

Mr. WILKINSON. One final item, I have been informed, as late as this afternoon, that the description of this land, the sixty or seventy thousand acres which is to be restored to Indian ownership, as contained in the Robinson bill was not entirely accurate. I was informed by the Indian Office just about 2 o'clock this afternoon, to that effect.

I have already talked to Mr. Stringham about it and I want Mr. Smith, now, and Judge Nebeker, to get exactly what I mean, because this has just come to my attention.

As I understand it, this sixty or seventy thousand acres of land embraces the land north and to the east of the Duchesne River; you see the Duchesne River runs east and south.

Now, I am informed that the description contained in the Robinson bill omits some of the land east of the Duchesne [indicating] and it is agreed, as I understand it, that the land north and east of the Duchesne River should be restored to the Indians. We will want to have this amendment checked to make sure that it properly describes that understanding.

Senator MURDOCK. Do you know how much land is involved, Mr. Wilkinson? In this area?

Mr. WILKINSON. We are told by Mr. Wright, sixty or seventy thousand acres. That is the aggregate amount we have been talking about; that is all right, but the description here does not include all of it.

Mr. SMITH. It is this land here [indicating].

Senator MURDOCK. Can you submit for the record that description of what you allege is left out?

Mr. WILKINSON. I have here, Mr. Chairman, a copy of a memorandum that was given me today; it is a memorandum for Assistant Secretary Chapman, and I think it comes from Mr. Zimmerman, does it not, Mr. Woehlke?

Mr. WOELKE. I signed it.

Mr. WILKINSON. And I can submit that for the record.

Now, I should say that I, of course, want to check that for myself.

(The memorandum is as follows:)

JUNE 21, 1943.

MEMORANDUM FOR ASSISTANT SECRETARY CHAPMAN

H. R. 837, the Robinson bill, restores some 60,000 acres of unsold open lands to the tribe and throws some 165,000 acres back into the public domain. It is doubtful whether the Utes will ever recover a cent for these lands, as, in my opinion, the offsets will more than absorb the value of these lands.

In most of the predecessors of H. R. 837, certain lands in the southeast corner of the Uintah Reservation were restored to tribal ownership. Adjacent to these lands the tribe has developed excellent winter flood irrigated pastures and intends to enlarge these pastures which have a high carrying capacity. In connection with these pastures, the following-described lands should be restored to tribal ownership, as they do not appear in the list of lands to be restored by H. R. 837: 15. T. 3 S. R. 2 E., all north and east of Duchesne River; 23a. T. 4 S. R. 2 E., all north and east of Duchesne River; 23b. T. 4 S. R. 3 E., all north and east of Duchesne River; 23c. T. 5 S. R. 3 E., secs. 5, 6, 7, and 8.

Since the unsold open lands of the Uintah Reservation were placed under the administration by the Indian Service, the Ute Indians have been able to make increasing use of these lands by their own livestock. Because Indian sheep are using them almost exclusively for winter range, the following-described lands should be added to the lands mentioned in H. R. 837, for restoration to tribal ownership: T. 5 S. R. 4 W., secs. 12, 13, 14, 24, 25, 26, 35, and 36; T. 5 S., R. 3 W., all; T. 4 S., R. 1 E., all; T. 4 S., R. 1, W., all.

Utah base line and meridian are used in all the above descriptions.

Senator MURDOCK. We will take it now; no harm in putting it in the record.

Mr. WILKINSON. Mr. Chairman, I appreciate your permitting me to say so much. In conclusion I merely repeat that under the decisions of the Supreme Court there is no question that the lands in the Uintah Reservation which are still unsold, are Indian lands. This has been recognized within the last week by the United States attorney for the district of Utah.

On June 9, 1943, he brought suit, in the name of the United States, for and on behalf of the Uintah and White River Indian Tribes, against Paul S. Hanson, alleging that Hanson had driven some 1,200 head of sheep over the open und unsold lands in the Uintah Reservation.

The petition asked for a penalty of \$1,200 against Hanson. The allegation of the petition is as follows:

That at all times herein alleged the lands hereinafter described were a part of the Uintah and Ouray Indian Reservation in the central division of the district of Utah and were unsold open Indian tribal lands held in trust by the United States of America for the use and benefit of the Uintah and White River Tribes of Ute Indians, said lands being described in particular as follows—

and then follows a description of the lands.

(3) That on or about the 3d day of March 1943, said defendant did drive and cause to be driven upon said lands certain cattle, to wit: 1,200 head of sheep, then and there for the purpose of ranging and feeding on said lands belonging to said Uintah and White River Tribes as aforesaid.

(4) That the acts of said defendant, as alleged in paragraph 3 hereof, were without the consent of said Uintah and White River Indian Tribes and were in violation of the property rights of said Uintah and White River Indian Tribes.

Therefore, the Secretary of the Interior has authority, under section 3 of the Wheeler-Howard Act, to restore these lands to tribal ownership. That section reads as follows:

The Secretary of the Interior, if he shall find it to be in the public interest, is hereby authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened to sale, or any other form of disposal by Presidential proclamation, or by any of the pub-

lie land laws of the United States: *Provided, however*, That valid rights or claims of any persons to any lands so withdrawn existing on the date of the withdrawal shall not be affected by this act: *Provided further*, That this section shall not apply to lands within any reclamation project heretofore authorized in any Indian reservation.

I think this committee is already advised of the opinion of the Solicitor of the Department of the Interior of June 15, 1938, holding that the Secretary did have authority to restore certain lands in Colorado to the Ute Indians. Such lands were held by the United States under a statute similar to the statute of 1902.

What I have said, of course, goes merely to the legal status of the lands. Whether the Secretary should restore them to Indian ownership is, of course, a different matter.

The Indians whom I represent have, for a long time, asked that they be restored to their possession; but, on the other hand, they have during the last few years agreed in general to the legislation proposed in the Robinson bill, which would restore only 60,000 acres to them and permit the Government to take the other 160,000 acres as its own absolute property.

At a meeting of the business committee of that tribe, held on May 27 of this year, they again reiterated the position they have taken, and passed the following resolution:

After a full discussion of the relative merits of (1) the Secretary of the Interior promulgating the two orders previously signed, one relating to the restoration of the so-called ceded lands in the former Uintah Reservation and the other to the creation of a grazing unit in the old Uncompahgre Reserve, and (2) H. R. 837, it was unanimously agreed—

(1) That the business committee of the Uintah and Ouray Tribe goes on record in favor of H. R. 837 with an amendment pertaining to the rights of the said tribe to sue the United States, said amendment to be presented by our attorney, Ernest L. Wilkinson, to the Senate Public Lands Committee; and

(2) That in the event that H. R. 837 with the aforesaid amendment is not enacted into law within a reasonable time that the Secretary of the Interior be requested to promulgate the two orders herein referred to.

MR. STRINGHAM. May I make one final statement? This is for my poor people who live in the approval area there.

In regard to the jurisdictional rider on this bill, it certainly is not satisfactory to them; but they have sent me out here to make the best deal possible, and I have consented to that rider with the understanding that it is an offer and a compromise, and that we all must compromise, man to man, in order to settle these long-drawn-out problems.

MR. WILKINSON. Mr. Stringham, when you say the jurisdictional amendment, what you referred to was the provision restoring the 60,000 acres to Indian ownership?

MR. STRINGHAM. That is what I mean.

MR. WILKINSON. You do not have any objection to these jurisdictional provisions permitting us to go into the Court of Claims and sue?

MR. STRINGHAM. None, whatever.

Senator MURDOCK. Well, now, if that concludes all of the statements and questions that any of the people around the table here wish to make, I think it would be proper for me to state this: I think that at our last meeting Senator McCarran expressed some opposition to the inclusion of these jurisdictional amendments to the present bill, and, of course, he has a perfect right to his opinion on that; and,

if the amendments are offered by me or anyone else on the committee, we will have to do it with the understanding that Senator McCarran has expressed his opposition to their inclusion.

As I see the picture now, as a member of the Public Lands Committee of the Senate, we, of course, have no jurisdiction whatever to approve or disapprove of any of the agreements that you people have entered into, or attempted to enter into.

All we have done is to hold these hearings, and fully inform ourselves, and in turn, to convey on to the whole Public Lands Committee whatever information we have obtained by these hearings.

As to what amendment will be offered, or what effort will be made to pass H. R. 837, of course, that remains wholly in the discretion of Members of Congress.

My attitude, however, is that if these agreements that have been worked out, and the amendments to the bill that have been worked out, are the best that you people can do, then it is my opinion that the whole matter should be solved by legislation as promptly as matters between human beings can be solved that way.

However, before agreeing to all of the amendments that have been submitted, I want a day or two to look them over. It may be that I will want to change a word here and there, or rewrite it in some way. Of course I must reserve that right in myself.

I want to take this opportunity, also, to express my gratitude to Senator McCarran, as chairman of this subcommittee, for his patience and sincere perseverance in aiding the people of my State, including the Indian population, as well as the white, to come to some agreement; and I am hopeful that in the very near future the whole thing can be consummated by enactment of either the Robinson bill or some other bill along that line.

I do not believe that I have anything further to say, and if no one else has, we stand adjourned.

Thank you all for having come here and participated in the hearing.

(At the request of Senator Murdock, the following memorandum is made a part of the record:)

MEMORANDUM CHALLENGING THE VALIDITY OF THE WITHDRAWAL ORDER OF SEPTEMBER 26, 1933, AS WELL AS ALL SUBSEQUENT ACTS BASED THEREON

To the Honorable Members of the Senate Committee on Public Lands:

This memorandum is addressed to the proposition (1) that the withdrawal order of September 26, 1933 (report of hearings, pp. 2175-2176), is null and void in its entirety and (2) that subsequent official acts based thereon are equally devoid of authority. Special reference, in this connection, is made to the proposed agreement between the Commissioner of Indian Affairs and the Director of Grazing, purporting to authorize the Commissioner to issue certain grazing permits and perform other functions not within the scope of his official authority.

As the above-mentioned order of September 26, 1933, is the basis of all of the subsequent official acts mentioned in the preceding paragraph, the legality or illegality of this order presents the first question to be considered. In this connection reference is made to the letter of June 22, 1933, from the Commissioner of Indian Affairs to the Secretary of the Interior (report of hearings, p. 2175) as this letter purports to be a statement of the grounds upon which the order was to be issued. On the question as to the authority of the Secretary to issue the order it will be noted that the letter refers to paragraph 4 of the

act of March 3, 1927 (U. S. C., title 25, sec. 308d). This statute reads as follows:

"308d. Same; changes in boundaries of Executive order reservations. Changes in the boundaries of reservations created by Executive order, proclamation, or otherwise for the use and occupation of Indians shall not be made except by act of Congress; *Provided*, That this shall not apply to temporary withdrawals by the Secretary of the Interior (Mar. 3, 1927, c. 299 4, 44 Stat. 1347)."

In order to make the point that this statute does not confer on the Secretary the authority to make temporary withdrawals it is necessary to call attention to the fact that nothing is said about temporary withdrawals in that part of the section which precedes the proviso; and that the proviso itself merely says in effect that nothing contained in the other part of the section shall be construed to apply to temporary withdrawals by the Secretary. In issuing the order, the Secretary of the Interior takes the position that the later statement amounts to an affirmative grant of power to make temporary withdrawals. That is to say, that the words "this shall not apply to temporary withdrawals by the Secretary of the Interior" have the same force and effect as if there were a provision in the statute which says in so many words that "the Secretary of the Interior is hereby authorized to make temporary withdrawals."

It is an elementary rule of statutory construction that the office of a proviso is to take from or modify some statement that precedes it in the same statute (*U. S. v. Morone*, 266 U. S. 535-536); his proviso, however, does not refer to anything that was said in the other part of the statute, and at the same time it does not purport to be an affirmative grant of authority. In fact it has all the earmarks of a hastily prepared clause which was intended to accomplish some purposes which the draftsman did not wish, and indeed utterly failed, to disclose. In the light of the foregoing comments it is difficult to understand how the Commissioner of Indian Affairs could possibly make the statement contained in his letter, that "Section 4 of the act of March 3, 1927 (44 Stat. 1347), permits the temporary withdrawals of land for Indian purposes but prohibits permanent withdrawals except by act of Congress."

At the risk of seeming to labor a point that is already sufficiently obvious there is one other matter along the same line which may be of some interest. This suggestion has reference to the point that the statute under consideration relates only to existing Indian reservations, while the withdrawal of September 26, 1933, involved lands which became a part of the public domain in accordance with the act of June 7, 1897. The area described in the order formerly constituted the Uncompahgre Reservation which was established by Executive order of January 5, 1882. As a result of the distorted construction placed on the language contained in the section (4 of the act) by department officials, this large area (with certain minor exceptions), was, in form, at least, withdrawn from private entry. While this order is called a temporary order, it has already been in existence for nearly 10 years, although in the meantime the public lands in the withdrawn area have been placed in a grazing district organized and established under the Taylor Grazing Act. As a culminating absurdity, the grazing authorities and the Office of Indian Affairs have prepared and signed an agreement for joint management and administration of the affairs of the grazing district. (See report of hearings, p. 2415.) Thus has the Commissioner of Indian Affairs more or less successfully pursued the tactics of the camel that secured possession of the tent by first inserting his nose under the edge and then proceeding a few inches at a time until he was in full possession.

Needless to say, the effect of this unwarranted intrusion is to upset existing range allocations and to interfere with the orderly and economic use of the range for grazing purposes. It is also contrary to the provisions of the Taylor Grazing Act and to the rules and regulations of the grazing district, and this suggests the next question to be discussed.

The original order establishing Utah grazing district No. 8 was promulgated June 22, 1935. This order was supplemented by the order of July 20, 1935, and neither of these orders refers to, or recognizes the existence of the order of September 26, 1933.

The statute providing for the creation of grazing districts is something of an innovation in public-land policy, and the Taylor Grazing Act as amended has provided in great detail for the management, control, and use of the public range. The act expressly provides that only "vacant, unappropriated and unreserved lands," constituting a part of the public domain, were to be included in grazing

districts. In fact the whole tenor and effect of the act are inconsistent with the theory now being advanced by department officials. It follows, therefore, that even if the order had any vitality to begin with it certainly had none after the lands were withdrawn and incorporated in a grazing district pursuant to the express terms of the Taylor Grazing Act.

Furthermore, this act does not recognize such a hybrid management within a district as that provided for in the ill-advised agreement to which reference has been made. It does not give authority to the Secretary to create more than one management and does not authorize that management to delegate any part of its powers to the Office of Indian Affairs or any other outside agency. It certainly would be entirely subversive of the basic purposes of the Taylor Grazing Act if grazing districts could be saddled or hampered in any way by means of such orders as that of September 26, 1933; and if this order is valid, then what is there to prevent the Secretary from making temporary withdrawals anywhere he can find a pretext for making them, on what is left of the public domain.

The legislative history of the act of March 3, 1927, discloses nothing to indicate that section 4 was intended by Congress to confer upon the Secretary of the Interior the power to make future withdrawals. On the contrary it conclusively appears that this section was intended to have the opposite effect. The purpose of the proposed legislation was clearly stated in connection with two bills—S. 4893 and H. R. 15021—which received extended and critical consideration. The two bills were identical and later on S. 4893 was substituted for the House bill and was passed.

In the report of the Senate Committee on Indian Affairs, to accompany S. 4893 (Rept. No. 1240, 69th Cong., 2d sess.), the purposes of the measure are summarized as follows:

The enactment of this legislation will accomplish the following purposes:

1. Permit the exploration for oil and gas on Executive order Indian reservations.
2. Give the Indian tribes all the oil and gas royalties.
3. Authorize the States to tax production for oil and gas on such reservations.
4. Place with Congress the *future* determination of any changes of boundaries of Executive order reservations or *withdrawals*. [Italics supplied.]
5. Extend relief to permittees and applicants which in good faith expended money in development looking to the discovery of oil and gas under the general leasing act of February 25, 1920, upon Executive order Indian reservations, at a time when such lands were held to come within the terms of the said act.

The report of the Committee of the Whole House was agreed to a few days later and it contained the same summarized statement of the purposes of the bill (Rept. No. 1791, 69th Cong., 2d sess.). It will be noted that the numbered statements in the summary have reference to the same numbered sections in the bill; also that paragraph 4 of the summary states in clear and explicit terms that section 4 places with Congress the power to make future withdrawals. The use of the word "future" is accounted for by the fact that the Secretary had theretofore withdrawn all lands within Executive order Indian reservations from future appropriations under the leasing act of February 25, 1920. (See quotation from Assistant Secretary Finney's decision at p. 17 of hearings of the Senate Committee on Indian Affairs, 69th Cong., 2d sess., January 11, 1927.) Mr. Finney says in the closing paragraph of the decision that "it was the purpose and effect of said order of April 1, 1925, to withdraw from future appropriations, under the act of February 25, 1920, pending the final decision of the courts, lands within the so-called Executive order Indian reservations."

The net result seems to be that the proviso in section 4 was intended to take from the Secretary the power to make future withdrawals but to allow the temporary withdrawals mentioned by Mr. Finney to remain intact. As these withdrawals were only intended to operate "pending a final decision by the courts," they were necessarily temporary withdrawals. It appears, therefore, that the proviso would have been entirely explicit if an appropriate word or appropriate words had been supplied to fill the elipsis between "withdrawal" and "by" in the proviso. In that case the proviso would read: "Provided, That this shall not apply to temporary withdrawals heretofore made by the Secretary of the Interior."

It is believed, therefore, that the following propositions have been sufficiently established:

1. That section 4 of the act of March 3, 1927, does not on its face, nor when considered in the light of its legislative history, confer upon the Secretary of the Interior the power to make withdrawals.

2. That as a necessary consequence of this lack of authority the Secretary's order of September 26, 1933, as well as all subsequent orders and official acts based thereon, are null and void ab initio for the following reasons: (a) The proviso in section 4 of the act of March 3, 1927, does not, when considered in connection with its context, purport to be a grant of power or authority; (b) that when considered in the light of the legislative history of the act, it is apparent that the proviso was intended by Congress to place with that body the power to make withdrawals; (c) even if the order of September 26, 1933, were valid when issued, it became functus officio by necessary implication when the lands covered by the order were placed in a grazing district pursuant to the provisions in the Taylor Grazing Act.

Respectfully submitted.

FRANK K. NEBEKER,

Attorney for Moroni A. Smith et al.

AUGUST 5, 1943.

(Whereupon the subcommittee proceeded to the consideration of other business.)



THE LIBRARY OF THE
AUG 16 1943
UNIVERSITY OF ILLINOIS



ADMINISTRATION AND USE OF PUBLIC LANDS

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON PUBLIC LANDS AND SURVEYS UNITED STATES SENATE SEVENTY-EIGHTH CONGRESS

FIRST SESSION

PURSUANT TO

S. Res. 241

(76th Congress—Extended by S. Res. 39, 78th Congress)

RESOLUTIONS AUTHORIZING THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS TO MAKE A FULL
AND COMPLETE INVESTIGATION WITH
RESPECT TO THE ADMINISTRATION
AND USE OF PUBLIC LANDS

PART 8

ELY, NEVADA

AUGUST 28, 1943

Printed for the use of the Committee on Public Lands and Surveys



FEB 2 1944

UNIVERSITY OF ILLINOIS

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1944

COMMITTEE ON PUBLIC LANDS AND SURVEYS

CARL A. HATCH, New Mexico, *Chairman*

ROBERT F. WAGNER, New York	GERALD P. NYE, North Dakota
JOSEPH C. O'MAHONEY, Wyoming	CHAN GURNEY, South Dakota
JAMES E. MURRAY, Montana	RUFUS C. HOLMAN, Oregon
PAT McCARRAN, Nevada	JOHN THOMAS, Idaho
CHARLES O. ANDREWS, Florida	RAYMOND E. WILLIS, Indiana
MON C. WALLGREN, Washington	EDWARD V. ROBERTSON, Wyoming
ABE MURDOCK, Utah	
EDWIN C. JOHNSON, Colorado	

W. H. McMains, *Clerk*

N. D. MCSHERRY, *Assistant Clerk*

SUBCOMMITTEE ON SENATE RESOLUTION 241 (76TH CONG.)

PAT McCARRAN, Nevada, *Chairman*

CARL A. HATCH, New Mexico	GERALD P. NYE, North Dakota
JAMES E. MURRAY, Montana	RUFUS C. HOLMAN, Oregon
CHARLES O. ANDREWS, Florida	
MON C. WALLGREN, Washington	
ABE MURDOCK, Utah	

E. S. HASKELL, *Chief Investigator*

ELIZABETH HECKMAN, *Secretary*

II

CONTENTS

Statement of—	Page
Bagley, Lester.....	2510, 2531
Barr, Andy.....	2502, 2515
Beck, James O.....	2524
Bonner, John W.....	2515
Briggs, A. E.....	2519
Christensen, S. A.....	2538
Deardon, Thomas.....	2552
Doty, Dale E.....	2528
Gray, W. Howard.....	2478
Havell, Thos. C.....	2572
Johansen, J. P.....	2512, 2520
Kneipp, L. F.....	2491, 2500, 2541, 2559
Leech, J. H.....	2528
Leonard, Ross.....	2497, 2505
Luce, David.....	2539
Lundell, John A.....	2539
Moorman, Clarence.....	2566
Olsen, C. J.....	2514
Pederson, Peder V.....	2516
Pittman, Vail.....	2480, 2502, 2550
Randle, Allan C.....	2503, 2520
Robison, Bill.....	2571
Smith, J. M.....	2554
Swallow, George N.....	2513, 2562
Torgerson, A. R.....	2564
Wait, Frank.....	2504
Walker, Leo C.....	2537
Weber, John J.....	2521
Wegener, Theodore H.....	2529
Woods, C. N.....	2543
Yelland, John.....	2540



ADMINISTRATION AND USE OF PUBLIC LANDS

SATURDAY, AUGUST 28, 1943

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS,
Ely, Nev.

The subcommittee met, pursuant to call, at 10 a. m., at Ely, Nev., Senator Pat McCarran presiding.

Present: Senator Pat McCarran, Nevada, chairman.

Also present: E. S. Haskell, special investigator.

MORNING SESSION

The CHAIRMAN. The meeting of the subcommittee of the Senate of the United States, called for this date, will come to order, the subcommittee being a subcommittee of the Committee on Public Lands and Surveys of the Senate. Notices of this meeting have been distributed throughout the country. We have tried to make the notice as broad as possible so that all and any who sought to come before the committee would have an opportunity to be heard.

I regret exceedingly, due to many conditions, the members of the committee who had planned to be with us here have been unable to attend. Senator Murdock of Utah was quite certain that he could be here until day before yesterday, when it was disclosed his son was about to leave this continent in the military service of the United States, and in order to see him off the Senator and Mrs. Murdock were compelled to go to a seacoast point far remote from here.

During the day, ladies and gentlemen, we will devote the time of the committee to a discussion of the matters pending before the Committee on Public Lands and Surveys of the Senate. We want a free and open and untrammelled discussion of anything that touches upon the phase of life in which you are interested. We have attempted to bring before this committee meeting representatives of various departments of the Federal Government that in anywise touch upon or have to do with the administration of the open public domain in any way whatever. The reason for requesting them was that we might bring to the people who utilize the open public domain the representatives of their Government, so that the people might have an opportunity to discuss with them, face to face, terms and conditions and problems that present themselves to the people. In other words, this committee has attempted, during all of the years of its existence, to bring the Government out to the people, as nearly as we could. There are many vexing problems, especially in the public-lands States, and we are anxious to have those problems presented first hand to those who have had the administration of the open public domain.

The first thing that we will do this morning is to pass through the audience cards on which you will kindly register your name, your post-office address, and what, if any, group or public service or public agency you represent, so that the committee may have a full register of those who are present, and what they represent. That will also apply to the representatives of the Federal agencies who are present. (The list of persons referred to is as follows:)

LIST OF PERSONS REGISTERED AT ELY HEARINGS

Phil Abjeto, box 15, Kimberly, Nev.
 Lester Bagley, State Game Warden, Wyoming Game Commission, Cheyenne, Wyo.
 Andy Barr, Nevada Fish and Game Commission, Ely, Nev.
 Glen A. Bellander, Baker, Nev.
 John W. Bonner, district attorney, White Pine County, Ely, Nev.
 Kenneth E. Bradshaw, district range examiner, Soil Conservation Service, Ely, Nev.
 A. E. Briggs, forest supervisor, Nevada National Forest, Ely, Nev.
 James O. Beck, director, Idaho State Fish and Game Commission, Boise, Idaho.
 Frank Callaway, Callaway, Nev.
 Arthur N. Carter, Lund, Nev.
 S. A. Christensen, Wyoming Game and Fish Commission, Evanston, Wyo.
 J. L. Collins (hotel operator), Collins Hotel, Ely, Nev.
 Steven Dantre, Ely, Nev.
 George Doyle, City Hall, Ely, Nev.
 Thomas Deardon, Garrison, Utah.
 C. F. Dierking, regional grazier, Grazing Service, Reno, Nev.
 Dale E. Doty, Office of the Secretary, Department of the Interior, Washington, D. C.
 P. W. Duffin, Caliente, Nev.
 Howard Engle, grazier's aide, Grazing Service, box 1289, Ely, Nev.
 Cedric G. d'Easum, information supervisor, Idaho Fish and Game Department, Boise, Idaho.
 George Eldridge, McGill, Nev.
 Frank W. Groves, Fish and Wildlife Service, Las Vegas, Nev.
 Nick Goicoa, Elko, Nev.
 John O. Gustafson (range examiner, Grazing Service), box 521, Ely, Nev.
 C. W. Hodgson, Extension Service, Ely, Nev.
 Oscar W. Jenkins, Ely, Nev.
 J. P. Johansen, Garrison, Utah.
 Fred W. Johnson, United States Forest Service, Albuquerque, N. Mex.
 W. Howard Gray, attorney at law, box 1260, Ely, Nev.
 M. L. Hamifan, farm agent, United States Indian Service, Fallon, Nev.
 Charles W. Hanscum, deputy game warden, Lander, Wyo.
 Q. David Hansen, forest ranger, United States Forest Service, Ely, Nev.
 G. H. Hansen, district agent, Fish and Wildlife Service, Division of Predator and Rodent Control, Reno, Nev.
 E. W. Hardies, assistant agronomist, United States Indian Service, Stewart, Nev.
 George Hardman, State conservationist, Soil Conservation Service, Reno, Nev.
 Thomas C. Havell, General Land Office, Washington, D. C.
 D. W. Heckathorn, McGill, Nev.
 Douglas E. Henriques, field examiner, General Land Office, Branch of Field Examination, 355 Federal Building, Salt Lake City 10, Utah.
 Charles T. Hohenthal, field examiner, General Land Office, Branch of Field Examination, 355 Federal Building, Salt Lake City 10, Utah.
 C. E. Horton, attorney at law, box 1260, Ely, Nev.
 D. A. Hughes, secretary, Eastern Nevada Sheep Growers Association, box 217, Ely, Nev.
 Steve James, extension agent, Lincoln County, Pioche, Nev.
 Cale C. Johnson, box 398, Ely, Nev.
 D. R. Kerr, Ely, Nev.
 L. F. Kneipp, assistant chief, United States Forest Service, Washington, D. C.
 Joe Laxagoe, box 784, Ely, Nev.
 E. N. Larsen, Utah Fish and Game Commission, Hyrum, Utah.
 Joe H. Leech, Chief of Lands, Grazing Service, United States Department of the Interior, Salt Lake City, Utah.

Ross Leonard, director, Utah Fish and Game Department, Salt Lake City, Utah.
 David Luce, commissioner, White Pine Co., Ely, Nev.
 John A. Lundell, Cedar City, Utah.
 John Manzonie, box 1236, Ely, Nev.
 A. G. McBride, Elko, Nev.
 W. S. McGill, Grazier, district 4, United States Grazing Service, Ely, Nev.
 John Melland, East Ely, Nev.
 Jack Moore, 205 North Eleventh Street, Las Vegas, Nev.
 Charles F. Moore, regional grazier, United States Grazing Service, 238 Post Office Building, Salt Lake City, Utah.
 C. R. Moorman, Moorman Ranch, Ely, Nev.
 Judge E. L. Nores, Pioche, Nev.
 H. E. O'Harra, agricultural extension agent, United States Indian Service, Stewart, Nev.
 Foyer Olsen, forest ranger, United States Forest Service, Ely, Nev.
 C. J. Olsen, assistant regional forester, United States Forest Service, Ogden, Utah.
 Peder V. Pederson, secretary, White Pine Sportsman's Association, Ely, Nev.
 Vail Pittman, Lieutenant Governor of Nevada, Ely, Nev.
 W. C. Phillips, Ely, Nev.
 B. H. Robison, McGill, Nev.
 D. C. Robison, Baker, Nev.
 Allan C. Randle, Utah Fish and Game Department, Capitol Building, Salt Lake City, Utah.
 Leonard D. Selfers, Ely, Nev.
 Alfred W. Smith, Arthur, Nev.
 J. W. Smith, 135 South Third Street, W., Cedar City, Utah.
 Loyd Sorensen, Ely, Nev.
 Glen W. Southwick, administrative assistant, Nevada National Forest, Ely, Nev.
 George N. Swallow, president, Eastern Nevada Cattle Association, Shoshone, Nev.
 Richard M. Swallow, Shoshone, Nev.
 A. R. Torgerson, forest supervisor, Humboldt National Forest, Elko, Nev.
 Alfred Uhalde, Ely, Nev.
 Leo C. Walker (representing Sportsmen's Clubs Southwest Wyoming), Green River, Wyo.
 John J. Weber, Ely, Nev.
 Theodore H. Wegener (president, Idaho Wild Life Federation), Boise, Idaho.
 C. N. Woods, regional forester, United States Forest Service, Ogden, Utah.
 James A. Wadsworth, State senator, Panaca, Nev.
 Frank Wait, Clark County game warden, 201 North Ninth Street, Las Vegas, Nev.
 G. E. Wardwell, Fish and Wildlife Service, Las Vegas, Nev.
 William W. Willis, justice of the peace, Ely, Nev.
 J. L. Whyyle, Ely, Nev.
 John Yelland, East Ely, Nev.

The CHAIRMAN. There is an outstanding measure here that has, I am happy to say, caused a wide and unusual recognition. That is known as S. 1152, authored by the chairman of the subcommittee of the Senate Committee on Public Lands.

(S. 1152 is as follows:)

[S. 1152, 78th Cong., 1st sess.]

A BILL To provide for the conservation of wildlife on public lands and reservations of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the head of a department or agency of the Government having supervision and control over any public lands or reservation of the United States shall determine that a reduction in the wildlife population of such lands or reservation is necessary to prevent injury to the soil, plant life, or to any wild or domestic animals dependent upon such lands or reservation for sustenance, he is authorized to request the appropriate officers of the State in which such lands are situated to take such action as he deems necessary and proper to bring about such reduction. In any case in which such officers of the State are unwilling, or unable because of provisions of State laws and regulations, to comply with such request, the head of such department or agency is authorized to provide, in accordance with such regulations, as he may prescribe, (1) for the issuance of licenses authorizing the holders thereof, during

specified periods, to hunt, trap, kill, and possess stated numbers of such animals of either sex, upon such lands or reservation, and (2) for the issuance of licenses authorizing the holders thereof to remove, transport, or cause the removal and transportation of such animals or their carcasses, or parts thereof, in either intrastate or interstate commerce, and to sell or otherwise dispose of such animals, their carcasses, or parts thereof, if tagged and labeled in accordance with rules and regulations promulgated pursuant to this Act, or, in the absence of such rules and regulations, in accordance with State laws and regulations. Licenses may be issued pursuant to this section to citizens of the United States without regard to residence, upon the payment of a reasonable fee. No action permitted to be taken under a license issued pursuant to this section shall be deemed to be a violation of any State law or regulation.

SEC. 2. Any person who willfully violates any rule or regulation promulgated, or any condition or requirement of any permit issued, under authority of this Act shall, upon conviction thereof, be fined not more than \$500 or imprisoned for not more than six months, or both.

SEC. 3. There are hereby authorized to be appropriated annually such sums as may be necessary to carry out the provisions of this Act.

The CHAIRMAN. In order that the atmosphere may be entirely clarified, S. 1152 came into existence after a series of hearings conducted throughout the West. Excerpts from those hearings will be inserted in the record here today, at a later point. In those excerpts the committee found, from various angles and from various statements, that the question of propagation and preservation of wildlife on the open public domain, and the proper protection and preservation of the open public domain, was a question that must be dealt with constructively. It is no longer a theory; it is a condition that presents itself. However fine the theories may be, nevertheless they do not answer conditions where those conditions are presented. Theories will not answer questions. We are, I am sorry to say, and in this respect, and in what I am now going to say, is from the chairman of this committee personally, and not for the committee—I am sorry to say that we appear to be on the verge in America of a regime that is startling and not to be encouraged, so far as people who think as I do are concerned. That regime seems to be to turn over the Government of the United States to bureaus and agencies who, in turn, make rules and regulations, which rules and regulations, in turn, impress themselves upon the people of the United States.

Congress makes basic laws, and those who administer the laws make rules and regulations, and it is the rules and regulations that come to impinge upon, if I may use that term advisedly, the individual effort.

We have had some outstanding examples of that in the last year or more. Those of you who have had the opportunity to read the August number of Reader's Digest, if you will read the article by Senator O'Mahoney in that volume, you will know what I am saying and how serious it is. Just a few months ago we were startled by some Executive orders that were, indeed, revolutionary and will be revolutionary until the people of this country take hold of the matter seriously and make known that this is a democracy and not an autocracy.

The Jackson Hole incident, that is uppermost in the minds of the people of Wyoming, has brought this thing to the forefront; but just the other day in our own State there came by promulgation an Executive order that might, if we took it seriously, startle the people of Nevada. What is true in these two instances is true in many instances. The Executive order to which I refer—and that applies to Nevada—is an Executive order that was unknown to the delegation, the con-

gressional delegation of the State of Nevada. It may be unknown even yet to the members of the delegation. What is more than that, it was unknown to the agency, and the representative of the agency, that had the particular territory in charge. That was an Executive order that took out of the open public domain 180,000 or 190,000 acres of land, without a word of warning of any kind, and put it into a special reserve.

The chairman of this committee is exceedingly interested in these, because in all of my public life I have opposed and will continue to oppose, as long as I serve in public life, the overriding of Federal control in and within the confines of the sovereign State. It is my judgment—and I am speaking individually—that the nearer you bring the Government to the people the more contentment you will have in the people, and contentment is the thing that must prevail in a democracy.

But in order to bring this matter of the control of wildlife to the people and to arouse them, so they would see what was lurking in the background, it was necessary to put out a bill that would put the matter solely and exclusively and emphatically to their attention, because if an Executive order was made from the White House, it could be made tomorrow morning, and it might be drastic, even 10,000 times more drastic than the bill, S. 1152, and you would have no chance whatever to amend it. You could protest and protest until you were black in the face, but you could not call Congress to account for it, and you would have no chance to work out a progressive piece of legislation.

This bill has done exactly what the committee wanted it to do. I think one author has stated—and I might add that I believe that author has rendered a splendid service to the committee in that he says he has sent out 14,000 letters protesting against this bill. That is exactly what the committee wanted. He rendered a special service to it because in doing that he brought the matter to the attention of the public of America, and out of that we hope that those who criticize will give their best thought to constructive criticism, because it is a question that must be dealt with, and you don't want it dealt with by an Executive order.

There are men and women in America, in public life and in private life, who have given their life's study to this great subject. Why can't we arouse the interest of those people to the promulgation of a bill that will retain in it the State's sovereign rights to deal with the things that belong to the States, and cooperate with the Federal Government in the things that belong to the Federal Government? We have the question before us.

So this meeting was called here in the State of Nevada, at a point where we thought and hoped there would be the greatest number of sportsmen, the greatest number of stockmen, and the greatest number of those interested in the open public domain. We are going to ask them to come forward and give to the committee their best advice, their best criticism, their best comments, so that the committee may have the thoughts of those who are interested in the subject. So we are going to bring up the subject of S. 1152 first, this morning.

We want you to shoot at it just as hard as you like; but while you are shooting at it, try to give the committee a constructive thought as to how the whole subject may be handled. Don't say, "Kick the bill

out"; that is easy. We can do that tomorrow morning, and we could have done it before; but if, after you kick it out, an Executive order comes down from the White House, and is more drastic than this, blame only yourselves, because you have not attempted to deal with a vital subject and attempted to deal with it constructively. It is a subject that must be dealt with, because it is not a theory any longer. There are, I hope, in the group today, some who represent the various agencies here locally, and I am going to ask them to come forward first, and give the committee their views on this particular bill.

I think Mr. Howard Gray, who represents the sportsmen of this district, and who has represented the stockmen, and who knows Nevada and knows the open public domain, perhaps as well as any man in the country, is here.

Mr. Gray, we will be very glad now to have you come forward and give us a frank statement as to your views on how the subject can be dealt with, and your views as to this particular bill.

STATEMENT OF W. HOWARD GRAY, ATTORNEY FOR WHITE PINE COUNTY FISH AND GAME ASSOCIATION, ELY, NEV.

Mr. GRAY. Mr. Chairman, I did not intend to become a witness myself, but to appear merely as an agent, to present the views of the men who are interested in the protection of the game, through various witnesses who are officers of that organization.

I might say, in a general way, that the people in Nevada, at least the people in White Pine County, feel that they have taken care of any situation or any problem that might be presented locally, by virtue of the State act relative to the control of game, particularly the amendment to section 66, as amended in the last session of the legislature, in 1943.

The CHAIRMAN. That is section 66 of the statute?

Mr. GRAY. Section 66 of the statute, section 3100 of the Nevada Revised Statutes.

Under the provisions of that act, Mr. Chairman, a committee can be appointed, at the request of any of the representatives of the Federal agencies having jurisdiction over the public domain, this committee to be composed of representatives of the Forest Service, the Taylor Grazing, representatives of the fish and game associations; and the committee can make a study and recommendations to the State fish and game association, and they, in turn, can authorize the removal of deer, antelope, elk, and bighorn sheep from the range, in given quantities. That act became effective in the spring of 1943. Under that act, steps have already been taken to remove some 500 head of deer from the Schell Creek-Lehman Game Refuge, and from Duck Creek. Those deer will be removed, or are supposed to be removed, during the hunting season of this year. However, under the State act, the removal of those deer are not limited to the regular hunting season, but a hunting season can be set up by the State fish and game commission, during which the deer may be removed, and which does not necessarily have to coincide with the regular game season.

The State of Nevada, so far as I know, has led the way, for the purpose of controlling and regulating the problem which does exist, through the local agencies; that is, through its State association and through its county associations. In other words, we believe we have

brought the problem down to the local people, who know the proposition and the situation and the problems better, and how better to handle them, than someone who is not intimately acquainted with the territory.

Mr. Chairman, I would like to have Mr. Vail Pittman, who is here, and who is the chairman of a committee appointed by the White Pine County Fish and Game Association, make a statement.

The CHAIRMAN. Is Mr. Pittman present? Apparently he has not arrived. I had intended to call on Mr. Pittman.

Mr. GRAY. That's fine. He has some of the facts at his fingertips, that will amplify some of the statements that I make.

The CHAIRMAN. Now, Mr. Gray, have you read S. 1152?

Mr. GRAY. Yes; I have read S. 1152, and I am going to say that, in all of the bills that I have read, I know of none that more thoroughly and completely annihilates, wipes out, State control over the subject of the bill than that bill does.

The bill, as I see it, nullifies any State legislation that we may have. It would wipe out, entirely, the step that has been taken by the people of the State of Nevada to control this very problem. It would nullify the legislative act authorizing the control, and, on top of that, it would nullify any and all other controls that we have over the taking of the wild game.

I was very much interested in the statement made by the chairman of this committee to the effect that it was desired you have constructive criticism toward the enactment of some legislation. To be frank with this committee, I don't see what need there is of any legislation, if the State is taking care of its problem; unless, by Federal legislation, an act could be drafted which would be constitutional, which would prohibit the execution, or issuance, of Executive orders without consulting the Senate and the House of Representatives. That is the only constructive suggestion that I have.

The CHAIRMAN. You do see, of course, Mr. Gray, that the possibility of an Executive order—

Mr. GRAY. I certainly do; I see that

The CHAIRMAN. Do you realize that an Executive order dealing with a subject of this kind would be a very serious proposition?

Mr. GRAY. Yes; as all Executive orders are very serious, Mr. Senator; but the question in my mind is this: Would any Federal legislation adopted in lieu of Senate bill 1152 preclude the issuance of an Executive order? That is the point I am worried about. And any legislative enactment which would tend to limit, or tend to take away the State's right of controlling the game would be merely an extension of the trend which now exists, and which this chairman has referred to, toward the bureaucratic type of government, which brought about the downfall of one of the outstanding democracies of Europe. The whole thing is controlled by men, not by law. How you are going to prohibit the Executive orders is something that I don't know. So far as meeting the problem is concerned between the livestock men, on the one hand, and the sportsmen on the other, for the area of the State of Nevada, I believe that the machinery has been perfected, the groundwork laid, for the meeting of those problems, and we have taken the first constructive steps by providing that during the fall of this year, over the ranges I mentioned a while ago, there would be a num-

her of deer taken. That, to my mind, is a strong demonstration of the theory of control by States.

As far as the livestock men are concerned, as far as both cattle and sheep, I believe that they, so far as this area is concerned, will cooperate with the sportsmen, as well as the sportsmen will cooperate with the livestock industry. They have demonstrated that too, by constructive action.

I have been informed that at no time in the history of the grazing districts in and around Ely, at least this portion of the State, has there ever been a reduction in any permit to any sheepman or cattleman brought about by virtue of the increase of wild game on the range. I understand that is not true in some parts of the country, but, so far as the local situation is concerned, I understand that is true.

That is all I have to say, Senator.

The CHAIRMAN. Are there any questions? Does anyone wish to ask Mr. Gray any questions? Do any of the Federal agencies desire to the standpoint of the law. Mr. Sutherland said:

That was very well taken, Mr. Gray. I hope you may find it convenient to remain with us for today.

Mr. Pittman, your name was mentioned a moment ago. Do you desire to make a statement? The committee has you down on the program to make a statement, and we would be very glad to have you now, if you care to make your statement.

**STATEMENT OF VAIL PITTMAN, CHAIRMAN, SPECIAL COMMITTEE
OF WHITE PINE FISH AND GAME ASSOCIATION, ELY, NEV.**

Mr. PITTMAN. Senator McCarran, as a member of the White Pine Fish and Game Association and chairman of a special committee to protest the passage of S. 1152, I will make the following statement: That, in my opinion and in the opinion of the sportsmen of White Pine County, this bill is a flagrant usurpation of State's rights in that it deprives the State fish and game commission of any authority in the matter of regulating wildlife in the event their opinions conflict with those of the heads of the highway department, the Grazing Service, the Indian Service, or any other head, or any other public-land head. In other words, the will of the State fish and game association, or any other State authority in that connection, would be nullified, would be brushed aside, with total disregard for the wishes of the sportsmen, for the welfare of the people as a whole in the State.

Furthermore it is my opinion, as a representative of this State government and as a representative of the White Pine Fish and Game Association, that this legislation is not needed so far as Nevada is concerned. In making this statement I recognize the rights of the livestock men, the livestock business, which is one of the most important industries of Nevada, the same as mining, and under no consideration would I take any steps or advocate any measure that would destroy in any degree the rights of the livestock industry. However, it is my sincere belief that, with the good State laws we have in Nevada and the fine spirit of cooperation that exists among the department heads, the State authorities, and the sportsmen, that there is no danger existing in that respect.

You are doubtless aware, Senator, that we have a law on our statute books that provides that, if it appears to any one association or

group—I don't know just exactly how it is worded—that grazing lands are being damaged or property is being damaged, by reason of an overabundance of deer, elk, or other wild animals, that that individual can make a complaint, or that association, or those I have named, can make a complaint to the county commissioners, and the county commissioners, in turn, can set up a committee composed of one of each of the livestock associations, Wildlife Service, Forest Service, the Grazing Service, and the sportsmen.

The CHAIRMAN. Mr. District Attorney, could the committee call upon you to get us a copy of that statute? I think it might be well to have it inserted in the record at this point.

(The statute appears later in the transcript.)

Mr. PITTMAN. I will go back there a little bit and say that reference is particularly made to section 66 in the Nevada laws.

The CHAIRMAN. Mr. Gray has already identified it, so we have the identification.

Mr. PITTMAN. Recently, this law was invoked in this county, and a committee appointed in accordance with its provisions, namely, a representative from each of the groups just mentioned, by myself. As a result of that survey of wildlife conditions, the committee recommended that 500 doe deer be removed from certain areas in this county. That report was submitted to the sportsmen of this county, and approved. That report was likewise submitted to the State fish and game commission, and approved, and pursuant to that approval, an order was issued by the State fish and game association, or commission, I believe it is, of Nevada to reduce the number of deer by 500 does, in this county, in addition to the regular buck allowance of one male deer for each license issued.

In view of the splendid cooperation that was shown, it appears to me that matters in this State are being well handled, and can, in future years, be well handled, that if the livestock men, through their representatives, and the other associations through their representatives, cooperate, that any damage or danger will be removed. It is my opinion that the livestock men, including the sheep association and the livestock associations, want protection whenever it is necessary, but I do not believe they will subscribe to the enactment of any legislation, such as provided in S. 1152, which usurps the rights of the State far beyond anything that has ever been known in the history of this State, with regard to regulation of wildlife, livestock, or anything else.

That is my statement. If you have any questions, Senator, I will try to answer them.

The CHAIRMAN. I think at this point, at the conclusion of Mr. Pittman's statement, the statute to which reference has been made by both Mr. Gray and Mr. Pittman, which has just been handed to the chairman of the committee in leaflet form, and which we take to be a correct and true copy—if not, it will be corrected—

Mr. Briggs, forest supervisor, Nevada National Forest, Ely, Nev. I would suggest that that be checked against the bound volume.

The CHAIRMAN. Well, I suppose we can have that done.

Mr. PITTMAN. Senator, if you would like to know the area from which those does ought to be taken, I can give them to you, but I think that is immaterial.

The CHAIRMAN. With your permission, I am going to follow that up by inserting in the record a copy of the report on the deer problem

areas, furnished me by Mr. Briggs, of the Forest Service. I am going to have that inserted in the record in its entirety. I think that it is unfortunate that we cannot get the photographs into the record. They are very interesting. I want to say, in this respect, that I had the privilege of going over this area with Mr. Briggs some weeks ago, when I was hurriedly here. We drove out and spent several hours over the entire area and saw it, and later on I saw a copy of this report, so that the first thing that will be done will be to insert the statute of Nevada, as furnished to me, in the record at this point, which follows the testimony of Mr. Gray and Mr. Pittman, and then, I think, the record on the deer problem areas, as furnished to the chairman of the committee, will go into the record. Again, I say, it is unfortunate that we cannot put the photographs in the record, but the entire report, with the permission of Mr. Briggs, will become a part of the files of this committee, and in the file are photographs taken which are part of the report.

(The statute and the report are as follows:)

[Assembly Bill No. 59]

AN ACT To amend an act entitled "An act relating to and providing for the protection, propagation, restoration, domestication, introduction, purchase, and disposition of wild animals, wild birds, and fish; creating certain offices, providing the method of selecting the officers therefor, defining the powers and duties of certain officers, and other persons; defining certain terms; providing for the licensing of and regulating of hunting, trapping, game farming, and game fishing, authorizing the establishment, control, and regulation of private fish hatcheries, state recreation grounds, sanctuaries, and refuges, and the closing, opening, and shortening of hunting and fishing seasons; regulating the transportation and possession of wild animals, wild birds, and game fish; providing for the condemnation of property for certain purposes; providing for instruction in the game laws of this state in the public schools of this state; establishing certain funds and regulating expenditures therefrom, providing penalties for violation thereof, and repealing certain acts and parts of acts in conflict therewith, approved March 29, 1929, together with the acts amendatory thereof or supplemental thereto," approved March 28, 1941

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 66 of the above-entitled act, being section 3100 N. C. L. 1929, is hereby amended to read as follows:

Section 66. It shall be unlawful to hunt deer at any time during the year other than during such forty-five (45) day period, to be known as the open season, between October 1 and December 1, of each year, as may hereafter be designated for the respective counties by the board of fish and game commissioners, under the provisions of this act; *provided*, that during such open season of each year it shall be unlawful to kill, catch, trap, wound, or pursue with the intent to catch, trap, injure, or destroy more than one deer, except under rules and regulations prescribed by the fish and game commissioners as hereinafter provided; *provided further*, that the open season for deer in district No. 1 shall extend between October 1 and December 31 of each year; *provided*, that the county commissioners of any county in the state, upon the application of any person, persons, organization, or governmental department may appoint a committee of one each, sportsmen, livestock, U. S. forest service, fish and wildlife service and grazing service to consider the advisability of reducing the number of deer, antelope, elk, and bighorn sheep in any district or specified portion of such county; and whenever in the judgment of said committee, big game have increased in numbers in any locality to such an extent that a surplus exists, or to such an extent that such animals are damaging public or private property, or are overgrazing their range, said committee shall make appropriate recommendations to the state fish and game commission as to the area or areas being damaged, the extent of damage, and the number and kind of deer, antelope, elk, or bighorn sheep, to be removed; upon the recommendation of the committee, the commission may determine the area or areas within such county from which said deer, antelope, elk, or bighorn sheep shall be removed, the number of hunting licenses to be issued, the number of sex of deer, antelope, elk, or bighorn sheep that may be killed by each license holder, the special license fee to be paid to

the county clerk, the hunting season, which may be separate from or concurrent with the regular open season, and prescribe such other rules and regulations necessary to properly conduct the hunt.

SEC. 2. All acts and parts of acts insofar as they conflict with the provisions of this act are hereby repealed.

SEC. 3. This act shall become effective from and after its passage and approval.

A REPORT ON DEER PROBLEM AREAS

To the Nevada State Fish and Game Commissioners:

This report has been prepared by a committee consisting of one representative each, sportsmen, United States Forest Service, Fish and Wildlife Service, Grazing Service, and stockmen. This committee was appointed by the White Pine County commissioners on April 5, 1943, in accordance with the provisions in section 66 of the Fish and Game Laws of Nevada.

The report is based on:

(a) Personal observations and investigations on three winter range areas as hereinafter described, where surplus deer now exist because their numbers have increased beyond the winter food supply.

(b) Factual information available from recorded data covering studies and investigations on the three winter range areas by a representative of the Fish and Wildlife Service, Forest officers, Grazing Service officers, sportsmen, and other interested persons.

(c) Forest Service records covering deer population, conditions of ranges, and other pertinent information since 1918.

(d) Statements of old-time residents of the district, miners, stockmen, other businessmen, and interested persons.

SOME BACKGROUND HISTORY OF DEER IN WHITE PINE COUNTRY

An official Government report shows that Lt. George M. Wheeler headed an exploration expedition into this territory in 1871 for the War Department, for the purpose of obtaining correct topographical knowledge of the country traversed, to prepare accurate maps, and to determine as far as practical everything relating to the physical features of the country. The number, habits, and disposition of the Indians; to select such sites as might be needed for future military operations, or occupation; to determine facilities offered for making rail or common roads to meet the needs of those who at some future time might occupy or traverse this part of the territory; to make detailed examination of mineral deposits discovered and to determine influence of climate, the geological formations, character and kinds of vegetations, its value for agriculture and grazing purposes, relative proportions of woodland, water, and other qualities which might effect its value for the settler. Among other significant statements in this report is one that very little game or any specie of wildlife was seen on the areas covered between the Sierra Nevada and Wasatch Mountain Ranges.

Alex Kolchek, a long-time resident of Cleve Creek, has stated that deer were very scarce 40 years ago in the Schell Creek Range. Statements of other old-timers indicate that deer were very scarce on ranges in White Pine County. This is borne out by Forest Service records which show a total estimated deer population of 400 on all forest lands in this district. These records show the trend of deer development.

In 1919 complaints were received that too many deer were being killed by the Indians. The Forest Service recommended a buck law, and game refuges were recommended in order to build up the deer and other game herds.

In 1920, complaints were received in regard to killing of deer and selling the meat. Deer population estimated at 800.

In 1921, game refuges were again recommended. The buck law was enacted in 1921.

In 1923 the Schell Creek State Game Refuge and the Lehman State Game Refuge were created; more favorable public sentiment toward the conservation and development of game. Deer population estimated at 800.

In 1929 deer were noticeably increasing on most ranges in White Pine County. Estimated population was 2,500.

In 1932 the estimated deer population was 3,500; 28 elk were transplanted on Duck Creek.

In 1940 the estimated deer population, based on counts on the Duck Creek winter-concentration area and other studies and observation had reached 6,000. Three winter-range concentration areas used by deer began to show definite earmarks which indicated that the number of deer had about reached the carrying capacity of their winter range on the three areas, namely, Duck Creek drainage, east side of the Schell Creek Game Refuge, and the south end of the Lehman State Game Refuge.

In 1941 a very substantial increase in number of deer was determined by actual counts and other observations on many ranges, including the Duck Creek winter-concentration area. Upon request, an associate biologist was detailed to assist forest officers, Grazing Service officers, sportsmen, and other interested persons to make an intensive study of the winter food supply for deer and other conditions to determine proper management of the deer herds. Recorded data definitely indicates the winter forage supply to be on the downward trend on these winter-concentration areas, while the deer were increasing as evidenced by a 84 percent fawn crop and low mortality from predators and other causes. Sportsmen and other interested persons were encouraged to assist in the studies and observations.

In 1942 the studies were resumed on the Duck Creek area and expanded to include more intensive studies on the east side of the Schell Creek Game Refuge and the south end of the Lehman Game Refuge, also cursory examinations of the winter range on the White Pine Mountain range where overpopulated winter range is threatened. Recorded information resulting from these studies shows that the number of deer on Duck Creek drainage, east side of Schell Creek Game Refuge and south end of the Lehman Game Refuge have increased beyond the carrying capacity of the winter range and damage to the range is now resulting as evidenced by the overgrazed condition of the browse species on which deer depend for survival. The poor condition of the range is further evidenced by the poor condition of some of the younger and smaller deer and some of the older bucks and does. Removal of excess numbers of deer is necessary to prevent destruction of the winter forage within the concentration areas and prevent heavy losses in deer from malnutrition.

CONCLUSIONS

There are several reasons apparent to the committee for the large increase in numbers of deer in this district.

1. Effective elimination of predatory animals.
2. Favorable winter conditions and large fawn crops.
3. Reduction in extent of poaching resulting from more favorable public sentiment toward game protection.
4. The buck law which has prohibited the killing of doe deer.
5. Keeping refuges closed to hunting after the deer population has reached the carrying capacity of their winter range.

Winter snows force the deer out of the higher country into the lower and more confined areas. The areas into which the deer are forced during the winter months are usually not more than one fifth the size of their summer range. Often the winter range is much smaller than this proportion.

When deer are allowed to increase in numbers beyond the forage supply on areas of winter concentration, there is great danger of destruction of the forage species on which they must depend for subsistence and survival.

It is the habit of deer to concentrate on their favorite areas, and no practical way has been found to remove them to areas where food is more plentiful.

The best practical and economical method yet found is orderly removal of excess numbers of deer from those congested areas by hunters.

RECOMMENDATIONS

Schell Creek State Game Refuge.—We recommend that this area in its entirety be opened to hunting deer during the regular hunting seasons, and during any special seasons which may be necessary to remove deer in numbers in excess of the carrying capacity of the winter range.

Lehman State Recreation Ground and Game Refuge.—We recommend that this area be opened in its entirety to hunting deer during the regular hunting seasons and during any special seasons which may be necessary to remove numbers of deer in excess of the carrying capacity of their winter range.

Duck Creek drainage as described on the attached map and shown as deer problem area No. 1.—Includes all Duck Creek drainage to the narrows at the J. B. Pescio ranch. We recommend that each licensed hunter be allowed to take one deer of either sex from this area during the regular hunting season, and as determined from checking station counts, if 200 doe deer have not been removed from the area during the regular hunting season, that special doe permits be issued for the difference between the number of does removed during the regular hunting season and 200, and special season of 10 days' duration be set up after the expiration of the regular season, and between October 1 and December 1, 1943. For extent of damage to the forage species on this area through overuse by deer, see attached report on "A Winter Range Relationship, Schell Creek State Game Refuge" dated April 24, 1943, and attached photographs.

East side of Schell Creek Range.—An area with boundaries extending to Kalamazoo Creek on the north, the national forest boundary on the east, Taft Creek on the south, and the main divide between Spring Valley and Steptoe Valley on the west. Shown on the attached map and designated as deer problem area No. 2.

We recommend that each licensed hunter be permitted to remove one deer of either sex from this area during the regular hunting season and that if 100 doe deer as determined by checking station counts have not been removed from the area during the regular hunting season, special doe permits be issued to licensed hunters for the difference between the number of does taken during the regular hunting season and 100, to be removed during a 10-day special season to follow the regular season and between October 1 and December 1, 1943. For extent of damage to the forage species on this area, see attached report on "A Winter Range Relationship, Schell Creek State Game Refuge," dated April 24, 1943, and attached photographs.

Lehman State Game Refuge—Snake Range.—An area known as the Snake Division of the Nevada National Forest within Townships 10 to 14 north, in ranges 68 to 70 east, inclusive, containing approximately 175,512 acres, as shown on attached map and designated as deer problem area No. 3.

For extent of damage from overuse by deer, see attached report on "Range Conditions of the South End of the Snake Division of the Nevada National Forest," dated April 22, 1943, and attached photographs.

We recommend that each licensed hunter be permitted to take one deer of either sex from this area during the regular hunting season. If 200 doe deer are not removed from this area by licensed hunters during the regular hunting season as determined by checking station counts, that special doe permits be issued for the difference between the number of does removed during the regular hunting season and 200, to be taken during a 10-day special season to follow the regular season between October 1 and December 1, 1943.

ATTACHMENTS

1. Photographs showing damaged forage species on the problem areas on which deer must depend for survival.

2. A report on "Winter Range Relationship, Schell Creek State Game Refuge," dated April 24, 1943.

3. A report on "Range Conditions of the South End of the Snake Division of the Nevada National Forest," dated April 22, 1943.

4. Map showing boundaries of deer winter range concentration areas, where damage to the range has resulted because of overpopulation by deer.

5. Copy of letter requesting White Pine County Commissioners to appoint a committee as provided for in section 66 of the Fish and Game Laws of Nevada, and formal appointment of the committee.

Respectfully submitted this 14th day of June 1943.

C. M. ALDOUS,
Representative, Fish and Wildlife Service.

W. R. OVERFELT,
Representative, White Pine Fish and Game Association.

L. L. ROHMER,
Representative, Grazing Service.

D. C. ROBISON,
Representative of Stockmen.

A. E. BRIGGS,
Representative of Forest Service.

A WINTER DEER RANGE RELATIONSHIP

SCHELL CREEK STATE GAME REFUGE

Two years of study have now about been completed on the Schell Creek Division of the Nevada National Forest in an effort to determine the status of the deer as well as the condition of the winter range. These studies have been made on the Buck Creek drainage and along the east boundary of the Schell Creek State Game Refuge as shown on attached map, and which area is covered by the following statements.

This has been a joint study undertaken by the Forest Service and the Fish and Wildlife Service.

Before any program of procedure could be made and justified it was necessary to determine actual facts as to conditions now existing over these areas.

First it was necessary to know how many deer were using this range and in what manner they were dispersed over the winter range, which obviously is the limiting factor in the set-up. Next it was necessary to determine the condition of the range and by this is meant, the distribution extent and present utilization of each of the important plant species that furnish winter food for the deer over the limited winter range.

After the two seasons' observations by representatives of the two Government agencies, it was concluded that there now existed, over portions of this area, winter concentrations of deer in such proportions that a great deal of the natural browse species is in imminent danger of becoming ruined by overbrowsing by the deer.

The summer range is represented by some 110 square miles or 70,000 acres. There are approximately 2,500 deer that spend the summer and fall months over this area. This means that there are available about 28 acres per deer to furnish both food and protection.

As the winter months approach with their complement of cold weather, high winds and snows, the deer find it increasingly difficult to maneuver around in search of food as well as to find it in the high country. This naturally compels the deer to move down the mountain where food is easier to obtain and where there is less snow to impede their movements. By the time winter has really set in, the deer are all found congregated into groups of varying sizes, along the foot of the lowest slopes from which places they work out onto the flats or valley floor for their food. Cold spells particularly cold winds drive the deer from the open flats back into the lower foothills country where there is found protection among the pinon, juniper, and mahogany cover.

Instead of there being 28 acres per deer as was the case of the summer range, there now exists but 6 acres for each deer on which to eke out an existence on the winter range. Dr. D. I. Rasmussen, leader of the wildlife research unit in Utah, after years of intensive study of deer winter ranges has this to say, "Mule deer require approximately an acre of average winter range a deer-month use if undue losses and range depletion are to be avoided." The winter-range area on the Schell Creek Division is only about one-fifth of that of the summer range. Now this 6 acres per deer for the 6 months they spend on the winter range would be the saturation point for range usage providing the deer were equally dispersed over the entire winter range but our observations have shown that this is not the case. There are too many areas where the deer tend to congregate in large numbers on areas that do not supply 1 acre per month per deer over the 6 months they spend there. On these areas of overpopulation the important browse species are now becoming drastically overused and there is an immediate danger of their being completely destroyed. True there are areas where few if any deer are found during the winter months where there is yet a fair amount of available food left, but how to get the deer to utilize these areas is not yet known. Driving them or unduly molesting them will temporarily disperse them but they soon return to the areas from which they originally came.

Early in the winter before any of the bucks had shed their antlers a sex ratio was determined. Counts on 304 deer showed the presence of 73 bucks, 114 does, and 117 fawns. Put in terms of percentage this shows bucks 24.01, does 37.5, and fawns 38.48. During March of this year a census of the deer within the refuge which did take in a few additional ones on the south end, showed in Duck Creek a total of 1,300 and on the Spring Valley side a total of 700. This makes a grand total count of 2,000 deer actually counted. A conservative estimate for the area under study would bring this figure up to 2,500 deer. Applying above percentage figures to this total, it shows approximately 604 bucks, 937 does, and 963 fawns on the area at the present time. This represents a much larger popula-

tion than was counted last year. This can be accounted for largely by the fact that there has been a satisfactory increase in numbers and the fact that the counting technique this year was a marked improvement over last year's method.

As to the condition of the range, this year's observations showed a further downward trend toward overutilization than was recorded last year. Actual plot measurements will be completed in May.

There are at least four important plants that supply deer with food during the winter months in this area. In the order of their abundance they are: purshia (bitter brush), mahogany, juniper, and cowania (buck brush). In the order of their apparent preference as food for the deer they are: Mahogany, cowania, purshia, and juniper. Sage, while it is more abundant than the other species, above mentioned, is not very palatable nor is it of high food value, although deer will feed on it when forced to do so.

Observations made in the field during the past two seasons, reveals the fact that mahogany in the immediate vicinity of deer concentrations is every bit high lined by these animals. In other words it is utilized fully 100 percent within reach of deer. There is no evidence of any reproduction on the areas where the deer tend to congregate. Mahogany is the first of the important food species to be taken by the deer after they come off the high summer range. The cowania would evidently be taken as early as the mahogany if it were present on the east foothills in the Duck Creek area but because it is largely found on the rocky slopes of the west side of the valley it is not utilized until early in the spring when some of the deer move into that range. By May 1, this species is fully utilized or is eaten back approximately 100 percent within the reach of deer. Bitterbrush, because of its widely scattered abundance, still offers a good source of food for the deer. Its use varies from 0 to 100 percent depending upon the abundance of the deer on the area. Some of the areas supporting this browse species is far overbrowsed while in other areas it hasn't been touched. The juniper is utilized rather spottily. In some areas it is fully used and in others it is used only sparingly. Why there is a preference of one tree over another of the same age and size is not known. Neither the big nor black sage is now overutilized on the Duck Creek area although on the Snake Division it has been hard hit.

Just to what extent any one of these important browse species can be eaten back and still continue to be thrifty has not been definitely determined although studies are now in progress to determine this. It has been conservatively estimated however, that when use is greater than 75 to 80 percent of the available current growth none of these plants can continue to thrive and produce an adequate supply of nutritious, edible stems and leaves. So much for the range condition.

The present study of the area has shown that the range is now carrying more deer than it can adequately support as evidenced by the condition of the browse plants. The saturation point has been reached and if the range is to be saved and the deer maintained in good flesh, a reduction in the herd must be made in the very near future in order to prevent ultimate destruction of both the deer and the range. This removal should be accomplished by the hunter take if that is possible. The killing of bucks alone will never accomplish this need. Removal of some does will be necessary. Does are necessary only so long as they are needed to build up a herd. After the herd has increased until it has overpopulated an area then the removal of does becomes necessary. The killing of does should offer as much sport and be as valuable in supplying wholesome meat as one gets from killing the stately buck.

The increase in the herd through the fawn crop this spring will be approximately 1,000. If the herd is to be reduced it must at least take care of a number equal to the increase. Naturally some of the fawns born this spring will die before they reach maturity, either by accident, disease, or predation. Assuming that 200 of these fawns die that still leaves at least 800 that can be classed as excess. If does are removed this fall, hunting them only outside of the refuge will not fully accomplish the desired results, because this would not take them from the areas where the heaviest concentrations occur, which are found mostly inside of the refuge boundaries.

This refuge was created some 20 years ago and in that time it has contributed some, but not all, in building up the herd. Such other things as the buck law, predatory animal control, reduction of livestock grazing have played an important part in building up the herd to its present numbers. Also less poaching and more favorable public sentiment have contributed. Inasmuch

as the refuge has now served its purpose, no logical reasons can be given for its retention. The very nature of the terrain within the boundaries of the present refuge will always keep it a natural refuge for the deer there. Hunting in the high country and rough canyons will always make the sport of killing deer a hard one. It is not likely that the amount of hunting that will take place inside the present boundaries will hurt the present herd. There will always be a good surplus of deer left over to propagate and keep the herd at numbers commensurate with the carrying capacity of the range. The present rate of take on adjacent ranges is approximately 1 to each 17. In Utah, on ranges where the take has been 1 to every 4 on the range, their populations have continued to remain stationary. If this can occur in neighboring States where the winter range is in poorer condition than what is found in the Duck Creek area, then it is reasonable to assume that the removal of more deer here than has ever been taken before will not in any way hurt the present herd.

A continuation of the present study will make it possible to determine each year the correlation between the numbers of deer and the condition of the range. It will be the aim of such investigations to keep the deer numbers down to what the range will carry properly. The management program will always be elastic enough to keep the winter range fully occupied.

During the present national emergency we owe it to ourselves as well as to the Government to make the fullest use of all of our natural resources, of which the deer or game is but one.

There is now facing the American people a pending meat shortage and there is a patriotic responsibility bestowed upon each of us to help the Government through its present crisis. By removing the excess number of deer on this overcrowded area and fully utilizing the meat and salvaging the hide and the fat for the War Department, we are accomplishing the two very important obligations, namely assisting to conserve and fill the demands for meat and in restoring the range that is now so badly overused.

C. M. ALDOUS,

Associate Biologist, Fish and Wildlife Service.

Q. DAVID HANSEN,

District Forest Ranger, Forest Service.

RANGE CONDITION OF THE SOUTH END OF THE SNAKE DIVISION OF THE NEVADA NATIONAL FOREST

At the request of Supervisor Briggs, Rangers Thomson and Hansen and myself made a 2-day cursory examination of the range condition of the south end of the Snake Division in the vicinity of Murphys Wash and Johns Hollow.

Sunday, March 28, we drove up Murphys Wash in a Forest Service car approximately 6 miles above the forest boundary. We traversed about a mile of this distance on foot.

The snow was all gone except on steep north slopes; in traveling this mile on foot we picked up something like 17 deer antlers. Finding this many antlers in such a short distance is indicative of a heavy deer concentration. A further substantiation of heavy concentration was noted in the vast amount of deer droppings found. In places it looked similar to sheep-bed grounds. It was plainly evident that we were at least a month and a half too late to attempt to make a count of the deer, as they were well dispersed in small groups. During our walk and the distance covered in the car we counted 58 deer.

This range, especially on the lower slopes, is now in a sad predicament from overuse.

The *Purshia*, while scattered and not continuous, represents a food source of no little importance. Except in a few instances where snow had covered some of the lower branches, compressing them to the soil level and thus protecting them against browsing, these plants were clipped of all of the 1942 growth and in a great many instances the clipping extended well into the 1941 growth. It was conservatively estimated that the present usage was from 75 to 125 percent. The average height of this species is now little more than a foot and in a most unhealthy condition.

Cowanla, although somewhat scattered over the area, is quite abundant. A considerable amount of this species is now dead and more is on the verge of passing out. Every single *Cowanla* we observed was highlined even to a height of 6 feet in many instances.

A report made in 1940 of the condition of this same range spoke of skylining, and in the case of Cowania this term of skylining is probably more descriptive than highlining. The only leafy material now present is what appears above the 5½ to 6-foot skylining level. In a great many instances these plants are at least 13 feet high. There is a dearth of reproduction of this browse species. Utilization on available Cowania here was 100 percent.

Mahogany (*Cercocarpus intricatus*) is found on the rocky ridges and this species, like the others mentioned above, is entirely highlined and utilized 100 percent.

Black sage and big sage have been topped by the deer to hedge proportions. They occur very abundantly over the area and have been severely utilized. Even the rank tall rabbit brush in the hollows has been partially topped by the deer.

The juniper, while not too heavily used, is showing the effect of rather heavy browsing.

Ranger Q. Hansen, who saw the Kaibab Forest at its worst, made the statement that there was a close parallel between conditions on the Murphys Wash and the Kaibab Forest.

We were informed by the elder Mr. Swallow that sheep had been taken off this allotment 3 years ago and that only cattle now used this area in the summer time. There was no evidence to show that any of this highlining had been done by cattle.

Predation.—Several bobcat tracks were seen and at least 3 dead deer were found. Although we saw neither coyotes nor their tracks, the ranchmen told us that coyotes were very abundant there.

On March 29 we rode the area known as John Wash on horseback. This area lies to the east and south of the Murphy Wash. This day we counted 124 deer which were well scattered. Here again it was determined we were too late to make any accurate count of deer numbers.

Very little Purshia was found present on this area. Cowania was scattered but present in considerable quantity. Like in the Murphy Wash, this species was noticeably skylined. More mahogany was present here than on the Murphy Wash area and it was found to be 100 percent utilized. The big sage was all clipped of the 1942 top growth. The Brigham Tea was even taken on this area.

Condition of the deer.—We saw many does in very thin condition. Most of the fawn crop, likewise were small and showed the effect of malnutrition.

Ranger Thomson had recently ridden the area east of Johns Hollow known as Big Springs Wash and he reported to us that conditions there were similar to what we had seen on Murphys Wash and Johns Hollow.

Recommendations for considerations:

1. An annual inventory of the number of deer should be made before all of the snow has left the lower slopes, which would be sometime early in February. The resident ranger should keep a close watch of this range and should determine, each year, when conditions were right for counting.

2. The resident ranger should make observations on the west as well as the east foothill portions of this mountain to determine range conditions and tendencies for any deer concentrations during the winter and early spring months.

3. An immediate further study of the south end of the mountain should be made by representatives of the Forest Service, Grazing Service, Fish and Wildlife Service, livestock industry, sportsmen, and State or county game department, for the purpose of recommending early action on deer removal, and further management practices to correct the critical condition of the range.

C. M. ALDOUS,

Associate Biologist, Fish and Wildlife Service.

REED THOMSON,

Ranger, United States Forest Service.

DAVID HANSEN,

Ranger, United States Forest Service.

APRIL 22, 1943.

UNITED STATES DEPARTMENT OF AGRICULTURE,

FOREST SERVICE,

Ely, Nev., April 3, 1943.

The Honorable BOARD OF COUNTY COMMISSIONERS,

White Pine County, Ely, Nev.

GENTLEMEN: For the past 3 years the Forest Service cooperating with representatives of the Fish and Wildlife Service, sportsmen, and other interested per-

sons, has been conducting studies and investigations in regard to some deer range problems which have developed on the Schell Creek Game Refuge, and on the south end of the Snake division in the vicinity of Murphy Wash and Johns Wash.

Our investigation definitely show there has been a very large increase in the number of deer generally on these areas and generally throughout eastern Nevada. There are several reasons for this increase.

1. Effective elimination of predatory animals.
2. Favorable winter conditions and large fawn crops.
3. Reduction in the extent of poaching, probably brought about by more favorable public sentiment toward game protection.
4. The existing buck law which prohibits the kill of doe deer.
5. Keeping refuges closed to hunting after the deer population has reached the carrying capacity of their winter range.

Winter snows force the deer out of the higher country into lower and more confined areas. When the number of deer increases to a point where there is insufficient food supply on these areas of winter concentration, then there is very great danger of destruction of the forage species on which the deer must depend for subsistence and survival. It is the habit of deer to congregate on their favorite areas, and no practical way has been found to remove them to other areas where food is more plentiful. If this condition is allowed to continue, deer in poor flesh condition and subsequent losses of both food supply and deer can definitely be expected. The only practical and economical method yet found is orderly removal of excess numbers of deer from these congested areas by hunters during the hunting season.

The deer problem on the Schell Creek Game Refuge and on the Snake Division has developed more rapidly than we had expected and has now reached a point where the forage supply is seriously threatened with destruction because of too many deer, and a high percentage of the deer, and particularly the younger and smaller deer are now in poor flesh condition. The younger and smaller deer being in poor flesh condition is one of the best indications of overused ranges because the older and larger deer are able to reach higher on the browse species for food, such as mountain mahogany and Cowania, on which they largely depend for food during the winter months when smaller browse plants are covered with snow. It is probable that some winter loss can be expected this year among young deer and older bucks and does because of malnutrition. These conditions are clearly obvious for anyone who desires to visit and observe the situation on the deer concentration areas in Duck Creek Valley and in Murphy Wash. The deer will be congregated on these areas for the next 2 or 3 weeks, depending on the weather, before they start working into the higher areas.

Section 66 of the Nevada State fish and game laws, among other things, provide that: "The county commissioners of any county in the State, upon the application of any person, persons, organization, or governmental department, may appoint a committee of one each, sportsmen, livestock, United States Forest Service, Fish and Wildlife Service, and Grazing Service to consider the advisability of reducing the number of deer, antelope, elk, and bighorn sheep in any district or specified portion of such county; and whenever in the judgment of said committee, big game have increased in numbers to such an extent that a surplus exists, or to an extent that such animals are damaging public or private property, or are overgrazing their range, said committee shall make appropriate recommendations to the State fish and game commission as to the area, or areas being damaged, the extent of damage, and the number and kind of deer, antelope, elk, or bighorn sheep to be removed: Upon the recommendation of the committee, the commission may determine the area or areas within such county from which said deer, antelope, elk, or bighorn sheep shall be removed, and the number of hunting licenses to be issued, the number of, sex of deer, antelope, elk, or bighorn sheep that may be killed by each license holder, the special license fee to be paid to the county clerk, the hunting season, which may be separate from or concurrent with the regular open season, and prescribe such other rules and regulations necessary to properly conduct the hunt."

I hereby respectfully request the board of county commissioners of White Pine County to appoint the committee as provided for in section 66 of the Nevada State fish and game laws.

Very sincerely yours,

A. E. BRIGGS, *Forest Supervisor.*

Mr. A. E. BRIGGS,

Forest Supervisor, Forest Service, Ely, Nev.

DEAR SIR: The Board of County Commissioners of White Pine County, pursuant to your request, do hereby appoint the following persons to serve on the committee as outlined in your letter of April 3, 1943.

Dr. C. M. Aldous, representative, Fish and Wildlife Service.

A. L. Rohwer, representative, Grazing Service.

A. E. Briggs, representative, Forest Service.

William R. Overfelt, representative, White Pine Fish and Game Association.

D. C. Robison, representative of stockmen.

BOARD OF COUNTY COMMISSIONERS, WHITE PINE COUNTY NEV.,
LEONARD D. SEIFERS, *Chairman of Board.*

The CHAIRMAN. Are there any questions from anyone, to be propounded to Mr. Pittman?

That is all. I hope you may stay with us, Mr. Pittman, during the day, because the matter will be uppermost here until I have exhausted the subject, as nearly as I can with the limited time that we have. This hearing must be concluded today, as our program requires that we be in Fredonia on Monday morning.

Mr. L. F. KNEIPP, United States Forest Service, Washington, D. C. Might I ask Mr. Pittman a question?

The CHAIRMAN. Yes, Mr. Kneipp.

Mr. KNEIPP. Assuming that proper action has been taken, and full agreement among all parties, between Federal and State agencies, with respect to any given area, is reached, isn't that a complete estoppel of any further application of the bill S. 1152?

Mr. PITTMAN. Well, I think where there is complete agreement, yes; but suppose there was not complete agreement; suppose the State Fish and Game Commission and the heads of the departments of the public land agencies did not agree; then would it not be a fact that the rights of the State could be completely overridden?

Mr. KNEIPP. Well, I'm not sure about that; but what struck me was that where there was such complete adjustment as indicated here, my reading of S. 1152 would indicate that all the rest of it was entirely inoperative.

Mr. PITTMAN. I don't quite understand you.

Mr. KNEIPP. Well, the bill provides that the requirements of any particular piece of land shall be communicated to the State. If the State proceeds accordingly, that finishes it, and nothing more need be done, and the rest of the bill is wholly inoperable.

Mr. PITTMAN. Obviously so.

Mr. KNEIPP. So, what you say about Nevada here, apparently so far as this particular State is concerned, the bill would practically be inoperative.

Mr. PITTMAN. Inoperative; wouldn't be needed so long as there is agreement; but do we know there is always going to be complete agreement? And is it just and fair to give a Federal public land agency absolute domination over our State, on the execution, on the right of the State Fish and Game Commission, or any other recognized, constituted authority of the State? Is that just?

Mr. KNEIPP. Well, I wouldn't try to debate that at this moment. I was just interested in that one little point.

Mr. PITTMAN. So long as there is agreement, of course; everything will work as long as everybody is in accord; but those laws and things

are made with the anticipation that there will not always be absolute agreement on every point.

The CHAIRMAN. Right at that point I think it might be well to bring to the attention of those who are interested some matters that have come to the attention of this committee, in the hearings held throughout the public lands States. The one hearing that we had here is only an illustration of what came to our attention in several places. At Glenwood Springs, in Colorado, the matter was brought more vividly to the attention of the committee than in any one place; but in Utah and in Colorado and in other places, and in Wyoming, the subject was brought up by those who attended the hearings. They were not brought up by the committee itself. The Kaibab incident was brought up first, in Salt Lake City, at our hearings; and I think the Kaibab incident may now be considered in keeping with Governor Pittman's statement.

The Kaibab incident, according to the record before this committee, grew out of the overgrazing of the Kaibab National Forest by wildlife. The question was dealt with by the Federal agencies, and the State agencies, and an attempt was made for cooperation. I regret exceedingly that Mr. Rutledge is not here, but Mr. Leech represents Mr. Rutledge of the Grazing Service. Mr. Rutledge was the party, the Federal agent, who dealt with the subject, and who brought about the whole incident. The Federal agency, the Forest Service, went into the Kaibab and killed off great numbers of deer, because they were destructive of the range. The bodies of the deer were given to charitable institutions, such as orphans' homes and the like, in northern Arizona. The Governor of the State of Arizona, Governor Hunt, brought out an injunction against Mr. Rutledge as the Federal agent. The case was taken through to the Supreme Court of the United States and it was the decision of the Supreme Court of the United States that has attracted the attention of this committee. The Supreme Court of the United States did not hesitate to say what could be done and what could not be done: and if an Executive order were made, it would be supported by the decision of the Supreme Court of the United States in the case of *Hunt v. The United States*. In order that those who are interested in the subject may have the matter brought specifically to their attention, I think it proper that we might read the very short decision following an extractive brief, which decision was rendered by Mr. Justice Sutherland.

I read this because it is of interest to everyone who is here. Especially would it be of interest to those who deal with the subject from the standpoint of the law. Mr. Sutherland said:

The Kaibab National Forest and the Grand Canyon National Game Preserve, covering practically the same area, are situated north of the Colorado River in Arizona. They were created by proclamations of the President under authority of Congress. During the last few years deer on these reserves have increased in such large numbers that the forage is insufficient for their subsistence. The result has been that these deer have greatly injured the lands in the reserves by overbrowsing upon and killing valuable young trees, shrubs, bushes, and forage plants. Thousands of deer have died because of insufficient forage. Attempts were made under the direction of the Secretary of Agriculture to remove some of the deer from the reserves to other lands, but these entirely failed, as did other means. The district forester, acting under the direction of the Secretary of Agriculture, proceeded to kill large numbers of the deer and ship the carcasses outside the limits of the reserves. That this was necessary to protect the lands of the United States within the reserves from serious injury is made clear by the

evidence. The direction given by the Secretary of Agriculture was within the authority conferred on him by act of Congress. And the power of the United States to thus protect its lands and property does not admit of doubt,

I want to dwell on that last expression which has arrested my attention very seriously:

And the power of the United States to thus protect its lands and property does not admit of doubt, the game laws or any other statute of the State to the contrary notwithstanding.

Now, that is a weighty expression, coming from the court of last resort.

Appellants interfered with these acts of the United States officials and threatened to arrest and prosecute any person or persons attempting to kill or possess or transport such deer, under the claim that such officials were proceeding in violation of the game laws of the State of Arizona, the observance of which would so have restricted the number of deer to be killed as to render futile the attempt to protect the reserves. Three persons who had killed deer under authority of United States officials were actually arrested. Thereupon suit was brought to enjoin appellants from continuing or threatening such interference, arrest or prosecution. The court below, after a trial, found for the United States and entered a decree in accordance with the prayer of the bill, with the limitation, however, that the decree could not be construed to permit the licensing of hunting to kill deer within said reserves in violation of the State game laws.

While the Solicitor General does not concede the authority of the Court to make this limitation, he is content to let the decree stand. We, therefore, passed the matter without consideration and accept the opinion and decree below, with the modification that all carcasses of deer and parts thereof shipped outside the boundaries of the reserves shall be plainly marked by tags or otherwise in such manner as the Secretary of Agriculture may by regulations prescribe, to show that the deer were killed under his authority within the limits of the reserves.

Now, that is one decision by the Supreme Court of the United States.

Another decision which has arrested the attention of this committee and which comes in direct contact with the statement of Mr. Gray and Mr. Pittman—there are many decisions on the subject that I am going to want to touch because of the pertinency—this one comes out of the State of North Carolina. This is the case of *Chalk v. The United States* (114 Federal, 2d ed. 207). The Circuit Court of Appeals of the Fourth Circuit, following the Kaibab decision, which I have just read, held that the Secretary of Agriculture could cause deer in the Pisgah National Forest game reserves of North Carolina to be killed for the protection of the lands of the United States. The lands involved were purchased by the Government under the Weeks Act. It goes on to cite the circumstances; the State, by legislative act, gave its consent to the Federal Government to make rules and regulations necessary to game animals; authorized the President to establish preserves for the protection of game animals, birds, and fish; prohibited, under penalty, hunting, catching, trapping, or killing or wilfully disturbing any kind of game animal or bird or fish, except under rules and regulations that the Secretary of Agriculture may from time to time prescribe. The Court ruled that that constituted an acceptance by the State of Federal jurisdiction. It also said, without regard to this acceptance of jurisdiction, the Secretary had authority to take the action which he did.

Now, let's analyze that, Mr. Pittman. I am sorry you were not here to hear my opening statement. Let's analyze that; and I speak to you two gentlemen here together, because we can seek to see what that all means; what those two decisions mean; and see whether we are

not, under the decision of the Supreme Court of the United States, under voluminous laws, confronted with a serious situation.

The Supreme Court of the United States has said that the United States Government had a right to go into the Kaibab Forest and kill off the deer, notwithstanding the laws of the State of Arizona, based squarely on the proposition that those were the lands of the Government of the United States, and the Government had a right to protect its lands against overgrazing, or against anything that interfered with the value of that land. The same is true of the North Carolina case; the same is true in many other cases. That being true, we then come to what was disclosed to the committee in various hearings, which may not apply here at all, but it did apply in the State of Utah, as brought to our attention, and emphatically applied in the State of Colorado, and brought to our attention at the Glenwood Springs hearings, where thousands of deer, eighteen or twenty thousand deer in one particular section, were not only destroying the open public domain for grazing purposes, but were destroying themselves, because they were starving themselves out.

Now, if that problem is presented to the Executive in the form in which it was presented to this committee, if the facts were presented to the Executive in the form in which they were presented to this committee, my fear is, the fear of this committee is, that the Executive would not hesitate to make an Executive order, under the authority of the Supreme Court of the United States; and then we would have no chance to say a word, because Congress' hands would be tied.

Whereas, no Executive order has been made, this committee seeks to take time by the forelock, and try to bring to its aid those who, like yourselves, Mr. Pittman and Mr. Gray, and others who are here, bring to its aid the best thought of those who have contact with the subject, to the end that we may formulate something. It does look to me, from the statute read into the record here from the State of Nevada, that the State of Nevada has taken an advanced step, a highly advanced step, in the solution of that problem. When you take the statute of the State, as inserted in the record, and compare it with the language of S. 1152, you will find that they work harmoniously. In other words, the language of 1152, and I choose at this time to read it, because I want to discuss it and have it torn to pieces—I want it torn down, so that we will build something that will be advanced—that language says:

That whenever the head of a department or agency—

Now, if you will take your State statute and follow it you will see that the spirit is in the same way,

of the Government having supervision—

Mind you, there, again, the statute of the State of Nevada recognizes the Federal Government having supervision over the public domain—

having supervision and control over any public lands or reservation of the United States shall determine that a reduction in the wildlife population of such lands or reservations is necessary to prevent injury to the soil, plant life, or to any wild or domestic animals dependent upon such lands or reservations for sustenance, he is authorized to request the appropriate officers of the State in which such lands are situated to take such action as he deems necessary and proper to bring about such reduction.

That brings the Federal Government into an advisory capacity, whereby it advises and recommends that the State take such steps as it recommends to reduce the population.

In any case in which such officers of the State are unwilling or unable to comply with such request, the head of such department or agency is authorized to provide, in accordance with such regulations as he may prescribe, (1) for the issuance of licenses authorizing the holders thereof, during specified periods, to hunt, trap, kill, and possess stated numbers of such animals of either sex upon such lands or reservation, and (2) for the issuance of licenses authorizing the holders thereof, to remove, transport, or cause the removal or transportation of such animals or their carcasses or parts thereof, either intrastate or interstate, and sell or otherwise dispose of such animals.

The State of Nevada has come squarely up to that, by this recent statute, and I think that if the other States of the Union, especially the Intermountain States, had taken the advanced step which Nevada has taken, we wouldn't have been confronted with the testimony that was presented to us in the State of Colorado and the State of Utah and other States.

I think it would not be out of place now to read into the record the testimony that gave rise to a study of this subject, out of which we hoped to bring a solution. I want to say to you gentlemen that there is no question but what we have got to work out a solution, and it seems to us to be the duty of the public lands committee of the legislative body of the country to work out that solution, because if an Executive order is handed down, we won't have a chance to work it out, won't be called in on consultation, any more than we were on the Jackson Hole incident, or the Nevada incident, or any one of the hundreds, or thousands of cases.

Now, what gave rise to this? Let's read a little of the testimony at Glenwood Springs. Mr. Rutledge was testifying about the Kaibab situation. Senator Holman asked him the following question, referring to the action of Mr. Rutledge:

Senator HOLMAN. Do you mean by shooting them?

Mr. RUTLEDGE. Yes, sir; we killed a lot of them. What we could we turned over to the State for their institutions, and a good many truck loads of deer went to the orphans' homes and other institutions of the State. The State of Arizona applied for an injunction against me personally, and it was a pretty hot time. When you go up against a State set-up like that, you have to have guts. That case became the celebrated Kaibab deer case.

I wish the committee could get that case and read it and study it and get the decisions. It went finally to the Supreme Court of the United States, and in the brief time that was put up by the Forest Service, the question of ownership of deer was raised specifically. The Solicitor General of the United States for some reason did not want to put that point in the decision, or in the trial, but the result of that trial and the decision of the Supreme Court is to this effect without trying to quote it: That the owner of land, in that case, the Government, has the right to protect its property, but that the owner of the land, in that case, the Government, does not have the right to license hunters to come in and take the game, so as a result, all we could do there was to kill the deer and let them lie, except what could be taken to these institutions.

Now, we don't want that to recur. The testimony there was that there were thousands of deer starving themselves out. The testimony at Glenwood Springs is to the same effect. First of all, take the two propositions: We can't get away from the fact that the land that belongs to the Government of the United States is the property of the Government. There can't be any contradiction to that. The Gov-

ernment of the United States has the right to protect its property, just as an individual.

There is a case here, that I will refer to later on, where an individual shot an elk and reported to the game warden that he had shot the elk and had shot it in self protection, protection of his property, because the elk were coming in and jumping his fences and destroying his range. That was taken to the court of last resort of that State, and he was upheld. So it is not a theory that confronts us, Mr. Pittman, it is a condition.

Now, with your State statute, which I think is most commendable, we can bring about some progressive Federal statutes, to meet and co-join. Then we can set aside any possibility of an Executive order, and I am very much against Executive orders. This entire committee stands on record against Executive orders. It is to forestall an Executive order that this bill is before the American public today.

MR. PITTMAN. Senator, may I ask a question, just for my information? Why is it that the condition, such as you have just cited, could exist in Colorado and the Kaibab Forest or any other place? What brings that about?

THE CHAIRMAN. Many things bring it about. In various sections different things, as disclosed by the committee's analysis, largely from the record, more than from my personal knowledge. The record as made before the committee, shows, first of all, that the Federal Government has been called in for many years to invest vast sums of money in the destruction of predatory animals. As you destroy predatory animals you increase the deer population. Use deer as an illustration: Your report here made by Mr. Briggs, or rather, I suppose, by the committee of which Mr. Briggs is a member, pertaining to this Duck Creek Reserve out here, shows that the early observers of that district found no deer, no wildlife whatever. Then later on some wildlife came in. Today it is admittedly overburdened with wildlife. One may stand on the sidehill there and look for miles and miles and see the action of the overgrazing.

So, as Government set in and as civilization set in, and as the predatory animals went out, the wildlife increased. That is one thing.

Another thing is that, as there was supervision of the open public range, there was an increase of grazing, and the wildlife increased. Those are some of the things that gave rise to the increase of wildlife.

Then State laws and Federal laws, as well as the Federal laws prohibiting the shipping of carcasses or bodies across State lines, and so forth. The State laws protecting the wildlife was another agency that made it possible for an increase of the population of deer and the like.

Now, those are some of the things that gave rise to the condition. If you were to read the testimony given to us at Glenwood Springs, the chairman of the committee and some other members of the committee suggested that the hunting season be increased that they could take more sportsmen, and that they could take a greater number of game. We also suggested that the sex provisions be eliminated, so they may take either bucks or does. That was answered by this significant statement, which made a definite impression on me as I listened to it; I can't recall who it was who stated it, but he said, "That will not answer the question. We have done that and it didn't answer the question." Then he gave the number of licenses that had been

issued for the taking of deer for that particular season, and the number of deer that had been killed did not compare at all. He said, "The average sportsman"—this will hit some of you fellows a little bit hard—"the average sportsman who hunts deer hunts just as far as his rifle can reach from the automobile, and no farther." I thought that was a significant statement, from one in his position. In other words, they drive out on the road as far as they can and shoot a deer from the car. That did not hit the mark at all.

Those were the answers we received to suggestions we made which we thought might be pertinent. Whether he was right or not, I don't know. I am only giving his answer.

Mr. PITTMAN. All I want to say is, I well understand how deer can increase, you know, but what I meant was, why was it that the State authorities refused or failed to enforce the State laws, assuming they have State laws, to prevent a condition like that, where they are overgrazing the land, and the deer are dying in great numbers? That is the thing I can't understand, why a competent authority would refuse to meet a situation of that kind.

The CHAIRMAN. Well, I'll tell you; I'll give you a little answer to that, and this comes to us from the record also. I don't think I have the exact portion of the record here, but I can give you the answer in substance. Whenever there was a movement on foot to go into these congested areas and take out greater numbers, there was a counter-movement set up by sportsmen organizations and wildlife organizations, throughout the whole country. That testimony has come to our committee. Whether that be an answer to your question or not, I'm not ready to say, but it is true that sportsmen's organizations are interested, and some wildlife promoters are interested in this subject; and whenever there is an apparent letting down of the bars for the protection of wildlife they jump right into the breach and want it stopped.

Mr. ROSS LEONARD (director, Utah Fish and Game Department, Salt Lake City, Utah). I would like to know just where the record shows those thousands of deer dying.

The CHAIRMAN. I don't have the Utah hearings here. I don't know whether I addressed that statement to the State of Utah, but it is apparent in the record on the State of Colorado and especially the Glenwood Springs situation. Now, I won't quote anybody, because the party is here, and those who know this subject will testify. Largely in answer to your question, on the expression I made a moment ago, management suggestions are found in the partial report of the committee, made just before Congress adjourned. These are management suggestions which we, as a committee, suggested and which came to us by those who testified before our committee. The Forest Service and other agencies first suggested longer hunting seasons. I want to say that that was opposed quite bitterly. Secondly, they suggested extended seasons on problem areas. For instance, I have in mind the problem area right out here. Glenwood Springs is another. Third, an increase in the bag limit. Now, that was opposed by some wildlife organizations. Fourth, departmental control of surplus, where the hunters' harvest is insufficient, and that impinges on this proposed legislation.

Now, of course, the State can do that when it wants to. The fifth suggestion, a State-wide policy of the numbers of animals which can

be maintained in adjustment with the environment and the harvest which should be realized in order to utilize the surplus.

Now, some witnesses testified as to the increase, and we made note of it here in our report, in which the Forest Service brought out that the deer in 1920 numbered 20,000 and in 1940, 140,000, an increase of 120,000. Elk, in 1920, 5,600; in 1940, 22,000. Cattle in 1920, 321,500; in 1940, 209,800. So you see as your wildlife goes up your domestic grazing life goes down. Your cattle showed a decrease of 170,000. Now, I am not ready to say that was due entirely to the increase of wildlife; it may have been due in part to other agencies. But the facts are there. Sheep, in 1920, 1,019,600; and in 1940, 808,500; a decrease of 211,100. That was the condition that was testified to before the committee, that we made mention of in our report. By the way, I hope there may be sufficient copies of the committee's report to go around to all those who are interested in a solution as to how to handle this problem.

Governor Pittman, we are glad to have you here. Is there anything further that you wish to say? I hope you may stay with us during the day, because it is the desire of this committee to bring out the best thoughts that we can get here.

Let me say frankly, this bill was introduced for the purpose of bringing out the best thought on the subject and to arouse public interest in the subject, so that we might get the better thought. The author of the bill, the chairman of the subcommittee, the senior Senator of Nevada, referred the bill to his own committee. There is where it is now, and it will rest there until we can bring out the best thought on the subject that there is.

Mr. GRAY. Mr. Chairman, may I make a brief statement? The query was directed to Mr. Pittman as to whether or not the proposed Senate bill 1152 would not work hand in glove, side partner of the Nevada statute. Was that roughly the query that you had, sir?

Mr. KNEIPP. No; my query was whether, under the conditions in Nevada, the only part of S. 1152 that would be operative would be the first part, requiring the report of the State, if there was a need for correction. That need having been met with, wouldn't the rest of the bill be inoperative?

Mr. GRAY. Theoretically, I might agree. But there is nothing in the bill to say who shall determine whether or not the recommendations which have been deemed necessary by the heads of the departments have been met by the State, or the action on the part of the committee appointed to act with the Nevada State Game Commission admit those recommendations were not. In other words, if we are to be faced with any legislation at all upon this problem, it would appear to me that the legislation must contain a provision of some kind which safeguards the action of the State from any arbitrary opinion expressed by the head of any department as to whether or not the State action has met the requirement of the department, because if something is not in the bill protecting that right, then there is no assurance that the head of one of the departments, the Forest Service or the Taylor Grazing Service, would not say that the action taken under your State act does not meet our requirements, and therefore we'll go ahead with the second part of 1152, and set at naught the State's act. I offer that as a thought, Senator.

The CHAIRMAN. Now, let's dwell on that. I am very glad that you have done that. Let's dwell on the thought, in connection with the

Supreme Court decision in the *Hunt case* and other cases, wherein it says emphatically that the Federal Government need not give any consideration to the State whatever but may go in and kill off, on its own domain. How do you reconcile the situation? First of all, do we not have to admit that we are confronted with a mandatory and final decision on a subject of law that we are dealing with, under that final decision, which said that the Forest Service, the Grazing Service, the Park Service, or any other service can now go in and kill off, and not confer with the State at all. We are confronted with that. So it is a condition, again, that confronts us, not another theory.

Now, in order to modify that situation and tone it down so that we would not be confronted with a Kaibab situation again in any State, is it not best that we try to formulate far-sighted legislation? I think that the State statute of Nevada has taken a step in that direction, notwithstanding the fact that I see in your State statute a peculiar condition in that you call upon the Forest Service and the Grazing Service and the other services to become members of a group which, as a matter of fact, you haven't any authority to do at all. But if they will join, accordingly, with that group, and give their best efforts in the matter, it is commendable.

Mr. GRAY. We can't compel them, any more than we can compel any individual to become a member of that department.

Mr. PITTMAN. If they didn't cooperate, it would put the departments in a bad light, and militate against them in any recommendation for a reduction of deer.

The CHAIRMAN. What I am saying, you take action with reference to the public officials whom you don't control at all. I think that is a side issue, and it doesn't need any particular consideration, but you certainly have got a step in the direction of cooperation by the Federal Government for the protection of the open public domain, haven't you?

Mr. GRAY. That is quite true. As a matter of fact, Senator, viewing it from the point as I see it, and I think I mentioned this to you in the conference we had the other day, under the present Federal statutes and the decisions of the Supreme Court of the United States, there is no question at all but what the heads of the Grazing Division, or the heads of the Forest Service, could go in and kill off every head of deer, elk, bighorn, or every other kind of game that is on the public domain or within the boundaries of those forests or grazing areas. Of course, even the decision of the Supreme Court of the United States on the *Kaibab case*, as I construe it, prohibits the removal of those carcasses from the area. We then have a situation, with the Federal Government having a right to exercise certain prerogatives without an estop. The situation there is a good deal like the well-known pound of flesh, you can have it, but you shall not spill a drop of blood. I agree that some legislation should regulate the thing if we are to protect it at all. However, whatever legislation it is, it will amount, if you please, Mr. Chairman, to the withdrawal, from one of the departments that have jurisdiction over the Federal domain, of some of the power which they now possess, as I see it.

The CHAIRMAN. Well, go back a little way. We know the ancient thought was the open public domain, as it was called, was the property of the State. Well, that was, from time to time, dissipated. The thought was that the wildlife was the property of the State; but that,

too, has been dissipated. Wildlife is under the protection of the State. The State may, under its police powers, enact laws for the preservation and protection of wildlife; but it does not mean that the wildlife is the property of the State. I am quoting the law. You know, and you have read yourself, decision after decision, those rules which go way back beyond the time our shores were ever discovered.

These are the kinds of discussions that we want. I want to say to you frankly that the chairman of this committee, and the entire committee—I will speak for them in this regard—stand as a unit against further encroachment of Federal control. But we are confronted with the decisions of courts of last resort, which constitute the laws of the land, and we are confronted with other conditions that prevail, and impress upon us the necessity for some progressive legislation, and we hope to work it out.

Mr. KNEIPP. Mr. Chairman, might I comment on Mr. Gray's statement?

The CHAIRMAN. Yes.

STATEMENT OF L. F. KNEIPP, ASSISTANT CHIEF, U. S. FOREST SERVICE, WASHINGTON, D. C.

Mr. KNEIPP. I first might emphasize this fact, that I think it is clearly to be established that no officer of the Government has any power of capricious and whimsical action; that under S. 1152, there could be no ordering of all the game animals from any Federal area, or any complete slaughter. I think you might stress the fact, from its very beginning the Forest Service has cooperated heartily in trying to build up game resources, and has taken part in that movement at a time when the game resources were at their very lowest ebb, and where their protection and augmentation was a definite necessity. The Forest Service cooperated in every practical way in fostering an adequate development of game resources.

Now, as to the action under S. 1152, it seems to me the only action an agent of the United States could do, would be to report to the State, "Here is a given area of land of so many acres, which has a vital relationship to the economy of the region, and is needed in part for the pasturing of domestic livestock, for the protection of watershed against erosion and floods, and the capacity of that land for the production of the sport of game animals, with due regard to the domestic livestock that ought to be provided for, is, we will say, for example, 5,000 head of deer. Within that area, due to several causes, one being that the predators have been pretty well controlled, and secondly, that the State game laws prevented the removal of an adequate number of game animals by establishing a short season or a hunting limit of only one buck, or by a high fee for hunting, either residential or nonresidential, there has never been under the State game laws a take of more than, we will say, 15 percent of the normal increase of that herd, whereas deer normally increase, when protected from disease and predators, 30 percent. Consequently, on that area, instead of the 5,000 it could support, there are 15,000 head. Therefore, we request the State to initiate action to reduce that herd from 15,000 to 5,000." That is a factual determination. As soon as it can be shown that the herd is down to 5,000, S. 1152 has been complied with, and there is no question of determination as to the adequacy of the State action.

Mr. GRAY. I don't like to argue with the gentleman, but still—
The CHAIRMAN. Well, don't hesitate.

Mr. GRAY. There is a question to be determined yet. At all times, even under the hypothetical case that you have stated, the question will have to be determined as to whether or not the State has fully complied with the request or the demands of the department.

Mr. KNEIPP. As soon as the number of deer is reduced to 5,000, wouldn't that constitute complete compliance?

Mr. GRAY. Well, take our own situation out here in Nevada. As it has been worked out under the Nevada statute, is the order issued by the Nevada State Fish and Game Commission authorizing the taking of some 500 head of does from designated areas, does that constitute compliance with the request?

Mr. KNEIPP. If the 500 does are taken; yes.

Mr. GRAY. Suppose the Nevada Commission had said, when your department had requested 500 to be taken, suppose the Nevada Commission had said, "We think we should only take 300," and 300 are taken. Is that a compliance?

Mr. KNEIPP. No.

Mr. GRAY. You still reserve unto your Department the ultimate decision to determine how many shall be taken.

Mr. KNEIPP. Whether or not it is the ultimate decision, the decision of how many deer, in combination with other users, a certain tract of land can support without damage and depreciation—

Mr. GRAY. That is the effect of your decision, sir, but the point still remains, or the fact still remains, that the decision rests entirely with your Department.

Mr. KNEIPP. Yes, in the light of the physical circumstances, the condition of the ground, the condition of the growth, and the condition of the deer.

Mr. GRAY. That is the thing you base your conclusions on, but your Department still has the final say.

Mr. KNEIPP. That is right, as it has now under the Supreme Court decision that the Senator has cited.

Mr. GRAY. That is the point that I see needs correction, that no department of the Government should be in a position to dictate to the State of Nevada, or any other sovereign State, its wishes and desires upon this question. I do believe that legislation is necessary and required that the parties be compelled to get together; but if you are going to leave the decision in the hands of the Department, we are no better off after the legislation than we are at the present time.

The CHAIRMAN. That is our condition at the present time, isn't it?

Mr. GRAY. Our condition at the present time—

The CHAIRMAN. In other words, apply the Supreme Court decision to existing conditions; you are in this condition, that the Government, through its agency, may say whether or not, and then have the exclusive say, apparently, whether or not a take or a kill-off should take place. So that is a condition that is on us, which we are trying to modify and get away from.

Mr. GRAY. That is why I make the suggestion, if you please, Mr. Senator, that there should be something inserted into the bill whereby, after the State officials have been requested, the determination of whether or not they have complied with the request of the departments should not be left entirely within the hands, or the control,

of the organization or department that initiated the petition, so that our petitioner and our judge are not one and the same party.

Mr. PITTMAN. That is correct. That is exactly the point I was going to make. Here you could have one Government agency, for instance, the Forest Service, or the Grazing Service, or the Indian Service, or any one of these Services, or the heads of any one of those Services, make an arbitrary demand, and if the State authorities didn't abide by it, or acquiesce in it, they could override the wishes of the State.

The CHAIRMAN. That is the condition now.

Mr. PITTMAN. What?

The CHAIRMAN. That is the condition now.

Mr. PITTMAN. If this bill passes, that is the condition. My remarks apply to the pending bill.

The CHAIRMAN. But it is the condition now, without the bill, don't you see?

Mr. PITTMAN. I realize the condition would have to be very, very bad before an Executive order could invoke—

The CHAIRMAN. No Executive order is necessary now, Mr. Pittman, no Executive order is necessary now. The Supreme Court of the United States has handed down the rule, that all the Department has to do is to go in and take. That is the condition that I am trying to modify.

Mr. PITTMAN. This is my suggestion on that: While I am not approving the bill or anything, but—in other words, if it is going to pass, it should not be based as it is now, but changed so that it would not be one Government public land head who would have a right to do this, but it would have to be done by an agreement among the heads of the various public land departments. That would straighten it out to some extent. I would go further than that, but as far as those departments go, that is one feature that should be taken care of, in my opinion.

The CHAIRMAN. We are very glad to have that suggestion.

Mr. ANDY BARR, Nevada Fish and Game Commission, Ely, Nev. Mr. Chairman, Mr. Pittman's remarks there, on putting this thing in so all of the heads should decide on the decision, that is on the side of the Federal Government. That would be a cinch.

The CHAIRMAN. It would be what?

STATEMENT OF ANDY BARR, NEVADA FISH AND GAME COMMISSION, ELY, NEV.

Mr. BARR. They would all agree on whatever one department wanted.

The CHAIRMAN. Let me tell you something. Years of observation indicate to me that these departments don't speak to each other, half of the time.

Mr. PITTMAN. That is what I had in mind.

Mr. BARR. That might be, Senator, that's the way the lawyers are when they go into court, but they shake hands when they come out. That would apply to these heads, too. But as far as agreeing on anything that either the Forest Service, or the Grazing Service, or the Fish and Wildlife, we have the fish and game commission in this State that has always agreed and tried to do the right thing with them.

But we don't believe that, if they got this thing, and they wanted us to go over our hunting periods, if they didn't get 500 does in 40 or 60 days, and wanted us to go over it, well, our laws won't let us go over that period for the hunting season, and I don't think they should. But as far as agreeing with them, we have got three or four sections in the State, right now, that we have agreed with them that we would try and put the thing over. They wanted 500 does in this section, and so many on other sections. Well, that ain't our problem, if they don't get them; but we agreed to do what they wanted. but not to go over and have a season all year round. That is what it looks like with this bill, if they get it, it will be commercializing the wild-life.

The CHAIRMAN. All right. Does anyone else care to be heard on this phase of the subject? I think I interrupted the gentleman from Utah.

Mr. LEONARD. I was just going to make an observation, if the Federal agencies had had that power, based on the Pisgah decision and the Kaibab decision, as handed down, they are merely passing the buck to State agencies, when they say they are refusing to face the problem, take care of the problem. It appears they have had the power over a number of years, without the bill 1152, without any action of the Federal Government.

The CHAIRMAN. They have it now.

Mr. LEONARD. Why hasn't the problem been taken care of?

The CHAIRMAN. I suppose it is answered by the question that your States have resisted Federal interference. I think that would be one answer. Whether it would be the final answer or not, I don't know. I think perhaps another answer is that it has been a desire of the Federal agencies—I don't speak for them—to try to comply with the wishes of the State game authorities, as far as possible, as Mr. Barr has just brought to our attention.

Mr. ALLAN C. RANDLE (Utah State Fish and Game Department). Does S. 1152 control the game in the national parks?

The CHAIRMAN. It controls the game in any section belonging to the Federal Government.

Mr. RANDLE. In other words, they could open the season in the national parks?

The CHAIRMAN. No.

Mr. RANDLE. It wouldn't?

The CHAIRMAN. No; not the Federal Government. The national park agency might open the season in a national park for the take.

Mr. RANDLE. It would still be left up to them?

The CHAIRMAN. Yes; it is now.

We are dealing with a condition. I am trying to impress that upon you; we are dealing with a condition, and not a theory, all the way through this thing.

I am delighted that we have here representatives of Wyoming, Utah, and, I think, Idaho. Little by little, I hope that the true significance of the bill will sink into those listening to this discussion. It is not something new, set up here, it is to deal with a condition that actually exists by the law of the land, and to try to modify it so that the States may have the proper place in the picture, in keeping with the desires of their own citizens. That is what we are dealing with, and that is

why the Committee welcomes suggestions, so that we may emphasize this.

Is there anyone else who would care to be heard on this subject?

Mr. FRANK WAIT (Clark County game warden, Las Vegas, Nev.) I would like to introduce Mr. Jack Moore, the president of the Southern Nevada Fish and Game Protective Association, and I would like to have him heard.

The CHAIRMAN. We will be very glad to hear him.

Will you kindly state your name and official position, for the record?

STATEMENT OF JACK MOORE, PRESIDENT OF THE SOUTHERN NEVADA FISH AND GAME PROTECTIVE ASSOCIATION, LAS VEGAS, NEV.

Mr. MOORE. My name is Jack Moore, and I am president of the Fish and Game Protective Association for Southern Nevada.

We had quite a discussion on this bill, in our last regular meeting, and we put out several copies of the bill so that the boys could think it over. We are in favor of this bill, with a few restrictions.

We think that, down there, there should be a unified body to determine whether there is actually a necessity for the taking of this game. We don't think it should be under one head, but the various heads. Say, for instance, one member from the cattle association, one from the Park Service, one from the Fish and Game Protective Association, and the various other bodies that are interested in this area as a whole and as a community. When these men go out over the area and determine the damage, then it is balanced, and it is fair for all, and we don't believe in commercializing on wild game in any way.

The CHAIRMAN. On that last expression, "We don't believe in commercializing," I think we will all agree on that; but if there was an agreement, as for instance, the one discussed here, with reference to this Duck Creek Reserve, an agreement to kill off 500, now you wouldn't favor just the wholesale destruction of the bodies, would you?

Mr. MOORE. No, sir.

The CHAIRMAN. If they could be given to charitable institutions, or some other places where they would serve the purpose, that would be all right?

Mr. MOORE. Yes; that's right.

The CHAIRMAN. In other words, you wouldn't believe in killing off for sale, or commercializing it in any way. Your idea would be to take, in keeping with the necessity of the particular area, which necessity must be determined by some observing or governing body?

Mr. MOORE. That's right. If the animals are to be taken, and they can't be taken by hunting, I believe that if you would allow a little longer season, you know, not the whole year round, but a few days longer, or allow a doe license, that that could be eliminated without having to go in and just kill these deer. I don't believe in letting any kind of meat lay, when it has been killed.

The CHAIRMAN. The testimony given to us in Colorado was to the effect—I haven't it right at hand now, but it was to the effect that, notwithstanding the fact they had increased the number that could be taken, and had let down the bars as to the sex, and had extended the season, still the increase—and I quote rather at liberty—the increase

was approximately 31 percent. That seemed to be the problem that confronted everybody with reference to that particular district.

Mr. MOORE. Then the ordinary sale of licenses doesn't take the amount of deer from the ground, from the lands, that should be taken.

The CHAIRMAN. That is your observation?

Mr. MOORE. That is what I gather from your statement.

The CHAIRMAN. Yes, that was the testimony before us. What is your observation on that subject?

Mr. MOORE. Well, in a case like that——

The CHAIRMAN. Referring to your own knowledge of your own district.

Mr. MOORE. In our own district we don't have any overpopulated areas at all, in Clark County and southern Nevada, down there. There was some that suggested an open season on Mount Charleston, but we have a very small number of deer there, and lots of grazing; and I think that what few deer we have in that community are worth much more for the recreational area than they would be for meat, or anything like that. That is the opinion of our body down there, that the bill is a good bill, with those restrictions, that we form a committee to determine whether or not the ground is actually overgrazed, and the number of animals that should be taken.

The CHAIRMAN. Is there anything further?

Mr. MOORE. I believe that is all.

Mr. PITTMAN. May I clarify one remark that Mr. Barr answered, that I wish answered? That is, when I said instead of one public land agency having absolute authority, under this bill 1152, that it ought to be changed so that all of the public lands departments would have to agree on it. Now, in saying that, I don't mean if they all should agree, that should end it. I think any investigating committee, under this bill in its final passage, should include as this gentleman from Clark County said, representatives of the livestock, wildlife, and of the sportsmen, and any others that are directly connected with that phase of wildlife. That is what I mean. I am just looking now, if this bill is going to be amended, the first thing that ought to be done is to have all the Federal agencies agree on something, not just one; and in addition to that, have this committee set up to be composed of those that I have mentioned. That will clarify my remarks on that.

Mr. LEONARD. Mr. Chairman, I would like to give you Utah's position in this controversy, if I might.

The CHAIRMAN. Kindly state what position you occupy.

STATEMENT OF ROSS LEONARD, DIRECTOR, UTAH STATE FISH AND GAME COMMISSION, SALT LAKE CITY, UTAH.

Mr. LEONARD. I am director of the Utah State Fish and Game Commission.

The commission in Utah have adopted the attitude that they have deer problems, and we have had them in the past, and they wanted to take care of them.

The CHAIRMAN. Right there, clarify as you go along. What were your deer problems?

Mr. LEONARD. We had a concentration of deer on some winter areas.

The CHAIRMAN. Were they, in some instances, destroying themselves by starvation?

Mr. LEONARD. We had some loss, but it did not run into the thousands, as was brought out in this hearing. We lost a few hundred deer on some occasions. Severe winters is one of the contributing causes, if not the major factor. We have set up in Utah what is known as a board of big game control. This has been on the statutes of Utah since 1935. I have a copy of that law, section 30-0-54. Would it be all right if I were to read that?

The CHAIRMAN. Yes, indeed.

Mr. LEONARD (reading):

In order to more scientifically define the boundaries of State game preserves, and to regulate hunting, trapping, and travel thereon by stockmen and other citizens, the State fish and game commission, by and with the consent of the Governor, shall appoint a supervisory committee to be known as the State game refuge committee, the members of which may be reimbursed for actual and necessary hotel and travel expenses incurred to attend official meetings of said committee. This committee shall be composed of five members, one of the members of the State fish and game commission, one representative each to be chosen from and nominated by the Utah State Cattle and Horse Growers Association, and Utah State Woolgrowers Association, the Utah State Sportsmen Association, the regional officer in Utah of the United States Forest Service; the member of the State fish and game commission to act as chairman. The committee shall have authority to fix boundaries of all State game preserves; *Provided*, That private lands may be included in State game preserves established for big game only by and with the consent of the owner, and then under such conditions as the owner may prescribe; *Provided further*, That for the purpose of securing a better distribution of the big game now found on the game preserves, the committee shall have authority during the process of reestablishing and defining the boundaries of the State game preserves to declare an open season thereon for the killing of big game, which season shall conform with the general open season for big game as prescribed by law.

I'll skip a couple of paragraphs and go over here to the powers of the State game refuge committee:

The State game refuge committee shall also constitute a State board of big game control and shall also have full power and authority to designate game refuges for big game. Whenever, after due investigation, the committee shall find that big game have increased in numbers in any locality to such an extent that a surplus exists, or to such an extent that such animals are damaging public or private property, or are overgrazing their range, the said committee is hereby authorized and directed to provide for a special hunting season for such animals additional to any open season specified by law. The committee shall designate the number of licenses to be issued, the area in which hunting will be permitted, the number and sex of animals that may be killed by each license holder, and the conditions and regulations to govern the hunting. The license fee for such special big game hunting season shall be fixed by the committee, and the money received from the sale of such licenses shall be covered into the State fish and game fund. The committee may also authorize, under such rules and regulations as it may determine, the commission and its members, the State fish and game warden and deputies, to capture and remove or kill big game animals at any time without advertisement, on any area where said animals are damaging private or public property, covering into the State fish and game fund all money received from the sale of the carcasses of all big game animals. For the purpose of this act, the following animals are hereby classed as big game animals: Elk, deer, antelope, mountain sheep, and mountain goats.

So, you see, we have had the power in Utah to take care of these problem areas. Now, a Federal agency has had the same vote on determining this kill in Utah for the past 8 years, as the State fish and game department, who have been holding one vote. We have had a rapid increase of deer, and have tried to meet that problem. In 1940 there were approximately 15,000 doe permits authorized by the board

of big game control. We killed 10,104 antlerless deer and 15,159 bucks, a total kill in 1940 of 25,382 deer.

The CHAIRMAN. Right there, what was your increase?

Mr. LEONARD. In the total number of deer? I haven't those figures available, on the increase. We figured on the basis of 25 percent. We and the Federal agencies have agreed on that figure.

The CHAIRMAN. In other words, I want to clear this for the record, if I may, notwithstanding the 25,000 take, there was an increase in the population?

Mr. LEONARD. I think there was that year, yes; in fact I am satisfied that there was an increase.

The CHAIRMAN. But you haven't that figure?

Mr. LEONARD. In 1941 we killed 18,580 doe deer, 25,418 bucks, a total of 43,998 deer killed in 1941. Authorization for 23,500 doe permits was made this year by the board of big game control. Still our problem areas remained as bad as ever. In order to face this situation, and get it over once and for all, many of the sportsmen of the State thought that the board of big game control was completely off the beam in their authorization for 1942, when they authorized a total of thirty-four-thousand-some odd does to be removed.

The CHAIRMAN. Right at that point, how did the sportsmen's organizations make this attitude manifest?

Mr. LEONARD. By telling the fish and game department they were going to entirely destroy the game herds in the State, and through a program of cooperation, with the sportsmen's organization, we sold them on the problem of taking care of many of our concentrated areas, so in 1942 we killed 26,822 doe deer. More antlerless or does were killed in 1942 than the whole total killed in 1940. We killed 36,787 bucks, or a total kill last year of 63,609 deer.

The CHAIRMAN. How did it affect your congested areas?

Mr. LEONARD. It took care of practically every congested area in the State of Utah.

The CHAIRMAN. What was your increase in population in 1942?

Mr. LEONARD. We had a reduction on most areas; for instance, on our unit the number of deer on the Fishlake Forest rated at 66,000 in 1942 as of January 1, and 54,000 as of January 1, 1943.

The CHAIRMAN. Is that the increase?

Mr. LEONARD. No; a reduction of 10,000 head.

The CHAIRMAN. I didn't catch your figures right, then.

Mr. LEONARD. From 66,000 in 1942 to 54,000 in 1943.

The CHAIRMAN. Do you have congested areas that reflect the same proportion of reduction?

Mr. LEONARD. We still have a problem area in the southern part of the State, where it is practically impossible, in these times of gas rationing, to get hunters in there to remove them.

The CHAIRMAN. Gas rationing has something to do with taking deer?

Mr. LEONARD. It will have a big effect, we are afraid, unless some action can be taken.

The CHAIRMAN. You know that fellow Ickes has brought an awful lot of sins on himself. I don't know why, but he has.

Mr. LEONARD. We have taken care of the problems that faced us in practically every area. Now, the board of big game control this year has authorized a kill of 28,000, 27,000 does and 1,000 bucks; 28,000 special permits to be issued this year by the State game and fish department. We have set up a program, and made recommendations to the board of big game control that they extend the season in various areas. On the Fishlake Forest, the season instead of running the 10-day period set by law, from October 16 to 26, will this year run to November 7. On the La Sal area, where we have this congestion, we recommended to the board that a 30-day season be allowed, which will go into effect this year. Whether that will solve the problem or not, I am very doubtful. On the Wasatch National Forest—

The CHAIRMAN. Let us pause at that last expression, "whether this will solve the problem or not, I am very doubtful." Explain that a little more.

Mr. LEONARD. Because of the lack of ability to get hunters into isolated areas in Utah, and the shortage of gasoline.

The other method we are using to take care of our concentrations is post season hunting. Instead of killing off deer back in the hinterlands, that are not damaging property in the areas where there is no congestion, we are setting up a policy whereby we will set a season when the deer are down on concentration, and then allow the hunters to go in there, under a special permit system, and remove the deer at that particular time. Our post season this year—

The CHAIRMAN. That is to kill off?

Mr. LEONARD. Yes; a post season this year in the various areas will run from November 27 to December 5, when the deer are starting to come down and damage agricultural crops.

The CHAIRMAN. That is about 1 week?

Mr. LEONARD. Ten days, in conformity with the usual provisions of law.

We have one congested area in the southern section of the State where we had too many deer last year. The board of big game control authorized 1,150 doe permits on that Parowan-Paragonah area. It was for a post season hunt. Hunters went in there and solved that problem completely. The board of big game control met again this year and overruled its recommendations to the fish and game department, in that particular area, in which we recommended no doe killed, and set up again 400 doe permits for post-season hunting in that area. In a telephone conversation with one member of the big game control in that area, he states that the ranchers, stockmen, are joining in on a petition to prevent that kill from taking place, because the deer are just not there.

In regard to S. 1152, many of the objections to that bill have been brought out. It has been stated, it will allow commercialization, which strikes at the foundation of the purpose for which game is controlled, reared. It will allow interstate hunting; it will completely eliminate control. It would be impossible to enforce, because of the various ownerships of lands involved, on the forest, grazing, State fish and game department lands, and lands belonging to the State of Utah. It would, as has been pointed out, set up a diversified administration. I don't know whether the Grazing Service administrators will agree with the administrators of the Forest Service on the number of deer

to be removed, and past experience indicates that various interests are not too favorable toward game, in any form, on any of the ranges.

It also sets up a form of double taxation. Money will have to be appropriated, from the national funds, to take care of the enforcement the same way it is for the Grazing and Forest Services, as well as the special fees that are charged. From past experiences, the special fees have never covered the administration of Federal agencies. The State fish and game department in Utah operates solely upon fees collected from the sale of fish and game licenses.

Now, as far as game management is concerned, Federal agencies haven't made an outstanding success of the management of game. The gentlemen from Cedar City, the National Park Service, are in a quandary as to what to do with the surplus game. The superintendent of Zion National Park was in our office to work out a solution on his problem, to remove 300 deer from his area. We can remove 300 deer from that area, and they have broken down their rules to such an extent that they will allow members of the Park Service, or State game department, to go in there and hunt those animals and kill them. We could regulate that hunt, sell 300 permits, and allow the hunters to go in and remove the deer, thus taking care of the situation all in one move. That certainly does not disrupt the established practices of game management.

This Senate bill 1152 is, to me, purely another example of the desire of part of the Federal agencies to expand activities, to take over by law what they have failed to do by other methods of procedure.

The CHAIRMAN. Just a moment. You have set up some very vital and interesting objections to the bill. But did you stop to think that under the laws, as they now exist, under the settled law of this country, notwithstanding all the objections you raised, the Federal Government can now go into the State of Utah and kill?

Mr. LEONARD. Well, why haven't they carried that out already, if they have had that power? Under our laws of the State of Utah we have as much authority. Under our State laws—

The CHAIRMAN. They didn't have to go to the State law of Utah. That's the trouble with it; you see, the law is already fixed. It is a law fixed by the court of last resort. They might go into the State of Utah, into any congested area, and kill out and not ask a question of the State of Utah. That is what we are driving at, to try to get something that will bring this thing into the grasp of the State of Utah, which is today not within your grasp. Don't you realize that the Forest Service can go into the forest areas today and kill off as it sees fit, to remove the bodies by putting a tag on the body, and you couldn't do a thing about it. You say the bill would be the usurpation of States' rights. It is to get away from that, that we are trying to formulate proper legislation. Your usurpation of States' rights is already here, because the law fixes the province and powers of the Federal Government, and if they were to exercise that, there would be no way of stopping them from exercising that thing of which you are complaining. You say it is a demand on the part of the Federal Government for more power. They have the power now.

Mr. LEONARD. But they've been afraid to use it in the past, and they wanted to pass the buck to Congress.

The CHAIRMAN. Well, I don't know about that. You can put it that way if you wish. What I am trying to do is modify that power.

Mr. LEONARD. We in Utah have tried our best to cooperate with the Federal agencies, and we're willing to work with them, but we have experts in our game department, and we must rely upon their judgment as much as we must rely upon the judgment of any other agency.

The CHAIRMAN. Everything you say is correct, but you are still confronted with a condition.

Mr. LEONARD. We're trying to face that condition. We killed 63,000 deer in the State of Utah, by actual count, last year. By estimate, we killed 75,000. We are throwing post seasons open, to take care of these problem areas, and they will be taken care of under our State administration.

The CHAIRMAN. Let's take the first expression of this bill—and remember, I am not wedded to this bill by any means. I want you to know that. The bill says that whenever the head of a department or agency of the Government having supervision or control over any public land or reservations of the United States, shall determine that a reduction in wildlife population of said lands or reservations is necessary to prevent injury to the soil, plant life, or any wild or domestic animals dependent upon such lands or reservations for sustenance, is authorized to do what?

Mr. LEONARD. Ask the State departments.

The CHAIRMAN. To go in and kill off? No; he has that right now, but this bill would curtail that right. The bill says he is authorized to request the appropriate officers of the State in which such lands are situated, to take such action as they deem proper. Now, under the law he has not that demand upon him now. All he has to do is to go in and do it. If the Forest Service said there were too many deer down here, they could issue the order now, and have them killed off. This bill would require that they first go to the State and ask them to take hold of the situation.

Mr. LEONARD. I imagine that the representative of the Park Service here wouldn't like that very much, because if there is a surplus of deer on the national parks, then that would take away their powers to regulate game on national parks, and give them—and then give it to the State to step in and remove the surplus deer.

The CHAIRMAN. Well, wouldn't that be all right?

Mr. LEONARD. It would take care of the problem and prevent the abuses today.

The CHAIRMAN. The more you dwell on this, sir, the more you will discover that we are trying to get States' rights up to where they don't exist now at all.

Mr. LEONARD. It gives any Federal agency sitting in a regional or district office the power to go to the State department and say, "You do this or else."

The CHAIRMAN. Well, they can do that now.

STATEMENT OF LESTER BAGLEY, STATE GAME WARDEN, WYOMING GAME COMMISSION, CHEYENNE, WYO.

Mr. LESTER BAGLEY. State game warden, Wyoming Game Commission, Cheyenne, Wyo.: May I ask you a question here, Mr. Chairman?

I believe there is a distinction between the *Kaibab case* and the *Pisgah case*, between those cases, and the cases which you are citing.

The CHAIRMAN. I have cited them.

Mr. BAGLEY. You have cited them both. I don't think there is any question on the part of a State that would question the authority that was granted there, but there is quite a difference between that situation and the situation presented in this bill. Now, in the *Kaibab case* you have deer destroying a forest, and you have them dying of starvation, through excess numbers. There is no question but what that was justified. Now, let's turn to the *Pisgah case*. The State ceded a right, in that case, which we in the western States have never ceded. They bought that land and ceded it to the Forest Service, by State action, in that case. Now, there is a broad difference between a Federal agency stepping in and reducing a game population because they were destroying themselves, or wherein a right had been ceded by a State, than that which we are confronted with where a Federal authority can say you must reduce game populations because they want to put more livestock on.

The CHAIRMAN. Let me take your analysis. Let's apply the Taylor Grazing Act to what you have said. Let's say the States have not ceded the open public domain in the State of Nevada. Then, if that is the case, the Grazing Service would have no authority to regulate domestic animals on the open public domain, because the State of Nevada had not ceded that right. But the contrary is true, my good friend. The contrary is the fact, that the Federal Government owns the land, and no cession of that is necessary, nor would any cession be at all in place. Take for illustration, my own State, the State I represent, 84 percent of all the lands within the boundaries of the State of Nevada, is the property of the Federal Government. Eighty-four percent, that is the highest percentage of any State in the Union. Let's take our next thought. Did we cede that land to the Government? We did not. The Government owned the land. It is Government land, and we have recognized it. We recognized it by our recognition of the Taylor Grazing Act. It is Government land in the Forest Service. We recognized it by the setting up of the forest administration. It all belongs to the Federal Government. That is 84 percent, and that is our misfortune, because we have an arid and semiarid region and private individuals have not taken up the land. Otherwise the percentage would be much lower.

You were much more fortunate in Utah and Wyoming. Your lands are better watered, and you have a different climatic condition. There is no cession in question, because we didn't cede these lands to the Government. The Government owned the land, and owns them now, and has set up the administration. The Government could today, the Forest Service or the Grazing Service could today, under the *Kaibab* decision, under the *Pisgah* decision, under the law generally speaking, could, by an Executive order, close all the hunting on the open public domain of the State of Nevada, 84 percent of the land of the entire State, or they could go in and kill off, if in their own judgment it was necessary, on 84 percent of the lands in the State of Nevada.

Just a moment, I have been corrected; it is 86 percent.

These are conditions; and your analysis, I am unable to apply it. I wish it were true.

Mr. BAGLEY. I wish I had that *Pisgah case* here, too. If you will refer to the decision in the *Pisgah case*, the reason, or one of the reasons, they said that right was given is because they said that when these deer—the Forest Service officials were arrested, moving those deer across the State line, and the reason was because the State had given that; the State by legislative act had given it, and that was a part of the decision.

The CHAIRMAN. That is correct; but remember this, North Carolina was one of the Thirteen Original States, and the lands in the State of North Carolina passed to the State of North Carolina when the Federal Government was set up, which is not true with reference to the Inter-mountain States.

Mr. BAGLEY. Well, let me ask this question: I, of course, am not an attorney—when Wyoming was admitted into the Union under the enabling act, it stated this, that it should be admitted to the Union on a par with other States, which admitted that same condition to be true—

The CHAIRMAN. That is all right; but North Carolina didn't do that. The lands of North Carolina belong to the State of North Carolina. When the Federal Government acquired lands in North Carolina, they acquired them by purchase.

Mr. LEONARD. Senator, may I make a statement? If Federal agencies would assume an attitude of cooperation with the State game department, instead of "you do this or else," we could solve game problems. In this State, there is no question about it, it would go a long way. In Utah we have a few areas, but practically every game problem in the State is being solved.

The CHAIRMAN. I think you are right.

Mr. LEONARD. There is no need for action like this; no need for controversies between the States and the Federal agencies.

The CHAIRMAN. Would it not be for the protection of the State? That is what I am interested in, that we should define the rights of a Federal agency, and define them by a Federal statute, so that we in the State would know whether they were transgressing the rights or not, so that we can limit the force of, as we term it, the "big stick." Did you ever think of that?

Mr. LEONARD. Yes; but with every increase of Federal regulations we tend to lose on the side of the State administration.

The CHAIRMAN. You are entirely right; and I am glad you bring it up, because it was the very thing I referred to before Governor Pittman came in here. We are getting laws that do not come from the representatives of the people, and we are getting them in multiplicity. We are getting them by leaps and bounds, and the Congress is as powerless as a baby to interfere with the creating of them by Executive orders. Now you have a decision of the Supreme Court of the United States fixing a condition under which wildlife may be dominated by the Federal agencies, and all that is necessary now would be for an Executive order to issue from the White House, and they could go into any State in the Union, as their judgment dictated. I am not saying by that that they can rightfully abuse the judgment.

Mr. LEONARD. Thank you.

Mr. J. P. JOHANSEN. I want to get that statement clear, where you stated that where you collect enough money from your licenses to operate your whole organization under the fish and game commission in

the State of Utah—I don't quite understand it, and if you would make that a little clearer—may I ask you this question: Do you really think, by taking and using the public domain, and having all the protection that you can possibly get for these wild animals, wildlife, with no taxes are collected on, only the revenue you collect from them, are they more essential than it would be if we had those domestic animals, with all the rich lands that we have to depend on from these farms, or investments and everything like that? Which is your policy? You have built up an organization from the game which you have got, an organization set-up which pays its way. So which, in your opinion, do you think is the best, to have this organization of the wildlife, the wild game, or to stock these ranges and rich lands up to their capacity?

Mr. LEONARD. I think every Federal agency will agree with me when I say there is room for domestic livestock and wildlife upon the ranges in our Western States, and I personally feel there is very little use in you and I going into an argument over which is beneficial. I personally feel that we have room for both of them on our ranges, and that we should not remove game entirely, which may benefit in Utah a hundred thousand license buyers, to benefit entirely 6,000 permittees. After all, the Grazing Service is working for the people and for the public. That should be their general policy, the greatest good to the greatest majority. That should be the philosophy of the Forest Service, and the philosophy of the State game department in the State of Utah.

STATEMENT OF GEORGE N. SWALLOW, PRESIDENT, EASTERN NEVADA CATTLE ASSOCIATION, SHOSHONE, NEV.

Mr. GEORGE N. SWALLOW (Shoshone, Nev.). I am a livestock operator. I would like to ask a question.

What method is used in determining the number of deer that you take off from a given area each year? What is the basis for arriving at the figure that you used, the figure you finally decide to determine on?

Mr. LEONARD. In Utah we have been trying to determine how many deer we could maintain upon any given area. It will take some time to determine what that figure is. It may be a process of trial and error. In the spring of the year, when our deer are concentrated, we have invited the Grazing Service and the Forest Service and the State game department, and different interested livestock interests, and sportsmen, to all participate in counts on various areas, and they have, in many instances, come to a conclusion, the Forest Service, the Grazing Service, the sportsmen, and the livestock interests, upon the number of deer that should be removed from any particular area. We gave them all a chance to voice their opinion.

However, I might state that the Grazing Service have not been too active in our counties. Part of that responsibility for their not being so active, probably, has rested with the State game department, and some of it has rested with the organization itself.

Mr. SWALLOW. That still doesn't answer the question. I had in mind, for instance, you determine on a certain area that you must take off 5,000, say, on the Fishlake Forest. How do you determine that 5,000 deer should be taken off that area? What is the basis for that determination, other than just numbers?

Mr. LEONARD. The condition of the range and the condition of the forage has a great deal to do with it. We might state that the carrying capacity has been set by one agency at 30,000 deer on the Fishlake National Forest. Last year we killed 30,000 deer on the Fishlake Forest, or 28,000—maybe I had better be exact—but there was some discrepancy in the figures used there. We, there in the game department, do not entirely agree that is the carrying capacity, that it has not been determined entirely to our satisfaction but we do know that the deer herd has been reduced on the Fishlake National Forest.

Mr. SWALLOW. Referring to that particular area, how much has the game increased in the past 20 years, and how much have the livestock decreased?

Mr. LEONARD. Mr. Randle, who is the game manager, can give those figures.

Mr. RANDLE. I don't believe I can go into the livestock figures. You can get the Forest Service figures.

The CHAIRMAN. Mr. Olsen, do you care to give those figures?

Mr. OLSEN. I have them with me and I'll give them.

Mr. SWALLOW. I'd like to have them for the record.

The CHAIRMAN. I am a little bit concerned about every minute here. Perhaps while you are looking that up for Mr. Swallow, we could listen to Mr.—oh, do you have it?

Mr. OLSEN. Yes; I have it.

STATEMENT OF C. J. OLSEN, ASSISTANT REGIONAL FORESTER, FOREST SERVICE, OGDEN, UTAH

Mr. OLSEN. I could give this to the reporter, Senator. It is a tabulation.

The CHAIRMAN. There was one statement in particular that Mr. Swallow wanted answered.

Mr. SWALLOW. I want this particular area that the gentleman from Utah mentioned; I believe it was Fishlake.

Mr. OLSEN. I have that, too.

Mr. LEONARD. Give him the general figures from Utah.

The CHAIRMAN. While you are going into that, Mr. Olsen—

Mr. LEONARD. I have those figures handy here, if you want them—these are counts from the Forest Service. In 1909 there were 144,834 cattle and horses on Utah national forests, 1,019,432 sheep; game, very few. In 1920 there were 172,551 cattle, 757,000 sheep, 13,000 game animals. In 1940 there were 113,670 cows and horses, 688,522 sheep, and 143,000 game animals.

Mr. SWALLOW. Isn't it true, then, as the game population has increased, the domestic livestock have decreased?

Mr. OLSEN. Mr. Senator, I have that.

Mr. LEONARD. Whether the two factors, whether one is a result of another or not, I am very doubtful. The ranges in Utah have been overgrazed by cattle and sheep for a number of years. The Forest Service has inaugurated the policy of reduction. Quoting Mr. Griswold, the Grazing Service states that between deer and cattle there is only 4 percent competition for forage, and between deer and sheep 14 percent. When we get competition between deer and livestock—as it is, the range has reached such a state that there is competition for everything available. Now, in Utah we are reducing our deer herds.

We have taken great strides in that direction, and we will take care of more problem areas. This fall there will be 28,000 permits allocated in Utah. We are ready and willing to face that problem, and we don't think any special interests should place their personal desires above the general welfare. There is room for all forms of activity upon the national ranges in the Western States.

The **CHAIRMAN**. Let me draw your attention to this, in connection with your statement—within the past 10 years or so the Federal Government has inaugurated and carried forward a policy of charging for the open public range; that is, charging for the use of the grazing units of the open public range, 5 cents a head per month for cattle and 1 cent per head per month for sheep. Now, that has raised another question, that it is the duty of the Federal Government as the permittor, issuing these permits—it is the duty of the Federal Government to see to it that certain areas from whence revenue is derived, and from which taxable property is appropriated, that that taxable property must have a range commensurate with its needs, and to see to it that it is not overpopulated by wildlife to such an extent as to destroy the ranges. Some new observations have come in, to which those of us in the western country interested in increasing taxable property have given our aid and consent, in the adoption of the Taylor Grazing Act and the Forest Service and the like, so that it throws the State agencies and the Federal agencies into a very close contact on all of these problems.

Now, Mr. Swallow, I promised Mr. Bonner that I would entertain him next.

Mr. **SWALLOW**. I shall appreciate being able to continue with a few more questions to the gentleman from Utah at a later time.

STATEMENT OF JOHN W. BONNER, DISTRICT ATTORNEY, WHITE PINE COUNTY, NEV.

Mr. **BONNER**. Senator McCarran, as has been stated, the purpose of the bill is to curtail the bureaus, the powers of the various Federal bureaus, and notwithstanding the Supreme Court's decision giving the bureaus the authority to remove deer, would it not be possible to amend this bill, providing that the boards of county commissioners in the counties involved would first have to give their approval before the animals could be removed? In other words, the department heads, before they would have the right to remove these animals, could not—this bill provides that the approval of the board of county commissioners of the county involved would first be advised—could that not be inserted into the bill?

The **CHAIRMAN**. Certainly, it could be inserted in the bill, or you could select even another agency if there was a doubt. If there was a doubt about the efficacy of the two agencies, Federal and State, getting together, you could select another agency, you could throw in your whole court if you wanted to, if the court would take on that obligation. You could have a final and definite arbiter, and perhaps in view of the criticism that has come here, I think it is constructive criticism. Perhaps something of that kind might be well to put into the bill.

Mr. **BARR**. If that were put into the bill, the people who would have some say in the matter would have a voice through the board of county

commissioners. I think I speak for the county, and if this bill is necessary, the county commissioners should have some say; it should be subject to their approval.

The CHAIRMAN. Thank you, Mr. Bonner, for your suggestion. Is there anyone else who cares to be heard on this subject?

STATEMENT OF PEDER V. PEDERSON, SECRETARY, WHITE PINE SPORTSMEN'S ASSOCIATION, ELY, NEV.

Mr. PEDER V. PEDERSON (Ely, Nev.). I'd like to direct a question to Mr. Swallow. I am a pants presser, the Modern Cleaners, Ely, Nev. I think Mr. Swallow was omitting something in the argument. I can see the point in his question. I believe it would go on indefinitely—

The CHAIRMAN. Well, we can't stay with you that long.

Mr. PEDERSON. He doesn't take something into consideration that is very important, and that is the habits, and the habitat of the deer the year round. I would like to know what kind of a contrivance or contraption Mr. Swallow would use to take a 2-year-old steer up to where I shot my buck last fall, where the deer are feeding and living right now, and where that one would be if I hadn't eliminated it. Deer now are on the rimrock. Does that eliminate any grazing land? Surely I would be the last one to do anything against the cattle industry in this country. I'm making my living in here, and this State depends on it. But the point is, you can't feed cattle where the deer feed 7 months out of the year. Later on we will have concentration, but when you have that there is snow on the ground. The deer is a browsing animal, and in all my experience I never saw him out on the meadow clipping short grass. I would like to hear of anyone else who ever heard of it. How is Mr. Swallow going to get those steers up on that rimrock?

Mr. SWALLOW. I should like the privilege of making a statement. To begin with, I started questioning the gentleman from Utah. We have been doing a little presupposing over there, because I was interested in having a few questions answered. Inasmuch as the gentleman has brought up the situation, and inasmuch as the statement was made by the gentleman from Utah that deer are only 4 percent competitive with domestic livestock, I think we livestock operators must take issue with you on such a statement. Beyond question, it is quite erroneous, and there is no question but what deer will take the most succulent feed. When it gets to the point that they have to go on to the higher areas, they will take the browse on those areas.

Now, we livestock people certainly do concede that game has a place in the picture. But we certainly don't believe they have a place in direct competition with the livestock industry. Livestock men have to pay a grazing fee in order to operate, either under the Taylor Grazing Act or under the Forest Service. In addition to that, each and every livestock operator has to make a "purchase"—what they are purchasing I don't know, but yet the Grazing Service permits these purchases to be made on the Taylor Grazing Act and the Forest Service, and it certainly is commercial as far as the livestock people are concerned. For instance, the livestock operator may make a purchase of a permit for 300 head of cattle, and in any case that purchase price may vary from \$20 to \$30 a head, in all possibility amounting to the operator an in-

vestment of \$9,000. The game can increase 10 or 20 percent, and decrease the livestock proportionately. The livestock operators are at the mercy of the game. There is 10 to 20 percent of the livestock operators' investment lost. If it were true that the deer were not in competition with the livestock operators, there certainly would be no statements made by the livestock operators objecting to the increase of deer; and the fact that statistics show that when deer increase livestock numbers decrease proportionately clearly indicates there is competition between the two. The livestock people naturally want to protect their own interests, and will continue to do so. At the same time they recognize that game has an important place in the picture. But we don't concede that it is being handled properly at the present time. We feel that the people in these game associations should be far more educated, as to the ways and nature of wildlife, because there is no question but what they are directly competitive. You can ask any livestock operator who has had any experience at all, and has, for a long number of years, watched the wildlife alongside of domestic livestock, from early spring through the fall and winter, and any livestock operator will clearly state that they are in direct competition, and during practically any season of the year, as long as the feed is available. The deer will take it, and the livestock, both the sheep and the cattle, eat browse just the same as deer, and they eat it in practically the same quantity. The deer also eat grass, and plenty of it.

STATEMENT OF FRANK CALLAWAY, CALLAWAY, NEV.

MR. FRANK CALLAWAY (Callaway, Nev.). According to all this discussion, it looks like the deer has eaten the livestock all out, but I want to quote a few figures here that I read a short time ago. I think this meeting was held in San Antonio about 8 weeks ago, and the president of the National Cattlemen's Association—here is the statement he made at that meeting, about the 1st day of January: "We would have 82,000,000 head of cattle in our country," he said, "enough surplus to feed 200,000,000 people and our entire Army for 1 year." Now, if he showed that we had that surplus of cattle—last spring at our stock meeting, here in Ely, I asked what the increase in cattle had been in the State of Nevada in the last 10 years, and these figures were furnished by a representative of the National Forest Service. He said on January 1, 1933, we had 278,000 head of cattle, and on January 1 of 1944, we had 406,000 head of cattle.

Now, as for deer population overstocking; in the deer population in our State, outside of two preserves in our State, and that is the Duck Water and the Tioga, which there is no question but what they have got too many, but they only represent a small spot in the State of Nevada, where, I think, there is plenty of room for the State of Nevada. Everyone knows they have got a surplus there and they have overstocked in Duckwater. All you have to do is to give the boys out in McGill ammunition and 30 extra days, and I promise you there won't be any surplus deer on the Duckwater. Furthermore, those lambs come over to Duckwater preserve and Tioga preserve, and my opinion is that those lambs there are way up with any lambs in the State of Nevada. I don't know, but that is my opinion of it.

The CHAIRMAN. Thank you.

Mr. SWALLOW. I would like to ask Mr. Callaway a question. Isn't it a fact, Mr. Callaway, that the cattle population in the State has increased and that the sheep population has decreased?

Mr. CALLAWAY. Yes, sir.

Mr. SWALLOW. Isn't it a fact that, over the State as a whole, the numbers of livestock licensed on grazing permits, both as to the Forest and the Taylor Grazing, have decreased rather than increased?

Mr. CALLAWAY. I don't think so. I figure your sheep, 4 to 1, and you'll find out there have been an increase, 4 sheep to 1 cow. My opinion there has been no decrease.

The CHAIRMAN. Mr. Olsen, do you have those figures?

Mr. OLSEN. Yes; I have them for Nevada, Senator. I can give you the figure for 1925.

For cattle permitted on the national forests in Nevada, 66,195.

Mr. SWALLOW. On the national forests?

Mr. OLSEN. For 1942, 54,676. The reduction there is about 12,000 head.

For sheep, in 1925, 306,520. In 1942, 250,947, about 56,000 reduction in sheep.

Now, on the area you asked about a while ago, George, for 1925 on the Fishlake Forest, 27,247 cattle. For 1942, 21,743, a 20-percent decrease. I am speaking of permitted number on the Fishlake National Forest. Sheep in 1925 were 85,819; in 1942, 70,167, an 18-percent decrease.

Deer on Fishlake in 1925—we apparently don't have very good records on those, but the estimated number was 6,000 head. In 1942, 60,000 head. By the way, it was 66,000 in 1941. The reduction in that year cut it down to 60,000 deer.

Mr. SWALLOW. Thank you for presenting those points and figures. The making of a mere statement at these hearings certainly isn't going to accomplish anything for the sportsmen, or anything for the livestock men. We'll have to stick pretty well to the actual facts in every case, and in response to one of Mr. Callaway's statements, I want to make this statement: Mr. Callaway said there were very few areas in the State of Nevada where we have game problems. Last night we held a meeting of the Eastern Nevada Cattle Association, which I represent as president, and it was the consensus of the majority of those present that the game had increased greatly in the past 10 or 15 years, especially the last 10 years, and at the present time is becoming very competitive with the livestock interests. It is causing concern and fear among many of the livestock operators.

Over here in Duck Creek we have a problem area; over here on the Snake Division we have a problem area. We had actual cases there, where 1,650 or 1,660-some-odd head of sheep were licensed on one particular area, on the south end of the Snake Division, and approximately somewhere between two and three hundred head of cattle. The sheep have been entirely eliminated. The cattle population has been reduced to approximately 250 head. In fact, this year approximately 200 head of cattle were put up when 400 were actually permitted, and the reason was that no more were put up. The reason for that was the feed was not available. The game has increased to the extent that the feed is not available for domestic livestock, showing clearly again that the deer are in direct competition with the livestock interests.

Now, we take a point there and recognize that the livestock interests

do have some place in this particular picture. The livestock operator who made the original purchase, or any subsequent purchase, of those grazing rights in there purchased on the basis of sixteen-hundred-some-odd head of sheep and on the basis of approximately 300 head of cattle, at the rate of perhaps \$8 per head per sheep and \$20 per head per cattle. Anyone here present can clearly see the position the livestock operator is placed in. Now, something should be done to correct a situation like that. Livestock operators should not be encouraged, induced, permitted to make such purchases if they are going to suffer such ruination at the expense of the game. As far as many of we livestock operators are concerned, it would be far more to our advantage to have some of these areas put entirely into game and take us entirely out of the picture, because it is impossible to operate in competition with the game when they increase in such numbers.

Referring again to this area, down here on the south end of the Snake Division, Dr. Aldous made a survey there last spring. He made a statement that that was the nearest thing to the Kaibab he had seen in many, many years. He put many, many years into the study of the question. He brought in brush that livestock, domestic or game, seldom eat, and showed where it had been eaten down 6 and 8 inches. He also made a statement that if some severe weather should occur within the next few weeks that the deer population would decrease just from starvation entirely. The season was fairly good, and still there are dead deer over that area at the present time, and they can actually be located and actually be found by anyone riding into that district. The riders in there this season have estimated approximately 110 to 125 deer have died just since the early spring.

The CHAIRMAN. Is that a forest area?

Mr. SWALLOW. Yes.

The CHAIRMAN. Who is the forester?

Mr. SWALLOW. Mr. Briggs is the Forest Supervisor for that area.

The CHAIRMAN. Thank you, Mr. Swallow.

Mr. Briggs, have you anything to say on that subject? I mean on the subject just touched upon by Mr. Swallow.

STATEMENT OF A. E. BRIGGS, FOREST SUPERVISOR, NEVADA NATIONAL FOREST, ELY, NEV.

Mr. BRIGGS. Yes; I can agree with Mr. Swallow. We have a heavily congested area on the south end of the Snake River known as the Lehman State Game Refuge, containing some 175,000 acres. The deer concentrate on the south end of this division during the winter. Most of them have to come out of the country on account of snow. We did have a very, very congested area there, some range which was in very, very bad condition. That refuge has been opened to hunting for this year. That is one of the areas we are taking out 200 does from.

In regard to some of the other points Mr. Swallow brought up, in regard to the direct competition between livestock and game, in order to check our own judgment here, the judgment of the sportsmen and the forest officers and the Grazing Service men and other interested persons, we requested the services of an associate biologist of the Fish and Wildlife Service to set up some studies. While we don't have any concrete information as yet, we have that the conflict, the com-

petition for the use of our ranges, between livestock and game, is much less than we have thought it before. Now, I'm speaking from a local standpoint, from what we have thought locally. We rather feel that the problem of overpopulation of game is being worked out, and will be worked out.

The sportsmen, I think, pretty well realize the conditions, and entirely approve of the opening of that refuge and the removal of the 200 does this year. I think that's about all I have to say.

The CHAIRMAN. If your sportsmen had not concurred and cooperated, what would have been the condition?

Mr. BRIGGS. This committee, which was set up by the county commissioners, made an investigation of the area and wrote up the report and made the recommendations. Those were sent to the Nevada State Fish and Game Commission. Had the Nevada State Fish and Game Commissioners disapproved the recommendations, the committee as set up by the county commissioners probably would have asked the Nevada State Game and Fish Commissioners for further consideration of action on this particular area.

The CHAIRMAN. Something emphatically would have been necessary.

Mr. BRIGGS. Yes.

The CHAIRMAN. What is it, sir?

STATEMENT OF ALLAN C. RANDLE, UTAH FISH AND GAME DEPARTMENT, SALT LAKE CITY, UTAH

Mr. RANDLE. Through all this discussion of the reduction of livestock numbers on the public ranges, it has been inferred that has been the result of that reduction. I think we all recognize there have been large reductions, in both sheep and cattle, on the western ranges, but I think those in charge of Federal ranges will admit that for a large part that reduction has been necessary because of overgrazing on the part of these domestic animals themselves. If any of those officers care to take issue on that question, I wish that you would do it now so that the record may be clear on that point.

STATEMENT OF J. P. JOHANSEN, ELY, NEV.

Mr. JOHANSEN. I have a statement to make to Mr. Briggs and Mr. Swallow on the Duck Creek region. I am an operator in this district, with sheep, and I went in there. Somewhere 13 years after I came here they put a bunch of elk in my allotment. That allotment is very small, and I own a lot of private grounds, too, and just about a week ago I had two of my men there with my livestock give me a report on elk. They told me there were 180 elk in this one allotment that I have for 800 head of sheep, and the feed that those elk take is an enormous amount, the full year round, on any allotment, 12 months practically, in the year. The Forest Service makes statement to me that I am overgrazing my allotment. It isn't me or my livestock that's overgrazing it, it is these elk, and as far as the deer are concerned, you can go out after sundown, and make a drive around the district, and count from 1 to 50 head of deer. Those deer can all be shot right from a car, if they are close to the road, and they should be all over the district the same.

Then when we get in our high areas, the feed is all gone, because the deer has taken it; so we are suffering from the overproduction of deer. If we have got to take and reduce our livestock from all of our property in order to give it to the deer, I don't think it is a logical thing. It is just like the statement made by the Fish and Game, they have read some laws, and we have all got some good laws, and I agree we should have this game for the sportsmen to go and hunt; but with all their law, I think they have neglected to use them, and let the deer overpower us. I don't think they have taken care and lived up to their rules. I think myself, my own opinion, from my experience is that the Federal Government ought to take this under control, as they own the land that the deer is grazed upon. I thank you.

Mr. BRIGGS. Mr. Chairman, in regard to Mr. Johansen's statement, a very careful count was made of these elk last spring, I think along about March. I think that was the time during which the count was made. We counted a total of 237 elk, and it is very definitely those elk that are in several different bunches, not only in the winter but also in the summer, and they are pretty well scattered over an area up there. Further, in regard to another point which Mr. Johansen mentioned, I don't believe that the Forest Service had maintained that Mr. Johansen's allotment has been overgrazed. For a few years we found that it was getting pretty heavy use, and we found that instead of grazing the 800 sheep which were preference numbers, he was grazing 1,200 sheep for a shorter period of time. When the 800 sheep were grazed on the allotment, the allotment held up in pretty good shape. I wanted to bring that out.

Mr. JOHANSEN. I would like to make you this statement: We stayed off from that forest until nearly the first of August this year, and we pretty near have to leave there now on account of no feed, on account of the deer and elk has taken it.

The CHAIRMAN. I think we are fraying out on this one little subject.

Mr. JOHANSEN. Yes; I think so, too.

The CHAIRMAN. Is Mr. Weber here? You are connected with the White Pine Sportsmen's Association, are you not?

Mr. JOHN J. WEBER. Yes; I am present officially.

The CHAIRMAN. The committee will be very anxious to have the sportsmen of the various sections of the country heard on this subject. I am very anxious to receive from them all constructive suggestions.

STATEMENT OF JOHN J. WEBER, ELY, NEV.

Mr. WEBER. We have had a meeting here, some time back. We had quite a meeting on this bill, and at that time we drew a committee up and we drew up a resolution in protest of the bill. I believe Pete has that, and I could read that. This was the protest that was drawn up by the committee for this bill:

Whereas it has been uniformly held in the United States that the title to fish and game within the boundaries of the several States is vested in the several States in trust for the use and benefit of the people thereof, and

Whereas Senate bill 1152 contemplates an unjust and dictatorial appropriation and seizure of the property of the people of the several States tending, with related enactments or proposals, to the complete destruction and abolition of States' rights, and

Whereas the people of the several States are better equipped, better informed, and more capable of handling problems in connection with their fish and game than are the sundry Federal bureaus, and

Whereas Senate bill 1152 will in effect severely restrict or abolish the traditional right of free Americans to engage in and enjoy fishing and hunting privileges, and

Whereas Senate bill 1152 is in principle, irrespective of form, unwarranted, unjustifiable, uncalled for, and indefensible, and

Whereas the State of Nevada through its legislative bodies has enacted the necessary laws by which cooperative action can be had by the State and the various Federal agencies having jurisdiction over public lands, which cooperative action is to be taken for the purpose of preserving ranges and range feed, as well as wild game, and

Whereas problems presented to the various Federal agencies having jurisdiction over public lands because of the number of deer ranging upon the public lands have been met and solved by action taken under the State act, and

Whereas by virtue of the State legislation and the cooperative action taken pursuant thereto, it is demonstrated that Federal legislation for the State of Nevada is not necessary and is unwarranted: Now, therefore, be it

Resolved, That the undersigned does hereby most strenuously and vigorously object to, protest, and condemn Senate bill 1152 along with any and all other proposals, measures, or enactments having in anywise a similar purpose or effect, as being unwarranted, unjustified, uncalled for, and indefensible in fact and in principle, and an invasion of the rights of the several States and dictatorial seizure of the property of the people thereof.

Approved:

WHITE PINE FISH AND GAME,

JOHN J. WEBER, *President*,

PETER V. PEDERSEN, *Secretary*,

VAIL PITTMAN,

Chairman, Special Committee.

The whole thing is, we can do that, and the sportsmen felt that there wasn't any need for this bill, and that is why they went about to draw up this resolution.

Now, we have tried to cooperate, all the way through, with the sheepmen and the cattlemen, and have tried to work out a solution all the way through, and when this committee was set up on this overgrazed condition, and two or three of these places, we had one of our men appointed and he went out with them and they made the survey and found that there were some congested areas and made recommendations. We called a special meeting together, in on the report on this committee, and at this special meeting the sportsmen thrashed it out, and they approved it and they decided it would be a very good thing to send to the State fish and game commission and ask their consideration, which they did, and at present we are to kill 500 does in this district.

The CHAIRMAN. All right.

Now, let me put a hypothetical question to you. Supposing that this congested area continued to be congested, but your State authorities did not cooperate to the extent of permitting 500 to be killed off. Would the area be jeopardized?

Mr. WEBER. Yes, I believe it would.

The CHAIRMAN. Then you would say that the agency that owned the land in the area would be justified in going in and eliminating the population to some extent?

Mr. WEBER. To some extent.

The CHAIRMAN. Well, then, in keeping with your answers there, today there is a law by which the Federal agencies can go in on open public domain and eliminate wildlife where it is jeopardizing the open public domain. That is nothing new.

Now, this proposed legislation is——

Mr. WEBER. The way we interpreted it, we felt there was——

The CHAIRMAN. Did you know at the time you interpreted that, that there was a law now permitting the very thing that this bill would permit under legislative act?

Mr. WEBER. We didn't know it; at least I didn't know it, that there was a national law. We knew in the event, the only one we thought of was the Forest Service. We knew in the event they felt it had to be, we felt they could go in and do that; but they have never went across and tried to do that. They have always come, and usually through a meeting, or through cooperation, before that was ever thought of——

The CHAIRMAN. That is exactly what this committee has had presented to it in these various hearings, that there was the law which would permit these agencies to go in and kill off in contravention, and without regard to State laws or States rights. Now, whatever it has been, the idea that it would be better to have cooperation between the States and the Federal agencies was our idea. So, with that in mind, we have tried to bring to the attention of yourself, and thousands of others with your same interests, the existence of the law. In the first place, it has been known to but very few, and, secondly, we want them to suggest to us a solution, so that by legislative act, rather than by Executive order, the States rights and the rights of the sportsmen might be protected, recognized and protected.

Now, do you agree with that policy, generally speaking?

Mr. WEBER. I believe in the State having full say as much as the State fish and game in their bounds, that they should have the right to adjust conditions in their States.

The CHAIRMAN. But they haven't the right now, don't you see? Let me give again to you the illustration of our own State, where 86 per cent of the lands within our borders belong to the Federal Government, out and out ownership, and with the Kaibab decision, and other decisions, the Federal Government has the right to go in and kill off. The State has not the right, now, to do anything for itself excepting to cooperate as best it can with the Federal Government.

What I am interested in is to see to it that no more Kaibab incidents take place, especially in the State of Nevada. I think we can work out legislation.

Mr. BARR. May I make a statement, clarifying your statement that the Federal powers have the power to go in and shoot, kill deer? I'll clarify that for some of the gentlemen here. I remember, a few years ago, on the forest, especially in the Duck Creek range, they had some wild horses up there, and there were no questions asked whether they could do this or not. There was an order came out from the Forest Service to shoot them horses, regardless, I guess, of who they belonged to. They might have been notified, those who owned some of them, but them horses were shot without asking anybody. I suppose they could shoot the deer the same way if they dared to do it. But I don't think they would dare to do it. However, they did dare to shoot the horses.

Mr. WEBER. That is all.

The CHAIRMAN. Thank you. I am glad to have your interest.

Again I must apologize, that our time is absolutely limited. We must leave here tomorrow morning, early, to go to Fredonia, and then

to Phoenix and Albuquerque. Therefore we will have to reconvene at 1:30. The committee will pause here now.
(Recess until 1:30 p. m.)

AFTERNOON SESSION

The CHAIRMAN. The committee will be in order.

Now, are there any other local sportsmen, or any who are interested in wildlife from a sportsman's standpoint? Are there any others here who would care to be heard? We invited all of the sportsmen's organizations that we could reach, to send representation here. Is there anyone else who would like to be heard?

Will you please come forward and state your name, and what organization you belong to?

STATEMENT OF JAMES O. BECK, DIRECTOR, IDAHO STATE FISH AND GAME DEPARTMENT

Mr. BECK. Mr. Chairman, S. 1152 is very unpopular in the State of Idaho. It has never received the endorsement of the Idaho State Wool Growers Association, of the Idaho State Cattle and Horse Growers Association, and it is opposed by all sportsmen's organizations, as well as the citizens of the State, in general.

I was very much interested in Senator McCarran's remarks this morning because, after reading the transcript of the hearing at Glenwood Springs, Colo., I was of the opinion that Senator McCarran was as interested in this bill from a Federal standpoint as the Federal agencies themselves. I am glad to have him state that he is taking this bill into consideration from the viewpoint of States' rights.

At the meeting of the directors of the 11 Western States, at Reno, this bill was given due consideration. At that time no one seemed to want to take any responsibility for this bill, with the exception of the regional grazier, Mr. Dierking, of the Grazing Service, who stated that Director Rutledge was in favor of the bill. The Forest Service appeared to be in a haze in regard to the introduction of this bill, without any responsibility attached to their service.

After reading the transcript of the testimony at Glenwood Springs, Colo., it appeared to me that this bill was rather a steam-roller proposition. In fact, I thought Senator McCarran was in favor of it, and it was endorsed by both the Forest Service and the Grazing Service. This bill is the most far reaching of any legislation yet proposed for overriding of States' rights by Federal bureaus. Federal agencies administering public lands already have authority to correct overgrazing to the point, if need be, of exterminating animals responsible for it.

The State departments are as mindful as Federal agencies of the importance of holding game and livestock populations within their natural food supply. However, in as many instances as with game, there will be found too many livestock on the public ranges, and it is contended by the States that such revolutionary legislation as S. 1152 is not required to meet the situation. What is needed is more cooperation between the livestock users, the Federal Government, and the State game department, in making the proper studies of the range

areas, and determining a ratio between game and livestock to maintain a safe margin of forage to eliminate range depletion.

Senator McCarran has stated the acreage now controlled by Federal agencies within the State of Utah. In the State of Idaho approximately 66 percent of our area is controlled by Federal agencies.

The CHAIRMAN. I did not state the percentage in the State of Utah.

Mr. BECK. That was the State of Nevada. I stand corrected, Senator.

In the 11 Western States Federal agencies administer and control over 47 percent of all lands. This is comparable to approximately 20 percent of the lands within the continental borders of the United States, and shows the tremendous hold that Federal agencies have in our western country. That is why we are so vitally concerned with this vicious bill. Land acquisitions are still being pushed by various departments and agencies of the Federal Government. They have spent millions of dollars of public money, and millions of acres of land have been taken from private ownership, which has encroached upon the land use base of our Western States.

In Idaho we have set up a game commission, divided into 5 districts, with a commissioner over each district. These men are straightforward businessmen and look at all angles in making recommendations as to seasons, take, and the study of big game populations. We have recently inaugurated a system of study, with the cooperation of the Forest Service and the Grazing Service, of all our big game ranges. I know of no instance, at present, where recommendations have been agreed upon by our men in the field, the Grazing Service men in the field, and the Forest Service men in the field, where the Idaho State Fish and Game Commission has not given them due consideration.

Within the State we have approximately 138,000 deer, 30,000 elk, 14,000 antelope, 2,000 mountain sheep, and 5,000 mountain goats. In the entire State I know of but one instance in which we have a problem area that cannot be controlled. This area can be controlled after the war has ceased. It is a primitive area and necessitates transportation and landing fields in order to properly hunt it. We have, probably, in the State 30,000 deer and 1,000 elk that come in direct competition with livestock grazing. In all my travels over the State I know of but two instances where a sheepman or a cattleman is opposing our program.

In my opinion the solution for this problem is for the States to inaugurate a proper big-game-management program, and I feel they are as capable in handling this situation as our Federal agencies. It is true that many of the programs up to date have been far from perfect. This is also true of many of the programs of the Forest Service, the Grazing Service, and the Fish and Wildlife Service. As stated before, I think it is a matter of cooperation to handle this problem. That is all.

The CHAIRMAN. Was your attention drawn to the laws that now exist?

Mr. BECK. It was, Senator.

The CHAIRMAN. The laws that now exist are more drastic than the proposed legislation.

Mr. BECK. That is correct. But as it stands at present, no Federal agency will give due consideration to the problem without taking into consideration public sentiment.

The CHAIRMAN. Well, that would be a matter of, you might say, courtesy on their part.

Mr. BECK. That is correct.

The CHAIRMAN. They wouldn't have to take into consideration the public sentiment; and they didn't do it in the *Kaibab case*. In other cases, as disclosed by the suits that followed, they didn't take it into consideration in those.

Mr. BECK. That is correct.

The CHAIRMAN. Now, if we have a law now, definitely settled, which we have in America, settling the rights of Federal agencies to destroy that which they deem to be inimical to the welfare of the public range, and if that law is as drastic and as arbitrary a law as can be drafted, anything that modifies that law looks to a beneficial result. Is that right?

Mr. BECK. That is correct if you get the right type of law.

The CHAIRMAN. All right. You have a law now that permits Federal agencies to go in and kill off anything on the open public domain. I have now an attitude on the part of a committee of the Senate that would seem to modify that drastic and arbitrary rule, so that the people of the respective States and districts might have a voice, rather than to be ignored entirely. That committee is presenting to you, as a representative of the State of Idaho, as a representative of the State of Utah, and a representative of the State of Nevada, and of Colorado, and of Wyoming, and other States, this condition, and asking you to give your assistance to the committee of Congress to formulate a law, finally, that will give the greatest possible opportunity for the people of the States to have a definite voice in things that affect them, although it might be on the open public domain.

So, with that in mind, Mr. Beck, in place of condemning an initial step, looking to the modification of a drastic law already existing, we respectfully suggest to you that you make a study of the subject, after these hearings have been held, and after the laws that now exist have been brought to your attention, and from your study, give to this bill your suggestions as to wherein it should be modified, and how it should be brought about to effect the things that you have in mind.

Mr. BECK. I think the commission of the State of Idaho would be very glad to give these conditions and proposals, as they see them, after this study has been made.

The CHAIRMAN. Sitting alone here, I am going to make this hearing today about as complete as I can make it. I am going to insert into the record, before the day is closed, a memorandum of authorities, on my own initiative, authorities of the decisions of the courts of this country, including the decision of the court of last resort, everything and anything that pertains to this; so that a reader of this report hereafter may have brought to his attention, and your game organizations may have brought to their attention, not a half baked view of the subject, but a full and comprehensive view of the law as it exists now; so that you may take that law and see if you can mold something out of it that will aid us in constructing a law that will be worthy and worthwhile, according to your views. I said at the opening this morning there was a condition, and not a theory, that confronts us. We

can't have, in my judgment, we could not have, a more drastic law than that which is today the law of the land. That law permits the Federal Government, without equivocation and without notice to any community, to walk into any place and kill off wildlife.

Mr. BECK. The Federal Government, Senator, must have some basic facts before they can kill that wildlife off. They must show that deer are damaging the land, and must also show that they are damaging the forage upon the land.

The CHAIRMAN. That is all right.

Mr. BECK. That is where they are forced to prove that before they can go forth and kill this game off.

The CHAIRMAN. If you would have followed our hearings, and indeed, right here this morning, there is the proof that any court would accept and permit them to go in and kill off right here in Nevada.

Mr. BECK. I believe, with further studies of this, and of some of these ranges, provided they go into them in detail enough, that the State fish and game department can also give proofs in this, whether or not these ranges are being deteriorated.

The CHAIRMAN. But don't forget, in your studies, that first of all the cardinal principles involved here are very interesting.

Mr. BECK. That is correct.

The CHAIRMAN. People sometimes forget that the open public domain belongs to someone. The question was raised here by the gentleman from Wyoming, this morning, that in a certain case the State had ceded its rights. That does not apply to the lands acquired by the Federal Government under the Treaty of Guadalupe-Hidalgo, or other acquisitions when made in the history of our country. The land was turned over to the Federal Government, and we carved the States out of the Federally-owned lands that were never ceded to the State. Keep this in mind. These things are all interesting. Keep it in mind that your own people of the State of Idaho, and the people of the State of Nevada, not only invite but urge appropriations from the Federal Treasury to do the very thing that they did in this Kaibab National Forest in another way.

Now, I happen to be a member of the Appropriations Committee on the Interior Department and on the Appropriations Committee for the Forest Service. If we were to omit the appropriation for the extermination of predatory animals we would have a condemnation brought down on our heads that would resound all over the United States. If we were to omit an appropriation for the killing off of rodents and the like, and other things that are destructive we would have condemnation visited on us. In other words, the people of the sovereign States would request the Federal Government to appropriate money to be expended on the open public domain, to destroy those things that are destructive of tame life, domestic life; but when it addresses itself to the destruction of that which they say destroys the range, then they say "Halt." So I bring these things all to your attention, because, while we say our sovereign States, and we are, and we must be, and we must remain so, we are also calling on the Federal Treasury to aid the sovereignty of the State. It is surprising how many places we call on, too—

Mr. BECK. Well, we are the people who pay it, too.

The CHAIRMAN. Well, with those thoughts in mind, I hope your people will make a further study of the subject.

**STATEMENT OF J. H. LEECH, UNITED STATES GRAZING SERVICE,
SALT LAKE CITY, UTAH**

Mr. LEECH. Mr. Chairman, I would like to make one little statement in connection with Mr. Beck's impression that the Grazing Service has in any way publicly sponsored, or privately sponsored, Senate bill 1152. I would like to read the type of letter that the Grazing Service sent out, in answer to queries of that nature. This letter is addressed to Mr. Kenneth A. Reid, of the Izaak Walton League, and is dated July 23, 1943:

MY DEAR MR. REID: I have received your letter of July 19, in which you enclose a statement of the league in connection with McCarran bill S. 1152 now pending.

When the Senate bill 1152 is referred to the Interior Department for report in the usual form and manner, the Department will state its official position on the bill. In the meantime the Grazing Service is in no position to issue an official statement of its position, and any discussion of the bill should be upon its merits, not with reference to what I or any other member in the Grazing Service may personally think of it.

The letter is signed by Mr. Rutledge, Director of the Grazing Service.

Mr. Doty, of Secretary Chapman's office, can speak on the departmental opinion of the status of the bill. I am merely giving the views of the Grazing Service at this time, Senator.

The CHAIRMAN. Thank you very much.

**STATEMENT OF DALE E. DOTY, OFFICE OF THE SECRETARY,
DEPARTMENT OF THE INTERIOR, WASHINGTON, D. C.**

Mr. DOTY. Mr. Chairman, I regret that when I left Washington I was not able to bring with me a copy of the departmental report on this bill. It takes quite a while to get a departmental report. After it is once written, it has to be submitted to the Bureau of the Budget, to coordinate with other reports of other agencies who might be interested in this problem. The status of our report, now, is that it is written and submitted to the Bureau of the Budget.

The report is, in some respects, adverse to the bill, although it recognizes some of the things that you have mentioned today, as problems which must be met. I, personally, have gained a great deal from the discussion this morning, and the problems which you have cited. When the Interior Department, the National Park Service, the Fish and Wildlife Service, have a serious problem in how we are going to dispose of this excess game, I think that the best way we are going to work it out is through cooperation with the States. It may be that we are going to have to work out a better system of cooperation; and it may be that that can be accomplished through some type of legislation.

I was particularly interested in this Kaibab decision, which says that the Federal Government shall not issue permits to hunters to go on reservations to kill the deer; instead of doing that, the State shall issue permits and have the State people go on the land. I think that system has a lot of merit to it, and I would like—I would be very much interested in getting reactions from the various State game

and fish people. Our interest is in keeping the cost of conservation enforcement as low as possible.

The studies of this committee have certainly shown that the cost is prohibitive for Federal agencies to try and keep down the excess game. It has to be done by cooperation with the States, with the hunters in the States. Thank you, Mr. Chairman.

Mr. BECK. Mr. Chairman, may I make one other statement, please?

The CHAIRMAN. Yes, indeed.

Mr. BECK. I very much appreciate the statements made by Mr. Leech and Director Rutledge, clarifying their position, and Mr. Doty, also, in clarifying their position on S. 1152. I am glad they are going to give it further study before making any official endorsement of it. Thank you.

The CHAIRMAN. Are there any further statements?

STATEMENT OF THEODORE H. WEGENER, PRESIDENT, IDAHO WILDLIFE FEDERATION, BOISE, IDAHO

Mr. WEGENER. Mr. Chairman, I can only give my reaction for the clubs, under the bill, as they understand it. I managed the second war loan, and I am organizing the State on this next one. I have covered the entire State, since I am working on that job for a dollar a year. I think I have a right to do some checking on other things, and among them was this bill.

Our clubs consist of about 60 various clubs, and a membership of about 15,000. Without exception, they are opposed to this legislation.

The CHAIRMAN. What are they opposed to?

Mr. WEGENER. They are opposed to another bureau. That is the interpretation that they place upon the bill.

The CHAIRMAN. Is that the only opposition?

Mr. WEGENER. I have discussed it with livestock men I know, and sheepmen all over the State, and I haven't found any of them that are in favor of the bill. They feel that our State commission, which was created 5 years ago by the Initiative Act, with a vote of 125,000 out of 200,000, is perfectly capable of administering and handling the administration of our big game, in cooperation with the Federal agencies.

The CHAIRMAN. Do you work in cooperation with the Federal agencies?

Mr. WEGENER. We certainly do. Every year we have a convention of our sportsmen all over the State. Each district is represented, and to that convention are invited the Federal agencies, and also the game department commissioners and employees, to attend that meeting, at which we discuss our problems, and determine how to meet them. I don't think that there has been any problem that has come up that we have not met, somehow. If there are problems—there probably is one place where we do have a little difficulty, and I am certain that the commission is doing the very best that can be done in connection with it. I don't believe that anybody could do any better.

As I said, I am giving you the impression of the bill, as we understand it, without this decision. If a bill were to be enacted, I am sure they would be opposed to any bill that would create another bureau

and take that control away from our State. I think our entire State organization, our clubs, and our people, would be opposed to it. However, a bill that might clarify it, might add to it, might be accepted. We have gotten along with the Federal agencies, I think, 100 percent. I think Mr. Olson will verify that. We have gone over areas that we thought needed attention, before the time came, and I think that any problems that exist there are anticipated in advance. We try to meet them, and we have the cooperation of the sportsmen, the livestockmen, the sheepmen, and the voters, as well.

The CHAIRMAN. Have you given study to the law that is antecedent to the bill?

Mr. WEGENER. Not until I came down here. I have since studied it, and, as I said, that was somewhat new; but I am sure that our people would still feel they are opposed to the bill, because they don't want another bureau. That bill has many things in it that are objectionable, and it would have to be entirely differently set up to satisfy our people.

The CHAIRMAN. Is the law as it exists, now, satisfactory to your people?

Mr. WEGENER. So far they have been. We get along and cooperate with the agencies, and we haven't had any difficulty, so they must be acceptable. We certainly have had no objection to them so far.

The CHAIRMAN. If the law as it exists now is as drastic as it can be written, would a modification of that law be objected to by your people?

Mr. WEGENER. If control of game remained in our State, and in every way would continue to be handled about as it is now, I presume some law could be enacted that would clarify that which might help, but we are definitely opposed to any law that might lead to the things that bill contains, complete control and issuing of permits by the Government. Those are the things we object to, and don't want to have the control taken away from our State. We feel that our State commission is a representative of the people, created by the people, and it functions well, and if we had any difficulty we would have to do something about it.

The CHAIRMAN. Well, the very first expression in this bill resubmits the entire thing to the people.

Mr. WEGENER. Yes.

The CHAIRMAN. You wouldn't object to that?

Mr. WEGENER. We want to leave it there with the States.

The CHAIRMAN. That is the first thing this bill does. It is not in the States now; control of wildlife is not in the States now, excepting by tolerance.

Mr. WEGENER. Mr. Chairman, don't you think that would only arise if there were a really serious problem that needed attention, and if that were the case, maybe that would be justified, the law as it is now?

The CHAIRMAN. That is true, undoubtedly that is true. In other words, that emphasizes what I have been trying to say, that as this law now exists, as it has been for many years, placing control in hands of Federal authorities, yet it has been exercised only in extreme cases; but those extreme cases have given rise to the thought of what might follow from an Executive order. An Executive order, I might state to you, is not a foreign thing, it is not a remote thing; and I

may state that it is a thing that is in contemplation, I am sorry to say. So, with those things in mind this committee sought to set up something that would, first of all, arouse the interest of the people to a problem, and, secondly, arouse their constructive thought, so that legislation might be worked out whereby there would be no discord between—

Mr. WEGENER. I am certain that is worthy of consideration.

The CHAIRMAN. Of the people and the Federal Government. That is the study that we are trying to make.

Mr. WEGENER. That's fine; I am sure we will all cooperate with it. Thank you very much.

The CHAIRMAN. Now, would the gentleman from Wyoming care to be heard?

STATEMENT OF LESTER BAGLEY, STATE GAME WARDEN, WYOMING GAME AND FISH COMMISSION

Mr. BAGLEY. Mr. Chairman, may I offer for the record a resolution passed by the Wyoming Game and Fish Commission in opposition to this bill in question; and also a tabulation of the livestock in the State of Wyoming? These figures were prepared by the United States Department of Agriculture, Bureau of Agricultural Economics, Division of Statistics, which forms the basis of the information I have in my statements. Also, I would like to present a map showing antelope concentrations in the State of Wyoming. It may not be necessary, but if it is I would like to use it.

The CHAIRMAN. We would be very glad to see it.

(The resolution and tabulation are as follows:)

RESOLUTION

The Wyoming Game and Fish Commission in special session at Casper, Wyo., on July 9, 1943, carefully considered Senate bill No. 1152, commonly known as the McCarran bill.

The Commission feels that passage and enforcement of Senate bill No. 1152 would constitute unlawful appropriation of the property of the people of the sovereign State of Wyoming, which it, as an official executive agency, is sworn to defend. It feels that this bid for power on the part of the Federal bureaus or agencies, even though supported by such a bill, is a transgression upon rights of the State and its citizens, and is a direct violation of the State Constitution and the Enabling Act accepted when Wyoming became a State. This fact has been substantiated in the courts.

The Commission believes that the principle embodied in this bill is entirely unsound, unjust, and uncalled for. It believes that its attempted passage is a usurpation, an encroachment upon States' rights over which the people of the West must guard with unwavering vigilance.

Enactment of such a law would nullify practically all of the laws for the protection of game animals in the State of Wyoming and would substantially interfere with the administration of wildlife in all the States.

Now, THEREFORE, it is ordered by the Wyoming Game and Fish Commission that copies of this resolution be sent to our State representatives in Congress. It is further ordered that copies of this resolution be sent to the different Federal agencies having headquarters in the State. It is further ordered that copies of this resolution be sent to every livestock organization, requesting that they join the Commission in opposition to Senate bill No. 1152 which would be an unjust encroachment upon States' rights.

Adopted by the Wyoming Game and Fish Commission in special session at Casper, Wyo., July 9, 1943.

Livestock in the State of Wyoming¹

Year	Cattle	Horses	Mules	Sheep	Hogs
1930.....	790,000	176,000	4,000	3,420,000	130,000
1931.....	837,000	171,000	4,000	3,722,000	137,000
1932.....	885,000	167,000	4,000	3,792,000	123,000
1933.....	956,000	164,000	3,000	3,703,000	98,000
1934.....	1,050,000	158,000	3,000	3,703,000	87,000
1935.....	858,000	146,000	2,000	3,444,000	49,000
1936.....	849,000	138,000	2,000	3,350,000	47,000
1937.....	781,000	133,000	2,000	3,250,000	50,000
1938.....	820,000	133,000	2,000	3,305,000	60,000
1939.....	828,000	130,000	2,000	3,478,000	70,000
1940.....	811,000	128,000	2,000	3,478,000	87,000
1941.....	827,000	125,000	2,000	3,548,000	76,000
1942.....	885,000	122,000	2,000	3,619,000	84,000
1943.....	947,000	128,000	2,000	3,781,000	125,000

¹ Figures secured from United States Department of Agriculture, Bureau of Agricultural Economics, Division of Agricultural Statistics.

Mr. BAGLEY. I would like you all to know that Wyoming has had a commission form of game management since 1927. This commission consists of six men, generally chosen because they are businessmen, and, in the majority of cases, more than half of that board has always been prominent stockmen. The present chairman of the Wyoming Game and Fish Commission is one of the largest cattlemen in the State of Wyoming. The previous chairman was one of the largest sheep owners in the State. They have endeavored to manage this business as they would their own businesses. Each year, when the game regulations are contemplated, or at the time they are made, a written request is sent to all agencies interested, including the stock people, the Federal agencies, and all the sportsmen's groups, and they are not only asked, but they are especially requested, to be present or to bring their recommendations, as they would like to see them put into effect in the State.

Now, I have prepared a paper here which I shall read. It will only take me a few minutes to read it. Probably the Senator will take me to task for some parts of this. That is perfectly all right; I am not a lawyer. This paper has the consent and approval of the Wyoming Fish and Game Commission.

The CHAIRMAN. Well, then I should take the Fish and Game Commission to task, rather than yourself.

Mr. BAGLEY. That will be all right, either way, Senator.

Any discussion of State and Federal relationship in the management and control of wildlife must be prefaced by the statement that the State owns and controls the wildlife within its boundaries. This right has been handed down to us since the Magna Carta through the system of English common law and by the Enabling Act which admitted Wyoming to the Union on a par with other States. This declaration of ownership has been upheld uniformly by decision of the courts of last resort in every State and by the Supreme Court of the United States.

When the information reached the Wyoming Game and Fish Commission that Senate bill 1152, known as the McCarran bill, had been introduced in the United States Senate, the Commission was very much surprised. It had received no forewarning that such legislation had been contemplated, and from the Commission's point of view the bill was unjustified.

The Wyoming Game and Fish Commission has endeavored to carry on a cooperative program with the Federal land agencies relative to the number and the distribution of game animals in the State of Wyoming. For the past 5 years, the Federal bureaus have been invited to confer with the Commission, and their recommendations have always been considered in the drafting of regulations to govern the killing of game animals in the respective land areas over which the Forest Service and the Taylor Grazing departments have jurisdiction. It has been the object of the commission to manage wildlife affairs as it would manage a livestock business. Special emphasis has been placed on determining as nearly as possible the total number of game animals in the State. The checks made on these counts and estimates from time to time have proved quite consistent and have been adjusted periodically in conformance with new and better information as the latter became available. To illustrate—the elk herd in the Jackson Hole area has been counted 5 times since 1932. I am submitting a table of this count which shows that in 1932, 19,855 animals were counted; in 1935, 22,000; in 1936, 18,920; in 1938, 17,370; and in 1940, 17,902. It must be borne in mind that this number of animals was actually counted, exhaustively, by enumerators in an airplane and by men on foot, and therefore represents as nearly accurate a count as was possible in this herd.

Jackson Hole elk counts—years 1932 to 1941

	Year				
	1941	1938	1936	1935	1932
Feed grounds.....	10,903	6,958	5,470	10,630	8,600
Winter range, south of Jackson.....	3,226	4,453	4,177	4,099	3,332
Winter range, north of Jackson (except Gros Ventre).....	1,168	2,233	1,925	1,227	2,938
Winter range, Gros Ventre.....	2,605	3,726	7,348	6,079	4,985
Total.....	17,902	17,370	18,920	22,035	19,855

Similar counts have been made of the elk and deer in the Big Horn Mountains and in Fremont, Lincoln, and Sublette Counties. At the present time the elk population is placed at about 35,000 head. The deer population presents a more difficult problem, and the Commission has never devised any satisfactory method for counting the deer in the State. However, several deer counts have been taken during the winter months when these animals have been pushed on to the plains by snow. Such a count was conducted around the Big Horn Mountains in the spring of 1942. The deer population, as a result of the best counts and estimates available, is now placed at about 80,000 head.

Antelope during the past several years have shown a very decided increase. In order to have rather definite information relative to their numbers, the Commission in 1939 conducted an airplane count of a large part of the State. This census placed the antelope population at about 35,000 head. At this time, however, certain areas were omitted. Due to some dissatisfaction on the part of the citizens of northern Wyoming, a more exhaustive count was made during the winter of 1942-43. During this period an airplane was used for about

2 months, but due to bad weather it was impossible to make the complete count by air before the herds broke up in the spring, and as a result counts and estimates by car and horseback were necessary in a portion of the State. About 35,000 antelope were actually counted from the air and the total population of antelope following the count was placed at approximately 55,000 head.

Add to these numbers 3,500 moose and 2,500 bighorn mountain sheep and you have a very close estimate of the total big-game population of the State, which places the number at 176,000 head. This would mean that with Wyoming's 97,548 total number of square miles this State has approximately 1.7 game animals per square mile. This figure does not appear excessive, but it should be recognized that there are rather heavy game populations in certain sections. For example, we have in southern Campbell County one area in which more than 6 antelope are present per square mile, while on the line between Carbon and Natrona Counties, in the vicinity of the Pathfinder Dam, there are 3.52 antelope per square mile. In another section in Fremont County we have 6.7 antelope per square mile. It is in these areas that the Commission is making special effort to reduce the population.

Concentrations of game animals are controlled by many factors. For example, during the winter of 1941 and 1942 a severe storm drifted the antelope from a large portion of the Red Desert onto the lower Sweetwater and a heavy concentration resulted. These animals were held in the section by snowdrifts which prevented them from returning to the desert.

Now, let us look at the stockman's side of the picture during the same approximate period. The average number of cattle raised in Wyoming over the 10-year period from 1931 to 1943 has been set by the Bureau of Agricultural Statistics at 866,000, the number having increased steadily since 1937, when the number was 781,000. At the present time the cattle population is placed at 947,000, an increase of 81,000 over the 10-year average.

The present population of sheep is 3,781,000. The 10-year average is 3,726,000, or an increase of 55,000 over the 10-year average. This represents a decrease over the number of the previous year. The number of sheep in 1937 was placed at 3,250,000 and shows a consistent increase since that period.

At this point we might insert an interesting inconsistency with which we are constantly confronted. The Forest Service and the Grazing Service maintain and their reports show that since 1937 they have made constant and repeated reductions in livestock permitted on the forest and grazing districts—in some cases up to 50 percent—while the Bureau of Agricultural Statistics shows that the livestock population of the State during this time has constantly increased. The present population of horses and mules is 130,000. This is a slight increase over last year and below the 10-year average, which was placed at 142,000. The total number of domestic animals, including cattle, sheep, horses, and mules, according to the Bureau of Agricultural Statistics, is now placed at 4,858,000 head. The census for 1937 places this number at 4,166,000 reflecting an increase of 692,000 head in 6 years. In other words, the increase alone of domestic animals in the last 6 years represents a figure which is 4 times the total population of game animals in the State.

Let us state the same thing in another way. At the present time there are approximately 28 domestic animals, including cattle, sheep, horses, and mules, to one game animal, representing elk, deer, antelope, mountain sheep, and moose. Providing this ratio could be maintained over the total area of the State, I feel that there would be little objection on the part of the owner of domestic livestock. Unfortunately, this is not the case. We have had and still do have areas of limited concentration, and it is upon these areas that the Wyoming Game and Fish Commission is attempting to concentrate hunting pressure. Being aware of the fact that the game populations were increasing and were forming concentrations in certain areas, the Game and Fish Commission has put forth a special effort during the past 5 years to make the needed reductions from populous regions. To illustrate, in 1939, 8,258 game animals were killed; in 1940, 14,359; in 1941, 18,614; while in 1942, 27,217 animals were taken. These figures are not based upon estimates or guesses. All of the elk and a very large percentage of the deer taken by Wyoming hunters are actually checked and counted as they leave the game field. Following is a tabulation of the 1942 big-game kill:

1942 big game kill

Game species	Total	Average weight, pounds, hog dressed	Pounds, big game meat	Total value ¹
Elk	9,046	308	2,786,168	\$557,233.60
Deer	11,929	127	1,514,983	302,996.60
Antelope	6,050	80	484,000	96,800.00
Moose	121	450	54,450	10,890.00
Sheep	22	120	2,640	528.00
Bear	49	(?)		
Total game	27,217		4,842,241	968,448.20

¹ Total valuation computed on basis of \$0.20 per pound.

² No meat valuation.

³ Total meat pounds.

Comparative kill, 1939-42:

1939	8,258
1940	14,359
1941	18,614
1942	27,217

Check stations are maintained 24 hours a day during the hunting season. The aid to game law enforcement through checking the dressed game and to see that no domestic livestock has been killed is of minor importance compared to the other benefits gained. A stockman would not remain in business long if he did not know the sex, age, number, and physical condition of the animals sent to market. This information is all learned through our check stations and forms the basis for department planning and policy.

The antelope kill presents a more difficult problem, but due to the great abundance of antelope, we know the hunting effort to be practically 100 percent successful. This is borne out by a post-card check, whereby a card of inquiry was sent last winter to every tenth hunter who purchased a license. Response to this check revealed that practically 100 percent of all antelope hunters secured their meat. In order to be conservative, we have taken the figure of 6,050 antelope killed, which figure represents 90 percent of the antelope permits pur-

chased. In spite of the large number of antelope killed last season, there is still some overconcentration, particularly in those counties where the land is all privately owned. The last legislature made it possible for the Commission to place two antelope coupons on resident hunting permits to be used in these areas of overconcentration. Fearing that this would not accomplish the purpose, the Commission at a recent meeting authorized the sale of two antelope permits to each resident desiring to purchase the same. This will entitle one holding the two-antelope permit to kill four antelope in the areas designated by the Commission as two-antelope territory, and two antelope in the territory designated as one-antelope territory, providing the two permits are purchased.

I wish to add here another little statement. The legislature and the committee has been aware of this situation for some time. In 1937 a law was passed which provided that half of the licensees for antelope permits be returned to the landowner on whose property the antelope were killed. This has amounted to a sizable sum. In other words, there are \$2 of the money that is paid for an antelope permit which goes back to the landowner on whose property the antelope is killed, providing that if it is a nonresident license the landowner gets \$5 on his property. The commission has paid back to the landowners of the State, in accordance with this law, over \$6,000 a year.

In view of these facts, I feel that you must agree with me that the Wyoming Game and Fish Commission is controlling the game populations in the State, and although it recognizes certain areas of overpopulation, it is convinced that it is in a much better position to make necessary reductions in these areas than any Federal agency could be. As a result Federal encroachment as embodied in Senate bill 1152 cannot be looked upon with favor. This bill is dictatorial in nature, making the bureau head the sole judge in cases where reduction of game species is ordered. The passage of such a bill is an unlawful appropriation of the property of a State held in trust by the game commissions of the respective States; is a transgression of States' rights; and is a direct violation of all principles of the organic acts and the constitution of the State of Wyoming.

The CHAIRMAN. Thank you, sir.

I think it might be well to clarify one other point, the right of the Federal Government over the public domain of the United States, conferred on Congress by the Constitution of the United States. That is one principle that we overlook. Many of those who have attempted to make a study of this proposed act have evidently overlooked it. Based on that, the courts' decisions have been handed down, by and large. Again there is another fundamental principle of the law which, I am sorry to say, is misstated by the gentleman who just addressed the committee. The wildlife of the open public domain is not the property of the State. That has been so held repeatedly by the Supreme Court of the United States and other courts. The wildlife of the open public domain is the property of the people. That has been held so from time immemorial, and the only place where the State comes into the picture, at all, is under the police powers of the State. The laws give to the State the right to regulate for the promulgation and the taking of wildlife. That is another fundamental principle. It is unfortunate that people, in reading this law, have been misguided and misadvised as to the law. I think perhaps

this meeting today—at least, I hope this meeting will have brought out the principle under which, and in the light of which, legislation of this kind may be properly, fairly, and impartially just.

Now, then, take those court opinions that the chairman has just announced; they are undeniable, because they have been established by the judicial law of the land, as well as by the Constitution itself. Take that, and add to it that the open public domain is the property of the Federal Government, and there we find our position fully stated. That is the position that is uppermost in the study of this question. There we find the cardinal principles that guide us in the formation of legislation beneficial to the people at large.

If the gentleman's position was correct, if the wildlife belonged to the State, that would be one thing; but even then his position would not be well taken. It is not well taken at all. I am going to, at the conclusion of this hearing—because I want this hearing to be full so that all who attend here, and all who wish may read the hearing in complete transcript—I am going to insert a memorandum of authorities dwelling on the whole subject of the law as applicable in this case. This I shall insert into the record, on my own initiative so as to give a full light on the subject to those who discussed the subject and whom I advised on it.

We will be glad now to hear from anyone else. Mr. Bagley, do you have anyone else with you?

Mr. BAGLEY. Yes; there are two gentlemen here that would like to make statements.

STATEMENT OF LEO. C. WALKER, SPORTSMEN'S CLUBS, SOUTHWEST WYOMING, GREEN RIVER, WYO.

Mr. LEO C. WALKER (Associated Sportsmen's Organization, Wyoming). I represent the association of sportsmen's clubs of Southwestern Wyoming. I have a protest to enter against this bill, and I would like to read it to you so that you may get it in as we wish it. It says:

We, the sportsmen of southwestern Wyoming, can assure you gentlemen that we can see no reason for Federal control of wildlife in our end of the State of Wyoming. We, as sportsmen and citizens of the State of Wyoming, have taken a keen interest, and that is not all, we have assisted materially in the management of our wildlife in our State, for we realize the assets we, as people, have in this wildlife.

May I add to that, that as to the right of wildlife to the use of public domain, we think it only fair to the fifty-thousand-some-odd sportsmen and citizens that like that kind of sport, that they be given a voice in the management of that land, for, as we look at it, the public domain is as much our land as any individual or any group of individuals.

We stand behind our game commission 100 percent. We feel that we have the necessary Federal agencies and State agencies to take care of that situation, and any deviation from this, we would more or less lay at the door of the head of that department, that he is not a big enough man to handle his job.

That is all. I thank you.

The CHAIRMAN. Are there any questions? Thank you very much.

Is there anyone else who cares to be heard now? If there is anyone who wishes to be heard before leaving the hearing, we would be glad to hear you.

Mr. BARR. I would like to be heard.

The CHAIRMAN. You are not going away, are you?

Mr. BARR. Well, I think I am getting tired.

I want to make myself clear. I am representing the State Fish and Game Commission of Nevada. I did not do that this morning. I am just having a few words to say pertaining to this bill.

I heard the Senator raked over the coals pretty severely 2 months ago at the meeting of the Western Association of Fish and Game Commissioners. At that time Nevada was not a member of the association, which they are now. They went on record as being against this bill. I want to make this clear on the part of the State of Nevada's Fish and Game Commission; they are in accord with what the Western Association did as being against the bill as it is.

For myself, I believe that probably when you get back to Washington you will probably have to make a new bill, Senator, to say that we of the West—

The CHAIRMAN. Supposing, Andy—supposing we make no bill; supposing we just drop this bill and make no bill, and then the law was enforced as it is now. In other words, let the Federal agency have the right to go in on the open public domain and kill off; would you then say we have been derelict in our duty in not trying to mold the situation nearer to your heart's desire?

Mr. BARR. No; I don't believe we would, Senator. We have gone along here—if this law is as you say, as I stated, they can kill if they wish to kill, which you brought out very plainly, but sometimes maybe we would be better off to leave well enough alone, and go along for 50 years more, as we have been doing. It don't look like we're going to benefit ourselves with this bill very much, because most of the people feel that we have given up pretty near all of our State rights, and this is another bill that is going to take some more of our State rights away. Let the Federal bureaus come in, even if we don't agree with what they want, come in and take it in their own hands and shoot that wild game and commercialize it; in other words, which they never did, and I don't think they will do, unless we keep airing something like we are doing now; and maybe they'll get nerve enough to come in and kill them off, if they feel like it.

Mr. BAGLEY. Mr. Chairman, we have a long way to drive, and I believe we must be going. I would appreciate very much those citations on authorities, when they are available.

The CHAIRMAN. They will all be in the record.

STATEMENT OF S. A. CHRISTENSEN, WYOMING GAME AND FISH COMMISSION, EVANSTON, WYO.

Mr. S. A. CHRISTENSEN (Wyoming State Game Commission). Mr. Chairman, it seems to have been brought out that the committee is groping for a solution, perhaps, to amend or rephrase the present bill. It seems to me that if you would really want to be helpful in the situation that has been brought out here today, perhaps if the bill was amended to only read that before any Federal agency took action on these wildlife problems and errors, that they do consult the respective State game commissions. I believe that you would then have fulfilled the purpose that is expressed.

The **CHAIRMAN**. Let me say to you, in that respect, and I say so advisedly, that no court would construe, no present court but would construe the very expression that you now make; in other words, that the Federal authorities would be duty-bound, under the law, bound to first confer with the State authorities before they would have the right, as they now have, to kill. All of that has been thought out before, although your suggestion is an absolutely cogent and correct one.

Mr. CHRISTENSEN. Thank you.

STATEMENT OF JOHN A. LUNDELL, CEDAR CITY, UTAH

Mr. JOHN A. LUNDELL (Cedar City, Utah). Mr. Chairman, after listening to all this discussion today, it seems to me most of these sportsmen are afraid that the Federal Government is going to eliminate the game. But, I, as an individual stockman, I'm afraid that they are not going to eliminate it. I don't want to see the game eliminated, but I do want to see it controlled; and I'm afraid those Federal agencies, as they are now set up, will not take on their responsibilities as they should. In other words, when the range is overgrazed, they will blame it on to the livestock instead of on to the game population. Maybe the livestock is responsible for part of it, and maybe the game population is responsible for part of it. The brunt of all this game population will be borne by the livestock industry, as it has been in the past, from the figures that have been given here today.

I feel that—I don't advocate at all that any State should give up any of its rights, but it looks to me like the rights are already gone. If we can do anything to regulate the control of the Federal Government, in administering jointly with the States, then we should pass such a law, and not permit it to be directed by Executive order.

The **CHAIRMAN**. That is a very constructive statement, and I am very glad to hear it made. It is the thought of this committee.

Is there anyone else that would care to be heard?

STATEMENT OF DAVID LUCE, COMMISSIONER, WHITE PINE COUNTY, ELY, NEV.

Mr. DAVID LUCE (member, board of county commissioners, White Pine County). I just want to ask a question that won't take but a few minutes to answer. I haven't heard the Pittman-Robertson bill mentioned today. I would like to ask, in the event Senate bill 1152 is enacted, would it repeal the Pittman-Robertson Act; and if it did not repeal that act, would it not conflict with it?

The **CHAIRMAN**. I will answer it very offhand. Without having the Pittman-Robertson Act at hand, I would say it would not conflict with it, or repeal it. I understand the Pittman-Robertson Act has not been adopted by this State.

Mr. LUCE. My understanding is that it has been adopted by about 45 or 46 States, and it has been before the people of Nevada, I think, for the last year. This district here has been particularly interested in it for many years, but it has not been enacted or adopted by the State of Nevada.

Mr. PITTMAN. All States in the Union except two, of which Nevada is one, have adopted it. I think the other State is Florida, or something, I don't know.

The CHAIRMAN. Is there anyone else here, any sportsman here? Mr. Gray, you look as though you wanted to be heard again.

Mr. GRAY. No, sir; thank you for the compliment. I am just enjoying myself back here.

STATEMENT OF JOHN YELLAND, EAST ELY, NEV.

Mr. YELLAND. Yelland is my name.

I believe every one of us here today is interested in conservation, and I believe in eliminating the deer where they are troublesome. But I also believe that we have got a splendid bunch of men here in our county. I will not call their names, but take them altogether, they don't want to destroy the deer, and they are cooperating in a fine way to preserve, and, at the same time, not to overgraze. I have been at two or three of our meetings where, just like here today, there have been conflicting opinions, and different ideas about the deer. I have thought about this terrible war that we are in. It is quite a serious thing, and we have got to do the right thing, gentlemen. What are you going to tell those boys, when they come back? What are you going to tell them when they come back with their empty sleeves and wooden legs? It is a very serious affair, this killing off all the deer; at the same time, we must protect the ranges that they are infesting.

There is a problem in White Pine County. I don't know nothing about Wyoming, but the gentleman has given a very—and the Utah people have given very fine statements. I consider them very fine; and I wanted to say that the cooperation—and we have got a good one, Senator—the finest cooperation in this county that I have seen anywhere, and they will carry on.

We don't want no more bureaus; we have got a plenty of that. Just stop a minute and see what is posted in the papers, "Buy bonds," that is a fine idea, a splendid idea. We want the bonds to go where they will do the most good, and right at home we are the second line of defense, right here today. We may not think so, but we are, and so are these men all around you here; we are the second line of defense. We have got to do our duty. Those boys will be back, and we've got to meet them half way, and not pass the buck either. But we have to be white and carry on our own thoughts and our own ideas and help all we can in every way. That is the way I feel about it, Mr. Senator.

I have been here a great many years. I don't like to say too much about that—you know I might want to get married again, yet. I have seen changes here, lots of changes. There were only two or three herds of sheep in the country when I came here. Now, it has been the policy of the Forest Service to conserve, and lessen the numbers of sheep and cattle on the forest; and that is where those figures are misleading. It is their policy, for reasons not only of themselves, but to help others, that they have limited numbers of cattle and sheep, for the benefit of all around; and so these figures are not so great, after all. There are less horses than there used to be; there used to be thousands of horses on the range everywhere. The horses, they are gone. So there are lots of different things to be considered; but above all, let us not forget the spirit of conservation, so that we can face these boys when they come back.

The CHAIRMAN. Thank you, Mr. Yelland.

Now, a representative from Utah, Mr. Leonard, is here. Mr. Leonard, I understand there is a regulation, known as W-2, in effect on the national forests. This regulation was developed cooperatively. Is that correct?

Mr. LEONARD. Not entirely satisfactory to the State. It has been accepted as working basis.

The CHAIRMAN. Do you think that the game management problem within the national forests of your State can be handled cooperatively, through the application of regulation W-2?

Mr. LEONARD. I think it could be, with the proper attitude on both sides.

The CHAIRMAN. Well, that is always necessary. You do think it can be made to work?

Mr. LEONARD. It could be; yes, sir.

The CHAIRMAN. Is it working now?

Mr. LEONARD. Not as well as it should do.

The CHAIRMAN. Then you think it is possible to make it work more perfectly?

Mr. LEONARD. Yes.

The CHAIRMAN. That is a matter that addresses itself to your sphere. I just wanted to get it.

Mr. Kneipp, we should be glad to have you discuss the matter, from the standpoint of your department, and your individual views, based on your training and your experience and knowledge of the subject.

STATEMENT OF L. F. KNEIPP, ASSISTANT CHIEF, UNITED STATES FOREST SERVICE, WASHINGTON, D. C.

Mr. KNEIPP. Well, Senator, this is the way the situation impresses me, in relation to this bill, and the discussion which it has provoked.

As your subcommittee, during the past several years, has held hearings at different points throughout the western United States, there has been brought to the attention of the subcommittee, insofar as I know, without any gratuitous efforts on the part of the committee itself to raise the subject, an increasing number of statements with regard to the situation which is existing, by reason of large oversurplus as of game. Those statements have been made in many places. Your investigator has obtained from a wide variety of different sources, a lot of figures and data as to the situation. As a result, the subcommittee felt it was desirable to crystalize thought and action by the introduction of a bill, and the bill S. 1152 was introduced. Since that time there has been a tremendous number of expressions, in the form of magazine articles, newspaper articles, resolutions, and personal letters and statements, from different interested individuals, with reference to the bill, most of which were opposed to it. So far as I have reviewed these various expressions of opinion, they seem to reduce themselves down to four issues.

The first issue is that the bill would be a usurpation, or deprivation, of the sovereign powers of the States, and their rights of ownership in the game. The second common assertion is that the numbers of game, the increases of game, and the losses of game, due to such increases, in excess of their available feed supply, are not so great as alleged. The third is that the damage to lands, the public

lands of various categories, and the plant cover on those lands, the vegetation and the browse and trees, is not so great as alleged; in fact, that there exists no condition which makes it necessary to control the game, as a means of preventing the destruction of public property. Then, the fourth allegation, or issue, is that if such damage does exist, it is due in part, if not wholly, to domestic livestock; that the livestock has not been reduced; and that the proposals to reduce the numbers of game animals, on the areas in question, are designed largely to protect the livestock interests from reductions in permitted numbers and curtailments of operations.

All the statements that I have seen, I think, can be reduced to these four issues. The first has been quite widely discussed today, very exactly discussed; and I don't know that I need dwell on it too much. As I suggested, in talking to Mr. Pittman this morning, my interpretation of the bill is that, if a State is willing and capable of taking the appropriate action, the bill means nothing to that particular State. I might remark that the bill, of course, was drafted to cover the conditions in all 48 of the States. There has been at no time any assertion that in all of those States, or even in all parts of any State, conditions were such as to require the action contemplated by the bill. It so happens that this morning the expressions of opinion have been from States that have been rather progressive in attacking the problem; where the need for the action may not be so acute. There are, however, other States that have not as yet, for one reason or another, adopted an adequate program, or effectively attacked this problem; nor do they offer any promise of immediately attacking it in any effective way. There still seems to be a need for a definition of public policy.

Now, I think your comments on the wide array of court decisions, of which you have a list, there, of the citations, make it very clear that the Federal Government has complete power to protect its land from any form of destruction. It has all the powers of a private owner; and, incidentally, no owner of livestock of any kind could trespass on private lands, to the detriment of those lands, and be paramount over the owner of the lands.

The only question, really, is the question of ways and means. The only issue, actually, so far as this bill is concerned, is that of the power of the Federal Government to delegate authority to the individual to take game. That is now a power that is exercised by the State. In some of these court decisions you will find that the State's relation is that of assignment to the individual of a right to take what is otherwise public property. Actually, this bill raises only that one question. It is generally conceded, judicially, that the Federal Government, through its own paid agents, can take any step necessary to protect its property. The question raised by the bill is whether it can endow an individual with any share of those powers. Now, in the *Pisgah* case, as I understand it, the decision of the court could readily be construed as confirming the right of the Federal Government to delegate that power. In all respects, if action is going to be necessary to reduce the game herds, if that action is not to be taken by the State, it would be far better for the Federal Government to delegate its power to the individual, under some form of adequate control and compensation, than to put its own paid hunters in to destroy the game. Under the delegation theory, the citizens, broadly speaking, all over the country,

would have the right to take for their own use the game resources, or some part of it, and, thereby derive all of the benefits and privileges that come from hunting. They would have the right to dispose of the results of the hunt, as they do under present State laws. The Federal Government would not be subjected to the cost that would exist if killing by the agents of the Government were the alternative. So, I believe that of the four points I outlined, point No. 1 has been pretty well discussed.

The other three points are questions of fact, and I take it that this gathering here is particularly concerned with those facts which relate to the intermountain region. Mr. C. N. Woods, the regional forester for the intermountain region is here. He has lived in the intermountain region for considerably more than 40 years. He has never been so much of a forester that he was not equally a hunting enthusiast, and nature and game lover. He has not only an official interest in the subject, but a personal interest. I think any suggestion to Mr. Woods that any agency of the Government be empowered to so eliminate game animals, that he couldn't go out and get his elk or deer, would be just as distasteful to him as to anybody else in the intermountain region.

With your permission, I would like to suggest that Mr. Woods be requested to discuss those other three points. First, whether the numbers of game are as great as alleged, and the losses as great. Second, whether the damage to Federal lands is so great as to dictate corrective action; and third, where damage is conceded to exist, whether it is in fact attributable to the game or to the livestock; and whether, to the degree that it is attributable to the livestock, the Forest Service has or has not taken action to reduce the numbers of livestock to the capacity of the range, as is proposed on the problem areas, in relation to game animals.

The CHAIRMAN. Mr. Woods, we would be very glad to hear you.

STATEMENT OF C. N. WOODS, REGIONAL FORESTER, INTERMOUNTAIN REGION, UNITED STATES FOREST SERVICE, OGDEN, UTAH

Mr. Woods. I am C. N. Woods, regional forester for the Forest Service in the intermountain region. I have occupied this position 5 years, and have served 39 years in this region. I have been stationed in each of the four States of this region, Wyoming, Nevada, Idaho, and Utah. I have had headquarters at Ogden for the past 29 years, from which I have inspected every one of the 24 forests of the region, with their 29,500,000 net acreage of Federal land. I have ridden horseback over every one of their 125 ranger districts.

Most Forest Service personnel who do the principal part of the work on the big game and livestock problems in the intermountain region, are sportsmen and range men, experienced in investigating forage conditions. We have men both technically and practically trained for this work. The man who has for 3 years headed game work on the forests of this region, was raised in the region, and has been a sportsman for 30 years. Our second man on big game work has had similar experience. The regional forester has hunted big game and worked on range problems for 40 years.

No one can say exactly how many big game animals there are on any big area of our broken, timbered, and brushy country. A very

rough approximation is the best that we can hope for. Our men have had much experience, over the past two decades, in estimating numbers of big game, and have worked out methods and techniques of value. After all, the principal thing on which to base plans is the effect grazing animals have on the forage. If forage, year after year, is becoming depleted by grazing, then too much use is being made of the range. That conclusion is inescapable, and can be reached without knowing the number of grazing animals. In such a case, reduction in numbers is necessary to save the forage. We do believe we can get a workable estimate of the number of big game on a range, and can, with considerable assurance, say when the range is much overstacked. Condition of animals and mortality among them indicates whether they have enough forage.

As to damage to forage, it can be readily seen wherever much has occurred. There are dead and dying and hedged and damaged plants. The palatable species are not reproducing. Pairs of enclosures have been built. One of each pair excluding both game and livestock, and the other admitting game but excluding livestock. There can be seen the effect of the grazing of deer alone on the forage and the effect of the grazing of both deer and livestock.

What has caused so widespread damage to the forage on the open range? In some places it has been due primarily to big game and in some places to livestock. There has been a congestion of big game on more than, say, 10 percent of the national forest area of this region. Therefore, on 90 percent of these Federal lands, where there is depletion of forage, it is due to livestock rather than game. Deer are primarily responsible for any depletion of the browse on their winter ranges, and, on much of this, removal of all the livestock will not remedy the condition. Generally, livestock browse but little on these deer winter ranges on the forests. By noting the amount of the current year's growth left on the browse on deer winter range just after livestock have left the forest in the fall and then noting how much of it remains just before livestock enter the forest the next spring, it can be determined how much the deer ate during the winter. We have large areas of winter range, some of it badly depleted, where nothing but deer graze any time in the year.

Some summer ranges have a congestion of big-game animals. There is too much competition between them and livestock. On some very heavily used summer ranges depletion of forage is due to both big game and livestock.

During the winter deer live normally nearly altogether on browse. In the early spring from 10 to 15 percent of their diet may be grass. In the summer, 5 to 10 percent may be weeds. In the past 25 years or so, livestock permitted on the forests of the intermountain region have been reduced 30 to 40 percent for range protection, while deer have increased on one forest, around a thousand percent. Twenty years ago there were not enough deer generally through the region; there are now in many places too many. Our principal objective now is to get the deer herds reduced to the carrying capacity of the browse on their winter ranges.

Deer herds increase fast in this region if they have enough forage in the winter. It is not possible to control numbers by killing bucks alone when conditions are favorable for propagation. The only large herd of elk in this region is on the Teton Forest. But limited

areas there on drift routes between summer and winter feed grounds; and areas on wind-swept ridges and where snow does not lie long that are grazed in the winter, seem much overused. Summer elk range on the Teton and Bridger National Forests is very abundant.

We appreciate the fine effort the State of Wyoming is making to control the elk herds, and all the cooperation we have received in other States. Elsewhere in the region elk herds are small. There are some local problems, but progress is being made in their solution. The region recognizes its responsibility and that it has authority to protect the forage on Federal lands on the national forests, but it believes the States and the sportsmen prefer to have deer removed by licensed hunters and that no other way would be so satisfactory to the people generally and none so inexpensive to the State or to the Federal Government. Forest officers themselves were too slow in recognizing the big-game problem and in getting busy on its solution.

Prior to 1934 the Forest Service manual provided for cooperation of forest officers with the fish and game authorities of the States, almost exclusively for the purpose of helping enforce fish and game laws and to propagate fish and game. Nothing was said as to control of numbers or as to the possibility of numbers getting out of bounds. On March 29, 1934, wildlife regulation G-20A was approved by the Secretary of Agriculture. This regulation was intended to give the Forest Service much more control of the fish and game than it had ever exercised. It provided that the Secretary of Agriculture might establish on the national forests hunting and fishing seasons, fix bag and creel limits, specify the sex of animals to be killed and fix the fees to be paid for permits, among other things. The Forest Service was becoming alarmed at the evidence that big game was outstripping the forage supply.

This regulation caused much protest by State game officials and sportsmen. The Forest Service in the intermountain region has never applied regulation G-20A. It is our responsibility to protect the forage and watersheds on the national forests from damage by big game and livestock, and to fix the maximum number of each that shall graze.

In September 1941 regulation W-2 was issued to replace regulation G-20A. Regulation W-2 has been accepted by the fish and game commissioners. It reads:

Regulation W-2.—The Chief of the Forest Service, through the regional foresters and forest supervisors, shall determine the extent to which national forests or portions thereof may be devoted to wildlife production in combination with other uses and services of the national forests, and, in cooperation with the fish and game department or other constituted authority of the State concerned, he will formulate plans for securing and maintaining desirable populations of wild-life species, and he may enter into such general or specific cooperative agreements with appropriate State officials as are necessary and desirable for such purposes. Officials of the Forest Service will cooperate with the State game officials in the planned and orderly removal in accordance with the requirements of State laws of the crop of game, fish, fur bearers, and other wildlife on national forest lands.

If the Forest Service and the States and all interests will cooperate under regulation W-2, I believe all big-game problems on the forests of the intermountain region can be solved without any additional Federal legislation or regulations. I do not presume to speak for any other agency nor for any other region of the Forest Service. We have,

the past 2 years, actually made some reduction in the number of deer on some areas of heaviest concentration. While the reduction has generally been small, nevertheless sportsmen and others who have investigated conditions on the congested deer ranges have recognized the need of further action, and we feel there will be mutual cooperation between the Forest Service, the States, the sportsmen, and the livestock interests under State laws and regulation W-2, until the forage problems are all solved and until there is a proper balance between livestock and big game. We should accomplish these ends within the next 2 or 3 years.

I recommended the revocation of the 1934 regulation G-20A, and the adoption of W-2 in substantially its present form. I would, therefore, be inconsistent and could be accused of bad faith, if I suggested legislation giving us more authority than we have under W-2, unless and until we give W-2 a thorough trial and find we cannot get needed protection of the national forest regions under it.

This region has long appreciated that big game is a great asset. We have cooperated with the States in building the game herds. It is our policy to have perpetuated enough big game to furnish good hunting widespread over the intermountain region. We will be very happy if the States themselves will control numbers so as to protect fully our forage resources and to make it unnecessary that we exercise any more authority over big game than regulation W-2 contemplates.

Mr. Chairman, if I may, I would like to answer Mr. Leonard on a few points.

I believe that, in view of the walking habits of the ordinary hunter, it would be very desirable if the States and the Government would build more low-class roads to reach congested game areas which are at the present time pretty inaccessible to hunters.

Mr. Leonard and the regional forester have some differences of opinion. I'm referring to what Mr. Leonard said this morning. Now, I believe that the big trouble is that we argue and propose to act from different premises. What I conceive to be the facts, Mr. Leonard, in different cases does not. Do any big numbers of deer starve to death on the national forests of Utah? Yes. Does not the number run into the thousands? Yes. I have evidence of that. How did I get it? By sending forest officers into the forest in early spring to make checks, by running survey lines considerable distances, and counting, on a strip of a certain width, the number of dead deer which apparently starved to death, found on those strips.

I mentioned the Annabella area. In the winter of 1928 the check showed 2,050 deer that our men believed had starved to death; 2,050 dead deer on the range. On the Cache National Forest, in one winter, I haven't the year, but just a few years ago, 1,300 head were checked that were considered to have starved to death.

Why hasn't the Government managed the deer herds in Utah? That is a proper question. I said, in my statement, there has been too much delay on the part of the Forest Service in handling the deer problem in Utah. It should never have been allowed to become a problem. It was not a problem 20 years ago; and the Forest Service has had charge of these Utah ranges for pretty nearly 40 years.

Mr. Chairman, you, yourself, stated the principal reasons. There has been too much opposition; and sometimes the State game officials themselves are the principal opponents of a program which would

reduce the number of deer on the forests to the number the forage would support, and in fairness to the livestock industry. Mr. Chairman, I want the record to show that I am not referring in that remark, or in any criticism I may make, to any other states than Utah. I also want the record to show that I am sorry I have to make these statements but, since Utah raised these issues, I wish to express my opinion.

Mr. Leonard says, outside the southeast corner of Utah, every deer congested area was taken care of in the 1940 hunt, or in that and previous hunts. Our information does not justify that statement. In 1942, in the latter part of the winter and the early spring of that year, the State, under Mark Anderson, the State game warden, and the Forest Service, put in 232 man days in getting an estimate of the deer. We had a man engaged throughout the season in endeavoring to get a check, by the sex ratio count. I should say that the number that the State and the Forest Service finally arrived at, by the 232-day check, agreed very closely with the other method of sex ratio count. The number was set at 66,000 deer on the Fish Lake Forest alone. That is, in the herds that summer on the Fish Lake National Forest, that average a total of nine months on that forest each year. We have made another check of deer. We, in the Forest Service, in the past winter and spring, made that check, and we arrived at a certain number. They were difficult to count, because the snowfall on the Fish Lake was light and deer were widely scattered. The State, Mr. Leonard, didn't agree with that count, and I told him, "All right, take the count that the State and the Forest have agreed on in the spring of 1942, add to that the fawn crop of 1942, say, 25 percent of the herd, subtract from that total the deer that the State says was killed on the Fish Lake last fall in the hunt, subtract the normal loss through predators, diseases, and starvation, and we will take that count for it."

Our estimate of the carrying capacity of the winter ranges on the Fish Lake is 30,000 deer. As I said, we have good evidence that deer are primarily responsible for the bad forage conditions of the browse, on which they largely subsist, during the winter on the Fish Lake. We believe that 30,000 deer is the maximum the winter range on the Fish Lake, now used by deer, will carry and gradually recuperate. Certainly we cannot be content merely with stopping the damage on the deer winter range on the Fish Lake. Those ranges are producing greatly less forage than they originally produced; and we must get down to a number of deer that will allow the range to gradually recuperate, because if the valuable forage species for deer on those winter ranges are not reproducing, as things are going now, it is only a question of time until the carrying capacity will be still lower.

That, I think, we are too likely to overlook, Mr. Chairman. If any range is overstocked, it will continue to deteriorate until it is relieved and until stock are reduced—livestock, or big game, or whatever the grazing animals are—to the carrying capacity of that range; and the longer we put off getting down to carrying capacity—and we have put it off entirely too long—the lower the carrying capacity will be, and inevitably the fewer deer the range will carry.

Now, should we kill the 25,000 or so does that the big game board of the state, by a majority vote, said should be removed from Utah ranges in the fall of 1943? Mr. Leonard says, in substance, no, be-

cause we have already gotten down to carrying capacity. I agree with the majority of the big game board that we are not nearly down to carrying capacity. Certainly there must be more than 50,000 deer yet on the Fish Lake, and the best estimate of our best qualified men is that 30,000 is a maximum those winter ranges will carry and make any progress toward recuperation.

Mr. Chairman, I want to assure you and the gentlemen present that we do not employ arbitrary methods. I have been in the Forest Service just over 41 years. I have plenty of trouble, even when I watch my step, and I am not looking for any more trouble. I am careful not to go farther than is necessary in the protection of the forage and watershed. Too many times we haven't gone far enough, and that is the trouble with our Utah deer range on these congested areas at the present time.

Mr. Leonard says that the deer in the hinterland are not destroying property. He doesn't specify; but they are destroying property on congested areas. They are destroying the property of the United States. Maybe they are not bothering ranchers.

I am glad to hear Mr. Leonard approve a fundamental policy that Secretary Wilson stated in a letter to Chief Forester Pinchot on February 1, 1905, that is, that the national forest should be handled for the greatest good of the greatest number in the long run.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Woods.

Mr. Kneipp, would you care to continue?

Mr. KNEIPP. Only to this extent, Senator. The departmental report on S. 1152 has not been issued; therefore I cannot say what the Department attitude toward the report will be, after the various bureaus of the Department have submitted their views to the Secretary. But the current viewpoint of the Forest Service is about as Mr. Woods expressed it, we hope to proceed in conformity with the spirit of co-operative action that the Forest Service proposed in regulation W-2.

The CHAIRMAN. May I interrupt you here?

I wish specifically now to draw the attention of the sportsmen who are here, and everyone who is interested in this hearing, that it has been brought out so plainly that W-2 is a departmental regulation almost as drastic as the proposed legislation, if not more so, and yet the people of this country, acting through their Representatives in the Congress of the United States, have no voice in the formation of either of those regulations. I am referring now to regulation G-20-A and to regulation W-2. I only draw the attention of those who are listening here today to something that is very close to my thought, and that is that it doesn't go along with the departments. We must get back to fundamental principles in this country, that the people shall govern themselves by their chosen Representatives in the Congress and in the respective States. I draw your attention to these regulations. They are so illustrative of the thought that we had in mind in the formulation of this legislation, or something of its kind. It does strike me as being a splendid illustration brought out here this afternoon. Shall we be governed by regulations in the future, or shall we be governed by acts of Congress? We can always modify an act of Congress, but you can't always modify a regulation. They have seen to it that regulations are rather hard to get at. I dwell on that, not by way of criticism of the Department, because the Department has a perfect right

to do it, as has been established here, but I do want to draw to the attention of those interested in the subject that the Congress of the United States has nothing to do with those regulations, yet they impinge upon every man, woman, and child within the forest regions.

Mr. KNEIPP. Might I make this comment? Your observation is wholly correct as regards G-20-A, but the new regulation W-2 does not go so far as S. 1152; it is predicated on the principle of joint action between the States and the Forest Service.

The CHAIRMAN. That is also the spirit of S. 1152 at the present time.

Mr. LEONARD. Mr. Chairman, that is for the publicity, but I don't want you to——

The CHAIRMAN. If you don't mind, Mr. Leonard, I don't want to break in on Mr. Kneipp's statement. I am going to hear you after he concludes.

Mr. LEONARD. All right. I was going to make a short statement that will make the record more readable and comprehensive.

Mr. KNEIPP. I was just going to say this much more, Senator, that the prevailing view of the Forest Service is that conditions requiring corrective action undoubtedly exist. To meet the condition in a way which would not arouse widespread opposition, the Forest Service adopted the principle expressed in regulation W-2. That regulation has now been in effect about a year and a half. In some States the progress under it is very gratifying, while in some other States it is not. Nevertheless, in view of the reaction toward this whole question, the present feeling of the Forest Service is that perhaps a proper course would be to continue under regulation W-2 for an additional period, and see whether the States do want to work the problem out by a proper correlation of the respective functions. If they do, there is nothing further to argue about; the whole situation will have adjusted itself, and there will be no disputes, no question about the Federal Government taking over the functions of the State Game Commissions; and we will all be very happy, the Forest Service most of all. If, however, that hope is not realized; if, even after another couple of years, it is found that regulation W-2 is inadequate, and that bad conditions continue uncorrected, then legislation should certainly be enacted which would clearly express the views of Congress itself, as the custodian of all the Federal lands, and the body with power to regulate their use, as to how this situation may be met. Although the report of the Forest Service had not been formulated when I left Washington, I think that may be what the Forest Service will recommend to the Secretary, as its viewpoint with regard to the bill.

That is all I have to say, Senator.

The CHAIRMAN. Thank you very much. Are there any questions to be addressed to Mr. Kneipp?

Mr. PITTMAN. I think I have no questions, but there is one thing I do want to say. I am unable to see Mr. Kneipp is reasonable when he says this law, 1152, if enacted into law would not affect the States, if the Fish and Game Commission agrees to whatever regulation the Federal agency wants. Naturally, what he predicates the whole idea upon is the fact there is to be an agreement. I think that is the wrong way to look at it.

Mr. KNEIPP. S. 1152 says that the officer in charge shall request the appropriate officers of the State in which such lands are situated to

take such action as he deems necessary and proper to bring about such reduction. Then the crux of the bill follows: "If in any case in which such officers of the State are unwilling or unable because of provisions of State laws and regulations to comply with such request," then the part that is objected to becomes operative, but only in that event. Now, where the necessary adjustments are made, the rest of the bill would be entirely inoperative.

Mr. PITTMAN. The whole thing, boiled down, means this, that the department head making the complaint would have to confer with the State authorities, the Fish and Game Association, and if the Fish and Game Association agreed to the ideas of the Federal head, well and good; but if they failed to agree, then the will of the Federal agency would prevail, and the State authority would have no further power. Now, that is the sense of that bill; that is the only interpretation you can put on it. Isn't that right, Senator?

The CHAIRMAN. Not exactly. Here is the idea, I think, where you and Mr. Kneipp are not understanding each other. It lies in this very first provision of the bill, that the Federal agency shall submit the matter of eradication or elimination or reduction to the proper State officials.

Mr. PITTMAN. Yes.

The CHAIRMAN. Now, if the officials to whom he submits the matter comply, and carry out his request, then the rest of the bill does not apply at all.

Mr. PITTMAN. Naturally it wouldn't apply, there wouldn't be any argument. In other words, it would be there to use if it were necessary; but so long as there is an agreement there would be no use to invoke a law. That is exactly what I say.

The CHAIRMAN. Well, that is what Mr. Kneipp said.

Mr. KNEIPP. You might say this, Mr. Pittman: The first condition of the bill is that there shall exist a wildlife population on certain Federal lands that is creating injury to the soil or plant life, and thus to the wild or domestic animals dependent upon such lands or reservations for sustenance. If that condition does not exist, the bill is wholly inoperative. Therefore, before any action can be taken by any officer of the Government, he must be able to demonstrate conclusively that the prescribed condition does exist.

Mr. PITTMAN. That department head can demonstrate to his own satisfaction, and if the State authorities don't see it that way it doesn't make a bit of difference, the department head goes ahead and enforces the law. In other words, boiled down, it can only be one thing; that the department head will show the State authorities enough consideration to submit the problem of what his idea is. To that extent, and if they agree, the thing is ended. If they don't agree, then the State authority is ended and the will of the Government agency prevails. That's all you can get out of that bill.

Mr. KNEIPP. If this condition actually does exist, and if it is demonstrated and reported to the State, and if the State chooses to disregard that fact, what is the alternative? Shall the land be allowed to continue to deteriorate, and the game animals allowed to eat themselves out of existence, or should something be done about it?

Mr. PITTMAN. I think something should be done about it, and I believe the State authorities will do something about it. I know they would do something about it in Nevada, and I think, as has been

pointed out here time and time again, they know the conditions and are cooperating with the Forest Service and the Grazing Service and the other public agencies, and there is no reason to believe they will not continue to cooperate.

Mr. KNEIPP. I agree. I suspect S. 1152 means nothing to the State of Nevada.

Mr. PITTMAN. It means a great deal to the State of Nevada because if there is a failure to agree or to cooperate then the Federal agency has all the satisfaction; it certainly means a great deal to it. I can't get your reasoning where you say it doesn't mean anything to the State of Nevada.

Mr. KNEIPP. My reasoning is predicated on two points: First, there must be established unquestionably the existence of the excessive damage on the Federal property. Unless that exists, the bill does not apply.

Mr. PITTMAN. Who is going to determine whether that exists?

Mr. KNEIPP. Initially the officers in charge of the reservation. In the case of the Forest Service, probably it would originate here with Mr. Briggs, be confirmed by Mr. Woods, go to the Chief of the Forest Service, and from him to the Secretary, as a record of facts, which the Secretary will verify, and then decide whether a condition exists that must be met.

Mr. PITTMAN. In other words, they decide for themselves that that condition exists, regardless of what the State authorities decide. Here we have a law in this State that has been operative, where you had a member of the Forest Service, the Grazing Service, a member of the livestock board, and of the sportsmen, and of the wildlife, and all diversified interests there, making a survey and making recommendations. Isn't that more representative and far stronger than to have one department head—than to have a bill that permits one department head to make an arbitrary ruling or decision, and, if the State authority does not acquiesce in it, override the authority? Me, I can't see that.

Mr. KNEIPP. First, that reservation is set aside for some particular public purpose, which has been decided by or under authority of Congress. Public interest dictates that within a certain type of reservation, certain lands be dedicated to certain purposes. Then authority and obligation to carry out that mandate is delegated to the head of a certain executive department.

Mr. PITTMAN. Centralizing all of the authority in one Federal agency.

Mr. KNEIPP. It is his responsibility. He is the man to whom Congress delegates the power, and it is his obligation to achieve what is best in the public interest. Whenever he finds conditions preventing him from achieving that public obligation, he must take action, or fail to meet the obligations which Congress has imposed upon him.

Mr. PITTMAN. I can't see it. Senator McCarran says we want Congress to act. We do want Congress to act; but in this particular bill I think Congress is augmenting the authority of the agencies, of bureaus, as you might term it. I think that extends that authority, in place of curtailing it. In putting it in the hands of the people—it is true that our Congress represents the people, and it is also true that the people in our State represent the people in the State and Congress; so all of those things should be taken into consideration.

The CHAIRMAN. You have got to go back to the same proposition we went over here two or three or four times today; that is, that the Federal Government is the owner of the open public domain. The Federal Government, according to the laws that now exist, has the unqualified right, without addressing itself to the people at all, to take the wildlife. They don't even have to consult the people. That being true, any modification of that limitation, that puts the matter into the hands of the people, unquestionably is better than that.

Mr. PITTMAN. Senator, do you believe a little different angle could be considered, in the event the bill is going to pass, regardless of what a great many people think about it? Is it possible to amend the bill so as to exclude Nevada by saying this bill would not apply to any State with a population of less than 150,000? Would that be constitutional, in your opinion?

The CHAIRMAN. Well, I don't want to pass on the constitutionality of that, offhand; nor would I pass on the efficacy of the public policy of it. I think the public policy would be wrong; but I think, Mr. Pittman, you are too apprehensive. You give the chairman of this committee too much credit on the question of passing this bill. Bills are introduced in Congress, and they go to the departments for approval or disapprobation. They accomplish results in various ways. This bill is accomplishing a valuable result, if it never goes another inch farther than where it is. It has already accomplished a valuable result; valuable to the people of this country. It has aroused the people of this country to a condition of law that they have not had brought to their attention before; and it has aroused the people of this country to a power that was in the Federal Government that they have never thought of before. I am in hopes, as the proponent of the bill, and at the behest of my committee, to arouse further interest in this bill, so that the people of this country, advising their Congress, will eventually formulate legislation whereby the States will retain their rights, regardless of 50,000 or 150,000 or 1,500,000 population, or any millions of population; that the States will retain all of the possible rights they can retain, and at the same time preserve the law as it is, and preserve the open public domain. I think we can work this thing out, and I think we can work it out successfully. I think that when we do work it out many of the objections that have been raised, if not every one of them, will drift into thin air. That is my view on it.

Mr. PITTMAN. I hope you are right.

STATEMENT OF THOMAS DEARDON, GARRISON, UTAH

Mr. THOMAS DEARDON, Garrison, Utah. Is there any better time to dispose of those deer than now?

The CHAIRMAN. I don't know. I know the committee has a few members that would like to dispose of them, if you've got one or two.

Mr. DEARDON. The question is, with me, that range is going down all the time, and there is a surplus of deer, and there is more cattle than we have ever had in our country. Which is the best time to get rid of them, now, or wait until after the war is over?

The CHAIRMAN. I can't answer that.

Mr. DEARDON. Don't you think those soldiers would like one of these deer?

The CHAIRMAN. I imagine so.

Mr. DEARDON. Why shouldn't it be a good idea to send one of these soldiers a deer and uphold the tame industry? Those men have got to live as well as the men——

The CHAIRMAN. Off the record.

(Off the record discussion.)

The CHAIRMAN. Do you recognize the fact that we have a problem here that we are trying to deal with?

Mr. DEARDON. Yes, sir, I do.

The CHAIRMAN. These hearings are for the purpose of bringing out the thoughts that may come, from every angle; and, if you have attended here, that has been very liberally expressed. We are very happy, at the present time, to say there is no intimation, that we have heard, to destroy wholesale the wildlife in any particular section. We do know that in the past it was necessary to do that, and the courts upheld the doing of it.

Mr. DEARDON. Which is most necessary, to protect the wildlife animal, or the tame, for the benefit of everybody in our country?

The CHAIRMAN. Well, now, we don't want comparisons. We want to protect both.

Mr. DEARDON. Which is the most essential?

The CHAIRMAN. Well, personally, I think the taxpaying animal is the most essential.

Mr. DEARDON. That's what I think; and now, it seems to me, is the time to dispose of those deer.

The CHAIRMAN. You wouldn't dispose of them all, would you?

Mr. DEARDON. No, sir, but I look at it like as if I owed a debt. If I owned a ranch and a bunch of cattle, which would be better to dispose of, the cattle or the ranch. I couldn't build up a bunch of cattle again if I disposed of the ranch and the range was gone to pieces.

The CHAIRMAN. I talked to a rancher, and he said he would like to dispose of everything he has.

Mr. DEARDON. I'm getting old; but if I had my time to live out on a ranch I'd rather dispose of my cattle than I would my ranch, because I would have a chance to build up again. The way I feel about the deer, I feel like we have a chance to build up in the deer, but if we dispose of our tame stock, it is going to ruin our country, it seems to me.

The CHAIRMAN. All right, thank you, sir; thank you very much.

Mr. LEONARD. Mr. Chairman, in regard to the deer that died on the ranges of Utah, that was in 1928. The first doe killed in Utah was in 1934. Since that time, we have taken drastic steps in taking care of our concentrated areas. We are going to do so; we are going to continue that program. One of our difficulties is in determining actually what the carrying capacity of any given range is. We have a range in Utah known as the Stansbury area. An estimate made by one member of the regional office in Utah stated that the carrying capacity of that range was 4,000 head. Later the carrying capacity of that area was changed to 2,500 head, after we had reduced the herd on that particular area to 3,500 head. Now, I would like to work these problems out in a cooperative manner with the agencies affected, but in order to do that we have got to have mutual confidence and trust in each other.

Now, in our deer counting, our game wardens, counting with representatives of the Forest Service, have their disagreements. Many of our men maintain that the estimates given have been too high by the Forest Service. Now, we are seeking after information. We have proven in Utah that we are willing to face our problem. We killed 63,609 deer in the State last year, as I have stated. I think the facts speak for themselves in that particular instance. The number of deer being killed each year has increased. We spent \$1,000 last year sending a man to California, asking hunters to come into Utah to hunt. I don't know where any Federal agency administering the game problems in the State would get more hunters. We sold two and three doe permits to individuals last fall, in order to take care of these problem areas.

In spite of any statements made here, I am thoroughly convinced that the Fish and Game Commission of the State of Utah has taken the greatest possible steps toward meeting their problems and taking care of them; in fact, greater steps than any State in the Union.

The CHAIRMAN. Thank you, sir.

Does anyone else wish to question Mr. Kneipp or Mr. Woods? Don't hesitate; they don't come to visit you very often, and they are apparently full of information.

Mr. J. M. SMITH. I don't know as I have any questions.

The CHAIRMAN. Please state your name.

STATEMENT OF J. M. SMITH, CEDAR CITY, UTAH

Mr. SMITH. J. M. Smith, from Cedar City, Utah.

I operate on the forest, on the public domain, and on privately owned ground, and I can't see why the Government should not handle the deer. They handle the livestock. We pay them a fee to take care of them, and I don't see how the Government can take care of the livestock and the State the game; so I think they ought to take it all. In my particular area we are close to a park. The deer is protected on the park, and also the mountain lions. I asked the park officials why they protected the lion, and they said to regulate the deer. We keep a hunter right along the border. Myself and two or three others are paying \$40 a head to shoot those lion. Them "Government cats," we call them, and we shoot them when they come over the line. If they don't do something with the deer coming over there and starving to death, we are going to do it. In fact, they are so God damned poor that they come over on our ground, and they ain't fit to eat; but we have got a problem there. We have got privately owned ground. I sent a man up on my range, 2 years ago, and he came back and said, "My God, there are thousands of deer on your range, coming from Zion Park, and starving to death and going down there and wintering." There ain't one-tenth of the winter forage for the deer on there. They crowd the snow back, follow the snow.

While I admit our game officials have done a wonderful job of killing a lot of them off, I think they ought to kill a few more; but I do disagree with them on the competitiveness on the deer with the livestock. I don't think that a deer will eat anything that a sheep won't, and not much that the cattle won't. I think more than 10 per cent they are competitive, because we don't get on our range until the middle of May, and if the snow comes off in February, and they

are in in March until we can send them up to the forest, or they go out; so I think the Government ought to take hold of them.

The CHAIRMAN. Mr. Leech, do you care to be heard? I would like to have your statement. Have you any statement as to the Grazing Service?

Mr. LEECH. No, sir; I have read the information as to 1152. I read the statement from Mr. Rutledge's letter. That is the extent of my comments on 1152.

The CHAIRMAN. Very well, if that is all you care to say on 1152, it is not necessary to go any farther into the subject here today. We have some other matters that we are going on, at the proper time. Miss Reporter, I will hand over to you a memorandum of authorities which will enlighten the record as to the law bearing on this subject. Everyone who is here and has left his address with the committee, and everyone else, will eventually have a copy of these hearings. In the hearing will be these court decisions and this memorandum of the law, as we have tried to work it out.

We are going to pause here now for 10 minutes.

(Recess until 3:35 p. m.)

(The memorandum is as follows:)

Two questions present themselves: First, what is the extent of the power now vested in the Federal Government with relation to the killing and transporting of game on Federal reservations? Second, what changes in this authority, if any, would result from enactment of S. 1152?

Directing attention to the first question, a review of the history of the law on this point shows that the right of the Federal Government to deal with *ferae naturae* was gradually restricted over a period of many years, but that recent judicial decisions have reversed this trend and seem to favor enlargement of this right.

Originally, the ownership of wild game in England was regarded as vested in the King as a personal prerogative. In the course of time, however, it became established that the title of the Crown was only in trust for the English people (*State v. Mallory*, 65 L. R. A. 773, 3 Ann. Cas. 852; *State ex rel. Clarkson*, 70 Fla. 340, 70 So. 367, Ann. Cas. 1918a, 138).

When the American States attained independence, each State in its sovereign capacity acquired the titles of the Government to the game within its borders, in trust for the benefit of its citizens.

While there is some difference of opinion as to whether the titles so acquired by each State are actual property rights, the weight of opinion seems to be as stated in *LaCoste v. The Department of Conservation* (263 U. S. 545).

"The wild animals within its borders are, so far as capable of ownership, owned by the State in its sovereign capacity for the common benefit of all of its people. Because of such ownership, and in the exercise of its police power the State may regulate and control the taking, subsequent use, and property rights that may be acquired therein."

In line with this view in the decision of the Nevada Supreme Court in *Ex parte Crosby* (38 Nev. 396 (1915), where McCarran, J., said, citing *U. S. v. Shauver* (214 Fed. 154):

"In this decision, we find a reiteration of the principle that wild game and fish in public waters alike are the property of the States in their sovereign capacity, as the representatives and for the benefit of all of their people in common; from which principle, so often asserted by the several courts, it follows, as a matter of course, that the right of protection and preservation of game and fish is a matter for State legislation, and a subject over which the State courts have jurisdiction when a violation of such laws is brought before them by proper process, and where a party accused is one over whose person the State courts have jurisdiction."

With regard to game within the boundaries of a Federal reservation, the Federal Government cannot be said to have less power than would be exercised by an individual property owner over wild game on land owned by him. It has been almost uniformly held that the private owner of property has the unqualified right to control and protect the game on his lands. Thus, in a recent

Montana decision of the supreme court of that State, in reversing the decision of the lower court which held the defendant guilty of killing an elk out of season upon his own private property, said:

"The people of the State may protect their public property in the manner best suited to accomplish the purposes for which the law was enacted, but in doing so they may not disregard the natural and inalienable rights of the individuals. Legal justification may always be interposed as a defense by a person charged with killing a wild animal contrary to law" (*State v. Rathbone*, 110 Mont. 225, 1940).

And in *State v. Burk* (114 Wash. 370; 195 Pac. 16, 17, 21; A. L. R. 193), the court said:

"The argument of the State is to the effect that one may not justify himself in the killing of an elk, in violation of express provisions of the statute, simply because the elk, at the time of the killing, may be damaging or even threatening to destroy, the property of the person charged with the killing. It is argued that when the legislature enacted this statute for the protection of the elk it must have realized that they might trespass upon the lands of private individuals and do material damage to crops or domestic animals, but determined that the preservation of the elk was of such importance to the people of the State as that the private individual should bear his loss for the good of the public. * * * If in this case the appellant had undertaken to defend on the ground that he killed the elk for the protection of his life, or that of some member of his family, then, unquestionably, such defense would have been available. But the constitutional right is to defend, not only one's life, but one's property. The difference in the justification in killing a protected elk in defense of one's life and killing one in defense of one's property is only in degree."

A private owner has the exclusive right to hunt on his land and may prohibit others. *Ohio Oil Co. v. Indiana* (177 U. S. 190); *Kellogg v. King* (114 Calif. 378, 46 Pac. 166); *Sterling v. Jackson* (69 Mich. 488, 37 NW, 845); *L. Realty Co. v. Johnson* (92 Minn. 363, 100 NW. 94). In the case last cited the Supreme Court of Minnesota said:

"While true that the title to all wild game is in the State and the owner of premises whereon it is located has only a qualified property interest therein, yet he has the right to exercise exclusive and absolute dominion over his property, and incidentally the unqualified right to control and protect the wild game thereon."

So, a State license does not authorize hunting on the lands of a private owner (*Lamoureux*, 114 Wis. 44, 89 NW. 880, 886). That the rights of the United States over game on Federal reservations exceed the right of a private individual in similar circumstances is apparently well settled. Article IV, section 3, clause 2, of the Constitution of the United States, provides:

"The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States."

Legislation providing for the creation and administration of the national forests is based upon this provision of the Constitution. In *United States v. Gurley* (279 Fed. 874), Judge Sibley said:

"* * *; but the Congress still has the power, under the supreme law of the land, to make such regulations as are needful, Congress being the judge of what is needful. It is probable that it is the exclusive judge of what is needful. Certainly any regulation looking to the use or disposal or the safety of the property is needful, if Congress so conceives it. It is well settled that Congress, in making regulations, may not only deal with them itself, but may, after providing a general scheme, delegate the details to some officer or commission."

In *Shannon v. United States* (160 Fed. 870), the Circuit Court of Appeals for the Ninth Circuit said:

"The Federal Constitution delegates to Congress the general power absolutely and without limitation to dispose of and make all needful rules and regulations concerning the public domain and this independent of the locality of the public land, whether it be situated in a State or in a Territory * * * the exercise of which power cannot be restricted or embarrassed in any degree by said legislation. * * * The rights given by the State statutes to the subjects of the State extend only to the lands of the State. They end at the borders of the Government lands. At that border the laws of the United States intervene, and it is within their province to forbid trespass. Such laws being within the

power of Congress, it is not necessary to discuss the question whether it is sovereign power or police power, or what may be its nature, for there is no power vested in the State which can embarrass or interfere with its exercise."

The Supreme Court of the United States, in referring to this constitutional provision in *Kansas v. Colorado* (206 U. S. 46, 89), said:

"The full scope of this paragraph has never been definitely settled. Primarily, at least, it is a grant of power to the United States of control over its property. That is implied by the words territory or other property."

In *Light v. U. S.* (220 U. S. 523), the Court said:

"The United States can prohibit absolutely or fix the terms on which its property may be used. As it can withhold or reserve the land, it can do so indefinitely."

In the *Utah Power & Light Company case* (243 U. S. 389), the Supreme Court said:

"And so we are of opinion that the inclusion within a State of lands of the United States does not take from Congress the power to control their occupancy and use, to protect them from trespass and injury and to prescribe the conditions upon which others may obtain rights in them, even though this may involve the exercise in some measure of what commonly is known as the police power. 'A different rule,' as was said in *Camfield v. United States*, *supra*, 'would place the public domain of the United States completely at the mercy of the State legislation.'"

The United States Supreme Court, in the *Kaibab Forest case* (*Hunt v. U. S.* (278 U. S. 36)), held that:

"1. When the numbers of wild deer on a national forest and game preserve have increased to such excess that by overbrowsing upon and killing young trees, bushes, and forage plants they cause great injury to the land, it is within the power of the United States to cause their numbers to be reduced by killing and their carcasses to be shipped outside the limits of such reserves.

"2. This power springs from the Federal ownership of the lands affected, and is independent of the game laws of the State in which they are situated.

"3. A direction for such killing and shipment, given by the Secretary of Agriculture, was within the authority conferred upon him by act of Congress."

This is as far as the present trend toward enlargement of Federal rights in this regard has gone, though an earlier case (*Light v. U. S.*, *supra*) appears to leave the way open for the assertion of further rights by the Congress, through appropriate legislation. In this case, the court said:

"It is true that the United States do not and cannot hold property as a monarch may for private or personal purposes. *Van Brocklin v. Tennessee* (117 U. S. 158). But that does not lead to the conclusion that it is without the rights incident to ownership, for the Constitution declares, section 3, article IV, that Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States. The full scope of this paragraph has never been definitely settled. Primarily, at least, it is a grant of power to the United States of control over its property. *Kansas v. Colorado* (206 U. S. 89)."

This doctrine seems to settle any doubts as to the constitutionality of S. 1152 or the proposed substitute for that bill.

However, even in the absence of specific legislation on the subject, it appears clear that the Federal Government has the power to kill, or cause to be killed, any wild game on a Federal reservation, where necessary for the protection of its property rights, and to remove, or cause to be removed, the carcasses of such game.

Under the doctrine of the *Kaibab case*, *supra*, this right is subject to the limitation that the decree shall not be construed to permit the licensing of hunters to kill deer within Government reserves in violation of State game laws. But, as seen above, the power of Congress to assert this right through appropriate legislation cannot be successfully challenged.

Let us consider now the results which would flow from enactment of the suggested substitute. S. 1152, briefly, the bill provides for deferment to State authority in handling the problem of overpopulation of wildlife on any Federal lands or reservation. The bill requires that a determination, by the head of a Federal department or agency, that such an over-population exists shall be certified to the Governor of the State in which the Federal lands or reservation are situated, together with the fact or facts upon which the determination is based.

The State is then given 90 days in which to take action, at its discretion, of such nature as it deems necessary, to reduce the wildlife population.

The bill contains a provision that the head of the Federal department or agency concerned may authorize—that is, agree to honor—licenses to be issued by the State for the hunting, trapping, killing, and possession of game and for the removal, transportation, and disposal of the carcasses of animals killed. Issuance of such licenses by the State is not made mandatory, and such licenses, if issued, will be in such form, and will retain such restrictions, as the State approves. Under section 2 of the bill, the State is specifically authorized to take such action, other than the issuance of licenses, and either in addition to or in lieu of the issuance of licenses, as shall be reasonably calculated to bring about the desired reduction in the wildlife population on the Federal lands or reservation in question.

Only in a case where the State declines to take any such action does the bill grant authority for the issuance of Federal licenses.

The **CHAIRMAN**. The meeting will come to order.

Now, ladies and gentlemen, assuming that we have exhausted the thoughts that seem to be uppermost with reference to S. 1152, and we have been able to get some very fine thoughts on the subject, pro and con, I think it well for us to pass on to another subject.

For several years there has been pending before the Congress of the United States what is commonly called the Johnson bill. It was called the Johnson bill because it was introduced by Senator Johnson of Colorado. It is not before the Congress now, because, when a bill is once introduced, unless it is passed, it dies with the Congress in which it is introduced, but many stockmen throughout the country have asked for a reintroduction of the bill. At nearly every hearing that this committee has held, the Johnson bill has been discussed, either extensively or slightly.

We have prepared the bill in a modified form. It pertains exclusively to the administration of the forest. The Johnson bill originally would have provided for the election of members of the advisory boards in the Forest Service, in about the same way they are chosen in the Grazing Service. That was quite seriously objected to by the Department of Agriculture; so much so that it got nowhere. But the stock raisers throughout the country are still interested in it, so we have prepared again a modified form of the Johnson bill, which deals with the question of the election of members of the advisory boards. It also deals with the question of limitations on distribution cuts and transfer cuts, as they exist and are carried out on the forest.

Those who graze on the forest know what a distribution cut is, and a transfer cut. You know that when there is a transfer of land or livestock from one owner to another, there is a cut in numbers permitted resulting. This bill, as it has been prepared, but not introduced, and which was formerly the Johnson bill, would provide that there could be no transfer cuts in the administration of the Forest Service. A form of the bill approved by the American National Livestock Association, not having been introduced, is not printed, but is mimeographed. We are going to send copies throughout the country, and will give each of you a copy.

The Forest Service, after making a study of it, made some suggestions with respect to certain phases of the bill. The Forest Service, as I understand it, would have no objection to the adoption of that phase of the Johnson bill which provides for the advisory boards. Therefore, we have prepared in mimeographed form a draft which is approved by the Forest Service. I would like very much, at this time, to have a brief discussion of the Johnson bill, as it is in the mimeographed form, by Mr. Kneipp, setting out his objections, if he cares

to. Also, if in the discussion he would discuss the other form, which deals only with the advisory boards, we would be very glad to hear him.

Mr. Kneipp, I will pick on you because I think we can save time and bring the matter to a head. Those interested in stock raising here will be interested in listening to you on the subject.

STATEMENT OF L. F. KNEIPP, ASSISTANT CHIEF, FOREST SERVICE, WASHINGTON, D. C.

Mr. KNEIPP. Well, Mr. Chairman, the Secretary of Agriculture, or the Under Secretary of Agriculture, by a letter dated July 3, 1941, reporting to the chairman of the Senate Committee on Public Lands and Surveys, expressed the viewpoint of the Department to the then pending bill, S. 1030. As you may remember, I read that report in detail at the Glenwood Springs meeting, and Mr. Wright and I debated it at considerable length, so much so that you finally had to terminate the debate, in order to permit somebody else to say anything about it. That was all printed in that hearing, and I don't know whether it is necessary to read this long report.

The CHAIRMAN. I would not think so.

Mr. KNEIPP. But merely to summarize the viewpoint of the Department, which is equally applicable to the bill now proposed by the American National Livestock Association, the bill contemplated three features: (1) This was the definition of the standards of commensurability; that is, the lands which an applicant for a grazing preference on the National Forest would have to own in order to qualify for the preference. (2) The second was a section which statutorily would authorize the establishment, by election, of advisory boards. (3) The third was a section which prescribed the only conditions under which an existing permit could be reduced.

The crux of the Department's report of July 23, 1941, with regard to the commensurability publication feature was that the Department did not regard it as absolutely necessary. It particularly questioned the provision of the bill which required that the commensurability standards, applicable to individual grazing districts, must all be published; the Department's belief being that the standards were known, were matters of common knowledge, and that their publication each year, as contemplated by the bill, or the publication of each minor change would have a very limited value, and would not be absolutely necessary. But the Department said if the Congress deems such action desirable, the Department has no great objection to it.

The Department's viewpoint, with regard to advisory boards, was that from the very beginning of the Forest Service the principle of organizing advisory boards and of discussing with them the requirements and procedures of grazing use of the national forests, had been a major practice of the Department. In fact, the Department was the first to establish advisory boards, being then the only agency administering grazing on the public lands. Those boards have always existed; they exist now, about 800 of them, and their number has been fairly consistent throughout the years. The Department has made a practice of consulting the advisory boards, and has received from them a great deal of valuable guidance and assistance. In fact, I might say that the regulations governing the administration of grazing on the national forests at the present time are very largely the

products of advisory boards, and the acceptance of their constructive recommendations as to how the affairs should be conducted. Therefore, the Department felt that there was no need for a statute to establish a condition that was already existing, and had prevailed throughout the entire history of the Forest Service. If, however, it were deemed desirable to give statutory recognition to the advisory boards, the Department had no serious objection to and would not oppose such action.

So, on two out of three features of the Johnson bill, S. 1030, the Department, though not enthusiastic, was at least acquiescent.

Now, we come to the third feature. On that the Department was wholly negative. It felt that the fixation as absolute limits of numbers representing current grazing use, regardless of conditions that prevail thereafter, despite whatever changes might subsequently occur in economic or social conditions adjoining or within the national forests, was an undesirable rule in many ways. It would prevent the agency having administration of the forest from working out the best distribution of preferences. One other bad feature is that while numerically the permittees grazing the smaller number of stock constitute the large majority of all the permittees, the acreages of national-forest lands occupied by the small minority of large permittees comprise almost half of the national-forest land that is grazed.

In the discussions at Glenwood Springs, some of the proponents of the bill were quite frank in admitting their object was to establish an indefeasible property right. Several of them mentioned that as being the reason why they advocated the passage of the bill. The Department does not feel that the establishment of individual property rights, on the part of a relatively small number of people, over a very large acreage of publicly owned land, is a desirable arrangement, and will continue to oppose it.

That is the crux of the situation. The new bill which has been proposed goes even further than the original Johnson bill, because it not only would preclude reductions on any existing permits for purposes of distribution to other applicants but it also would preclude reductions on transfers. Now, strangely, that rule with reference to cuts on transfers originated with the stockmen themselves, way back in 1909 or 1910. It was based on what seemed to be the quite plausible theory that if the range had been overstocked, stocked beyond the capacity, and if it were necessary that the numbers be reduced, or if it were true that bona fide homesteaders needed limited grazing preferences in order to market products of the ranches, and if, by reason of those facts, it was necessary to cut the permits of existing permittees, the man who was going out of business was far better able to stand that cut than the man who wanted to stay in the business for the rest of his life. That, at that time, seemed to be quite a logical argument, and it was adopted, and made the basis of that part of the regulations which prescribed cuts in cases where outfits were transferred from existing permittees to new owners.

Now, before this committee gets through—and it has already heard this at earlier hearings on the same subject—this committee will know that there exist in the national forests quite a number of areas where not all of the bona fide and dependent ranchers have grazing preferences. Hundreds of such ranchers feel they are acutely in need of small supplemental grazing preferences which they can utilize in con-

nection with their ranch and use as a means of marketing ranch products they couldn't otherwise market because of their bulk. Many such resident ranchers need additional cash income in order reasonably and adequately to make their living. Those people are coming to this committee and objecting to legislation that will prevent them from getting the preferences or privileges that they need. Under the rule that has prevailed for the last few years, no cuts for distribution have been made, no permits have been increased, no new permittees admitted, except to the small degree made practicable by cuts on transfers.

If you listen to these other gentlemen, that is quite an iniquitous condition. The Forest Service has to balance between these two extremes. It desires to stabilize the use of the national forest so that it will afford maximum security and stability; so that a man confidently can plan his future operations with reasonable assurance that he can carry them out. On the other hand, there are hundreds, potentially thousands, of honest, qualified people, who believe that their need should be recognized and that they should be permitted to share in national forest range use to a limited degree, even though some of the larger permittees may have to be content with a smaller share. Therefore, the Department believes that this part of the bill is definitely contrary to sound public policy.

The stockmen have argued that what they want is a statement of policy by the Congress. What they are asking for, however, is not a statement of policy, but a rule of law, a definite statutory fixation of property rights. The bill that the Forest Service has suggested as an alternative is a statement of policy. It's first section starts out with a declaration by the Congress as to what the objectives of range use should be; the basic policies by which the Secretary of Agriculture should be governed in apportioning the grazing privileges on the national forests. It is not a fixed and inflexible rule of law, but it does declare the intent of Congress.

The Johnson bill declares the intent of Congress to be specifically one thing, and one thing only. That, briefly, is the comparison between those two drafts of bills.

The draft by the Forest Service omits the commensurability clause because commensurability standards vary widely. Down in the Southwest, perhaps the ownership of a headquarters ranch and some sources of water supply meets the requirements of local range practice, and is all that the individual needs. If he had more than that he would have more than he required. In other parts of the country, where the competition for range is very keen, the competitors for that range are seeking to make practicable the continued operation of intensively operated and developed farm properties; are trying to find means of transmuting their bulky crops into commodities of sufficient compactness and value to be shipped to distant markets. There the men who are applying for privileges, or who hold the privileges, are men who own well improved land, land producing hay and grain, and so forth; men who own considerable investment in range improvements, such as fences, corrals, water supplies, and things of that kind. Consequently commensurability would vary a great deal between the extremes of those widely different types, and a definition of commensurability would either have to be inadequate to meet all situations, or would have to be so general that it wouldn't mean much more than

the present practice. Therefore, that has been left out of the bill, out of the Forest Service draft, I should say. Nevertheless, I assume that the attitude of the Department, on that point, would be as it was 2 years ago; that if the Congress felt that it was necessary, the Department could offer no very strong reasons why it should not be made a part of the statute.

However, the crux of the whole situation is this: Shall these grazing preferences on the National Forest which are quite valuable, which bear a very intimate relationship to the economic welfare of many persons and large surrounding areas, shall they be frozen in their present status, which has been more or less fortuitous, as a matter of fact, or shall there continue to be a certain amount of leeway so that very equitable and obviously proper adjustments can be made?

The Forest Service believes very strongly that the latter is the policy that will redound most to the public interests. It does not intend that the distribution policy shall be widely applied, widely experienced, but feels there should be a certain balance between the status quo and the recognition of new applicants. Past experience has shown many new applicants, recognized in earlier years, did not make any permanent use of the preference, but very frequently transferred it to one of the larger permittees, who then qualified for renewal of permit.

Nevertheless, even though that condition did occur occasionally, it is felt that there will be cases arising in the future where the interests of the community, the individual and the industry may very properly dictate some change in the distribution of preferences from that which now prevails, and if that should prove to be the case, if the need for such changes would unquestionably be established, then there should be power to make it without having first to go to Congress and ask it to reconsider the whole situation and modify the law.

I think that distinctly states the position of the Forest Service in regard to this measure.

The CHAIRMAN. Is there anyone present who cares to discuss this bill? Mr. Swallow, would you care to discuss it?

STATEMENT OF GEORGE N. SWALLOW, SHOSHONE, NEV.

Mr. GEORGE SWALLOW. I don't have very much, Mr. Chairman, to say about this except that, at the present time, for the few remarks that I will make, I represent the Eastern Nevada Cattle Association, as president of that organization.

Last night, at a meeting of the Eastern Nevada Cattle Association, that group went on record as favoring the enactment and passage of the revision of S. 1030, the Johnson bill. Expressions were given to this effect, that as long as the policy continues of cutting grazing permits on the National Forest for 10 years, 10 percent, and, also, whenever a transfer is made, that a similar or greater cut is made, that it does not offer any stability to a large stock operator. It was illustrated in this way: Supposing any operator, livestock operator, who has a well-balanced year-round operation, at the end of 10 years has a 10 percent cut. That operator has actually lost 10 percent of his investment, because, after all, about the only way, in the past few years, that an operator has been able to go into business, that is, when the operator is new, has been by the actual purchase of a grazing

preference. These preferences cost in this locality, for sheep, approximately \$8, and for cattle on the basis of from \$20 to \$30. You can readily see that a permit valued at \$10,000, and actually costing an operator \$10,000, can, within a 10-year period, be reduced 10 percent; and, in the event that 2 or 3 transfers are made, not only is additional money lost to someone, but the unit is cut down to the point where it may not be a going concern. After all, if the livestock people are to continue in business, they are entitled to something that will give them definite assurance that there will be stability.

We realize, at the present time, and during the past few years, that the policy of the Forest Service has been not to reduce any of the present allotments. That has been the policy; but, nevertheless, they still have the power to do it if they wish. It is just a matter of a change of policy by an individual. During the past few years the livestock operators have been fortunate in that they have had individuals that took that attitude, but we do not know who might be placed in the different positions in the future. Anything could happen. These 10-year cuts could be resorted to again, and transfer cuts could be made.

The CHAIRMAN. Aren't they making transfer cuts now?

Mr. SWALLOW. I think that is true.

The CHAIRMAN. Transfer cuts are being made now; isn't that true?

Mr. WOODS. Yes, sir, Senator McCarran.

The CHAIRMAN. Well, the transfer cut is how much as a rule?

Mr. WOODS. As a rule, it is 10 percent if ranch property and stock are bought together, or 20 percent if but one.

The CHAIRMAN. Well, a stockman having rights or permits on the forest, that right or permit, if he sold, would be reduced 10 percent if he sold his entire outfit. Is that right?

Mr. WOODS. Not necessarily. The cuts are not mandatory. They are made if we need range for some well-qualified new applicant, or if the allotment is overstocked; and we need protective cuts, then we take advantage of the transfer to get it straight.

The CHAIRMAN. You still have, in addition to that, your protective cuts?

Mr. WOODS. In addition to that we have protective cuts.

The CHAIRMAN. Those take place without any transfer at all?

Mr. WOODS. Yes, sir.

The CHAIRMAN. Well, a number of transfers of a piece of property would soon, if the 10-percent cut was invoked, reduce the unit to a point where it might not be an economic unit.

Mr. WOODS. But, Senator McCarran, if we are down to carrying capacity, then very often we would not make the 10- or 20-percent cut, because we wouldn't need it, and we couldn't use it to advantage.

The CHAIRMAN. Well, now, Mr. Woods, I don't know that this would be a fair question, in view of the fact that you may not have the data here, but do you recall any transfers made, say, in the forests of Nevada in the last 5 years, in which there has not been a transfer cut?

Mr. WOODS. I haven't the information. There are two supervisors here who probably can answer that for their two forests.

The CHAIRMAN. If it can be answered with the information that you have at hand, we would like to have it.

Mr. BRIGGS. I think we have one case, Senator, where we have not made a transfer cut for this forest. We have taken advantage of the privilege of not making transfer cuts, except where it is absolutely necessary, on preferences, under what we call the lower limit, which would put that operation down below an economic unit of operation. The lower limit on this forest is 1,200 sheep, and—

The CHAIRMAN. Is that the minimum?

Mr. BRIGGS. Well, that is the limit below which no cuts, no reductions will be made except for range protective purposes.

The CHAIRMAN. How many cattle?

Mr. BRIGGS. How many cattle?

The CHAIRMAN. Yes; below which you would not cut?

Mr. BRIGGS. One hundred and fifty is the lower limit.

The CHAIRMAN. Well, now, perhaps this question has been asked before, but it is a little hazy in the mind of the chairman: Supposing that you have a ranching unit, and the unit has no grazing privileges, aside from the Forest Service, and the rancher produces, say, 500 tons of hay at the base ranch; supposing he was cut down to 150 cattle by the Forest Service. He wouldn't have an economic unit, would he? Unless, of course, he had a market for the surplus hay.

Mr. BRIGGS. No, that is right.

The CHAIRMAN. I'm just wondering how it works out in some cases. If there was a case of that kind, how would it work out? Would ranching under that condition pay? That is what I wonder; what I am driving at, at least.

Mr. BRIGGS. Well, you may have several cases, Senator, where a man may have much more commensurate range property than he has a grazing privilege for. Certainly we do have those cases. We have a number of those cases.

The CHAIRMAN. Yes; I am sure of that.

Mr. BRIGGS. This commensurability property is considerably above their actual grazing privileges.

The CHAIRMAN. Is there any other forester here who can answer? Do you know of any case where there has been a transfer and no cut, in the past 5 or 6 years?

STATEMENT OF A. R. TORGERSON, FOREST SUPERVISOR, HUMBOLDT NATIONAL FOREST, ELY, NEV.

Mr. A. R. TORGERSON. Forest Supervisor, Humboldt National Forest, Ely, Nev. No transfer cuts below the lower limit during the past 5 years, that I know of.

The CHAIRMAN. Do you know of any transfer where there has been no cut?

Mr. TORGERSON. All transfers below the protective limit have not been cut.

The CHAIRMAN. If a unit was down to the lower limit, there would be no cut on the transfer?

Mr. TORGERSON. That's right.

The CHAIRMAN. Do you know of any cases of that kind?

Mr. TORGERSON. Yes; there have been a number of cases of sales, during the past 2 or 3 years, on which there has been no reduction because they are below the protective limit.

The CHAIRMAN. Do you know of any case, where they were above the lower limit, where a transfer cut has not been effected?

Mr. TORGERSON. No, I don't; not on the Humboldt.

The CHAIRMAN. In other words, you have been carrying on the transfer cuts, down to the lower limit?

Mr. TORGERSON. When for the reason that we needed surplus range for range protection; not for distribution.

The CHAIRMAN. How many new permits have you issued on that particular range, growing out of the transfer cuts?

Mr. TORGERSON. None.

The CHAIRMAN. Have any new permits been issued at all?

Mr. TORGERSON. In the last 3 years, I am sure not; not the last 5 years; but I am sure, the last 3 years.

The CHAIRMAN. It does impress the Chairman of this committee that there is a lack of stability in a farming unit where transfer cuts are permitted, and that lack of stability takes from the value of the unit. It must, of necessity, take from the value of the unit. There may be good reasons, growing out of the practice of that procedure, but it does not appeal to me, as one who is not very well versed in it, but who is trying to get the inside of it.

Mr. TORGERSON. Take the case, Senator, if a transfer were made above the protective limit, and no reduction was needed for protection, the cut would not be made ordinarily.

Mr. KNEIPP. Might I make this comment, Senator: Let's assume, just as a hypothetical case, you have a range shared by five permittees, all above the lower limit. That range is going down, so it becomes evident that a reduction in the collective numbers of stock on that range is necessary. One of the permittees wants to sell out, and the other four do not. Which would be better, to waive the transfer cut and impose the necessary reduction on all five of the permittees, or take advantage of the transfer clause, and thus minimize, or perhaps obviate, the reduction on the four who are going to stay? It would be instability in both cases.

The CHAIRMAN. That is true, that is true; but I am wondering if the time will not come when that instability will disappear.

Mr. KNEIPP. We hope so; and when that disappears cuts probably will not be necessary. The distribution cut would provide range only to a limited number of people who clearly showed the need for it, would probably be small, and at irregular intervals.

The CHAIRMAN. The Grazing Service is now set up, I think, pretty well, with the 10-year permits.

Mr. LEECH. That's correct, Senator.

The CHAIRMAN. You have that pretty nearly completed, haven't you?

Mr. LEECH. I would say we are around 80 percent.

The CHAIRMAN. Of course that spells stability. That spells a permit on the grazing lands for 10 years; and that spells stability for the whole unit marketability. It also spells assurance for credit purposes. The Forest Service, notwithstanding the fact that it has been in existence many years before the Grazing Service came into existence, doesn't seem to have arrived at that degree of stability.

Mr. KNEIPP. Senator, may I remark that the Forest Service has been issuing 10-year permits for a long period of time, where ranges are

stabilized, and where numbers are suited to the capacity. We are in the second era of 10-year permits at the present time.

The CHAIRMAN. You are in your second era. Do those 10-year permits, issued that way, assure against administration cuts?

Mr. KNEIPP. Not to prevent damage on the range they assure against everything else. As Mr. Torgerson said, at the end of the 10-year period reductions might occur.

The CHAIRMAN. But not during the 10-year period?

Mr. KNEIPP. No, except to avert damage.

The CHAIRMAN. But the transfer cuts could take place at any time?

Mr. KNEIPP. Yes, sir.

The CHAIRMAN. Does anyone else here wish to discuss this subject?

Mr. SWALLOW. Going further, Mr. Chairman, I would like to state that the Eastern Nevada Cattle Association passed a resolution in favor of the provision in this Johnson bill, S. 1030, of establishing forest advisory boards. I would appreciate having Mr. Clarence Moorman, who is a member of the Eastern Nevada Cattle Association, discuss the subject of 10-year cuts and transfer cuts.

The CHAIRMAN. On the forest?

Mr. SWALLOW. On the forest.

I thank you.

STATEMENT OF CLARENCE MOORMAN, MOORMAN RANCH, ELY, NEV.

Mr. MOORMAN. I think one correction should be made. It was stated that the grazing preferences had been purchased. I think he meant that animals were purchased, and grazing preferences transferred with them. Is that right, George?

Mr. SWALLOW. Technically; yes.

Mr. MOORMAN. In other words, what I wanted to get at, you stated that in the record, and it didn't sound very good.

Mr. SWALLOW. Yes, in effect; these permits are exceptions, because we have been allowed to go that way. Both the Taylor Grazing and the Forest Service differ from parks, game refuges, and areas such as that. I can't see that it is exactly public by nature, inasmuch as the entire public can't participate, such as the participation can be taken in game areas, parks, and that sort of thing. Because of the very nature of the ranching and grazing units, there are only a limited number that can participate and maintain economic units.

The CHAIRMAN. Would anyone care to discuss that?

Mr. Moorman, you have been elected to discuss the subject.

Mr. MOORMAN. I have to stand up because I don't talk much. Now, whenever you run out of something, and there isn't anything that anybody wants to say, they call on me.

I don't know why, but this is a delicate thing to me, Mr. Chairman, this forest, and that Taylor bill, because I am in both of them. I said to you once before, I wanted to hold the both of them, one as a leverage against the other, so we could remedy the mistakes one makes against the other. Of course, you can say, "Give the devil his dues," but if you say, "Which devil?" I says, "Both of them."

Now, I figure that the forest has in their time accomplished something for us. But the only thing about it, they were a little too hard boiled for us, gave us something we don't want, and left too much

feed, and give it to the other fellow. You know how that makes you feel; don't do that now, see? Now, I tell you, I say that the Taylor bill has helped the forest be a little more liberal. Now, the forest can take it either way you want to, or the Taylor bill, see? Now, one thing, Mr. Briggs—I can talk to him, he doesn't take exceptions to everything, because he is working under rules and regulations. The Senator says to me, "Who is your boss?" I says, "If you work for anybody, he is your boss." However, this is the point that I want to get at: Now, I figure that if a man is a director, that, absolutely, he should be a director. That is, somebody says it is just a director. We talk it over, you see, but we have no assurance that is going to be what we talked over, because you can change it.

Now, as far as forest supervisors, Mr. Briggs, he and I would fight every darn year over a little thing like salt. Finally he told me, if I didn't do as he said, he would cut me 10 percent. I said, "Go ahead and cut me." It doesn't make you feel too good toward the Forest Service, or anything else, when they are always going to cut you and cut you. It may sound funny. It would be all right if he'd cut for cause; but I figure this cut business is out of trimmings; and if they try to do the same thing in the Division of Grazing, as long as I am in it, I am going to try to stop it. I think the cattle or the sheep should be the best judge as to whether you're going to do a hell of a lot of cutting, in 10 years or any other time. I think the condition of the cattle should be judged. If they come off a good range they are good; if the winter is bad they come off worse. But don't hang it over a man's head that you're going to cut him because he don't salt right, or something or other.

If the Division of Grazing starts the same thing—here is the point, we get out here, I do, and you ask me my opinion in regard to what has happened. I have had experiences, during a lifetime, and I don't want to do anything else. This man, his obligation is to go with these others, and still we are looking ahead, too. The point I'm trying to get at is that the advisory boards should be where they have a little voice, not to just sanction what you say, or they say, or anything. It should be binding, and we should get paid for it.

I don't see why you bring us in here and pay expenses, and it costs us \$10 a day to sanction something that you already got backed and everything, to make it legal for you, and we get \$5 a day. We can pay you \$50 a day to look over our business, and you spend \$10, and then you are paying us \$5 a day. We come in here; I am here; got to pay my own expenses, and go home shaking hands with myself if I'm not out much money. \$5 or \$10 ain't bad; it helps a little. But I would like an advisory board to be an advisory board. I was a director in this hotel, up here, and it cost me \$26,000. I thought a director was a big man. I didn't know they could wash him. Now, I want something, Mr. Briggs. You can wash me for \$26,000, and yet I'm a director. Here's the point, get down to business; if we can make these things work out without cutting every time you figure. I paid once on 900 head, 400 horses, and 500 calves, and now I'm paying on 338 head. Pretty soon I'll pay on 250 here, if I transfer. I'm afraid to transfer. The Government takes part of it, and the other will take it all. I can't sell it; that is the only thing. As I told you once, Senator, if I get in bad, stop me.

Here is the point, we have an object in view, what we want to do with this here is to try to make it just as near as we can to being workable, both of them, I don't mean one. If you people will set an example, I will try to get the other fellows to set one, too, as long as I'm in there. I believe in cutting with a cause, and never mind range protection. How do we know you're protecting the range? You say you have to have range protection, and then you cut everybody. I have got a whole range, and you cut the whole cheese of it. I don't think that is right. It ought to be a whole cut or something.

You can't regulate the Taylor bill like you do here. I think every locality should be handled in a way to suit that locality, and I think we'll get along that way, if you do. If you keep pitching at us, you're always going to have the sheep association and the cattle association meeting one day, and they're going to cuss one another, and they're not going to get together. Now, we work together as stockmen, not as sheepmen or as cattlemen, and we have the feeling that what we are doing is for the benefit of the country. I've been here so long now that I don't want to leave, and I'm not going to leave if I can help it. I can sell out tomorrow, but I like to get in here, in town, once in a while, where they say, "Pop is here." Yet if we can stop the idea of the feeling of cuts for cause and effect, and so forth, and range regulations, I think we ought to do it. I'd like for those cattle or sheep to regulate that range a little in regard to cuts. I think they are a better judge of the range than we are. If they come out, and they look good, for 3 or 4 years, there ain't nothing very bad. If they look bad, I'm willing to cut a little. Now, the system, standing in here today, shooting them all in the eye, is unfair, giving them cuts after a while. You can't make a living on under 150 cattle to save your life, and you can't make a living on 400 head of sheep or 600 head of sheep. You have got to have a little.

In 1931 I fought for 7 weeks to gain the '31 law. It gave us 5 years' priority use. "Customary use," what is customary use? Customary use—I went down; ate us out; came back, and ate us out. That is customary use, and what we are trying to stop is customary use. I have had them tell me to put my cattle on the haystack. I don't know what's the matter with these people in the State of Nevada. I guess they are cowards. It's a good thing it wasn't in Montana; they would have run them over the cliffs. Cowards or civilized people, I don't know which.

Is there anything else, Mr. Swallow? I sometimes forget what you started.

MR. SWALLOW. I would suggest that would be enough for the present, Pop.

MR. MOORMAN. I tried to help you out there. The deer are chasing you out there. The deer have got nothing to eat out there. If they stay up there, let them stay, and give them that range. They went up there and found nothing to eat. Now that was what we are scared about, that the deer is going to take some of this cut off of us, and the deer is going to put me out of business. So, today, maybe because of some of your wildlife friends, if any of them wanted to go to work and put everything above 6,000 feet into a deer range, I might as well go into the deer business. My ranch is 6,500 feet, and I'd have to go into the deer business, wouldn't I? That looks pretty silly, when people get so one-sided they want to elevate you, by gosh, where you can't raise

a crop. Vegetables freeze down every month in the year. Here I am down here, I'm 6,000 feet, and everything above me is a deer range. I'm down in the flat. Now, you take wildlife, nobody on earth, I think, protects wildlife better than a farmer, or a rancher, or a stockman. They don't want to slaughter them or destroy them, but by gosh they don't want them to destroy them either. For a man to tell you we have got no right to come in our fields and hunt, why Jesus, we only go out once a day, and you fellows hunt the year round.

Well, Mr. Chairman, if this goes on too strong, or too long, just say, "Pop, stop."

The CHAIRMAN. Well, what do you say we stop now?

Mr. MOORMAN. I want to give the sheepmen a chance now.

Mr. WOODS. May I make one correction? The Forest Service is not making blanket reductions. They treat each allotment as a separate unit for purposes of any necessary reduction.

The CHAIRMAN. There was an intimation there in Mr. Moorman's statement, that if I heard it right, doesn't set very well. Maybe there is a reason for it, but if reductions are used, as punishment or reprisals for some noncompliance with regulations, I am at a loss to see how they could not be an abuse of discretion. Along that line, that might be very serious, if it is customary to cut as a punishment for failing to comply with the regulations. The stockman doesn't have much of a court of resort to go to, and the stockman is pretty well harassed anyway. I wouldn't believe that. Someone would have to establish it to me that a practice of that kind would be indulged in. There were references made to you, Mr. Briggs. You might be able to explain it.

Mr. BRIGGS. Well, I think Pop was talking about a period a long time ago, Mr. Chairman. I don't believe that we are following a policy of that kind. I don't know that we are, not that I know of.

The CHAIRMAN. I should greatly regret to hear of a policy of that kind.

Mr. KNEIPP. Mr. Chairman, may I make a comment? I haven't heard of a policy of that kind, and I don't think one should be tolerated; but this may be a misinterpretation. There may be a range where the stock are crowding to capacity, but if all means are applied to carefully distribute the stock, including salting, to get them out and equalize the burden on the range, it will carry that stock. If that is not done, it will not carry that stock, it will only carry 80 or 90 percent of it. It is a matter of construction of what the supervisor said. He may have said, "Unless you salt that range to get the best use, it won't carry the full number, and you'll have to reduce." That was not as a penalty, but as a matter of protecting the range.

The CHAIRMAN. The expression was rather harsh on my ears, because, if it were true and that were the practice, the stockmen would have little redress.

Mr. KNEIPP. I think, Mr. Chairman, if that practice had been generally followed, there wouldn't be any livestock left on the national forest.

The CHAIRMAN. Does anyone else care to be heard?

Mr. JOHANSEN. We are in a discussion over the advisory board with the Forest Service. Now, in this district here we have an advisory board that works for the national forest, and how they were elected, or, that is, how they were to be elected, I don't know, unless maybe Mr. Briggs can answer the question. Was it that the Forest Service

has its own advice to elect an advisory board to get their advice and recommendations?

The CHAIRMAN. In other words, how are the present Forest Service advisory members selected? There are advisory boards, are there not?

Mr. BRIGGS. Yes.

Mr. KNEIPP. The customary practice is that they are selected by the permittees.

The CHAIRMAN. Is that the general custom on the ranges?

Mr. BRIGGS. That's right; elected by the permittees.

Mr. WOODS. That is the invariable practice. Senator McCarran.

Mr. JOHANSEN. That is correct; but the advice and their recommendation, as advisory board members, is just endorsed by the Forest Service, isn't it?

The CHAIRMAN. Just what?

Mr. JOHANSEN. Endorsed by the Forest Service. It is not recommended or acknowledged by the Secretary of Agriculture.

Mr. WOODS. Ordinarily it is approved, or disapproved by the forest supervisor.

Mr. JOHANSEN. That is the question, was to see what power an advisory board had to act under the present conditions, other than just furnishing a little information. Now, under these conditions. I wouldn't think their recommendations would be in power to tell other permittees that he could have this, or couldn't have that. So I just make that statement, that I think the provisions of the 1030 law, or the Johnson bill, should be adopted, so to give the advisory board their full authority to act, from the power of the Secretary of Agriculture.

The CHAIRMAN. When the Grazing Service was first set up the Secretary of the Interior promulgated the regulation as to how advisory boards would be selected. It was a regulation. Congress saw fit to put that into the form of a law. Under the Forest Service, as I understand it, it is a regulation.

Mr. WOODS. Yes, sir.

The CHAIRMAN. And has been in effect, as a regulation, for some time?

Mr. WOODS. Since 1906.

The CHAIRMAN. There seems to be an attitude on the part of those who foster this bill to do the same as regards the Forest Service with reference to the Grazing Service on the theory that is as it was put forward. I was the author of the bill with reference to the Grazing Service. It was put forward that it was discretionary on the part of the Secretary of the Interior to abolish the regulations any time and the advisory boards will pass out of existence. Now, this is promulgated on the same theory; in other words, to put it in the form of a concrete law. The stock industry seems to think there is more security in that; and I want to say, frankly, that the Department seems to favor it. There is no objection to the short form of the bill. Was that all you cared to say?

Mr. JOHANSEN. That is all.

The CHAIRMAN. Was there anyone here from the sheep industry who cared to be heard?

Mr. JOHANSEN. Well, I was just one sheepman. Maybe there is an organization; there should be a representative here from the Eastern Nevada Sheep Growers Association.

STATEMENT OF BILL ROBISON, MCGILL, NEV.

Mr. ROBISON. Speaking individually and collectively for the sheep industry, I rather favor the Johnson bill, 1930. I think it would give a little more stabilization to the livestock industry if we had something a little more permanent. As has been brought out here before we have gone through a good many years of different transfers, of cuts. I can't see, individually, why a permit should not be just as good in the hands of another transferee as it was in the transferer. All it is doing is jeopardizing the ranch property that it stands by. In other words, that permit, or the livestock that it supports, is the bread and butter of the average Nevada livestock man, and anything that can be added to stabilize that permit is more secure for that individual that is in the livestock business. I'd say that it would help the livestock industry in Nevada if the bill would pass, the Johnson's revised bill of 1930.

The CHAIRMAN. Thank you, Mr. Robison.

Are there any questions? Thank you very much.

Does anyone else care to be heard on this? If not, we'll pass on to another proposition.

In this instance we'll take up S. 1139. Senator Hatch, of New Mexico, has a bill relating to placer mining claims of deposits of phosphates, sodium, potassium, oil, oil shale, or gas on the open public domain. Has this been drawn to the attention of anyone? I state this bill, if enacted, would provide—I think it might be well for you to read it. I'll have the investigator of the committee read this bill into the record, or I will read it into the record.

(Thereupon Senator McCarran read S. 1139 into the record as follows:)

[S. 1139, 78th Cong., 1st sess.]

A BILL Relating to placer mining claims for deposits of phosphate, sodium, potassium, oil, oil shale, or gas on the public domain

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, except as provided in section 6 of this Act, the holder of any mining claim located for deposits of phosphate, sodium, potassium, oil, oil shale, or gas on the public domain shall, within one hundred and eighty days after the date of approval of this Act, file in the United States land office for the district in which the deposit claimed is located, or in the General Land Office if there is no land office for the district, a statement under oath of the existence of such claim, which shall contain the name and address of the claimant or claimants, the time and place of the original location or relocation, and such other relevant information as shall be prescribed by the Secretary of the Interior; and upon failure to file such affidavit, such claim shall become null and void and all rights and interests thereunder shall terminate.

Sec. 2. If the labor or improvements required by section 2324 of the Revised Statutes, as amended, shall not have been performed or made on any mining claim described in section 1 of this Act during the first full assessment year commencing after the date of approval of this Act or during any subsequent assessment year, all rights and interests of claimants in such claim shall terminate, unless compliance shall have been had with any applicable relief Act.

Sec. 3. The holder of any mining claim described in section 1 shall within ninety days after the expiration of the first full assessment year commencing after the date of approval of this Act, and within ninety days after the expiration of every subsequent assessment year, file in the United States land office for the district in which the deposit claimed is located, or in the General Land Office if there is no land office for the district, a statement under oath in such form as shall be prescribed by the Secretary of the Interior as to the assessment work done or improvements made during the preceding assessment year, or such other notice, in lieu thereof, as may be required by law; and upon failure

to file such statement or notice, such claim shall become null and void and all rights and interests thereunder shall terminate.

SEC. 4. Notwithstanding the filing of any statement required by this Act, the validity or existence of the claim to which such statement relates shall remain open to inquiry and determination upon such procedure as may be prescribed by the Secretary of the Interior, or in any other lawful proceeding.

SEC. 5. The failure to file any statement required by this Act or to perform or make the annual assessment labor or improvements upon any claim described in section 1 hereof shall be conclusive evidence that such claim has been abandoned and that all rights and interests thereunder have terminated.

SEC. 6. The provisions of this Act shall not apply to any claimant who is entitled to the benefits of, and who has complied with the provisions of, sections 501 and 505 of the Soldiers' and Sailors' Civil Relief Act of 1940 (54 Stat. 1178), as amended, during the periods for which he is protected by those sections. But the provisions of this Act shall become operative as to such claimant upon the termination of such periods, subject to the following limitations:

(a) The period of time within which a statement is required to be filed under section 1 of this Act shall commence to run upon the termination of the period during which the claimant was protected under section 501 of the Act cited.

(b) The first full assessment year referred to in sections 2 and 3 of this Act shall mean the first full assessment year commencing after the termination of the period during which the claimant was protected under section 505 of the Act cited.

SEC. 7. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

The CHAIRMAN. That is the gist of the bill. In other words, it would require in all these placer claims that the annual assessment work be done, that affidavits be filed, and that the value of the claim be established. The significant part of the bill is that it still leaves in the hands of the Secretary of the Interior the right to determine whether or not the claim is a valid claim, based on actual probability of production. This is a matter that has been widely discussed, and addresses itself largely to the State of Colorado, although some other States have similar conditions. It addresses itself chiefly to the shale locations, where vast areas of oil shale lands have been taken up by placer locations, and are being held with no assessment work, annual work, being done, and revenue is being derived from these claims, in many instances, by leasing the ground to stock-raising industries.

If there is anyone here who cares to object to the bill, I'd like the committee to hear him. I think these conditions at this time exist in Nevada to some small extent. I have heard of them. Perhaps there are gold-mining claims in those instances, as there are not very many shale or placer claims.

If there is no comment on the subject, we'll pass over it, but these are matters that this committee has to deal with, and we are very glad to bring them out to the public, to where the public has a chance to confront the issue from a practical standpoint.

Mr. LEECH. Mr. Chairman, the Grazing Service is much in favor of 1139.

**STATEMENT OF T. C. HAVELL, GENERAL LAND OFFICE,
WASHINGTON, D. C.**

Mr. HAVELL. The Department is in favor of it as a whole.

The CHAIRMAN. I don't suppose it addresses itself to the Forest Service?

Mr. KNEIPP. Yes, also, Senator. Several hundred thousand acres of land of that kind are in national forests in the States of Utah and Colorado. We are also in favor of the bill.

The CHAIRMAN. Am I correct in the statement that lands are being held out, assessment is being held up, and those lands are being leased to the stock industry?

Mr. HAVELL. The matter, Senator, has been a subject of investigation by the Grazing Service, and is, at the present time, being investigated by the General Land Office, with a view of taking such remedial action as the facts may warrant. The difficulty, as you know, grows out of the fact that the Supreme Court, in the *Krushnic case* and the *Virginia-Colorado Development Co. case*, has held that the Interior Department has no authority to attack these placer claims that were established prior to the Leasing Act of 1920. We have no authority to attack them because of the lack of assessment work. The result is that the claims are interfering with the administration of the Grazing Act and with the national forest. Some are being leased for grazing. The question as to whether the mining claimant has a right to use the claim for other than mineral development purposes is the question which must be determined.

The CHAIRMAN. Of course, we understand that it was never the spirit of the law that placer locations should be used wholesale for the purpose of control of the surface of the public domain. I don't think there is anyone in the country that will ever claim that that was the spirit of the law when it was enacted; but it is like many other laws, it has been abused. It is one of those things that should have a stop put on the abuse. Stockmen have been assessed, and by those who have not seen the territory in, perhaps, years; but still they hold the record title to a placer claim for perhaps shale, or oil, or some other substances, under the placer law. Not only that, but, in my individual judgment, the development of mining, placer mining, has been to some extent retarded, in that claimants hold the claims from year to year against those who would operate the claims if they had them. So, it is one of those laws subject to abuse, and the committee has it under study as to whether or not this is the correct solution of the matter, a matter to be determined by the committee.

Now, gentlemen, it is approaching 6 o'clock. We have put in quite a steady day of it. I think that, unless there is something that someone wishes to bring to the attention of the committee, we will come to a conclusion. The committee must leave those who are here. The committee must leave here tomorrow morning and go to Fredonia, and then on to New Mexico, for further hearings, which will be along the lines that we have indulged in here.

Please be assured that the committee having public lands in hand are entirely men who are mindful of the use to which the public lands should be put, mindful of the fact that the public lands are an asset to the public-land States of the Nation; and, above all, don't think for a moment that anyone is going to take anything away from the sovereign rights of the States, any one member of this committee. We are a states rights committee. We do see dangers in the offing. We do know the law with reference to this wildlife. We do see that Executive orders are made out without consulting Congress; and we don't want an Executive order to be made governing the subject of wildlife, which might be even more drastic than the present law as it stands,

which could be averted by careful study and promulgation of a statute that would bring the State, as a sovereign State, into close cooperation and progressive contact with the Federal Government. The Federal Government puts out millions and millions of dollars for the improvement of the public range, for the administration of the public range, and the Federal Government, under the court decisions of this country, has its rights as the owner of the public domain. The people have their rights; the sportsmen must have their rights protected, so that recreation and the sportsman's life may be fostered and promoted here; those who use the public domain for industries that bear the burden of taxation have their rights on the open public domain. It must be protected. So, out of all this, the committee hopes to work out a progressive statute. We thank you for your attendance here. We are exceedingly grateful for the frank and open expressions that have been presented here for the record, and we assure you that it has been a pleasure to the chairman of this committee to come back home and listen to some of the talk and language that he is accustomed to when his life was spent on the open public domain of this State.

Is there anyone here who has not registered, or left a card with his name and address on it? If so, he will do that before leaving.

Thank you very much. The meeting stands adjourned.

(Adjournment, 6:45 p. m.)

×

ADMINISTRATION AND USE OF PUBLIC LANDS

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON PUBLIC LANDS AND SURVEYS
UNITED STATES SENATE
SEVENTY-EIGHTH CONGRESS

FIRST SESSION

PURSUANT TO

S. Res. 241

(76th Congress—Extended by S. Res. 39, 78th Congress)

RESOLUTIONS AUTHORIZING THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS TO MAKE A FULL
AND COMPLETE INVESTIGATION WITH
RESPECT TO THE ADMINISTRATION
AND USE OF PUBLIC LANDS

PART 9

FREDONIA, ARIZ.

AUGUST 30 AND 31, 1943

PHOENIX, ARIZ.

SEPTEMBER 3 AND 4, 1943

Printed for the use of the Committee on Public Lands and Surveys



THE LIBRARY OF THE

APR 3 - 1944

UNIVERSITY OF ILLINOIS

COMMITTEE ON PUBLIC LANDS AND SURVEYS

CARL A. HATCH, *New Mexico, Chairman*

ROBERT F. WAGNER, <i>New York</i>	GERALD P. NYE, <i>North Dakota</i>
JOSEPH C. O'MAHONEY, <i>Wyoming</i>	CHAS GURNEY, <i>South Dakota</i>
JAMES E. MURRAY, <i>Montana</i>	RUFUS C. HOLMAN, <i>Oregon</i>
PAT MCCARRAN, <i>Nevada</i>	JOHN THOMAS, <i>Idaho</i>
CHARLES O. ANDREWS, <i>Florida</i>	RAYMOND E. WILLIS, <i>Indiana</i>
MON C. WALLGREN, <i>Washington</i>	EDWARD V. ROBERTSON, <i>Wyoming</i>
ABE MURDOCK, <i>Utah</i>	
EDWIN C. JOHNSON, <i>Colorado</i>	

W. H. McMAINS, *Clerk*

N. D. McSHERRY, *Assistant Clerk*

SUBCOMMITTEE ON SENATE RESOLUTION 241 (76TH CONG.)

PAT MCCARRAN, *Nevada, Chairman*

CARL A. HATCH, <i>New Mexico</i>	GERALD P. NYE, <i>North Dakota</i>
JAMES E. MURRAY, <i>Montana</i>	RUFUS C. HOLMAN, <i>Oregon</i>
CHARLES O. ANDREWS, <i>Florida</i>	
MON C. WALLGREN, <i>Washington</i>	
ABE MURDOCK, <i>Utah</i>	

E. S. HASKELL, *Chief Investigator*

ELIZABETH HECKMAN, *Secretary*

CONTENTS

FREDONIA, ARIZ.

Statement of—	Page
Adams, Merle V	2659
Allen, Myron H	2612, 2641, 2713, 2773
Anderson, Charles C	2609, 2620, 2666, 2712
Atkins, Joseph	2602, 2604
Rabbitt, James E	2669, 2704, 2815
Bowman, Harold I	2762
Broadbent, Rubin	2686
Brooks, L. R	2600, 2607, 2743, 2766, 2789
Bryant, Harold C	2634
Bundy, Roy	2806
Connor, W. S	2757
Cram, Milton	2781
Cram, Oram	2781
Crosby, Joshua A	2808
Curtis, E. A	2789
Day, Albert M	2619, 2642, 2729, 2742
Dierking, C. F	2604
Drury, Newton B	2607, 2615, 2689
Espino, Charles	2600, 2621, 2644
Farr, Dewey	2710
Findlay, Alec	2760
Findlay, John H	2625, 2638
Findlay, Merle	2647
Gardner, Wayne C	2578, 2579, 2596
Gray, G. J	2657, 2680
Havell, Thomas C	2623, 2711, 2735, 2751, 2814
Jackson, Elmer	2645, 2667, 2716
Jensen, Thomas	2640
Johnson, John H	2644
Jones, T. M	2639, 2651
Judd, C. W	2651
Judd, Daniel K	2652, 2658
Kartchner, K. C	2715, 2725, 2734, 2744
Keith, Mrs. J. M	2733, 2758, 2763
Kneipp, L. F	2587, 2648, 2654, 2655, 2658, 2661, 2666, 2677, 2716
Leech, J. H	2587, 2693, 2725, 2734, 2752, 2761, 2789
McKnight, Stanley	2693
Mace, George	2801
Mackelprang, W. J	2675, 2724, 2725
Mathis, W. B	2627
Matson, Andy	2818
Moroni, Ajax	2804
Page, John H	2578, 2672, 2719, 2730, 2750
Parry, C. W	2713
Parry, Gronway R	2695
Pooler, Frank C. W	2681
Pratt, E. B	2654
Pratt, Elwin	2654
Presley, Earl	2816
Riffey, John H	2638
Schoppman, John	2756
Smith, Charles	2644
Spear, S. A	2585, 2703, 2759
Spence, A. T	2685, 2742, 2761, 2765
Swapp, Donald	2620, 2646
Tillotson, M. R	2579, 2607, 2612, 2689, 2712
Waring, J. D	2622
Williams, O. C	2598, 2733
Woodhead, P. V	2649, 2656, 2682
Woolley, Arthur	2583, 2597, 2608, 2618, 2663, 2712, 2720, 2741
Woolley, Royal B	2668, 2676, 2717, 2756, 2761

PHOENIX, ARIZ.

Statement of—	Page
Babbitt, John G.....	2863
Bixby, Stephen L.....	2867-2868
Boice, Henry G.....	2954-2971
Brooks, L. R.....	2918
Brophy, William.....	2948
Brown, Eather.....	2988
Brown, S. C.....	2980
Campbell, Eugene.....	2, 64
Converse, James.....	2876-2861
Crosby, George E.....	2989
Doty, Dale E.....	3020
Embach, H. B.....	2923
Evans, R. Earl.....	2835
Ewing, R. B.....	2983
Fain, Norman.....	2828-2846-2873-2973
Hamblin, R. S.....	2987
Harless, Richard F.....	2959
Havell, Thomas C.....	2829-2843-2855-2880
Hayden, Carl.....	2880-2892-2908-2913-2923-2943-2976
Hays, Roy.....	2833
Hebbard, Sterling.....	2906
Kartchner, K. C.....	2878-3008
Keith, Mrs. J. M.....	2960
Kneipp, L. F.....	2838-2858-2881-2905-2966-2988
Knight, Harry S.....	2834
Lakin, Lloyd.....	2912-2920-2928
Lee, Jerrie W.....	2871
Leech, J. H.....	2847-2944
Lockett, Robert.....	2965
McFarland, Ernest W.....	2828-2841-2885-2501-2907-2923
McLeod, John A.....	2963
Medd, J. A.....	2867
Moeur, J. H.....	2891-2909-2931
Morgan, Jack.....	2874-2891-2915-2934
Murdock, John R.....	2856-2898-2973
Perkins, Robert E.....	2964
Phillips, Floyd H.....	2948
Roehl, Frank.....	2838
Ranstadt, Carlos E.....	2832-2854-2866-2933-2947
Rose, Robert H.....	2886
Scott, Simon E.....	2953-2972
Sharp, R. L.....	2968
Shute, J. W.....	2894-2915
Sikoquapluya, Emory.....	2948
Smith, Howard J.....	2841-2908
Smith, J. M.....	2855-2963
Spear, Stephen A.....	2997
Spence, A. T.....	3015-3018
Spencer, William.....	2852-2961
Taylor, Wayne.....	2839
Thurber, H. B.....	2837
Tillotson, M. R.....	2865
Udall, Henry.....	2986
Udall, Levi S.....	2940
Voight, A. W.....	2992
Webb, A. C.....	2960
Wickstrum, R. K.....	3011
Wilkinson, F. M.....	2869-2926-2934
Williams, O. C.....	2822-2840-2869-2900-2936
Wingert, Frank.....	2848
Winsor, Mulford.....	2879
Woodhead, P. V.....	2960-2986-2995
Young, W. B.....	2836

ADMINISTRATION AND USE OF PUBLIC LANDS

MONDAY, AUGUST 30, 1943

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON PUBLIC
LANDS AND SURVEYS,
Fredonia, Ariz.

Present: Senator Pat McCarran, chairman.

Also present: E. S. Haskell, special investigator.

The CHAIRMAN. This meeting will come to order.

This meeting is being conducted by a Subcommittee of the Committee on Public Lands and Surveys of the United States Senate, pursuant to resolution duly passed by the Senate, and especially called for in this section by a number of communications that have been received by the chairman of the committee and by the special investigator of the committee.

We regret exceedingly to have to report that members of our committee called to attend these meetings have had other engagements and are unable to attend here. We expect to have them all with us at Phoenix; but the record of proceedings is being taken very carefully here. Senator Hayden, of Arizona, and Senator McFarland, of Arizona, are especially regretful that they cannot be present. These Senators have had previous engagements and are now conducting those engagements. The record will be carefully kept, and the Senators will have that record before them for final consideration on matters that may be brought up here.

We wish that you would sign the cards that are being passed among you, with your name and address and what official position you occupy, or what place you might occupy in civil life, if you are the chairman or secretary of any group. We would be glad to have that information. This record will be the record of the attendance here. Copies of the hearings will be sent to those who sign these cards and to others who request them.

The list of those registered is as follows:

LIST OF PERSONS REGISTERED AT FREDONIA HEARINGS

Myron H. Allen, district grazier, Arizona strip grazing district, Grazing Service, Department of the Interior, St. George, Utah.	Rubin Broadbent, Jacob Lake, Ariz.
William L. Allen, 1617 East Ninth South, Salt Lake City, Utah.	Mrs. Rubin Broadbent, Jacob Lake, Ariz.
Chas. C. Anderson, Glendale, Utah.	L. R. Brooks, regional grazier, Grazing Service, United States Department of the Interior, Phoenix, Ariz.
J. O. Atkins, St. George, Utah.	John Brooksby, Fredonia, Ariz.
Anthony W. Atkins, St. George, Utah.	Joseph Brooksby, Fredonia, Ariz.
Rudyer C. Atkins, St. George, Utah.	Myron S. Brown, Fredonia, Ariz.
James E. Babbitt, State senator, Flagstaff, Ariz.	W. J. Brown, deputy game warden, Box 1667, Flagstaff, Ariz.
Merle V. Adams, Box 16, Kanab, Utah.	Harold C. Bryant, superintendent, Grand Canyon National Park, Ariz.
Harold I. Bowman, Jacob Lake, Ariz.	Roy Bundy, Mount Trumbull, Ariz.

LIST OF PERSONS REGISTERED AT FREDONIA HEARINGS—Continued

- W. S. Connor, chairman, Arizona Game and Fish Commission, Phoenix, Ariz.
 J. W. Chatterley, Kanab, Utah.
 A. W. Craig, Tuweep, Ariz.
 Milton B. Cram, Fredonia, Ariz.
 Cecil Cram, Fredonia, Ariz.
 Ormand A. Cram, Fredonia, Ariz.
 E. A. Curtis, Jacob Lake, Ariz.
 J. Calvin Croft, junior range examiner, Grazing Service, United States Department of the Interior, Cedar City, Utah.
 Albert M. Day, assistant director, Fish and Wildlife Service, Department of the Interior, Chicago, Ill.
 C. F. Dierking, regional grazier, Grazing Service, United States Department of the Interior, Reno, Nev.
 Dale E. Doty, Secretary's Office, Interior Department, Washington, D. C.
 Charles H. Esplin, Cedar City, Utah.
 Lee J. Esplin, St. George, Utah.
 Ward H. Esplin, St. George, Utah.
 Frank L. Farnsworth, Kanab, Utah.
 Dewey Farr, St. Johns, Ariz.
 Alex Findlay, Kanab, Utah.
 A. M. Findlay, Kanab, Utah.
 John F. Findlay, St. George, Utah.
 Phillip Foremaster, St. George, Utah.
 Ephriam Joseph Foremaster, Jr., St. George, Utah.
 Newell R. Frei, St. George, Utah.
 Rex R. Frei, St. George, Utah.
 Wayne C. Gardner, St. George, Utah.
 John C. Gatlin, regional director, United States Fish and Wildlife Service, Albuquerque, N. Mex.
 Weldon George, Fillmore, Utah.
 G. J. Gray, district forest ranger, Jacob Lake, Ariz.
 Leland S. Haws, grazier's aid, Grazing Service, Richfield, Utah.
 Glenn S. Hunter, deputy game warden, Arizona Game and Fish Commission, Box 782, Clarkdale, Ariz.
 Thos. C. Havell, General Land Office, Washington, D. C.
 Fay Hamblin, Kanab, Utah.
 Clark B. Hardy, United States Grazing Service, Kanab, Utah.
 Fred E. Heaton, Moccasin, Ariz.
 Gilbert G. Heaton, Moccasin, Ariz.
 Fred C. Heaton, Moccasin, Ariz.
 Charles C. Heaton, Moccasin, Ariz.
 Douglas E. Henriques, field examiner, General Land Office, Salt Lake City, Utah.
 Charles T. Hohenthal, field examiner, Branch of Field Examination, General Land Office, Salt Lake City, Utah.
 Elmer Jackson, Kanab, Utah.
 Thomas Jensen, Fredonia, Ariz.
 Fred W. Johnson, range examiner, United States Forest Service, Albuquerque, N. Mex.
 John H. Johnson, Tropic, Utah.
 P. Elmer Judd, Kanab, Utah.
 Carlos W. Judd, Kanab, Utah.
 D. K. Judd, Fredonia, Ariz.
 Warren D. Judd, Fredonia, Ariz.
 J. Owen Judd, Kanab, Utah.
 T. Willard Jones, Cedar City, Utah.
 Henry A. Jolley, Tropic, Utah.
 K. C. Kartchner, State game warden, Phoenix, Ariz.
 Mrs. J. M. Keith, secretary, Arizona Cattle Growers Association, 140 South Central Street, Phoenix, Ariz.
 Hugh E. Kent, Tuweep, Ariz.
 Dale H. Kinnaman, district grazier, Grazing Service, Richfield, Utah.
 L. F. Kucipp, Assistant Chief, Forest Service, United States Department of Agriculture, Washington, D. C.
 Edward T. Lamb, Mount Carmel, Utah.
 E. N. Larsen, fish and game commissioner, Hyrum, Utah.
 Carl Lausen, regional field examiner, General Land Office, Albuquerque, N. Mex.
 Joe H. Leech, Chief of Lands, Grazing Service, Department of the Interior, Salt Lake City, Utah.
 Ross Leonard, director, Utah Fish and Game Commission, Capitol Building, Salt Lake City, Utah.
 Frank Little, Kanab, Utah.
 W. J. Mackelprang, Jacobs Lake, Ariz.
 W. B. Mathis, St. George, Utah.
 Andy Matson, Flagstaff, Ariz.
 Charley McCormick, Fredonia, Ariz.
 D. L. McKinny, assessor, Coconino County, Flagstaff, Ariz.
 Stanley McKnight, Minersville, Utah.
 D. S. Moffitt, district grazier, Grazing Service, Kanab, Utah.
 John H. Page, attorney at law, Post Office Box 3706, Phoenix, Ariz.
 Frank C. W. Pooler, regional forester, United States Forest Service, Albuquerque, N. Mex.
 Elwin Pratt, Fredonia, Ariz.
 E. B. Pratt, Fredonia, Ariz.
 Francis A. Riordan, grazier, United States Grazing Service, Phoenix, Ariz.
 Allan C. Randle, Utah Fish and Game Department, Salt Lake City, Utah.
 John H. Riffey, park ranger, Grand Canyon National Monument, Tuweep, Ariz.
 Wallace N. Roundy, Escalante, Utah.
 Norman W. Sargent, United States Grazing Service, Kanab, Utah.
 John V. Schoppmann, Cedar City, Utah.
 Marcell E. Schmutz, St. George, Utah.

LIST OF PERSONS REGISTERED AT FREDONIA HEARINGS—Continued

John H. Schmutz, St. George, Utah.	P. V. Woodhead, assistant regional forester, United States Forest Service, Albuquerque, N. Mex.
Charles J. Smith, superintendent, Zion National Park, Utah.	N. F. Waddell, regional field examiner, Branch of Field Examination, General Land Office, Salt Lake City, Utah.
S. A. Spear, managing director, the Arizona Tax Research Association, 425 Heard Building, Phoenix, Ariz.	O. C. Williams, Arizona State land commissioner, Phoenix, Ariz.
A. T. Spence, Jacob Lake, Ariz.	Charles F. Moore, Grazing Service, Salt Lake City, Utah.
Lester Spencer, Escalante, Utah.	C. W. Parry, Kanab, Utah.
William G. Stambaugh, district conservationist, Soil Conservation Service, Flagstaff, Ariz.	Gronway R. Parry, Cedar City, Utah.
Donald C. Swapp, Kanab, Utah.	Arthur Woolley, attorney at law, 617 Eccles Building, Ogden, Utah.
M. R. Tillotson, regional director, Region 111, National Park Service, Santa Fe, N. Mex.	Royal B. Woolley, 2152 Adams, Ogden, Utah.
C. H. Vaughn, Fredonia, Ariz.	J. Allred, district grazer, Fillmore, Utah.
J. D. Waring, Fredonia, Ariz.	

The CHAIRMAN. There is one thing that I especially wish to emphasize. This committee is composed of western Senators, and we fully appreciate that the man out on the range, or out on the ranch, or out in the open, is not very much inclined to do very much talking in public. As a rule, if you can get out on the back-yard fence with him, and get a stick or two and whittle, you can talk to him. But to come into a public gathering they are usually rather reticent. We wish to dispel that reticence. We wish you to know that we are bringing the government to you. In other words, we are trying to bring the government to the people, so that if you have complaints, if you have problems that you think your Congress could solve, we want you to tell them to us. It doesn't make any difference how you express yourself, we will get your meaning. So don't hesitate; be at ease; talk freely; ask questions; for that is what we are here for. Above all, be at ease and tell us what you think, what improvements could be made with reference to the open public domain of the United States; what might be necessary to bring about better conditions.

There is one other matter that I want to emphasize here. I am going to emphasize it quite emphatically. You need have no fear of anything that you may express here. This committee is going to see to it that no Government agency, nor Government official, will effect reprisals on anyone who expresses himself freely here. The investigator for this committee will be on the ground, and we are going to see to it that the people have an opportunity to express themselves without fear of reprisal in any way, or fear of punishment.

Now, with that in mind we hope to go forward just as rapidly as possible. If there are those groups here, or individuals here, who have attorneys or representatives and desire that their attorney or representative speak for them or ask questions during the course of the proceedings here, they are welcome. But more than that, if any individual of any group, or any individual in the audience, will stand and give his name and address to the reporter of the committee, he may ask any question pertinent to the subject that is uppermost here.

The subject that is uppermost here is the administration and regulation and orderly use of the open public domain. It covers all phases of the open public domain, the forest, the Grazing Service, the Park Service, National Monuments, and every other phase that the open

public domain may take; and all matters pertaining to the open public domain, whether it be the grazing by domestic animals or grazing by wildlife, or the refusal to permit grazing, or anything else that pertains to the welfare of the open public domain and its orderly use. We will be here, and we will conduct this hearing, using every minute that we can during the time allotted to it. We may have to work a little late this evening, in order to cover the ground; and we may have to work earlier tomorrow morning than 10 o'clock. If those who are here live remotely from here but desire to attend the meeting continuously we hope you all may be able to remain close by so we can go on early in the morning and conclude whatever comes before us.

We are advised by our investigator that Mr. Page would like to make a statement. We would be very glad to hear from him.

Is Mr. Page present?

Mr. JOHN H. PAGE. Yes, sir; but, Senator, there is no hurry about that. We can do that later when some of the other more pressing business is finished.

The CHAIRMAN. Very glad to have you make it at any time.

Mr. PAGE. I think it will be just as well to make it a little later, Senator.

The CHAIRMAN. With that in mind, we will try to proceed along what we have tried to determine is an orderly fashion. We have presented to us by our investigator a program that we will try to carry out, but if at any time it does not appear to be orderly to carry this out please let the committee know.

Under the subject Lake Mead and Zion National Monument areas, especially the Lake Mead area—is Mr. Joseph Atkins in the room? Is Mr. Charles G. Anderson, or Mr. Charles Esplin in the room? Those gentlemen, according to the report of our investigator, desire to be heard on the subject of the Lake Mead area.

Mr. ROYAL B. WOOLLEY. They have not arrived yet, sir.

The CHAIRMAN. Is Mr. Wayne C. Gardner, of St. George, Utah, here? Would you care to be heard?

Mr. GARDNER. I think, Senator McCarran, I would like to be heard at such time as the reports of the others are in. I would like to be heard in connection with them.

The CHAIRMAN. Are there others to be heard on that subject?

Mr. GARDNER. Not that particular subject, but it has to do with the same policies with livestock, grazing in park areas.

The CHAIRMAN. Well, I suggest you come forward and make your statement now, since the others are not here. We have to proceed with some order here, in order to utilize the time.

Mr. GARDNER. Then it is proper, Mr. McCarran, that I come forth?

The CHAIRMAN. Yes; I think so. This is not in the order you would like, but we have to utilize the time and cover our subjects as much as we can. Please be at ease and have a seat here.

Mr. GARDNER. Should I discuss this for the benefit of the audience?

The CHAIRMAN. Your statements are made to the record for the committee. Sit where the reporter can hear you, and make your statement partly to the audience and partly to the committee. You won't have to convince the audience, but you may have to convince the committee. Will you please state your name for the record?

STATEMENT OF WAYNE C. GARDNER, ST. GEORGE, UTAH, CHAIRMAN, LOWER VIRGIN AND SANTA SOIL CONSERVATION DISTRICT, PRESIDENT, SOUTHERN UTAH-NORTHERN ARIZONA LIVESTOCK ASSOCIATION

Mr. GARDNER. My name is Wayne C. Gardner, St. George, Utah. I am a license holder in Zion National Park or Monument, or I might be termed a permittee. I have no grievance or complaints as to our local officers administering the park problems. In each and every case the superintendents and rangers, and all connected with the grazing of livestock in the addition to the park have been very fair and reasonable.

The CHAIRMAN. Now, you get your permit, Mr. Gardner, from whom? From the park authorities?

Mr. GARDNER. From the park authorities.

The CHAIRMAN. What is the extent of your permit, in numbers?

Mr. GARDNER. 1,450 sheep, during an approximately 3-week period of time in the spring of the year.

The CHAIRMAN. Do you graze in the Zion National Park?

Mr. GARDNER. No; it is in the addition to the park, or the monument.

The CHAIRMAN. How much land, if you know, is embraced within this addition to the monument? Can anyone here give us this information? Will the Park Service kindly give it to us? First of all, how much land is in the park itself, and how much in the addition, if you please?

Mr. M. R. TILLOTSON. Senator, I can give you the information.

The CHAIRMAN. Will you please state your name.

Mr. TILLOTSON. Mr. R. Tillotson, regional director, National Park Service, Santa Fe, N. Mex. Zion National Monument is 490,150 acres, and Zion National Park is 86,343 acres.

The CHAIRMAN. Approximately 50,000 acres in the addition?

Mr. TILLOTSON. Yes; approximately.

The CHAIRMAN. And eighty-odd thousand in the park itself?

Mr. TILLOTSON. Eighty-six thousand.

The CHAIRMAN. How long have you been running sheep in the addition to the park, Mr. Gardner?

Mr. GARDNER. Since its creation, and before it was created a park, I was in that area.

The CHAIRMAN. Had you been running livestock in that area before it was created a monument?

Mr. GARDNER. Yes, sir.

The CHAIRMAN. When was this monument created, please? How long has it been in there?

Mr. GARDNER. About 10 years.

The CHAIRMAN. Since the creation, or since you have run in the area? How long have you been running in that area, Mr. Gardner?

Mr. GARDNER. Since it was created, for approximately 10 years.

The CHAIRMAN. And before?

Mr. GARDNER. Yes.

The CHAIRMAN. Practically the same number?

Mr. GARDNER. Practically the same number.

The CHAIRMAN. When the monument was created, your right of grazing in there was recognized?

Mr. GARDNER. Yes, sir.

The CHAIRMAN. And you are licensed to run that same number in there each year?

Mr. GARDNER. Through an exchange of areas, my numbers were reduced with my consent, which was agreeable.

The CHAIRMAN. Have you got that information, when it was created?

Mr. TILLOTSON. January 22, 1937, was the date of the creation of the monument.

The CHAIRMAN. Was that by Executive order?

Mr. TILLOTSON. Yes, sir.

The CHAIRMAN. 1937. Well, now, have you any understanding with the Park Service, or any notice from them, as to whether or not you would be permitted to continue with the grazing of livestock in that particular monument?

Mr. GARDNER. Yes; it is my understanding that during my lifetime I shall enjoy the grazing privilege there.

The CHAIRMAN. But you have not the right to transfer or dispose of that by will or bequest, or to make any disposition of it?

Mr. GARDNER. That's right.

The CHAIRMAN. While we are on the subject, I don't think it would do any harm to interrogate the representatives of the Park Service in connection with it.

Is that the general policy of the Park Service, that those who have been using the area may continue to use it during their individual lifetime, but they cannot dispose of it?

Mr. TILLOTSON. That is the general policy; yes, sir.

The CHAIRMAN. Is there any exception to that policy?

Mr. TILLOTSON. There have been exceptions to that policy; yes, sir.

The CHAIRMAN. In what respect?

Mr. TILLOTSON. Where the privileges have been extended to the heirs; but those exceptions are rare; but there have been exceptions.

The CHAIRMAN. But the general policy is that no right or disposition or inheritance flows?

Mr. TILLOTSON. That's right.

The CHAIRMAN. You may continue, Mr. Gardner.

Mr. GARDNER. On that particular point, that is my concern at the present time, the right of assigning. I am not particularly interested, necessarily, in assigning for financial gain, so far as selling the right. But I am concerned in my own immediate family, of handing that right on to my sons.

The CHAIRMAN. You mean during your own lifetime?

Mr. GARDNER. Yes; and that it might continue in the family. This policy no doubt has not worked a hardship in times past; but at the present time, with the Federal range all under control, one's operation is no stronger than its weakest part. This plays a very vital part in any livestock operation, for a 3 weeks season of time. I leave the Dixie country, near St. George, when the annual spring growth has dried, and it is not possible to remain in the lower country longer at that season of the year. My mountain grounds are covered with snow. It is that in-between time that is one of the most vital parts of my 12 months' operation.

The CHAIRMAN. Let's get that a little clearer. Mr. Gardner, you enjoy grazing rights under the Taylor Grazing Act?

Mr. GARDNER. Yes, sir.

The CHAIRMAN. Do you enjoy any rights under the forest?

Mr. GARDNER. I have no forest rights.

The CHAIRMAN. What is your high range?

Mr. GARDNER. Cedar Mountain Range.

The CHAIRMAN. Under what jurisdiction does that come?

Mr. GARDNER. Private ownership.

The CHAIRMAN. So that you use your Taylor Grazing land in the early spring and in the winter, I take it?

Mr. GARDNER. Yes, sir.

The CHAIRMAN. Then you use the Park or Monument Service in an intermediate period between your spring and your late summer?

Mr. GARDNER. That is right.

The CHAIRMAN. And your high range is covered with snow until the midsummer; is that right?

Mr. GARDNER. Normally until the 15th or 20th of June.

The CHAIRMAN. I see; so that this Park or Monument territory which you have used in the past, and which you were using at the time the monument was set up, is vital to an orderly arrangement of your unit?

Mr. GARDNER. Yes; it is very vital.

The CHAIRMAN. What would be the result if you were to sell your economic unit, and a denial was entered to the right to use the monument?

Mr. GARDNER. Well, it would hamper considerably the 12 months operation. You couldn't pick a more vital time. The lambs are born early, and the value of the mountain range is to fatten the lambs, of course; and during a 3 weeks' period of time, right when they are at an age when they should be thriving and coming, to know where to go with them would be a problem.

The CHAIRMAN. To hold them in the lower country sets them back because of the drying up?

Mr. GARDNER. The annual growth dries to a brown, and it isn't possible for them to remain in the low country.

The CHAIRMAN. And it isn't possible for them to get into the high country at that period of the year?

Mr. GARDNER. No. The ranch is approximately 9,000 feet high.

The CHAIRMAN. What does that do with reference to the value of your unit for sale?

Mr. GARDNER. Well, it is just a weak spot. It would weaken it from any angle you might figure it. If that was taken from it, taken from the set-up—forget the individual concerned—if it was taken from the livestock set-up it would definitely weaken it. You can forget about the individuals in it.

The CHAIRMAN. What have you to say about that, Mr. Tillotson?

Mr. TILLOTSON. Undoubtedly it would, as Mr. Gardner says, weaken his possibility of sale. But it has been the departmental policy to continue the grazing rights of those who had prior existing rights, upon the establishment of the monument, with the understanding that they would not extend beyond the lifetime of the permittee. The thought there being that this would give them ample opportunity to seek other range, and dispose of their stock, rather than to deny the privileges immediately upon the establishment of the monument.

The CHAIRMAN. I am addressing this question to the policy, and not to the individuals, if you please. If the park policy continues to be augmented—if we set up more parks and more monuments—the time will come when we will have an entire doing away with the grazing on the open range.

Mr. TILLOTSON. That is assuming the parks and monuments will cover the entire open range, yes.

The CHAIRMAN. In the Jackson Hole incident, recently brought to the attention of the West, they didn't cover all the open range. They still left a little in Wyoming.

I want to bring that to the attention of the proper people. I am glad there are members of the Park Service here, because, to be very frank with you—and I don't speak individually, I speak and address myself directly to the question of policy, entirely—the western country depends largely on livestock. I don't need to tell you this because you know it better even than I do. A ranching unit in this country is not very valuable without livestock; and if we increase the parks and monuments throughout the country, and this policy is pursued, we are impairing the livestock industry as we increase the parks and the monuments. The tax structure of these States and these communities is very much involved because, as we reduce the livestock, by whatever agency, we reduce the income for the maintenance of government, and increase the tax on those who do remain. It does seem to me that the Park Service should have this matter brought to their attention, to the end that something more progressive may be hit upon. As the chairman of this committee sees it, there should be a more progressive program, and one more conducive to the development of agricultural life in the West. Such a program should be established.

You may proceed, Mr. Gardner.

Mr. GARDNER. From a conservation standpoint I am willing, and have stated to the park officials that I would be glad, to have the livestock counted on at a given date, and I would be willing to follow any conservation program they may suggest in the use of the range in the area. I feel ultimately that I would be benefited, as a livestock producer, and I could not be pointed to as one who had marred the national monument with my livestock. I think the park officials will agree that since my use in the new area that I am using that it shows marked improvement. I think, too, where a highway goes through I would be glad to adjust and move back from any use to be made in there. I am willing and anxious to cooperate from a conservation standpoint, but I cannot see the consistency of ultimately being denied the right to graze in the area, so long as I am conserving the natural forage and covering of the range in the area, and not marring or destroying in any way the scenery or vegetation to the point where the area shows erosion or an overgrazed condition or a marring in any way.

My concern, as I have stated, is that this right will cease at the end of my lifetime, and that my boys will not enjoy the benefit of this use at such time as I may pass out of the picture and pass it on to them; because I have built, in acquiring range rights on the Federal range and acquiring private range, a 12-month operation, and I don't know where I could turn, or where money could buy the range to supplement the use that I have been making of the national monument.

The CHAIRMAN. This 1,200 sheep; is that the total amount of sheep that you run?

Mr. GARDNER. No; I run more than that. I have what might be termed "dries," which I eliminate when I start for the mountains with my lambs.

The CHAIRMAN. You keep your "dries" in another place?

Mr. GARDNER. Yes, I have them in another area.

The CHAIRMAN. Do you have anything else you wish to say on this subject?

Mr. GARDNER. As I am stating, I am not complaining about the local park officials, but it is a policy bearing not only in this area but in all park areas. The park officials have been very fair and reasonable, and very cooperative in every way. It has been a pleasure to be associated with them as they do business in a cooperative way. I haven't the slightest complaint on the administration other than the policy that has been established.

Mr. ARTHUR WOOLLEY, attorney at law. With respect to the use by the Park Service of the monument, for either departmental purposes or bureau purposes, or scenic use by the public, what, if any, interference have you observed by your sheep operation with that functioning of the area?

Mr. GARDNER. So far as I know, no disturbance. There wasn't a road in the area at the time—it is only a pack trail, and, of course, because of war conditions roads and trails haven't been developed. What will be developed back in normal times I don't know but I will be glad, as I stated, to cooperate in any way in getting back from anything that would interfere with the public.

Mr. ARTHUR WOOLLEY. So actually the park has made no change in the set-up, or lay-out, for the area, at all?

Mr. GARDNER. No, other than the exterior boundaries; marking the boundaries.

Mr. ARTHUR WOOLLEY. Is there anything there other than natural scenery?

Mr. GARDNER. No.

Mr. ARTHUR WOOLLEY. No historic monument of any kind in the area?

Mr. GARDNER. Not in the area.

There is one other point that has been suggested, that a part of the area might be turned back to Federal range. I am wondering though, as a policy, whether it is a common practice to turn any part of an area that has been assigned to them back for any other use? It seems like quite a duplication to those of us who see the area. Maybe we don't appreciate it to any extent; but it seems more or less a duplication of the same thing, the same type of scenery, and taking in so much area. From the grazer's standpoint, we aren't able to see the justification of it; but, of course, we will allow we were raised in it, and probably we don't appreciate it to the fullest extent.

The CHAIRMAN. Does the regional superintendent of the park care to discuss that phase at this time, why the park was set up, and the monument was set up, and what, if any, natural objects it has which brought it within the monument law?

Mr. TILLOTSON. You are speaking of Zion National Monument, is that right?

Mr. GARDNER. Yes.

Mr. TILLOTSON. It was set aside purely for its scenic features.

Now, to answer your specific question as to reduction in size, you asked if that could be done?

Mr. GARDNER. Yes.

Mr. TILLOTSON. That has been done in other cases, where it was found that the area was greater than required for national park purposes. For instance, Grand Canyon National Monument, right here on the Arizona Strip, was established by President Hoover with an area of 273,145 acres. That was recently reduced to 201,291 acres.

The CHAIRMAN. Reduced to what, please?

Mr. TILLOTSON. Reduced to 201,291 acres. That reduction took place in April of 1940, simply for the fact that it was determined that there was a greater area in the monument than was necessary for monument purposes. So, to answer Mr. Gardner's specific question, it can and has been done. I hope that answers his question.

The CHAIRMAN. Now, will you tell me, while you are on your feet, please, will you state to the committee why this policy, as far as you know, has been established, which terminates grazing after the lifetime of those who occupy the territory, and why it is then turned into a monument?

Mr. TILLOTSON. Yes, I'll be glad to.

The mandate of Congress to the National Park Service in caring for the national parks and monuments is that they shall be maintained in their natural condition. We feel that cannot be done so long as outside interests, such as grazing and water-power development, lumbering, and the like, or any of those operations, are carried on in a park. But it is also obviously unfair, with the establishment of a park area, immediately to discontinue the grazing privileges of those who have had prior existing rights. Consequently the policy has been established of allowing those to continue during their lifetime. Now, does that answer your question, sir?

The CHAIRMAN. Partially so; at least if that was a mandate of Congress. But I want to take a little issue with you, that Congress never contemplated that a whole countryside would be turned into a monument.

Mr. TILLOTSON. Of course, that has to do with the extent of the area, not with the primary purpose of the individual areas.

The CHAIRMAN. One other thought comes to me that I think might be well for you to discuss while you are on your feet, and that is, assuming that that is the mandate of Congress, and assuming that you would carry it to the extent that you have just stated—to which I cannot find myself in accord at all, but assuming that, for the sake of argument—does it not increase the fire hazard in any area when it is not grazed off to a proper extent?

Mr. TILLOTSON. Not necessarily. It does increase the growth of the grass and weeds, and so forth, which dry up, and in that way become a fire hazard. I presume that is what you refer to. But, on the other hand, whenever there is human use in an area, no matter how careful a man may be with his campfires, and so forth, the human usage increases the fire hazard. However, I would say that the net increase in the fire hazard is not appreciable.

The **CHAIRMAN**. These monuments are not set up for the purpose of having them become sacred. They are set up for the purpose of having the public enjoy the scenery, and see the natural objects in their natural state; so you have human use all the time. That is the real purpose.

Mr. TILLOTSON. That is right.

The **CHAIRMAN**. That is the real purpose of the setting up of the monument. Now, as you increase human use, and you decrease the usage which grazes off the grass and weeds and underbrush that afterward becomes dry, it seems to me that the two running together constitute a greater hazard than if the surface of the monument were properly and systematically grazed off. Now, that is the way it appears to just an ordinary layman.

Mr. TILLOTSON. Well, perhaps a representative of the Forest Service, where grazing is carried on to a much larger extent, naturally, by the nature of the area—perhaps he could give us some idea as to the relative fire hazard in grazed or ungrazed areas.

The **CHAIRMAN**. Well, I don't know; here we are running up against that same old thing; one department passes the buck over to another one.

Mr. TILLOTSON. I am just asking for their experience, their experience in grazing.

The **CHAIRMAN**. Well, I don't mean that critically. You see, I see it so often. But do you take issue with my thought, just expressed there, that first of all—let me tear it down again—first of all your monuments are made for the enjoyment of the public.

Mr. TILLOTSON. Certainly.

The **CHAIRMAN**. So whenever you invite the public to come into your monument section—now, then, you say you want to maintain it in its natural state, and, therefore, you do not want it grazed off. We know that where there is no grazing grass accumulates, weeds accumulate, and brush accumulates, and they dry up. Even in the early history of this country, before we knew of very much humanity being here, fires occurred from one source or another, and great destruction took place. Now, do you take issue with the proposition that if this was a systematic, economically grazed area, that it would reduce the fire hazard?

Mr. TILLOTSON. Do you mean by consuming the forage?

The **CHAIRMAN**. Yes.

Mr. TILLOTSON. Yes; naturally it would decrease the amount of the dry material on the grounds in the way of grass and weeds.

The **CHAIRMAN**. That is the thought that I wanted to get clear. I was only expressing the thought with the hope that we might be able to get a modified policy.

Mr. TILLOTSON. So long as you are talking about fire hazard only.

The **CHAIRMAN**. Yes; that's right.

Mr. STEVE A. SPEAR, Phoenix, Ariz. I would like to ask one question at this point. I think it might be of interest to have this question answered; we all recognize the frailty of human life. Supposing Mr. Gardner was to lose his life on the way home from this meeting. How long before he would be wiped off the park? What would be the procedure for liquidating his outfit?

The CHAIRMAN. Will the Park Service answer the question? We don't like the premise, but it is a good one.

Mr. TILLOTSON. If Mr. Spear is talking about ordinary times, I should say that at the expiration of this grazing season he would, as you say, be "wiped off the map." But during wartimes grazing permits have been issued on a 3-year basis, and, during the wartime, Mr. Gardner's permit would be for a period of 3 years.

The CHAIRMAN. Let's put another condition to it. Supposing the war should terminate next week, and anything should happen to Mr. Gardner, when would it ordinarily terminate?

Mr. TILLOTSON. I should have modified my statement a little bit. Permits are issued for a period of 3 years, or 6 months, I believe, after the end of the war.

The CHAIRMAN. Now?

Mr. TILLOTSON. Now.

The CHAIRMAN. Very well, you may proceed, Mr. Gardner.

Mr. GARDNER. I would like to make this statement, that the Park Service have called in the committee from the Grazing Service. I don't know just what constitutes that committee, whether it is the chairman of the advisory board, or the representative, or the district grazer, but they have called them in, in going over licenses or permits in the park. I would like to commend them for that fine cooperation, and for the cooperation between the two departments, both departments being under the Department of the Interior, and, as a matter of suggestion, I can't see why it wouldn't be possible that, both being under the Department of the Interior, for the Grazing Service to handle the grazing problems in parks and monuments. That is my hope and my ambition.

Mr. ARTHUR WOOLLEY. Mr. Gardner, are there others situated similarly to you in the use of the monument?

Mr. GARDNER. Yes; a number of others.

Mr. ARTHUR WOOLLEY. About how many?

Mr. GARDNER. Well, in the monument area I would say possibly three or four, and in the park a good many more.

Mr. ARTHUR WOOLLEY. Is it true that in Zion Park, the 86,000 area, as far as the top lands are concerned, those are in a similar situation to the monument, as you have discussed it here?

Mr. GARDNER. Yes; that's right.

Mr. ARTHUR WOOLLEY. About how many are there on the whole top park area that use it for grazing.

Mr. GARDNER. I am not prepared to say, as I am not acquainted with the use in there.

Mr. ARTHUR WOOLLEY. Did you want to discuss this matter of procedure in appeal?

The CHAIRMAN. Yes; I wanted to get to that later on, but I do want to conclude this subject first.

It has been suggested, and I am going to follow out the suggestion, I would like to have the Forest Service, Mr. Kneipp, discuss the matter of fire hazard with reference to grazing.

Mr. J. H. LEECH. Mr. Chairman.

The CHAIRMAN. Yes, Mr. Leech?

**STATEMENT OF J. H. LEECH, CHIEF OF LANDS, GRAZING SERVICE,
SALT LAKE CITY, UTAH**

Mr. LEECH. I want to comment in connection with Mr. Gardner's statement of the cooperation between the Grazing Service and the National Park Service. They operate under an agreement.

The CHAIRMAN. Who operates?

Mr. LEECH. The Park Service and the Grazing Service. They have a memorandum of understanding, approved by Secretary Ickes on February 20, 1940, to the effect that if licensees in a grazing district also use the monument that they have joint meetings between the users and representatives of the Park Service and the Grazing Service; and, under that agreement, also in some monuments we administer grazing for the Park Service.

The CHAIRMAN. In other words, in some monuments your Grazing Service administers and regulates the grazing for the Park Service?

Mr. LEECH. For the Park Service.

The CHAIRMAN. But is there any difference in policy under those conditions? Which policy is used? What I refer to as the permanent policy?

Mr. LEECH. No; the policy on that would be the Park Service policy.

The CHAIRMAN. So you exercise that same mandate?

Mr. LEECH. Yes, sir.

The CHAIRMAN. Have you ever known of a change of that policy?

Mr. LEECH. Not personally, Senator, I have not; no, sir.

The CHAIRMAN. In other words, I think we may assume that by and large, it is quite a definite policy of the Park Service of the Interior Department that, where grazing is conducted in a park or monument, it terminates with the life of the permittee?

Mr. TILLOTSON. That is right. There have been some exceptions.

The CHAIRMAN. And the permittees are limited to those who were using that particular area at the time the monument or park was set up?

Mr. TILLOTSON. That is right.

The CHAIRMAN. So that is the policy that addresses itself now to the committee of the Senate, and which we want to consider.

Now, I would like to have Mr. Kneipp discuss the matter from his own experience and training in the Forest Service, as to what he regards, or how he regards grazing with reference to fire hazard.

**STATEMENT OF L. F. KNEIPP, ASSISTANT CHIEF, FOREST SERVICE,
UNITED STATES DEPARTMENT OF AGRICULTURE, WASHINGTON, D. C.**

Mr. KNEIPP. Why, Senator, there are, of course, all kinds of variations, dependent on different conditions, but generally speaking it is the opinion and experience of the Forest Service that the removal of inflammable vegetation by grazing reduces the fire risk, and the difficulty of protecting a national forest, to a far greater extent than that risk is increased by the presence of the men handling the livestock. In general, on the 82,000,000 acres of national forest, where domestic

livestock graze, grazing is regarded as an important factor in fire control.

The CHAIRMAN. Thank you. Now, as to the Grazing Service, Mr. Leech, I understand that you speak for Mr. Rutledge, the Chief Grazier?

Mr. LEECH. That is right, Senator.

The CHAIRMAN. What have you to say to the same question?

Mr. LEECH. I would answer it in the same way that Mr. Kneipp has.

The CHAIRMAN. Very well. Is there anyone else here in this audience who would care to discuss this particular subject? If not, we will pass on to another subject.

You also utilize the open public domain under the Grazing Service, do you not, Mr. Gardner?

Mr. GARDNER. Yes, sir.

The CHAIRMAN. Did you have anything to do with the promulgation of the grazing code?

Mr. GARDNER. Yes, sir. I was a member of the national council.

The CHAIRMAN. And how does that grazing code operate down here in this particular section?

Mr. GARDNER. Generally speaking, very effectively.

The CHAIRMAN. Have you any comment or discussion that you wish to make or enter into with reference to the operation of the grazing code?

Mr. GARDNER. I think the power given the advisory board in the modification of the code and the McCarran amendment was one of the finest things that has taken place. I think our advisory boards in the various districts are prepared, because of their first-hand knowledge of individuals and range rights and conditions, to adjudicate the rights and to maintain the policy of the Grazing Service, but there are some phases of the code I think could be improved on.

I think our appeal system, and the handling of appeals, and the rights of the license holders, could be improved on. The code has been worked over a time or two, and we have been given every opportunity, as representatives of the advisory boards from the various districts in the national council; we were given the best legal advice the Government could afford, and the finest cooperation that was possible. We prided ourselves on the fact that we wrote our own code to govern the Federal range—something, I think, that is outstanding in the history of our country when it comes to administering public-lands affairs. That is something of a source of pride to all of us.

However, like any law or rule that may be made, there is disappointment at times in the way that the intent is carried out. Now, specifically, in the appeal system, I don't feel that normally the license holder is—or he is beginning to feel that he does not have a fair chance when he is denied a license and has to go through the course of the appeal system to be heard.

The CHAIRMAN. Right there, let's pause. What are the steps in the procedure? Let's start at the beginning. By the way, is there a copy of the grazing code here?

Mr. LEECH. Yes, sir, Senator.

The CHAIRMAN. May we have it?

Mr. LEECH. Mr. Gardner is addressing his remarks to section 9.

The CHAIRMAN. Well, I'm going to ask that we start right at the beginning. How is a grazing right acquired, in the first instance, under the Taylor Grazing Act and under the code as it now exists here?

Mr. GARDNER. One must have had a priority during the years of priority specified by the code.

The CHAIRMAN. Those were 5 years prior to the setting up of the statute?

Mr. GARDNER. Yes; there was a 5-year period, or the priority period; any 2 consecutive or any 3 years from June 28, 1929, to June 28, 1934.

The CHAIRMAN. That is the 5 years immediately preceding the adoption of the statute?

Mr. GARDNER. Yes, sir.

The CHAIRMAN. Now, if one had a right, and was exercising that right, or was grazing on the open public domain, any 3 years in the 5 prior to the setting up of the statute, he would have the right to apply for and secure a grazing permit. Is that correct?

Mr. GARDNER. That is correct. There are other factors to take into account, of course.

The CHAIRMAN. What are the other factors?

Mr. GARDNER. The ownership or control of base rights, either land or water, or a combination of land and water.

The CHAIRMAN. As regard those base rights in this particular section, what has your board adopted, the land or the water, or a combination of both?

Mr. GARDNER. Speaking for Arizona 1, water has been adopted.

The CHAIRMAN. Now, in order that the record might be clear, will you kindly state what that means in just every day ordinary understandable terms?

Mr. GARDNER. The Arizona Strip has been noted for a dry area, as being dry, drained as it is by the deep gorge, the Grand Canyon; and water has been at a premium since the pioneers settled this country. There has been a use by Utah users, where they overlapped, or came into Arizona in the winter, on snow or stored reservoir water, and there was an agitation and controversy for some time as to whether Utah land should have a preference over Arizona water. But, after taking all factors into account, the Grazing Service, through cooperation with the advisory board, has definitely settled that Arizona should be set up on water, as was New Mexico, and its base rights were to attach to all controlled water, live or stored. That was the way the district was set up and is now operating.

The CHAIRMAN. All right. Now, then, after that, what is the next step in securing a permit to graze?

Mr. GARDNER. The limiting factor might be termed the available Federal range. We may have both those factors in our favor, but Federal range would be limited, and it would have to be adjudicated in proportion to others who are in the same classification as yourself.

The CHAIRMAN. Now, then, supposing one applied for a permit to graze on the open public domain, and set up his right, and he was denied the right. By whom would that denial be made?

Mr. GARDNER. By the advisory board and the Grazing Service.

The CHAIRMAN. And supposing that party against whom a denial was entered sought to carry his case to a higher authority. Under the code, what would he do?

Mr. GARDNER. He would first come back to the advisory board, at a regular set meeting, known as an appeal meeting, which, in most cases, takes care of any grievances, because the board will reconsider their denial, on additional evidence or facts, and, if they feel they have erred in denying the license, the license is granted. If not, the license is denied. Then it is the right of the license holder to be heard before the examiner, or the representative of the Grazing Service in a special hearing.

The CHAIRMAN. Before whom?

Mr. GARDNER. Before an examiner of the Grazing Service.

The CHAIRMAN. Are there regularly appointed and acting examiners?

Mr. GARDNER. Yes, sir.

The CHAIRMAN. Is there an examiner for this particular section?

Mr. GARDNER. The examiner as I understand—Mr. J. H. Leech is chief examiner. He has his deputies, who are assigned to various parts of the Federal range in the 10 Western States.

The CHAIRMAN. Now, Mr. Leech, may I interrogate you at this point? As chief examiner, when an appeal is taken what do you do?

Mr. LEECH. On that, Senator, I want to go back just a little to Mr. Gardner's remark about an appeal meeting before the advisory board. That is a protest meeting. After any applicant receives a notice from the board and the district grazer, he may protest that action, and the advisory board may adjust it with the district grazer. Now, if he is dissatisfied with the results of that protest meeting, he files an appeal. He files that with a regional grazer's office, and the regional grazer receives that appeal, looks it over, goes thoroughly into it, usually goes out, or has one of his men go out and see this appellant and try to adjust the matter. If he cannot, he forwards the appeal to my office in Salt Lake City. After we receive the appeal—

The CHAIRMAN. Now, right there, when he forwards the appeal to your office in Salt Lake City, does he do so without comment, or does he do so with his comment or decision attached?

Mr. LEECH. The regional grazer, when he forwards the appeal, comments as to whether or not he has been able to come to a satisfactory adjustment with the applicant. The appeals there are docketed in my office, and we advise the regional grazer of a period of time that an examiner will be in his region. Now, like for Arizona, we might advise Mr. Brooks that between the dates of October 1 and October 20, that we would have an examiner to hear the appeals in the State of Arizona. Then he would set one of those dates at a convenient place, where the district grazer and members of the advisory board and the appellant's witnesses and intervenors can come in. They would be placed under oath, and testify before this examiner. The examiner, after the hearing, renders a decision, a written copy of which is furnished by registered mail to the appellant.

The CHAIRMAN. Is a transcript of the proceedings had?

Mr. LEECH. A transcript of the proceedings is had, and is available to anyone who wishes to buy a copy for 5 cents a folio. Now, after the receipt of the examiner's decision, if the licensee or permittee or

appellant feels that he is not satisfied, he may appeal to the Secretary of the Interior. The entire case record then goes to the office of the Secretary, and a decision is rendered by the Secretary.

The CHAIRMAN. How long, as a rule, does that procedure take, from the time the applications are first acted on by the local board, advisory board, and the local grazier?

Mr. LEECH. Well, that would vary, Senator, in different cases.

The CHAIRMAN. In different cases?

Mr. LEECH. Yes; it might take longer to determine the one case than it would another.

The CHAIRMAN. Why would that be?

Mr. LEECH. Depending on the complexity of the case, the preparation of maps, the studying of the testimony and the exhibits.

The CHAIRMAN. Let's take the first step first. How long would it be after the appeal was taken before the examiner from your office would be on the ground and go into the case?

Mr. LEECH. Well, in some cases that happens within 30 days, Senator. More ordinarily it may be 4 or 5 months, depending on whether an examiner is available to go into that region, and also whether or not the regional grazier and the appellant—many times they think they can work it out by going on the land and talking to the intervenors, because usually the appeal of one stockman involves the privileges or rights of maybe two or three others, and you have to get those all together before you can adjust that range-line agreement, or this appeal for use.

The CHAIRMAN. Now, from the time it gets to the point of decision by your examiner, after your examiner decides, does it go to your office directly, or to you directly?

Mr. LEECH. The examiner works directly out of the office of the director. At the present time the two examiners are functioning. I hold some of the cases, and Mr. Williams is holding the bulk of the hearings at this time.

The CHAIRMAN. Is Mr. Williams here?

Mr. LEECH. No, sir; he is holding some hearings in Utah at this time.

The CHAIRMAN. How long has Mr. Williams been engaged in that line of business?

Mr. LEECH. Mr. Williams has been in the Department of the Interior, the General Land Office, the Grazing Service, and the Division of Investigations for, I would say, since 1916 or 1915.

The CHAIRMAN. He is not here now?

Mr. LEECH. No, sir.

The CHAIRMAN. Is he far remote from here?

Mr. LEECH. This is the 30th. He has a hearing in Price, Utah, I believe, on the 2d, and one in Salt Lake City tomorrow.

The CHAIRMAN. How long since he has held a hearing in here?

Mr. LEECH. In the Arizona Strip? I believe the last hearings were sometime in May or June.

The CHAIRMAN. Have you a list of the cases that he passed upon at that hearing?

Mr. LEECH. I have available here, Senator, a list of all the cases that have been appealed in the State of Arizona from 1936 to 1941, and I believe I have a list of the cases—

The CHAIRMAN. Have you a list of the dates of the filing of those cases, and the dates of decision?

Mr. LEECH. No, sir; I do not.

The CHAIRMAN. Have you any record that would enlighten the committee as to the time involved in each particular case?

Mr. LEECH. It would be very difficult, Senator, to give an estimate of the average length of time. I would be glad to have those prepared for the committee, a complete list showing the date the appeal was filed, the date heard, the date of the examiners decision, and the date of the Secretary's decision, if an appeal was taken to the Secretary.

The CHAIRMAN. I think the committee would like to have that.

Mr. LEECH. I will have that prepared and submit it, Senator.

Now, I believe Mr. Gardner may be speaking of his own appeal, which is involved with a case with Mr. Lamereaux, and some others, which is now pending before the examiner who took the testimony. I intend to review that.

The CHAIRMAN. Who was that examiner?

Mr. LEECH. That was Williams. I intend to review that record.

The CHAIRMAN. When was that case heard before the examiner?

Mr. LEECH. I believe, Senator, speaking from memory, without the record before me, that it was in May. Is that right, Wayne?

Mr. GARDNER. I think February, Mr. Leech.

Mr. LEECH. February?

Mr. GARDNER. Yes.

The CHAIRMAN. That has not been decided?

Mr. LEECH. No, sir; it has not.

The CHAIRMAN. Any good reason for a delay of that kind?

Mr. LEECH. I'm sorry, I do not think so, Senator, except the pressure of business, and the delay of getting the transcript from that particular record. We no longer have any reporters to accompany the examiner.

The CHAIRMAN. I beg your pardon, what was that last expression?

Mr. LEECH. I say that at the present time the reporters that we had are all in the Army, and when the examiner goes out to hold a hearing now he has to either use a clerk from the district office of the Grazing Service, and they are not supposed to be reporters, or he has to circulate around and employ whoever he can. That is one of the reasons that they are delayed. I have made every effort, Senator, in the past, to have these decisions out within 30 days after the hearing.

The CHAIRMAN. This case has gone to the Secretary of the Interior. hasn't it, on one or two occasions in the past?

Mr. LEECH. I believe in the past it has been appealed to the Secretary on different issues than are involved in this particular case, Senator.

The CHAIRMAN. Has there been a decision by the Secretary's office?

Mr. LEECH. There was a decision in the case of Milo Brook. That was the title of the case, wasn't it, Wayne?

Mr. GARDNER. Yes, sir.

Mr. LEECH. Involving some of the intervenors. That case was heard in, I believe, 1940. I would not say that the same issues were involved in that case, though, as are involved in the present one pending before the examiner.

The CHAIRMAN. Was that decided?

Mr. LEECH. The decision of the Secretary in the *Milo Brook* case directed that certain permits under section 4 of the act, authorizing

the maintenance or construction of improvements, be issued in order to repair or maintain water developments, that it was contended had been prior waters used between 1929 and 1934.

The CHAIRMAN. I am rather concerned, or the committee will be rather concerned, with the general policy, addressing itself to the question of time rather than to the merits of the controversy. The merits of a controversy, if it be a controversy, that is, addresses itself to a broad field, and that is one thing. If it is an individual controversy, the committee would not care to inject itself into the procedure, to sit in judgment, but rather to a policy, if there be a policy of delay, and I say frankly to you that the committee has had its attention drawn to this. If there be a policy of delay, justice delayed in a grazing case is justice denied in a grazing case, as much as any other. That is the thing we are driving at, is this delay.

Mr. LEECH. I believe, Senator, when I furnish the committee a list of the cases that it will show that early action has been taken in the great majority of cases.

The CHAIRMAN. As regards an appeal to the Secretary, what is the period of time usually involved before a decision is handed down?

Mr. LEECH. I believe at the present time, Senator, appeals are received out of the Secretary's office in 60 to 90 days.

The CHAIRMAN. How soon after the appeal is taken to the Secretary does it leave your office?

Mr. LEECH. That depends upon whether the appellant has served the brief and copy of the appeal on the intervenor. If he has not, that is called to his attention, and he is directed to do so. Then the intervenor may file an answering brief. He is allowed 30 days in which to do that. Then, the entire record is forwarded to the Department.

The CHAIRMAN. Now, when one of these examiners comes out of your office he usually comes alone to conduct the hearings?

Mr. LEECH. Yes. At the present time he comes alone because he does not have any reporter to accompany him. The district grazier or regional grazier may accompany him to the place of hearing.

The CHAIRMAN. Will you try to see to it that these examiners occupy and maintain a fair and impartial attitude in every respect?

Mr. LEECH. Yes; in every respect, Senator.

The CHAIRMAN. If you were advised otherwise you would, of course, look into it immediately, would you?

Mr. LEECH. I would do so; yes, sir.

The CHAIRMAN. Very well. Is there anything else you wish to say on that?

Mr. LEECH. This list of cases and dates, you wish that to just cover the Arizona strip or the entire 10 States?

The CHAIRMAN. Well, I think we had better stay with the Arizona strip for awhile.

Mr. LEECH. All right, sir.

(The tabulation of appeals and hearings is as follows:)

Appeals and hearings, Arizona—Arizona strip district

Appellant	Intervener	Date			Examiner's decision	To Secretary	
		Appeal	Hearing	Decision		Appeal	Decision
1936:							
Bonal, J. F.		Apr. 14, 1936	May 15, 1936	May 29, 1936	Sustained.		
Brinkhoff, A. R.		Oct. 17, 1936	Nov. 17, 1936	Nov. 17, 1936	do.		
Cameron, H. V.		Oct. 26, 1936	Nov. 16, 1936	Nov. 16, 1936	do.	May 4, 1936	Withdrawn.
Childs, Earl		Oct. 29, 1936	Jan. 18, 1937	Feb. 25, 1937	Modified.		
Cooper Bros.		Oct. 30, 1936	Nov. 16, 1937	Nov. 16, 1937	Sustained.	May 4, 1938	Do.
Craft, P. A.		Apr. 13, 1936	May 15, 1937	May 29, 1937	do.		
Hatch Bros.		Oct. 22, 1936	Nov. 16, 1937	Nov. 16, 1937	do.	May 4, 1938	Do.
Haycock, Ellen Jane		Oct. 26, 1936	do.	do.	do.	do	Do.
Haywood, J. E.		do.	do.	do.	do.	do	Do.
Haywood, T. C.		do.	do.	do.	do.	do	Do.
Houston, D. C.		do.	do.	do.	do.	do	Do.
Houston, D. C.		do.	do.	do.	do.	do	Do.
Houston, W. W.		do.	do.	do.	do.	do	Do.
Hoyt, Timothy		Oct. 16, 1936	Nov. 17, 1937	Nov. 17, 1937	do.		
Judd, William		Apr. 12, 1936	May 15, 1937	May 29, 1937	do.		
Miller, James L.		Oct. 29, 1936	Nov. 16, 1937	Nov. 16, 1937	do.	May 4, 1938	Do.
Miller, Jesse V.		Oct. 26, 1936	do.	do.	do.	do	Do.
Miller, John C.		do.	do.	do.	do.	do	Do.
Parker, Lester I.		do.	Jan. 20, 1937	May 25, 1937	Rejected.		
Riggs, Mayo		do.	Nov. 17, 1937	Nov. 17, 1937	Sustained.	May 4, 1938	Do.
Spencer, Karl H.		Oct. 22, 1936	do.	do.	do.	do	Do.
Spentlove, J. W.		Oct. 27, 1936	do.	Feb. 4, 1937	Modified.	do	Do.
Stephenson, H. S.		Apr. 9, 1936	May 18, 1937	May 25, 1937	Non-se.	Oct. 7, 1937	Dec. 22, 1937, dismissed.
Swapp, M. C.		Oct. 22, 1936	Nov. 15, 1937	Nov. 16, 1937	Sustained.	May 4, 1938	Withdrawn.
Williams, John & Sons		Apr. 14, 1936	May 15, 1937	May 29, 1937	do.		
		Apr. 28, 1937	May 27, 1937	June 5, 1937	do.	July 23, 1937	May 31, 1938, modified.
Esplin, L. J.	Meeks, Mason.	May 1, 1937	Sept. 14, 1937	Oct. 2, 1937	Modified.		
Hatch Bros.	Anderson, C. C.	June 6, 1937	do.	do.	do.	Oct. 20, 1937	Withdrawn.
Lamor aux, C.	Baker, Riley; Bonal, J. F.; Brown, W. H.; Cram, Alex.; Curtis, E. A.; MacKelptrauz, W. J.; Parker, E. P.; Woolley, R. B.; Lowery, D. C.	Apr. 27, 1937	May 27, 1937 (July 9, 1937)	July 28, 1937	941 cattle.	Aug. 16, 1937 (Sept. 21, 1937)	Aug. 24, 1938, dismissed.
Stephenson, H. S.							
1938:							
Curtis, E. A.	Brown, W. H.; Hamblin, D. B.; Stephenson, H. S.	Oct. 5, 1938	Apr. 20, 1939	May 1, 1939	Modified.	May 29, 1939	Dec. 1, 1939, dismissed Withdrawn.

1940: Huake, Milo.....	Lamoreaux, C.; Seegmiller, G.; Schultz, B. C.	Mar. 13, 1940	Oct. 12, 1939	Nov. 7, 1939	Affirmed.....	Jan. 13, 1941	Sept. 9, 1941, dis- missed.
Bundy, Roy.....	Lamoreaux, C.; Esplin, C. H.	Apr. 13, 1940	July 8, 1939	July 18, 1939	Dismissed.....	Dec. 5, 1940	Aug. 26, 1941, affirmed.
Chamberlain, H.....	Huntlin, D. F.	Apr. 17, 1940	July 6, 1939	July 10, 1939	Order.....		
Foremaster, A.; Fore- master, L.....	Ruesch, D.		July 10, 1939				
Iverson, F. M.....	Esplin, R. S.; Gardner, W. C.	Mar. 27, 1940	July 11, 1939	July 18, 1939	Affirmed.....	Aug. 22, 1940	Nov. 26, 1940, affirmed.
Lindgren, R.; Lundell, J. A.....	Botal, J. F.	June 11, 1940	July 10, 1939	do.	Modified.....		
Lundgren, R.; Lundell, J. A.; Esplin & Thurston. Schmitt, J. H.....	Gardner, W.; Esplin, R. D.	do.	do.	do.	Dismissed.....		
1941: Gardner, W. C.....	Esplin, Lee; Craig, A. W.	Apr. 1, 1940	July 11, 1939	July 11, 1939	For court proceedings.		
1942: Bonal, J. F.....	Lundell, J. A.	Jan. 7, 1941	Mar. 18, 1939	Apr. 19, 1939	Affirmed.....		
Gardner, W.....	Gardner, W.; Mathis, W. B.; Waring, J. D.	Jan. 1, 1941	Mar. 9, 1942	Mar. 17, 1939	do.....		
Maroney & Gudger.....	Seegmiller, G.; Lamoreaux, C.; Childers, B. F.	Dec. 17, 1941	Dec. 17, 1942	Dec. 19, 1939	Continued.....		
Kent, W. A.....	Jensen, T.; Esplin, L. J.	June 8, 1942	Nov. 16, 1942		Dismissed.....		
1943: Gardner, W. C.....	Schultz, J. A.; Kenworthy, F.	Jan. 1, 1941	Nov. 9, 1942	Jan. 22, 1943	Affirmed.....		
	Lamoreaux, C.; Childers, B.; Seegmiller, G.	Dec. 17, 1942	Feb. 10, 1942	Sept. 21, 1943	Modified.....		

In 1936, 15 cases were appealed to the Secretary of the Interior, of which 14 were withdrawn by the appellants before a decision was rendered. One case was dismissed by action of the office of the Secretary.

In 1937, three cases were appealed to the Secretary, one case was withdrawn before a decision was rendered, one case was dismissed, and in one case the decision of the examiner was modified; this was the case of L. J. Esplin, appellant, and Mason Meeks, intervener.

In 1938 there was only one appeal to the Secretary, which was withdrawn by the appellant, resulting in a dismissal by the office of the Secretary.

In 1939 there were no hearings in the Arizona strip district.

(The E. A. Curtis case is shown as a 1938 case because that is the date of Mr. Curtis' appeal from the decision of the regional grazier. The actual hearing of this appeal was in 1939, however.)

In 1940, three cases were appealed to the Secretary, one appeal being dismissed and the examiner being affirmed in the other two cases.

No appeals have been filed from decisions of the examiner for the years 1941, 1942, and 1943, to date (October 19, 1943).

The CHAIRMAN. Are there any questions that anyone cares to propound to Mr. Leech while he is discussing this matter? Do you care to interrogate anyone else, Mr. Gardner?

Very well, you may proceed.

STATEMENT OF WAYNE C. GARDNER—Resumed

Mr. GARDNER. My intent was not with my own case. I am speaking particularly of the appeal system. The intent of the national committee in framing it was that it would not be too complicated, or so complicated that license holders would not have a fair chance. I don't think there is a thing in the Federal range code that is finer than the appeal system. I will say this, I don't think there is anything to do with the Federal range that offers as fine an opportunity as the appeal system does. I don't care to be involved in my own particular case, but I do hear the complaints of license holders who say, "We are beat before we start. What chance have we? We feel like immediately, if the advisory board denies us a right, we have got the whole system of the Federal Government to fight." Now, then, that would be a lamentable thing, if that were the case. Now, whether those license holders are justified in their feelings, that is how they express it; and I hope that the appeal system won't be too complicated, or won't be so one-sided that it will lose its value, the value we thought we were putting into it, because it is the finest thing in the code. Where could a man go in the Forest, or any other department in the Government, and get the same set-up to actually be heard, and have his problem taken care of in the fine way that the Federal Range Code provides he can be taken care of? I feel like the examiner, in coming into an area where a hearing is to be heard, should be impartial. He shouldn't come in and say, "Well, now, what has the advisory board done on this; what has the district or regional grazier done on it? Why did he take this action?" He should be just as interested in why that license holder was denied something. I don't think he, the examiner, should, so to say, take sides with the Grazing Service. He should come in as a judge, impartially, and be just as much interested in seeing that license holder was meted out justice as he is to see that the action of the district grazier or regional grazier is upheld in his decision that he has made. There is a feeling that the Grazing Service have taken the attitude that they are infallible once they make a

statement. If they make an error that it cannot be counted against them. The license holders say, "We make errors and will admit it, and we want the Grazing Service to be just as broad as we are; occasionally they can make an error that they can correct when they are given additional information."

I'm speaking generally for license holders, and I'm not airing my own personal feelings in this matter. Having been on the national committee, I make that comment because they have commented on it to me. I did boastfully say that we had the finest thing in the code that could be found anywhere when one's rights were to be taken into account, and they called my hand on it. That is why I'm concerned with it.

Mr. LEECH. May I comment there, Senator?

The CHAIRMAN. Yes; indeed.

Mr. LEECH. The appeal procedure as given in the Federal Range Code was, as Wayne says, worked out by the National Council of Advisory Board members; and it is a very, we think, a fair procedure. The examiners of the Grazing Service are just there as fact finders, and they base their decisions purely upon the facts, as found and developed. They are not there to uphold what the district grazier or the advisory board have done.

Now, of course, the examiner has to find out, in the course of the hearing, why the district grazier is taking this action. He calls on the district grazier to testify as to why he did this, why he rejected this man's application. He goes into the reasons for that, and the Grazing Service, in all of its appeals, the examiner is just as interested in the appellant as he is in the Service. All he is trying to do is develop the facts and render a fair decision, and I believe the procedure fully provides for this. Do you agree with me?

Mr. GARDNER. The procedure is there; yes.

The CHAIRMAN. What you are addressing yourself to is the procedure. You seem to be quite proud of the procedure as you have stated it. I understand you to address yourself to the subject of the administration of the procedure.

Mr. GARDNER. That is my thought.

Mr. ARTHUR WOOLLEY. May I ask Mr. Leech a question?

The CHAIRMAN. Yes; indeed.

Mr. ARTHUR WOOLLEY. Does your examiner, when he comes out to make his investigation with your approbation, take affidavits ex parte from persons who might have some knowledge of the matter, without notice to the appellant or the applicant for the license?

Mr. LEECH. He does not. Now, in the course of preparing for a hearing the district grazier, or regional grazier, may take an affidavit from a prospective witness; but if the examiner determines to take the testimony of any witness who is not at this hearing, that must be done either on an oral deposition or a written interrogatory, which is prepared by the representatives of the Grazing Service and the appellant, and the written interrogatories are furnished, through a notary or United States commissioner, to propound to the witness—

Mr. ARTHUR WOOLLEY. If that practice has been carried out in some instances it has been contrary to your instruction?

Mr. LEECH. That is correct. But you will find, Mr. Woolley, many times that a ranchman will come in and he will say, "Now, I have

the statement here of Bill Jones. He cannot be here as a witness, and I want to put this affidavit in." Now, we permit the appellant to file that affidavit with the case for what weight it is given. It is not evidence.

Mr. ARTHUR WOOLLEY. If your examiners exert any pressure, by way of conversation, or otherwise, to the appellant like, "We are out here to see that this happens," or, "We are going to do this to you," of course, that you don't know about except as it may be related to you?

Mr. LEECH. That is correct.

Mr. ARTHUR WOOLLEY. That would not be your policy, but an individual could overstep himself in showing partiality?

Mr. LEECH. I can say for Director Rutledge, if we had an examiner at any time who did not render decisions according to true facts, we would remove him.

Mr. ARTHUR WOOLLEY. So Mr. Gardner reflects some complaints of individual cases of showing partiality. I think that is what he is trying to bring out. Those complaints could be taken up to you personally?

Mr. LEECH. I would be glad to take those up.

The CHAIRMAN. I am going to say to Mr. Leech that the chairman of this committee is going to take up a case with you. If you afterwards deem necessary that it be held in public hearing it will be, but I think first the chairman of the committee will take the matter up with you, as head of the Grazing Service.

Mr. O. C. WILLIAMS (State land commissioner, Arizona). Senator, I don't think we have gotten down to what Mr. Gardner has tried to tell you yet. I might put it in the words of the cattleman.

The CHAIRMAN. Well, I'm going to stay with it until I get down to it.

Mr. WILLIAMS. I think I can help you on that. I deal with those men every day of the year. I just went through a week of hearings with the congressional committee from Washington, and the complaint is what Mr. Gardner tried to say when he stated they were licked before they started. The fact he is trying to bring out is that all hearings and appeals are step by step up through the Department. They feel that if there was some short cut, somewhere along the line, where the case could be taken to the courts, or something outside of the Department, they feel they would have a chance. Now, in the State of Arizona we used to have the commissioner, then appeal to the boards, and then to the courts. We have cut out the board and they go directly from the commission to the courts. That is what the cattlemen would like; I know from their own words in talking with them. They feel if they go through the investigation, if they could go outside of the Department it would be better, because the last word eventually, if it is carried that far, is the Secretary of the Interior, which is still within the Department. I think that is definitely what they mean when they say they are licked before they start. They feel that something outside the Department itself is necessary to make the final decision. They want to appeal to someone else.

The CHAIRMAN. I am going to ask a direct question that will have a bearing on it. Have you any record that would disclose the number of cases where there was a reversal, either in your office, as chief examiner, or in the Secretary's office, from the decision that was rendered by the examiner in the field?

Mr. LEECH. Yes, Senator, the regional examiner's decisions has been reversed by the chief examiner many times, and the chief examiner has been reversed by the Department a number of times, and, after the Secretary has spoken, some of them have proceeded to the courts, after the administrative procedure was exhausted.

The CHAIRMAN. I'm addressing this remark to the land commissioner of the State of Arizona. He has made a very pertinent suggestion. As I view it, the procedure commences on the ground, and finally winds up in the office of the Secretary of the Interior. That exhausts the jurisdiction of the Department. From there on the court has ample opportunity, or the aggrieved party has ample opportunity to go to the court. At least, without following the procedure, I take that to be the case. I have never known one of these departments to be supreme yet. I hope they never will become supreme, to be very frank with you. I take it from your remark, Mr. Commissioner, that you gather, by and large, that if the appellant or the aggrieved party could go directly to the court, from the decision of the chief examiner, they would be better satisfied. Is that the way you understand it?

Mr. WILLIAMS. Yes; that is the sentiment I get from the cattlemen, somewhere in his own country, by his own judge in his own court, where he could get witnesses before it without going to an expense and going a long distance and having it dragged out for months and months even into years. They would feel more satisfied.

The CHAIRMAN. Is that the way you understand it, Mr. Gardner?

Mr. GARDNER. Yes, sir.

The CHAIRMAN. Where would you break off?

Mr. GARDNER. Well, as Mr. Williams says, after the examiner has rendered his decision. That seems to be the most logical place to break off.

Mr. LEECH. Of course, the only hearing is before the examiner. The appeals to the Secretary are in writing, and do not necessitate travel to distant points. The hearing is held right where the appellant is located.

The CHAIRMAN. And in some cases right on the ground. Does the appellant have the right of counsel?

Mr. LEECH. Oh, yes, sir. I was just looking at the file here, Senator. We have had, beginning in 1936 and running up to the present time, in the Arizona strip district, 169 appeals.

The CHAIRMAN. One hundred and sixty-nine appeals to the chief examiner?

Mr. LEECH. Have been filed with the regional grazier, from the action taken by the region or the district. Many of those were adjusted by the district grazier and the appellant, but this reflects the total number of appeals filed. At the present time there are six pending in this district.

The CHAIRMAN. Now of that number, how many reached the chief examiner's office?

Mr. LEECH. Oh, I will say, just speaking offhand, I would have to get that from my record, but I would say in the neighborhood of 60 or 70.

The CHAIRMAN. Out of how many?

Mr. LEECH. Out of 169. So I believe as Mr. Williams said there, most of these cases are settled right out here on the ground. Didn't you find that to be true, Wayne?

Mr. GARDNER. Yes; that is very true. It is a rare thing, exception to the rule, I would say, that they get beyond the advisory board. But there are, and there will be, cases that will go on.

The CHAIRMAN. Now, out of the number that arrived at the chief examiner's office, how many went to the Secretary?

Mr. LEECH. I do not have that. I would have to speak from memory, Senator, I do not believe that I have ever had over seven or eight cases from Arizona go to the Secretary. Could you correct me on that, Mr. Brooks?

Mr. L. R. BROOKS (regional grazier, Phoenix, Ariz.). I imagine that is probably right. No; I haven't any definite figures on it, but I can look it up and supply it, though.

Mr. LEECH. We will supply it, Mr. Chairman.

The CHAIRMAN. You haven't any record here that would say the number that was sustained or reversed in the Secretary's office.

Mr. LEECH. No, sir; I do not but that will be supplied in this statement to the committee.

The CHAIRMAN. Very well.

Are there any questions by anyone here?

Mr. CHARLES ESPLIN. Mr. Chairman, I'm Charles Esplin from Cedar City, Utah. I would like to ask Mr. Gardner if his principal objection is to the appeals after they get into Mr. Leech's office, or if they are to the conduct of the case before it reaches that stage of the appeal?

The other night you said you objected mostly to the district grazier or local officials building up a case against you before you ever got to the appeal office.

Mr. GARDNER. That is the objection of some license holders. In my own case I could not make any charge and substantiate it. That is the charge made by some license holders, that the advisory board immediately sets up a wall, or barrier, against them and the district graziers. In my own case I couldn't say that.

Mr. ESPLIN. I couldn't say it, but I think it is true that the cards are stacked against you from the time you go from the advisory board to Mr. Leech's office, but my experience is that there are no objections from there on after we got an appeal from above the regional grazier. From there on we get very fair treatment. Up until then, I think there are a lot of pressure groups influencing the Interior Department up to that point.

Mr. LEECH. I didn't quite understand Mr. Esplin's statement, Senator. Could I ask him a question?

The CHAIRMAN. Yes, indeed.

Mr. LEECH. Did you mean by that, Mr. Esplin, that you received fair treatment from the office of the chief examiner?

Mr. ESPLIN. Yes, sir; and I thought from Mr. Gardner's statement, a few days ago, that his principal objection was to the district grazier and his office accumulating evidence to work against a man when he got that appeal into Mr. Leech's department.

Mr. LEECH. I believe, on that, that the district grazier, in going around and getting the evidence—of course, he is going to determine whether his action was correct or whether he has taken an improper action. If in going around and getting his testimony, or affidavits, the district grazier saw he had made a mistake, he and the board and the regional grazier would immediately correct it. Haven't you found that to be the practice?

Mr. ESPLIN. I never got anywhere until I got up in the appeal. I never got anywhere with the advisory board or the district grazier. You have to have an office above them to appeal to.

Mr. ARTHUR WOOLLEY. That was my question a minute ago, Mr. Leech, about whether or not you permitted your examiners to go out and take affidavits without letting the appellant know that process is going on, so that your case is built up before he comes to court. In other words, you go out and get affidavits, as I am informed, from people who are supposed to know; you go out and get the facts before you come to court, and when he comes in there he is confronted with these things; so he is told they have got it all loaded for him, as one expressed it—"We are loaded for you," as one expressed it to me.

Mr. LEECH. Let me try to explain that, Senator. Mr. Woolley, I didn't mean that the examiner from the office of the director goes out and takes these affidavits. I explained he would have to do it through a method of depositions either oral or written. Now, prior to the hearing, and after the action of the district grazier has been taken, and this appeal has been filed, that district grazier, or that range examiner, may interview parties in the community, take their affidavit or statement, in preparing his side of the case, to present to the examiner; and, of course, the appellant may do the same thing.

Mr. ARTHUR WOOLLEY. But the Government then is on the one side: so the appellant feels that, while a paternalistic Government has afforded him an executive court, that executive court is out prosecuting him.

Mr. LEECH. I would say, Mr. Woolley, there, if that district grazier, in gathering this testimony and taking these affidavits, should determine his original action was wrong, he would correct it, then, and there would be no hearing.

Mr. ARTHUR WOOLLEY. He is the judge, then, of himself. Is that what you are trying to get away from?

Mr. LEECH. Or the regional grazier may determine it.

Mr. ARTHUR WOOLLEY. Yes; they get fairness above them. That is the fallacy of letting a man be an investigator who is the judge, too. It is all within your Department. That is the sentiment, I find, that is expressed to me by a number of these cattlemen. In other words, you are becoming a bureau too quick.

Mr. LEECH. The main object is for that district grazier, however, to know all of the facts; he and the advisory board.

The CHAIRMAN. Should your examiner, who sits as a judge, go out and try to ascertain the facts for himself or, should he, coming in as a quasi-judicial officer, notify of the sitting, and the parties would come before him and present their cases, without his activity at all?

Mr. LEECH. The examiner takes no activity in it, Mr. Chairman, other than, sometimes, he goes out in advance and looks over the country so he will know what these witnesses are talking about when they begin talking about this creek, that fence, this line. Sometimes he does that. I have done that many times myself.

The CHAIRMAN. Does the district grazier, at this hearing, set about to justify his action before the examiner?

Mr. LEECH. The procedure provides that the examiner calls on the regional grazier to state and show why he has taken this action on this appellant's application. The regional grazier then puts in what-

ever evidence or reasons that he had to reject, or only allow that partially.

The CHAIRMAN. Any further comment? Any further questions? Don't hesitate, any of you boys. If you have any questions to ask, let's have them, on how all this affects you or anybody else.

Mr. JOSEPH ATKINS (St. George, Utah). On the *Lamereaux and Gardner case*, what we are most concerned about is the way the thing has been drug along. Mr. Leech says he is short of help, in getting evidence and the transcript of that evidence. I know about that; but this hearing I'm speaking about went into the office a long time ago. Now the grazing season is on, and both the parties need the water there. They both need the grazing, here; and the time now, within 30 days, will be coming along to winter range; and neither one of the parties knows what their set-up is. I have spoken to both of them. They are both personal friends of mine and that is what is concerning them very much at the present time. Why are they dragging it along?

The CHAIRMAN. You say it has gone to the regional chief examiner's office?

Mr. ATKINS. It's gone to Leech's office, and it's been there since the 1st of February, but the evidence was later than that getting in, I know.

The CHAIRMAN. What have you got to say to that?

Mr. LEECH. That's one of those unfortunate delays. We'll get the decision out on that. I hope to get it out very shortly.

The CHAIRMAN. Is the record all in?

Mr. LEECH. Yes, sir. It is now in.

The CHAIRMAN. Is there anything further? You may proceed, Mr. Gardner.

Mr. GARDNER. There is one point I would like to ask Mr. Leech, for the benefit of all of us, on the same issue. How many times can a case go to the Secretary of the Interior for decision?

Mr. LEECH. I would say, if a case goes to the Secretary, and he decides it, and sends his decision in, the same set of facts, the same issues, would not again go up, because we would dismiss it, for the reason it has already been heard.

Mr. GARDNER. Then in that event—

Mr. LEECH. Now, I know, in 1936 and '37 and '38, prior to the adoption of the present code, in 1938, the earlier license system, some cases were dismissed by the Department itself, for the reason that the time had expired. Some of those cases were again heard, and did reach the Department, but the record already made was the record used, and very few new witnesses testified. We do not follow the process of appealing the same issue over and over again. I can assure you that if a case has been heard, and decided on its merits, and the same issues come up again, I would direct that it be dismissed for the reason it has already been heard *res adjudicata*.

Mr. GARDNER. In this particular case, in fairness of Mr. Lamereaux and myself, the thing I was unable to understand, after the decision was rendered, points weren't clear why it was not possible for one rendering that decision to clear those points. What was the object in going back and doing the job all over again?

Mr. LEECH. Well, I don't know the particulars in the particular case, Mr. Gardner, and I wouldn't care to discuss particular facts of the

case until I reviewed the testimony and the record with the appeal in the *Milo Brooks case*; and I haven't had that opportunity.

Mr. GARDNER. Then one other point; criticism by license holders is that if, in the courts of our land, you are charged with horse stealing, you are tried on horse stealing, not, after they get you in there, to be tried for horse stealing and all other charges possible to bring in against you. Wouldn't it be possible, in the hearing, if you are charged with priorities, that you be so notified?

Mr. LEECH. If that were the only issue that would be what the case would be about. However, if the question of commensurate rating of the property, or the numbers of priority, arises, you couldn't just determine priority, unless you determined the numbers of priority.

The CHAIRMAN. Off the record.

(Off the record discussion.)

Mr. GARDNER. I would like to make this statement, in closing, that in anything I have said here I feel I have tried to stay away from anything of a personal nature. I am interested, as one who has to do with the writing of the code, in representing the people of Arizona in the code, and I want my personal grievances to be left out. If I have injected them in here I apologize to the entire group.

The CHAIRMAN. You didn't bring it up yourself; Mr. Leech brought it up. You were speaking in generalities, and there's no harm in your having it brought up. You are not chargeable at all in that respect.

Mr. GARDNER. But I am interested in the code and in the fine piece of work that it represents; and I want the Grazing Service to know that they have 100 percent cooperation. I am proud of my association with them.

Mr. LEECH. We certainly appreciated your help in writing the code, Mr. Gardner.

The CHAIRMAN. Very well, thank you, Mr. Gardner.

Mr. STANLEY McKNIGHT (Minersville, Utah). I'd like to ask Mr. Gardner one question. It was the intent of the committee, in writing the code, to have land and water as base properties, both of them; or, was it land or water?

Mr. GARDNER. My understanding was that it could be land or water, or, land and water.

The CHAIRMAN. Any other questions?

Mr. McKNIGHT. I would now like to ask Mr. Leech if the Department has ruled that it can't be both land and water, as base?

The CHAIRMAN. Can you give us any information on that, Mr. Leech?

Mr. LEECH. Yes, sir; I'll refer the gentleman to the Federal Range Code.

The CHAIRMAN. You may read that.

Mr. LEECH. I am reading now from section 4 of the code, approved by the Secretary of the Interior on September 23, 1942, now, which says:

For the purpose of determining the proper use of base properties of all applicants and their relative dependency upon the Federal range land at water conditions and other factors affecting livestock operations in the area will be considered and determined according to customary use and best practices for good

range management. Base properties will be classified as land or water and further in the following manner:

- Class 1, land dependent by use for full-time prior water.
- Class 2, land dependent by location or full-time water.

I think that answers the question.

The CHAIRMAN. Does that answer your question?

Mr. McKNIGHT. I have been informed that the Department has ruled that it can be land, or it can be water, but it cannot be both. Is that right?

Mr. LEECH. I would say, on that, that when the advisory board determines what the base property is, in a particular unit, they say, in this unit it is water, and in this one it is land, because, when you have water competing with land, the mechanics of working out, say, an allotment or range use, is very complex.

The CHAIRMAN. Are there localities in which combinations of land and water are recognized as base property?

Mr. LEECH. Yes, in the Utah-Nevada district No. 4 they use both land and water. I would like for Mr. Dierking to correct me on that. Is that not true, Mr. Dierking?

Mr. C. F. DIERKING, Regional grazier, Reno, Nev. That is right.

The CHAIRMAN. That is in the Ely district, is it not?

Mr. DIERKING. Yes, Senator.

The CHAIRMAN. I think I have heard that before. I didn't know.

Is there any other question to be raised on this particular subject?

Mr. LEECH. I would suggest, Senator, that it is a matter that originates with the advisory board of a district.

The CHAIRMAN. Now, going back to the first subject that we had, which was Lake Mead, and the Lake Mead and Zion National Monuments, is Mr. Joseph Atkins, of St. George, present now? Mr. Atkins, do you care to be heard on that subject?

Mr. ATKINS. I would like to give my views on it, Senator.

The CHAIRMAN. Will you kindly come forward, Mr. Atkins, and I will say, for your benefit, that before you came in I tried to make it clear, to those who did us the credit to be here today, that they should be very much at ease and discuss any subject freely, in their own way, and not feel at all constrained by anything, either the audience, or the committee of the Senate, or anything else. We are just one of you here, trying to hear your stories, and trying to understand the situation. If you will please be seated, and state your name and address, for the record, and say what you have in mind.

STATEMENT OF JOSEPH ATKINS, ST. GEORGE, UTAH

Mr. ATKINS. About 35 years ago our family started to run cattle down in what is known as the Pocum district, exclusively.

The CHAIRMAN. What district?

Mr. ATKINS. Arizona No. 1, down next to Mead Lake.

The CHAIRMAN. What is the name of the district?

Mr. ATKINS. Pocum district; elevation averaging between 1,200 and 2,000 feet. We run in common with Gentrys, from over in Nevada, and other men from St. George; McArthur, Whitehead and others. We have always used this range, and here, a few years ago, when this withdrawal was made, there, they started to hem us off; put us down to the lake, in a lane. Now this withdrawal takes in about one third

of the country in the Pocum district, and, when we had to move back, our neighbors, people accustomed to go down in there, it congested the area in there. Some of them have moved over into Nevada, and other places.

The CHAIRMAN. Now the withdrawal to which you refer, I take it, is the recreational area around Mead Lake?

Mr. ATKINS. That is it, Senator.

The CHAIRMAN. Did they require that you move back as soon as they set up the withdrawal?

Mr. ATKINS. I don't know exactly when it was set up, but it has been 3 or 4 or 5 years ago that they first started to agitate it; never been told what we could do on it. Mr. Blankenagel made trips down to see them at Boulder City, but we have never been able to get anything definite.

The CHAIRMAN. Is the recreational director, or party in charge of the Boulder recreational area, here?

Mr. TILLOTSON. I understand that Director Drury will not be here until about noon.

The CHAIRMAN. Very well. I think it is best; I want it discussed as much as possible in the presence of Mr. Drury, and the committee will want his statement on the situation, unless you have a statement to make?

Mr. TILLOTSON. I'm sorry; I'm not familiar with this particular case.

The CHAIRMAN. I wonder then, Mr. Atkins, if it would be advisable to withhold your statement until the park representative is here.

Mr. ATKINS. That would be O. K., Senator.

The CHAIRMAN. I think that would be best, so that he can answer your questions and try and get it straightened out for you.

Mr. ATKINS. That would be O. K., thank you.

The CHAIRMAN. I want to know the pleasure of the group here today, and all who are here, as to a recess. I thought we would run on until 1 o'clock and then recess. I don't know what arrangements there are here for getting luncheon. Perhaps there are some here who would care to go back to the other little city, back here, for lunch. I thought we would run on to 1 o'clock and recess for an hour.

Here is Mr. Drury. Glad to see you, Mr. Drury.

Now, Mr. Atkins, if you will come forward, I believe it would be a good time to bring up this subject.

Now, I don't like to take up too much time, without going on with the hearing, because I want to cover everything pretty thoroughly. We'll run on until 1 o'clock, and then, if someone will give advice as to the length of the recess, we will arrange it accordingly. The committee will be at ease for 5 minutes.

(Recess for 5 minutes.)

The CHAIRMAN. Very well, gentlemen, we will proceed.

Mr. Drury is here now, Mr. Atkins. You will make your statement, if you please, as regard to the grazing privilege on the recreation area on the Lake Mead area. Start at the beginning, if you will.

Mr. ATKINS. As I stated in the beginning, for your benefit, about 35 years ago we started to run cattle down in the Pocum area. That is in this withdrawal area, down next to Lake Mead. We ran cattle there exclusively, and then started in with sheep and cattle, both, and

used that for a winter range and spring range. Since we have gone out of the cattle business, we have been running in a community allotment, with the rest of the grazers on the Arizona strip, in this district. In about 1940 we were notified that this was a game refuge, and we wouldn't be allowed on it. Mr. Blankenagel, district grazer in Arizona 1, made several trips down. They worked out some kind of a plan where they would have to trail their sheep down lanes, about a quarter to a half a mile long, to get down there; said they were afraid of polluting the water in the lake with the sheep.

By doing this, it has crowded us back and made a congested area on the northern part of Pocum district. Now, this district is absolutely worthless, only in the spring, as far as sheep are concerned. They never go into it in the winter, unless it is an exceptional winter. One winter they went in, in November, and stayed there. But, as a rule, we go into it about the last of January, or the 1st of February, and sometimes as late as the 1st of March, before we are able to get in there.

Now, this relieves the range up on the higher elevations, up around the Hurricane Valley district. February is a hard month. Sheep do pretty good up there early in February, when you are practicing early lambing. The sheep start to falling to pieces, go down, and flesh off fast; and it is necessary that we have this district in there.

As far as the wildlife, there are a few jackasses, and a few jack rabbits, and that is the size of the thing. It is plain asinine to cut the sheep out of there, when this feed is going to waste; and, as far as the sheep polluting the Lake Mead, the rodents along the lake pollute it as much as any sheep that get in that district.

What we would like to do is have this turned over to the Grazing Division to administer. We have confidence in them, confidence in the men handling the livestock and grazing. Livestock men have confidence in them, and they have done a swell job; and we would like to have this handled in some way. I don't think the park men are cowmen, down there. I think they would want somebody else to administer it, and maybe they would be glad to get rid of it. I should think they would like to have this land grazed on there, and we would like to get this extra country down there. While it hasn't been absolutely prohibitive to go on there, they have allowed us to trail down to the lake there, but we need water in that country. It is a low, hot country. Sometimes you think you can get along, and maybe you can go for a month without any water, and suddenly you have to have the water and get to it. We would like to have it administered by the Taylor Grazing Act grazers. They know grazing. You men in the Wildlife, your line would be wildlife, fish, and that. Don't think we are antagonistic to you, don't feel that way. But we feel it could be better administered, and be better all the way around; and so that is the grievance that we have. When it comes to getting more meat and things, and you are being encroached upon, with that area down around Mead Lake extending out—maybe new men don't feel like going into the grazing game, and others are being crowded out.

We have the same thing over in your State, Senator, part of the lake there in that withdrawal, and we have the same proposition over there. That part of it joins us. The line is over there by St. Thomas. We have the same thing to contend with. It got so crowded in the Pocum that I bought some interests over in Nevada, and some of the

other boys are doing the same thing. If this could be straightened out, it would help our business. I think that is all that we all want.

The **CHAIRMAN**. Are there any questions on this? Do you care to interrogate? I take it that the Boulder, or the Mead Lake area, which is not a park, as I understand it, is under the park supervision. Is that correct? Am I correct in that, Mr. Drury?

Mr. **NEWTON B. DRURY**. Yes.

The **CHAIRMAN**. I don't know whether it is officially a park or a monument.

Mr. **TILLOTSON**. It is a national recreational area. I don't know, we don't have Mr. Rose here, who is familiar with the whole set-up, but perhaps one of you gentlemen know more about it. If you do, we would be glad to have you make the statement.

Mr. **DRURY**. Mr. Tillotson, I suggest you say something about the character of the area.

Mr. **TILLOTSON**. Mr. Atkins, before you came in, I believe, it was Mr. Leech who indicated that there was an interbureau agreement between the Grazing Service and the National Park Service, in regard to generalities, for the administration of grazing. Now, as I understand it, you would like to have the grazing handled more along the lines of the Taylor Grazing Act?

Mr. **ATKINS**. That is it, exactly.

Mr. **TILLOTSON**. All right, if we get together with the Grazing Service officials, and work out your problems, that is what you would want?

Mr. **ATKINS**. That is what we want. Turn the grazing end of it over to them, and you men handle the fish and wildlife; and let the grazing division handle the grazing on it.

Mr. **TILLOTSON**. I'll assure you we will do that, in keeping with the interbureau agreement.

Mr. **ATKINS**. I never heard of it; but there was some talking done about it.

Mr. **TILLOTSON**. I could not say that we will turn the grazing completely over to the Grazing Service, but I'll say that we'll do what we can, in accordance with the terms of the agreement.

The **CHAIRMAN**. What is the agreement, in general terms?

Mr. **LEECH**. The agreement, in general terms, Senator, on areas within parks—I mean monuments, not parks—where grazing is permitted, the Park Service will permit us to say the numbers, and the persons to whom grazing privileges are granted. In some monuments we collect the fees, and in other monuments the Park Service collects the fees.

The **CHAIRMAN**. Is it working out fairly well?

Mr. **LEECH**. Yes, it is. This is a general memorandum of understanding, of February 20, 1940. Then that has to be supplemented by a field agreement between the superintendent of the park or monument and the regional grazier.

The **CHAIRMAN**. That localizes it?

Mr. **LEECH**. Yes. As I understand it, Mr. Brooks, aren't you and Mr. Rose, and some of the others, working on a proposed agreement in this area at this time?

Mr. **BROOKS**. That is right. This particular area, I think, is in about 4 different withdrawals. It is in the Park Service withdrawal, and the Fish and Wildlife withdrawal, and Reclamation withdrawal, and,

I think, a monument withdrawal. It is in four different withdrawals, and there are four agencies of us, all in the Interior Department, working on it at the present time, attempting to work out a cooperative agreement for the administration of grazing on the area, for the handling of grazing. We have been working very closely with Mr. Rose, of the Park Service, and Mr. Litner, of the Reclamation Service, and a representative of the Fish and Wildlife Service. I haven't had occasion to check recently. There has been a proposal worked out, and turned over to the various agencies to criticize, and the work sent back for a final drafting. I haven't had occasion, in the last few months, to check on that, but, in talking with Mr. Rose of the Park Service about 2 weeks ago he indicated that a lot of progress had been made. I was hopeful that I would be able to talk with him over here on this particular subject.

Mr. DRURY. I might explain, Mr. Chairman, as a part of our program of conserving tires and gasoline, Mr. Rose took me as far as Zion. Had I only known this matter was coming up here, I should have been glad to have him at this hearing. I might suggest to you that Mr. Rose could appear at any subsequent meeting of the committee, if it is your pleasure, and we will go into this matter more thoroughly. It looks to me like an interbureau administrative matter that we ought to be able to work out equitably. I am sorry I am not familiar with the particular case, or just how far the superintendent of Boulder Dam recreational area has gone with it.

The CHAIRMAN. I will say to you, Mr. Drury, that the matter of grazing in this section of the country is a vital matter to our whole economic set-up, in all of these States.

Mr. DRURY. I recognize that, Senator.

The CHAIRMAN. These people graze cattle and sheep under greater hardships than any people in the world. They endure and endure, in order to carry on. Sometimes one wonders why they do it. But they do it; and they maintain the tax structure of their specific States. Now, that area, down there, is a mighty hard area to graze. It must be done. It is very sparse in water, and the season of grazing cannot be so very long. It must be rather short. It is comparatively short; and I just hope, in keeping with the story that has been told here, that your departments can get speedy action on this, and see if it cannot be worked out. It seems to me it should be.

Mr. DRURY. We will do our best to work it out.

Mr. ARTHUR WOOLLEY. May I ask one question; whether or not, in this interdepartmental program you contemplate adopting the grazing code with respect to the length of the lease and the permanency of the permit? These people don't want to be on a day-to-day or year-to-year basis with this thing if they can avoid it.

The CHAIRMAN. Has anything been discussed on that?

Mr. LEECH. I would prefer to do it under the Federal range code.

Mr. ATKINS. That is the way we would like it.

The CHAIRMAN. You understand, Mr. Drury, at least the committee has been given to understand and I generally understand—that the policy of the Park Service is to terminate grazing at the expiration of the life of those who were grazing before the park or monument was set up.

Mr. DRURY. That is the general policy as to national parks and monuments.

The CHAIRMAN. That is a policy that, personally, I can't go along with; and I don't think our committee goes along with it at all; although it may have its meritorious side. We see that it can be worked to a great detriment. I hope that it may be the subject of a greater study in the future. This particular area we are addressing ourselves to is of such a peculiar nature, and the entire set-up of it is so peculiar, that I think it is a subject of immediate consideration. I take it that you will go into that.

Mr. DRURY. I agree with that. The Boulder Dam recreational area is a specific type of area, not a national park or a national monument. We recognize there are certain uses that existed there for a long time that should be respected in that area, and we will try to work it out administratively.

The CHAIRMAN. Thank you, very much.

Mr. ARTHUR WOOLLEY. Does that also go, if I may ask, to the question of elimination of that exclusion they have already practiced? In other words, he testified that they excluded them, made them go down a lane. Is there any purpose in that, other than excluding grazing?

Mr. DRURY. I would say that would be something that we would have to work out and study. The men who know the conditions on the ground could best answer that. I'm not familiar with the reason for that exclusion. All I can say now is that we will go into it very thoroughly.

The CHAIRMAN. You also add the word "promptly" to it?

Mr. DRURY. Promptly. That is a counsel of perfection that we try to follow, Senator.

The CHAIRMAN. Thank you.

Mr. Anderson, do you care to be heard? Will you please state your residence and business?

STATEMENT OF CHARLES C. ANDERSON, GLENDALE, UTAH

Mr. ANDERSON. Well, I believe I am acquainted, down in this particular area, as much as any of our stockmen.

The CHAIRMAN. You are referring again to—

Mr. ANDERSON. To the Lake Mead area; four withdrawals; that part of it that lay in the Arizona part of Lake Mead, both sides of the Colorado River. I think if these park gentlemen here know as I know—perhaps they don't, but there is not one sheep permitted on the park at the present time on the Arizona area. I think there is one cattleman recognized on this area, and that is all, since the spring of 1940.

We didn't really know there was a withdrawal in there. We might have heard of it, but we didn't realize it until, in the spring of 1940, a park ranger came in that area and ordered off all the sheep that were grazing there, in spring use, as they had always grazed, from the beginning of my time, in that area, which was about 1920, when I first took my sheep in this area. We had never been denied, until the spring of 1940, and the park ranger came out and moved us back to certain places, said: "Here is the line." Well, we had not even seen any boundary lines until this time. I think perhaps they may have been posted. They may have been, before, but if they had not been, we have not seen them since that time. We have been forbidden to graze on there entirely, and the Grazing Service, or its district grazer,

Mr. Blankenagel, got an agreement, or permit, with the Park Service to get two trails across these withdrawals—I don't know just what withdrawals the trails lay on—to go to the lake to water from public domain on the north boundary of these withdrawals. I think these trails are from half a mile to a mile wide, which I appreciate very much, in getting a trail that wide.

One trail lays next to the rim, over by Pierce's Ferry, and the other lays down on the bottom of the Grand Wash. I helped stake these trails, or post the boundary lines for these trails. There was about three members of the Grazing Service present at that time that participated in this, and an engineer of a C. C. camp, which I guess was under the direction of the Grazing Service, as I understood it, at that time. At that time the Park Service had no system for handling livestock and no help for this sort of work. Under the direction of Mr. Blankenagel, the district grazer of the Grazing Service employed their own help, dug down and furnished their own posts, and marked these boundaries, and did it without the presence of any park officials. As I recall, I don't remember seeing any. I was there while this work was being done but, to my knowledge, there is some sheep permitted on these areas in here. This was shortly after we had first been ordered

Two years ago, or a year ago last November, I was present at Kingman, to some of the committee's hearings there, and I remember you had Mr. Edwards up to question him at that time regarding grazing on these areas in here. This was shortly after we had first been ordered off. I think Mr. Edwards was head of the Park Service then; wasn't he, Tilly?

Mr. TILLOTSON. At that time; yes.

Mr. ANDERSON. Mr. Edwards made the statement, as I remember, there, if we would prove our priorities there—and those priorities had been consistent—and some other requirements, they would allow grazing there. So, on my return home after the hearing in Phoenix which you held there, I got to thinking of this, and I decided to make application to graze there. I did make application in January of 1941, to graze 2,700 sheep on this area during the spring months.

Now, I didn't care to—I believe I asked for a privilege of about 3 months. Afterward, I was wishing I hadn't. But I did it more to test out as to whether it would be allowed, grazing would be allowed there, than anything. I didn't care to go out and graze there and get ahead of some of my neighbors, or anything of that sort—try to get something they didn't have. But I wouldn't want to give up my rights on the public domain—go on this area and stay for that long, because some years there is no feed on this particular area, when there is some feed on the other parts of that Pocom area, or that lower country. But it was shortly after I had made this application, sometime within 30 days, I would say, that I received an answer saying that I had been denied a grazing privilege there, because I desired to graze in certain townships that was in the locality of a certain cowman's holdings, and therefore would be denied.

Now, I have looked for this answer from the Park Service, but I was unable to find it. I went to the Grazing Service the other day, I thought perhaps I would take it and leave it with them. They didn't find it. But they did find a letter from the Park Service to Mr. Blankenagel verifying what I have said here. They have this letter of record, if you care to have it for the records. So, as I said, they

denied me this right, and thought they would continue to deny me any right for grazing on the area.

The CHAIRMAN. Did you set up proof of priority?

Mr. ANDERSON. Well, I don't know whether I set up proof, I give them the time I had run; I told them that in the letter. I told them that I had run there so many years, in this particular area, watering on the lake, and this and that. But as far as giving anything signed up before a notary public or anything, I didn't do it.

The CHAIRMAN. Let me ask you a question, there. You said you have watered on the lake. Now you said you started grazing there in 1920?

Mr. ANDERSON. Yes.

The CHAIRMAN. The lake didn't come into existence until along about 1934 or '5.

Mr. ANDERSON. That's right.

The CHAIRMAN. Then you didn't water on the lake.

Mr. ANDERSON. I watered on the river, and the lake backs up in the river to where the river comes out of the Grand Canyon. It backs up the canyon a good ways now. I watered at the mouth of this canyon, at what is known as Pierce's Ferry; also on the Grand Wash, where the wash emptied into the Colorado River.

The CHAIRMAN. So you have been using this Colorado River as a watering source from about 1920 on?

Mr. ANDERSON. Yes, sir.

The CHAIRMAN. At that time were you running counter to any other stockman?

Mr. ANDERSON. There were a few cattle in the country at that time. I didn't know whose they were. I was new in the country; didn't take any sheep in there until about the year 1920. There were a few cattle there, but I never did see a great lot of cattle in this country. But the sheep—there were lots of sheep in there, a great many more at that time than there are at present.

The CHAIRMAN. What season of the year did you run in there?

Mr. ANDERSON. Well, it varies with our moisture. Some years we go in in January, and some years we don't go in until March, and some years we don't go at all. It's very seldom that we can't get some good grazing in the spring of the year.

The CHAIRMAN. It is a spring season?

Mr. ANDERSON. Spring season proposition. When the feed is good, it is good. If it isn't good, you don't want to be there at all.

The CHAIRMAN. What length of time is it liable to be good, at its best?

Mr. ANDERSON. Well, from February to April is ordinarily the best months for feed.

The CHAIRMAN. How many sheep did you graze in there from 1920?

Mr. ANDERSON. The herd varied from 2,500 to 3,500 during those years.

Mr. TILLOTSON. May I ask you a question as to this refusal of your application? Was that based on priority of some cattlemen, or was it based on just the question of excluding sheep from the area?

Mr. ANDERSON. I would like the Division of Grazing to produce a letter that explains that. It just refuses the right.

Mr. LEECH. I don't know whether we have that letter. I will ask Mr. Allen if he has that with him.

MYRON H. ALLEN (district grazier, St. George Utah.). I think we can get that letter, Mr. Leech.

Mr. LEECH. In how long?

Mr. ALLEN. Oh, about half an hour.

Mr. LEECH. We will furnish it to you later, Senator.

The CHAIRMAN. The letters will go into the record.

Mr. ANDERSON. I think this area takes between one-fourth and one-third of our spring grazing area, on the Arizona side of the line. Now, the Nevada line lies not far west of Grand Wash, where the Colorado River is close to where the Grand Wash empties into the Colorado River. That runs due north, but the withdrawals, in there, constitute perhaps a third more, and a fourth, and almost a third, of all of the spring feed area, and we had, always, up until 1940, the spring of 1940, the privilege to graze all of that range. When we were moved back off from a third or fourth, or whatever portion it is, it congested the sheep use on the area that was left. So we have missed this area. We feel that, in a time like this, when we are invited and asked and persuaded upon to produce all we can, it is a poor time, when our Nation is going into war, to prohibit the use of big areas of range that could be made to produce a lot of foodstuff for our Nation.

Mr. ARTHUR WOOLLEY. Is the area being used, Mr. Anderson, for any apparent purpose, by the Park Service?

Mr. ANDERSON. I don't think so, by the Park Service. I think, if I am not misinformed, if I know it right, there is one cattleman who has the right to run cattle on there, and this particular man has an allotment on Federal range adjoining this withdrawal, of 20 sections. The advisory board of this district has granted him—I have been on the board since the beginning of the Taylor Grazing Act, in this district, and I know the particulars about it. He has been allowed 20 sections, and his prior use, up until the time I got a license, I think our records show his prior use is only about 70 head, and we give him a license for a hundred head.

The CHAIRMAN. On how many sections?

Mr. ANDERSON. Twenty section. Well, you figure that area a year around. It has a very low carrying capacity. Figure it for spring use, and you can put it to high carrying capacity, for the length of time the feed is there. But they put it to 5 head per section, year-round use. He has an allotment of 20 sections. Then he has some rights on the park. Just what they are I don't know, but he has a right to graze his cattle anywhere on these withdrawals. All sheep are prohibited, other than the sheep trails allowed by the park. We appreciate that right very much, to trail across it.

The CHAIRMAN. That addresses itself to the same proposition that we had up with Mr. Atkins.

Mr. TILLOTSON. Mr. Chairman, for the record, I would like to make a comment on one statement Mr. Anderson made. He said that the Park Service were not grazing men. That is true. We are not in the grazing business and never pretended to be in the grazing business. We admit that we don't know the grazing business. But we have recently—that is, within the last year, or a little more—added to our force a man who does know grazing. We have done that recently. We have a grazing man now who can answer some of your problems for you.

The CHAIRMAN. Is he here?

MR. TILLOTSON. He is not here, but he will be at the Albuquerque meeting, Senator. I have sent for him to be at the Albuquerque meeting.

The CHAIRMAN. It may be possible that Mr. Edwards, who was then in charge of the recreational area at Boulder Dam, or Lake Mead, denied the application, on the general policy of the Park Service. But if he did, he should have denied the cattlemen as well, you see. So it seems there was something else that entered into the picture.

MR. DRURY. I would like to see the letter involved, and review the case.

MR. LEECH. We have the letters here, now, Senator.

The CHAIRMAN. Will you read it please?

MR. LEECH. There seems to be several letters, but I believe I should start with the one of February 4, 1942. It is addressed to Mr. Blankenagel, from Guy D. Edwards, superintendent. Mr. Blankenagel was at that time our district grazier at St. George, Utah. The letter reads as follows:

DEAR MR. BLANKENAGEL: We are in receipt of an application for a grazing permit from Charles C. Anderson, of Glendale, Utah, dated January 27, 1942.

In this application Mr. Anderson requests a permit to graze 2,700 sheep from February 15, 1942, to April 15, 1942, on the following-described land: W $\frac{1}{2}$ of T. 33 N., R. 15 W., and on the E $\frac{1}{2}$ of T. 32 N., R. 15 W.

Our map shows that the above-described area has been assigned to Ed Yates & Son. Our records also show that this assignment was decided upon after a survey of the area in question made by yourself and our chief ranger. However, we have nothing in our records which would shed any light on the following statement made by Mr. Anderson: "It has been my customary practice to graze on these lands for the past 15 years until March 1940, when the privilege was denied us."

If you can help us in clarifying this matter, we will greatly appreciate it.

Sincerely yours,

GUY D. EDWARDS, *Superintendent.*

MR. TILLOTSON. What is the date of that letter, Mr. Leech?

MR. LEECH. February 4, 1942.

There is also a letter to Mr. Edwards from Mr. Blankenagel, under date of February 9, 1942. It reads as follows:

DEAR MR. EDWARDS: Reference is made to your letter of February 4 regarding an application submitted by Charles C. Anderson of Glendale, Utah, under date of January 27, 1942, for a grazing permit to graze 2,700 head of sheep from February 15 to April 15, 1942, on the W $\frac{1}{2}$ of T. 33 N., R. 15 W., and on the E $\frac{1}{2}$ of T. 32 N., R. 15 W.

As stated in Mr. Anderson's application, it has been his custom to graze stock on these lands prior to March 1940, at which time this range was included within the allotment of Ed Yates & Son.

Evidently Mr. Anderson feels that Mr. Yates has received more than enough range to take care of his operations and is therefore applying for the lands that he formerly used in connection with his livestock operations.

Very truly yours—

On February 14 Mr. Edwards replied to that letter as follows:

DEAR MR. BLANKENAGEL: Reference is made to your letter of February 9, 1942, concerning an application submitted by Charles C. Anderson, of Glendale, Utah.

We appreciate very much your assistance in helping us clarify this problem, and believe that under the present conditions we will continue to deny Mr. Anderson his grazing rights in Tps. 32 and 33 N., R. 15 W.

Sincerely yours—

That seems to be the correspondence concerning the Anderson case.
The CHAIRMAN. That says nothing about any right granted to the cattlemen, does it?

Mr. TILLOTSON. Yes.

Mr. LEECH. Only that Mr. Yates was granted that area for cattle use.

Mr. ARTHUR WOOLLEY. By whom would that be, Mr. Leech?

Mr. LEECH. I would take it that was issued by Mr. Edwards, after an examination by the chief ranger and Mr. Blankenagel.

The CHAIRMAN. There is nothing there that shows that, though, is there?

Mr. ARTHUR WOOLLEY. That is without reference to the board system of the Grazing Service, that is, the advisory board. That was not under the Grazing System Code, was it?

Mr. LEECH. Well, I do not have the board action, if there was a board action on it. The trouble is Mr. Blankenagel is not here any more. He is in New Mexico, and Mr. Allen wouldn't know, would he?

Mr. BROOKS. I think he would, probably.

Mr. LEECH. I would like to ask Mr. Allen, of the Grazing Service, if he knows whether or not this matter was referred to the advisory board.

Mr. ALLEN. No; it was not.

You had your board member in that area present, Mr. Anderson, when they discussed that.

Mr. LEECH. That would be the reason it was not referred to the Advisory Board.

Mr. ALLEN. That was on land administered by the Park Service, and, therefore, there would be no reason for the advisory board.

Mr. TILLOTSON. Then, I take it, it was a question of priority, rather than simply denial of the application.

The CHAIRMAN. The trouble, as I gather it, there was no determination on the question of priority.

Mr. TILLOTSON. Whether the priority was right, whether we completely decided the priority, was another matter.

Mr. ANDERSON. Mr. Chairman—

The CHAIRMAN. Yes, Mr. Anderson.

Mr. ANDERSON. I think you will find practically all of these withdrawals have been put within Ed Yates' area, and he has no stock to stock it. We figure we have given him more range on the public domain, off of the park withdrawals, than he had prior use for in the country, to say nothing about the park lands now. They give him all of the park, in fact, those two half townships that I formerly run on. I think I asked for those particular townships, all the area down west of there, Grand Wash, all that area he tells us that is his. I don't know, I haven't got that for the Park Service, but the cattleman himself says that is his area, the whole thing.

Mr. TILLOTSON. Is it your understanding this would be a proper matter for reference to the advisory board?

Mr. LEECH. Not if Mr. Anderson is a member of the advisory board. It would be up to the district grazier.

Mr. TILLOTSON. How would you suggest they handle it?

Mr. LEECH. I would suggest, after they enter into an agreement on the administration of the entire unit, that we have our local man look into the Yates case, and this one, too, and come to the proper conclusion.

Mr. TILLOTSON. Will you do that? We would be very glad to have you.

Mr. LEECH. We will be very glad to do it.

Mr. ANDERSON. I have a good many neighbors who have as much prior use on this country as I have. I didn't stay on there 3 months at a time. I made application, to see what results I got from it, but we moved on and off, and didn't know where the lines were—went to water at the river and the lake, after the lake came in. We moved back to feed. Sometimes we stay out, as Mr. Atkins stated, as high as 30 days without water, if the feed was right. Oftentimes, we went more frequently after water. I have as many neighbors, sheepmen, that have as much priority on that as I have; sheepmen that go in the spring of the year.

What we would like, as the grazers or licensees on this Arizona strip unit, is that it be grazed as it used to be grazed, figuring, that is, so it isn't overgrazed. Then, if it could be handled by the Grazing Service, that is what we would like; and to have the park people receive their portion of the fees. If the Grazing Service could supervise this, to you people's satisfaction, so it would not be overgrazed, and you receive your share of the fees, and let the Grazing Service handle the grazing part of it, we think it could be handled much more systematically than it has been.

The CHAIRMAN. Well, I respectfully suggest to you gentlemen that maybe we can first get your working arrangement worked out, and then, I think, it ought to be taken up. This is only a suggestion, if you please, but it should be taken up as though no permits had been granted, and taken up de novo, so to speak. I think that is the only way to work these rights out. But that is my individual opinion, and you don't have to be governed by that.

Mr. LEECH. I think that is right, sir.

STATEMENT OF NEWTON B. DRURY, DIRECTOR, NATIONAL PARK SERVICE, CHICAGO, ILL.

Mr. DRURY. May I make a brief statement? I don't know whether this is the proper time, but I should like, if it is appropriate, to say something in general about the approach of the National Park Service to these very vital questions that the gentlemen here are concerned with; the questions relate, of course, to fundamental industries of this whole community.

The National Park Service is set up by law to accomplish certain ends for the people of the United States and to administer areas of various types for the enjoyment and recreation of our citizens.

We find that we come up against a good many problems, of which these rather detailed technical questions of grazing are only one, in which we have to have the benefit of the advice of the related bureaus in the Department of the Interior. As far as I am concerned, I don't look upon the management of grazing as one of our primary functions. Insofar as the regulations of the Department allow, we rely very definitely upon the technical knowledge of the Grazing Service, just as in wildlife matters we rely upon the knowledge of the Fish and Wildlife Service.

I feel myself that the closer the National Park Service can get the decisions of matters of this sort to the actual field where the problems lie the more apt we are to be fair and equitable in dealing with them. So in the Director's office in Chicago we are very remote from this

kind of problem. The regional office in Santa Fe is closer to it. But the superintendents in the areas, working with the local representatives of grazing and fish and wildlife and going very definitely into the facts of the case and the right or wrong of each consideration, are more apt to reach sound solutions—solutions more in harmony with the interests of the communities where these areas lie.

I want to say, as far as I am concerned, I shall rely definitely upon the men in the field, who are in touch with the actual conditions, and upon the technical advice of the related bureaus in the Department.

The CHAIRMAN. I think that is a very fair statement of policy.

There is one thought that I want to throw into this matter. The Grazing Service has had a very constructive history. I don't say this boastfully, but from the very initial stages of the Grazing Service the senior Senator from Nevada has been into it up to his ears, and I have known of each progressive step. I think the Grazing Service has taken advantage of the experience through which the Forest Service has passed, and has had the benefit of that experience. It has given the Grazing Service a splendid impetus and put it 'way ahead of what might be expected, because the Forest Service had to pioneer the whole thing, and did pioneer it, and went through it.

Now, another phase of the question is that your Park Service men are not presumed to be graziers. They haven't that grazing attitude; so that, if something could be worked out whereby grazing would be permitted within proper limits within your parks or on your monuments, and the Grazing Service have charge of it where it is a Grazing Service territory, it seems to me that you would work out a valuable asset to these communities.

Mr. DRURY. We rely on the Grazing Service for advice as to the management of such grazing as existed at the time of the establishment of the park or monument. It is understood that the Boulder Dam recreational area is to be open to grazing and is so specified in the agreement under which we administer the area. I take it that issue is the whole fundamental question, as to whether or not the grazing should gradually diminish on the national parks and monuments. That issue is not in question here as to the Boulder Dam recreational area. I would be glad later on, Senator, to answer any questions as to what we think are the justifiable reasons for the basic policy that has been applied to the national parks and monuments ever since they were established.

The CHAIRMAN. We would be very glad to have you do that.

Mr. DRURY. Wherever, in the beginning, grazing rights have existed prior to the establishment, those rights have been respected.

The CHAIRMAN. For the life of the permittee.

Mr. DRURY. For the life of the permittee; yes.

Now, the question as to how long those rights might exist is a basic question of policy. That is decided by the Department of the Interior.

There is no disposition—particularly at this time, when, as Mr. Anderson says, every service is being strained to produce an increased food and fiber supply for the Nation in time of war—there is no disposition on our part in any way to hamper legitimate grazing interests. In fact, quite to the contrary. While we have not opened up any new areas on the primary parks and monuments, we have, at the request of the Secretary, made a study of the grazing possibilities, in some areas of the historical site, type, and recreational areas, and we

were able to indicate about a 20-percent increase in the amount of grazing afforded.

The CHAIRMAN. To get back to my thought, in the various hearings that we have held, we have had your Park Service and your Monument Service people before us, and they have—I say this without any criticism—they have become inspired with the policy of no grazing within the parks. They have got it bred right into them.

Mr. DRURY. Well, we are instructed to abide by this policy. Congress itself enjoined us to protect certain things in those parks.

The CHAIRMAN. To follow that up, if you were to leave it to the Park Service man in the Boulder Canyon area as to whether or not there should be grazing, he is liable to say no. As a matter of fact, grazing could be conducted in the Mead Lake area without harm. The Grazing Service could manage it, and you might come to the solution.

Mr. DRURY. I wasn't aware that that was the attitude, insofar as the Boulder Dam recreational area is concerned.

Mr. TILLOTSON. The Senator's point is that that is the attitude of every Park Service man.

The CHAIRMAN. That is right.

Mr. DRURY. Of course it is a long story, entirely a matter of basic theory of national-park administration. I suppose you wouldn't want to go into that right now? I would be very glad to answer the question sometime during these hearings.

The CHAIRMAN. It is an interesting subject, and one on which I am sure the other members of the committee think as I do. I have definite thoughts on it. I can also see the other side of that. I am not blind to that. I think there is a reason in everything, as I said before. However, as I also said before you came in, Mr. Drury, if we continue increasing the parks and monuments and continue with the policy of no grazing, pretty soon we will shut out all the grazing in these States, because you can find a good excuse to make a park out of the entire State of Nevada, if you want to.

Mr. DRURY. I can agree with you, Senator, on both your points, both as to the parks and to the unreasonableness of trying to include every area that might take our fancy into a park. I can also say, as far as I am personally concerned, and I know it is the general approach of the National Park Service, that we are confining our attention to the areas which are outstanding in caliber of national beauty, wildlife values, historical and scenic interests, and we can, I agree with you, also readily imperil the high standards which we have tried to maintain for the national-park system, if we take in too much territory.

Now, the question as to how much territory is reasonable to include in parks and monuments, is, of course, debatable. The fact is that, in the total land area of the United States, only about three-quarters of 1 percent of the land, at the present time, is included in all the different types of areas administered by the National Park Service. In general our approach is not to add to this number of areas or acreage, except where there are outstanding examples, in scenery and other values such as we are supposed to preserve in parks and monuments, examples that are distinctly of interest to the Nation as a whole, the preservation of which is a matter of concern for the entire people.

That, too, I think we have to do without injustice either to individuals or the communities where those areas are located.

The CHAIRMAN. Well, dwelling locally, then, with this particular subject, it is neither a park nor monument nor grazing district, at the present time; and it does seem to be an injustice to these people, and to the economic structure of the respective States that pay taxes, and pretty heavy taxes, too. It seems to me this matter should be a subject for quite prompt attention, if you please.

Mr. DRURY. We will try to see to it that it is prompt, just, and reasonable.

Mr. ARTHUR WOOLLEY. In that connection, may I inject a question? As to whether or not it has come to the attention of the present administration of the parks, locally, that assurance was given the local people here by the former director of the Park Service, Mr. Albright, that the withdrawal of these lands would not interfere with the grazing or the general utilization of the public domain for grazing? In other words, that was a very definite ruling, or assurance, given as early as 1933, in connection with it, over Mr. Albright's signature, which these people find has not been kept as a matter of faith. Whether or not it has been overlooked, or some change of policy nationally effected, is reflected in this condition, or, whether it is up to the disposition of the park people to execute grazing and be more concerned with wildlife or something of that sort, that is a question.

Mr. DRURY. Is it so much a question of excluding grazing or a question of dealing with individual cases, where there may be perhaps a conflict of interests?

The CHAIRMAN. Well, there are two questions uppermost. The one is fundamental and addresses itself to the policy; and the other is local now and addresses itself to this particular case, which, to be very frank with you, appeals to the chairman of this committee very strongly. If these people did actually graze sheep in this locality and were excluded, and someone who had no rights, or who had limited rights, has been given rights by the Park Service, then we would say that neither was right, and that justice should be resorted to. We should go back to the beginning, and let the Grazing Service determine whether or not these rights did exist. If they did exist, then to what extent should they be carried on?

Mr. DRURY. As far as I know, that is the procedure we follow. If it isn't, I will see to it that they operate along those lines.

Mr. ARTHUR WOOLLEY. May I ask a question? I'd like to know whether or not it is the policy of the Park Service, in that connection, to adopt the formula of the Taylor Grazing Act, that the land suitable, or better adopted, or most particularly suited, for grazing, in the releasing or allocating them for grazing?

Mr. DRURY. Well, we rely on the advice of the Grazing Service as to that to a considerable extent. What do you think has been our attitude on that, Mr. Leech?

Mr. LEECH. Well, I would say that the formula was followed where we said who they were and the numbers, and we were guided by commensurate rating and prior use in the area.

Mr. WOOLLEY. But as to the area upon which they may graze, you have nothing to say, under this interdepartmental program?

Mr. LEECH. If it is within a monument we would say, "John Jones, you use these sections over here." Yes, we would determine that, with the Park Service, if we are administering grazing on that area, that is.

Mr. ARTHUR WOOLLEY. If they first say, "We are going to permit grazing," that is all right; but if they say they are excluding it, you wouldn't administer it. They have the first say as to what area is to be turned over to your administration?

Mr. LEECH. Yes.

Mr. ARTHUR WOOLLEY. So we have this question; these gentlemen have been excluded from an area that has no value except for grazing. Do they contemplate passing it at that, or do they intend meeting the issue on it?

Mr. DRURY. I didn't understand that that was the primary question. The primary question is prior rights, isn't that right?

Mr. TILLOTSON. That's right.

Mr. ARTHUR WOOLLEY. That is an individual case. I am trying to direct your attention—don't skip us on this. These men have been pushed back several times, have been told you can't graze here, and nothing is done there to use that ground, and they say it is a waste. They want their rights, and want to get back there. Are you going to let them? Or are you going to go into a huddle with a department, and come out with a recognition of administration some place else, or are you going to try to do something, without committing yourself? That is what our problem is.

Mr. DRURY. You want to know how we approach that?

Mr. ARTHUR WOOLLEY. Yes.

Mr. DRURY. I would say this, as far as the Boulder Dam national recreational area is concerned, the interests of several Bureaus are concerned. The Reclamation Service made the original withdrawal, which was followed by a withdrawal for possible national monument purposes and by still another withdrawal for wildlife purposes, all involving lands also used for grazing.

You have got to have a coordination of all these interests before you can answer the question.

Mr. ARTHUR WOOLLEY. The Wildlife started out by fencing off a canyon now and then. Mr. Day is here.

The CHAIRMAN. Mr. Day, would you care to be heard?

STATEMENT OF ALBERT M. DAY, ASSISTANT DIRECTOR OF WILDLIFE SERVICE, CHICAGO, ILL.

Mr. DAY. I am not familiar with this particular area. In general, our interest lies in protecting certain species, largely big game, in conjunction with the other use of the public domain. In this particular instance, it is a strain of mountain sheep we are attempting to protect from too close crowding by domestic sheep, from the possibility of disease, intermingling, and so on. As it comes to grazing, that is handled largely by the Grazing Service, in which we concur as to the grazing within that area. So, we have nothing to do with the allocation of the range, or numbers of grazing, other than to protect enough forage to maintain the minimum number of animals we think are advisable in the area.

The CHAIRMAN. Well, have you a certain part in there, a withdrawn area of Lake Mead, in which there are mountain sheep on the Arizona side?

Mr. DAY. That is right.

The CHAIRMAN. I knew there was a withdrawal on the Nevada side, for mountain sheep, but I didn't know there was one on the Arizona side.

Mr. DAY. There may be some doubt as to whether they run over the Arizona line or not, but it is in the general area.

The CHAIRMAN. I think they stay away from Arizona.

Mr. DAY. They are within the Boulder Canyon withdrawal.

Mr. WILLIAM J. SWAPP, Alton, Utah. I just want to say that I like your attitude; and there's only one thing that I dislike about the attitude of the park graziers, and that is simply because they put on every permit the termination of that permit depends on the life of the individual. Out here in our country—I run out this way—a lot of our fellows from this part of the country know that the range is practically valueless for anything but sheep. In the wintertime there is no water on it. I feel that if it is possible that this here termination, at the death of the individual, should be terminated if possible—I don't believe it is right, because most of us men that are running sheep, we don't expect to live forever. But we have sons, and they have been trained to the livestock business, in the same set-up that we have. I don't believe, if a man happens to die, that his rights ought to be taken away from his inheritance.

Mr. ANDERSON. In answer to this man here regarding his mountain sheep in this particular area——

The CHAIRMAN. Do you mean Mr. Day?

Mr. ANDERSON. I have been in there now since 1920, and the only time we ever saw a mountain sheep on those low areas was in the winter of 1936 and 1937, when that deep snow came down. They did come down to the foot of the mountains that year to get something to eat, when the snow fell deep on those mountains. Other than that I never did see any mountain sheep in the bottoms in the spring feed area.

Mr. DAY. I think they are farther south.

Mr. ANDERSON. Well, I want to say there are several hundred head of burros there. If they have any value to anybody, I don't know what it is. If the park wants to keep increasing them and go on prohibiting the use of sheep and other stock—well, they might be of some use, but I can't see what the good of several hundred head of burros is. I don't know how many hundred there are, but I don't think anyone else can see it, either.

The CHAIRMAN. Well, a very prominent Senator once said on the floor of the Senate that those of us from the West are sons of wild jackasses, so maybe we ought to keep breeding the jackasses.

Mr. Esplin, do you care to be heard?

Mr. ESPLIN. Yes, Senator.

The CHAIRMAN. Will you state your name for the record?

STATEMENT OF CHARLES ESPLIN, OF CEDAR CITY, UTAH

Mr. ESPLIN. My name is Charles Esplin; I am from Cedar City, Utah.

The CHAIRMAN. You are concerned with the Lake Mead area?

Mr. ESPLIN. Yes, sir; and the Zion Park area.

The CHAIRMAN. You may make your statement.

Mr. ESPLIN. With regard to the Lake Mead area, Mr. Anderson and Mr. Atkins have just about said everything that needs to be said with regard to that. It is an area which we have used with our livestock since Mr. Atkins—I guess back for 40 years. The sheep went in there since 1914 or 1915, and made it a part of their set-up every year there is moisture enough to let them come down there for that spring feeding.

The CHAIRMAN. Is there any water in the area, aside from the Colorado River?

Mr. ESPLIN. Yes, sir; several springs, all privately owned now, and this park coming in has taken a block, I think about a third of the area, out, and it has also excluded them from watering on the lake, except in two places, one at the extreme west side of the area, and one at the extreme east. To get to either of those, you have to go through a long lane, between the mountains, and down to the farther edges of the lake. There is a bend in the river—it used to be in the river, but it's in the lake now—that comes up in the middle of the area. We could reach that much quicker and have a shorter cut to the water, and it would allow a great deal freer grazing for the area, if they could come close to the water hole.

Now, just about the question of the first two herds that get in there, one gets to one lane and the other to the other, and they can hold the other 10 or 12 herds from going into the water—the lanes are so narrow. That is the same in both areas, east and west of that, is in the same condition. In any event, if they exclude grazing; if they decide to do it, it would exclude a great many livestock that run in there on a year round set-up. I think you will hear from those different livestock people later, but the thing, too, that I am greatly interested in is the question of time. The Park Service has always taken the attitude that as soon as a man using it, when they come in, passes out of the picture, then the thing is closed for grazing.

I have several sons that will be better livestock men than I am, given a chance; and they would like to carry on. At least I hope some of them will stay with it, if there is any inducement to stay in the livestock business in the future. I hope part of them will stay with the industry, and carry it on, as soon as they come from the armed forces, wherever they are, and are not just kicked out or told to retire. I hope they will have a chance to go on and carry on in this area.

In regard to the Zion National Park, that was made, I think, in about 1918 or 1919. I know I was in Europe at the time, and when I came home we had a park and a small grazing permit, which didn't affect us much. In a few years they decided they didn't want us there, and let us off. But they did practically eliminate, entirely, the live-

stock industry in the town of Springdale. The people there were farmers, small farmers with small bunches of cattle, each one of them. They gave some of them permits for awhile, and some of them were kicked off immediately. That community went on, a few years, and gradually died out. I think now, of all the original permittees which adjoined the park, when it was set up, there is one operator, who has a few head within the boundaries of the park. It killed the industry of both of these towns. I met an old resident, a farmer and pioneer, and I asked him one time when he lost his cattle industry what did he do with his crops. He said, "I haven't any; the cattle is gone, and I haven't any. I did get a little work out of the park. In the depression years the C. C. C. boys come and took that for a few years, and eliminated that source of income." This is all on account of the park taking larger and larger areas for the park.

Now I don't think humans ever get on, and up, off of the canyon bed. There are no roads to those parks, poor trails; and some of them are so extensive that they can't possibly use them. I think a great deal of that should be thrown open to grazing and reestablish it for these men in business, so they can come out and be given a chance to produce after the war is over. They should be given a chance to produce livestock again on the areas not needed for the Mead recreation.

The CHAIRMAN. Are there any questions? Do you care to interrogate any of the Park Service or care to interrogate anyone here.

Mr. ESPLIN. No.

The CHAIRMAN. Does anyone else care to ask any questions? Thank you very much, Mr. Esplin.

Now, the upper Lake Mead wildlife area. Is Mr. Waring, from Fredonia, here?

Mr. J. D. WARING. Yes, Senator.

The CHAIRMAN. Will you come forward, please, and state your name and place of residence for the record and then make any statement you care to make? We would be glad to hear you.

STATEMENT OF J. D. WARING, FREDONIA, ARIZ., STOCKMAN

Mr. WARING. My name is J. D. Warink, and I live at Fredonia. I am located down on the point, down there of the area.

The CHAIRMAN. What area is that?

Mr. WARING. Boulder Dam recreational area, a little bit higher country than we were just talking about, though. Here recently the Government has requested of the railroad, which I lease from, in odd sections, the offering of exchange of 11 sections, down on the end of that point where I graze my stuff in winter. If that is done, it looks to me that the purpose of that is for the elimination of grazing eventually. There's no other reason for it that I can see.

The CHAIRMAN. Elimination of grazing from that area?

Mr. WARING. From this area that I am in.

The CHAIRMAN. I take it that they must want to make those railroad sections a part of the area. Do you know anything about that, Mr. Tillotson?

Mr. TILLOTSON. No.

Mr. DAY. Not I.

The CHAIRMAN. Where did you get this information, Mr. Waring?

Mr. WARING. The railroad told me they were withholding the sec-

tions from my lease because the Government had requested them to offer them for exchange.

Mr. LEECH. It is not a Grazing Service exchange.

Mr. TILLOTSON. I'm sorry; I don't know anything about it, myself.

Mr. WARING. Well, I don't either. I thought I would bring it up right now. What is the object of getting that railroad land out of there?

Mr. LEECH. The railroad land was within the withdrawal. Perhaps the railroad company wants to select land elsewhere to get out of the withdrawal.

Mr. WARING. Well, they said it was at the request of the Government. They didn't mention what outfit.

The CHAIRMAN. Maybe the railroad wants to make some exchange.

Mr. THOMAS C. HAVELL. General Land Office, Washington, D. C. I don't know, Mr. Chairman, if any application for an exchange by the railroad could have been filed in the General Land Office, and that is the place it should be filed. Furthermore, I would like to say that the railroad company must be the moving party. The Government is not the moving party in an exchange.

The CHAIRMAN. And the Park Service knows nothing of that?

Mr. TILLOTSON. No.

Mr. ARTHUR WOOLLEY. Do you want to make a statement also, Mr. Waring, concerning your desire to be administered.

Mr. WARING. Very much so. The Park Service so far has treated me all right, but the policy of the Park Service, as applied to my lands, which are spring range lands for stock purposes, why eventually I'll be eliminated. The only thing that can save us is being set up by the Taylor Grazing Act.

How much land does the Park Service need, anyway? They're all along the Grand Canyon, and you have all the Grand Canyon. How far do you intend going back from the river?

The CHAIRMAN. That is not in the park.

Mr. WARING. It's a recreational area, administered by the Park.

The CHAIRMAN. Grand Canyon?

Mr. ARTHUR WOOLLEY. You lease some sections, and then you have a permit?

Mr. WARING. My permit is 55 percent on recreational area, 20 percent privately owned land, railroad, and the rest fed.

Mr. ARTHUR WOOLLEY. How many cattle do you have?

Mr. WARING. My permit is for 640 head, I think.

The CHAIRMAN. You were running in there before the area was set up?

Mr. WARING. I have been there since 1916, and in '34, when the tenure bill was passed, we felt that we had after that some consideration and rights. We spent considerable money making range improvements and paid our fees until 1941, and then woke up to find that it belonged to the Park Service; had been paying for the wrong part of it to the Grazing Service.

The CHAIRMAN. Do you still have that money, Mr. Leech?

Mr. LEECH. I think we do, Senator. I think we have applied it.

Mr. WARING. Since then we've paid the Park Service, and everything has been satisfactory. But that land down in that point is strictly grazing land. I have been in the dude business, and the proper use of that land is strictly grazing beyond any doubt. Of course, that area

of the Grand Canyon, if it was set back in Ohio, it would be all right for the National Monument; but taken in connection with all of the Grand Canyon it doesn't seem necessary.

The CHAIRMAN. This is the area away from the canyon, is it?

Mr. WARING. All of my lands, I think, are back at least 6 miles from the river.

Now, then, the point, as I see it, is, Does the Park Service intend to continue to reach out and take those lands? What is their limits; or is there any limit?

Mr. DRURY. I might say that I asked myself that same question. I am inclined toward a conservative position, in matters of that sort, and I am studying those problems all the time. As to this particular area, it, of course, is not in a national park or national monument. It is in a recreational area, which is in a special category, the possibilities and limitations of which are still subject to study and experiment. That's about as far as I can go now, in answering specifically your question as to what we consider and what Congress and the Government, generally, would consider a reasonable way of handling these lands, where it has been recognized that, in addition to reserving the scenic and recreational possibilities, there are also legitimate interests that which, if not in conflict with the Government interests, should be recognized.

Mr. WARING. The only thing I am asking for is proper use of this land. That's all; just proper use.

Mr. DRURY. What specific question is at issue now, Mr. Waring?

Mr. WARING. No particular question. I would like to see this range land, which is range land, administered by the Division of Grazing and taken out of the Park Service, to be plain about it, because we don't feel we have any rights, under the Park Service, for grazing over a period of time. You said, later on, there might be 3-year permits. On grazing permits, now, we get 10-year leases. The Park Service runs that out of line all the way through, and they're mixed up there. We're mixed up, too, and we don't know where we are at. If the policy of the Park Service is followed, as it has been in the past, gradually, we'll be eliminated. That is what we believe.

Mr. DRURY. There's no evidence, in this particular area, to bear out that apprehension, is there?

Mr. WARING. No; so far. I said so far with the Park Service everything has been satisfactory.

Mr. ARTHUR WOOLLEY. But have you been able to get your lease now from the railroad for those 11 sections?

Mr. WARING. I am paying on these, at the present time, to the railroad for 11 sections, but they are saying, at the request of the Government, they are withholding the rights, to exchange that right and withdraw it from lease at any time.

Mr. ARTHUR WOOLLEY. The rest of the sections are on fixed lease?

Mr. WARING. Yes; the rest of it.

The CHAIRMAN. Does the railroad issue a lease for more than 1 year at a time?

Mr. WARING. Five and ten years; yes; that is the time the leases are for grazing.

The CHAIRMAN. Have you got some land near the Arizona Strip?

Mr. WARING. This is all in the Arizona Strip.

The CHAIRMAN. Is there anyone from the railroad here? Since there is no representative of the railroad here, we cannot pursue that. Are there any further questions?

Thank you very much, Mr. Waring.

The committee will stand at recess until 2 o'clock.

(Recess until 2 p. m.)

AFTERNOON SESSION

The CHAIRMAN. We will come to order.

On the subject of the Grand Canyon National Monument, Mr. John Schmutz, of St. George, Utah, do you care to be heard now?

Mr. FINDLAY. Mr. Chairman, Mr. Schmutz could not be here until tomorrow, and he asked that he be held over until tomorrow.

The CHAIRMAN. Very well, Mr. Findlay. Would you care to come forward?

Your name is John F. Findlay?

Mr. FINDLAY. Yes, sir.

The CHAIRMAN. Mr. Findlay, you utilize the Grand Canyon National Monument for grazing?

Mr. FINDLAY. Yes, sir.

The CHAIRMAN. You may make any statement you see fit, with reference to the administration of that.

STATEMENT OF JOHN F. FINDLAY, ST. GEORGE, UTAH

Mr. FINDLAY. Mr. Chairman, my name is John F. Findlay, and I live in St. George, Utah.

The CHAIRMAN. How long have you been using that area? Start in there.

Mr. FINDLAY. Oh, about 30 years.

The CHAIRMAN. Do you run sheep or cattle?

Mr. FINDLAY. Cattle.

The CHAIRMAN. And about where?

Mr. FINDLAY. All over it.

The CHAIRMAN. Well, do you now operate under permit?

Mr. FINDLAY. Yes, sir.

The CHAIRMAN. A permit issued by whom?

Mr. FINDLAY. The Park Service.

The CHAIRMAN. How does this come to be called a national monument, Grand Canyon National Monument, as distinguished from the Grand Canyon area?

Mr. FINDLAY. Well, they have got two areas in, fenced in one, down there, and, I don't know, they say they are going to raise antelope on it. I don't know.

The CHAIRMAN. What was the Grand Canyon originally; a monument or a park, or what? Can anybody tell us?

Mr. FINDLAY. It was a park originally, on the Kaibab side of it. That didn't quite satisfy them so they had to have a little more on the monument. They couldn't increase the park, so they took in some of the monument.

The CHAIRMAN. Why couldn't they increase the park?

Mr. FINDLAY. Somebody might object, so they slipped up on the blind side of people and took it into a monument.

The CHAIRMAN. Are you on the monument, or on the park?

Mr. FINDLAY. Monument.

The CHAIRMAN. How much land did they take in for the monument?

Mr. FINDLAY. It was 270,000 acres—slightly over 200,000 acres now—the monument.

The CHAIRMAN. Does that border on the park?

Mr. FINDLAY. Yes; it adjoins the park.

The CHAIRMAN. Does it border on the canyon?

Mr. FINDLAY. Yes.

The CHAIRMAN. Does the monument come to the rim of the canyon?

Mr. FINDLAY. Yes; it goes back from the rim of the canyon.

The CHAIRMAN. Well, the park covers the rim of the canyon, doesn't it?

Mr. FINDLAY. It did on the Kaibab side, sort of a connecting ledge between the Grand Canyon National Park and the Kaibab Forest and the recreational area, although that was established prior to the recreational area, on Boulder Lake.

The CHAIRMAN. None of the Park Service people are here as yet. I don't want to get the history of this; I don't want to speak of it until they are here.

However, tell us what your troubles are, Mr. Findlay.

Mr. FINDLAY. Well, of course, in this place they have fixed to go to raise antelope. The Schmutz brothers and I have five sections in there.

The CHAIRMAN. What do you mean, you have five sections?

Mr. FINDLAY. We own the five sections of it.

The CHAIRMAN. Inside this area they have fenced off?

Mr. FINDLAY. Inside of their enclosure; and, of course, they let us have so many cattle down there for a certain length of time. Last year it was awful dry out there and the cowboys, the 15th of December, took double of the amount down there of what the permit would call for, and cut half the time down to let the cattle in there. I went across to Grand Canyon and got them to let me leave them there. Of course, somebody made some fires, up there, and burned their fences down. Anyway, we couldn't keep them out.

The CHAIRMAN. Who made the fence?

Mr. FINDLAY. I don't know; it burned some of their fences down. They went to fix it. Of course, we got them out by the 15th of March; that was the time, of course. Then they came over this spring and told me I couldn't have my cattle there this year.

The CHAIRMAN. Notwithstanding you own land in there?

Mr. FINDLAY. I control three sections of it, in there.

The CHAIRMAN. Does that give you any commensurate lands for grazing?

Mr. FINDLAY. That is the way we get them, in there, for the land we own.

The CHAIRMAN. When they shut you off from using your own land, do they give you any other land to use instead of that?

Mr. FINDLAY. No; they just said I couldn't put them in there.

The CHAIRMAN. Is that permanent, Mr. Findlay?

Mr. FINDLAY. No; just for this year, so they said.

The CHAIRMAN. There's not much use in talking about it until the Park Service people are here.

Mr. W. B. MATHIS, St. George, Utah. Mr. Chairman, on that investigation, on the Boulder Dam recreational area——

The CHAIRMAN. I overlooked you, Mr. Mathis; please come forward.

Mr. MATHIS. I expected to be called, or I might have asked some questions this morning.

The CHAIRMAN. I offer you my apologies.

STATEMENT OF W. B. MATHIS, OF ST. GEORGE, UTAH

Mr. MATHIS. Well, Mr. Chairman, maybe I looked too old for you. I don't know that I can add very much to what has been said, only that I might date back a little farther.

I have been in that country 40 years and, like a lot of others that have expressed themselves, I guess you have found out, since you have been in the West, here, that everyone has boys in this country, or girls, one or the other.

The CHAIRMAN. I found that out from my own birth. I was born here.

Mr. MATHIS. Well, we are looking ahead, I think, and not only should that right be perpetuated, or continued in the family, but we should also have the right to sell our interests. When this Taylor Grazing Act came into operation here, we tried to set ourselves up—before that most everyone run in common all over the country. Naturally, our interests were scattered all over the country.

Since the Taylor Grazing has operated, this question of give and take, and bought and sold, to get your holdings together, so we might have a private and individual set-up. That is what we did. In doing that, we have bought rights, and some of the rights has been on this recreational area; and, as I understand, the policy is that we have no right to transfer these rights. I would like to stress the inconsistency of that a little, if I could.

The CHAIRMAN. Glad to have you. Be just as emphatic as you want to express it.

Mr. MATHIS. Well, I would like to be as emphatic as I can be.

The CHAIRMAN. That's all right. Let your temper go. Don't worry about that at all.

Mr. MATHIS. Now, on these Taylor Grazing set-ups, close to this recreational area, that is a natural low country, and it is our winter drift, for cattle and sheep. If we were compelled to eliminate the grazing of livestock on this particular area, it upsets the whole set-up for there is no place for the cattle and sheep to drift in the wintertime. The rest is up on the mountain. They crowded us back up on the mountains. We couldn't winter our stuff on this higher elevation so naturally they drift down onto there. If we were compelled to withdraw our grazing privileges from there, why it would upset our entire set-up.

The CHAIRMAN. You heard the discussion here this morning, as to this interdepartmental arrangement, whereby they were going to permit grazing on some of the park and some of the monuments; and we have been trying to, here this morning, suggest to them what to do. That is about all we have the power to do, right here; that is, to suggest that the arrangement be entered into as promptly as possible. There seems to be quite an accord here, I thought, between the Park

Service and the Grazing Service, whereby we might be able to continue in here, but that addresses itself only to this particular area.

Personally, I'm interested in the change of policy, with reference to all of these parks. Now, how far we can get with that is another question. The policy now is pretty hard and fast and settled that when the users of the area in which a park is set up pass out that that ends the permit. Now, that is a pretty hard and fast policy that has been adopted, apparently, by the Park Service. Whether it is a justifiable policy or not, they say that it is, and some say that it isn't.

Mr. MATHIS. But if you make a record of the testimony of the people who are interested here, the more you have the stronger the appeal might be; is that true?

The CHAIRMAN. The more we get on it the better we like it, as far as that's concerned.

Mr. MATHIS. That is about the only reason I want to be heard. I think I will only repeat a good deal of what has been said this morning. If I go through the history of the thing—as I say, I have operated out there for 40 years, as I guess you can judge from the hair on my head. I don't intend to operate too much longer, but I have some boys that were brought up and trained in this business. Naturally, the vocation of the boys follows that vocation. I suppose, if you have a son, he'll be a Senator. Mine will be a cowboy.

The CHAIRMAN. Well, all I can say is that he'll make an awful mistake if he does become a Senator, I can tell you that.

Mr. MATHIS. Well, I'd like to say this: I have actually bought interests, or springs, of the Indians, to get it, and acquire it in a peaceful way, that are now on this recreational area. I have operated unmolested in there since then in setting up my operations. I've bought some other interests, because of the interest being so small it wouldn't be an economic unit. I didn't want to crowd anyone out, but we have bought some of the smaller interests, that could operate when everything was in common, and have a few along with everyone else.

Now, I'm interested in having these rights perpetuated, of course, and protected, and now, under the Taylor Act administration, I'm trying to get in the position to get a 10-year permit. As long as I get from one year to the other on part of it, I don't know that I can get a 10-year permit, and that depreciates my set-up.

The CHAIRMAN. Under the policy, as announced here this morning, and as we understand it to be, it is highly doubtful if you will get a 10-year permit from the Park Service. If you can't get a 10-year permit from the Park Service, I would still have a doubt as to whether or not you would get a 10-year permit from the Grazing Service. Would that be your attitude, Mr. Leech?

Mr. LEECH. He might get a 10-year permit on part of it, Mr. Chairman.

Mr. MATHIS. But my cattle drift back and forth from the public domain—it is all public domain—back and forth onto this recreational area. It would be impossible to fence it. If you fenced it, it would upset my set-up. I have nothing to sell; and I couldn't sell a set-up of that kind, and say, "Now, this isn't permanent." I thought from this investigation that you are conducting here, we might lend some influence to having this policy changed so we might get a 10-year permit.

The CHAIRMAN. That is exactly what I wanted you to do, because I think a change of policy, in regard to Park Service, is a very valuable thing. But I also think it is going to be a difficult policy to set aside or modify.

I have heard a number of expressions, in various hearings we have had, as to the steadfastness of that policy; and it's going to take some effort to get that policy changed.

Mr. MATHIS. The first step then that we might be able to take is to put it under the administration of the Taylor Grazing Act.

The CHAIRMAN. Well, you must remember this: there are congressional acts affected, and there are Executive orders. It takes a congressional act to set up a park; but an Executive order can set up a monument. We have that glowing example in Wyoming, right now. We have the Teton National Park set-up covering all of that. They thought, at that time, that was all that was essential for park and scenic use. Someone got the happy thought that it should be enlarged—and they knew that the congressional delegation from Wyoming would fight it to a finish if they undertook to enlarge it as a park—so the Executive order was made, enlarging it, and calling it a monument.

Now, there isn't any question in my mind, and I speak personally, now, as to what was the intent of Congress, when they passed the Monument Act. It was to preserve, in its natural state, any natural object of scenic or historical or other interest. It wasn't intended to take in a whole countryside. Nor was it intended to cut into the Park Service, or become a part of the Park Service. But it has been utilized, nevertheless, and the Executive order has been made, in the Jackson Hole incident, and in other incidents as well. Just the other day in my own State 180,000 acres were added to a game refuge without even conferring with the delegation from Nevada; without it even being known to the Wildlife Service itself, except, perhaps to one individual. But it is there, and it is an Executive order.

Mr. MATHIS. I don't think we object so much to this being set up as a recreational area or national monument or what not, within reason, if it weren't the policy of the Park Service to eliminate the grazing of livestock. That ought to enhance the value of it, in my opinion.

The CHAIRMAN. But the policy is to eliminate the grazing of livestock.

Mr. MATHIS. Anyway, to get at it, and change that policy, what can we do? Are we going to lose our democratic way of doing things, and weaken on that point?

The CHAIRMAN. You have put a pretty direct question to the chairman of this committee. I'll answer it directly. I'm very sorry to say that I see our democratic form of government becoming a bureaucratic form of government, and I deprecate it very much. As far as I'm concerned, my intent is to try to stop it, as soon as I can. I hope we'll have enough strength in Congress to do it. If we don't do it, we will have lost the better part of our democracy very shortly.

You asked me the question and I gave you the answer, as I see it. But let's get down to the facts. It is a condition, and not a theory, that confronts us. We have a condition that visits itself on us here; and that is growing out of a policy. Now there may be, and I am not saying there isn't, a good reason, basically, for a policy that would

say that national parks and monuments should be highly protected, so that the natural condition should be retained as far as possible. But to go with that, it seems to me that reason would step in. We haven't destroyed our forests by grazing on our forests. We haven't destroyed the beauty of our forests by grazing on our forests. In fact, we have enhanced our forests by grazing on the forests. We have made our forests by far. The Forest Service and the Grazing Service, both, testified here this morning that grazing is beneficial for the forests. We all recognize that.

It does seem to me a modified policy should be set up, with reference to the parks and monuments, so as to preserve the natural conditions; but at the same time, give opportunity for the natural condition to be preserved, as against threatened fire and threatened destruction of all kinds. Where there is an overabundance of underbrush, or of grass, or weeds, that dry up and become tinder, there is an overabundance of opportunity for fire destruction, destruction by fire, and grazing—I never knew grazing to hurt any territory particularly. So it is looking to a change of that policy that this committee will bend its effort, if we can do it reasonably. We will try to do it. If we can't, we will have to take some other steps.

That is the chairman of the committee speaking alone. My committee members are not here, I'm sorry to say.

Mr. MATHIS. We are with you. We speak with you. I would like this to go into the record.

The CHAIRMAN. It is in the record.

Mr. MATHIS. I have one other statement to go into the record. In all my experience out in this country whenever you have eliminated the grazing of livestock you increased the fire hazard. In that particular area, there is no wildlife. If you want it to go back to its natural state, you will have to take these Indians that we have partly civilized and moved out a reservations and put them back and let them go wild. That is the history of that country.

The CHAIRMAN. They wouldn't go back.

Mr. MATHIS. Well, they wouldn't have it. If the Government continues a little while longer, even the Indians wouldn't have it! Now, what else—I thought if I got excited I would lose a point.

The CHAIRMAN. You don't seem excited to me.

Mr. MATHIS. I have been mad about this issue, been sorely provoked about this, but I haven't said too much about it, because I have to be careful what I say. But I think this recreational area, Boulder Dam Recreational Area in particular, is so inaccessible for tourists, and for the person that wants to see a country in its natural state, you wouldn't get one in 6 months, and it's just awasting the country, depleting a resource the country needs. It is a taxable interest, and taxable industry, and, at this particular time, when they are stressing the production of food, to eliminate grazing of livestock, on a country that is good for nothing else, seems to me like some of them better come out here and see what we have got.

The CHAIRMAN. There is another phase of this subject that I would wish that somebody would touch on. This policy eliminates the use of the grazing on park lands, after the passing of the original permittee. In many cases the original permittee has sons, some of whom would want to follow in the father's footsteps. Now, those sons, when they know that the privilege and right die with the father, they become

discouraged, and leave the homestead, and leave the business, and go off into something else. That is extremely discouraging, for a line of industry in America that is basic. It is to the best interests of our Nation to hold our youth in the field, and to hold our youth in agricultural pursuits; and it does seem to me that, while it isn't an extensive problem, it is a problem that addresses itself to every community in the West.

Mr. MATHIS. It is.

The CHAIRMAN. Maybe I'm doing too much testifying here, but I would like to get that in the record, too.

Mr. MATHIS. I'd like to also get in the record, and I think I can speak for the whole assembly here, we appreciate, Senator McCarran, your coming out here, with your committee, to get on the ground, and get in testimony direct from the operators who know conditions here. I think you are to be complimented for it.

The CHAIRMAN. Thank you, sir.

Now, has the Park Service come in? The Park Service is the most interesting service here; and then there's the Grazing Service next. I think our friends of the Forest Service are pretty free from the controversy over here.

Mr. MATHIS. Mr. Chairman, I would just like to add this, on this 10-year permit the Taylor grazing administration might issue. Mr. Leech has stated that, on part of it, you can't issue a 10-year permit, as I understand the law, on a set-up that hasn't got an all-year-round operation. You take our winter range away, and we haven't got a year-round set-up. You take the winter range away, and you might as well come 10 miles farther up onto the mountain and take the rest of it, because you have destroyed the set-up. I have a permit for 800 cattle, and I have spent—I went in there in the first place with commensurate rights; I thought to take care of my outfit. Since then, to round this thing out, I have spent from ten to fifteen thousand dollars to round it out in fences and holdings.

The CHAIRMAN. Right there, let me interrupt you. How much in the way of fencing and holdings did you acquire, or construct, which is now within the recreational area?

Mr. MATHIS. It is fenced on the south by the Grand Canyon.

The CHAIRMAN. I know, but I am speaking of your own construction, on the recreational area. You acquired water rights?

Mr. MATHIS. Construction has been mostly in the way of holding pastures, to hold steers and green calves, holding pastures. The drift fence was built by the Taylor grazing administration, C. C. C.

The CHAIRMAN. You have depended on the recreational area for a certain period of each year?

Mr. MATHIS. Always depended upon that for my winter range; always used it for that. If you take that away, I don't know where I could go for wintering my cattle.

The CHAIRMAN. Has it been taken away?

Mr. MATHIS. No; but they say fear is the worst thing you can put into a man to upset him. Well, you can do that, you can drive his boys away and everything else, but they haven't hurt me yet.

The CHAIRMAN. You are grazing in there now?

Mr. MATHIS. I'm grazing in there now. I haven't been hurt. I'm paying the Boulder Dam recreational area part of my grazing. I notice somebody suggested that when the browse gets weak it's hard

to carry three or four burros. I'm carrying about two or three thousand.

The CHAIRMAN. We had an example here this morning, in another line of livestock, where the permit was entirely taken away.

Mr. MATHIS. Well, that's putting the fear into us. That is the thing; if you are fearful of it, you want to take this in time, and do all you can to guard against it.

The CHAIRMAN. Let's boil this down to the last analysis. You have been grazing, and have set up an economic grazing unit, in which you have certain territory that you graze in the summer, and certain territory that you graze in the winter?

Mr. MATHIS. That's right.

The CHAIRMAN. And you have a permit from the Grazing Service. Let me see if I am right on this. You have a permit from the Grazing Service, for all the territory you have grazed on, excepting on that which is the recreational area. That is correct. But, if this recreational area is taken away from you, or your right to graze on it is taken away from you, the permit issued to you by the Grazing Service will become a useless permit. Am I exaggerating?

Mr. MATHIS. Well, you might be exaggerating to say it is useless, but it destroys the economic unit; destroys my customary way of operating; and I don't think—Mr. Leech might answer me on this—I don't think I can get a 10-year permit as long as I can only get a 1-year permit on the recreational area.

Mr. LEECH. Do you have a 10-year permit now for any numbers at all?

Mr. MATHIS. No; I don't think there's any use applying for it.

Mr. LEECH. Speaking offhand, I would see no reason why they couldn't give you a 10-year permit for the part on the grazing district.

Mr. MATHIS. What are you going to do with the other part? You couldn't give me a 10-year permit on it.

Mr. LEVY COX, St. George, Utah. You wouldn't have a year-round operation; no place to put the stuff in the wintertime.

Mr. LEECH. I was under the impression that part of Mr. Mathis' operation was on the monument and part was on the grazing district.

Mr. MATHIS. That is right.

Mr. LEECH. And that you would still possess a year-long operation for that number on the grazing district.

Mr. MATHIS. Not if I can't get down there for winter. I don't know where I would go for winter. It's 85 miles to any public water.

Mr. LEECH. Is all of the winter set-up on the withdrawal?

Mr. MATHIS. Well, there is nothing to prevent all of them from going down there, if it snows. They most all go down there, yes; but there might be a few right along close to the line that would winter. It depends on the winter. If deep snow comes they will have to go down there. Furthermore, these springs—the only permanent water on this recreational area—you can't get to the river. That is water that I have acquired title to, from the State.

Mr. LEECH. I'll be glad to have the case gone over, and see to what extent we could issue a 10-year permit.

Mr. MATHIS. I'm not worrying about that. I'm not worrying about the administration of the Taylor grazing law. You are all right, as far as I know. I've been on the board since it was created. I know

what I'm up against. The thing I'm worrying about is the thing that I'm facing now. They might do with me, and others, what they have done in other places; upset this set-up. I've got boys that wouldn't be anything but cattlemen, to my own sorrow, I guess.

The CHAIRMAN. I take it—it presents a picture to me—I may be wrong, but it is as though the base property were eliminated from an economic unit on which a 10-year permit would be issued. If the base property was not there, you wouldn't issue the permit.

Mr. LEECH. No, sir, Senator.

The CHAIRMAN. So, whether it is the base property, or the commensurate property—

Mr. MATHIS. It's all listed as base property. It was prior use, all of it, on top and below.

The CHAIRMAN. So, I think he has something, by way of an argument, that he would scarcely be entitled to a 10-year permit if he lost this right to graze on the recreational area. However, we are glad to have it brought out, and it again addresses itself to the Park Service. It is one of those things.

Mr. DRURY. May I ask, have we, as far as you know, made any move to cancel?

Mr. MATHIS. No, sir. I think I stated, I want it understood that I have no complaint, up to date. It is this fear that I have, that I am worried about.

Mr. DRURY. Thank you.

The CHAIRMAN. It is the fear that you have, and others, that addresses itself to this basic policy with reference to this—that when this user passes out the right ceases. That has been a policy as to parks; and, of course, that naturally makes him apprehensive.

Mr. DRURY. That policy does not apply to Boulder Dam national recreational area.

Mr. MATHIS. My boys are running this now. I haven't done much riding for a few years. They are running it with the idea that it will be theirs; and their fear is getting into them, too, thinking about the whole thing. What can we do about it? This is the business that I am fundamentally in.

The CHAIRMAN. What would you say, without committing yourself too strongly, what would you say—for the purpose of the record, because the congressional committee will view this record, and the Senate of the United States may, some day, view this record—what would you say, off hand, is the value of your economic set-up?

Mr. MATHIS. The entire set-up?

The CHAIRMAN. Yes.

Mr. MATHIS. Fifty thousand dollars.

The CHAIRMAN. All right. If you lose one part of the set-up, which deals with the grazing of your livestock, during a certain period of the year, and which is now within this recreational area, what would be the value of your economic set-up?

Mr. MATHIS. Well, it would depreciate. I don't know how I would operate. I wouldn't go so far as to say that it would clean me out, because there is some good country on top, if it were fenced so I could handle less cattle. I might winter a few cattle; but I couldn't winter the cattle that I can summer, by any means. That would mean that your summer range would grow up to a fire hazard.

The CHAIRMAN. The market value of your set-up would be much reduced, wouldn't it?

Mr. MATHIS. It would; it surely would.

The CHAIRMAN. All right. Thank you very much, Mr. Mathis.

Now, going to the subject of the Grand Canyon National Monument, would Mr. Findlay care to come forward now?

Now, will the Park Service kindly state the history of Grand Canyon National Monument? First of all, when was the Grand Canyon National Park set up?

Mr. DRURY. I will have to ask Superintendent Bryant, of Grand Canyon National Park.

The CHAIRMAN. When was the first withdrawal made, for either a park or monument, with reference to the Grand Canyon of the Colorado?

STATEMENT OF HAROLD C. BRYANT, SUPERINTENDENT, GRAND CANYON NATIONAL PARK, ARIZ.

Dr. BRYANT. Back about 1908, or something like that, is when the Grand Canyon area was made a national monument, under the Forest Service. Then in 1919 it was created a national park. The present Grand Canyon National Monument was created, in 1932, and the boundary line was changed, eliminating some 71,000 acres, in 1940.

The CHAIRMAN. Was it set up by an act of Congress, in the first instance, or by an Executive order?

Dr. BRYANT. Grand Canyon National Park was set up by act of Congress. The monument was set up by proclamation of the President.

The CHAIRMAN. For the enlightenment of the committee, tell us the difference between the Grand Canyon National Park, and the Grand Canyon National Monument.

Dr. BRYANT. Grand Canyon National Park contains about 105 miles of the main Grand Canyon of the Colorado. The Grand Canyon, itself, extends from the mouth of the Little Colorado to below the Grand Wash cliff, near the head of Lake Mead, 217 miles of deep, finely colored canyon. Of that amount, 105 miles are within the Grand Canyon National Park.

Later on, it was discovered that, below the main park area, there was a very scenic part of Grand Canyon, with very deep, very perpendicular sides; and that the view from Tuweep Point was a wonderful and astounding view, because the canyon was so narrow at that particular place. At the eastern end of the canyon it is around 18 miles wide. Down at the national monument, the canyon is hardly 4 or 5 miles in width; and it seemed to display an entirely different type of scenery, and, therefore, it was suggested that that should be placed inside of the national monument, and given special care or protection.

The CHAIRMAN. How far back from the rim of the canyon does the park extend?

Dr. BRYANT. On the south rim, 4 to 5 miles, on the north rim 10 to 12.

The CHAIRMAN. Both rims are in Arizona, are they not?

Dr. BRYANT. Yes.

The CHAIRMAN. And the north rim is that territory that we have under consideration, partially known as the Arizona strip?

Dr. BRYANT. It is within the Arizona strip, because it is north of Grand Canyon. Grand Canyon cuts off a portion of Arizona, and makes it very hard to get around, by bridge, to the northern area of Arizona, across Grand Canyon.

The CHAIRMAN. You say it extends about 12 miles back from the rim on the north side?

Dr. BRYANT. Correct.

The CHAIRMAN. Is that for the full 105 miles?

Dr. BRYANT. Not by any means. Part of the way, along the western portion of Grand Canyon National Park, the boundary line follows the north bank of the Colorado River; then it jumps up to the rim, and follows along, beneath the Coconino, to Sandstone; and then it jumps farther north and takes in about 10 or 12 miles of the territory, including some of the fine views, and fir forest.

The CHAIRMAN. What is your rule, or custom, as to grazing within that area?

Dr. BRYANT. At first, when Grand Canyon National Park was set up, all of the grazing rights were recognized, and it took 20 years before grazing was cleaned up, from our point of view, within the park. Each time that someone died the permit was considered invalid, and, therefore, after 20 years the grazing has ceased to exist within Grand Canyon National Park.

Within the monument, all the grazing permittees that were found there when the monument was created, are still grazers. There with one exception, a man who sold his sheep outfit, and, therefore, the permit ceased to exist.

The CHAIRMAN. Now, I want to get the line of the monument and the line of the park fixed in the record, if I can. The monument was created quite recently, comparatively recently. Does that increase the width of the park north and south?

Dr. BRYANT. Not of the park. The two units are entirely separate. It increased the area to the westward, under the jurisdiction of the Park Service, when this monument was created; and the area—this will give you an idea. I'll show you a map of the monument. There is about a township on the south side of the river, and a considerable amount on the north side.

This area runs across the river; is on the south. This represents the present boundaries of the Grand Canyon National Monument, to the north of the river; also, down Kanab Point, down here, westward to the Trumbull Mountains.

The CHAIRMAN. Kanab is on the north; this red line that sets off a rectangle, here?

Dr. BRYANT. That is an area south of the canyon itself, and it is almost contiguous with Grand Canyon National Park, which runs in a V to the forest. This, supposedly, was added on to this area, because it was public land, and seemed a logical thing to add to this national monument.

The CHAIRMAN. Now, where do you graze, Mr. Findlay?

Mr. FINDLAY. I graze at Tuweep.

The CHAIRMAN. Do you graze within the Grand Canyon Monument?

Mr. FINDLAY. On the monument, now. That is a restricted area; that's what you have got under fence there, isn't it? Is that what you call the monument?

Dr. BRYANT. The monument is shown by this red line. It runs up; it originally went up like this; all cut down to this side. Privately owned land is within this.

Mr. FINDLAY. That is our land in there.

The CHAIRMAN. This land in red there, is that an allotment, a grazing allotment?

Mr. FINDLAY. To this group of men.

The CHAIRMAN. Made by whom?

Dr. BRYANT. By the Grazing Service and the Park Service, working closely together, on this whole grazing organization.

The CHAIRMAN. Now is that a grazing permit that has any time duration to it?

Dr. BRYANT. Yes, sir. Originally 1 year, and now changed to 3 years.

The CHAIRMAN. So that they may get permits for 3 years at a time?

Dr. BRYANT. Correct.

The CHAIRMAN. Does that terminate with the death of the original parties?

Dr. BRYANT. That has always been the understanding we have had. There has been no instance of any loss of permit, thus far, with this particular monument.

The CHAIRMAN. That is largely because of the brief duration of the monument. It was only set up comparatively recently?

Dr. BRYANT. That is right.

The CHAIRMAN. But, as the permittees pass out, their rights pass out?

Dr. BRYANT. The hope was that that might happen, because there was a plan for that particular area as an antelope refuge, eventually. It had been an area heavily used by antelope, many years ago; and it is hoped that particular area you are pointing at, there, might be utilized as an antelope refuge. There are no antelope in there today.

The CHAIRMAN. There are no antelope in there today, at all?

Dr. BRYANT. No.

The CHAIRMAN. Now, what is this north part, here, in yellow?

Dr. BRYANT. That is all grazing allotment, arranged on the basis of the men having rights there, having pastured there before those allotments were all figured out, when the monument was first set up. The first plan followed was to have a survey made, to determine the carrying capacity of the range, and that, having been determined, then the Grazing Service and the Park Service got together with the grazers themselves, and figured on the proper boundaries, and so on. So, we had this agreement, on this particular map. We have had two definite meetings with the grazers, one on June 15, 1940, and another September 25, 1941, when this was discussed over the map, and what the boundary lines should be, and so on.

The CHAIRMAN. Does that apply, also, to this pink?

Dr. BRYANT. That is another grazing allotment.

The CHAIRMAN. Community?

Dr. BRYANT. Yes.

The CHAIRMAN. Now, does that all come under the provision that these original users, the rights pass out with them?

Dr. BRYANT. As far as we know now. That has been the policy of the Park Service.

The CHAIRMAN. That applies to the yellow and the pink?

Dr. BRYANT. To everything within it. They were told that, I think, at some of the first meetings. They were told that was the general policy of the Park Service, and they would be as fair as possible to every man concerned.

The CHAIRMAN. Now this monument was set up by Executive order?

Dr. BRYANT. Yes, sir.

The CHAIRMAN. Set up when, did you say?

Dr. BRYANT. In 1932, first, with a change of boundary in 1940.

The CHAIRMAN. Did the boundary extend the area, or decrease it?

Dr. BRYANT. Decreased it, by 71,854 acres.

The CHAIRMAN. Now is that a territory that is accessible to the public?

Dr. BRYANT. Rather difficult of access at the present time. There are a great many plans for major roads, off in that direction; and, one time, there was talk of a road that might cross, by Pierce's Ferry, across the recreational area. At present the roads are rather difficult.

The CHAIRMAN. What was the aim, or object, when the monument was set up?

Dr. BRYANT. To protect the scenic values of a narrow portion of the Grand Canyon and a particularly valuable volcanic exhibit on the monument. There happened to be a large volcanic flow of lava to form the Trumbull Mountains and in one place the lava flowed over into the Grand Canyon and dammed up Grand Canyon in geological times, and made a lake behind the lava dam, which was eventually washed out by the river and leaves a large mass of lava still in the bottom of the canyon. But the great flow of lava, down one wall and over to the far side, is a fine geological exhibit that geologists consider well worth protecting and saving, for people to come and see.

The CHAIRMAN. Have the grazing permits in this area taken from the scenic value of the area, up to date?

Dr. BRYANT. Not that we know of, except that wherever you have grazing, you have less wild flowers and less high grass and other vegetation that would grow much higher and look different than it does after it is all grazed down.

The CHAIRMAN. Of course, the grazing wouldn't do any harm to that volcanic flow.

Dr. BRYANT. Your question, was it not, sir, was as to why it was set aside? I was trying to explain.

The CHAIRMAN. What I am trying to drive at is this, that I find your statement to be that it has done no harm to graze this area, up to date.

Dr. BRYANT. I'm afraid I am not willing to make such a statement, because it has been heavily overgrazed. In setting up those grazing allotments, there had to be a cut of 25 percent, year by year, to get it down to the carrying capacity of the range, so that if you visited the area you would still find it had not come back anywhere near to normal. It has been a heavily grazed area.

The CHAIRMAN. These people who graze there, on this area; about how many stock graze in there? Have you ever counted them, or had a count made of them?

Dr. BRYANT. I will have that answer for you in just a moment.

The CHAIRMAN. It doesn't have to be in detail. It can be a general count.

JOHN H. RIFFEY, Park ranger, Grand Canyon National Monument. There are 60 head of horses, 776 head of cattle, and 11,740 head of sheep.

The CHAIRMAN. Thank you very much.

Is there anything else you care to state, Mr. Findlay?

Mr. FINDLAY. Only like I said, in that pasture, where we have that land now, last year there was an awful drought. We put off a lot of cattle; sold a lot of the cattle as best we could. But, along about the 15th of December, the cowboys, they drove double the amount of the cattle down there that I was entitled to range there, 65 head on them 3 sections—they don't give any other permit in there; but, of course, then I left 'em there for the time, and they cut the time down. I went across the Grand Canyon and met with these gentlemen, and they were very nice about the emergency call; and so the fence burnt down—didn't it burn down? It was down on the west side there.

The CHAIRMAN. Well, that's all right.

Mr. FINDLAY. But, anyway, the cattle kept coming back in there; kept coming back. We drove them away, and they come back. Now they are not going to give me those permits, in there, on that land for that.

The CHAIRMAN. Why is that?

Mr. FINDLAY. Oh, you might ask them.

The CHAIRMAN. Can you explain that?

Dr. BRYANT. Well, I think the main point, of course, is that we have no control over any privately owned land. A man has to do what he wants to on his own privately owned land. But, as we understood it, the Grazing Service and the Park Service were anxious to have regulated grazing, and get the grazing down to the carrying capacity of the range. And there are such things, you know, as fees, that are paid for by the men who put in larger amounts of stock than they are entitled to. Mr. Findlay has not been told, at all, that he couldn't have a permit. He was simply penalized for having turned in this large amount of cattle, onto a range not ready to support it. It couldn't support it. He was informed, by mail, and even by telegram, about the cattle; far more cattle on that range than he had any permit to pasture, there. So, it was simply a penalty, and nothing is planned to actually take his permit away, unless it is a permit not standing within the regulations of the grazing program for the area. I understand all of these permittees graze part of the time on the monument, and part of the time off the monument, on grazing lands.

Mr. ARTHUR WOOLLEY. What is the water situation on there, with respect to the antelope?

Mr. FINDLAY. Haven't any water only on the pond. No living water there, within 4 or 5 miles of it.

The CHAIRMAN. On this territory?

Mr. ARTHUR WOOLLEY. Who owned the pond of water?

Mr. FINDLAY. Oh, now, they built the pond of water.

The CHAIRMAN. Do you have water on these tracts that you own?

Mr. FINDLAY. No, sir.

The CHAIRMAN. Well, is there anything further you want to state?

Mr. FINDLAY. Of course, now, about those excess cattle, I told them they could get their price on there; to come over to see me this summer.

The CHAIRMAN. You were willing to pay the penalty?

Mr. FINDLAY. Yes, anything. I told them to make it easy on themselves, because the cattle were in that condition; plenty of feed left there after the cattle left, too, plenty of feed there, now, for a thousand head of cattle.

The CHAIRMAN. What you want to put in there now is what you have usually been permitted to put in?

Mr. FINDLAY. Oh, that would be fair.

The CHAIRMAN. Well, when cattle need feeding they need feeding, I know that.

Mr. FINDLAY. That is what I put them there for.

The CHAIRMAN. Well, is that order, Mr. Superintendent, hard and fast, that he is not to have a permit in there?

Dr. BRYANT. I beg your pardon?

The CHAIRMAN. Do I understand it to be a hard and fast order that he cannot graze in there for a season?

Dr. BRYANT. Only for this short period, as a penalty for not standing by the regulations of his permit. If we let each man overdo what he promises to do on his permit how could it be possible to regulate it; and it isn't fair to the other men who stay within the regulations, if some men go beyond the regulations and then are not penalized for it. We are just trying to be fair to all the rest of the permittees.

The CHAIRMAN. Well, I haven't any right to tell you what your penalty should be.

Mr. T. W. JONES, New Castle, Utah. May I ask the gentleman what he proposes Mr. Findlay should do with those cattle during this period of the penalty?

Dr. BRYANT. He can make arrangements with the Grazing Service, or Park Service, to find an extra pasturage.

Mr. JONES. You don't agree that any man can simply step in and put two or three hundred head of cattle on some range, without permission to do it? He needs to find more range.

Mr. FINDLAY. We had permission to do that. Your own men left them in there. They were counted in; your agent, down there counted them in; and left them there for that length of time. I went across there and you were down to Phoenix, and your man, Mr. Davis, on emergency, told me to leave the cattle there. I wasn't trying to steal anything off of you fellows.

Dr. BRYANT. That is the interesting thing. We went all the way with him in trying to give him special privileges during wartime, and then when we tried to get back to the specified number, and so on, he still had too many there. We asked him to remove them, and instead of being removed, when we asked them to be removed, they stayed there another 2 or 3 weeks.

Mr. ARTHUR WOOLLEY. Was that when the fence was found down?

Dr. BRYANT. I don't think it has anything to do with the fence.

The CHAIRMAN. Very well.

Thomas Jensen, do you care to come forward and make a statement? You graze livestock on the canyon, the Grand Canyon National Monument, don't you?

Mr. JENSEN. Yes, sir.

The CHAIRMAN. What have you to say?

STATEMENT OF THOMAS JENSEN, FREDONIA, ARIZ.

Mr. JENSEN. Mr. Chairman, I have had some grievances there on some particular occasions, but, as far as the boys I have had to deal with, I would say they have been very nice people, and so on. But it so happens that I was hit on this withdrawal that was asked for.

The CHAIRMAN. What withdrawal was that?

Mr. JENSEN. A couple or 3 years ago they asked for a withdrawal on that monument, and in my particular case we asked for 5 miles of withdrawal, and they withdrew 3. That left my holdings within the park.

The CHAIRMAN. That is, they pulled their lines in 3 miles, in place of 5. Is that what you mean by the withdrawal?

Mr. JENSEN. Yes; and that left my holdings within the park; but the Park Service was good enough to tell me they would give me a special permit to go in there with my livestock, because I had water on my reservoir, between two different roads. But that wasn't the real trouble.

When the withdrawal took place, that threw the withdrawal under the Division of Grazing. They separated and allotted their lands there, and my property was within the park. So, they first made what I called a fairly even division, and then they took my part of it from me, because I was still in the park. But in that certain area I was given about three-fifths of it. The park listed me up with about three-fifths of the grazing that was thrown out there, which they had supervision over that area. Afterward, for awhile, I had nothing, because my property was still left within the park; see?

The CHAIRMAN. Didn't you have the right to graze within the park?

Mr. JENSEN. Yes; within the park. But after it became Taylor grazing, they said the Board first figured that it should be an even division, between me and my neighbor, and gave me that kind of a division; so I said nothing more about it. Later they came in and took that away from me.

The CHAIRMAN. Who did; the Grazing Service?

Mr. JENSEN. Because my property was still in the park. They said they had no right to give me anything because my water was in the park. Well, I put in a protest against it—well, it has never been settled, entirely, yet. But the neighbor and me made fairly agreeable lines, and we are still running that way.

The CHAIRMAN. Are you running in the park now?

Mr. JENSEN. Yes, sir. I had a permit. I have used that permit for over 20 years; that is, used that country for over 20 years; and

the park officials have given me grazing privileges on the balance of what is left in the park; but that is——

The CHAIRMAN. But you lost your rights on the 3 miles?

Mr. JENSEN. The 3 miles that was withdrawn, lost it for awhile, and it is still pending.

The CHAIRMAN. Still pending with the Grazing Service?

Mr. JENSEN. Yes; I got no satisfactory agreement between me and the Grazing Service on that.

The CHAIRMAN. Were you given the right, or denied the right, or is it still standing in abeyance?

Mr. JENSEN. It's still standing.

Mr. LEECH. I would like for Mr. Allen to tell us about it, Senator.

Mr. ALLEN. At present there is pending an appeal of Charley McCormack, and until that appeal is settled there is a temporary agreement between Mr. Jensen and Elmer Jackson concerning the division of that range in there. That will not be definite until the appeal of Mr. McCormack on the portion of that area is determined.

The CHAIRMAN. That addresses itself to this so-called 3-mile withdrawal?

Mr. ALLEN. That tank Mr. McCormack is appealing on is in the middle of the 3-mile area, but is returned to the grazing district.

The CHAIRMAN. How long before that is going to be settled?

Mr. ALLEN. That should go to a hearing this fall sometime.

The CHAIRMAN. Meanwhile what is he going to do with his cattle?

Mr. ALLEN. He has an allotment. He has never been denied for any number of stock he has applied on.

The CHAIRMAN. Are you running entirely on the monument now?

Mr. JENSEN. No, sir; I have a Taylor grazing——

Mr. ALLEN. All of his cattle are on the Grazing Service. The sheep run for 6 months on the monument, 3 months on the game refuge, and the other 3 months are on us.

The CHAIRMAN. Your real complaint is, then, with the Grazing Service?

Mr. JENSEN. No, no; my real complaint, in the first place, is with the Park Service for not moving back to where we asked for that 5-mile withdrawal. That would have left everything very easily settled. If it had been, the division had been made very quickly, but it left one holding out and the other holding in, which at that time made a confusion. Then I also have a water right on a game withdrawal.

The CHAIRMAN. A wildlife withdrawal?

Mr. JENSEN. A game preserve, I guess it is. There are a few acres, a few sections, that is in a game preserve clear up on top. I don't know how they happen to put that in there. It's clear away from the Grand Canyon, and separate from all the other wildlife or game refuges. But it happens to sit there—wasn't surveyed in early days. I put a reservoir in there on it. Well, it landed right in the corner of this game refuge that was unsurveyed property, and it landed in the corner of that game refuge there and it is still a game refuge; and that is the way the situation sets.

Mr. ARTHUR WOOLLEY. What is your experience as to your permit in the game refuge? Do you have to deal with another agency?

Mr. JENSEN. Well, it's just laying there, that's all. I've been using it, and that's all there is to it; but it lay in the corner. I had that same thing there. I laid it right square in the corner of the game refuge. That excluded me from the Taylor grazing on those rights, because that little old game refuge had to be there. All the rest of them around me there, they got their property right up against mine, and mine's laying right in the corner. They went right up to my line, against it, and the game refuge took what was around me, and left me sitting in the corner there. I was using it for years. That's the way that little old game refuge worked out on me.

The CHAIRMAN. How much land is involved?

Mr. JENSEN. I think 21 sections.

The CHAIRMAN. Well, between the game refuge and the Park Service and the Grazing Service, it looks to me like you are in a little tough spot.

Mr. JENSEN. Well, it made it a little tough for me.

The CHAIRMAN. It takes a lot of courage to carry on an industry under conditions like that. It takes a lot of patience as well. Have you anything else you want to present to the committee?

Mr. JENSEN. Well, I would like to say this; I'm like the rest of the men that has been up here. I can't see where we give our rights up, just because we have fought the thing through, maybe for a lifetime; and then, when we kick off, we have to give up our rights on public lands of this kind, which we have maintained and improved them, maybe, for a lifetime. That's one thing I can't see there is any sense in. And there's another thing I haven't heard brought up at all, and that is this: They speak of wildlife and such as that. We sheepmen and cattlemen, we range bordering these wildlife areas. Well on a lot of these wildlife areas they preserve and restrict the killing of coyotes. And right off on our areas the Government is hiring trappers to kill these coyotes off. That's one thing I absolutely can't see no sense in.

The CHAIRMAN. You say they restrict the killing of predatory animals?

Mr. JENSEN. Yes; on these wildlife refuges. We are neighbors there. You talk about a good-neighbor policy. All those sheepmen and cattlemen there are neighbors, but still they raise coyotes to kill our sheep and cattle, and then another branch of the Government, because we are making a big howl, comes in and put in trappers for us, which, I will say, a lot of them has done a very good job. They have come in and did a very good job killing coyotes. a lot of these trappers. But it's only a matter of time, when you think you're pretty well rid of the coyotes and cats—

The CHAIRMAN. And then there comes along another batch.

Mr. JENSEN. When they get hungry they come from some other source—came in droves to our range. Well, I call that a very poor neighbor policy.

The CHAIRMAN. Well, Mr. Wildlife, what have you to say to that?

ALBERT M. DAY, Assistant Director, Fish and Wildlife Service, Chicago, Ill. Well, Mr. Chairman, he seems to be laboring under a misapprehension. As far as the wildlife is concerned, the Fish and Wildlife Service organization assists in the control of coyotes and

wildcats, and does not restrict killing of predators on big game ranges.

Mr. JENSEN. I had one of the trappers tell me, ask me, where the park lines are.

Mr. DAY. That's the national park line; not the wildlife areas.

Mr. JENSEN. On my territory you can't say where is the park line, and then draw an imaginary line, and tell 'em they can't go beyond that within the park.

Mr. DRURY. Mr. Chairman, you kindly indicated to me that tomorrow morning I might discuss three or four of these topics that are so important before this meeting. I might say this though, and I would like to have Dr. Bryant and some of the others, and even the Fish and Wildlife Service, bear me out on the policy of the National Park Service, which has never been one of refusing to limit the numbers of predators if it can be shown, definitely, that those predators are destructive of property adjoining the park areas. Now, it's a question of evidence, pretty largely.

The CHAIRMAN. What is that now? Do you mean, if it can be proven that coyotes and wildcats and bobcats and mountain lions destroy property adjacent to the park, then the Park Service will permit the stockmen to go in and kill these predators in the park?

Mr. DRURY. No; I said subject to aid by men who know much more than I do about wildlife, we would undertake to control the destructive animals. I just wanted to try to indicate that our position is a fair one.

The CHAIRMAN. You know, a coyote is one animal that the benefit of a reasonable doubt doesn't apply to. He's guilty to begin with.

Mr. DRURY. I know. In some cases—

The CHAIRMAN. What is the policy with reference to the park, please?

Mr. BRYANT. As far as the national park is concerned, if you will remember the law given us by Congress, that we are expected to enforce, we are to conserve the natural and historic objects, and the wildlife therein in such a way that it may not be modified in any way. In other words, we are trying to preserve a little piece of unspoiled America, and we are quite sure we are enjoined to take care of all the living things within a park, so that we will have a few places where there are coyotes, and some people can see them. We find they enjoy seeing them, as they come into the park. There are other places where they certainly ought to be controlled. If I was a sheepman, I would want the coyotes killed around my sheep. If I could get that much help I probably would have to. But it all depends on what the park has to do; and the scientists of the future will need some places where the predators have not been killed off, to see how nature takes care of a patch of land; how the thing fits in together.

Mr. DRURY. I would like to go into that more fully. I know this is taking up your time, but I would like to say something on that subject when I testify tomorrow.

I might say, Mr. Chairman, that as far as I know, I am one of few in the United States who doesn't think he is a wildlife expert. I'll speak from that point of view, but try to give you the best testimony I can. I will do that later on, when I make my full statement.

The CHAIRMAN. Very well, thank you.

STATEMENT OF JOHN H. JOHNSON, TROPIC, UTAH

Mr. JOHNSON. My problem is up on the Bryce Canyon National Park. My summer range is about—possibly one fourth, or one fifth of it is within the Bryce Canyon National Park.

The CHAIRMAN. Is that under your supervision?

Mr. CHARLES SMITH (superintendent, Zion National Park). Yes, sir.

Mr. JOHNSON. And the grazing is supervised by the Service, and they have treated us very nicely. The Park Service is tip-top. I have no complaints to make about the local officers, in any way; only there is one policy that we cannot hardly get in sympathy with, the one you was just talking about, the predators. They won't allow trapping or hunting on the park, and those wild animals come down and take quite a total out of our stuff. Just less than 10 days ago, I went on to my herd, and one morning the herder said a cougar come in the night before and got 16 head. One of them he packed off with him. Of course they take the fatter ones, the best ones. And it takes a lot of joy out of life and profit out of a man's pocketbook, and the only thing I wanted to bring up here, is there any chance we could get that policy modified, some way, so that a Government trapper, somebody you would approve of, could get in there to take those animals that are working out all the time like that?

Mr. SMITH. Well, I would say that would have to be investigated and studied by our people and the United States Fish and Wildlife. I wasn't aware that that problem was going on.

Mr. JOHNSON. I have had that trouble, now, for a great many years.

Mr. SMITH. And I would be willing to look into it and make recommendations to having a study made of it.

Mr. JOHNSON. I would appreciate that.

Mr. SMITH. I'll take it up with the regional director, Mr. Tillotson. I hadn't heard anything about it. You must understand I've only been superintendent of Bryce for 2 months now, and that hasn't come to my attention.

Mr. JOHNSON. This is the first chance I've had to bring it up.

Mr. ESPLIN. On the subject of predatory animals in a national park. I've had a great deal of experience, particularly with the predators on Zion National Park. I've been so well disciplined that I don't even suggest going on the park for coyotes or any kind of predators. I remember one time our trapper asked the head ranger about a lion that used to come in on our property from across the line in the park. He asked if we could come across the line and get it, and the head ranger said, "Yes, but don't you bring your dogs." We have a veritable nest of predators that we can't control. The park is down in the center of that area, and the predators are coming out in all directions and killing both sheep and cattle.

Mr. SMITH. I have been looking into that around Zion. I was talking it over with the chief ranger, just day before yesterday, and he says that Zion Canyon, so far as he knows, hasn't had a cougar, or cougar's track, for something like 10 years. Probably that condition is different up on the rim.

Mr. ESPLIN. Well, I had a man check—I don't know whether it was in the park or out, but about 4 days ago we found the tracks of one coming off the sheep range. He had been going back and forth,

through there, for a month or 6 weeks, and had been on my ranch and all of the neighbors' ranches, and the trapper happened to catch him as he was heading into the park, and caught him just on or off the park.

Mr. SMITH. Was that in the high country on the west?

Mr. ESPLIN. In the country between the gulf and North Creek, on the east rim.

Mr. DAY. Mr. Chairman, might I say, in further reply to the gentlemen who criticized our predator policy, that we have found in some of the game ranges in Nevada and elsewhere, the best way to increase the mountain sheep population is to establish predator control.

Mr. ARTHUR WOOLLEY. I wonder if I might ask you a question. In this area you mentioned as being reserved for mountain sheep, have you made a count of mountain sheep?

Mr. DAY. Yes; we have rather a good record of it. I can't tell you how many there are.

Mr. ARTHUR WOOLLEY. Approximately how many?

Mr. DAY. I can put it in the record after I find out.

Mr. ARTHUR WOOLLEY. Would it be a hundred, do you think?

Mr. DAY. Probably two or three hundred; within that range.

Mr. ARTHUR WOOLLEY. Within the whole Grand Canyon area that has been reserved?

Mr. DAY. Yes.

The CHAIRMAN. Mr. Elmer Jackson, do you care to be heard?

STATEMENT OF ELMER JACKSON, KANAB, UTAH

Mr. JACKSON. Well, it has been pretty well discussed, what I have in mind. As my friends have said, I have no quarrel with the gentlemen supervising the park. I find that they are fine gentlemen, every one of them. But it is the policy that they are sworn to carry out that I object to, that of eliminating grazing as a person dies.

Most of these fellows here know that I probably have a reason to think of that more than any other one man. I thought for a while I might outlive the Park Service and eventually beat that. But last spring I was kicked by a horse and then I got a blood clot in my lungs. I told some of the boys the other day that that's the only reason I'm alive today. I owe it to the Park Service, because I knew if I died my children—that right would pass from them. And so I'm living today, and I'm going to keep on living until this policy is changed. I'd like to see that changed, the process of elimination of grazing at the death or sale of rights, and I believe that is no more than right.

Much of this Grand Canyon National Monument is of no value for tourists. Nobody but a sheep herder or grazing park ranger would go on it.

I might say I've been a sheep herder for 30 years, ever since I could look over a bush, and there isn't anything there of value to tourists, with the exception of the point that Mr. Bryant has pointed out as the reason for that becoming a monument. That is probably a good thing. But the area from the point he points out—that is, on top of the rim, the canyon—there has never been any argument. So far as the canyon is concerned, we admit that, and have no objection to its being a part of the national monument. But, as has been pointed out

just a short time ago, at one time we asked for this monument line to be moved back to the rim, and Senator Hayden was active in it. Mr. Tillotson, I believe, was agreeable, if I remember correctly.

Mr. TILLOTSON. That is correct.

Mr. JACKSON. And I worked for it, and got that line moved back to the rim, so it wouldn't interfere with any grazing on the top. There was a petition went in to Congress signed by practically everybody in southern Utah and northern Arizona, requesting that that be acted upon; and the Park Service officials were agreeable with it. For some reason, I don't know why, there was just 3 miles withdrawn and returned to the Grazing Service, instead of going all the way back. I don't believe anyone would object to the area that Mr. Bryant pointed out as a reason for its becoming a monument, or a reasonable area surrounding it. But on that area known as the Son-of-a-bitch—and that is the name of it, an Indian gave it that name—it is of no value whatever to anything except sheep and cattle.

I would like, and I believe everyone else here would like, to see that monument line moved back to the rim of the canyon. I doubt if the Park Service would object to it. I believe that possible. Now would be a good time to ask for that withdrawal to be made and that the line be moved back to the rim of the canyon. In fact, Senator Hayden said—he didn't ever tell me the reason—he says it looks like we are deadlocked on it, and suggested that we compromise, for the present, on this 3-mile withdrawal being taken from the monument and returned to the Grazing Service. At a later date efforts should be made to push that line back to the rim, or according to the original plan. I would like to see that done.

The CHAIRMAN. That addresses itself to the monument; doesn't it?

Mr. JACKSON. Yes; that's the monument.

The CHAIRMAN. Was that created by Executive order?

Mr. JACKSON. I was surprised to note this morning that President Hoover was responsible for that. I thought possibly he knew better than that. But I guess there are some Republicans that don't know all they should about all these things, but how they can do it; they must be blind and just take a pencil and make a line on the map. I suppose that's the way a lot of these monuments have been established, when they have been blindfolded, and they go out and draw a line and, wherever that happens to light, that is it, regardless of common sense. I think that an act of Congress should prohibit the promiscuous making of national monuments. Where mistakes have been made, I believe that the mistake should be recognized and the line changed.

The CHAIRMAN. Thank you. Are there any questions?

Mr. Swapp, do you care to be heard?

STATEMENT OF DONALD SWAPP, KANAB, UTAH

Mr. SWAPP. I believe I put my question in this morning, but I suppose I could say a little more.

I am located in the same locality Mr. Jackson is, and the trouble is about the same. The only thing I have in mind is to extend a person's permit beyond the time of their life. That is the problem I have, and I would like to see if it couldn't be done.

Mr. CHAIRMAN. That is in regard to parks and monuments.

Mr. SWAPP. Yes; where we all have to run. Of course, each permit; of course, they have stamped that permit that it terminates at the death of the individual. That is the part of it that I don't like. When it first started up here at Kanab I opposed it at the start and I have ever since. I don't think it's right for the community, or for the people, to have such a thing, because the range we occupy is, like Mr. Jackson says, it is practically valueless for anything but sheep and they have got to use it in the wintertime. That's about the only thing I can say.

The CHAIRMAN. Thank you very much.

Mr. Merle Findlay, do you care to be heard?

Mr. MERLE FINDLAY. I think Mr. Jackson has expressed my opinion of it all right.

The CHAIRMAN. The next subject is the Kaibab National Forest. Mr. Thomas Jensen.

Mr. JENSEN. Yes, Mr. Chairman.

The CHAIRMAN. Mr. Jensen, you are also on the Kaibab?

Mr. JENSEN. I used to be on the Kaibab, but I am not there at the present time.

Mr. ARTHUR WOOLLEY. Mr. Chairman, I'd like to have him make a statement on that.

The CHAIRMAN. Very well.

Mr. WOOLLEY. State your experience, and what you think ought to be done, now, about the Kaibab.

Mr. JENSEN. Well, I happened to be one of the pioneer boys of this country, and in my early days, as a boy, I got a permit for me and my father, together, from the supervisor, the first supervisor that the Kaibab had, and we run cattle there for years, and we got along fine. We had—in fact I worked at that time. They had the Use Books—

The CHAIRMAN. What?

Mr. JENSEN. What they termed the Use Book, a pamphlet about the size of the Readers Digest, that gave you the laws concerning the forest for us to go by. We got along fine for years on the forest out here.

Well then, changes came along; different supervisors and different rangers, and so on, and they began to issue them permits to everybody that made application for a permit until the grazing of the forest was absolutely overrun. Together, at the same time, they increased deer, and at that time wildlife was well taken care of. We had one of the best trappers, I think, that the United States has ever known, for lions. That was old Uncle Jim Owens. He caught lions by the hundred, and that gave the game, such as deer, and like that, a chance to increase.

Well, those deer increased, and the cattle increased, on there until they ruined the forest. We had to move off. We sold out. I told my father, I said, "We built up a nice little herd of cattle." I told my father, "Well," I says, "cattle has went to the peak, the deer has taken the country. They have allotted too many cattle on here," I says. "They can't feed them," I says. "They all started to move out; and we either had to do that or die off."

Well, then, it went on. Well, at that time, I think about the peak, there was around in the neighborhood of twenty to twenty-two thousand head of cattle permitted on the Kaibab Forest. Now, I think, there are around 800, or something like that. But we have lived all these years and been excluded from the Kaibab in different ways of

experimenting, and it all fell upon the local people here. That's what they have had to contend with, and that isn't all. Fredonia, along about the same time, a little earlier, was taken in by an Indian reserve. This little town was taken entirely in, and we were surrounded, and the forest was taken away from us. We have lived here, and scratched, and dug around, one way or another, trying to make a living. That is really what makes me a little skeptical. I have been treated very nice by the Park Service, as I said a little while ago, permits to graze on the park. But that is the way we was cheated out of our forest here. Right, again, at our door comes the Park Service. It makes me skeptical about the Park Service, how long it's going to last. There might be another man in there right away that will exclude us entirely. You can't tell what we are going to get. That is the way it was excluded from the forest years ago and I say that I think the forest should be opened together with the park. The park has got a lot more country on the Kaibab than it should have excluded from grazing, because there is room there—the Bar-Z Cattle Co., alone ran 15,000 head of sheep on that—

The CHAIRMAN. What is that, and when?

Mr. JENSEN. That was around about 1910, or somewhere along in there.

The CHAIRMAN. Before they went in and killed off the deer on the Kaibab?

Mr. JENSEN. Yes. Then they went in and killed the deer off by the thousands. The sheep herded every point down on the winter range. That was about the time I decided to leave and—well, now, they have had about 25 years to put the mountain back to where it ought to be furnishing something to eat. Now I don't think we should use the slopes of the mountain for winter range, we have plenty of winter range, but I think the mountains in general should be thrown open to grazing, and I think—

The CHAIRMAN. When you say "the mountain" do you refer to the Kaibab Forest?

Mr. JENSEN. Kaibab Forest.

The CHAIRMAN. Isn't it open?

Mr. JENSEN. I think in the neighborhood of 800 head of cattle and 1 little sheep herd.

Mr. ARTHUR WOOLLEY. That has been under a gradual elimination process similar to the Park Service.

The CHAIRMAN. When you had the 15,000 head of cattle running in there the forest was gradually fed out, wasn't it?

Mr. JENSEN. They had some wonderful—well, at that time it was, as I say, the forest officials went to the extreme in issuing permits. They did overstock the forest with the livestock and, together with the deer also increasing, that was done under the supervision of the Forest Service.

The CHAIRMAN. What has the Forest Service to say on the opening of the Kaibab? Is it open now?

Mr. KNEIPP. Speaking for the Kaibab Forest, as for the numbers of stock, I have a list here showing the numbers of permitted cattle and sheep and the estimated numbers of deer for every year from 1908 down to 1924. This doesn't show that the numbers of domestic stock were ever so high as Mr. Jensen indicated, twenty to twenty-two thou-

sand, or anywhere near that; nor so low as he now indicates. But it shows that in 1908 there were 13,750 cattle, 5,000 sheep. In 1909, 14,000 cattle, 7,500 sheep. In 1910, 14,383 cattle and 500 sheep. In 1911, 14,475 cattle. The high point was in 1913, with 15,210 cattle. From then on there was a progressive reduction until 1931. Since then there has been a gradual increase so that at the present time the numbers of permitted stock are 3,442 cattle and 1,280 sheep.

Mr. JENSEN. I would like to ask this question: Is that for summer, those figures? I know there is considerable cattle permitted on winter permits, but not very many permitted on for summer.

Mr. KNEIPP. I think these figures cover both seasons. I gave the total number of stock, some of which graze yearlong and some over the short season. In other words, yearlong stock, and the yearlings that are carried over.

The CHAIRMAN. What is the number now?

Mr. KNEIPP. In 1942 the total authorized is 3,242, approximately 1,050 yearlong.

The CHAIRMAN. What is the condition of the wildlife in there now?

Mr. KNEIPP. I will ask Mr. Woodhead, the assistant regional forester, who has charge of the grazing and wildlife work.

**STATEMENT OF P. V. WOODHEAD, ASSISTANT REGIONAL FORESTER,
ALBUQUERQUE, N. MEX.**

Mr. WOODHEAD. As for the condition of the wildlife, back in the days of the heavy population, I know about that only from a matter of record.

After that heavy build-up, or explosion, of numbers, various means were taken to reduce the Kaibab deer herd. Some of them died, I guess, naturally. There was some hunting by Federal people and later on hunting by sportsmen. As indicated by Mr. Kneipp, the number of livestock were adjusted downward through those years.

That range, according to people who saw it in those days, was in about as bad a condition as it could have been. People who have seen it say it looked like a fire had run through it, particularly the winter range areas where the browse is the principal feed. Well, today, we think we have gotten pretty well on top of the browse recovery job. However, we feel that we have not done as well with the herbage vegetation on the higher summer ranges.

I think I would sum the whole thing up this way, Senator; as far as livestock is concerned, I think, on the forest as a whole, we have permit or permit obligations for all that mountain can carry. I think, however, that our distribution of use up there could be improved. There are some allotments that perhaps are carrying too much livestock right now. There are others that could carry more by shifting certain fences and by development of additional water. If that is possible, the forage which grows on the Kaibab Forest could be made to carry the livestock load much better.

As far as the deer herd is concerned, I have been checking the station's record. Those deer are checked out every year and they indicate that that is a very healthy herd of deer. We have the hunting of bucks and all other animals. We take both does and bucks from that area. In other words, a permit allows the kill of one deer.

We are getting bigger and better animals off that area every year, which indicates, of course, a come-back of that deer feed.

Now, what the future of that herd might be is something that, as far as I am concerned, I wouldn't care to try to say too much about. Whether we could carry more deer, or whether we ought to carry more deer, is something that is pretty hard to determine.

The CHAIRMAN. Have you figured your increase; your annual increase?

Mr. WOODHEAD. We have fewer deer now, as far as we can determine; a lot fewer deer than we had, of course, during this big increase in numbers. Our estimates are eight to ten thousand head of deer at the present time. We are very free and frank to admit that we don't know whether that number is correct or not, because it seems that no one has found a satisfactory method for counting deer, or making an estimate of the population. We do know that the deer are healthier, the bucks are heavier. Some of the prize trophies are coming from the Kaibab Forest; that is the forage upon which the deer depends principally—we know that that is improving. The cliff rose and other species of browse are improving. Does that answer the question?

Mr. ARTHUR WOOLLEY. Does your deer population include the deer in the park part of the forest, or only on the Forest Reserve?

Mr. WOODHEAD. Only on the forest as far as we know.

Mr. ARTHUR WOOLLEY. Your statement doesn't take into account the park area?

Mr. WOODHEAD. No.

The CHAIRMAN. Anything further, Mr. Jensen?

Mr. JENSEN. I believe that's all.

The CHAIRMAN. Mr. Elmer Jackson, you have already made your statement.

Mr. JACKSON. I think so. I, like Mr. Jensen, have been there during a good many years, and I worked off. We went off with 160 head of cattle in 1927, because of the fact there was no feed for them; and I am there at the present with the only herd of sheep that is on the Kaibab. But I happen to be a member of the advisory board of the Kaibab Forest; and the idea of increasing grazing has been discussed and the condition of the range has been discussed. Of course, the advisory board has no authority as yet. Their recommendations are generally acted upon. But as far as their recommendations being final, they are not. As far as I know, the policy of the Forest Service is to increase the grazing and the individual numbers as much as the range will permit, and the advisory board went on record a few days ago as being in favor of increased grazing as rapidly as the range would permit. I believe the Forest Service, at least one officer of the Forest Service, indicated they would do that.

Now, we have had 2 pretty bad years, and there hasn't been a great surplus of feed up there. In fact, there has not been any surplus. If it had not rained this year, as far as my allotment is concerned, by now I would have had to leave the mountain. It rained 30 days ago, and the range is coming back. But there isn't a great deal of surplus. When there is a surplus, I think that the men who voluntarily moved off should be considered, and that, in fact, their rights should be among the first to be considered and be placed out there. I don't know what the Forest Service thinks about that; but,

so far as the park end of the Kaibab Forest, there is a surplus of feed. I have been over it practically every year, and, of course, Mr. Bryant has told you that grazing has been eliminated. If it were possible to work out some plan with the Park Service to permit grazing on the Grand Canyon National Park, the north rim, I think it would take care of a lot of the cattle belonging to local people for feed that is necessary, especially right now when we need more beef and more mutton; and, if the policy of the Park Service could be changed to permit that, this country would be improved a great deal.

I don't know the exact area of the park on the north rim, but that is it. It could be utilized as grazing. There are approximately 800,000 acres, I believe, on the north rim, and I would say perhaps 700,000 could be used for grazing. Of course, if it were properly grazed, and I would go on record as saying that and agreeing with other statements that have been made, that proper grazing would be beneficial to us. I have said, from personal observation, that I believe that if the grass is allowed to continue to grow without grazing on the Grand Canyon National Park that we would some day get a fire that would not only destroy all the park and the timber on the park but destroy the Kaibab National Forest as well.

Another thing I have noticed—of course, this is just a personal observation—the feed is so arranged on the park that the deer don't graze it. There is so much old growth in there that the deer don't, as a rule, stay there. They come out onto the forest where it has been eaten off and where the fresh tender growth of feed is. I believe that a proper amount of grazing on the Grand Canyon National Park and Kaibab, the forest side, would be beneficial to the park; and it would be of great help to the people of this section of the country.

MR. T. W. JONES. In your opinion, does the proper balance exist on the forest?

MR. JACKSON. Well, I think that it is as near balanced at the present time as it has been for years. Of course, it was overgrazed, and the deer did destroy it. They destroyed this country until it is having a hard time to come back. But it is coming back, so that, within a few years, there should be a surplus of feed. I believe, if the deer were held at their present numbers, there would be plenty for tourists, and plenty of hunting. I don't believe that the deer herds should be increased. I believe that the domestic livestock should be increased as rapidly as the feed will permit.

THE CHAIRMAN. Is Mr. C. W. Judd here?

MR. JUDD. Mr. Jackson covered most of my problems out there.

THE CHAIRMAN. You are on the Kaibab National Forest?

MR. JUDD. Yes, I am. I run cattle in there, and I am like him. I think that there is a lot of valuable grazing ground on the Grand Canyon National Forest, adjoining us, that should be fed off.

THE CHAIRMAN. On the park, do you mean?

MR. JUDD. On the park, and it is very hazardous, as far as the growing of undergrowth; and there are permits there that I think could be increased to an advantage to local grazers here where it would benefit them very much.

THE CHAIRMAN. Have there been any fires on any of the national parks in this vicinity in recent years?

Mr. TILLOTSON. Lightning fires, Senator, on the north rim, and—

Dr. BRYANT. On the south rim, too; but I have kept up with it, in a general way. We have had somewhere between 20 and 30 fires this summer, all started by lightning. As far as we know, it didn't burn very many acres, although we had one on the north rim that was quite difficult to control, out on one of the points in heavy timber.

The CHAIRMAN. Well, there is scarcely any use in dwelling on this matter of policy, with reference to the park, excepting as you gentlemen present your individual stories here, which become of record, and I think it is worth it. Do you have anything further to say, Mr. Judd.

Mr. JUDD. No, I think not. It has been pretty well covered.

The CHAIRMAN. Do you have any permit on any park at all?

Mr. JUDD. No, sir; just on the forest.

The CHAIRMAN. Have you applied for a permit on the park?

Mr. JUDD. No, sir; I didn't think it would do any good, or I would have done it.

The CHAIRMAN. All right; I guess you're right.

Mr. Daniel K. Judd, is there anything you have to offer? We would be glad to hear from you.

STATEMENT OF DANIEL K. JUDD, FREDONIA, UTAH

Mr. JUDD. I didn't expect to be called on today. I have been for a long while down through that area, from the time the Forest Service started on the Kaibab. I was under Mr. Kneipp here for a long time, and, about the number of cattle and sheep on the Kaibab, it's probably exaggerated—Mr. Jensen's statement about the numbers at one time. One company had 14,000 cattle, and the supervisor at that time was very considerate of local people. He encouraged the local people to make application for what is known as the west side of Grand Canyon. The Grand Canyon Cattle Co., at that time, was operating their cattle on the east side, and, at that increase, Mr. Clark, the supervisor, of course, made a number of cattle on the Kaibab, and caused the overgrazed condition with the deer, as has been stated.

Mr. Kneipp made a statement a few minutes ago, that they have been making a continual increase in permits on the Kaibab for the last number of years. I would like for Mr. Kneipp to give me a leaf out of that book.

The CHAIRMAN. What?

Mr. JUDD. I would like for him to give me a leaf out of that book. I have made continued applications, on the Kaibab for increase in cattle for a number of years, and I haven't any yet. I was a forest ranger for 16 years, and during that period I accumulated a few cattle—it was allowed. Finally, the Forest Service made a ruling, which was O. K., that I take my choice between being a forest ranger and a cattle man; so I took the cattle. It wasn't long until the supervisors changed; in fact, I worked under seven. The new supervisor saw fit to make a cut in my number at that time. I then had a permit for 150, year round. He made a cut of 75 head. That discouraged me; and I moved off the forest entirely. I went on the public domain, which was badly overgrazed. I still had a heavy loss. I finally got back on to the forest, on a different area, with 50 head of cattle.

That has been some 15 years ago, and, like I said before, since then I have been trying to get an increase. I finally succeeded in buying the remnants of one permittee, who sold out, and then I got an increase of 20. That made 70 head, year long. I have been maintaining that permit of 70 head for a number of years, and asking for an increase; and still no increase.

Last year one of my neighbors was granted a temporary permit, for, I wouldn't be positive, but I think it was 40 head, until he got water in his tanks on the lower range. That was granted. That encouraged me, so I, likewise, made an application for an increase of yearling heifers. I also operate a bunch of cattle here for a widow, who has a 75-head permit, and I also made application for her, for her yearling heifers. When those applications went to the forest supervisor, served by the ranger, the word came back immediately, "Dan Judd, or Mrs. Pratt, can't have an increase on this range, because the man who got the increase runs the same water." I took it up with Mr. Woodhead, who happened to be in the vicinity at that time. I told him the conditions, and he said, "I am sorry, I can't go against that decision. I'll make an investigation and see what we can do about it." I also told him about the water condition out there. We have a very great shortage of water and there is a certain pipe line there that I was given to understand I would have the privilege to use during the dry season. The Forest Service put a water tank there, and the highway people and I get a run-off of a certain amount of water during the dry period.

Well, it happens you turn on a little water and the tank fills up and the cattle water and leave for the night, and the tank fills up and runs over. The highway man comes down and finds the water running over, and he turns it off, and then the cattle have to do without water. My operation won't permit me to be there to take care of it. I told Mr. Woodhead, and he said, "I'll see something is done about that before I leave." It happened when he come to town to see me I was called back to my cattle, because the reservoir had gone dry. I received a letter, 10 days later, saying that my troubles were taken care of, and it had been arranged that I was taken care of and would have good range.

Well, the good range was taken care of, through nature, until this year, and again the same thing happened. All the water holes dried up, and no provision was made for the water tank. I went to Mr. Gray about it. He said, "If I had known the condition, I would see that it was fixed." He said "I'll see that it's fixed immediately." That's the way the picture is. I don't see any reason why an increase couldn't be given to a man who has so few to operate to make it.

To carry the story further, it has only been less than 5 years ago that the officials met in Albuquerque. I think at that time, so my understanding through the paper is, all permittees on the Arizona Forest would be 200, protective limit. That would be the protective limit. That would be considered as an operating basis. I immediately made application to the officials, and asked them if that couldn't be worked out on the Kaibab. At that time I was a member of the advisory board, and we were in session at Williams, when I made that request. I was given to understand this is a national game preserve, Kaibab, and the forest rules don't apply to national game preserves.

So there is no increase in numbers on this particular area, and I have been on the Kaibab since 1905, every year, and every month, and almost every day. I know that the forest is coming back, and coming back fast, through the method used; through their keeping the deer down, as they should do. There are still plenty of deer, with the numbers of cattle on the Kaibab; but the number of deer is just right, and there is plenty of room for a summer increase, if it is properly distributed. I think Mr. Woodhead agrees with me. A few minutes ago he said the same thing. Some areas are overgrazed and on some there is plenty of feed.

That is all I have to say.

The CHAIRMAN. Very well, thank you.

Is Mr. Elwin Pratt, from Fredonia, here? You graze livestock on the Kaibab, do you not?

Mr. PRATT. Yes, sir.

The CHAIRMAN. You may please make any statement you see fit.

STATEMENT OF ELWIN PRATT, FREDONIA, ARIZ.

Mr. PRATT. Well, there is a little strip of country up there which is called the national game preserve, which lays within the land as controlled by the Division of Grazing. The Forest Service has no jurisdiction over it whatever.

The CHAIRMAN. That is Wildlife?

Mr. PRATT. It is a national game preserve.

The CHAIRMAN. Well, that comes under Wildlife, doesn't it?

Mr. ARTHUR WOOLLEY. It must be a part of the Kaibab National Forest, Senator.

Mr. PRATT. I haven't been able to find anyone that knows anything about the control.

The CHAIRMAN. Do you happen to know what that is, Mr. Kneipp?

Mr. KNEIPP. I think so, Senator. When the Grand Canyon refuge was established in 1906 certain boundaries were adopted, believed to be coincident with the boundaries of the national forest. Shortly after that, by resurvey, the boundaries of the national forest were modified somewhat so there is a hiatus. Part of the game refuge extends outside of the national forest. On account of that difference in boundaries there has been considerable discussion as to incidental recommendations for legislation which would adjust it; but, so far as I am aware, no agreement has been reached between the two departments as to just what adjustments could be made. Therefore, none have been made.

The CHAIRMAN. The committee will be in recess for 10 minutes.

(Recess for 10 minutes.)

The CHAIRMAN. All right, we will proceed. Is Mr. E. B. Pratt here? You may make any statement you wish to.

STATEMENT OF E. B. PRATT, FREDONIA, ARIZ.

Mr. PRATT. I have a set-up that adjoins the National Forest Reserve, and also an allotment under the Division of Grazing. I'm located right on the line between the two.

The CHAIRMAN. Between what two?

Mr. PRATT. Between the Kaibab Forest and the Division of Grazing. I have an allotment, on one side, of 15 sections. I have a permit

for 45 head of cattle on the forest for the last 20 years. Every year, for the last 20 years, I have applied for an increase in that permit, which has been turned down. I would like an increase. What I would like to have is an increase in that forest permit, for summer range, where I won't have to use the Division of Grazing for summer and winter.

The CHAIRMAN. Now, during the time that you have been applying for additional numbers on the Kaibab Forest, have any others secured additional permits to your knowledge?

Mr. PRATT. Yes.

The CHAIRMAN. In your vicinity?

Mr. PRATT. Yes; but very small.

The CHAIRMAN. You have been making this application for a number of years, as I understand it?

Mr. PRATT. Several years; yes.

The CHAIRMAN. During that time others have secured increases?

Mr. PRATT. Yes, sir; some additions; very little. I feel now that the way that feed is on that forest that it could be opened up for probably five or six thousand head of cattle. It would relieve all that Division of Grazing land, in this district, and people could raise three or four times as many cattle as they do at the present time under the present set-up.

The CHAIRMAN. What has been the reply to your application?

Mr. PRATT. No new permits issued and no increases.

The CHAIRMAN. Does the Forest Service care to explain that?

Mr. KNEIPP. Yes, Senator; we would be glad to.

There are certain physical limitations in the use of range. Cattle must have so much feed to eat, to keep alive, and only so much feed is raised as a growth on an acre of land. The method used by the Forest Service is called the range survey, under which the lands are classified, as to the density of the vegetative cover and the proportion of that cover which is palatable and available for livestock. Out of that is evolved what is called the "forage acre," which is the equivalent of an acre fully stocked with palatable forage. In other words, the equivalent of very fine feed.

A survey of that kind, made on that part of the Kaibab Forest north of the canyon, in 1940, exclusive of that in the park, revealed that of the whole area, 725,000 acres, an area of 214,517 acres is wholly nonusable for grazing, either because of very rough topography, or, because of total absence of water or dense stands of timber. That left, then, a usable acreage of 511,500 acres; and that usable acreage, as has been known for a long time, has a very scanty forage covering. As a matter of fact, the range survey estimate indicates, or supports, only the equivalent of 31,950 forage acres. That's all there is in the way of usable forage, for all the cattle, and for such use as the deer make of it.

Now, to support a cow in that country for 1 month, it is estimated it will require 1.31 forage acres; and, on range for deer and livestock, it is 1.01 forage acres, taking into account the poorest feed. In other words, under normal conditions, in the average year, there is only a certain amount of vegetation capable of supporting cattle. If the number of cattle is increased beyond that normal limit, they begin overgrazing these plants to the point of destruction. There is not, up on this mountain, as large as it is, room for continual increase.

Historically, there have been two periods of depletion. The first was a period of depletion caused by large numbers of cattle and sheep, at a time when the deer herd was relatively small. That period of depletion, unquestionably, was due to the domestic livestock. As has been indicated here, some of the stockmen themselves, because of the poor range condition, left the range, or had their preferences reduced.

Then came the phenomenal increase in the deer herd, and the second period of depletion, the utilizing, in general, of the type of browse feed that the cattle used in a lesser degree. Then, steps were taken to reduce the deer herd, and, so far as the browse feed was concerned, that is showing a quite excellent recovery. But, as to the grass feed, and the weed feed, the vegetative feed upon which the cattle and sheep more nearly depend, that has not come back nearly so fast, nor so far, as the browse; which would indicate that there is no considerable excess of feed up there, and that the cattle and sheep are actually utilizing the available feed resource to about as full a degree as it can be used without depletion.

I think that fact ought to be taken into account, that the Forest Service actually is studying this condition carefully. Nothing would make us happier than to be able to announce a considerable increase in the grazing of domestic stock, if that were possible.

The CHAIRMAN. What have you to say to the statement, which this witness has been making, that he applied for an increase, and others have secured an increase?

Mr. KNEIPP. I will have to ask one of these gentlemen. Mr. Woodhead possibly could answer that. The gentleman himself said the increases they have received were quite small. This much is true, and I think it has been indicated here, while some parts of the area are overstocked, there are other parts that are not overstocked, and the ability to grant a small increase would depend, in part, on the range upon which the man wanted the increase.

The CHAIRMAN. Very well, Mr. Woodhead.

Mr. WOODHEAD. Well, Senator, the only thing I can say, to supplement what Mr. Kneipp has said, is that, as far as I know, these increases, to which Mr. Judd refers, were allowed on ranges, which, in the judgment of the supervisor, were in such condition as to permit increases.

The CHAIRMAN. Along this immediate range that he uses, and has used; have there been increases?

Mr. WOODHEAD. As far as I know, none. That is one of the ranges I had in mind, Senator, where conditions could be improved, I think, by a shift in fences. Perhaps it would result in at least providing Mr. Judd with more adequate feed for the numbers he now has. As to looking along into the future, and talking about increases, it is simply holding out an encouragement that is not justified, because, in our judgment, at least, as indicated by Mr. Kneipp, we can't see in the immediate future the opportunity to increase livestock numbers on the Kaibab Forest. We feel, if we did that, it would start this process of retrogression, which has happened twice before, and which it has taken so long to overcome. There have been so many hard feelings, about the things that had to be done, there, to improve those conditions, which resulted from heavy livestock and deer use, that we certainly would not want to start that range on the downward trend again.

The CHAIRMAN. Well, naturally it is discouraging, when a fellow makes an application, right along, and is rejected, when he sees someone else get an increase.

Mr. WOODHEAD. I appreciate that.

The CHAIRMAN. And, to men who are out in the open, and who have no direct contacts, except through the elements, they naturally think that they are being discriminated against. The explanation of those matters is sometimes very wholesome.

Have you anything to say, Mr. Pratt, other than what you have said?

Mr. PRATT. No.

The CHAIRMAN. Has there been any increase granted, in the range than you do occupy?

Mr. PRATT. Increases in winter permits, to Mr. Pace, Mr. Bunny and Mr. Brown, of Kanab, and also Mr. D. K. Judd and Mrs. Alder Pratt.

Mr. WOODHEAD. On the range where you wanted an increase yourself?

Mr. PRATT. That's right.

Mr. WOODHEAD. Down in the Willis Canyon?

Mr. PRATT. That's right.

Mr. WOODHEAD. Well, I don't know about that, Senator; I can't explain it.

How extensive were those increases?

Mr. PRATT. Some of them 100 percent.

Mr. WOODHEAD. Doubled their numbers? How many head?

Mr. PRATT. Well, I couldn't say exactly, without looking it up. I happened to have the count that came off of there. All of these fellows claim they have had an increase in permits, so I know they must have had.

The CHAIRMAN. When was that?

Mr. PRATT. Last winter.

The CHAIRMAN. Is the local ranger here?

Mr. GRAY. Yes, Mr. Chairman.

STATEMENT OF G. J. GRAY, FOREST RANGER, JACOBS LAKE, ARIZ.

Mr. GRAY. As I recall it, increases, last year, were granted, on the average of 5 head, in this particular area.

The CHAIRMAN. Why wasn't he granted one?

Mr. GRAY. Mr. Pratt had a temporary permit, during all of last summer, the drought period, for 55 additional cattle, carried on that range which Mr. Judd mentioned was his complaint. Mr. Pratt, who runs in with Mr. Judd, had this 55-head temporary increase in his permit during that drought period.

The CHAIRMAN. I haven't got that clear. That is I can't quite straighten it out in my own mind.

Mr. GRAY. In the first place, there are two different allotments. Where Mr. Pratt is talking about, the increases were granted, there, in the Willis Canyon allotment.

The CHAIRMAN. Is that where he runs?

Mr. GRAY. No; he and Mr. Judd run on what is called the Ryan allotment. There is no fence between them, but, nevertheless, it is set up in two different, separate units.

The CHAIRMAN. Do the cattle occupy the two allotments; the same cattle?

Mr. GRAY. More or less. There is a drift back and forth.

Mr. KNEIPP. Then, as I understand it—may I ask the ranger a question?

The CHAIRMAN. Certainly.

Mr. KNEIPP. It was proposed to grant temporary increases, on the Willis Canyon allotment to a number of people who applied for them, and they were granted, to the extent of about an average of 5 head. But Mr. Pratt was not given one because he already had received a temporary permit, on the other allotment, for 55 head. Is that right?

Mr. GRAY. That is right.

Mr. PRATT. That was temporary and emergency permit.

Mr. KNEIPP. These were all temporary permits, these increases.

The CHAIRMAN. Did you make use of that increase that was given to you?

Mr. PRATT. Yes.

The CHAIRMAN. Are you still making use of it?

Mr. PRATT. No; they wouldn't allow it again. I was turned down.

Mr. ARTHUR WOOLLEY. How about the increases to the others?

Mr. PRATT. They had their increases last winter.

Mr. WOOLLEY. In other words, they were allowed again?

The CHAIRMAN. Well?

Mr. GRAY. They have only been allowed once, this season. It doesn't start until December, again.

The CHAIRMAN. I again draw your attention to the fact that I doubt very much the right of this committee to go into individual cases, excepting as they become outstanding cases, involving a policy. But I respectfully recommend that this matter be looked into, to the end that no lack of fair play takes place. We are interested in fair play, and it is discouraging to think somebody else can get something you are being denied.

Mr. DANIEL K. JUDD. As to the figures these forest officials give, on the acreage it takes to feed a cow, I can't see where there is anything to it, whatsoever, that it takes several thousand acres to feed a cow.

The CHAIRMAN. I didn't hear that several thousand acres.

Mr. JUDD. That is the way I understood it; so many acres on the Kaibab, and only several more thousand acres in the Kaibab than they were running cattle on.

The CHAIRMAN. The figure I got was an acre and a fraction to graze a cow.

Mr. KNEIPP. Forage acre, Senator; that would be an average of 12 acres.

Mr. JUDD. That was the choice ground of the forest. I happened to have lived in a time when I know there was around 4,000 head of cattle permitted, on the west slopes, and they always wintered on the west slopes; and I was a very close friend of the Bar-Z foreman. They run around 10,000 head, all the time, and they were doing well, and ranging on the Kaibab Forest, at that time. Now there is plus 1,300 head, and the biggest part of those are winter permits.

The CHAIRMAN. My observation is—and I wonder if your experience will bear me out—the Almighty has a great deal to do with these graz-

ing permits. When he brings down plenty of moisture, they will feed more livestock than when he denies it. Is that right?

Mr. JUDD. We have had 25 years for that to recuperate. It has been 25 years since they cut the number down to practically what it is today. It has been 25 years that they took to build that country back up. If it's not going to build up in 25 years, when is it going to build up?

The CHAIRMAN. Well, I've seen some range built up in 1 year.

Mr. JUDD. So have I. I've seen the Kaibab, too. You can go out there now and investigate the feed. It is there today. I was raised in this country, and I have traveled that Kaibab as much as any of the forest rangers, and I know the feed is there today; just as good as it was in the time they were feeding twelve to fourteen thousand head of cattle; and still we can't only—and they are issuing permits upon the ground that is misused today. That is where they are issuing permits and allowing the extra cattle to go on the territory that is overstocked. That is the ground that the new permit, and emergencies, is issued on; and that is the ground that is being issued today for emergency permits.

The CHAIRMAN. Is there anyone else who wants to be heard on that particular subject?

STATEMENT OF MERLE V. ADAMS, KANAB, UTAH

Mr. ADAMS. I would like to give a little picture of the Kaibab. Mr. Jensen has done some of it, and so has Mr. Pratt. But I have been very closely associated with the Kaibab.

Since 1917, until 1940, the Grand Canyon Cattle Co.—they went out of business after the national park came in on the north rim—their permit was cut from around 9,000 cattle to 3,000; and they could not operate. In 1926, I bought the remnants and later Mr. Woolley went in with me on these cattle, half and half. There wasn't any way that we could retrieve any of the Bar-Z permit from the Forest Service.

The CHAIRMAN. From the Forest, or the Park?

Mr. ADAMS. Either one. Now, it has been my experience that the Forest Service has tried to make the forest look like Mr. Tillotson wants the park; and, that is, a lot of that country you could run a mowing machine and stack hay on. You could do that today on the park and on the forest. That has been the case for a good many years. The winter range has been a little slower about coming back. About 1928, I traded my half of the Bar-Z cattle to Mr. Roy Woolley, for a little permit he had bought on the west side, for 16 head. I carried and struggled along with that 16-head permit until 1940. Every year I asked for an increase to 25. I believe the record will show that every year I asked for that increase. In 1940 I gave up and sold out.

There was new permits issued in that period of time. Now, most of these cattle—I doubt very much that there is 3,000 cattle—ever look at the Kaibab. I would have to see the figures to believe that, and if they are there on the slopes of the Kaibab, that doesn't even touch up on the top, where the grass is that high, and acres, and hundreds of acres, of it are there.

On the national park, when we had that rim on the Bar-Z cattle, we followed them miles and miles and miles by grass trails. But we got it off in the summer. Mr. Tillotson, I think, will bear me out. These

cattle had to be removed because it was against the policy of the park. Now, they have got thousands of acres that will never see a dude. I don't care, it might as well be grazed on the park.

I would be tickled to death to go back on the Kaibab, with just 25 cows, if I could go back tomorrow. At the price they're paying today, with a gradual year after year increase, why any she stuff I could build up, until I had an outfit that would pay out. There is ample room on the forest for 6,000 head. Back in the old days the Bar-Z had 10,000 and the local people had two or three thousand.

The CHAIRMAN. What do you mean, "In the old days"?

Mr. ADAMS. Back to when the Bar-Z left, in about 1924.

The CHAIRMAN. What happened just before they went out. Was it that the park came in?

Mr. ADAMS. The park came in, and got their equity back from the rim. I think it was something like 11 or 12 miles. They didn't mention here the points that run out into the canyon for 15 or 20 miles. On Greenland Point, alone, the year after the north rim came into the National Park—

The CHAIRMAN. That is this monument that we have been talking about?

Mr. ADAMS. No, that is the national park; out on the Kaibab.

The CHAIRMAN. When was that increased? I understand this witness to say they got this increase.

Mr. ADAMS. It wasn't an increase, sir, when the Park Service took jurisdiction on the north rim of the Grand Canyon.

The CHAIRMAN. It wasn't a change of lines then, but just a matter that the line had not been formally established?

Mr. ARTHUR WOOLEY. The first line was established a mile back from the rim. Later they came out here and extended it back 15 miles and they took some points that still run out 15 miles farther.

The CHAIRMAN. Was that done by act of Congress?

Mr. DRURY. The park was established by act of Congress.

The CHAIRMAN. And extended the area?

Mr. DRURY. Yes; extended it by act of Congress.

The CHAIRMAN. How does it come that first you set up your boundary on the rim, as stated by the witness a moment ago, and it never was fixed on the rim?

Mr. TILLOTSON. No; there is one portion in the extreme west, as Dr. Bryant explained this morning, where the boundary is the north bank of the Colorado River; and then, a little farther on to the east, it becomes the rim.

The CHAIRMAN. That isn't the country this witness is speaking of.

Mr. ADAMS. It is all this country. I know that country as good as any living person, Park Service, Forest Service, and it doesn't make any difference—

Mr. TILLOTSON. No change in the boundaries.

Mr. ARTHUR WOOLEY. There has been a change in the boundary. There's been an extension north. You know when they first set the park line it didn't come a mile back from the rim.

Mr. TILLOTSON. You're talking about the old National Monument; I was talking about the Grand Canyon National Park, which is created by an act of Congress.

The CHAIRMAN. Again, distinguishing between a park and a monument, a park is set up by act of Congress, and a monument may be

set up by Executive order. Now the Grand Canyon National Park must have had defined, definite boundaries, when Congress created it a park. Was there ever another act extending those boundaries, to go into this territory?

Mr. DRURY. No, sir.

The CHAIRMAN. What about this territory running back 12 miles or more?

Mr. TILLOTSON. The original act of February 26, 1919.

The CHAIRMAN. So that, what appears to be an extension, was in reality in the original act?

Mr. TILLOTSON. In the original act, creating a national park, yes, sir.

Mr. ADAMS. I didn't know there was any difference. I thought it was all the same. There is a long point there, Greenland, that runs out into the Grand Canyon, probably 12 miles long. Isn't that right?

Mr. TILLOTSON. Yes—

Mr. ADAMS. The Grand Canyon Cattle Co. used to have that fenced off, to keep saddle horses in, during the year after the national monument—I don't know which it was, a national monument, but they came out into the Grand Canyon, and gathered up their saddle horses, and took them up on the forest pasture. They held those horses there for 6 weeks, and watered them every day, around 250 head of saddle horses, while the company had a chance to go back to Washington. The next season they took the cut, down to 3,000 head of cattle, and couldn't operate. So they went to Mexico.

I bought the remnants, and struggled along on that trade, on the Kaibab Forest for a period of 10 or 12 years with a little 16-head permit; weathered all that deer situation that the Government created—that the Forest Service created—as well as anyone else. The cattle men who told the Service at that time they were being overgrazed were called biased. There are men in this audience who left their big permits. Jed Johnson left 207 because he couldn't compete against the Forest Service and the deer. Mr. Findlay, I don't know how many he left with because he couldn't. A few of the boys stayed with it, with a few head. I stayed along with this little 16 head through all that crisis. Then when they started back up they still didn't give us any consideration. In 1940 I sold that little 16 head because I was discouraged. I couldn't see any future on the Kaibab; and anyone knows you can't afford to run a 16 head permit of cows on an area like the Kaibab.

I would like to say to the Forest Service, I would hate to be operating and be the judge of a range like the Kaibab and make the statement you men have made here today, because it is false, and you people know it. The grass is there and any unbiased cattleman could go on the forest and they'll come back with that same story.

The CHAIRMAN. Are there any questions? Does anyone care to interrogate?

Mr. KNEIPP. Senator, I haven't ridden over the Kaibab since 1924 and 25, when I was last out there, but it is difficult to believe that the range could have recovered to the degree alleged.

Going back to the question you asked me, Grand Canyon Park, on this side, was created out of the original Grand Canyon National Monument. By act of Congress, under date of February 26, 1919, an area north of the river, amounting to 320,000 acres, was given

a national park status. Then, in 1924, or '25, a committee came out here—an interdepartmental park and forest committee—and made a study of the boundary, and agreed, or recommended, the addition of another 48,000 acres. That was made by an act of Congress, in 1927. So there have been two withdrawals; the first one, a little in excess of 300,000 acres, the second one, which added another 48,000 acres. A larger addition has been proposed to this committee, which I accompanied, at the time; but they drew the line so as to leave the waters on the forest side available for stock use, and to add to the park some areas they thought were necessary for the planning of road, by which the visiting public could get out to the western point. Now, I haven't had the advantage of trips over the Kaibab since that time. But in 1924 this committee made a rather extended trip, and if there were any fields of waving grass from which one could cut hay, I didn't see them and nobody else along on that trip saw them, either, although there had been—

Mr. ADAMS. I'll bet you \$500 you can find it today. I can take you out there and show you where you can cut hay out of the waving grass.

Mr. KNEIPP. Mr. Woodhead has been over the Kaibab Forest in considerable detail. He might be able to comment regarding Mr. Adams' statement, on recent conditions.

Mr. WOODHEAD. Mr. Adams, I don't want to take issue with you. Darn it all, we have a hard time agreeing on grazing capacity; it is always a bone of contention.

Senator, the south end of the entrance road in the national park, along that road in and about the park, there is pretty good feed. We have tried deliberately to protect that entrance into the national park for two reasons—because of the esthetic elements, which some people value, and to provide, as far as possible, for a deer spectacle in those parks, up there along that highway. Now, aside from that, within reach of the available waters, and on slopes that livestock normally will use, it is our judgment, as I said, that the range is carrying about all the livestock it can.

Mr. ADAMS. I would hate to have to be you, doing that, and going on record.

Mr. WOODHEAD. Well, that is just a difference of opinion.

The CHAIRMAN. Just a moment. I don't want you to be interrupted.

Mr. WOODHEAD. I think that's about all I have to say. There is a difference of opinion, and I don't think it can be reconciled.

Mr. ADAMS. But—we will start from the north end of Dry Valley down where Dry Valley is and go right across the mountains and probably get in around the head of Kings Canyon, and possibly north of there, then run west to Naylor Canyon and through there. Can you honestly say to the Senator that that country through there isn't just as good as those open valleys where it is opened? Can you truthfully tell him that?

Mr. WOODHEAD. Well, now, I don't know that I quite get your question. I'll say this, Mr. Adams, and stay with it, that it is our judgment that the Kaibab Forest as a whole is carrying all the livestock it should. I said a while ago that there were areas that were pretty badly overstocked, and some relatively understocked; and, by some shifting of fences, and adjustment in use, that load could be more nearly equalized. I will stand on that statement, sir.

Mr. ADAMS. That's all.

Mr. ARTHUR WOOLLEY. Let me see if I get your picture of the road into the park. Is that the south road?

Mr. WOODHEAD. Not the road; the trail goes down through Pleasant Valley—

Mr. ARTHUR WOOLLEY. The park runs up to what we call the north end, or rather the south end, of the V. T. Now, the Little Park—do you think that the Little Park is more recovered; that the growth is much more luxurious and higher there?

Mr. WOODHEAD. Is the Little Park inside the national park?

Mr. WOOLLEY. Yes.

Mr. WOODHEAD. I don't know about that.

Mr. ARTHUR WOOLLEY. You have been down to the ridge—

Mr. ADAMS. Will you tell the Senator how many miles you think it is, since you mention Pleasant Valley, down to the park line?

Mr. WOODHEAD. I suppose, Mr. Adams, just guessing, I have ridden down there several times, and it must be 20 miles.

Mr. ADAMS. That's fair enough. I'll settle for that.

Mr. ARTHUR WOOLLEY. Now, see if I have got this: In the Big Park, in recent years—is there more moisture on the Big Park, in recent years?

Mr. WOODHEAD. Where is that?

Mr. ARTHUR WOOLLEY. How long have you been supervisor?

Mr. WOODHEAD. I've been in region 3 and out West 4 years.

Mr. ARTHUR WOOLLEY. I was astonished that you didn't know what we call the Big Park.

Mr. WOODHEAD. Well, "V. T. Park" is the name I know for that area. I said that we have tried—

Mr. ARTHUR WOOLLEY. You contradicted this gentleman about his statement that he could cut hay or grass out there with a mower. Let me see if you couldn't actually do it this very day, in the south end of the Big Park.

Mr. WOODHEAD. No; I didn't contradict him, that he couldn't cut hay on the park on that entrance road. We could try to do it.

Mr. ARTHUR WOOLLEY. Now, speaking about, before you get to the Big Park, in that grass, down by the spring, on V. T. isn't that where the deer congregate for the tourist's enjoyment?

Mr. WOODHEAD. Yes, sir.

Mr. ARTHUR WOOLLEY. Pleasant Valley is the cattle area, farther north. Did you ever try to cut hay in the south end of that?

Mr. WOODHEAD. No.

Mr. ARTHUR WOOLLEY. You could, couldn't you, to this day?

Mr. WOODHEAD. You might along the edge of the swale there, where there is water.

Mr. ARTHUR WOOLLEY. There is no running water on the Kaibab; so that you mean in the low places in the park?

Mr. WOODHEAD. That's right.

Mr. ARTHUR WOOLLEY. That is to say, that the Kaibab is a mountain, lying down, and placed across the center of it, lying north to south, is a series of open places, almost level ground. There is no run-off at all. They are mountain meadows. Now, Pleasant Valley is the north one. About how many miles long? Would you say 3 miles?

Mr. WOODHEAD. I expect it is.

Mr. ARTHUR WOOLLEY. And a mile and a half wide?

Mr. WOODHEAD. Yes.

Mr. ARTHUR WOOLLEY. Then comes the V. T., or the Big Park, 12 miles long, and a mile and a half, or a mile wide. And then you go through a narrow strip of timber, probably 3 or 4 rods in length, and on up into what is called Little Park. That is in the park itself. That is probably 5 miles long and still a mile wide. Now, that is all right on top of the mountain, and is all mountain meadow, and is, this day, isn't it?

Mr. WOODHEAD. Well, speaking for the V. T. and Pleasant Valley, those are mountain meadows. Part of it is pretty dry meadow; and part of it is pretty wet, where those swales are.

Mr. ARTHUR WOOLLEY. It depends on the rain?

Mr. WOODHEAD. That's right.

Mr. ARTHUR WOOLLEY. Along to the west, there is another series of little parks, not quite so big, and right on top of that mountain. Those parks are not as verdant, and never have been as verdant, as the parks on top of the mountain, have they?

Mr. WOODHEAD. I expect not.

Mr. ARTHUR WOOLLEY. But then, long points run out from that park, to the west, where the mountain breaks off sheerly? And those points are all covered with heavy timber?

Mr. WOODHEAD. I don't know what area you are talking about.

Mr. ARTHUR WOOLLEY. Between the second park area and the points where the mountain breaks off, lifting squarely out——

Mr. WOODHEAD. You don't mean where the trail falls off?

Mr. ARTHUR WOOLLEY. No; that runs the length. Now, all those points are timbered graze, aren't they?

Mr. WOODHEAD. All of the whole forest has some grass on it, Mr. Woolley.

Mr. ARTHUR WOOLLEY. But there are meadow areas. What we are talking about is a series of parks, down the center. Down on the south end of all of that, where the national park is now reserved, the whole thing has grown up to a dense growth of verdure of all sorts, grasses, ferns, browse, cliff roses, and all those things that make a dense undergrowth on the sidehill.

Mr. WOODHEAD. Not that I know about.

Mr. ARTHUR WOOLLEY. Well, have you been down in the Grand Canyon since you have been here?

Mr. WOODHEAD. I haven't been inside the park boundary at all.

Mr. ARTHUR WOOLLEY. But, as you come to it, have you made it a point, in your allotments, to permit a denser growth or greater recovery, approaching the park, any place except along the highway?

Mr. WOODHEAD. No; that has been a deliberate policy.

Mr. ARTHUR WOOLLEY. You haven't any fence that keeps the cattle from coming into the south end of the V. T., have you?

Mr. WOODHEAD. No.

Mr. ARTHUR WOOLLEY. So they can't get——

Mr. WOODHEAD. We do not salt in V. T. Park.

Mr. ARTHUR WOOLLEY. But it is salted immediately over to the west side, in what is called——

Mr. WOODHEAD. Dry Park.

Mr. ARTHUR WOOLLEY. You salt it there, so that your mountain now is fairly uniformly recovered, is it not?

Mr. WOODHEAD. I think not.

Mr. ARTHUR WOOLLEY. Where do you think it is not recovered?

Mr. WOODHEAD. That main central unit, Mr. Woolley—

Mr. ARTHUR WOOLLEY. I said the V. T. Park is in the central unit.

Mr. WOODHEAD. I'll make it a little more specific. From Jacob's Lake Lodge, west of the highway, those little drainage areas that run to the west, all down through there, in my judgment, have not anywhere near enough to support the amount of forage that they might. Now, the fact that it has improved is something that we are proud of. I think we are getting—the steers off the north Kaibab will weigh more, perhaps, than on some other areas around through this country; and I believe we are producing more pounds of beef per breeding cow, perhaps, than some other areas. I wouldn't argue with any stockman, because I wouldn't know what the weights are, off the areas. But we're rather proud that it has improved. That is what we have been working for, for 25 years.

Mr. ARTHUR WOOLLEY. Your area—speaking of Jacob running out to the point—that same area, running up to the ridge, on the north, is rather a rocky area?

Mr. WOODHEAD. Well, those little gradings, to the west, are not rocky; and, undoubtedly, once those areas produced a large part of the forage on that western side because that timber is so heavy that it can't support a very heavy stand of grass.

Mr. ARTHUR WOOLLEY. That's right. In other words, you don't know how it compares with what it was in the days when there was heavy grazing?

Mr. WOODHEAD. No.

Mr. ARTHUR WOOLLEY. Historically, of course, you know a large part of the heavy grazing was on the South Breaks?

Mr. ADAMS. How long have you been connected with the Kaibab?

Mr. WOODHEAD. Four years, Mr. Adams, which isn't very long.

Mr. ADAMS. You've actually been in there 4 years. How much time have you spent there?

Mr. WOODHEAD. I don't suppose, altogether, as much as 3 weeks.

Mr. ADAMS. Well, then, you're practically as much of a judge as the Senator himself is. I apologize, because he isn't a judge of the Kaibab.

Now, this country on the park, I don't know how many miles along that park boundary, running east and west, is a series of points that run out into the Grand Canyon, some of them as much as 10 or 12 miles, and they could support a lot of stock. I think Mr. Tillotson will agree—on any of those canyons, Milk Creek, the Basin, Sublime, or Jane Townsend Hollow, Big Springs Swamp, Whipple, clear through, and back to Stymie—do you think there is a canyon in there, Mr. Tillotson, that the grass is not that high, and as thick as it will stand?

Mr. TILLOTSON. The last time I saw it, it was very good grass in there. That is, in the park.

Mr. ADAMS. Thank you.

The CHAIRMAN. Talking now about the park—

Mr. ADAMS. Mr. Tillotson, if you were blindfolded, and taken down near the park boundary, and then the blindfold was taken off—I mean, while you couldn't see—would you be able to tell which was park and which was forest by the grass?

Mr. TILLOTSON. To the extent that the grass, the growth, is better in the park than in the forest, I could; yes.

Mr. ADAMS. On the park boundary?

Mr. TILLOTSON. Well, maybe not exactly on the boundary. I wouldn't define the boundary by a single line.

Mr. ADAMS. Could you tell within 5 miles?

Mr. TILLOTSON. Well, that is a hypothetical question. I doubt it.

Mr. ADAMS. That's right.

The CHAIRMAN. I think we've about exhausted that.

Mr. ARTHUR WOOLLEY. How many cattle could a man see—say, get a car today and start out early in the morning—how many cattle could anybody show you on the Kaibab, by driving all day long, just driving over, and taking every road that you could, on the whole forest? Approximately how many cattle do you think you could see, Mr. Adams?

Mr. ADAMS. Well, if you went at noon you wouldn't see over 15 or 20 head.

Mr. ARTHUR WOOLLEY. But if you spent the whole day driving, what would it tally?

Mr. ADAMS. I would say 11. I didn't see over 10.

Mr. ARTHUR WOOLLEY. And a thousand head on the national park would be lost; and a tourist outfit, driving through, wouldn't see more than 10 head.

Did you want to ask a question?

Mr. CHARLES ANDERSON (Glendale, Utah). I just wondered if anybody is going to take up Mr. Adams' bet, on mowing hay?

The CHAIRMAN. Which end of the bet are you talking about?

Mr. ARTHUR WOOLLEY. Well, I'll take the middle. I'll go over into that area—I haven't been over there for about a year, but I'll go over there and mow hay. I'll go over to that park and mow hay, and up around Knife Lake and mow hay. That's all on the forest.

While I'm on my feet I'd like to ask the Forest: The year that committee came over here—it was called the Audubon Society—and the recommendations they made, let me ask if that isn't the policy you are following, rather than waiting for the feed to come back on the Kaibab?

Mr. KNEIPP. What committee?

Mr. ARTHUR WOOLLEY. We called it the Audubon Society, when 21 of you came out there.

Mr. KNEIPP. There was one committee of sportsmen that came out on the Kaibab, from June 8 to June 15 in 1931, and spent that time on the forest, studying the deer situation.

Mr. ARTHUR WOOLLEY. What was their recommendation?

Mr. KNEIPP. By the way, Mr. Chairman, we have here a summarized statement. I wonder if you wish a copy of it?

The CHAIRMAN. Is that a statement of a study made at that time?

Mr. KNEIPP. I merely mention that as one of a series of events leading up to the present. But the one to which I referred was a coordinating committee on national parks and forests, the purpose of which was to adjust boundaries between national parks and forests, an outgrowth of the National Conference on Outdoor Recreation. That committee was out here in 1925. It was at that time that the boundary was settled. The coordinating committee had nothing to do with

this later game committee, in 1931; but it was taken over a great part of the forest, even out to the middle ranges, to see the deer damages, and they spent 2 or 3 days going over the boundary question.

Mr. ARTHUR WOOLLEY. I would like the report they made, on what disposition they made of the livestock on the Kaibab in that report.

The CHAIRMAN. Does that report touch on that?

Mr. ARTHUR WOOLLEY. I have it, sir, the conclusion——

The CHAIRMAN. The report itself should be of interest.

Mr. KNEIPP. It discusses, briefly, each of the several units by which the forest is divided for range management purposes, summary of numbers of stock: cattle, horses, sheep, buffalo, deer; acres per animal; and merely outlines the situation with regard to the Kaibab. It quotes a part of that 1931 committee report.

The CHAIRMAN. This report was made when?

Mr. KNEIPP. This document I have here was recently prepared, as a summary of several different sources of data.

The CHAIRMAN. By whom was that prepared?

Mr. WOODHEAD. By the forest supervisor, and Mr. Johnson, in my office.

The CHAIRMAN. Have you the report of this committee?

Mr. WOODHEAD. This quotes a part of it.

Mr. ARTHUR WOOLLEY. I have a copy of the 1931 committee's report, with the conclusions in full.

The CHAIRMAN. I think the committee would like to have that. If there were other committees that came out here and made reports, I think it would be well for us to have those reports, if they are available, all of them. If they are available, we'd like to have them.

Mr. KNEIPP. I think the 1931 report was printed, Mr. Chairman, and probably a copy of it could be had.

Mr. JACKSON. By what authority, and who were this committee? Were they qualified to make the recommendations?

Mr. KNEIPP. This committee was composed of representatives from the following organizations: The Arizona Game and Fish Commission; the Arizona Game Protective Association; the University of Arizona; American National Livestock Association; the United States Biological Survey; the American Society of Mammalogists; the American Game Association; the American Forestry Association; the Campfire Club of America; the National Association of Audubon Societies; the Izaak Walton League; the National Park Association.

The Kaibab situation was at a high peak of agitation. The Forest Service appealed to all the various organizations which were interested to form a committee of qualified personnel, to make a disinterested study of the whole situation. This study, from June 8 to 15, 1931, by the representatives of these organizations, was a result of that.

The CHAIRMAN. Well, now let's see where that fits in, Mr. Kneipp. As a result of that report, following that study by the committee, the personnel of which you have named, has the forest followed their recommendations?

Mr. KNEIPP. Yes; because one of their findings was that there was an excessive number of deer, and the safety of the herd required a reduction to the capacity of the range. The Forest Service has been working toward that end. That was the crux of the whole problem

before the committee: Were the facts as represented; were the deer increasing to such a degree that they were destroying all the livelihood for themselves, and destroying the range? The committee found that was the case.

The CHAIRMAN. What was the recommendation as to the deer?

Mr. KNEIPP. The recommendation as to the deer was reduction in numbers, down to one that would be in balance with the food supply, and, I think, speaking from memory, that contemplated a reduction to 15,000 or so, at that time.

The CHAIRMAN. Was it following that that the action of the Government in going in and killing off the deer occurred?

Mr. KNEIPP. Yes.

The CHAIRMAN. That followed that report?

Mr. KNEIPP. Yes.

Mr. ARTHUR WOOLLEY. This conclusion is very brief; I can read it into the record.

Mr. JACKSON. What was the recommendation of the committee as regards livestock?

Mr. ARTHUR WOOLLEY. I will read the total conclusion, with the permission of the Senator:

There is need of additional manpower for the proper field administration of the Kaibab Forest. It appears impossible for a supervisor with only one ranger to maintain adequate administrative control over 700,000 acres of forest and range lands.

The committee recognizes the necessity for the present limited use of the range by local residents. There should, however, be no increases while the range is in a depleted condition. Stock in excess of permits must be eliminated and appropriate action taken to stop trespassing in unauthorized grazing, and to remove any uncertainty as to the number of cattle that do actually graze within the Kaibab National Forest. The Forest and Park Services should continue to remove unowned wild horses and unpermitted cattle from the range.

There exists a most urgent need for reducing the present number of deer in the Kaibab area to a point much below the present limited carrying capacity of the range and maintaining the deer herd at such a level until such time as the various species of shrubs and young trees upon which the deer depend for browse are reestablished. Thereafter, by careful game management, the deer may be permitted to increase to such numbers as the natural food supply may sustain. During this necessary period of reestablishment, we recommend that all forms of natural wild animal life, other than deer, in the Kaibab area be left undisturbed, except for necessary scientific purposes, or where serious damage to private property is being done, and that suspension of Federal and State predatory animal killing be continued, also the area should be closed to private trapping and hunting of flesh-eating animals until adequate annual reductions of deer are made.

The CHAIRMAN. In other words, they wanted the coyotes to do the work.

Mr. ROYAL B. WOOLLEY. I want the report on what they were going to do with the livestock.

Mr. ARTHUR WOOLLEY. Eliminate themselves as fast as they could.

Mr. ROYAL B. WOOLLEY. I can tell you what it was; I will tell you what it was.

The CHAIRMAN. I didn't hear any specific recommendations, except that they be not increased.

Mr. ROYAL B. WOOLLEY. Not increased; shall allow no increase in permits; those that are there may remain, but you are to take every advantage possible to eliminate them as fast as you can, and that has been the policy of the Forest Service ever since. That palaver about

no feed out there—there is nothing to that. That is the policy they are following. They have taken every advantage to eliminate it as fast as possible.

Mr. JAMES E. BABBITT (State senator, Flagstaff, Ariz.). Might I ask how many deer were on the forest at the time this report was prepared?

Mr. ROYAL B. WOOLLEY. I'm sure they made an estimate, Mr. Babbitt.

Mr. BABBITT. It seems to me it was around 50,000. I wonder how many cattle were on the forest at that time?

The CHAIRMAN. Have you that, Mr. Kneipp?

Mr. KNEIPP. The estimated number of deer, Senator, varied widely, some as high as a hundred thousand. The estimates used by the Forest Service for the period from 1922 to 1929 estimated the number as 30,000. Then there was some killing. In fact, that killing you mentioned the other day, where the meat was distributed, occurred prior to this report. In 1930 the number dropped to 23,000 in 1931, the year this committee made the study, the estimated number was 20,000. In other words, at the time the committee made this study, the deer had been reduced one-third in estimated numbers from the high peak.

Mr. BABBITT. Twenty thousand deer and how many cattle?

Mr. KNEIPP. That year the number of cattle under the permits was only 1,762.

Mr. BABBITT. And sheep?

Mr. KNEIPP. The number of sheep was 2,405.

Mr. BABBITT. How many do the Forest Service figure—that is, the Forest Service figures, I presume, that a deer will eat probably half as much as a cow. How do they figure?

Mr. KNEIPP. There is a great argument about that, because they eat in large part a different type of forage. In Utah, for purposes of classification, they are using the factor of three deer being equal to one cow, or five sheep equaling one cow.

Also, since that committee report, Mr. Chairman, there has been a gradual increase in the number of livestock. There was only 1,762 in 1931, when the report was made. In 1942 it was 3,242.

Mr. ARTHUR WOOLLEY. That increase was 800 head, on the north end of the mountain, but no increase at Jacobs Lake and south. The only increase was that 800 head, which Mr. Silcox recommended here in 1934. There was an increase, that many increase; people couldn't use them, only about a third of them; that is where the increase was, at the north end of Willow Canyon allotment; no increase south of there except to Ed Hatch. He got a little increase, but there was no increase on the central unit, not one cow.

The CHAIRMAN. Mr. Woodhead, you are not directly in charge of this forest?

Mr. WOODHEAD. No.

The CHAIRMAN. Who is?

Mr. WOODHEAD. Supervisor Walter Mann.

The CHAIRMAN. Is he here?

Mr. WOODHEAD. No; he was here a month or 6 weeks ago, but he had to go to the hospital for a serious operation, and could not be here.

The CHAIRMAN. Well, it's quite evident, Mr. Kneipp, that the matter

is one for serious consideration in this community from the sparks that appear to be here in this room, and it would be perhaps on the part of good judgment to give the matter pretty careful study.

Mr. KNEIPP. I quite agree with that, Senator. I can speak somewhat from personal knowledge. I have been here several times in past years, and I can't remember any time I ever saw the range when feed was abundant or going to waste. When the deer were occupying the Big Park, or V. T. Park, in numbers of two to four hundred, and they did keep the grass pretty well cut down there. I have walked across the park on foot in midsummer and found no grass high enough to make hay. In earlier years when I was here it was the habit of the deer to congregate in large numbers, and they kept those meadows pretty well trimmed. Here you have the judgment of the cowman on the one side, and the result of this inventory by the Forest Service on the other. We don't know which is correct. They contradict each other. This estimate of grazing capacity is based on the recognized practices of the Forest Service in other forests in determining the range capacity. Probably a detailed inspection by a committee would be the only way you could determine the facts.

The CHAIRMAN. Only one member of the committee being here, and our time being limited, I don't know how we can make a detailed inspection right at this time. But I can see it is a matter of serious moment here in this community, from the way people have addressed themselves to it. Before we leave here I hope to have a conference with all agencies, including the stockmen, and see if I can't come to some tentative arrangement whereby probably an amicable inspection can be worked out.

Mr. KNEIPP. That is all right. That is very good.

Mr. ADAMS. There is one thing I'd like to make—maybe I hadn't ought to say this, since the man isn't here to protect himself, but on one occasion when I was over here after a little raise in my permit, and I was also after him for a little horse permit in a section of country that no one on earth ever sees, even a ranger, just a cowboy, once in awhile, he said, "Well," he said, "it is against our policy to raise the grazing numbers on the forest, because it wouldn't look good for Mr. Tillotson to have all that grass over on the park, and us show a little grazing over here. Then, the tourists don't want to see the cattle along the road." That's a very poor excuse I think.

Mr. ARTHUR WOOLLEY. That is the crux of it; that has, in the past few years, been the crux of this controversy.

The CHAIRMAN. I shall try to get some kind of an investigation for the thing. I think both the Forest Service and those who use it want something done.

Mr. JACKSON. Just before we leave that question of tourists' wishing not to see cattle, I have been along that road a lot, and in almost every case—oh, between 90 and 95 percent of the tourists who come along the road—if they ever see a cow or bunch of cows they'll stop and take pictures. I've talked to them a lot. There have been tourists from every part of the United States, and in every case they say, "We can see deer and wild animals in zoos, but we never in our lives have seen cattle on the open range." They say it is an added attraction for them to see those fine cattle along the road. So I think that the park would have an added asset if they would encourage grazing, and allow the

cattle to graze along that road. The tourists would much rather see the cattle than a rank growth of grass. It is a thought that might be well to remember when you are going further with the investigation.

The CHAIRMAN. How about sheep; are there any sheep in that section?

Mr. JACKSON. Well, I had better not say about the sheep.

Mr. KNEIPP. There are 1,280 head of sheep on the forest.

Mr. JACKSON. Occasionally I've seen herders cross the road with their sheep, during the season when the tourists were coming pretty strong. Sometimes there would be a lot of tourists coming from each way and the sheep would be in the middle, and the tourists all jump out of their cars, and every one of them take pictures. I've seen the traffic jammed for half a mile each way down the road for the tourists attempting to take pictures, and the herders trying to get them across to water somewhere. So the sheep are also distinctly an added attraction for tourists.

The CHAIRMAN. We have been doing some considerable discussing of the matter of wildlife. At the hearing we held at Ely, Nev., just a few days ago, the topic of wildlife, and especially Senate bill 1152, was the uppermost subject for discussion. I don't know how many there may be here who are interested in S. 1152, or the subject matter thereof, but if during the hearings anyone wishes to discuss it and wishes to make a record, the committee will be very glad to have it. We will be very glad to have comments, or your constructive criticism. While we are on the subject I think it might be just as well for the chairman, who by reason of being the author of S. 1152, can say that there are many people in this country who have discussed S. 1152 and the preservation of wildlife and the matter of the disposition of wildlife who apparently have not given any study to the law governing the subject.

S. 1152 or any other statute of similar kind, if it were enacted, would not be as drastic nor as far reaching as the present law. The law of the land today is that the Federal Government has a right to go into its own land and, for the protection of its own land and for the protection of those who use the Federal lands kill off, if necessary, wildlife on those lands just the same as it has been decided that a private individual may, for the protection of his own lands, kill off trespassers, wildlife, and so on and so forth. That was brought to emphatic light in the Kaibab incident, when the Forest Service went in and killed off large numbers of deer due to the congestion that prevailed, that we were just discussing here. The matter was taken finally to the Supreme Court of the United States, and the Supreme Court of the United States laid down emphatically what has always been the law, but merely brought it out clearly by language, that the land belongs to the Federal Government, and that the Federal Government had a right to go in and kill off so as to protect the land.

Now that is the law of the land now. Not many people realize that, but it is true nevertheless. The fact that it is not exercised any more is largely due to the careful attitude on the part of those who control the Federal domain.

The object of S. 1152 was to bring to the attention of those who are interested in the subject the fact that the Government has the right to do this, and the further fact that an Executive order might issue

at any time giving the Federal Government the right to do it without hindrance. In other words, the Government has the right now, without even asking the State authorities for permission or cooperation, to go in where an area is overly infested with destructive animals and kill off.

My object in this is to try to get a cooperation between the Federal Government and the State authorities so that there may be a protection to the range, and at the same time a protection to the wildlife and a systematic propagation of the wildlife on the public domain, so that a harmonious attitude and relationship may exist, so that those who utilize the open public domain may have a full measure of the right of utilization, and so that those who would enjoy a sportsman's life can go out for recreation to shoot deer under the law may have the knowledge that the deer is being properly propagated, and so that the wildlife, itself existent upon the public domain, may have forage sufficient to sustain it in the proper condition and not starve itself out, as has been the case in many instances.

This S. 1152 was brought forward so that you might know what the law was in the first instance; and, secondly, so that you might constructively criticize it and, if possible, bring out eventually a statute that would work harmoniously between the Federal Government and the people of the respective States.

There are false theories about this that might be discussed. One false theory I have heard discussed is that the wildlife belongs to the State. That is not true at all. The wildlife is in the custody of the State. The wildlife belongs to the people, and the State is the custodian. The State has the right to legislate for protection, so that all the people may enjoy it. But the Federal Government controls and owns the land on which the wildlife exists and, as such, has the right to protect the land from destruction.

That has been decided by court after court.

Eventually I hope we may get harmonious action between the respective States on the one side, and the Federal Government on the other, because I am forever, and always will be, a believer in States' rights. I don't think the States should ever be relegated to where they have lost their rights, I am one that believes there should be a decided limitation of the overlapping of Federal authority into the States, and I think this can be accomplished as regards wildlife by a careful study of the subject rather than by nonconstructive criticism.

If it is desired to bring the subject up, we can bring it up at a later hour.

Mr. ROYAL B. WOOLLEY. Mr. Chairman, I would like to have John H. Page give us the history of that Little Mountain.

The CHAIRMAN. Mr. Page, you may make any statement you see fit.

STATEMENT OF JOHN H. PAGE, ATTORNEY AT LAW, PHOENIX, ARIZ.

Mr. PAGE. Mr. Woolley reminded me of the situation that Mr. Adams referred to a few minutes ago, about when the Grand Canyon Cattle Co. was forced to leave the Kaibab Forest, after many years of very large operations. Mr. Adams—under the circumstances, he

was very close to them. Their permit was around 10,000 head and when the park was created their permit was canceled. Their winter range was down in House Rock Valley, on the east side of the Kaibab. The Kaibab slopes to the east and to the large House Rock Valley.

This cattle company and its predecessors developed, starting in the eighties, most of the live water, and constructed extensive pipe lines. When the company lost its summer range by reason of the creation of the national part, it could not operate. So it has not ure for its winter range. But it held intact the remnants, as Mr. Adams said, and he purchased the remnants of the cattle.

I was employed by some of the land attorneys to conserve the assets, which were pipe lines and water springs and water developments. For several years we leased the waters to local people. A great many who are here today have leased these waters from the old company, which I represented.

When the Taylor Grazing Act was passed, which we all knew provided an orderly and proper grazing administration for House Rock Valley and other areas, we canceled the leases of those that we had leased the waters to, and got things in shape to build up our acreages and our commensurate property privileges, to be able to operate again under the Taylor Grazing Act. When those leases to our several different local operators here were canceled, there was the water leases—the Forest Service canceled their permits on the forest, that had been given by reason thereof. This Little Mountain has its slopes fenced off in a separate allotment from the east end of the Kaibab down to what is now the Grazing Service boundary.

Then, in planning for new operations under the Taylor Grazing Act, having our adjudication of priorities and commensurate properties, the question came up, what can we do about getting back onto the forest on that slope called Little Mountain? I talked with Mr. Mann two or three times about it. I said, "You have canceled the permits of the men that we had allowed to use our waters because we had to cancel our water privileges to get our house in order for the Taylor Grazing Administration." I said, "Now, what is going to be your policy on new permits for that area?" I said, "The company may liquidate, probably. It will probably sell its remnants of property, and those who purchase the waters succeed in all the rights and privileges that belong—of the long-time operators and owners and developers, shouldn't they be accorded the privilege of obtaining the forest permits adjoining the Grazing Service area, and contiguous to at least two watering places that are right on the boundary?"

Mr. Mann told me he thought that was what could be done; that he would, gradually, if others bought the watering places—they should be given the first consideration for that area for the permits, there being no permits, I think, but one still outstanding. They might have 82; but the rest have all been canceled for the reason I have explained. That was the situation when Mr. Woolley, who was one of the purchasers, with several of these other gentlemen here, when they started operations in the House Rock Valley as successors in interest to the Grand Canyon Cattle Co. and the owned waters, which are all a part of—which are all on private lands. Then

they developed what they could in the forest, to get back the permits that properly went with the waters which they had purchased and which were exactly on the boundaries. One is right on the corner—corners the boundaries—and the other is right on contiguous property.

The CHAIRMAN. Is that the park boundaries?

Mr. PAGE. No; that is all Little Mountain territory, what I call the part that is slipping down to the Kaibab plateau, where the Grazing Service starts its administration. That little slope in there is what Mr. Woolley wants to talk about in relation to the Forest Service Administration.

The CHAIRMAN. Now, the Forest Service canceled the permits when you canceled your leases on the water?

Mr. PAGE. That is correct.

The CHAIRMAN. Then, following that, there were no legitimate users?

Mr. PAGE. There might have been one or two by reason of some water somewhere else, Senator, but that took care of the miscellaneous permittees who had had their permits by reason of their release from my client.

The CHAIRMAN. Now, what became of the forest rights that had been in existence when they used your water? Did they just pass out of existence?

Mr. PAGE. That is my understanding. Mr. Woolley can go on from there.

The CHAIRMAN. Well, I wanted to catch it up so I would be able to follow Mr. Woolley's thought.

Mr. PAGE. One or two, by reason of some other waters, kept their permits. But most of those small cattlegrowers lost their permits; and my expectations, from the conferences with the Forest Supervisor, were that somebody started operations with the waters which my clients owned, and naturally, new purchasers would be allowed back on the forest—their contributory country, that had always gone with those watering places.

The CHAIRMAN. And Mr. Woolley bought the water?

Mr. PAGE. He was one of the purchasers of the group.

The CHAIRMAN. What else did he buy from you, excepting the water?

Mr. PAGE. This group of cattlemen, Senator, bought all the remnants of the property of the Grand Canyon Cattle Co., in House Rock Valley and bordering the forest.

The CHAIRMAN. That is all they would buy; no cattle and no permits?

Mr. PAGE. No cattle; and it has all gone under the Grazing.

The CHAIRMAN. I mean, no exchange of permits—no transfer of permits?

Mr. PAGE. A few little permits, but they weren't grazing permits, use permits; pipe lines up in the Vermilion Cliffs country, and everything; pipe lines, rights-of-way under the 1901 Right-of-Way Act, and all those appurtenances to the water.

The CHAIRMAN. All right. There is a gentleman there who wanted to be heard.

STATEMENT OF W. J. MACKELPRANG, JACOB'S LAKE, ARIZ.

MR. MACKELPRANG. I have been in House Rock Valley for 23 years, off and on. I would like to ask Mr. Page when the Forest Service canceled the Grand Canyon Cattle Co.'s permit?

MR. PAGE. That is what I can't answer.

MR. MACKELPRANG. After they canceled that permit, I was operating there. When the Grand Canyon Cattle Co. was there, four other parties of us went in there, Mr. Woolley among them, to develop some water. I developed some water, two watering holes. Mr. Cram developed some water. At that time there were no forest permits, and the Grand Canyon Cattle Co. didn't have any.

What we called Little Mountain, on the east side of the Kaibab, we worked with our four watering holes. There were 108 cattle to the permit, on the forest. The forest granted me that permit, on my watering; 108 head permit on the Little Mountain, for the water in House Rock Valley. Alec Cram got a permit for 108 head for the water; and Royal B. Woolley got a permit for 108 head on his water; and the Forest Service has claimed that is all the range will run. Each and every one of us has applied, and made application, to the Forest Service. Each time we put in the applications, all these years, for increase in our permits, the Forest Service has not granted it. Now, after the Grand Canyon Cattle Co. went out of existence, us 4 men went in, and have been willing, and ready, at all times, to take up all the permits, as far as possible, on the waters we have developed.

I feel like if there is any increases in that winter permit, on that Little Mountain, that we men that have applied for extra each year should have the first rights and privileges before any new applicants are allowed in there. I'll leave that to the Forest Service. I have been dealing with the Forest Service for about 23 years now, and they have been very good to me, and I would appreciate it. It is a hard thing to get these rights. I have worked hard. Mr. Woolley and I have worked along, side by side, with our watering holes, down in House Rock Valley, to get these permits. Then Mr. Woolley changed the permits from Little Mountain, and moved over to South Canyon, and piped the water down, and built tanks, and made a fine set-up there; even come off the top of Kaibab Mountain with the permit, went down the South Canyon, which is a very good set-up for 300 head of cattle year round. That is where the permits went. The Grand Canyon Cattle Co. have lost their permits by going out and staying out. We never made our permits on that forest, for the leased waters, from the Grand Canyon Cattle Co. Us four men made it on the waters we filed and owned and developed.

MR. PAGE. Mr. Mackelprang, that confirms what I was saying; those who have leased the Grand Canyon waters lost their permits. But there were a few other permits, based on other waters than the ones I was talking about. What you said doesn't differ in any way from what I said, at all.

MR. MACKELPRANG. No; the Forest Service has been giving us, according to their surveys, what they think all that the range can support. Now, I don't know as to that, but we are the four men that have made the rights, made the water, and made the trails into House Rock

Valley; that got the permits to the Little Mountain. We went on and got permits.

Mr. PAGE. What about the closer waters of the successors of the Grand Canyon Cattle Co., which had permits, by reason of the leases? Why aren't those waters entitled to be represented?

Mr. MACKELPRANG. They went out of existence; made these permits when this water wasn't recognized. Apparently that made our waters recognized. Mr. Woolley has his 108 head, and we're running side by side.

Mr. PAGE. What you said confirms what I said.

Mr. MACKELPRANG. I figure the man who has stayed there, all these years, and who went along with the forest, and built our permits, all need their permits. There are others in there, Mr. Cram and Curtis and John Schoppmann, and Bob Vaughan. They have got some permits.

Mr. PAGE. Well, he is in the class of permits on the Little Mountain, on different waters than I was talking about. Those that I represented had lost their permits. As far as I know, no new permits were given to the successor in ownership that purchased those waters.

The CHAIRMAN. All right.

Mr. ROYAL B. WOOLLEY. In 1934 Mr. Silcox, who was then head of the Forest Service, came out here, and he held a conference at Jacobs Lake, and after he had gone he wrote a letter back to my brother. We had quite a confab there, about the same question as Mr. Mackelprang brought up. He set out a policy as to what should be done on the Kaibab. He said there was room for an additional 800 on the north end of the mountain. They increased that. They figured there was a carrying capacity there of 800, and everybody that applied took the number and divided it, and it amounted to about 22 head each. That was granted. Then he comes down to Little Mountain, and I'll read what he says:

It is my desire to see these areas operated to the best possible advantage in connection with units lying outside of the forest. Under these circumstances, and in accordance with the best estimate of carrying-capacity figures that can be determined at the present time, 840 head of cattle belonging to existing users will be permitted on the north-end winter range for the season December 1 to April 30, or for a period of 5 months. This represents an increase of 300 head over those permitted in 1933 and 1934 which will be allowed under temporary permit. On the east-side winter range, the present estimated carrying capacity of 600 head of cattle for the season December 1 to March 31, or for a period of 4 months, will be permitted to present users under temporary permit. This represents an increase over permitted numbers of 315 head of cattle. In reaching this conclusion, it should be understood the exact carrying capacity of these ranges is not known. That can be arrived at only by a grazing test of a few years. Under these circumstances, local forest officers will be glad to make such changes in these estimates as actual trial and test indicate to be necessary. In order to secure flexible administration, the seasons above indicated will be varied to meet climatic or other conditions which may develop in the practical handling of the animals. That is to say, that the numbers of livestock and period of use may be varied by the local forest officers to meet the conditions, providing the total stock months and the estimated carrying capacity is not exceeded. That rule will hold until a more accurate determination of the carrying capacity shows changes to be necessary.

Now, he estimates there that there is room on the Little Mountain for 315 cattle, in addition to the permitted number at that time. Now, at that time I had, as stated, a permit for 108, which is included in this number. I transferred that to yearlong, in the South Canyon,

which took 108 away, which made 108 additional to the 315. Then, as Mr. Page has stated Bob Vaughn had a permit, predicated on his leasing of 25 head; Bill Wilmot had a permit for 25, and Ben Williams had a permit for 25 head. When the Grand Canyon Cattle Co. canceled the permits, the Forest Service automatically canceled those. That reduced that number, so it only left Mr. Mackelprang with 216 head and Mr. Cram with 108, when they purchased these properties from the Grand Canyon Cattle Co.

On the 1st of November 1939 we anticipated that the permits would be reinstated, predicated on the waters, and we have asked that that be done. Year after year we have asked it, but they have refused to do it.

Now, they may have a reason for not doing it, but I don't think I need to ask them the reason. I think I know it myself. Along in 1941, when this reorganization was hot, we was asked to express a preference as to whether we wanted to go to the Grazing Service, or Forest Service to be thrown into the Grazing Service. Well, I came down to Kanab, and thought we had better act as a community on the question; didn't want each individual going in several directions. So we met and formulated a telegram to the President. That is what I'm trying to find out here. I wish I had it, but I haven't got it. We expressed our wishes in the matter, and we said, "* * * if such and such is the case, we prefer this * * *," and one thing and another, criticizing the Forest Service, in excluding grazing from the Kaibab, and said if that policy was going to continue in force we would prefer to be transferred to the Grazing Service. The telegram was along that line.

Now, we had one party that has the same ownership in these waters, of the Grand Canyon Cattle Co., who opposed that telegram; and the rest of us, four others of us, signed. Now, a little while following the sending of the telegram, this party, that sided with the Forest Service, and against us, was allowed to be reinstated for his number, that had been canceled with the Grand Canyon Cattle Co.; and the rest of us have been reduced, up to this time; and I don't think it is any theory at all. I think it is a retaliation on the part of the Forest Service, for the part we took in sending that telegram to President Roosevelt. We would like to know why one man has been actively reinstated, on the same ownership. A fence runs down there; he goes on the forest. This party can cut into the fresh feed on one side of the fence, and our water is on the other; and he goes back into the country and is grazing all summer. It just don't look good to us.

Mr. Silcox, there was 315 additional besides that I have enumerated. There are those taken off. We have a thousand acres of patented ground on House Rock Valley; leasing 18 school sections; and these waters, 2 of them. The forest pipe line runs through 1 of them, and within 3,700 yards of the other. Now, we would like to know why we cannot be reinstated on the forest. The excess that they claim is on the Little Mountain.

The CHAIRMAN. Do you gentlemen wish to discuss that?

Mr. KNEIPP. Well, Mr. Chairman, I'm not familiar with the details. The supervisor who can explain is not here, but this is the way it strikes me:

We have this east side range unit. It is occupied by several permittees who have been there for a long while. You can't put any more stock in there without reducing those permittees.

Mr. ROYAL B. WOOLLEY. I take issue with you there.

Mr. KNEIPP. We don't want to disturb anybody that is there. These people are all there. Mr. Silcox said, in addition to previously permitted numbers there was room for 315 head subject to later range study and later determination. However, I am assuming that the actual use by stock would control this. The people having definite preferences, established by long use, occupied the range. Proposals are being made which would, I understand, reduce those preferences, in order to make range available to another group. The only claim that the other group has for that action is as the successor of a defunct cattle company, that went out of existence 20 years ago, and so hasn't used the range since, and which, as a matter of fact, at that time, relinquished its preferences to the United States. I just can't see it, Mr. Chairman.

The CHAIRMAN. Well, the way I caught the story—I may have it wrong—when the Grand Canyon Cattle Co. went out of existence, due to the emplacement of a park, they continued to lease their water rights to independent stockmen; and the Forest Service, if I caught this correctly, on the leases made to the independent stockmen, gave the independent stockmen permits on the forest.

Mr. KNEIPP. These men came as applicants, and one of the requirements was that they furnish water in proportion to their share of the range. They did that, by showing they had leased these waters.

Now, the Grand Canyon Cattle Co. was a big corporation, owned by Los Angeles people. In later years, through the establishment of the park, and the competition of increasing deer numbers, the number the company could run dropped to the point where operation was no longer profitable. They relinquished their forest preferences. While I can't recall the specific details, they relinquished quite a lot of water they were holding, under one type of unperfected claim or another, and they discontinued the use of the range. They did, however, own some waters. Those they kept, and they leased them to these permittees, but I can't see that there is any succession between these present applicants and the Grand Canyon Cattle Co. as of 1920.

The CHAIRMAN. Is there anything further that you want to offer?

Mr. MACKELPRANG. I was one of the leasers from the Grand Canyon Cattle Co. I think I leased more water from them than anybody, but the Forest Service never granted me no permits or anything on the forest on that water. The only permit I got, I got it out of my own water, the same as Mr. Woolley and Mr. Cram. We leased that water, but the Forest Service never recognized this water during all those years; never allowed Mr. Woolley any permits. Mr. Woolley leased a lot of it from the company, before he bought it. But they never allowed him no more permits on that. It did build the Grand Canyon Cattle Co.'s range on the public domain, but it reduced the water. The Interior come in and granted them some rights for leasing their water. The permits we got on the forest was from individual water. It wasn't from any leased water. For 23 years these men come in, come in and buy these holes. In the last 3 years, now, they have come in and maintained they should have some rights on that forest. There is enough for us that has got permits there and is asking for an increase in our permits; and, if the Forest Service has got any more grass there, we want to take it. We are the users and we have got stock, and

we need it, and want to increase our permits. We made an application every year for increase but they don't do it. With our permits we feel if there is any increase in the forest permits, we want the Forest Service to give it to us permittees and not to new applicants. There never was a cow permitted on that forest through the companies waters since they lost their permits.

The CHAIRMAN. When did the Grand Canyon Cattle Co. cease to run any stock on that territory?

Mr. MACKELPRANG. As I recall, I wouldn't be positive of the year, but as I remember, they sold it about 1926, the remnants; sold the body of them before that, but it sold the remnants—I wouldn't be sure of the date—it sold the remnants to Mr. Woolley and—

The CHAIRMAN. That is the remnants of cattle?

Mr. MACKELPRANG. Yes; a few wild ones that they didn't gather, say 40 or 30 head of cattle that were scattered on the range, at that time, on the Kaibab and around. They didn't sell no holding, no water, no rights.

The CHAIRMAN. All right. Now, how long between the time they relinquished their permits on the forest, due to the setting in of the park? Was it until they sold these water rights to Mr. Woolley and others?

Mr. MACKELPRANG. I would say it was somewhere between 2 and 3 years ago that they had no rights in there; no cattle, no stock whatever. I wouldn't be sure of the number of years, but it seems, to my recollection, that its about 1926 they sold out, and never run no cattle in there of their own at all; no cattle run in there, but leased the water to different applicants.

The CHAIRMAN. Why did these parties lease this water if they were not getting permits by reason of it?

Mr. MACKELPRANG. That was to use the Federal range. It wasn't for the forest, but for the Federal range; not from the forest. They got use on the Federal range for these water rights, but not from the forest.

The CHAIRMAN. Did you have water to run the Federal range, aside from that?

Mr. MACKELPRANG. Yes; ample water. Mr. Woolley had ample water. Mr. Cram and myself, we had enough water to run all of the cattle; water scattered around in different localities. Another thing we had in mind, release waters from this company.

Mr. WOOLLEY. How did Bob Vaughn get his permit?

Mr. MACKELPRANG. I don't know that.

Mr. ROYAL B. WOOLLEY. He got it, didn't he?

Mr. MACKELPRANG. I don't know why.

Mr. ROYAL B. WOOLLEY. Well, he had cattle on it. He couldn't put them on without a permit. How did he get it?

Mr. MACKELPRANG. I don't know. I know Schoppmann and Bob put in as partners, and bought out an adjacent homesteader who had 50 head. Schoppmann and Bob Vaughn bought him out and that allowed them 50 head of cattle.

Mr. ROYAL B. WOOLLEY. That was Mr. Parker. How much land does Mr. Parker own?

Mr. MACKELPRANG. He had 160 acres and didn't prove up on it. After he sold it they got 50 head. We're not trying, Mr. Senator, to take rights away from anybody. But there are rights there that should

be used, and we want them. We would like to know how Bob Vaughn got a permit when we can't, and he is in exactly the same ownership.

The CHAIRMAN. Is this Bob Vaughn, whom you mention, is he the one who protested the telegram?

Mr. ROYAL B. WOOLLEY. Yes, sir; he owns with us. He is one of the parties that bought out the Grand Canyon Cattle Co. He goes individually, and we go with one another, with exactly the same ownership.

The CHAIRMAN. Can anyone explain that?

Mr. G. J. GRAY (forest ranger, Jacobs Lake). Mr. Chairman, in the first place, I don't know just who all the stockholders in the company are.

The CHAIRMAN. Which company?

Mr. GRAY. The company that now owns the House Rock rights. But I do know that Mr. Woolley is one of the large owners. He has his own permit, his own set-up on the forest, which is equal to the upper limit of 300—in fact, exceeds it—305 head the limit set, above which we do not allow consolidations. He has the water piped to it.

The CHAIRMAN. On this forest?

Mr. GRAY. On this forest, in the same House Rock area on the south end of the valley a little bit further up on the slope on the mountain. He uses some of the flat lands that run down into the canyon and also up to the mountain where a certain part summer up on the slope.

Mr. John Schoppmann, who is another member of the company, has a permit on the Burro allotment, and Rubin Broadbent—they have the same permit on the same face of the mountain, but at the north end of the mountain opposite what they call Two Springs. They have their permits in there. Bob Vaughn, one of the other members of the company, has the permit in House Rock Valley. Now he has to explain where he got the permit. I don't know all of the particulars to it. He has 23 head just bought and transferred with this Parker place and he had a 25-head permit up at the north end. As he has explained it to me, and he was here a few minutes ago, he made a trade some way with the existing permittees; traded this permit from the north end down where it is at present. That's the way he explained it to me. It will probably show in the records.

Mr. WOODHEAD. May I interrupt a moment?

The CHAIRMAN. Yes.

Mr. WOODHEAD. The history of this case Mr. Woolley has been discussing, I never have had the occasion to look into it, but I should be glad, tonight, to go into the record as far as we have the records here and tomorrow morning to give you any additional information on that that we may be able to get.

Mr. ROYAL B. WOOLLEY. I am glad you brought that up, that transfer from Two-Mile on the Burro line on the House Rock. John Schoppmann also had that very same permit on the Burro. He requested that those be transferred from the Burro allotment down to the Little Mountain. But that never has been done. Bob Vaughn is reinstated for his 25 that he had on it; and purchased the interests of Church who had it for 15; was reinstated for 15. We are trying to find out just exactly what we have got. We have the same set-up but we can't get it. The Forest, up until lately, said there was room for 315. Well, I moved off 108 since that report was made, and 35 were canceled for Alex Findlay. Now it just don't make sense to us.

We just have our ideas of why it can't be done, and I don't think I am wrong. I won't admit I am wrong. I know it isn't a theory. I know it's a fact that is so self-evident, that immediately after this happened they still wanted to give one man something who had exactly the same ownership, as far as I am concerned, having a limited number. I should have an increase over as far as Little Mountain, and Rubin Broadbent should have an increase. Mackelprang should have an increase. Alex Findlay should have an increase. As far as I am concerned, on the Little Mountain, that will help. But these other boys should be reinstated with the same ownership, exactly the same as Bob Vaughn. They don't have to increase me any. They can just forget me as long as the others get theirs.

The CHAIRMAN. Is there anything more you have to say on this?

Mr. WOODHEAD. Nothing more. I can't say, Senator; I don't know the details——

The CHAIRMAN. Were you not here when the telegram was sent?

Mr. WOODHEAD. I was in Albuquerque.

The CHAIRMAN. Are there any records that reflect that telegram?

Mr. WOODHEAD. Not that I know of.

Mr. ROYAL B. WOOLLEY. There is a record because the Forest Service made a fuss about it. They said we were lobbying here in favor of it; got all excited and came down to see Alex Findlay about it. I said, "Let them go ahead. We can put a fire under their house any time we want to."

The CHAIRMAN. Who was the forester?

Mr. ROYAL B. WOOLLEY. Mr. Ritts was the local man. Mr. Mann was the supervisor.

The CHAIRMAN. May I ask the year that was?

Mr. ROYAL B. WOOLLEY. January 2, 1941, when we held the meeting.

Mr. POOLER. I remember the occurrence. There was some correspondence.

The CHAIRMAN. On what?

Mr. POOLER. On this meeting.

The CHAIRMAN. Correspondence of the Forest Service?

Mr. POOLER. Yes; I can't recall just what the first notice was. I think it was a copy of the letter, or a direct letter, from the State game warden and then we inquired as to what it was all about, and in the meantime——

The CHAIRMAN. What was the State game warden doing writing you about it?

Mr. POOLER. Well, this meeting resulted in telegrams, and I don't know exactly how this came up. The first thing I knew there was some correspondence and it informed us there was such a meeting. I believe it had something to do with the game conditions here, the buffalo conditions. That was probably why the game department was so interested.

Mr. ROYAL B. WOOLLEY. There was nothing said in the telegram about any game.

The CHAIRMAN. Was this exchange of correspondence on the subject of this telegram?

Mr. POOLER. I don't recall having an exchange of correspondence direct with the State game warden on our part. But I do recall that I was requested for some information from Senator Hayden, as to the circumstances as to whether there had been such a meeting and

what the situation was up here as to the use of the national forest for grazing of livestock, game, and such other activities as we engaged in.

The CHAIRMAN. In just what capacity are you connected with the forest?

Mr. POOLER. I am the regional forester.

The CHAIRMAN. How long have you been in that capacity?

Mr. POOLER. About 20 years, a little over that.

The CHAIRMAN. So along in 19—when did you say?

Mr. ROYAL B. WOOLLEY. January 2, 1941.

The CHAIRMAN. You were the regional forester in 1941.

Mr. POOLER. Yes; in Albuquerque. I can't recall the exact circumstances, but I do know of the occurrence. There was some correspondence and we asked for reports here. We had the petitions that were sent, that is, the names of the signers were sent for identification as to whether they had permits, and what size. That was supplied to Senator Hayden at his request.

The CHAIRMAN. Why were you interested in knowing what names were on the telegram?

Mr. POOLER. I wasn't particularly interested in knowing that. I was surprised with the information, as I recall it, from the Senator himself, who asked for a report as to what the situation was. That is my recollection of it.

Mr. ROYAL B. WOOLLEY. There were 43 signatures on the telegram. I have it somewhere. I tried to find it but it was misplaced. I will furnish it for the records.

Mr. POOLER. I will have to refresh myself on it. I haven't got any correspondence here.

The CHAIRMAN. Well, you brought the subject up, of course, and now I am interested to know what the correspondence was, because that correspondence may reflect something that will clarify the situation very much. There is a direct charge here of reprisal that the committee cannot countenance. I don't know that the charge is substantiated. But it is a charge, and anything that would give us a light on it would certainly be acceptable.

Mr. KNEIPP. Reprisal or favoritism, sir. I assume a certain number considered whether to favor the Forest Service, or the Grazing Service, and the majority favored the latter. Mr. Vaughn favored the former.

Mr. ROYAL B. WOOLLEY. A rose is just as sweet by any other name.

Mr. KNEIPP. Mr. Vaughn, it is alleged, therefore, gets a privilege that others don't get. May I stress the point that Mr. Woolley and the others know the circumstances under which he got those permits, whether attributable to favoritism or not.

Now, a lot of our records have been transferred from the Kanab office to the Albuquerque office and, unfortunately, the supervisor is ill and unable to attend this meeting. Apparently Mr. Gray, the ranger, who has been here something less than 2 years, lacks the background of the earlier conditions. I, personally, have not visited this country for a dozen or 15 years and, therefore, I can't discuss on the basis of current knowledge what the conditions are at the present time. However, I think the implication by Mr. Woolley merits being dragged out in the open. In fact, I would be glad to have the committee go into it very fully. If the data can't be made available to you here,

they can be made available at Albuquerque, because the regional office has all of the old files. If not, they can be transmitted from the Ogden office, which previously had jurisdiction. At the appropriate time I will welcome an opportunity to go into the case in detail.

Mr. ROYAL B. WOOLLEY. Well, it was a very recent date; just a little over a year ago that this happened.

The CHAIRMAN. That Vaughn got his permit?

Mr. WOOLLEY. Yes; 1942.

Mr. ROYAL B. WOOLLEY. Yes; 1942.

The CHAIRMAN. Is that all on this subject?

Mr. ROYAL B. WOOLLEY. Yes.

The CHAIRMAN. Now, I want to say to you that it isn't the purpose of the chairman of the committee to go into this thing. The Forest Service deserves that it should be cleared up; the party who makes the charge deserves that it should be cleared up; and the committee certainly wants it to be. I am not going to take a snap judgment on anybody. We are going to try to take our time and work the thing out and work it all out thoroughly. If there is anything more that you have on the matter, any files—

Mr. ARTHUR WOOLLEY. I merely have a telegram that is not complimentary to the Forest Service, and I think that's what it's all about. I will produce it and give it to Mr. Haskell.

The CHAIRMAN. All right. Is there anything else on that particular subject?

Mr. GRAY. Mr. Senator, I would like to mention one thing that I believe entered into this case in a way. Some of the other men that were here at the time, the stockmen, may know of this. As I understand it, there were two telegrams, one sent by Mr. Woolley and signed by a long list of names favoring the transfer to the Grazing Service. At the same time there was another telegram sent in, favoring the retention by the Forest Service, and I believe, as I have heard it, and I know, practically two-thirds of the names on both telegrams were identical. In other words, the same people signed.

Mr. ROYAL B. WOOLLEY. Yes, Mr. Chairman; but the telegrams were very different.

Mr. GRAY. What I'm getting at is, as far as the names on the telegrams, there was a duplication.

Mr. ROYAL B. WOOLLEY. Yes; but the telegrams were very different. Besides—

Mr. MACKELPRANG. Mr. Senator.

The CHAIRMAN. Yes, sir.

Mr. MACKELPRANG. What would it have forty-some-odd names on a petition that were not interested in it—names of clerks, drug-store clerks, and telephone operators, as against the permittees that were in the meeting. There wasn't a permittee on the forest that sanctioned that. That is why Bob Vaughn didn't sanction it. He was a permittee. We have been working, Bob Vaughn and I, for 20 years to get that permit out there and don't want to take a chance of losing it. We want to keep it. There wasn't anybody using the forest that signed that petition. There were forty-some-odd names on there that didn't even own forest permits.

The CHAIRMAN. Didn't Mr. Woolley sign the telegram?

Mr. ROYAL B. WOOLLEY. And there wasn't one on there but what was a stockman. Out of the 43, about 42 would like to get on the forest but had been denied the rights. That is the reason they signed it. But somebody was out there on that 800,000,000 acres, and had it all to run on, and didn't want to be disturbed.

The two telegrams were as follows:

KANAB, UTAH, *January 4, 1941.*

FRANKLIN D. ROOSEVELT,
Washington, D. C.

DEAR MR. PRESIDENT: We, the undersigned citizens and livestock growers of Kanab, Utah, and Fredonia, Ariz., wish to express to you our views and wishes in the matter of the reorganization and consolidation of grazing units in one department. This is essentially a grazing area and we, the citizens thereof, depend upon the range lands for our livelihood.

This area has been subjected to withdrawals for dam sites, mill sites, power sites, buffalo reserves, Indian reservations, recreational areas, national park, national monuments, game preserves, and what not, until we feel thoroughly drawn. We have felt the hard heel of bureaucracy in the administration by the Forest Service of the Kaibab National Forest, and feel that that department has gone for recreation far in excess of its value and to the detriment of the livestock interests.

We are unalterably opposed to any further extension of the Grand Canyon National Park and maintain that the same objectives could be obtained in a much smaller area than now embraced and respectfully recommend that the area be reduced to the boundary of the original withdrawal.

We wish to take this opportunity to commend the advisory board and administrative officials of grazing district No. 1, Arizona, for the efficient, impartial administration of the Taylor Grazing Act in said district.

Due to the uncompromising fixed policy of the Forest Service in its administration of the Kaibab National Forest, this community can see no relief for grazing from that source. Therefore, Mr. President, if we can have your assurance that the few grazing privileges now in force on the Kaibab Forest be not disturbed we further wholeheartedly recommend that the Forest Service be transferred to the Interior Department and all grazing be administered by the Grazing Service.

Respectfully submitted by the undersigned.

Ray Bunting, Royal B. Woolley, Frank L. Farnsworth, Dell Averett, Fay Hamblin, W. E. Hamblin, Merl G. Shumway, P. E. Church, W. C. Little, J. E. Bunting, Alvin Judd, W. R. Little, George W. Fisher, J. E. Swapp, J. Arthur Brown, L. Elmer Jackson, Gerald Swapp, D. K. Judd, I. H. Chamberlain, Thomas Jensen, Cecil B. Cram, Preston Shumway, Thos. E. Robinson, Chas. A. Mace, Chas. G. Cram, Hoyt Chamberlain, John V. Schoppman, Melvin Shoppman, Rubin Broadbent, Glen Hamblin, Edwin L. Swapp, Wilfred Greenhalgh, Wm. S. Swapp, G. Elmer Judd, J. D. Waring, A. F. Jensen, E. B. Pratt & Son, Elwin Pratt, Charles C. Heaton, F. B. Hamblin, Hubert Bunting, Gilbert Heaton, Alex Findlay, Chairman.

KANAB, UTAH, *January 11, 1941.*

FRANKLIN D. ROOSEVELT,
Washington, D. C.

DEAR MR. PRESIDENT: We the undersigned citizens and livestock growers of Kanab, Utah, and Fredonia, Ariz., wish to express to you our views and wishes in the matter of the reorganization and consolidation of grazing units in one department. This is essentially a grazing area and we the citizens thereof depend upon the range lands for our livelihood.

This area has been subjected to withdrawals for dam sites, mill sites, power sites, buffalo reserves, Indian reservations, recreational areas, national parks, national monuments, game preserves, and what not until we feel thoroughly drawn.

We are unalterably opposed to any further extension of the Grand Canyon National Park and maintain that the same objectives could be obtained in a

much smaller area than now embraced and respectfully recommend that the area be reduced to the boundary of the original withdrawal.

We feel that the Forest Service in the past has been very efficient. We recommend that the Forest Service remain as it is. If the present permittees could hold their present rights and the grazing could be transferred to the Division of Grazing we would recommend this transfer of the grazing part, but are opposed to any transfer being made of the Forest Service.

Respectfully submitted by the undersigned.

Cecil C. Pugh, Harold I. Boreman, L. Elmer Jackson, Leo Chamberlain, Wester Lewis, Dave Brown, Lloyd Pugh, W. E. Ford, Guy Chamberlain, Alex Findlay, Dell Averett, R. Nelson Factor, A. Fred Fleming, M. S. Haycock, Knowlton Little, C. D. Judd, Claud M. Glazier, Frank L. Farnsworth, Grant Robinson, Frank Little, Osborn Brown, A. I. McDonald, Orvil Averett, C. H. Ackermore, James A. Young, Daniel S. Frost, F. S. Broadbent, Virgil Riggs, Dan K. Judd, Elwin Pratt, Wilford Brooksly, E. P. Pratt and son, Robt. P. Owen, A. F. Jensen, A. E. Lewis, Sr., C. D. Pugh, Leslie Pugh, Philo Allen, W. J. Smirl, Ray B. Young, E. Hamblin, F. J. Rider, G. W. Eatveigh, Alma Heaton, Ormand Cram, Alex Cram, George A. Swapp, J. J. Ford, D. W. Bowman, Thos. E. Robinson, Cecil S. Cram.

Mr. MACKELFRANG. Mr. Woolley, I don't want no permits in this locality that I am not entitled to. The Forest Service isn't giving Mr. Woolley this South Canyon; but know he is not looking out for himself, but he is looking out for his neighbors. He doesn't need it. He got the limit. I understand 300 head is the limit; and he got that fenced to himself, and water put down in there, cement troughs, and several miles of pipe line, and a trench put around it for the use. The other fellows are running there in common.

Mr. ROYAL B. WOOLLEY. Go into the South Canyon now, and buy it up, and see what Mr. Silcox will say.

The CHAIRMAN. Now, we have gone all over that.

Mr. A. T. SPENCE (Jacobs Lake, Ariz.). Mr. Senator, I would like to say a word in regard to reopening that Kaibab Forest. I will try to take but a moment of your time.

The CHAIRMAN. I don't like to break this record—have you anything more, Mr. Woolley?

Mr. ARTHUR WOOLLEY. I would just like to read a further portion of this letter, from Mr. Silcox to my brother. It reads as follows:

As indicated during this discussion, the area of forest land known as the North End and the East Side winter range, are now being developed primarily in the interests of livestock producers and will be devoted to the grazing of livestock. In accordance with the general plan for adequate protection of the summer ranges, the area now between the fences on the area known as the South Canyon range will be used to relieve overstocked or overgrazed areas on other parts of the forest.

Mr. ROYAL B. WOOLLEY. Now, at the time, Mr. Senator, I had a permit on the central unit, as we have been discussing, and they wanted to relieve that. As I told you before, they were anxious to eliminate all grazing off the central unit, so we fenced this area at South Canyon, and made application to transfer from the central unit to South Canyon, in accordance with Mr. Silcox's letter, to relieve that condition up there. That is how I am in the South Canyon.

Mr. A. T. SPENCE. What I would like to say is in regard to tax matters. We have a very small taxable area, here in Coconino County, on this strip, and we are operating under a lot of handicaps, due to the fact that it is a long ways from the market, and it is difficult to get

things in here to operate with; and difficult to get our cattle out to market them.

I operate across the Canyon, here in Coconino County. Out here our tax rate is \$2.77 or \$2.80; and over here it is \$5.92, which is more than double in Coconino County. In this area, on the Kaibab Forest, if it could be opened up, more men could come in here to earn a livelihood and make a living on that forest, and a lot of them, who have small permits now, and are barely making a subsistence, could do better. I would also open up a means of taxable wealth, for this industry, for Coconino County, that would relieve us fellows who are paying the load at the present time. If that happened, it would bring the tax rate down to approximately 3 cents on the dollar.

This rate is quite a weight to be carried on, by the few of us who are paying the tax, at the present time. As it is, a lot of feed goes to waste up there, thousands and thousands of dollars are spent every year for fire guards, and in finding men to fight forest fires, which could be eliminated if there were cattle allowed to run on it. We have just a small taxable wealth here, in this end of Coconino County, and it would help us out a lot. It seems to be the general trend of the American public now to make a better livelihood for men who are trying to make a living. It looks like these boys, who are willing to get out and fight the elements and market conditions, with a few head of cattle—their living conditions could be made better by opening up the forest and giving them big enough projects to make a living off of.

The CHAIRMAN. All right, thank you.

I don't regard this Woolley matter as closed. It is just one of the matters that has to go over for the time being. But, gentlemen of the Forest Service, if you have any record on this matter, or can refer the committee to anything—and the same with you, Mr. Woolley—if you can clarify the situation, we would appreciate it. I want to say frankly to you that I like to carry the spirit into these hearings that I have learned in the process of the law, and that is that no man is guilty until he is proved guilty beyond a reasonable doubt. So the accusation against the Forest Service has got to be established, there is no question about that, as well as it can be established, if it is established.

Mr. ROYAL B. WOOLLEY. Well, can't you convict by circumstantial evidence?

The CHAIRMAN. I'll give it some weight; but you have got to connect it up, some place.

Mr. WOOLLEY. All right, I'll connect it up.

The CHAIRMAN. Mr. Broadbent, do you care to be heard?

Mr. RUBIN BROADBENT. Jacobs Lake, Ariz. Yes, Mr. Senator.

The CHAIRMAN. Where do you live?

Mr. BROADBENT. House Rock Valley.

The CHAIRMAN. State what you care to say.

STATEMENT OF RUBIN BROADBENT, JACOBS LAKE, ARIZ.

Mr. BROADBENT. Well, I would like a permit, down on that Little Mountain. I am an old owner in this company. They don't give me no permit at all, not even a temporary one.

The CHAIRMAN. How many cattle have you?

Mr. BROADBENT. Only got a permit for a hundred.

The CHAIRMAN. A permit on the forest?

Mr. BROADBENT. No; I have got a small permit, up in the burro rough country, where they don't have no water.

The CHAIRMAN. And you want to run down on the forest?

Mr. BROADBENT. Down on the Little Mountain, yes; where the water is—where the water is on the forest.

The CHAIRMAN. You are one of the purchasers of the waters that belonged, formerly, to the Grand Canyon Cattle Co.?

Mr. BROADBENT. Yes.

The CHAIRMAN. Do you use that water now?

Mr. BROADBENT. Yes; we use it on the outside.

The CHAIRMAN. What did you buy that water for?

Mr. BROADBENT. Bought it to use that mountain.

The CHAIRMAN. You didn't have permits to use the Mountain, did you?

Mr. BROADBENT. No; but we should have permits; we owned the water.

The CHAIRMAN. Had you been given any promise, or assurance, or representation made to you, that, upon purchase of the water, you would be given a permit?

Mr. BROADBENT. There was some the company had. They always fed at this mountain, with this water.

The CHAIRMAN. Did anybody ever say to you that if you bought the water, that formerly belonged to the company, you would get a permit?

Mr. BROADBENT. Not to me; no.

The CHAIRMAN. You bought the water blind, without assurance of permit at all?

Mr. BROADBENT. Outside, it wasn't, the forest wasn't fenced there; and we fed the forest; and the forest, before it was fenced, joined right on our water line.

The CHAIRMAN. You did that without a permit?

Mr. BROADBENT. We had a private permit.

The CHAIRMAN. And now you haven't that?

Mr. BROADBENT. No. We have one up on this rough country.

The CHAIRMAN. Were you one of the signers of either, or both, of these telegrams?

Mr. BROADBENT. No.

The CHAIRMAN. You didn't sign the telegrams?

Mr. BROADBENT. No.

The CHAIRMAN. Did you know there were telegrams going out?

Mr. BROADBENT. No.

The CHAIRMAN. Were you in the stock business at that time?

Mr. BROADBENT. I have been in the stock business for 15 years.

The CHAIRMAN. Well, then, the matter of your name being on the telegram, protesting, or demanding a change, could not apply to you, could it?

Mr. BROADBENT. It must be, if it was there.

The CHAIRMAN. Well, it wasn't there, as I understand you to say. You didn't sign the telegram. Did you sign any telegrams, requesting that the administration be changed to the Grazing Service, from the Forest Service?

Mr. BROADBENT. Oh, I could have done it. It has been quite a while ago.

The CHAIRMAN. Can anyone correct us on that? Have you got that telegram?

Mr. ARTHUR WOOLLEY. Mr. Broadbent's name is on the one. It is one of the 43 names.

Mr. BROADBENT. Well, I must have been there.

The CHAIRMAN. Must have been there; is there anything else, Mr. Broadbent?

Mr. BROADBENT. No; that's about all.

The CHAIRMAN. You are running about a hundred head of cattle?

Mr. BROADBENT. Yes.

The CHAIRMAN. How many do you want to get, on this Little Mountain?

Mr. BROADBENT. Oh, 50 or 60. I have that many now. But last winter I was afraid to use the permit.

The CHAIRMAN. Is that a winter range?

Mr. BROADBENT. Yes.

The CHAIRMAN. That Little Mountain range is a winter range?

Mr. BROADBENT. Yes.

The CHAIRMAN. Did you lose cattle last winter?

Mr. BROADBENT. Yes.

The CHAIRMAN. How many?

Mr. BROADBENT. Oh, 8 or 10.

The CHAIRMAN. By reason of starvation?

Mr. BROADBENT. Yes.

The CHAIRMAN. When was the last time you made an application for a permit on the forest?

Mr. BROADBENT. Made an application for increase every year.

The CHAIRMAN. Well, you do have some on the forest now?

Mr. BROADBENT. Yes; on up to the Burro allotment, and on north.

The CHAIRMAN. How far away?

Mr. BROADBENT. Oh, it's 8 or 9 miles.

The CHAIRMAN. And they are not permitted to graze on this Little Mountain?

Mr. BROADBENT. No; it is a Little Mountain, but it's rough country, on up there.

The CHAIRMAN. All right; is there anything else?

Mr. BROADBENT. No; that's all.

The CHAIRMAN. Very well.

Now, we have come down to the topic of the House Rock Valley and the buffalo matter. It is now 7 o'clock, and I think we had better go over now until tomorrow.

The committee will be in recess until tomorrow morning at 9:30. (Recess until 9:30 a. m., Tuesday, August 31, 1943.)

ADMINISTRATION AND USE OF PUBLIC LANDS

TUESDAY, AUGUST 31, 1943

UNITED STATES SENATE SUBCOMMITTEE OF THE
COMMITTEE ON PUBLIC LANDS AND SURVEYS,
Fredonia, Ariz.

Present: Senator Pat McCarran, chairman.

Also present: Mr. E. S. Haskell, special investigator.

The CHAIRMAN. The committee will be in order. I want to break into the regular agenda today, because Mr. Drury, of the Park Service, is required to leave us today to return to Wyoming, and I wanted to take up the matter of charges made against moving-picture companies making films in the parks and recreational areas.

Mr. Parry, who is familiar with the subject, was to be here at 9:30. I think we may have to proceed without him.

Mr. Drury, what is the policy of your department with reference to making charges for the taking of moving pictures on the parks and recreational areas?

STATEMENT OF NEWTON B. DRURY, DIRECTOR, NATIONAL PARK SERVICE, CHICAGO, ILL.

Mr. DRURY. The policy of the department is to issue, not only for motion pictures but other types of use, what we call a special-use permit, and to establish a schedule of fees, which the Secretary, of course, approves, based upon the number in the case of the companies, and the length of time that they use the parks or monuments, or other areas.

The CHAIRMAN. How do those fees range?

Mr. DRURY. We have here the latest schedule of fees that was approved by the Secretary on April 20, 1940. It has since been modified with respect to the other features. I think that is correct, isn't it, Mr. Tillotson?

Mr. TILLOTSON. This is the latest, as far as the amount of fees is concerned; that's right. It was modified just this month.

Mr. DRURY. Yes.

Mr. TILLOTSON. Modified as to the terms; not the amount.

Mr. DRURY. This memorandum order No. 1472 of April 20, 1940, approved by the Secretary of the Interior, establishes the charges for the taking of feature, motion, or sound pictures involving sets, professional casts, and technical crews on various types of areas administered under the Department of the Interior, deals with the Land Office, the Office of Indian Affairs, and the National Park Service, and National Park Service areas.

The fee consists of \$50 per day for casts of less than five persons, when domestic animals, sets, or equipment are used or not used; \$250 per day for casts of 5 to 25 persons; \$500 per day for casts of over 25 persons, where the area is administered by the National Park Service.

The charge is paid in the form of a donation to what is known as the National Park Trust Fund. That applies to commercial motion pictures.

The CHAIRMAN. Let's see what that is now, the money is paid to the National Park Trust Fund, as I understand it. What is the object of that fund?

Mr. DRURY. It is devoted to purposes for the benefit of the national park system.

The CHAIRMAN. For instance, what?

Mr. DRURY. It can be used for a great variety of purposes; purchase of lands, or making of improvements.

The CHAIRMAN. It doesn't pass into the Treasury of the United States?

Mr. DRURY. It goes into the United States Treasury into a trust fund account known as the National Park Trust Fund and is used entirely for national-park purposes.

The CHAIRMAN. Where do you get the authority and law for it?

Mr. DRURY. The act of July 10, 1935.

The CHAIRMAN. What is the substance of that act?

Mr. TILLOTSON. It merely provides for the establishment of the National Park Trust Fund. It was established by Congress.

The CHAIRMAN. Did that provide—I am not familiar with the act—did the act provide that charges might be made for the use of the parks and recreational areas?

Mr. DRURY. No; that act simply establishes the National Park Trust Fund, into which revenues of this type or similar revenues, might be put.

The CHAIRMAN. No specific reference is made to the filming of motion pictures, is there?

Mr. TILLOTSON. No.

The CHAIRMAN. In other words, it is the regulation of the Secretary of the Interior that the money is placed in that particular fund.

Mr. DRURY. I want to make clear that photographers making travelogs and professional photographs, photographing scenes in the park areas for the purpose of stimulating park travel, are not charged a fee for filming. It is only where commercial pictures are filmed, involving a cast of actors, in many cases involving construction of sets.

The CHAIRMAN. Is any requirement made in the way of a bond?

Mr. DRURY. There is, in the case of commercial companies. The purpose of that is to assure the performance of the conditions in the special-use permit or agreement.

The CHAIRMAN. How much is that bond?

Mr. DRURY. It varies, in accordance with the possibility of damage to the park areas. Perhaps Mr. Tillotson can tell us of some of the cases where a bond has been made.

The CHAIRMAN. What bond is exacted, as a rule, for a commercial company?

Mr. TILLOTSON. As Mr. Drury says, it depends upon the danger of damage to a national-park area.

Usually it is from five to ten thousand dollars, if merely the use of the land is involved. But if use of historic structures, irreplaceable

historic structures, or something of that nature is involved, then the bond may be higher.

The CHAIRMAN. What is the greatest bond you have ever known to be exacted?

Mr. TILLOTSON. Well, I can't say. I should say around—well, I don't know, Senator, without the figures before me.

Mr. DRURY. I have a list of the fees, but I don't seem to have here a list of the bonds.

The CHAIRMAN. I think both are of interest.

Mr. DRURY. I imagine the fees in the national park trust fund would be around \$20,000.

The CHAIRMAN. Somewhere there must be someone who would know the greatest bond you have ever known to be exacted.

Mr. TILLOTSON. We have the fees, but we don't have the bonds.

The CHAIRMAN. Who fixes this bond?

Mr. DRURY. That is fixed by the Secretary, on the recommendation of the National Park Service.

The CHAIRMAN. Someone in the National Park Service must have had experience in recommending bonds.

Mr. DRURY. Mr. Bryant and Mr. Tillotson have been in on that sort of thing. We have had very few of these things in the last few years.

The CHAIRMAN. Now, this recent movie that was taken here in this vicinity; was that on a park area?

Mr. DRURY. It was not. It was a proposal for using the Pipe Spring National Monument, but they found another location.

The CHAIRMAN. Was there any discussion there as to fees?

Mr. DRURY. Yes; there was.

The CHAIRMAN. And the amount of the fees was a deciding issue, wasn't it?

Mr. DRURY. I don't know that that was the case. I think they studied all possible sites, and finally found one that suited them. That is something that Mr. Tillotson handled.

The CHAIRMAN. Was there a controversy between the Park Service and this movie company that just took the pictures here?

Mr. TILLOTSON. The only thing that might be called a controversy at all was whether they should pay the required fee, which was set at \$500.

The CHAIRMAN. Which was what?

Mr. TILLOTSON. It was set at \$500 per day, in accordance with the order which Mr. Drury just read; whether that should be paid for the time they were actually filming the scene, or for the entire time they occupied the area—constructed sets—until the final clean-up.

The CHAIRMAN. What was your provision there?

Mr. TILLOTSON. I simply told them that I had no information to lead me to believe that the fee was applicable only for the time they were filming; but that I would clarify the point with the director's office, and that I did, and received—

Mr. DRURY. Give the essence of what occurred.

Mr. TILLOTSON. I received from the Director's office a letter, on that particular thing, in which he said:

It is our interpretation of the Secretary's order No. 1472, that the prescribed fees are to be charged for each day the area is utilized in the production of the picture. This would include the time spent in the area in constructing sets, in filming, and in cleaning up after filming has been completed.

We are not informed of the source of the company's information that no charge is made for construction and clean-up periods, and if the company is not disposed to accept the Service's interpretation of the order, they are, of course, at liberty to appeal the matter to the Secretary.

Then, subsequently, that was taken up with the Secretary and a formal ruling was had applying to all cases. The ruling was to the effect that it would not be for the full time the area was occupied, as I said, and as the Director confirmed; but that instead it would be merely for the time spent in actual filming. That was approved by the Secretary.

Mr. DRURY. In other words we had to get a clarification from the Secretary, but our position was that it was reasonable to claim this fee for the actual filming, and not for the period of preparation or the period of clean-up. That is now our position.

The CHAIRMAN. In other words, a company coming in with 25 or more people in the cast—and I take it that that was what that "25" means, 25 in the cast—

Mr. DRURY. Yes.

The CHAIRMAN. The company would pay a \$500-a-day fee for the time spent actually in filming.

Mr. DRURY. That is right.

The CHAIRMAN. What, if anything, would they pay for the time spent in putting in the sets or tearing down the sets?

Mr. TILLOTSON. Nothing; under the ruling approved by the Secretary on August 6.

The CHAIRMAN. As to a bond, what would you exact as a bond, in a case like this?

Mr. TILLOTSON. In this particular case I set the bond at \$25,000.

The CHAIRMAN. That is in the case of the film company that has just concluded here?

Mr. TILLOTSON. That's right.

The CHAIRMAN. \$25,000. Where were they proposing to set up and film the picture?

Mr. TILLOTSON. Pipe Springs National Monument, some 14 miles east of here.

The CHAIRMAN. What is the nature of that monument?

Mr. TILLOTSON. It is an historic old Mormon pioneer settlement, a Fort Windsor, that was built in pioneer days, the early days of this country, and is very representative of the early history of northern Arizona and southern Utah.

The CHAIRMAN. It is not a place where there is a natural object; it is an artificial object?

Mr. TILLOTSON. It is an historic fort.

The CHAIRMAN. Is there anything more to it than what is portrayed in this Pipe Spring National Monument, Ariz., folder?

Mr. TILLOTSON. That gives a very comprehensive outline of the area. But there is more to it, sentimentally, for these people who live in this part of the State; yes.

Mr. DRURY. There was, of course, vegetation surrounding the buildings, which it is our duty to protect, and other features of the landscape.

The CHAIRMAN. Now, in that instance, that is, the instance of the company that just concluded the filming here, they did not set up

at this Pipe Springs site, but they filmed on the open public domain. Is that correct?

Mr. TILLOTSON. That's correct.

The CHAIRMAN. Were they on Grazing Service ground?

Mr. LEECH. Yes, sir.

The CHAIRMAN. Were there charges made?

Mr. LEECH. Yes, sir.

The CHAIRMAN. What were the charges?

Mr. LEECH. A fee of \$100 for each motion or sound picture, where the cast is more than 25 persons.

The CHAIRMAN. Is that for the entire filming?

Mr. LEECH. Yes, sir.

The CHAIRMAN. No matter how many days it may take?

Mr. LEECH. The permit states that it will be taken between certain dates, weather permitting.

The CHAIRMAN. And if anything happened that it was not taken between those dates, would there be a different fee?

Mr. LEECH. Well, I only know of one case, Senator, where it was not taken within the time, due to weather, and they were given an extension. That is the only case I know of.

The CHAIRMAN. Where was this film taken?

Mr. LEECH. It was taken in Utah Grazing District No. 4—

Mr. ALLEN. It was in three districts, Utah 4 and 5, and Arizona No. 1.

The CHAIRMAN. Have you ever known of a film company, desiring to set up within a park or recreational area, that abandoned their plans on account of the fee?

Mr. TILLOTSON. Well, in this particular case they abandoned the project, but they didn't indicate that it was on account of the fee. I imagine that it was. A letter from the company, dated June 30, says:

The company has decided that the scenery of that location—

That is Pipe Springs—

is not the type we need, and the fort is not large enough for the work we have to do around it, and we are therefore going to build our own fort on property not connected with the National Park.

That is the explanation they gave in writing. It is from the Fox Film Corporation.

The CHAIRMAN. Is there anything further you care to say on this?

This is now a hard and fast policy, established by the Department of the Interior, with reference to the taking of motion pictures on parks and recreational areas?

Mr. DRURY. I might say, Senator, the establishment of this fee has been the result of a considerable amount of study and observation, of what obligations the Park Service had to assume in the protection of property, and administering it during the time it is used for this particular type of commercial purpose. It is not considered to be an excessive fee.

I know of no actual cases where an important commercial film was deterred from being produced in a park area because of the sole question of the amount of the fee. There is no question that we have very definite obligations to protect both natural and historical features, in the areas we administer; and there is always a hazard,

when large-scale productions are undertaken. So we have to plan very carefully; have to supervise; and it involves an expense over and above ordinary administrative costs. The theory is just as in the case of our concessionaires in the parks. There is a method whereby compensation is given for the use of these properties of the United States. It is felt that it is reasonable to have this type of fee, in the case of these motion pictures.

The CHAIRMAN. I can see your reason for exacting a bond, and probably that is well taken; a bond for the safety of the surroundings while they are taking the picture; for the protection of your natural objects; and for the cleaning up of the park. But this is another policy, your charging \$500 a day. That is another thing. I don't think that addresses itself to the cleaning up, nor to the protection. It seems to me you are amply protected by your bond. At least, you should be.

Mr. DRURY. No; I think it addresses itself to the general question of commercial use of Federal property. In proportion to the total investment of these pictures, I imagine it is a small fraction of 1 percent.

The CHAIRMAN. How many instances have you on record of the pictures taken on the parks?

Mr. TILLOTSON. Seventeen. I have a list of those, with the fees charged, if it will be of value to the committee.

The CHAIRMAN. I think that might go in the record.

Mr. TILLOTSON. This is from 1936 to date.

Mr. DRURY. It shows, in many cases fees that run as low as \$200; and, in one case, in 1936, a fee for \$5,000 from Metro-Goldwyn-Mayer; an average of about \$1,000 per picture, during those years.

The CHAIRMAN. We will have it inserted into the record at this point.

List of National Park Service areas which have been used in filming scenes for motion pictures

	Fiscal year	Amount of fee
Sequoia National Park: Metro-Goldwyn-Mayer Distributing Corporation	1936	\$5,000.00
Mount Rainier National Park:		
Twentieth Century-Fox Film Corporation	1938	1,000.00
Loew's, Inc.	1943	50.00
Zion National Park:		
Metro-Goldwyn-Mayer Distributing Corporation	1938	3,000.00
Twentieth Century-Fox Film Corporation	1940	150.00
Yellowstone National Park: Universal Picture Co., Inc.	1937	3,000.00
Grand Canyon National Park: Alexander Korda Productions, Inc.	1940	250.00
Crater Lake National Park: Walter Wanger Productions, Inc.	1942	900.00
Great Smoky Mountains National Park: RKO Pictures, Inc.	1943	200.00
Yosemite National Park: Universal Pictures Co., Inc.	1943	200.00
Petrified Forest National Monument: Twentieth Century-Fox Film Corporation	1940	25.00
Death Valley National Monument:		
Loew's, Inc.	1940	1,000.00
Warner Bros., Inc.	1942	1,050.00
Joshua Tree National Monument: Paramount Pictures, Inc.	1940	304.00
Statute of Liberty National Monument:		
Metro-Goldwyn-Mayer Distributing Corporation	1942	50.00
Frank Lloyd Productions, Inc.	1942	150.00
Cedar Breaks National Monument: Twentieth Century-Fox Film Corporation	1943	50.00
Total received from movie companies to date		16,379.00
Plus amount of fees received and not connected with use of public lands		232.50
Total fees received as reported for the National Park Trust Fund Board for the fiscal year ended June 30, 1943.		16,611.50

The **CHAIRMAN**. Very well, Mr. Parry, you are here; would you care to be heard on this.

Mr. GRONWAY R. PARRY. Yes, thank you.

The **CHAIRMAN**. Mr. Parry, where do you live?

Mr. PARRY. Cedar City, Utah.

The **CHAIRMAN**. What is your business?

Mr. PARRY. Transportation of defense workers, and moving pictures.

The **CHAIRMAN**. You may make any statement you see fit with reference to charges made by the Park Service, on recreational and park areas, for the taking of moving pictures. Before you came in, may I say, if you didn't hear it, Mr. Drury and his assistant testified that a charge of \$500 per day had been established for the time utilized in actually shooting a picture, not for the time of set-up, nor the time of tearing down, or the time of putting up. That policy has been recently established, comparatively recently established by the Secretary of the Interior.

Now, you may discuss the subject, generally, in any way you see fit.

STATEMENT OF GRONWAY R. PARRY, CEDAR CITY, UTAH

I won't go too much into detail, but, in order to paint a picture of what has taken place, how this ruling has affected our industry, I will go back 21 years, back to 1922. That is in 1922, Tom Mix made the first moving picture ever made in Southern Utah. He came in to Zion on what is called the Shoerump. That is right adjacent to Zion National Park. They started there, on one location, and moved up to Zion Park, and shot several days, in and about where the cafeteria is now located; and finished that picture. Through that one, several more came up, until 1926 or '27, when several pictures that used Zion National Park, largely, as their shooting area; just, ordinarily, sometimes, going in to get three or four shots, as background, or processed, shots. All that brought a lot of revenue into that section. They used a lot of people, and it helped out materially; not only because, when the picture taken there was put on the screen, the people of the country could see it; but because it helped the people of the section, financially.

After this ruling came out, it automatically cut the thing out. I think we have only had one picture in there, in Zion, since then; and that was only for a couple or three days. The moving-picture people have objected to the fee. They figure it is prohibitive; and they can't afford to pay it; and that it was put on there for the purpose of eliminating moving picture companies in the parks.

The **CHAIRMAN**. I want to say right there, that this subject came to this Committee through a resolution introduced by Senator Ashhurst of Arizona, when this committee first came into existence. His resolution, and my resolution, were pending at the same time, before the Senate; and we had a conference on it, and combined the two resolutions.

Senator Ashhurst said, "You take that moving picture phase and join it to your resolution, and go forward with it," and then it was rather a hot subject, if I may use that common expression of the street. In other words, the moving picture concerns were prevailing on Senator Ashhurst, and, later, on the chairman of this committee, to take the matter up. They were bitterly complaining of the charges that

were being made. I had one visit with a moving picture concern, in Los Angeles, on a trip that I made down there, on my own private business. I just happened to meet up with some of them, and they were exceedingly anxious that we should hold hearings on that subject as promptly as possible, but we have never been able to get around to the hearings, and this is the first time that this subject has been touched upon.

I just wanted to interrupt you, and give you that background.

Mr. PARRY. We made a lot of Western pictures in and about Zion—some of the best pictures made—made the first outdoor picture—Old Arizona it was titled—and used some of the scenes in it. Since 1929—let me say that Zion is not a place where you can take an entire picture. It is the place where you can get a processed shot. It is valuable as that. But the way the thing has been, and the way the moving-picture people have understood it, they would have to pay—if they went in to get one little shot, they would have to pay \$500.

The film *My Friend Flicka* was made up on Cedar Mountain, located about 20 miles from Cedar Breaks. They were shooting all around, and they wanted to take one shot of Cedar Breaks. It would have been a beautiful shot, I think, when finally processed. They were somewhat anxious to get into Cedar Breaks and take this one shot, to tie into it. They don't particularly object to paying a reasonable fee. But they figure \$500 is too much. For instance, this picture, just recently photographed near here, if that had been taken in a national park it would have cost them \$15,000. They have been at it 30 days, and it would have cost them \$15,000 for the privilege of going into the parks.

The moving-picture people are not tight, as the expression goes; but they don't want to be gypped. They feel like that is a terrible gyp. They have said to me, repeatedly, that they feel like they are being gypped when they pay \$500 a day. They say that, since that ban has come on—you might say it is a ban, because it is prohibitive—well, we have lost a lot of business.

In Bryce—we haven't had a picture in there since Hal Roach made one, in 1924. Bryce is a place where you can make wonderful pictures. It is closed enough, and yet broad enough, so it lends itself to the making of several kinds of pictures. But I don't think we have had one picture since this thing came up.

Now, the Park Service—we have found the men have been cooperative, as far as they can go. The superintendents just say, "Our hands are tied, and that is the policy." We have no objection to the Park Service men, themselves, but it is the policy that they cannot get around; and it is just affecting our country, we figure, in untold ways. A large picture filmed up here will leave as high as \$400,000 in this community. It is interesting to know that they paid the Indians \$25,000 in salaries, for wranglers, and so on. Now that money is passed around to everybody, and that means an industry.

We have been working it up, Whit and Chaunce and myself. We started in 1922, and we have had 47 pictures worked on since. It has left a good many millions of dollars in this area, and it will continue to. But there are some things in Zion and Bryce that they would like to get photographed. There are a lot of companies that would like to come, but they feel that the price is too prohibitive. I am repeating what they have said to me.

Mr. DRURY. May I ask, Mr. Parry, is it your understanding, we have ever exacted a charge of \$500 for the taking of background shots, where no casts are involved?

Mr. PARRY. That's right; they can come in and take that processed shot, I think, free of charge.

Mr. DRURY. I understood you to say it would cost that.

Mr. PARRY. No; if you bring your cast in. In this particular case, with Flicka, they would have had to bring the cast in, of everybody working around this area.

Mr. DRURY. The charges are made only for the taking of feature sound motion pictures involving sets and professional casts.

Mr. PARRY. If they bring a crew in, or have to bring a crew to make a background, I imagine you would have to pay some kind of a fee.

Mr. DRURY. Of course, a cast of less than five persons is \$50.

Mr. PARRY. Well, you might as well give up on that. You never have a cast of less than five people. We had 147 people in here, from Hollywood, changing so rapidly that you never get a cast of less than five people, unless it is a travelogue, or something like that. I think travelogues are allowed in there free of charge. But that cast of five automatically rules it out. In the early days you did get them that small, but things have changed entirely.

Mr. DRURY. Our records show that from 1938 to the present, most every year at least one charge amounted to—in one case, \$50; another \$150; another, in 1940, \$25; in 1942, \$50. We haven't as much detail as we might have, as to what these charges were for, but I presume they were for small casts, or small technical crews.

Mr. PARRY. It might be a processed shot, or something like that. I am repeating what we get at the studios. We go down there to talk to them and they throw their hands up when we say \$500. We are interested in it only from the fact that it is our business, and we have worked at it for a long time and spent a lot of money. We have averaged \$5,000 every year and, naturally, we are interested in getting the pictures in here.

I feel that it is one way of seeing the national parks. A good many people in the United States never see the national parks, we know. I have been connected with the Park Service for 25 years, indirectly. There are a lot of people in the United States that never see the parks in any way.

Mr. DRURY. Well, they provide no charge for scenic films.

Mr. PARRY. A lot of them would like to take background shots in Zion. A lot of moving-picture companies would like to come into Zion and take shots of things like the Great White Throne or The Sentinels, or something like that. When you throw a shot like that on the screen you get a real reaction from people all over the country. There is the same thing at Bryce. This is going to be permanent, Senator, because I have had the privilege of operating up in the Jackson Hole country when they made Wyoming with Wallace Beery.

I am pretty familiar with that situation up there. When they first went in there and they saw Teton and the lakes—nothing could be more beautiful than that country up there. However, when it came to screening it, there was a haze that doesn't show up until it is filmed, and they didn't like it. This country in southern Utah and Arizona has something here that they liked. The atmosphere

photographs entirely different. Things are clear-cut, and the colors are especially good out here. That is why they keep coming back. I figure it isn't a passing fancy, by any means. This is the starting of an industry, and I want to see that nothing is left undone to keep them from coming in.

We have had three of them here in the last 2 months; and will have three or four more, possibly, between now and the first of the year. They come here for more than one reason. There are Indians, and cowboys, and scenery; and they get transportation accommodations, and housing accommodations, and all that. However, it is the scenery that they come for. That is the main objective, because the technicolor is coming in so rapidly, and is coming to the front. After this war is over, 98 percent of the pictures made in technicolor are going to come out here where color predominates.

The CHAIRMAN. Mr. DRURY, speaking from your knowledge of the subject, was the fee made for the purpose of making it prohibitive?

Mr. DRURY. I shouldn't think so; no, Senator. As I said before, it is in accordance with the departmental policy where commercial enterprises are involved.

The CHAIRMAN. I thought maybe you knew what gave rise to the policy; as to whether or not the policy was rather to keep these people out of the parks, because of their scenic and natural condition.

Mr. DRURY. No; I haven't any personal knowledge as to what the Secretary's purpose was, but in my own opinion, I would say that some reasonable fee should be charged, if only for the purpose of confining the films to the real first-rate outfits. I think we all recognize the advantage in having the beauties of the national parks shown to the people of America on a large scale through these films. There is no argument about that.

Mr. PARRY. I might be able to give you a little light on how that came up.

They were making a picture in here with Jack Holt, in Zion—I think along about 1926. Some company had been over in Sequoia, and they let the trees burn. I don't blame the Park Service for getting sore. The spoiled it for the rest of the companies, though, and immediately the Secretary of the Interior said, "We're going to make it so that they can't come in and spoil the scenery, and so on."

The CHAIRMAN. But the bond covers that.

Mr. PARRY. At that time that is what brought this thing to a head. Some company in Sequoia had spoiled the area. So they immediately put the idea into operation, they were going to put it so high—they didn't particularly cherish the motion-picture companies. So much for that.

Take a comparison of fees. The Grazing Service and the Forest Service have bent over backward. The Grazing Service have gone out of their way. The companies come out there and all the Service wants to do is have the stuff left as it was. Men are on the job, the same as the Park Service. I never could understand why three different agencies would be so at variance as to fees. One gets \$100 for all summer. Another operation costs you \$500 for 1 day, or part of a day, maybe only 5 minutes.

The Forest Service is the same way as the Grazing Service. If you are photographing in a sheep allotment, you go and make an arrangement with the man that has that allotment, and pay him \$25 or \$50 a day for the fees, and settle it all with him. The Forest Service sees that the thing is put back as it was.

Now, I can't see the reasonableness of three different fees at such a variation. The Park Service, before this edict was put on—I will say this—was very cooperative. The rangers in Zion were always there. The fellows would go out of their way to see that they got what they wanted. But since this has come in, their hands are more or less tied, and they can't do anything about it.

MR. DRURY. Mr. Chairman, of course you can't make comparisons of different types of lands, except that it is a fact that the National Park Service is set up by law for the protection of scenery, vegetation, historic, and scenic objects, and we have a definite responsibility in that regard. There are perishable values that might well be destroyed. In the case Mr. Parry mentions, in the trees at Sequoia, I know, from my own experience over some 20 years with the California State Parks that they had very definite cases of irreparable destruction of vegetation.

I have one case in mind at Point Lobos, on the Carmel Coast, where the State paid a large sum for a property which was used, and still is being used, for the filming of motion pictures. The qualities of that area have definitely been deteriorated by this use.

My explanation would be that the fee, as it is, without being excessive, puts the companies on notice as to the extreme importance of properties that are being used in the filming of these pictures.

MR. PARRY. But, Mr. Drury, your bond would take care of that. If a man comes in and destroys something, the bond is still there. There are only a few instances where they can do pictures at Zion and Bryce. In our immediate vicinity the kind of pictures they do don't burn trees or vegetation. And if they ever move a shrub the ranger is there to see that they don't move it; or they have to ask permission to do it. They don't do it promiscuously. I can't see the fairness of the three governmental agencies having such a variety of charges. If the \$500 is to protect them, that is one thing. If it is just put on there for protection, that's another thing.

MR. DRURY. Well, I know the Secretary of the Interior gave a great deal of thought; in fact, these provisions have been revised from time to time. Recently they were revised, and made more reasonable in this cleaning up period.

MR. PARRY. To my knowledge, four companies wanted to use Pipe Springs for one shot in the last 4 or 5 years. When they hear what the fee is they have given up the idea. But I should think it could be worked out. If they come in and make a shot for half a day, or 5 minutes—if they have to pay \$500 for it, they are not going to do it.

MR. DRURY. I am very glad to have this comment on our policy of procedure, and we will give it our consideration.

MR. PARRY. I have worked very closely with the Park Service since Zion started, and I know what the policy has been, and there is a responsibility there, no doubt. However, I feel that it can be changed somewhat, in some way, to benefit the whole country.

The CHAIRMAN. We are inserting the order 1472 into the record.

UNITED STATES DEPARTMENT OF THE INTERIOR,
Washington, April 20, 1940.

Order No. 1472.

Order No. 1445 of February 7, 1940, is hereby amended to read as follows:

Before any motion or sound picture may be filmed, except by amateurs and bona fide news-reel photographers, on any area under the jurisdiction of the Department of the Interior (except on areas administered by the Office of Indian Affairs, where the taking of sound and motion pictures shall be governed by the special provisions set forth below), authority must first be obtained, in writing, from the official in charge of the particular area involved. Application for such authority should be submitted substantially in accordance with the attached form.

Charges shall be made only for the taking of feature motion or sound pictures involving sets, professional casts, and technical crews.

The amount of the fee to be paid or of the donation to be made shall be determined in each case by the proper official in accordance with the following formulas:

I. ON AREAS ADMINISTERED BY THE GENERAL LAND OFFICE, THE BUREAU OF BIOLOGICAL SURVEY, THE BUREAU OF RECLAMATION, AND THE GRAZING SERVICE

A fee of \$100 for each motion or sound picture, where the cast comprises more than 25 persons, without regard to the equipment used or the time or extent to which the area is to be utilized.

II. ON AREAS ADMINISTERED BY THE OFFICE OF INDIAN AFFAIRS

In all cases throughout the Indian country any maker of pictures, including Government employees, on tribal lands must consult the superintendent beforehand. Limitations which they may impose must scrupulously be regarded.

The photographing, for whatever purpose, professional or amateur, commercial or otherwise, of (1) ceremonial performances, dances, etc., and (2) places or persons within any of the pueblos of New Mexico and Arizona, is subject to the consent of the governing officers of such pueblo.

In the case of the pueblos of New Mexico, where consent in writing by the governing officers of a pueblo has been obtained and has been registered with the superintendent in charge of the jurisdiction, a permit from any other source is not requisite.

Any charges made by the Indians and any schedules of wages or salaries to be paid to any Indians who may be employed by the permittee must be approved by the superintendent or other official in charge of the area or areas involved.

III. ON AREAS ADMINISTERED BY THE NATIONAL PARK SERVICE

Fifty dollars per day for a cast of less than 5 persons, and when domestic animals, equipment, or sets are or are not used.

Two hundred and fifty dollars per day for a cast of 5 to 25 persons, and when domestic animals, equipment, or sets are or are not used.

Five hundred dollars per day for a cast of over 25 persons, and when domestic animals, equipment, or sets are or are not used.

Where an area administered by the National Park Service is involved, the charge shall be paid in the form of a donation to the National Park Trust Fund.

GENERAL

Permission to take a motion or sound picture will be granted by the proper field official in his discretion and on condition that the permittee shall furnish a bond or make a deposit in cash or by certified check, in an amount to be set by that official, to insure against damage to the area involved and to assure a clean-up after filming has been completed; on condition that the permittee shall refrain, in accordance with the act of the Congress approved on March 3, 1917 (39 Stat. 1106), from offering any gratuity of whatsoever nature to any employee of the Government in connection with the exercise of the privilege granted; and on condition that the permittee shall give credit to the Department of the Interior in an appropriate courtesy title if any of the scenes

photographed are used in travelogs or motion pictures taken for educational purposes.

Motion or sound pictures of wildlife on any area administered by a bureau or division of the Department of the Interior shall be permitted only when such wildlife is shown in its natural state.

When a feature motion or sound picture is to be filmed, the official in charge of the area concerned shall report to Washington immediately, through channels, specifying the number of days the filming required, and giving in general terms and conditions.

Upon completion of the filming by the permittee, it shall be the duty of the official in charge of the area to submit a full report to Washington, through channels, specifying the number of days the filming required, and giving in general the scope of the picture and the manner in which it was taken.

A copy of the approved application, accompanied by a copy of the required bond or by a statement that a deposit has been made, shall accompany the report.

(Signed) HAROLD L. ICKES.

Secretary of the Interior.

APPLICATION FOR PERMISSION TO TAKE A MOTION OR A MOTION AND SOUND PICTURE
UNDER DEPARTMENT ORDER NO. _____ DATED _____, _____

Date _____

To the _____,
(Title) (Area)

According to the authorization of the Secretary of the Interior contained in the above-mentioned order it is proposed, with your approval, to film a motion or a motion and sound picture in the above-named area under the conditions stated in order No. __, the scope of filming and manner and extent thereof to be as follows (an additional sheet should be used, if necessary):

1. We will commence filming on or about _____, and estimate it will take approximately _____ days, weather conditions permitting.

2. If any of the scenes filmed are used in travelogs or for use in motion pictures for educational purposes, credit will be given to the Department of the Interior in an appropriate courtesy title.

3. The filming will be strictly in accordance with the applicable regulations of the Department of the Interior, and we will abide with any special instructions given to us by the official in charge of the above-named area. In addition, we will exercise the utmost care to see that no natural features are injured and that the area is left in a condition satisfactory to the official in charge of it.

4. We will refrain, in accordance with the provisions of the act of the Congress approved on March 3, 1917 (39 Stat. 1106), from offering any gratuity of whatsoever nature to any employee of the Government in connection with the exercise of the privilege herein authorized and will furnish to the official in charge of the above-named area, upon request, any additional information relating to the taking of the motion or motion and sound picture covered by this application.

(Applicant)

For _____
(Company)

Approved: _____

(Date)

Fee or donation: \$ _____; bond requirement: \$ _____

(Title)

(Area)

(Address)

UNITED STATES DEPARTMENT OF THE INTERIOR.

Washington, February 7, 1940.

Order No. 1445.

Before any motion or sound pictures may be filmed, except by amateurs and bona fide news-reel photographers, on any area administered by the National Park Service, the Bureau of Biological Survey, the Bureau of Reclamation, the Grazing Service, or any other bureau or division of the Department of the Interior (except on areas administered by the Office of Indian Affairs, where the taking of sound or motion pictures shall be governed by the special provisions set forth below), authority must first be obtained, in writing, from the official in charge of the

particular area involved. Application for such authority shall be submitted substantially in accordance with the attached form.

Permission to take a motion or sound picture will be granted by the proper field official in his discretion and on condition that the permittee shall furnish a bond or make a deposit in cash or by certified check, in an amount to be set by that official, to insure against damage to the area involved and to assure a clean-up after filming has been complete; on condition that the permittee shall refrain, in accordance with the act of the Congress approved on March 3, 1917 (39 Stat. 1106), from offering any gratuity of whatsoever nature to any employee of the Government in connection with the exercise of the privilege granted; and on condition that the permittee shall give credit to the Department of the Interior in an appropriate courtesy title if any of the scenes photographed are used in travelogs or motion pictures taken for educational purposes.

Motion or sound pictures of wildlife on any area administered by a bureau or division of the Department of the Interior shall be permitted only when such wildlife is shown in its natural state.

Charges shall be made only for the taking of feature motion or sound pictures involving sets, professional casts, and technical crews. Where an area administered by the National Park Service is involved, the charge shall be paid in the form of a donation to the National Park Trust Fund. The amount of the fee to be paid or of the donation to be made, shall be determined in each case by the proper official in accordance with the following formula:

\$50 per day for a cast of less than 5 persons, when domestic animals, equipment, or sets are or are not used.

\$250 per day for a cast of 5 to 25 persons, when domestic animals, equipment, or sets are or are not used.

\$500 per day for a cast of over 25 persons, when domestic animals, equipment, or sets are or are not used.

The photographing, for whatever purpose, professional or amateur, commercial or otherwise, of (1) ceremonial performances, dances, etc., and (2) places or persons within any of the pueblos of New Mexico and Arizona, is subject to the consent of the governing officers of such pueblo.

In the case of the pueblos of New Mexico, where consent in writing by the governing officers of a pueblo has been obtained and has been registered with the superintendent in charge of the jurisdiction, a permit from the Secretary of the Interior is not requisite.

In all cases throughout the Indian country any maker of pictures, including Government employees, on tribal lands must consult beforehand the tribal officers or the superintendent. Limitations which they may impose must scrupulously be regarded, and any charges asked by the Indians must be paid. In the discretion of the superintendent, a bond or deposit as described in the second paragraph of this order will be required. Indians are not landscapes or objects, but human beings with their privacies and dignities as such; and Indian places, though bearing no outward sign, may be as sacred in the Indian mind as any religious sanctuary in the white world.

When a commercial travelog or feature motion or sound picture is to be filmed, the officer in charge of the area concerned shall report immediately, through channels, to Washington that a permit authorizing it to be taken has been issued and its terms and conditions. Upon completion of the filming by the permittee, it shall be the duty of the official in charge of the area to submit a full report, through channels, to Washington, specifying the number of days the filming required and giving, in general, the scope of the picture and the manner in which it was taken.

A copy of the approved application, accompanied by a copy of the required bond, or by a statement that a deposit has been made, shall accompany the report.

Order No. 1418 dated September 5, 1939, as supplemented by order No. 1432, dated November 25, 1939, is hereby revoked and superseded.

HAROLD L. ICKES,
Secretary of the Interior.

Attachment.

APPLICATION FOR PERMISSION TO TAKE A MOTION OR A MOTION AND SOUND PICTURE
UNDER DEPARTMENT ORDER No. ----, DATED -----

Date: -----

To the -----
(Title) (Area)

4. We will refrain, in accordance with the provisions of the act of the Congress approved on March 3, 1917 (39 Stat. 1106), from offering any gratuity of whatsoever nature to any employee of the Government in connection with the exercise of the privilege herein authorized and will furnish to the official in charge of the above-named area, upon request, any additional information relating to the taking of the motion or motion and sound pictures covered by this application.

Approved _____ For _____ (Applicant)
 _____ (Date) _____ (Company)
 Fee or donation \$ _____ Bond requirement \$ _____
 _____ (Title) _____ (Area)
 _____ (Address)

Mr. DRURY. All expenditures are reported by the Secretary. There is a board of trustees, of which the Secretary of the Interior is one. I

don't recollect—I don't know of any expenditures. It isn't a large fund. It amounts, I think, to less than \$20,000. But it is under the control of the fiscal department of the Government.

The CHAIRMAN. Does that answer your question?

Mr. SPEAR. Yes.

**STATEMENT OF JAMES E. BABBITT, STATE SENATOR,
FLAGSTAFF, ARIZ.**

Mr. BABBITT. I would like to add that the Indian Service formerly charged very high fees for moving-picture companies going on the reservations.

I don't know whether that policy has been changed or not. But I know our Flagstaff Chamber of Commerce vigorously protested the charging of these fees by the Indian Service. We have a very large Indian reservation in Coconino County, and the Park Service—

The CHAIRMAN. I am advised by the special investigator of the committee that those fees have been reduced, and they are very moderate now.

Mr. BABBITT. Thank you.

The CHAIRMAN. Do you care to say anything more, Mr. Parry?

Mr. PARRY. No.

The CHAIRMAN. I would like to have a little more clarification of what these moving-picture activities mean, in income to the community?

Mr. PARRY. We will start with the Indians, for instance. I think \$25,000 is quite a sizable sum.

The CHAIRMAN. Let's clarify that a little bit. You mean by that, that this last picture paid about \$25,000 to the Indians for what work they did around and about the picture?

Mr. PARRY. Yes, sir; plus \$1.50 every day for their assistance.

The CHAIRMAN. In this community?

Mr. PARRY. That was all in this community, right around here. The reason they come in this area, they get Indians, and anything they want, wranglers and such, and they pay them \$1.20. I think some of these wranglers make more than any of us, here, some days, with time and a half. Nevertheless, the money is scattered around to the butcher, the baker, and everybody else. There isn't a man, woman, or child in the Fredonia area that doesn't make something off it. Horsemen are paid—there are 300 head of horses out there, and they have to have a wrangler for every 10 head. You can see what that means.

There are 63 pieces of equipment lined up every morning in front of that lodge. That is as much as a circus will take. You have all that financial assistance, and it isn't going into one pocket, but it is scattered around to everybody. When they hire a youngster for a picture he gets the same as somebody else. The riders get so much, the drivers so much, the truckers so much. The Parry Bros., on this last picture, will pay over \$15,000 in trucking hire alone, besides our own equipment. The gas man gets it. There isn't a man in the community, interested in the area, but what gets something.

I feel we should bend over backward promoting it, as long as it is not to the detriment of the park. I am as alive to the fact that they want to preserve these natural beauties as anyone. But if we can

make a picture, and still not disturb the natural beauty, I think we ought to make provision to do it.

Now, I believe the last 10 years the moving-picture industry has left a million dollars a year in southern Utah and northern Arizona; every year for 10 years. They have made some outstanding pictures, and they keep coming back. We've got something here that they want—I am repeating what they say. The biggest block, so far, is that price.

I am just repeating now what the studio men tell me. You can take it for what it's worth.

There are things in the country around here—scenes they want in Bryce, and in Zion; and if they can get it, without the detriment of the park, that is what they do.

The CHAIRMAN. I might say, in all fairness, that same statement has been made to me by moving-picture people who are in charge of the set-up. I just wanted to say that, because it has come to my attention, and the statement has been made directly to me.

Mr. PARRY. I believe, Senator, the last pictures that were made here will leave close to half a million dollars. That is outside money, not money that you have to get down and grub out of the dirt for. It comes from the outside, and it helps the whole thing. Here is an illustration, an actual fact that took place 6 years ago. The Kaibab district and Fredonia were pretty destitute. The truth was that prices and other things had hit rock bottom, and Kaibab had been carrying—the county was absolutely broke. I was instrumental in getting one picture in here, and the first thing was that the people got to pay the grocer. If it hadn't been for the moving picture in Kaibab, I don't know what would have happened. Of course, there are things that happen that we don't like; there are changes in living conditions and so on, but nevertheless, we have to meet that as it is, and after all, it is an industry that has come to stay. It isn't a fly-by-night proposition. We have got something here. They will go and travel 40 miles over the most damnable road you ever saw, and they do a lot of work around here. In one place, just to make sure there were no floods, while they were shooting a picture, they put in one dam alone there that cost them \$20,000. Now, that means something to an area like this.

There is no place in the United States that has got the atmosphere for technicolor that this has, and that is the reason they come here. They come here for those certain reasons. If we can have the Grazing Service, and the Park Service, and the Forest Service lend every possible assistance to them, it is going to mean something so big that we can't even visualize it at the present time.

The CHAIRMAN. All right. Thank you very much.

I think that is all, Mr. Drury, unless you have something to say.

Mr. DRURY. Well, on that one point, do you mean, Senator, anything I have to say on that?

The CHAIRMAN. Anything you have to say on that.

Mr. DRURY. Well, I don't want to appear to be trying to argue this question of the amount of the fees.

The CHAIRMAN. I don't think it is fees at all. It is a matter of this policy; a question of taking evidence before this committee who may be interested in changing the policy. We may be able to present it to the authorities that make the policy.

Mr. DRURY. In view of the hundreds of thousands of dollars expended on these productions, I cannot help wondering whether the

amount of these fees is a detriment to the filming of pictures, on the scale that is of such great benefit to these communities.

Senator, in connection with the hearings yesterday, there were a number of points brought up. You have a great many witnesses here today, and I don't want to prolong this—

The CHAIRMAN. I would like to have you make any statement you see fit, before you have to go.

Mr. DRURY. I felt, in fairness to this group here, and to the National Park Service, there were a number of points brought out, both in the testimony yesterday and in the partial report of this committee, on which we should have an opportunity to present our explanations and our views of the case.

I feel that it is very beneficial to those who are on the staff of the National Park Service to have the opportunity to be here, in this community, and get the point of view of our neighbors. I know that the opinions expressed, even when they were perhaps a little hard on the Service and its policies, were honestly held; and I want your committee, and those here, to know that our attempt to defend some of those policies represents an equally honest opinion.

Of course, we speak of the policies of the National Park Service. I don't think we should think of these as the opinion of any one man, or any one group of men. The policies that govern the particular type of land management, in which the National Park Service is engaged, really stem from acts of Congress.

The basic act, of course, in 1916, established the National Park Service, with certain purposes and objectives; to preserve the great areas of natural beauty in the United States, and the great historic sites, for the benefit and enjoyment of all the people of the United States. Based upon that mandate of Congress, certain regulations are established by the Secretary of the Interior. The Park Service is the bureau which administers those regulations and those laws. The policies which have been discussed, as to matters such as grazing and predators, and the use of the park by various commercial enterprises, are the outgrowth, over a long period of time, of experience as to what is in the public interest, from a national standpoint, in doing the job that the Park Service was set up to do—of administering and protecting these great properties.

We have been impressed during the past year with the fact that, even with the Nation at war, with travel of all sorts discouraged, with the railroad companies advertising for people not to use the trains, with the restriction on gasoline and rubber, still, at the end of this travel year, the 1st of October, we will have had close to 6,000,000 visitors to the 168 national-park areas distributed through the United States.

A large percentage of these are men in uniform. Another large percentage are the families of the men in service. Some of them are war workers, who are crossing the continent and, because of the fame of the national parks and the monuments and historic sites, are determined to see some of these examples of the greatness of America.

Mr. Bryant and Mr. Smith will tell you that the commanding officers of military establishments have been very eager to have their men go to Grand Canyon, and Zion, and Bryce, Yosemite, Yellowstone. They have had tremendous numbers of the armed forces, and the

feeling is that this institution of the national parks is something that the military want their men to know about, because it represents one of the great phases of the country that they are fighting to defend.

I mention all this, because this question of policy, in protecting and administering the parks, has to do with our honest attempt to be true to the trust that the Government has placed on us, to hold these properties unimpaired for future generations.

There have been a number of issues that I think we should comment upon, and on which I know there is an honest difference of opinion. One of them is this question as to just how much of a so-called land-grabbing agency the National Park Service is. I don't think that I should make any comparisons, but the tables that are given in the partial report show the amount of the acreage in the public-land States of land that has been incorporated in national parks and monuments. The figures are available as to the acreage on the continental United States, and the United States and its Territories. There are some 21,000,000 acres, all together, under the National Park Service, both on the mainland and in Alaska and Hawaii. This represents, as I said yesterday, only around three-quarters of 1 percent of the total land area of the United States.

Now, the theory of Congress, and it has, over the years been supported, I think, by the American people, 21,000,000 of whom visited the national parks and monuments in 1941, is that this small portion of the United States should be held intact; just as some of the great sites of history should be held; as they were in the days when they typified the struggles of the Revolution, the growth of this country, the pioneer expansion, and the Nation's growth to its present stature. It is debatable, of course, as to what percentage of our land should be devoted to this special type of use.

I don't believe that we necessarily have to concede that when lands are set aside to protect their beauty, and to afford an opportunity for recreation and for relaxation and for inspiration, those lands are not being used. In fact, I believe that Congress and the Department of the Interior take the position that, in setting them aside, we have put them to the very highest use, for so small a fraction of the land of the country, that they can be put to.

The record, I think, should be made, Mr. Chairman, as to the questions on whether or not the National Park Service is an agency which has a limitless appetite for taking in more property, and I would like to submit, without taking too much time, a statement on that later on.

I would like to say this, however, that, as far as I am concerned—and I am sure that it reflects the general attitude of the Department—the inclination is to confine any acquisitions of land to those properties that are very definitely of a national caliber, that mean something to people as a whole; that are really national parks and national monuments, in the true sense of the word; that people from all parts of the United States would want to visit, because they are outstanding and different and are symbols of the greatness of this country. It is not true that the National Park Service covets every piece of land it looks upon. There have been many supposedly fine areas, proposed for national parks and monuments, that have been turned down. I asked my staff to look into the past history of our investi-

gations of properties, and they give me this statement, in answer to the charge which I know has been made, and which we have heard, every once in a while, that there is apparently no limit to the demands for the National Park Service for additional areas to administer. During the 8 years, 1933-40, the National Park Service investigated 523 areas proposed for parks, monuments, and related purposes. Nearly all of those areas were turned down by the Service. During those same years a total of 420 proposals for area investigations went unfilled. We didn't even investigate the areas, because we felt it was not necessary, if they were not of national caliber.

Moreover, since the National Park Service was established, it has rendered adverse reports on many well-known national park proposals, Pikes Peak, Colo., Mount Baker, Wash.; the Upper Mississippi National Park; and many other sites were proposed in various States of the Union. We had, in connection with the land-resettlement program, some 41 so-called recreational demonstration areas which were under the administration of the National Park Service. Although the bill was at first vetoed by the President, we were able to secure, first, the approval of the Congress, and then the approval of the President, last year, for a bill which would authorize the National Park Service to dispose of these 41 areas which we considered were not of national caliber, but should really be State areas.

Already 16 of those areas in 13 States, involving 36,257 acres, have been relinquished by the National Park Service and turned back to the States.

I simply wanted to cite those facts, Mr. Chairman, and to state for the record that the National Park Service does recognize that there is a limit to the amount of land that should be included in areas of the national park type.

Now, related to that subject, is this question of the taking of lands off the tax rolls. There is now before Congress a series of acts, and I believe both Public Lands Committees are considering them, which aim to equalize the whole situation as to the contribution that Federal agencies will make to local communities in recompense for taxes lost with the taking of lands in those communities. The Department of the Interior and the National Park Service have been on record for many years as favoring some legislation that would put our Service on a par with other land administering agencies, as far as making that contribution is concerned. Without developing that topic further, unless there are questions on it, I would like to make this statement as to our attitude.

The CHAIRMAN. In that respect, it may be observed that the Park Service is not the only one under close scrutiny, with reference to the withdrawal of lands from the tax rolls of the several States. The Indian Service has been exceedingly avaricious in the acquisition of lands for Indian purposes and, of course wherever there is an acquisition of land in a State, that land is usually some of the best land that there is. It is usually highly cultivated land, and is immediately withdrawn from the tax roll.

All of this has been a matter of very serious consideration, especially by three or four of the States—Nevada, Arizona, New Mexico, and Colorado—where there is a decided limit to taxable property. It has been a matter of very serious consideration of what can be done,

or what should be done, with reference to these withdrawals, or purchases, of land—the withdrawal from the tax roll. It is much more serious than some of the Services give credit to.

Mr. DRURY. We recognize its seriousness; and we are doing our best to encourage some program of that sort.

The CHAIRMAN. It is a very difficult problem to deal with. It has been studied by some of us, and we are still studying it. It is not an easy thing to solve, as to what compensation should be made to the community, and how it should be made, where there is a withdrawal of that kind.

Mr. DRURY. The only other point, and I think I should deal with this very briefly, unless there are other questions, are the specific references that have been made, both in the testimony here and in the partial report, as to the policy of the National Park Service as regards grazing, and the wildlife management, particularly in respect to predators.

Now, those are two, among many of the policies, which, as I say, have been built up through years of experience, in keeping with the basic purpose of the national parks and monuments, as prescribed by law. Those are areas within which natural conditions have been maintained, both as to vegetation and animal life. In that respect, I recognize fully that there will always be a difference of opinion as to the extent of the lands which should be subject to this type of management; and all I can say, in respect to that, is that, as far as our present and future programs are concerned, it is the desire of the Park Service to be reasonable and to be fair.

The CHAIRMAN. Right on that, allow me to interrupt you. I might say the matters that have been brought out here yesterday, Mr. Drury, are matters which I am very glad you heard. It just strikes me that there is a place where, if I may use a homely term, common sense enters in regard to this grazing. In other words, you can carry it too far either way.

Mr. DRURY. I agree with that, Senator.

The CHAIRMAN. You can set up a cloistered spot where livestock can't graze at all, and you can see a community all around you impaired by lack of income which, if they could graze within reason, would do no harm to the area, and at the same time would sustain a taxpaying community. So I am in hopes that the Park Service and other recreational area services may arrive, sometime very soon, at a happy point where a certain amount of grazing can be indulged in, for the benefit of the park itself.

Mr. DRURY. Well, I can't say as to the future on that, Senator, but I agree with you fully that we ought to approach the problem from a common-sense standpoint and ought to be moderate in our demands as to the areas set aside according to the national park pattern. I frankly don't feel that we can agree that grazing does not harm the natural conditions. I admit that is a debatable matter. It is something we are giving constant thought to.

The CHAIRMAN. May I interrupt you? Let me draw your attention to the natural conditions. Nature itself seems to have made provision where the wild animals graze at will, wherever they will; and certainly Nature didn't say to the wild animals, "You have got to stay out of this place, because it is a point of natural interest"; nor

did Nature say to the deer, "You can go into Mount Zion Park and graze in here." They did go in and graze, and Nature seems to have balanced the thing up fairly well.

Mr. DRURY. We face as much of a problem there from the grazing of wild animals; an acute problem of overgrazing by deer. The only point, I think, we should make at this time is that we recognize that policies in matters of this sort should be based upon scientific investigation and study, and have to be frequently adapted to the conditions.

Now, we mentioned yesterday, in connection with Grand Canyon National Monument, the fact that a large area had been excluded at one time in recognition of grazing interests, and there is no doubt that in the future there will be other studies as to boundaries of areas which will have to be the subject of some consideration.

The CHAIRMAN. There is a gentleman here who wants to ask you a question.

Mr. DEWEY FARR (St. Johns, Ariz.). I would like to ask Mr. Drury to give us the figures on the total acreage on parks and monuments in Arizona. Do you have that, Mr. Drury?

Mr. DRURY. Yes; I have.

Mr. TILLOTSON. It is 1,441,720 acres.

Mr. FARR. What?

Mr. DRURY. 1,441,720 acres.

Mr. FARR. Thank you very much.

Mr. ARTHUR WOOLLEY. While on that subject, I wonder if Mr. Drury can give us the acreage on parks and national monuments within the Arizona strip?

Mr. DRURY. I don't know, maybe Mr. Tillotson, who is much more of an authority on the Arizona strip, can give it to you.

Mr. TILLOTSON. Within the Arizona strip, I think I can give it to you.

Mr. DRURY. It will take a little time to pick it out.

I have one more statement I wanted to make, and then I will be through, Mr. Chairman. That is on the subject of predator control. It is a fact that in that respect, we attempt to follow a realistic and flexible policy. About the best statement we have for it is one we have made in a recent outline of predator control, which I will read to you:

Predator control is practiced within the national parks and monuments when and if such control is necessary to safeguard the perpetuation of a threatened species, or if any critical predator situation exists. In no case will the National Park Service undertake or cooperate in a predator control project without careful consideration of the facts involved.

I agree we should make the investigation.

The Secretary of the Interior is empowered by an act of Congress to provide for the destruction of animals detrimental to Park Service areas, which destroy, or prove to be dangerous to human life or property in park areas.

Now, I know this statement of policy is of interest to those here in the community:

So far as the relation of park predator to livestock in surrounding land is concerned, the policy of the Park Service is a flexible one, designed to meet changing circumstances. When the facts indicate the control of coyotes or other animals on national park areas is necessary, this National Park Service authorizes such control. It will always cooperate with other agencies in this matter, insofar as it can and still discharge the duties Congress has placed upon it.

That duty is, as far as possible, to keep from extinction all species of animals within the areas.

Now, as I said, we rely not only on our own men, but particularly the Fish and Wildlife Service. We recognize that the last word has not been said on some of these problems; they need a lot more investigation, and a lot more study. I want to leave that thought with the committee and those present, Mr. Chairman.

The National Park Service is trying to approach all of these problems, that have here been so profitably discussed, with an open mind.

The CHAIRMAN. Are there any questions?

Mr. FARR. I would like to follow this up a little further. I have here a report, compiled by the office of land utilization, under the direction of Lee Cox, as coordinator, that gives a little different figures. I wonder what date this is? It states 1,441,000 acres in Arizona.

Mr. DRURY. That is July 2, 1943. This was made up, I know, by the land office.

Mr. T. C. HAVELL. We made this tabulation as of June 30 last. It is the latest, from the latest available figures.

Mr. FARR. We have two reports here, one for 1937, of the Committee on Public Lands and Surveys, which gives 2,522,000, and then our report here from the office of land utilization gives 2,500,000 as of 1943. I was wondering where the difference comes in.

Mr. DRURY. This does not include purchased land.

Mr. HAVELL. It does not include purchased land, but withdrawals of public lands.

Mr. DRURY. I beg your pardon for presenting this as complete. It represents the public lands involved in parks and monuments.

Mr. BABBITT. Mr. Senator, now, is it the policy of the national parks to purchase private lands included within a monument?

For instance, we have in Wupatki—they have recently increased from 2,000 acres to 37,000 acres, 6 sections of State land and approximately a similar amount of private land. Will the Park Service condemn that private land and reimburse the owners for it?

Mr. DRURY. Well, in general, the policy is to consolidate the areas, because that is the only way you can get efficient administration, as well as protection.

Mr. BABBITT. That land is worth less in the middle of the monument.

Mr. DRURY. We have no funds with which to purchase lands at this time. That depends upon Congress.

Mr. BABBITT. If they reimburse the owners, will they take consideration of the fact that a range of several hundred thousand acres might be destroyed by taking in half of the winter range of this outfit?

Mr. DRURY. That is a hypothetical question as to what we might do in the future. There is no money to acquire those lands; but I would say, in general the Government should be fair in dealing with those owners, considering all factors, either by negotiations or, if it went to condemnation, the courts would make an award.

Mr. BABBITT. Well, the private owners are very much interested now, because that already has been withdrawn. They have a 17-mile pipe line into that area, and if they can't use it for grazing lands they certainly would want to be reimbursed.

Mr. DRURY. Maybe Mr. Tillotson can add something?

Mr. TILLOTSON. Nothing, except that a grazing agreement was recently worked out between our office and Mr. Babbitt's interests, which I understand was satisfactory to the Babbitt people.

Mr. BABBITT. I would say it is not satisfactory because, if we die, the party during whose life that permit is given—if he dies the investment is wiped out without any compensation. That doesn't seem fair to the rest of the interested parties who are interested in that particular land. We are satisfied insofar as we got what the other people get whose permits are taken away in that manner. But we are certainly not satisfied by a long shot with that particular set-up, and I don't believe anybody else is.

Mr. TILLOTSON. It comes back to the entire policy that was discussed yesterday about the lifetime of the permits.

The CHAIRMAN. Which, to be very frank with you, impresses the chairman of this committee as having a high element of unfairness connected with it. I don't see the solution. I don't have the solution, not by a long ways, in my own mind. But I do see the exceeding unfairness of it.

Mr. DRURY. We recognize the difficulties of it, Mr. Chairman.

Mr. CHARLES C. ANDERSON (Glendale, Utah). I can give you the low-down on the predatory lay-out on the strip. At the present time we have two Government trappers on the Arizona strip, both threatening to quit, because they won't pay them enough money. Our losses from coyotes is greater than all our grazing fees and our taxes put together.

This year—that is, in my own outfit—I lost 300 lambs out of 2,000 lambing ewes. Now, our trappers that we have have broken the world's record. One of them has caught over 500 coyotes this year. That doesn't include pups, the young ones.

Now, it looks—it makes us feel bitter to have you have a breeding pen over here just supplying us with them. We are making a fight on them, and the Fish and Wildlife under Zimmerman, in Salt Lake City, is working with us diligently, trying to do something there. You have another office in the same building, and you are trying to raise them. It looks like these cowboys back in Washington had better find out what it is all about. We don't like it, and we want you to know it.

Mr. DRURY. I fully appreciate your difficulty. However, on the one question of the two agencies, they are set up by law to perform quite different jobs.

Mr. ANDERSON. You have authority to have your men investigate. If they are doing any damage outside, you can kill them.

Mr. DRURY. We can control the destructive animals.

Mr. ANDERSON. We were asking you to have an investigation made immediately. We will appreciate it, and we want it.

Mr. DRURY. We will certainly do that.

Mr. TILLOTSON. May I answer Mr. Woolley's question as to the areas? I understood you asked for the area of national parks and monuments in the Arizona strip?

Mr. ARTHUR WOOLLEY. All the withdrawals.

Mr. TILLOTSON. There are three areas: Grand Canyon National Park, with a total area of 645,119 acres, of which approximately half, or 327,560 acres, lie north of the Colorado River; the Grand Canyon

National Monument, an area of 201,291 acres, approximately 80 per cent of which lies——

Mr. WOOLLEY. Mr. Tillotson, give us the total?

Mr. TILLOTSON. Four hundred and eighty-three thousand five hundred acres.

The CHAIRMAN. Out of the total area of the strip?

Mr. TILLOTSON. I couldn't give you that.

The CHAIRMAN. Does anyone know the total area of the Arizona strip?

Mr. M. H. ALLEN (district grazier, Arizona grazing district No. 1). Approximately 3,450,000 acres.

Mr. TILLOTSON. And ours in round figures is 483,500 for parks.

Mr. WOOLLEY. I think you said for the whole State of Arizona it was 1,400,000. Now, I have heard speakers commenting on southern Utah and northern Arizona to the effect that when the Creator created the world he got all through, and he had a little handful of dirt and he threw it over and he said, "That's that." From the way they are grabbing us in withdrawals it looks like that's the way they started.

While we are on the subject of that predatory control, I was talking to a gentleman by the name of Jackson, who runs adjacent to the Grand Canyon National Monument. In years past he ran in the neighborhood of 3,000 sheep, and he has the only herd that runs in that area. During the summertime the rest of the sheep go into Utah. He told me he had lost from three to four hundred head of lambs and older sheep during the summer months, and then—that being a period of 4 or 5 months—then when the Utah herds come back and started helping to feed it, the coyotes—he has lost only 50 to 75 during the winter months. So that is an indication of the number of coyotes that are there, and the loss sustained by one man.

I was glad to hear Mr. Atkins bear this statement out. I am glad to hear there are others suffering the same thing.

There is one more observation that I would like to make with reference to the idea of the Government reimbursing the counties for the loss in taxes from lands withdrawn. Take Fredonia, this little community, for example, has about 300 people. And say, one man there had a number of cattle that would bring him in a thousand dollars a year. The county probably had been receiving \$100 of that in taxes.

Well, the United States Government might reimburse the county for \$100. But what is the community going to do with the other \$900, if we don't have this range? The community of Fredonia, and there are dozens of other communities in similar circumstances, might just as well move out, because we don't care whether the county gets it in taxes, if we are not allowed to live here.

The CHAIRMAN. Are there any other remarks?

Mr. PAGE. The other Mr. Parry would like to close for the motion-picture industry.

STATEMENT OF C. W. PARRY, KANAB, UTAH

Mr. PARRY. I don't have a great deal more to add other than what my brother has stated except this, that part of my job in connection with this motion-picture promotion business has been to make the contacts at the studios, and spend the winter making these contacts,

and attempting to sell them on the idea of making pictures in southern Utah and northern Arizona.

One of the first questions they ask is whether or not there has been any relief from the \$500 per day fee the Park Service has set. I think I would be safe in saying that there hasn't been one studio that has not asked that question, and asked whether or not there might be any relief from it in the future, and asked what is being done to set it aside.

Mr. Drury brought up the question as to whether or not \$500 was an exorbitant fee for a company who was spending a million or a million and a half dollars on a picture.

Well, in proportion to what this last company spent, \$500 isn't. But the studios are very funny in this way, that they are perfectly willing to pay for anything that they feel they are getting value received for but, at the same time, they simply will not go along and pay for something that they feel they are being held up for. That is the attitude they have taken in regard to the payment of this fee.

The question was also asked earlier in the proceedings by Mr. Senator, I think, as to whether or not he knew of any specific instances where studios had given up the location because of the fee.

We just have to go back to the Republic Co., that was in here earlier in the spring. They shot for 4 or 5 days down at the mouth of the Zion, and the virgin territory, and had it not been for the fee I am sure they would have shot at least another week or 10 days in that area, and moved further up into the canyon.

Another thing I might say is the studios, while they are competitive, at the same time they work more or less as a unit. What one studio does sort of sets the policy, and the rest of the studios more or less adhere to it. I don't think that you will find one studio—for instance, the Fox studio, a company of \$70,000,000 capitalization, can well afford to pay the \$500. They will not pay it and set the precedent for paying that fee. So the thing I want to emphasize is, while the studios could afford to pay the fee, they feel if they did pay it it would be paying it "with a gun in their backs," as they have so often stated.

I don't think there is anything more that I could add, but that is their feeling, that the fee was established not as a means of collecting revenue, but as a means of keeping them out of the parks.

The CHAIRMAN. All right, thank you, Mr. Parry.

I think that closes that particular phase of our investigation.

Now, I made a suggestion to Mr. Kneipp this morning for his study. It isn't to be considered as settled, because it largely comes out of the imagination of the chairman, with reference to a problem that was presented yesterday. That is as to the carrying capacity of the Kaibab at the present time. It was discussed here quite at length yesterday, and there was no way that we could come to any conclusion. The circumstances were related very fairly by Mr. Kneipp as to changes in the management, and changes in the organization, and one thing and another.

I made this suggestion, and I hope we might be able to work it out, that if the Forest Service would delegate an outside forester of outstanding ability, someone who was not connected with the community here around at all, and the committee would delegate its

investigator, Mr. Haskell, and a second, or a third, if it were necessary, and they could come in here and go into the area and make a study of it. It might help solve the problem.

Now, I have suggested it to Mr. Kneipp. It has not been determined upon. But Mr. Kneipp seemed quite friendly to the suggestion. I won't say that it should be only two. Perhaps a third might be added to it, perhaps some outstanding individual whose fairness and whose ability would be recognized. The committee would lend its investigator, who is a man of wide experience, to go with this man over the entire area and make a study of it at as early a period as possible. It's the only thing I see right now that might be of assistance to us.

If there is anyone who desires to criticize it—I make mention of it so that it could be shot at, if you please. If you see anything wrong about my suggestion, you could blame me, because it is entirely my own suggestion. It may not have any merit at all. It just struck me that some disinterested, impartial, fair agency might be called upon to lend a suggestion toward a solution.

Mr. KNEIPP. Senator, might I ask a question here on that point? In discussing the matter with the Senator, I pointed out that now in the employ of the Forest Service is Dr. Henry L. Schantz who, for many years, was president of the University of Arizona. Dr. Schantz is not a range man, in the grazing sense of the word, but he is one of the outstanding plant physiologists of perhaps the United States, perhaps of the world, and he is in Arizona at the present time. We were debating as to having him come in here and looking at the vegetative cover, not as a grazing man but as a plant physiologist, to see the degree to which the plant association has recovered from the earlier damage caused by deer and possibly by livestock, and if it has come back, regained its vigor with sufficient growth to permit utilization, or whether it has not. He would not endeavor to approximate how many cattle or sheep or deer it would carry; he would simply discuss the condition of the vegetation as he sees it.

That would be one approach. The other would be to get a man who has had more experience in range management, looking at it not so much from the physiological status of the vegetation but as to availability for range use; what it would carry; how it would be used.

It would be interesting to find out which of those two men these gentlemen think would command the most confidence as to the status of the vegetation.

STATEMENT OF K. C. KARTCHNER, ARIZONA STATE GAME WARDEN

Mr. KARTCHNER. Mr. Chairman, the Arizona Fish and Game Commission has already had to do with the deer on the Kaibab National Forest, even though it be in the Grand Canyon National Game Preserve. We have followed the history of that area and its relation to the production of deer and livestock for many years, and naturally we think that the Arizona Game and Fish Commission should be represented on any such a body that would make an examination of the area.

The CHAIRMAN. Well, now, you can run this thing into the ground, you know, and get too many in this committee.

Mr. ELMER JACKSON (Kanab, Utah). Mr. Chairman—

The CHAIRMAN. We would probably get a speedier solution if we limited the number pretty low. I think that would be best. However, it is only a suggestion. I am not wedded to the thought at all.

Mr. JACKSON. I might state that I think the suggestion of the Senator and Mr. Kneipp is very good. But if they are going to start loading it up with another agency, the stockmen ought to be represented. It would be better to keep it to one or two.

The CHAIRMAN. Well, then, they want a cattleman and a sheepman and a goatman, and so on, and so forth. You can shoot it to pieces; it's all right with me.

Mr. ARTHUR WOOLLEY. I would suggest perhaps you would consider asking Dick Rutledge, who is the director of the Grazing Service and who used to be a Forest Service man and who is familiar with the Kaibab, probably as familiar as any man in America. He might very well make the survey. He is out of the Forest Service now.

The CHAIRMAN. Very well.

Now, Mr. Kneipp, certain things were requested by you that you might have the opportunity of presenting certain things to the committee. Do you have any matters which you wish to present, or any statement you wish to make? The committee will hear you now.

Mr. KNEIPP. Yesterday afternoon in testifying, Mr. Royal Woolley, in an implication that actually became a specific charge, alleged that by reason of two telegrams that were sent certain men were suffering reprisals, and other men were enjoying benefits, or special privileges.

Well, the reprisal end doesn't look so strong. I think the record shows that Mr. Woolley himself who had an active part in one of the telegrams, in spite of his efforts, has on the Kaibab Forest the maximum number of stock allowed one permittee, and a range all of his own, watered at a considerable Government expense, and still has them. He certainly didn't suffer from signing that telegram. As a matter of fact, I don't know whether you can hold any other men accountable for signing the telegram. Mr. Broadbent made the remark yesterday that he had no recollection of having signed it. Mr. Woolley didn't say Mr. Broadbent signed it, he merely said his name was on it.

However, that is a serious charge that the chairman, very properly, noted was a matter demanding considerable and immediate investigation. He desired that it be made.

I might say that history has a queer way of repeating itself. Almost 35 years ago I took the railroad from Salt Lake City to Marysville; rode on the mail coach from there to Panguitch; rode a saddle horse from Panguitch to Kanab in connection with a similar situation. The leading member of one family, at that time, felt that certain members of his family were not being properly treated. Now we are having the same situation more or less, though better organized. This time Mr. Page is up here from Phoenix, and Mr. Arthur Woolley from Salt Lake City. But it is the same fundamental problem that existed a third of a century ago.

The Forest Service, unfortunately, is rather naive. We didn't foresee this coming. We didn't get our advisory board organized and consult with it, and we weren't prepared. As a matter of fact, we don't have available here the full records of the case, because they have been transferred to Williams. We don't have here the forest supervisor, who

would be the most authoritative representative of the Forest Service, because he is just recovering from a serious operation. But the ranger is here who does have copies of the permits by which we were able to get last night—as you gentlemen may have observed, as we sat in the ranger's office until quite late—a fairly good picture of why Mr. Vaughn, who was pointed to as the recipient of the special favors, has his present preference, and why two other men who are specifically named and who started somewhat similarly to Mr. Vaughn did not get increased preferences.

Here is what the record shows: Mr. Vaughn, I understand, was long associated with old Uncle Jim Owens, the famous lion hunter, who lived up here on the mountain for many years. In 1932 he was running some horses in House Rock Valley and at that time there was no fence along the boundary and the horses drifted back and forth, and everybody got what were called “on and off” permits. So Mr. Vaughn had an “on and off” permit, or a winter permit for one-half of 12 horses. He also had a permit over on the west side for 10 cattle yearlong, which I understand he had had for some years previous to 1932.

The next year, 1933, the same condition prevailed—6 horses, and during the winter 10 cattle.

In 1934, however, the boundary was fenced, and coincidentally, Mr. Silcox had announced this policy that was referred to yesterday. So, as a result, in 1935 Mr. Vaughn was given a permit for 25 head over on the east side here, and he also had a permit for 10 head on the west side, plus 7 head for the short season. They were the carry-over yearlings.

In 1936 his permit was 25 head on the east side, House Rock Valley side, and 16 on the west side, 10 yearlong, and 6 short season.

In 1937 he had 25 on the east side; and 10 yearlong, plus 5 short season on the west side.

In 1938 he had 45 head on the east side, the increase of 20 head being due to purchase of permitted stock from W. F. Hamblin. His permit on the west side had increased from 10 to 35 head, because he had purchased the permitted stock of A. D. Church on that side, and got the permit for it.

In 1939 he had his east-side permit over here on the House Rock transferred over to the Burro's allotment, and on the west side he ran in the same 35 yearlong, plus 16 for the short season.

MR. ROYAL B. WOOLLEY. May I interrupt right there? That Burro allotment was purchased from Billy Hamblin, it wasn't transferred.

MR. KNEIPP. There is a note here, “Burro purchased from Billy Hamblin,” but when he transferred his other previously permitted stuff over there—no; what he did, he applied that year for 20 head nonuse, and had 20 head nonuse for 1939 on that permit.

MR. WOOLLEY. That Burro allotment?

MR. KNEIPP. Yes.

MR. WOOLLEY. What did he do with his 25?

MR. KNEIPP. He had 20 head nonuse, and he had 25 head on the Burro allotment.

MR. WOOLLEY. How many did he buy from Billy Hamblin?

MR. KNEIPP. I haven't got the number here, but he got—what he bought was sufficient to give him that increase. Maybe the rangers here can answer that.

Mr. GRAY. Twenty head.

Mr. KNEIPP. In 1940 on the west side he got an increase of 16 head in his yearlong permit, by virtue of the purchase from M. V. Adams, who testified here yesterday that he had sold the stock. So as a result, his permit on the west side over here increased from 35 to 51, in addition to which he had a short-season permit for 28.

In 1940 he apparently had a nonuse for 45 head on the Burro allotment. He didn't put any stock on the Burro allotment.

Mr. WOOLLEY. Forty-five head?

Mr. KNEIPP. Forty-five head; 25 he had previously, and the 20 he bought from Adams. During that year he got nonuse on that range.

In 1941 he got on the west side the 51 head yearlong, and a permit for 30 for the short season, to carry yearlings, and it was that year that the ranger proposed that he be allowed to transfer from the Burro allotment over to the House Rock, on the ground that he was going to make, was arranging to make, a transfer from Ben Wilmot, who had been grazing 35 head on the House Rock. Wilmot had been told he could not continue to graze on the House Rock unit, because he had no commensurate property. Vaughn rented Wilmot a range, outside of the forest, on the grazing district, and Wilmot's removal from the House Rock unit made available additional range. So in 1942 Vaughn was transferred from the Burro allotment over to the House Rock allotment, with a permit for 68 head of cattle from December 1 to April 30. The increase of 23 head in number permitted being based on Vaughn's purchase of that many permitted stock from E. W. Parker together with land in House Rock Valley. Vaughn continued to receive a permit for 51 head on the west side yearlong, plus 30 head short season.

So, up to the present time, Vaughn's total permitted preferences, built up the way indicated, amount to 119 head of cattle. The record shows gains from 1932, of which 68 grazed during the winter period, on the House Rock side, and 51 graze during the year on the west side.

Now, it seems that Vaughn and Broadbent and Mr. Schoppmann, on the east side, started pretty well alike. They were all interested in the Grand Canyon Cattle Co. water, bought the improvements. Vaughn has now gone up to a total of 68 on the east side, whereas Broadbent and Schoppmann have not. As I understand the case from the records that are here the difference is that Vaughn purchased other permitted stock which, under the rules and regulations of the Forest Service, entitled him to renewals of permits, and the other two gentlemen did not.

This does not show that Mr. Vaughn has become a cattle king; 119 head of cattle is not a very excessive number. Nor has it been granted to him all of a sudden, but as a result of rather slow growth, over a period of 10 years or more—11 years. And there is nothing in this record to indicate that the fact he signed a telegram as to the continued status of the Forest Service had anything to do with the action on his permits. Nor is there anything in the record to indicate that the fact that the names of Mr. Broadbent and the others were on the other telegram had anything to do with their failing to get an increase.

Now, I wanted to bring this much out here, where all these gentlemen can hear it. The files, as I say, are not complete. We would appreciate the opportunity to file with the committee a more complete statement, for incorporation into the record, if the committee wishes it, after it has become practicable to consult the major files. But, I think I have disclosed enough here so that if any of these gentlemen feel that the case is being misrepresented, they can tell the committee so.

(The following corrected statement was furnished to the committee by Mr. Kneipp, under date of September 23, 1943:)

PERMIT RECORD OF C. H. VAUGHN, KAIBAB NATIONAL FOREST

CENTRAL ALLOTMENT (WEST SIDE)	HOUSE ROCK ALLOTMENT (EAST SIDE)
1931. Grant 10 cattle yearlong.	
1932: Grant 10 cattle, yearlong.	6 horses, winter, temporary. There were no boundary fences and this was to cover stock grazing on and off.
1933: Grant 10 cattle, yearlong.	
1934: Grant 10 cattle, yearlong.	6 horses, winter, temporary, under same conditions as in 1932.
1935: Grant 10 cattle, yearlong.	25 cattle, winter. After completion of boundary fences, this permit was granted to Mr. Vaughn. Grant permits were issued to other applicants this year.
1936: Grant 10 cattle, yearlong.	25 cattle, winter.
1937: Grant 10 cattle, yearlong.	25 cattle, winter.
1938: Grant 35 cattle, yearlong. (Purchased 25 cattle from Hades Church, supported by bill of sale.)	45 cattle, winter. (Purchase with waiver of grazing preference from W. F. (Billie) Hamblin, supported by bill of sale for livestock. Property rights in water. Permit increased 20 head as result of purchase.)
1939: Grant 35 cattle, yearlong.	45 cattle, winter.
1940: Grant 51 cattle, yearlong. (Purchased 16 cattle from Merle V. Adams supported by bill of sale.)	45 cattle, winter.
1941: Grant 51 cattle, yearlong.	45 cattle, winter.
1942: Grant 51 cattle, yearlong.	68 cattle, winter. (Purchase with waiver of grazing preference from E. W. Parker 23 cattle, with bill of sale and deed to land in Houserock Valley.)
1943: Grant 51 cattle, yearlong.	68 cattle, winter.

Mr. PAGE. One item there—I don't pretend to know very much about Forest Service permittees and Forest Service allotments, because that is something between us clients direct with the Forest, but you mentioned Mr. Vaughn there purchasing Mr. Wilmot's preference. Mr. Wilmot was one of the permittees on the Little Mountain area, by reason of the lease from my client. That is all he had, and when that lease was canceled his permit was canceled, so I don't see how anybody else could have any right from purchasing that item.

Mr. KNEIPP. I failed to make myself clear there, Mr. Page. He didn't purchase Mr. Wilmot's property. Mr. Wilmot was over on House Rock Valley, without commensurability. Mr. Vaughn was here on the Burro's and wanted to get to House Rock Valley. Mr. Vaughn rented Mr. Wilmot a piece of range outside of the Forest, so

Mr. Wilmot could remove from the Forest, and that created a vacancy on the House Rock Valley, to which Mr. Vaughn could be assigned. He got no increase in preference, by reason of any purchase from Mr. Wilmot.

Mr. PAGE. Your mention of Mr. Wilmot made me come right back to those who were canceled. Mr. Vaughn had some canceled, by reason of the lease of our waters. Mr. Wilmot did; several others also did. And my point yesterday was: We left it right there. What they have done since I don't know; except the way that the Forest Service issues permits is beyond me.

Mr. ROYAL B. WOOLLEY. Well, this seems to be an attack upon the Woolley family, going back for 35 years; and I am going to ask Mr. Woolley, my brother, to answer it.

The CHAIRMAN. Well, I haven't caught the attack; but it's all right, if you think there is one.

Mr. ROYAL B. WOOLLEY. He went back 35 years, talking about how he came down here on horseback; and there seems to be something about way back 35 years ago we got everything taken away from us.

The CHAIRMAN. All right, Mr. Woolley. If you wish to answer it, you may.

Mr. ARTHUR WOOLLEY. Senator, please: Perhaps we have now already presented to you here the grievances of this group.

I was born at Pipe Springs. That national monument was created because I was one of the historic incidents that occurred. It is a true national monument, gentlemen. It is an old fort of historic interest. My mother lived there for 5 years to keep my father out of jail. He was a polygamous Mormon. I looked over this desert country when I was a child. I went to school at Kanab, and every spring when school let out I got on a horse and joined the round-up down near Fredonia. We gathered each day about a thousand head of cattle progressively to the Hurricane, and in the fall we wrangled the horses and night-herded the steers, until they got over to the other end of the range; and we trailed them night and day to the railroad.

I rode this range until I went away in 1908 and 1909 to Germany. In 1908 Mr. Kneipp came down here. At that time the forest supervisor of the Kaibab was a man by the name of Clark. He lived at our house and we all learned to talk on our fingers, so as to have the pleasure of communicating with him. I sat in on the conference, to which Mr. Kneipp refers and interpreted what was said to the supervisor on my fingers.

As a boy I looked over this back country and saw the cattle, lean and gaunt, mere dragging bags of bones at the bare water holes; and spirals of dust rising over this dry desert. I saw, lifting out of this desert country, that Kaibab, which is Indian for Mountain Lying Down. Running off, Kaibab dropped acutely into the Grand Canyon. There is a canyon commonly called the Saiwats. You have heard of it. Zane Grey wrote a book about it. I'll tell you what that means to me. If you ride down the Saiwats and back up the canyon—it is dry canyon, about 1,700 feet high—you can touch the side walls with your hands. You lean back over the cante of the saddle and look up and see only a little bit of the sky overhead. As you meander down that gulch you see clustered on the side walls of it what looks like a wasp's nest. If you bring that closer to you with binoculars you will

see what looks like a wasp's nest; plastered on the side wall of the Saiwats is a cliff-dwelling, a habitation made of cedar and brown cement, and you realize that once it was a human habitation. A man and a woman lived and loved in that wasp's nest on the side of the Saiwats. How did it get up there? How did it get there? You suddenly realize that when a man and a woman lived in that wasp's nest on the side wall of the Saiwats it was on the bottom of the wash.

Now, the man who lived in the Saiwats, in the bottom of the wash, went away to war, went over the Kaibab to war with the tribe on the other side, either to protect the hunting ground, or to extend it, or to defend it, and each generation of mankind since then—the man has gone away to war. And now we meet here in this day of 1943, all old men, and the best of this community have gone away to war.

Now, my father, E. D. Woolley, brought Buffalo Bill into this country. He was the first to introduce this country to the world of tourists and to realize its possibilities as a scenic center. He brought Senator Smoot, he brought Senator Sutherland, and he brought Zane Grey. He brought Theodore Roosevelt out to view the Grand Canyon for the first time. He spent a fortune building a trail from the top of the rim clear down to the floor of the canyon. I worked in the bottom of the Grand Canyon for 3 years, building the trail which the Government took over to build their present one. They turned it over to the Union Pacific.

The slur by Mr. Kneipp is totally unjustified. My father was never a selfish man for himself. He never ran a head of cattle on the Kaibab until he left here. He ran out on the desert.

Royal B. Woolley has not been a selfish man over the normal selfishness of men; and he now presents this charge of favoritism which may not be established beyond a reasonable doubt, not in his own interest, but in the interests of the people who live in this community now, and in the interests of the people who are going to come back here, these boys who come out of the fox holes, if they come, out of the holocaust of war, if they come, who are coming back here to a reservation, and a limited reservation, and under a bureaucracy, to live here in this limited area, under the multitude of bureaus and unctuous gentlemen who represent the Government.

I am saying here what all of these men have said. That is all I am saying, sir; what all these men have said. They raised sons. My father wanted us to go away, out of this hard country. My mother came into St. George with the first pioneers, because my grandfather led the group. She came when she was 5 years old. Read the Giant Joshua, gentlemen, if you want to know my history. I am one of Pipe Springs' children. She was one of the Snow Daughters, and she said to me many times when we twitted her about drinking tea, "The Lord would forgive anybody who was raised in Dixie, for drinking a little tea with their dinner."

The Senator has alluded to the fact that this is a hard country. There isn't a place in the world as hard to raise a family, and make a living, as this country. The battle with nature is severe, the geology of it is a cycle of droughts. These gentlemen talk learnedly about the country coming back under their management. God has a good deal to do with it. His favors don't always fall equally. Only yesterday, over at Maxine they were flooded out and a man lost his entire crop.

Now, what I am trying to say, Senator, is this: We very much appreciate your coming down here. We very much appreciate your coming down here with the attitude of a Westerner, one who knows that a coyote is a coyote, and he is not a sacred mandate of the Congress of the United States, of which you are a part, sir. And if you go down into the bottom of that gorge, like I do, and turn as many rocks over as I have, not to mar the beauty of the canyon, but to make it accessible to people who are up to see it, you will find under every rock you turn over a bug with a thousand legs, and a sting on his end. He is called a centipede, and bureaucracy, gentlemen, is a centipede, a thousand-legged bug with a sting on its end.

Now, you gentlemen are estimable gentlemen, good, simple, personally pleasing. Everyone of these men have said so, but you represent to this country the gradual encroachment of that thing called bureaucracy, until now, when these boys come back they will be wards of the Government on what is left that is worthless. The very nature here of the ground that you take, you only take the best. You say, "We consider carefully on what we do, and we go into a huddle with ourselves to consider carefully the exclusion of that which we do not desire, which is necessary to our purpose." You always keep the best. The top of these mountains is the summer range. Out on this one it is winter range, but it is the best range, and you take it. You take it. I have never heard it said so severely before, and I was down here 10 years ago, and I have been down here a great many times. I come here nearly every year.

I heard it the first time, sir, that the purpose of a monument withdrawal was to preserve a lava flow down a canyon. Preserve it from what? From a cow? From a cow that is eating the grass that grows between the lava rocks? Preserve it in its pristine state, a mass of black rocks that flowed down the depression, when it melts out of the earth, and then water washed the sand away from it and left it standing exposed? It is all over this country, because when this country was made, there was a belching out. It is recent, in geological history. Royal and I once brought in a group of geologists, who made a study of this country, and the man wrote a textbook about it. We know something of that country, and we want you men to let this country be used for what it is suitable and designed for.

And I say to you, Mr. Senator, that you ought to amend the Taylor Grazing Act, and exclude the limiting words in the opening sentence of it, give the Grazing Service, the Secretary of Interior at the head of it, control over all lands owned by the Government that are usable, most particularly the grazing lands.

Now, you made a timid gesture when you passed the Taylor Grazing Act to control the grazing in the West. You were afraid of the very bureaus you had created. You still are. You are afraid to say there shall be one bureau for each cow. Now, a poor old cow in this country can't carry more than one bureau; and these poor old cows out on this hill carry four. They can't carry more than one bureau. One cow, one bureau.

Now, take that back, Senator, as a slogan, "One cow, one bureau," and say to those people back there that you come from the West, and they want the cattle to eat the grass. They don't want the coyotes exterminated completely, and they never will be. But don't you go

back from Nevada and tell them that you gave these gentlemen a mandate to preserve a hundred thousand acres of good grazing ground as a breeding place for the coyote; and that you are going to preserve it, and you are going to let these unctuous gentlemen go off into a huddle by themselves when we leave here, and throw little barbs of twittings at Royal B. Woolley and someone else, Mr. Adams, who made a rash statement. Don't let them go off and write a rule, and they agree upon it, and it contains the same old thing; when a man dies his permit dies; and when he sells, his permit is exterminated; and that the little grass that the Government still leaves to these people is withdrawn from the man who came back out of this war.

Now, that is all these men have said to you, and I have said it once more.

I thank you.

The CHAIRMAN. Thank you, sir.

I occupy rather a peculiar position here, sitting here as chairman of a committee that is not with me. All these matters have to be gone over and reviewed by the committee. There isn't anyone who realizes human frailties more than the chairman of this committee, because he is plumb full of them himself. Men do things sometimes that entirely wrong interpretations are put upon.

I don't think there is any accusation justified, either one way or the other, as far as I have heard, up to date. If it ever comes a time when there are accusations justified, this committee has no fear. It owes no allegiance to any source, per se, excepting to the Government of the United States. The matter will be handled fairly and frankly; and if we just be patient with each other, and give credit to every man, everywhere, out on the range, or occupying a swivel chair; just give credit, one to the other, that each is trying to be honest, we'll get along a lot better. These matters will all be taken care of, we hope, as best we can take care of them, as quickly as we can work them out.

There are many problems here. The Congress of the United States consists of men from every section of the country. We have a great section of the country known as the West, largely west of the Mississippi River; and a great section known as the East, east of the Mississippi. Those who represent the States east of the Mississippi River have little or no conception of the mode and manner of life of those who occupy the great intermountain regions, and we are constantly confronted with the necessity of teaching, as it were, those who are from the far East as to the conditions that prevail in the West, so those of us who represent western communities and Western States have that additional burden to carry all the time. But little by little we are getting into it. Little by little this western country is developing, and little by little justice, that is sometimes denied, finally finds its way into the proper sources.

I want this meeting when it does break up to break up with the realization that sitting here alone as a member of this committee, I have tried to receive every suggestion and have it made of record and to throw in such suggestions as I myself might believe we could do.

I am very much inclined to try to work out the problems of the Park Service. I think that those who have utilized the Park Service areas for grazing should be permitted to continue, so that the Park Service may, to some extent, add to the wealth of the country, by

creating taxable property and not be entirely utilizing the taxpayers' money to maintain them.

At the same time, I realize that there is a good ground for difference of opinion. In other words, the Park Service should preserve the natural conditions as much as possible. These are all things that have to be worked out, and this committee, we hope, will be able to cooperate with the various services, to the end that, little by little, we will work these things out.

Now, that's about all I have to say. The chairman of this committee is going away from here with no accusations justifiably made against anyone that I have heard up to date. I will tell you frankly, that if I thought the Forest Service was guilty of some infringement of a proper rule, I would not hesitate a moment to say so. But up to date I haven't heard it said. So, let's not convict a man by mere accusation. Neither can you deprive a man of his rights by merely arbitrary action.

I think, as far as Mr. Woolley is concerned, he is like the rest of us, honestly and fairly and frankly struggling to gain the best he can by his energies and his efforts. He has met his difficulties just as many other men have met with difficulties; things have not always gone too smooth, but I think we must, in fairness, look at the other side. I think if that spirit prevails here, we will get a lot more out of the Arizona strip.

That is the review that I have right now. You can correct me if you want to, but right at this time, having heard it, I pass on it as I do.

Now, we have got to go on to another topic. I want to get the Grazing Service into this thing. I want to take a shot at the Grazing Service.

Mr. MACKELPRANG. I understood, Mr. Page, at the time Ben Wilnot made the transfer, Wilnot was leasing water from me, had run with me a lot during that time. At the time he left House Rock Valley he went up to Two Mile. He was leasing water from me.

The CHAIRMAN. All right.

Unless someone has something further to offer, I want to say this, that the record will be open to anyone who has anything to offer on this subject. That goes to the Forest Service, or Mr. Woolley, or anyone else. If you have anything further to offer on this subject, either the telegrams, or anything else, they will be received as a part of the record. You must remember that everything that has been said here, and everything that goes into the record must be reviewed by the entire committee, and passed upon by the entire committee.

Now, we come to the subject of House Rock Valley and the buffalo question. I would like to call on Mr. Mackelprang, with reference to the House Rock Valley and the buffalo.

Mr. MACKELPRANG. Well, I have no objection, myself to the buffalo running on House Rock Valley, or running in common with me. But, as I have always understood, from the time the Taylor bill started, the State game department had agreed not to exceed 200 head, nor run more than 200 head of buffalo. That is the impression I have been under all the time, and I have no objections.

The CHAIRMAN. Who has charge of the buffalo, the State, or the Federal Government?

Mr. LEECH. I believe they are under the jurisdiction of the State.

Mr. KARTCHNER. The Arizona Fish and Game Commission.

The CHAIRMAN. The Arizona Fish and Game Commission?

Mr. KARTCHNER. Yes.

The CHAIRMAN. How do you run them on the open public domain?

Mr. KARTCHNER. Well, they have run there since 1905, in common with the domestic livestock.

The CHAIRMAN. What arrangements have you, if any, with the Federal authorities, for running them on the open public domain?

Mr. KARTCHNER. If you want to go into that phase of it at this point, there has been a withdrawal there since December 31, 1930, and it never has been under the jurisdiction of the Division of Grazing.

The CHAIRMAN. Under whose jurisdiction has it been?

Mr. KARTCHNER. It has been open public domain, subject only to that withdrawal.

The CHAIRMAN. For what purpose was the withdrawal made?

Mr. KARTCHNER. The withdrawal was made as an aid in legislation, and future classification of the areas, having in mind a buffalo and wildlife management unit.

The CHAIRMAN. That was an executive withdrawal?

Mr. KARTCHNER. Yes, sir.

The CHAIRMAN. How many acres of land?

Mr. KARTCHNER. Approximately 44,000.

The CHAIRMAN. Have your buffalo been ranging on that withdrawal?

Mr. KARTCHNER. On and off; everything grazes in common on the House Rock Valley.

The CHAIRMAN. Is grazing permitted on this withdrawal to which you make reference?

Mr. KARTCHNER. By sufferance, on the open public domain.

The CHAIRMAN. Not by permit?

Mr. KARTCHNER. Shouldn't have been. I think some permits were issued by the Grazing Service, although it has been determined they have no jurisdiction.

The CHAIRMAN. What is the history of that, Mr. Leech?

Mr. LEECH. I would like, Senator, for Mr. Havell to give us his views on the Executive order of 1930, and the orders creating the Grazing District.

Mr. PAGE. Mr. Leech, have you any objections if I gave the whole history in the matter to start with, and then have the comments afterward on the record I have compiled?

Mr. LEECH. That would be perfectly all right with us—

The CHAIRMAN. Wait a minute, we have this gentleman here. His name is given to the chairman here as one who wishes to testify on this subject. We will be very glad to hear your statement, Mr. Mackelprang.

STATEMENT OF W. J. MACKELPRANG, JACOBS LAKE, ARIZ.

Mr. MACKELPRANG. Well, I don't know as I have anything to testify to. As I understand that agreement between the game department and the stockowners there, we was to run that range in that locality, and as it is set up it would support so many stock in that valley; and

the Game Department agreed, at the time of the commencement of the Taylor bill, they would run 200 head of buffalo in common with the rest of us. They agreed it wouldn't exceed 200 head.

The CHAIRMAN. What is the condition?

Mr. MACKELPRANG. They have a few over 200 head. I don't think it is the intent or the attitude of the Game Department of going over. It is probably an increase, I wouldn't say; but I imagine and judge it wasn't their intention.

The CHAIRMAN. What steps are taken to keep it down to 200 head?

Mr. MACKELPRANG. Well, they have hunts pretty near every year. They give a license, out of so many licenses given to deer hunters, all on the Kaibab Forest. Then they draw; individuals draw; and one gets a lucky number, and gets to hunt a buffalo. They come on there and hunt these. The State game department comes out; and it is my understanding that the man that gets the license, he gets the hide and head and a quarter of buffalo meat, and the State gets the other three-quarters.

The CHAIRMAN. Has that been every year?

Mr. MACKELPRANG. No; I think they have missed some years. But that has been a practice pretty well the last 2 or 3 years since this agreement was made. I understand they tried to keep them out.

The CHAIRMAN. Have you discussed this matter with the Grazing Service?

Mr. MACKELPRANG. Not too much. The Grazing Service told me there was a kind of a move on; that they had wanted some withdrawals for more land. But I never—the Grazing Service has never said that it was a fact. As I understand it, I found out—as I understand, that is why we are here today, to find out what the Game Department really wants.

The CHAIRMAN. Hasn't this matter been gone into with the representatives of the Grazing Service here?

Mr. MACKELPRANG. Well, it probably has.

The CHAIRMAN. Haven't you conferred with them?

Mr. MACKELPRANG. Not individually; no.

The CHAIRMAN. Have you talked with them about it?

Mr. MACKELPRANG. I have talked to them.

The CHAIRMAN. Who did you talk to?

Mr. MACKELPRANG. Mr. Blankenagel, when he was here, talked to Allen some. Of course I understood, in the first place, this Game Department asked for 44,000 acres withdrawal. Then I was told again that they had compromised, are asking—I think it was Mr. Brooks, if I remember right, last year—he told me they were asking for 26,000.

The CHAIRMAN. Is that the State game department? Is that what we should understand?

Mr. KARTCHNER. Yes, sir.

Mr. MACKELPRANG. And that's about all the information. I have talked with the game department—

The CHAIRMAN. Are the buffalo now impairing the open public domain by their numbers?

Mr. MACKELPRANG. Yes; there is a few more than their numbers. I haven't a count on them; I wouldn't say how many.

The CHAIRMAN. Are 200 buffalo too many on that range?

Mr. MACKELPRANG. Well, I don't think so.

The CHAIRMAN. Does that take any of the livestock off?

Mr. MACKELPRANG. Well, yes. The more buffalo you have got, of course, it would take more livestock. But I don't think it does, under the present set-up. As I understand, that is what our agreement was, in the first place. They was to have so many buffalo, and we was to have so many cattle. I don't think the 200 head of buffalo is going to take our permits away from us today. As I understand it, if it exceeds that, it will take down some of the cattle.

The CHAIRMAN. Would the department of the State wildlife, or fish and game commission, care to be heard now?

Mr. PAGE. I would like, if it is agreeable to the Grazing Service and the Wildlife Service, to have this presentation of the history of this whole area. I think you would all understand the arguments, and the points, a little better, if we had that first.

The CHAIRMAN. Very well.

Mr. PAGE. I have prepared a memorandum on the whole matter which, very briefly, has all of the status information. I will produce the memorandum for the record, but I will read it first:

MEMORANDUM BRIEF, JOHN H. PAGE & CO., PHOENIX, ARIZ., JULY 31, 1943

HOUSE ROCK VALLEY, ARIZ.,—PUBLIC LANDS—WITHDRAWALS

(a) By Executive Order No. 5522 of December 31, 1930, under authority of the act of Congress approved June 25, 1910 (36 Stat. 847), as amended by the act of August 24, 1912 (37 Stat. 497), approximately 44,000 acres of public land, being the public lands in the southern portion of House Rock Valley, and situate south of the north boundaries of sections 17, 16, 15, 14, and 13, T. 37 N., R. 4 E., and of sections 18, 17, 16, 15, and 14, T. 37 N., R. 5 E., were "temporarily withdrawn for classification and in aid of legislation, subject to the conditions of the aforesaid acts and to prior valid claims initiated and maintained pursuant to law." Such order states that it "shall continue in full force and effect unless and until revoked by the President or by act of Congress."

While not stated in said withdrawal order, although said act of June 25, 1910, requires that the public purpose of a withdrawal be specified in the orders of withdrawals, it is understood that such lands, which are suitable only for grazing purposes, were temporarily withdrawn pending proposed congressional action to provide an area for the grazing of a herd of buffalo owned by the State of Arizona. The then Governor of Arizona, George W. P. Hunt, was interested in the buffalo herd which the State had acquired from private owners, the original buffalo having been brought into House Rock Valley many years previously by "Buffalo" Jones and attempt made to interbreed them with cattle. Governor Hunt consulted with me, John H. Page, as to procedure to enable the State to acquire from the Government an area of public lands in House Rock Valley for buffalo range. I suggested endeavoring to obtain an act of Congress granting the land to the State of Arizona. I further suggested that while this matter was pending the public lands desired should be removed from possibility of other disposal and that there was a method for accomplishing this, viz, issuance of an Executive order under the act of June 25, 1910 (36 Stat. 847), temporarily withdrawing the land for classification and in aid of legislation. We, thereupon, took up with our congressional delegation as to obtaining such temporary protective withdrawal and as to obtaining an act of Congress granting the lands to the State. The withdrawal of December 31, 1930, above cited, quickly followed. However, the proposed act of Congress failed of accomplishment. Our congressional delegation advised that no bill could be passed granting the lands to the State of Arizona unless it should be provided therein that the State should pay the Government at the rate of \$1.25 per acre for the land granted. Governor Hunt objected to the State making any payment for the lands and there was no provision therefor. He then abandoned the project. There was no legislation. The temporary withdrawal continued.

(b) By Interior Department withdrawal order of July 9, 1934, all of the unentered, unreserved, unappropriated, and undisposed of public domain lands

within Apache, Navajo, and Coconino Counties, Ariz., were temporarily withdrawn from settlement, entry, or disposition in aid of exchanges authorized by the act of June 14, 1934 (48 Stat. 960) defining the exterior boundaries of the Navajo Indian Reservation in Arizona and for other purposes. This order was revoked as to certain described lands in Coconino County, including all lands in House Rock Valley, by departmental order of July 16, 1940, effective on September 16, 1940. In said revocation order all the lands included in the Executive order of December 31, 1930, (a) above, were specifically described together with further lands in House Rock Valley.

(c) By Executive Order No. 6910 of November 26, 1934, under authority of the act of June 25, 1910 (36 Stat. 847), as amended by the act of August 24, 1912 (37 Stat. 497), all vacant, unreserved, and unappropriated public lands in the States of Arizona, etc., were temporarily withdrawn "for classification, and pending determination of the most useful purpose to which such land may be put in consideration of the provisions of said act of June 28, 1934 (Taylor Grazing Act), and for conservation and development of natural resources."

(d) By order of the Secretary of the Interior of July 9, 1935, under authority of the act of June 28, 1934 (48 Stat. 1269), (Taylor Grazing Act) Arizona grazing district No. 1 was established, and all public land in House Rock Valley was placed therein. This order was modified by departmental order of October 23, 1940, "to include all vacant, unappropriated, and unreserved public lands, all lands withdrawn or reserved for other purposes that have heretofore been included in the district in accordance with the provisions of section 1 of said Taylor Grazing Act by approval of the head of the department having jurisdiction thereover, and all lands heretofore or hereafter acquired by lease under the provisions of the act of June 23, 1938 (52 Stat. 1033, 43 U. S. C., sec. 315-m-1, 2, 3, 4), commonly known as the Pierce Act, not excluding lands withdrawn by Executive order of November 26, 1934 (No. 6910), within the following-described area: Arizona, all those parts of Mohave and Coconino Counties lying north of the Colorado River." House Rock Valley lies north of the Colorado River in Coconino County.

Section 1 of said Taylor Grazing Act provides that the Secretary of the Interior is authorized, in his discretion, by order to establish grazing districts or additions thereto and/or to modify the boundaries thereof "Provided, That no lands withdrawn or reserved for any other purpose shall be included in any such district except with the approval of the head of the department having jurisdiction thereof."

Departmental regulations of January 6, 1913 (41 L. D. 454), contain the general statement under the act of March 4, 1911 (36 Stat. 1253-1254), that "For the purposes of this statute, national parks, Indian reservations, and reservations for water-power sites, irrigation, classification of lands, or other public purposes, created under the Withdrawal Act of June 25, 1910 (36 Stat. 847), are considered to be under the jurisdiction of the Department of the Interior; military reservations under the jurisdiction of the War Department; and reservations created for the special occupancy, use, or control of other departments under the jurisdiction of such departments, respectively."

Therefore the lands reserved by the withdrawal order of December 31, 1930, under the act of Congress of June 25, 1910 (36 Stat. 847), for classification and in aid of legislation, (a) above, the so-called buffalo withdrawal, were clearly under the jurisdiction of the Department of the Interior. As the Secretary of the Interior on July 9, 1935, (d) above, included said lands in Arizona grazing district No. 1 and confirmed this in his modification order of October 23, 1940, it is evident that he had his own approval as head of the Department having jurisdiction of the lands embraced in the withdrawal of December 31, 1930, (a) above, to include said lands in a grazing district under the provisions of section 1 of the Taylor Grazing Act.

The said lands were in fact included in Arizona grazing district No. 1 and administration thereof proceeded under the Division of Grazing, now Grazing Service, of the Department of the Interior. Adjudications were had under the provisions of the Taylor Grazing Act and regulations thereunder as to grazing privileges for the prior users of the range and owners of commensurate property. In this district principally water. The numbers of head of livestock for each cattleman were determined and allotments of land to each were made, either individual or community allotments. All the land in House Rock Valley was allotted. Grazing licenses were issued in conformity with the adjudications of grazing privileges. Grazing privileges for the buffalo were adjudicated the same

as for the cattle and based on prior use of the range by both. This although the State owned no water for the buffalo while the cattlemen owned water for their cattle. An adequate allotment was awarded for the buffalo and they grazed in common with cattle on the Grand Canyon community allotment. There was also an allotment for the grazing of the buffalo upon adjoining national forest land. The Arizona Game and Fish Commission had enunciated its policy regarding the management, grazing, and numbers of the buffalo herd by order No. a-454, unanimously carried at its meeting of December 11, 1940, except from the minutes of said meeting being attached hereto."

The CHAIRMAN. Has the Grazing Service, or is it, now, administering the land just the same as though it were open public domain, not withdrawn?

Mr. LEECH. We have not administered it, or collected grazing fees on this area, since July 1942.

The CHAIRMAN. But is it being utilized and allotted to the grazers of domestic animals?

Mr. LEECH. It is no doubt being utilized, and was at one time within the allotments of these users.

The CHAIRMAN. What changed that status, if anything?

Mr. LEECH. In 1942 there was some discussion with the Fish and Wildlife Service, some discussions—

The CHAIRMAN. That is the State fish and wildlife?

Mr. LEECH. No, sir; the Fish and Wildlife Service of the Interior Department. There were some discussions about the region, and Mr. Brooks was directed not to collect fees on that area, or administer it.

The CHAIRMAN. Not to collect fees or administer it?

Mr. LEECH. Yes, sir.

The CHAIRMAN. Does that mean that that withdrawal is in contemplation, to be taken out of the grazing district, eventually, and grazing denied on that area?

Mr. LEECH. Well, as to the status of the withdrawal, in 1930, and the inclusion in the district, Senator, I think that would be something for the Department of Interior to decide, as to the status of the land.

The CHAIRMAN. What I have in mind, the vision I have of it, it is a considerable area in the midst of a grazing district. If it be withdrawn from utilization by those who use the public domain under the Taylor Grazing Act, it is going to cut into the numbers that will be permitted to go on the range. Is that true, Mr. Leech?

Mr. LEECH. That would be true.

The CHAIRMAN. Then it constitutes a rather serious threat, does it not, at the present time, to those who are utilizing the open public domain?

Mr. KARTCHNER. We don't believe that is true, Senator, and I presume I'll be allotted time to make a general statement here, and I will cover those points.

The CHAIRMAN. The trouble is, Mr. Warden, as I view it, you haven't any jurisdiction over it. You're a State representative, and the State of Arizona has no jurisdiction over this withdrawal, if it be in fact a withdrawal.

Mr. DAY. Might I explain the situation, Senator McCarran? As has been outlined here, this old original withdrawal—there have been some questions as to its validity. The Fish and Wildlife Service came into the picture about 2 years ago under the so-called Pittman-Robertson Act, Federal aid and wildlife restoration, where the State is allotted funds with which to do wildlife improvement work.

Mr. Kartchner submitted to us a project to extend a water pipe line for fresh water out on to this area. That constituted about an \$18,000 expenditure at that time. We raised a question as to what right the buffalo had on this area, so we could determine whether this would be a substantial project to be financed from Wildlife funds, and whether the buffalo would be eliminated, and the moneys spent for improving livestock facilities; one of the requirements we are enforced to follow in passing upon this contract.

Mr. Kartschner, as I recall, had some difficulty in getting any particular agreement as to the long-time number of buffalo that might be permitted on the area. From that point it was found this old original withdrawal might be withdrawn in whole or in part for the buffalo. At that point we entered the picture, proposing to withdraw as a wildlife area a certain acreage which would be turned over or reserved under the jurisdiction of the Department of the Interior for use by the Fish and Game Commission of the State of Arizona, House Rock buffalo range and wildlife management area.

Under such conditions prescribed by the Secretary of the Interior, that was a withdrawal for the Fish and Wildlife Service for use by this buffalo herd, which would be administered by the State under an agreement with the Secretary, with the full intention they would continue to range off the area; the buffalo and the cattle would use the water—private waters—and the waters from the constructed pipe line.

The CHAIRMAN. The cattle would also utilize the surface of the withdrawal for grazing?

Mr. DAY. That's right; continued mingling; use by the cattle and buffalo. But there is still a question up to Mr. Kartchner, the State game warden, as to the numbers, and things of that sort.

Mr. PAGE. The order that I referred to, from the record of the minutes of the Arizona Game and Fish Commission, held "that the State game warden is hereby directed to work with the United States Grazing Service with regard to the proper management of the buffalo herd in common with cattle on the Grand Canyon allotment of grazing district No. 1, and the adjacent national forest land."

That is the record from the game and fish commission, certified by Mr. Kartchner, who is also the secretary of the commission.

The CHAIRMAN. I would like to insert a copy of that into the record at this point.

COPY FROM THE MINUTES OF MEETING OF THE ARIZONA GAME AND FISH COMMISSION
HELD DECEMBER 11, 1940

ORDER NO. A-454

Motioned, seconded, and unanimously carried that it shall be the policy of the Arizona Game and Fish Commission to hold the buffalo herd in Houserock Valley to 200 head and that approximately 50 head shall be kept during the spring and summer months in the vicinity of what is known as The Pools along the main highway, where they may be seen by the traveling public. This contemplates disposal of the excess above 200 head each year. The State game warden is hereby directed to work with the United States Grazing Service with regard to the proper management of the buffalo herd in common with cattle on the Grand Canyon allotment of grazing district No. 1, and the adjacent national forest land.

EXPLANATION

Messrs. John H. Page, representing the cattlemen on the above allotment; Roy Woolley, the principal cattle owner; and Messrs. Ray Painter and Emil Blank-

enagle, of the United States Grazing Service, attended the meeting in the interest of working out a satisfactory agreement with respect to buffalo in their relation to cattle which graze on the same range. Explanation has already been made of a pipe line, extending some 5 miles from the end of the present Forest Service pipe line out of South Canyon and it is intended to construct such a line under Federal aid as soon as the details can be worked out. In consideration of this improvement the Grazing Service and stockmen are entirely satisfied with holding the buffalo at 200 head. Heretofore the game department has had no water outside the Kaibab Forest and at one time the game and fish commission entertained a proposition by the cattlemen to cut the buffalo to 100 head and allow the other 100 of its recognized preference on the grazing district to be used by the cattlemen in consideration of furnishing water for the buffalo. However, when this pipe line was found to be feasible the commission at once recognized the desirability of holding to the present 200 plus the natural increase each year up to the time of the annual hunt, when its equivalent is to be killed.

I. K. C. Kartchner, do hereby certify that I am the duly appointed and acting secretary of the Arizona Game and Fish Commission; that the foregoing is a true and correct copy of excerpt from the minutes of the meeting of the said commission held on December 11, 1940.

K. C. KARTCHNER,

Secretary, Arizona Game and Fish Commission.

Mr. PAGE. Before I am interrupted, I would like to complete the whole history of it, Senator.

The CHAIRMAN. I am not going to guarantee you that, but you go ahead.

Mr. PAGE. We thought that, with that agreement which Mr. Kartchner told me about within the last 2 weeks, there has been no further official order regarding or concerning the buffalo. We had every reason to believe that the matter was settled, for all time, and that the buffalo allotment, in the Arizona grazing district No. 1, or adjustments to be made thereto, and the whole matter was in perfect condition for all future time.

In Mr. Leech's first decision, adjudicating the grazing rights in House Rock Valley, the decision of July 28, 1937, "On the Matter of the Application for Grazing Privileges of H. S. Stephenson, Trustee for the Beneficiary of the Grand Canyon Cattle Company, and appeal from the decision of the Regional Grazier, Phoenix Serial No. 076547, Arizona Grazing District No. 1," when, after extended hearings on the prior use, he rendered a decision on the whole House Rock Valley area.

Here is what he says about the buffalo:

All of the public land in the enumerated sections in T. 36 N., R. 5 E., having a carrying capacity of 143 cows yearlong, or the equivalent of feed units, are reserved for the purpose of pasturage for the herd of buffalo now roaming and ranging on the House Rock Unit.

These buffalo roam and range part of each year in the House Rock Valley, and part of the year on adjacent forest lands in the United States, under the jurisdiction of the Forest Service, Department of Agriculture.

Then followed adjustments when the buffalo reached 200 head, and the allotment was increased; so now, as I recall, the allotment is for 231 head of buffalo.

Now, the insertion of the Wildlife Service is beyond my comprehension. These buffalo were imported into this country about 1904, by Buffalo Jones, and placed on this range as an experiment, in conformity with, and the cooperation of, the old Grand Canyon Cattle Co., which was then operating. The winter range was House Rock Valley. Buffalo Jones incorporated a company, which we called

the Buffalo Jones Cattle Co. Here is a certificate of stock, dated December 1, 1905, which is of value as evidence of the time this project for interbreeding buffalo and cattle was initiated.

That project failed, and that herd remained in the valley. Originally, Buffalo Jones built some fences to keep them from going too far. In later years, the Government sued the Grand Canyon Cattle Co. for illegal fences, and got a judgment against the Buffalo Jones fences. They were all laying down, at the time, so it didn't amount to very much. But from that time on, those buffaloes have interbred, and they have ranged the whole country, until they have become a nuisance.

The final outcome was that the owners sold them to the State of Arizona, as a relic of old times, to be taken care of by the State. We cannot conceive—I mean by “we,” the cattlemen, and this community, which I think I represent—we cannot conceive that these buffaloes are in any sense wildlife. They are a remnant of wildlife, to be sure. But they are very much interbred; a relic that the State has held for interest; and the public should see them, so it was thought; and it was all agreed, with the State game department, that the cattlemen were very considerate; the Grazing Service was very considerate. Nobody questioned giving them preference, in their proper numbers, even though they had no water; while all the cattlemen had to be considered only on the preference of water. The whole country in House Rock Valley was allotted, the numbers determined, and the administration went to the State game department. They made this agreement with the cattlemen; and, until this pipe-line matter came into the picture, everything was in perfect accord, and we all thought it was settled permanently.

Now, when the buffalo didn't have any water, the old Grand Canyon days, that company rented them water from its different permanent watering places, the same as they did some of the cattlemen. They collected a nominal charge. During my time the collection was \$25. Then the game department got pretty hard up, during the depression, and prevailed on the company, and the company cut the charge to \$20. Up to the time those holdings were sold to the several individuals, not as a company, but as different holders in this association of holders—they have already gone on the record yesterday. That was in the latter part of 1939.

Then the question came up, between them and the State game department, as to future water. Those cattlemen made the offer that, if they would hold the buffalo to 200 head and get a watering place of their own so there would be another watering place, they wouldn't charge anything further, as far as they were concerned, for the use of the waters which they purchased.

That was the plan of the State game department, as the record I read showed; and for 3 years, nearly 3 years, the State has paid these cattlemen nothing for the use of the water for the buffalo.

Now, a few months ago, or recently this spring, this pipe line was completed. The obtaining of that individual watering place has evidently changed the attitude of the game department or the game warden. We find nothing in the game department records as to what jurisdiction they would like to have for the buffalo, and the Wildlife Service is, we find, just within the last week, injected into the picture.

Now, the Wildlife Service is all right. As I told Mr. Day, last night, I can't feature this little herd of tame, inbred buffalo being wildlife, owned by the State of Arizona. Further, I can't feature that a grant under the Pittman-Robertson Act—an outright grant to the State, as I understand the provisions of that act—should entitle the Wildlife Service to come into Arizona, with that as a toehold, and say, "We have made this investment, and we want to run it, and want to reserve it, now, for ourselves," and then get another reserve down there, on top of all of this. As I have asked, are they prepared to buy out the cattlemen who have the permanent waters, have been there with their predecessors in interest since the eighties, and to give them any compensation for damaging their vested rights, which have been adjudicated by the Grazing Division?

There apparently is no such attitude, or thought about it, just now, though the Wildlife Service has made—I cannot reconcile it; I don't think they have made an investment. I think that the provisions of the act—you know more about it than I do—the act was granted to help the States in their different little individual problems. The Grazing Service, which is already installed, and under an agreement with the State game department, can go along and continue and not have this whole thing now disrupted with a new thought of a new reservation to be made.

Senator, every organization in this State, every official in this State and, also, the game department, are on record against any further reserves, or Government agencies to run our affairs and take our lands.

Mrs. Keith, what is the attitude of the Arizona Cattle Growers Association on any more reservations?

STATEMENT OF MRS. J. M. KEITH, SECRETARY, ARIZONA CATTLE GROWERS ASSOCIATION

Mrs. KEITH. Well, for as many years back as I remember it, the Arizona Cattle Growers Association has gone on record regularly at its directors' meetings and its conventions against any further withdrawals by the Federal Government for any purpose.

Mr. PAGE. Mr. Williams is State land commissioner. You know, I am sure, the attitude of Governor Osborn as to any more withdrawals from the State of Arizona?

Mr. O. C. WILLIAMS (Arizona State land commissioner). He is definitely opposed to any new withdrawals; that is certain. There is no question about it.

Mr. PAGE. I don't know of anyone that wouldn't oppose more withdrawals. And, when we cannot see the necessity for a further agency, a special preserve, where it conflicts, and intends to take some of the vested rights of these small cattlemen—they aren't large cattlemen, Senator, but a group of small cattlemen who have been in that country—and that doesn't mean just Mr. Woolley, Mr. Vaughn, Mr. Schoppmann, and Mr. Mackelprang and Mr. Alex Cram. But all down through there they are going to be impinged on by further definite withdrawals, when everything is in perfect shape, but administration by the Division of Grazing; already adjudicated—when the cattlemen have given every consideration to the buffalo. We cannot comprehend why a new issue, just at this time, when everyone is

opposed to more withdrawals, and everyone knows that the cattle industry has got to have its very best years, right at the present time.

The CHAIRMAN. Who is promoting this additional withdrawal?

Mr. KARTCHNER. There are 44,000 acres already under this withdrawal. We only want a little more than half of it. We merely want to change the withdrawal to a little more than half of the original withdrawal, and give the other to the stockmen, or whoever it properly belongs to.

Mr. PAGE. That is on the basis, Mr. Kartchner, as you say, that it is a separate withdrawal, that never went into the Grazing Service. The record itself is otherwise.

Mr. KARTCHNER. I maintain to the contrary, Mr. Page, that it is not otherwise. I have documentary evidence, here, to show that it never was under the jurisdiction of the Grazing Service; never was in a grazing district No. 1. And this is corroborated, not only by the Solicitor of the Department of the Interior, but the General Land Office itself.

Mr. PAGE. Have you any such orders from the Department of the Interior?

Mr. LEECH. I don't know what records you are referring to.

Mr. PAGE. Have you ever seen any orders from the Interior Department; did they ever advise that that 44,000 acres was not properly within the Arizona grazing district No. 1?

Mr. LEECH. I don't know of the records; no, sir. I haven't seen it. There could be such an order, but I haven't seen it.

Mr. PAGE. It is not in the records in your Salt Lake office?

Mr. LEECH. Not in the records that I have before me, Mr. Page.

The CHAIRMAN. That was not the question. Do you have the record in the Salt Lake office?

Mr. LEECH. Not to my knowledge. If it is in the Salt Lake office, I believe I would know it.

The CHAIRMAN. All right, go ahead.

Mr. KARTCHNER. I have in hand a nine-page decision, by the legislative counsel of the United States Senate, to the effect that these lands never were under the Taylor Grazing Administration.

Mr. PAGE. That is just an opinion, Mr. Kartchner. We have all had opinions.

Mr. KARTCHNER. I had better change that word from "decision" to "interpretation."

Mr. PAGE. It is the opinion of an outside legislative authority. Now, a parliamentarian doesn't decide anything definitely—

The CHAIRMAN. How does the legislative counsel of the United States Senate come here?

Mr. KARTCHNER. They were asked especially, to see whether or not the Grazing Service had any jurisdiction over these lands. May I read a short excerpt from a letter of Senator Hayden? [Reading:]

I have now been told informally by the Legal Division of the Interior Department that this withdrawal still controls the area in question, and has not been changed in any way as the result of the passage of subsequent legislation by the Congress such as the Taylor Grazing Act, or by the issuance of further Executive orders or Presidential proclamations. Therefore, these lands are still controlled by and subject to the terms and provisions of Executive Order No. 5522, signed on December 31, 1930. This fact has been confirmed by the General Land Office on the basis of its records.

Mr. HAVELL. Senator, I guess the General Land Office has got to get in there. I think Senator Hayden's statement is correct. The Executive order of 1930 stands; it is in effect. That is what Senator Hayden has just stated. It doesn't go so far as to say that the lands thus withdrawn are not included in a grazing district. As a matter of fact, I don't believe the Department of the Interior has ever been asked for an opinion on the question.

I have a personal opinion; but since the General Land Office is primarily responsible for the public lands—it is the Government agency that processes all withdrawals—all questions of the withdrawal of public lands come to the General Land Office. I understand there has been submitted to the General Land Office, just recently, a request from the Fish and Wildlife Service for a permanent withdrawal, a withdrawal that will take the place of this temporary withdrawal, which was for classification in aid of legislation. Since the lands are within the boundaries of a grazing district, that of course was referred to the Grazing Service or, we have asked the Grazing Service for a report. No action has been taken by the Department on that request, as yet.

Knowing that this matter was coming up, I got in touch with the office this morning, and I asked that no final action be taken on the request for the withdrawal of these lands until the Department had the benefit of reading the record that is being made here this morning; so that I assure you, Senator, what is being said here, this morning, will be considered. And, doubtless, it will be very helpful in the final determination as to the proposed withdrawal.

The CHAIRMAN. I am very glad to get that enlightenment.

Mr. PAGE. Mr. Kartchner mentioned a letter from Senator Hayden. If you have no objection, Senator, I would like to read the letter from Senator Hayden concurrent therewith.

The CHAIRMAN. Is that the letter to which Mr. Kartchner referred? Should not that go into the record in its entirety?

Mr. KARTCHNER. I presume it would be satisfactory to Senator Hayden. It is part of our official record. I presume you would want that interpretation by the Legislative Counsel also?

The CHAIRMAN. For whatever it is worth. Personally speaking, I don't regard it as binding, at all.

Mr. KARTCHNER. I don't mean to use the word "decision," Senator. I appreciate that it is an opinion.

Mr. PAGE. I can read this letter, Senator, and then put it in the record.

The CHAIRMAN. I want all of these, in view of the statements made by the Land Department, just a moment ago. It seems to me everything pertinent should go in the report, here, because the record is going to have quite a bearing on the attitude of the Land Department.

(Thereupon Mr. Page read the following letter:)

UNITED STATES SENATE,
October 19, 1942.

Mr. JOHN H. PAGE,

Attorney at Law, P. O. Box 3706, Phoenix, Ariz.

MY DEAR JOHN: I want to acknowledge your letter of October 15 with regard to the status of grazing lands in the House Rock Valley, and beg to say that, insofar as I know, the memorandum prepared for me by Mr. Robert W. McMillan, As-

sistant Legislative Counsel of the Senate, who is now in the Army of the United States, cannot be considered as finally determining what the legal status of such lands may be.

When Mr. K. C. Kartchner, the Arizona State game warden, was in Washington last spring, he asked me to make an effort to determine the status of these lands as a result of the enactment of the Taylor Grazing Act. I discussed this subject over the telephone with the Interior Department and was informally told that the original temporary withdrawal of December 31, 1930, still controls the area in question and that its effectiveness had not been changed in any way as a result of the passage of subsequent legislation by the Congress. I asked Mr. McMillan to go into the matter for me since I did not want to put the Legal Division of the Interior Department to the trouble of returning the memorandum. Mr. McMillan took several months and finally produced the original memorandum, a copy of which you have seen.

I want to assure you that I am entirely disinterested and simply trying to be helpful to Mr. Kartchner in obtaining reasonably authentic information as to the status of these lands. As to the question of what agency of the Federal Government shall have jurisdiction over the administration of House Rock Valley lands, I want to make it clear that I feel that is something that is entirely up to the Interior Department agencies involved.

I am sure that Mr. Kartchner had no intention of precipitating any disagreement, nor do I believe it is his purpose to make any attempt to increase the size of the present buffalo herd. It is certainly imperative that all the livestock possible be produced at the present time in order to supply the requirements of our military forces and the civilian population as well as the members of the United Nations to whom our Government has given commitments. I should suggest that you talk to Mr. Kartchner in an endeavor to determine just what his purpose may be, since I believe that what he has in mind is to clarify the legal status of these lands to the best of his ability rather than to initiate a fight. Since there is in existence an agreement between the stockmen and the fish and game commission, it would be too bad to upset the status quo.

If you believe there is further information I can supply, please let me know.

With kindest personal regards, I am,

Yours very sincerely,

CARL HAYDEN.

The following letter and memorandum were submitted for the record by Mr. Kartchner:

UNITED STATES SENATE,
COMMITTEE ON APPROPRIATIONS,

July 25, 1942.

Mr. K. C. KARTCHNER,
State Game Warden, Phoenix, Ariz.

MY DEAR KARTCHNER: I want to apologize for my failure sooner to acknowledge your letter of May 22, with which you enclosed a map, and to advise you as to the outcome of the inquiry I addressed to the Solicitor's office at the Interior Department with regard to the status of the 44,000 acres of land in Houserock Valley which were included within a temporary withdrawal dated December 31, 1930.

I have now been told informally by the Legal Division of the Interior Department that this withdrawal still controls the area in question and has not been changed in any way as a result of the passage of subsequent legislation by the Congress, such as the Taylor Grazing Act, or by the issuance of further Executive orders or Presidential proclamations. Therefore, these lands are still controlled by and subject to the terms and provisions of Executive Order No. 5522, signed on December 31, 1930. This fact has been confirmed by the General Land Office on the basis of its records.

I requested the Office of the Legislative Counsel of the Senate to make a thoroughgoing investigation of this same subject, and I am sending you herewith a memorandum prepared by Assistant Counsel Robert W. McMillan, which may be of some interest to you.

I hope that this information will serve to clarify the situation for you.

With kindest personal regards, I am,

Yours very sincerely,

CARL HAYDEN.

P. S.—I should suggest that you now get in direct touch with Dr. Gabrielson.

MEMORANDUM FOR SENATOR HAYDEN

The following is submitted in reply to your inquiry with respect to the status of certain public lands located in the State of Arizona.

The lands in question are described in Executive Order No. 5522, dated December 31, 1930, issued pursuant to the authority contained in the act of June 25, 1910 (36 Stat. 847), as amended by the act of August 24, 1912 (37 Stat. 497). By such Executive order, such lands were "temporarily withdrawn for classification and in aid of legislation."

It is understood that such lands consist of approximately 44,000 acres which are principally suitable for grazing purposes and that the reason for such withdrawal was to provide an area for the grazing of a buffalo herd.

Such order states that it "shall continue in full force and effect unless and until revoked by the President or by act of Congress." There has not been found any order of the President or any act of the Congress which specifically revokes such order.

The act of June 25, 1910, as amended, authorizes the President to "temporarily withdraw from settlement, location, sale, or entry any of the public lands of the United States * * * and reserve the same for water-power sites, irrigation, classification of lands, or other public purposes to be specified in the orders of withdrawals."

The Executive order of December 31, 1930, would seem to constitute a reservation of such 44,000 acres of land. In other words, by virtue of such order, such lands ceased to be a part of the unreserved public domain.

The first section of the act of June 28, 1934 (48 Stat. 1269), known as the Taylor Grazing Act, provides, in part, as follows:

"That in order to promote the highest use of the public lands pending its final disposal, the Secretary of the Interior is authorized, in his discretion, by order to establish grazing districts or additions thereto and/or to modify the boundaries thereof, not exceeding in the aggregate an area of 80,000,000 acres of vacant, unappropriated, and unreserved lands from any part of the public domain of the United States (exclusive of Alaska), which are not in national forests, national parks and monuments, Indian reservations, revested Oregon and California Railroad grant lands, or revested Coos Bay wagon road grant lands, and which in his opinion, are chiefly valuable for grazing and raising forage crops: *Provided*, That no lands withdrawn or reserved for any other purpose shall be included in any such district except with the approval of the head of the department having jurisdiction thereof." [Emphasis supplied.]

A study of the legislative history of such act discloses that as the bill (H. R. 6462, 73d Cong.) passed the House of Representatives, the words which are emphasized in the above quotation were not included. Such words were inserted by the Senate. As presented to the Senate, therefore, the bill proposed to authorize the Secretary of the Interior to establish grazing districts, or additions thereto, from any part of the public lands of the United States, with the exception of national forests and certain other specified lands; no reference whatever being made, at that point, to either reserved or unreserved lands.

During the debate on the floor of the House of Representatives, Mr. DeRouen, the manager in charge of the bill, stated that the provisions of the bill were "applicable to all public lands of the United States outside of Alaska and not included in national forests, parks, and monuments, or Indian reservations" (Congressional Record, vol. 78, pt. 6, p. 6346). Thus it appears that, except for certain homestead and other rights initiated under other laws and the lands affected thereby which are otherwise expressly excluded from the operation of such act, the provisions of the bill, as it reached the Senate, were not limited to unreserved public lands.

This view is substantiated by the proviso which appeared in the first section of the bill as it passed the House of Representatives, and which reads as follows: "*Provided*, That no lands withdrawn or reserved for any other purpose shall be included in any such district except with the approval of the head of the department having jurisdiction thereof." (See also portion of such section heretofore quoted.)

The lands here in question would seem to come within such category of "lands withdrawn or reserved for any other purpose," by virtue of such Executive order of December 31, 1930 (temporary withdrawal thereof for classification and as an aid to future legislation).

Such proviso, plus the statement of Mr. DeRouen, clearly indicates that the intention of the House of Representatives, at least, was that the Secretary of the Interior could establish grazing districts from any part of the public domain—from reserved as well as unreserved lands—the only restriction with respect to lands reserved or withdrawn for any other purpose being that the consent of the head of the particular department concerned would be required in order to include such lands within any grazing district. This proviso was not disturbed by the Senate, and, as a result, became a part of the act as finally approved.

On the theory that the lands affected by the Executive order of December 31, 1930, are reserved lands, it would appear, except for such proviso, that the provisions of the Taylor Grazing Act, as finally enacted, are not applicable to such lands, since the act without the proviso would appear to authorize the inclusion within grazing districts of only "vacant, unappropriated, and reserved lands." The proviso creates an ambiguity.

When the acreage-limitation amendment was under consideration on the floor of the Senate, the following explanation was given by Senators Adams and O'Mahoney of the Committee on Public Lands and Surveys:

MR. ADAMS. * * * There is now an area of 173,000,000 acres of land, which is the residue after all the forest withdrawals, after all the national-park withdrawals, after all the homestead entries. * * *

"The bill does not authorize the creation of grazing districts comprising the entire 173,000,000 acres, but has been limited to 80,000,000 acres. There was some question as to whether or not all this land should be included; consequently, the committee has modified the House bill by restricting the authority of the Secretary of the Interior so that he may create grazing districts out of but 80,000,000 acres.

* * * * *

"MR. BORAH. May I ask the Senator why the limitation was made? In other words, out of the entire 173,000,000 acres, I understand the bill operates only on 80,000,000?

"MR. ADAMS. That is correct.

"MR. BORAH. Is the Secretary of the Interior to determine for himself in what particular portion of the 173,000,000 acres he will select the 80,000,000 acres?

"MR. ADAMS. That is true. It was the idea to have compact grazing areas and perhaps leaving out the fragmentary areas which were not suitable for compact grazing districts.

"MR. BORAH. Then it gives the Secretary of the Interior complete power to determine for himself on what portion of the 173,000,000 acres he will operate?

"MR. ADAMS. Yes; the original bill gave him the power to act with respect to the entire 173,000,000 acres, but the bill now pending really restricts his power rather than enlarges it.

"MR. BORAH. Yes; if he is to have the authority to deal with a portion of the land, why is it not wise to give him authority over the entire acreage?

"MR. ADAMS. I will be quite frank in saying to the Senator that my own judgment is that it would be preferable to have the entire area of public lands subject to that jurisdiction, but the committee seemed to feel it was preferable to provide a limitation. That action was agreeable to the Secretary of the Interior, who stated through his representatives that their survey indicated that only approximately 80,000,000 acres were so located as to be available for the creation of such grazing districts.

* * * * *

"MR. O'MAHONEY. I may say to the Senator from Idaho in answer to his question, that the amendment limiting the operation of the bill to 80,000,000 acres was the result of a belief upon the part of a great many of us in the public-land States that it would be unwise to clothe the Secretary of the Interior with the power to shut off all homesteading in the public-land States.

"If the Secretary were permitted to create grazing districts without limitation it would have been possible for him to have stopped all homesteading. It was testified before the Committee on Public Lands and Surveys that the present prospects are, however, that only about 50,000,000 acres would be needed for districts which are contemplated. Consequently, it was felt that a degree of assurance might be conveyed to those who still believe that opportunity for homesteading upon the public domain should be maintained by inserting the amendment, which has the effect of saying to the Secretary and to all who are interested in the development of the public domain, that only 80,000,000 acres

will be affected by the bill without act of Congress. This gives us the assurance that all the public-land laws will continue to apply upon the area which is not included in the grazing districts" (Congressional Record, vol. 78, pt. 10, pp. 11139 and 11140).

In addition, the following appears in the report of the Senate Committee on Public Lands and Surveys: "The total area of such grazing districts shall not exceed an aggregate of 80,000,000 acres" (S. Rept. No. 1182, 73d Cong., p. 2).

The purposes of the Senate amendment thus appear to have been first, to restrict the power of the Secretary of the Interior, under the act, to the use of not more than a total of 80,000,000 acres for inclusion within grazing districts; second, to insure that the lands comprising any grazing district would not consist of land reserved for some other purpose; and third, to prevent the Secretary of the Interior from shutting off all homesteading in the public-land States. Attention is again directed, however, to the fact that the proviso previously referred to was not stricken out, nor was it rephrased in order to clarify on the face of the statute the true intention of the Senate.

The last-mentioned purpose of the Senate and, of course, the Congress seems to have been defeated, however, by the issuance of Executive Order No. 6910, dated November 26, 1934, approximately 5 months after the enactment of the Taylor Grazing Act. Such Executive order temporarily withdrew "from settlement, location, sale, or entry" all of the "vacant, unreserved, and unappropriated public land in the States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, and Wyoming" and reserved such land "for classification, and pending determination of the most useful purpose to which such land may be put in consideration of the provisions of said act of June 28, 1934 (Taylor Grazing Act), and for conservation and development of natural resources."

It is understood that at such time practically all of the then vacant, unappropriated, and unreserved land suitable for grazing, which consisted of approximately 173,000,000 acres, was located in the States covered by such Executive order of November 26, 1934. The effect of such Executive order was, therefore, to withdraw and reserve practically all of the previously unreserved land in the public domain which was then suitable for grazing purposes.

The theory upon which such Executive order was issued probably grew out of an interpretation by someone in the Interior Department that the limitation of 80,000,000 acres applied only to "vacant, unappropriated, and unreserved lands," that that there was no acreage limitation on the use of reserved lands. In other words, any lands which had therefore been or should at any time thereafter be reserved for any purpose could be included in grazing districts; and, since most of the reserved lands were already under the jurisdiction of the Secretary of the Interior, the requirement of the proviso mentioned above, that approval be obtained by the Secretary of the Interior from the head of the department having jurisdiction over such lands, could be easily met.

At any rate, the matter was submitted to the Attorney General by the Department of the Interior for an opinion as to whether the approximately 173,000,000 acres of lands reserved by the Executive order of November 26, 1934, could be included within the grazing districts "without restriction as to acreage."

The opinion of the Attorney General on this question, when considered in connection with an event which thereafter transpired, has an important bearing on the question which is the subject of this memorandum. Portions of such opinion are as follows (38 Op. Atty. Gen. 350):

"It seems clear to me * * * that it was the intention of the Congress that not more than 80,000,000 acres of the lands which were vacant, unappropriated, and unreserved at the time of the act became effective should be included in the grazing districts authorized by the act.

* * * * *

"To hold that the (acreage) limitation in section 1 of the Taylor Grazing Act does not apply to lands reserved by Executive Order No. 6910 would seem to lead to an unreasonable result. As already stated, * * * at the time the Taylor Grazing Act was passed practically all of the then vacant, unappropriated, and unreserved public land suitable for grazing, consisting of approximately 173,000,000 acres was situated in those States now covered by Executive Order No. 6910. The effect of the Executive order was, therefore, to withdraw and reserve practically all of the public lands suitable for grazing that were unreserved at the time the act was passed. If the land so withdrawn could be included in the grazing districts without restriction as to the acreage practically the

whole of the public land unreserved at the time the act was passed could be included. Moreover, if the lands withdrawn by Executive Order No. 6910 could be included without restriction as to acreage, it would follow that land withdrawn under any other order, issued after the act becomes effective, could be so included. Hence, practically all public lands of the United States, chiefly suitable for grazing and raising forage crops, could be included in the grazing districts authorized by the act, as reserved lands. Under such circumstances, the grazing districts might include practically all public lands suitable for grazing purposes and still consist almost wholly of reserved lands—a situation certainly not contemplated by the statute.

"It thus appears that if the statute be interpreted to mean that the acreage limitation applies only to lands now vacant, unappropriated, and unreserved, and is not applicable to lands withdrawn by the Executive order in question, the limitation is in fact destroyed. Such an interpretation is contrary to the principle that a statute must be so construed as to give effect to every part of it, if possible.

"The statute at best is so ambiguous in the respects noted that it cannot be satisfactorily determined from its language alone whether the express limitation of 80,000,000 acres is intended to include or exclude lands unreserved when it became effective and only thereafter reserved. On that account, and because of the unreasonable result which would follow from a holding that the limitation does not apply to land reserved by Executive Order No. 6910 and because of the necessity of so construing the statute as to give effect to every part, the legislative history of the act must be considered in determining its meaning.

"For the foregoing reasons it is my opinion that the Taylor Grazing Act does not authorize the inclusion in grazing districts of more than 80,000,000 acres of the lands withdrawn by Executive Order No. 6910, of November 26, 1934." (By the act of June 26, 1936 (49 Stat. 1976), the acreage limitation was increased to 142,000,000 acres.)

It was the opinion of the Attorney General, therefore, that the words "not exceeding in the aggregate an area of 80,000,000 acres of vacant, unappropriated, and unreserved lands" were intended by the Congress to mean that not more than 80,000,000 acres of the lands which were vacant, unappropriated, and unreserved at the time of the enactment of the Taylor Grazing Act could be included in the grazing districts thereby authorized to be established.

The date of the opinion of the Attorney General was October 19, 1935. By Executive Order No. 7274, dated January 14, 1936, the Executive order of November 26, 1934, was amended by excluding from the operation thereof all lands covered thereby which were then, or might thereafter be, included within grazing districts established under the provisions of the Taylor Grazing Act, so long as such lands continued to be a part of any such grazing district. The reasons for issuing such Executive order of January 14, 1936, are not clear, but it may have been prompted by the view that only lands which are vacant, unappropriated, and unreserved may be included within grazing districts. At any rate, the effect of the Executive order of November 26, 1934, which were, or may hereafter be, included within a grazing district are to have an unreserved status so long as they remain a part of any such district.

The 44,000 acres of land here in question were not affected by the withdrawal order of November 26, 1934, since they were already in a "reserved" status on that date; and their status was not changed by the Executive order of January 14, 1936.

The opinion of the Attorney General certainly was that the acreage limitation in the Taylor Grazing Act, as originally enacted, was an over-all limitation and that not more than 80,000,000 acres of the lands withdrawn by the Executive order of November 26, 1934, could be included in grazing districts under the authority of such act. If the 80,000,000-acre limitation is an over-all limitation of the aggregate of the lands to be included in grazing districts, the words "of vacant, unappropriated, and unreserved lands" can only be construed to mean that all of the lands included within grazing districts must come from unreserved lands.

It might be said to follow, therefore, that lands which were reserved on the date of the enactment of the Taylor Grazing Act may not be included within grazing districts, at least so long as they are reserved lands. If such is the correct view, the action of the Secretary of the Interior in including within a grazing district the 44,000 acres of land reserved by the Executive order of December 31, 1930, until such Executive order is revoked, does not appear to be

justified, unless the proviso contained in the first section of such act and previously referred to herein, could be construed to authorize the Secretary of the Interior to include such lands by merely obtaining his own approval of such action, since he is head of the Department having jurisdiction of such lands at the present time.

As a result of the opinion of the Attorney General and the legislative history of the Taylor Grazing Act, a construction of that character would not seem to be justified.

The only explanation of the proviso that is at all plausible is that, as the bill passed the House of Representatives, the purpose and meaning of the proviso was clear; but that, after the addition by the Senate of the acreage limitation, the proviso is so worded that any attempt to give it any effect leads to an unreasonable result and defeats the purpose of the limitation imposed by the Senate. It would seem that the proviso should be disregarded in order that the later amendment of the Senate may be given effect.

Respectfully submitted.

ROBERT W. McMILLAN,
Assistant Counsel.

JUNE 30, 1942.

Mr. PAGE. I want to emphasize that for you, Mr. Day, for the reason that you remarked that Senator Hayden was interested in this wildlife proposition, and this is a direct statement that he has no interest in any special agencies; that he is going to take no sides whatsoever as to the different agencies. He feels that it is something entirely up to the Interior Department agencies involved.

The cattlemen will speak for themselves, Mr. Chairman. The position is that the whole matter was adjudicated, determined, and agreed upon. They are perfectly willing to cooperate with the buffalo, and help in this management, as they always have. But, in some new issue, like this one we have just uncovered, a new agency, coming in here to get a few preserves, and cut down their existing preferences, take away their vested rights—for that new agency to then turn it over to the State game and fish commission, for them to run; still another agency on top of us in House Rock Valley—and there will be a fight.

Mr. ARTHUR WOOLLEY. May I state one historical fact, Mr. Chairman?

The CHAIRMAN. Yes, sir.

Mr. ARTHUR WOOLLEY. The buffalo were brought into this country in the name of a man called Buffalo Jones. E. D. Woolley, our father, had us gather 200 head of cows off of this range, and trail them to the railroad, and turn the bill of lading over to Buffalo Jones, to take them to Kansas City, and sold them.

Then he went to Texas and New Jersey and into Canada, and bought a bunch of buffalo, 30 head; brought them back to the railroad. And we went out to the railroad and got them and brought them out here. He brought with him a man by the name of Frank Olmstead, and a man by the name of Jim Owens. The history of those two men, and Buffalo Jones, can be found in Zane Grey's *Last of the Plainsmen*.

He formed the Buffalo Cattle Co., which he opened when Buffalo Jones left, as he did immediately; and he and Owens and Olmstead tried to carry on the breeding of the "cattleope," a cross between domestic cattle and the buffalo. At the same time Theodore Roosevelt made available to Buffalo Jones six Caracul sheep that were a gift from the Shah of Persia; brought them down there; and gathered another herd of cattle out here, and sold them, and bought a herd of Merino sheep, to cross-breed them, and make a desert sheep.

When father died, and buffalo were just a nuisance, Jim Owens bought the half interest that the estate had, and then sold them to the State of Arizona when he got too old to handle them.

The CHAIRMAN. All right now, Mr. Day, I would like to have a statement from you, because I am just a little bit hazy on the preliminaries. Is it proposed to increase this withdrawal?

Mr. DAY. No; it is proposed to decrease the withdrawal, from some 44,000 acres to approximately a township of land that—this thing came into controversy here recently, over the boundaries of where the withdrawal might be. It was proposed to reduce it down from 44,000 acres to around 23,000 acres of land, which would be the equivalent of somewhere around 200 head of buffalo.

The CHAIRMAN. Then is it proposed—and either of you gentlemen may answer this—is it then proposed to segregate that from the open public domain that is now being grazed, of which this 23,000 is a part?

Mr. DAY. No.

The CHAIRMAN. In other words, the same arrangement would exist that now exists, whereby the buffalo and the stockmen participate in using the range jointly?

Mr. DAY. That is right. Our interest was to see there was some specific, definite right for that buffalo herd recognized from now on in this area.

The CHAIRMAN. Would that right take from the stockmen more than is being taken from them now, with the 200 head of buffalo?

Mr. DAY. I don't see where it is.

The CHAIRMAN. Of course, if it is, undoubtedly it is a charge upon the range, which now must be accounted for, because they are grazing animals, and they would count in the overgrazing of the area; so that the arrangement now contemplates 200 head of buffalo, and also contemplates the stockmen using the withdrawn area, just as they use the other part of the area?

Mr. DAY. Plus that water that was developed, Senator.

The CHAIRMAN. What is it?

Mr. A. T. SPENCE. May I ask this gentleman a question on that?

The CHAIRMAN. Certainly.

Mr. SPENCE. Has your department set aside, or asked for any specific area on House Rock Valley; set-up any cornerstone where you desire—

Mr. DAY. We have taken the advice of the State game department on this, because we are acting as an intermediary, for the perpetuation of this herd by the State. Mr. Kartchner has indicated an area that the State game department feels should be set aside in this withdrawal.

Mr. SPENCE. At what time did you make that request of the Division? Have you requested the Division of Grazing to set that aside for you?

Mr. DAY. We haven't requested it, discussed it with the Division of Grazing 8 months ago. Following that, our interpretation has been that the Division of Grazing had no jurisdiction, because the original withdrawal held; so that we did not discuss this particular item with the Division of Grazing at that time. Since then it has been referred to them for comment.

Mr. SPENCE. Then you have not asked the Division of Grazing for any corners to be set-up on that allotment for the buffalo?

Mr. DAY. No.

Mr. SPENCE. They are not aware of the area——

Mr. DAY. We have a maximum of difficulties on this thing. We have counterideas juggling back and forth——

Mr. SPENCE. You may not understand why I am asking this question, Senator. I am representing a man who particularly desires that this point be brought out—if they had asked the Division of Grazing to set them aside an area—and that is all.

Mr. DAY. Well, we have an original proposal for setting aside a certain tract of land which amounts to around 23,000 acres.

The CHAIRMAN. And you have discussed that with the Division of Grazing?

Mr. DAY. That's right. It's been under discussion between the Division of Grazing and ourselves for some time.

Mr. ARTHUR WOOLLEY. As a matter of fact, the Division of Grazing has made some kind of a survey recently; have they not?

Mr. DAY. Yes; I think possibly they have.

The CHAIRMAN. Mr. Leech, will you answer that?

Mr. LEECH. Yes; I believe an examination was made by Mr. Brooks.

Mr. BROOKS. I think it was in June.

Mr. ARTHUR WOOLLEY. Of this year?

Mr. BROOKS. When?

Mr. ARTHUR WOOLLEY. When did it first come to the knowledge of the cowmen?

Mr. BROOKS. Previous to that, and at that same time——

Mr. ARTHUR WOOLLEY. May I ask a question, Senator?

Mr. DAY. have you any written directive from your superior, the Secretary, or anyone over you, upon which you base the statement that you do not intend to ask for a segregation of use of this land?

Mr. DAY. No.

Mr. ARTHUR WOOLLEY. In other words, your statement now is merely your predeclared intention?

Mr. DAY. That's right.

Mr. ARTHUR WOOLLEY. What object could you have then, if you do not intend to segregate this land in use, to have the diminish in area and have it measured and delineated?

Mr. DAY. Because we feel that there should be, if this is going through by Executive order, to give us a specific claim for the buffalo herd to range in the House Rock Valley. It must be described in this Executive order, and as such, you have got to define where the area should be.

Mr. ARTHUR WOOLLEY. If you are not going to segregate it, if the Executive order already referred to covers it, why do you need another one?

Mr. DAY. I think if we got a legal interpretation we would still find that 44,000 acres would hold.

Mr. PAGE. That is where we differ.

Mr. DAY. I, personally, am willing to submit it to our solicitor and find out. Submit this Executive order, and that would formally clear this thing anyhow.

Mr. ARTHUR WOOLLEY. Is there any service that you know of in the Wildlife Division to in any manner effect the future use of any part of that area differently from that prescribed in the resolution of the

State Fish and Game Department of Arizona, or the State wildlife department as represented by this resolution that Mr. Page read?

Mr. DAY. Presently, no.

Mr. ARTHUR WOOLLEY. Presently, no?

Mr. DAY. As to what the future might be, I could not say.

Mr. ARTHUR WOOLLEY. What do you mean "presently," sir?

Mr. DAY. I mean at the present time.

Mr. ARTHUR WOOLLEY. How long would you figure you would have to change your mind?

Mr. DAY. Of course, I don't know how long I am going to live.

Mr. ARTHUR WOOLLEY. Would you say it would be for your lifetime, or occupancy of the office? Are you going to play with us here now?

Mr. DAY. My understanding in discussing this with Mr. Kartchner, he is perfectly agreeable to continuing this for the present war emergency, for the present situation. Perhaps in some future time there may be plans or specifications for some adjustments.

Mr. ARTHUR WOOLLEY. Now you are going to pass it over to Mr. Kartchner for the duration of his term of office, if that extends beyond the term of the war.

The CHAIRMAN. Well, it is very little trouble to clarify this: if a withdrawal is made, a permanent withdrawal. This was a temporary withdrawal.

Now, if a permanent withdrawal is made, the Department having jurisdiction of matters in the withdrawal can exclude very promptly, by order, anyone who has been using it. Don't be misled on this thing at all.

Mr. SPENCE. May I ask the gentleman another question, please?

The CHAIRMAN. Well, it's 1 o'clock, and I think the reporter would like a rest for a minute or so.

Mr. PAGE. I would like to bring out one point to clarify Mr. Day's remark, Senator. He said that the withdrawal would be cut down from 44,000 to 26,000, or whatever it is. We don't recognize that temporary withdrawal. The effect it would have would be that the allotment of the Grazing Service for the buffalo would be double over what it is now. That is the point.

The CHAIRMAN. Well, I don't quite catch that, but we will be glad to have it clarified.

We will take a recess for 1 hour.

(Recess until 2 p. m.)

AFTER RECESS

The CHAIRMAN. We are still on the subject of House Rock Valley and the buffalo question. I think probably the fish and wildlife agency of the State of Arizona might be heard now, if they care to be heard.

STATEMENT OF K. C. KARTCHNER, ARIZONA STATE GAME WARDEN

Mr. KARTCHNER. Mr. Chairman, at the outset, I would like to make this statement, that I am sure there has been some misunderstanding in this part of the State of Arizona, as to the attitude of the Arizona Game and Fish Commission, not only the attitude, but some of the underlying principles that have placed us in our present position.

I might say further, too, that the Commission harbors no ill will toward any individual stockman or group of stockmen. Neither does it hold any brief for individuals or groups of stockmen. It is our purpose to get along with them and we take pleasure, in most instances, in the fine relationship that obtains between the Commission and the stockmen of the State of Arizona.

Mr. Page made a very fine build-up this morning. I want to compliment him on the way he presented his case. However, there are certain omissions that were made, deliberately, or otherwise, that did not give a complete picture.

The State of Arizona bought the so-called buffalo herd in House Rock Valley in 1927, constituting at that time approximately 100 head. The State had no water at that time and it depended upon the waters that had been developed by stockmen some years previously.

On December 31, 1930, as has been stated, there were withdrawn some 44,000 acres in House Rock Valley for future classification, or, as an aid to legislation for final disposition of that area, based upon an application of the State game department for a range to be set aside for the buffalo herd and a wildlife management area. Mr. Page went into further detail on that, which I need not reiterate.

In the spring of 1940 I was appointed State game warden under the Arizona Game and Fish Commission, and I no sooner had taken office until my old friend, John H. Page, for whom I worked when I was 16 years of age, came in and we renewed an acquaintance, and it was very amiable. The first official point that he took up was the fact that we had too many buffalo, and proposed that we cut them down to around 50 head, which was all we needed for display purposes. I said, "Mr. Page, I am only new here, and it will take me some time to get the feel of things. I am not in a position to even discuss the matter, other than to keep it in the back of my head for discussion with the Commission later."

At that time we had close to 200 head, about the same number we have now. I asked Mr. Page what he knew about an old withdrawal that was made when I was with the game commission once before, having in mind this withdrawal of December 31, 1930. He said, "That has all been done away with by the Taylor Grazing Act of 1934, and the Grazing Service has already lined out the range, or is lining it out, and they are making an area there for your buffalo herd."

I said, "Do you have definite authority on that?" He said, "Why, sure, it was specific and definite."

I said, "Well, no doubt you are correct, but we reserve the right to check it."

On December 11, 1940, as was stated by Mr. Page, the Grazing Service and the cattlemen, represented by Mr. Woolley and Mr. Page, came to an official meeting of the game commission, with the proposition that we agree that we would hold the buffalo down to 200 head.

The CHAIRMAN. You say they came to you with the proposition?

Mr. KARTCHNER. Yes, sir. Each year through the medium of hunting such as we had carried on in the past we would keep it down. We discussed the matter at great length and we agreed that that was a very good set-up, providing, as they said, that the area was under the jurisdiction of the Division of Grazing. We went into all the factors,

including a proposition by the stockmen that we intercede with the Forest Service for additional cattle on the Kaibab National Forest, in consideration of their agreeing to our keeping the 200 head of buffalo. We told them we couldn't see where the connection was and that we had enough troubles of our own, without interceding for them on an area that was being administered by the Forest Service. We had the notes drawn up on the basis that we would reduce the herd to 200 head each year, and I turned to John H. Page and I said, "What about this withdrawal of 1930?" And again, he stated very positively that that had been rescinded by the Taylor Grazing Act.

I said, "Well, there is one exception to our making this statement of policy, and that is if we find that any rights accrued to the State of Arizona out of that withdrawal of 1930, we intend to assert them."

He once again stated that it had been taken over by the Taylor Grazing Administration, and there was no use to even consider the matter. The chairman of our commission, Mr. Charles P. Beech, at that time spoke up and said, "Oh, yes, that is correct."

In all our dealings on this matter we never have committed ourselves to giving up anything that might accrue from that withdrawal.

The matter went on, and we took it up with Senator Carl Hayden to determine just what the status of these 44,000 acres was, and you got the evidence this morning. That was the result of our investigation.

In the meantime, the Grazing Service came to the Department with the proposition we be allotted 14,000 acres in the extreme southeast corner of House Rock Valley, over next to the main bluff of the Marble Canyon, where it is cut up into numerous other box canyons which enter into it. We looked it over and told them that we didn't believe that that represented our equity in this range, since the buffalo had ranged there since 1905. We stated we had bought them in good faith, and we believed they had as good priority as any other interest. They never once intimated but what they had full jurisdiction.

The CHAIRMAN. Who?

Mr. KARTCHNER. The Grazing Service went ahead and classified each section of that 44,000 acres, and went so far as to outline allotments to the individual or group permittees. Eventually, we received the decisions which were presented this morning. A member of the Grazing Service mentioned the fact to me one day that he understood we had such a decision, and I told him, "Yes." He said, "May we have a copy of it?" And I said, "Surely. You can have a copy of anything we have in our files."

The CHAIRMAN. When you say the "decision," you refer to the—

Mr. KARTCHNER. I keep using the word "decision." That should be an opinion.

The CHAIRMAN. The opinion of the members of the legislative counsel?

Mr. KARTCHNER. That's right. When he read it, he got it in his files and he said, "We have known that since 1928."

The CHAIRMAN. Who said that?

Mr. KARTCHNER. A member of the Grazing Service. Do you want me to mention his name?

The CHAIRMAN. Certainly.

Mr. KARTCHNER. Mr. L. R. Brooks, sitting right here.

Let me say this for Mr. Brooks, he was not in on the original deliberation of the buffalo. He came in later. He showed me a letter

from Mr. F. R. Carpenter who, in 1938, was in charge of the Division of Grazing, stating that the 44,000 acres under this withdrawal, they had determined were not included in the land set-up by the Taylor Grazing Act.

Now, I submit this: The Grazing Service, in spite of that, went ahead and charged grazing fees. You heard that this morning. Up until 1942 they charged grazing fees.

The CHAIRMAN. On these so-called withdrawn lands?

Mr. KARTCHNER. The so-called withdrawn lands; in spite of this letter, of 1938, by F. R. Carpenter. If I may, I would like to have this letter by Mr. Carpenter put into the record, if the Grazing Service has a copy of it.

Mr. LEECH. That is the letter of June 18, 1938, which you are speaking of, Mr. Kartchner?

Mr. KARTCHNER. I am not sure about the date of the letter.

Mr. LEECH. Is this the letter, Mr. Brooks, that you showed to Mr. Kartchner?

Mr. BROOKS. That is the letter; yes.

Mr. LEECH. It will be placed in the record, Senator.

The CHAIRMAN. Very well. Could we know the contents of it now?

Mr. LEECH. I would be glad to read it.

DEPARTMENT OF THE INTERIOR,

DIVISION OF GRAZING,

Washington, June 18, 1938.

MR. HULING USSERY,
Phoenix, Ariz.

DEAR MR. USSERY: On June 2, Mr. Ryan inquired by letter concerning the status of Executive Order No. 5522, dated December 31, 1930, affecting lands now within the boundaries of Arizona grazing district No. 1. A copy of this order is enclosed. You will note that the enactment of the Taylor Grazing Act did not effect its cancelation, as indicated by the last sentence of the order.

The original plans of the Biological Survey contemplated the creation of a wildlife refuge in House Rock Valley in Arizona sufficient to afford range for 200 buffalo as a primary species, and secondary herds of 1,000 antelope and 1,500 mule deer. This number of game animals contemplated was, of course, unreasonable, and to date nothing definite relative to the establishment of that game refuge has been accomplished.

On the basis of an informal conference between J. N. Darling, then Chief of the Bureau of Biological Survey, and myself in June 1935, certain principles were mutually understood between us, although there was no formal agreement adopted or approved. These principles were embodied in a letter addressed to the Secretary of Agriculture on June 25, 1935, which was accepted by that Department. A copy of that letter is enclosed. The purpose, of course, was to clear the deck for the establishment of grazing districts within areas in which the Biological Survey had expressed a preference for wildlife refuges. Two of such refuges were contemplated in Arizona:

(1) The King of Arizona, which was later modified and is now practically abandoned insofar as the Biological Survey is concerned, in view of the contemplated establishment of Arizona grazing district No. 3.

(2) The House Rock Valley, which is discussed above.

The requests of the Biological Survey at that time substantially stalemated the establishment of the grazing districts within which these wildlife areas were located. No formal agreement pertaining to wildlife in Arizona grazing district No. 1 exists.

On May 12 you were furnished with a number of copies of joint regulations relating to the protection and administration of game ranges or wildlife refuges established in conjunction with the organization of grazing districts under the Taylor Grazing Act.

If the local representative of the Biological Survey has been afforded representation on the board in Arizona grazing district No. 1, he is, of course, restricted

in authority. He has not been appointed by the Secretary in the regular order, and his duties are not those of a regularly elected district advisor as described in the code. Division of Grazing Circular No. 3 provides for a wildlife representative on each board in New Mexico. He is, however, elected and must have the same qualifications as board members representing the livestock industry, except that he need not be an owner of livestock. Your granting a representative of the Biological Survey informal membership on the board is a good cooperative gesture.

Very truly yours,

F. R. CARPENTER, *Director*.

The CHAIRMAN. Very well.

Mr. KARTCHNER. Now, considerable has been said about the Arizona Game and Fish Commission agreeing to holding the buffalo herd at 200 head. But now it seems to be something else. I wanted to bring out clearly that all through our preliminary discussions, particularly with Mr. Page, we very consistently stated if we do have any rights under this proclamation of 1930 we intend to assert them.

Now, getting back to the 200 head, we never have indicated that we intend to increase the buffalo over 200 under present conditions. Naturally, when we got these decisions we ceased to recognize the Grazing Service as having jurisdiction over these lands and refused to go into a long investigation with them as to where we felt like our lines should run on a permanent allocation of range for the buffalo herd.

Not long ago we made application for an additional withdrawal, modifying the one of 1930, reducing it from some 44,000 acres to some 23,040 acres of public lands.

The CHAIRMAN. Why do you call it an additional withdrawal if it is a reduction?

Mr. KARTCHNER. I should not say additional. I should say an amended withdrawal, perhaps. In addition to the 23,000 acres there are something like 3,000 acres of school lands, we understand, under lease by the stockmen.

The CHAIRMAN. Within the withdrawal?

Mr. KARTCHNER. Within the withdrawal. We made our report and map public. For that matter, anyone could look at it that wished to. The Chief of the Division of Grazing made a report to the effect that the line was unsatisfactory. Again we go back to the best legal opinions available, and state that we can see no interest, no direct interest to be asserted by the Grazing Service, since they have no jurisdiction over the lands. They came back and stated that since they would fall their to what remained after we might be allotted this 23,000 acres, they felt that they did have a direct interest. We still failed to see that as a reasonable ground for taking too direct an interest.

The CHAIRMAN. In other words, "I will get what you leave, but I will direct you what to leave"; is that it?

Mr. KARTCHNER. Yes; that's right.

Now, in conclusion, we think the buffalo herd of Arizona is one of the most unique herds of its kind left in the United States. It is a wonderful attraction for people coming here from all over the United States. It brings people into the country, particularly when they have gasoline and rubber. It means business for the local people and business for the people of Arizona. Again, we feel they are of quite an economic value in the production of meat. There is very little difference between the buffalo and a cow. It is true,

you take domestic animals and feed them up to where they weigh more, and thereby they represent a greater amount of meat. But the difference is not much. It is true, they are publicly owned which, in a sense, might be taken as reducing private enterprise to that extent. However, the Arizona Game and Fish Commission is working for the public, the entire people of Arizona, and endeavoring to look after its interests to the best of its ability.

It is not a matter like a national monument or a national park where they sew up the resources absolutely for all time. It is a matter of settling upon a final allocation of range for a unique herd of buffalo, which is productive year after year. There is an annual crop; not only of meat but a great sporting event, some of the other notwithstanding to the contrary.

A lot of people say, "Why, I'd rather go out and kill my own milk cow"; but if you would go out and attend one of those winter hunts it is one of the greatest sporting events we have. In addition to the meat it produces, it is a great event.

Now, unless there is something further, I am happy to have had the opportunity of making this statement. I certainly have not acted in bad faith with anyone. We have not changed our minds or been underhanded in any way whatsoever. We have stated our purpose and gone ahead in good faith, trying to carry it out. It is not the intention of the Arizona Game and Fish Commission at this time to increase the buffalo herd beyond 200 head this winter. We will have to take off something like 50 head this winter, in order to comply with that agreement.

The CHAIRMAN. Now, if this new and amended withdrawal were made in accordance with your request, have you any assurance that that part of the present withdrawal not embraced within your new boundaries would be returned to the open domain?

Mr. KARTCHNER. As far as I know it would automatically go into the Division of Grazing, since it would be a hiatus, or a pocket in there between grazing district No. 1 and the new withdrawal.

The CHAIRMAN. Now, if this new withdrawal, which is an amended withdrawal, were to be approved, it would be a withdrawal that would direct the use of the land by some Federal agency, presumably the Fish and Wildlife. There could not very well be a withdrawal that would direct the use of the withdrawal by the State of Arizona. I might correct that; it could be used and would be used for the exclusive purpose of having the State of Arizona using it for a certain given purpose. But what I am now driving at is this: Is it your intention, as far as you know, if this amended withdrawal is approved, it will be removed from use by the stockraisers of the district?

Mr. KARTCHNER. Not at all.

The CHAIRMAN. Then you would use it as it is being used now. The two services would work together; the stockraiser would graze it as commoners, without permit, and without fees, and your buffalo would not only graze that district, but it would graze the outside as well?

Mr. KARTCHNER. That's right. I may add, on that point, something was said about supposing we can't work out a system there that is mutually advantageous. We have gone so far as to say if we find we cannot hit it off, we might eventually consider fencing,

but, so far as I can see, there is no intention to fence. Certainly we have committed ourselves very definitely not to consider fencing for the duration of the war.

The CHAIRMAN. Fencing off of 23,000 acres, or any number of acres—from the picture that has been presented here—and if that fenced-off area was precluded from grazing, that would militate against the grazers of that district.

Mr. KARTCHNER. There would be a portion of House Rock Valley which, prior to our water development, for the most part was dry.

The CHAIRMAN. I take it, from what I hear here this morning, that the stockmen of the district are interested in the question of whether or not the 23,000 acres, or any number of acres, is to be withdrawn from the grazing lands of that district. That seems to be the big controversy; and, very frankly, I don't know that that subject addresses itself to this committee at all, because it would be between the State of Arizona and the stockmen of this district.

On the other hand, where the Federal committee enters into it is whether or not there should be any withdrawal which would affect the rights of the stock grazers, or stock raisers in the district more than what there is now. In other words, to boil it down again from another angle, if you got your new amended withdrawal for 23,000 acres, you would get it permanently.

Mr. KARTCHNER. That is what we are asking for.

The CHAIRMAN. Today it is only temporary, a temporary withdrawal for a given purpose, until certain legislation is worked out, so if you got the new withdrawal, it would be a permanent withdrawal. Either you or the Wildlife Service of the Government could administer it as you saw fit; and you would exclude grazing domestic cattle on it if you saw fit; or you could admit them if you saw fit. It would not in reality come under the Grazing Service at all, unless it was by some other temporary arrangement. That is about the way you understand it?

Mr. KARTCHNER. Yes, sir.

The CHAIRMAN. Any questions?

Mr. PAGE. Mr. Kartchner, any criticism of your position is only to this point, that you assume from certain unknown sources, without any direct decision of the Secretary of the Interior, that the 44,000 acres in the temporary withdrawal for classification is not in Arizona grazing district No. 1; and you have gone on that basis, changed your working with the Grazing Division and gone to the Wildlife Service for assistance.

Mr. Day says that he came into the picture with the Wildlife Service to give the permanency to the buffalo range for the State of Arizona. Isn't that correct, Mr. Day?

Mr. DAY. That's right.

Mr. PAGE. By saying that, that is really an inference that the Grazing Division has no permanency and is not entitled to be considered as a permanent administrator of grazing rights, as was contended under the Taylor Grazing Act. In other words, there is a clash between two United States bureaus.

Now, when anybody tries to say that that 44,000 acres is not in Arizona grazing district No. 1, that it wasn't put in there and that it isn't still in there, I maintain that is incorrect, because who is the

authority who has the jurisdiction under the Taylor Grazing Administration, under those withdrawals which are under the Interior Department? The Secretary of the Interior in his original order put that "all areas in Arizona grazing district No. 1," in spite of that other withdrawal for the whole area, and confirmed that in 1940 by a modified order which confirmed it, and fully stated that it was in Arizona grazing district No. 1.

I can't conceive why the grazing district officials stopped collecting fees when they had no instructions from Washington that there was any subsequent ruling to change the status. Certainly there has been no revocation of the Arizona grazing district withdrawal orders and correction orders.

Mr. KARTCHNER. We take the opposite view, Mr. Page.

Mr. PAGE. To clarify that one point, Mr. Day said to reduce the present 44,000 to 23,000. Well, you know what the 44 is now, temporary withdrawal; and the present set-up for the Wildlife, with permanent withdrawal is the 23,000, but the Grazing Service allotment for buffalo for the 200 head is about half what that 23,000 acres would be. Therefore, the result, if it is successfully put over, these cattlemen in House Rock Valley would be the grazing allotment for the 200 head of buffalo would be doubled over what it is now, and they would lose the difference in the areas of their own allotments.

Mr. KARTCHNER. On whose authority do you make that statement, Mr. Page?

Mr. PAGE. What statement?

Mr. KARTCHNER. How do you know how much that land would carry, unless it is actually demonstrated?

Mr. PAGE. The Grazing Service has the figures on the carrying capacity.

Mr. KARTCHNER. Can anyone blame us for taking the advice of the Senate counsel, in Washington, D. C.; the United States General Land Office; and the Solicitor of the Department of the Interior? Is there any higher legal counsel than those three, working together?

Mr. PAGE. The Secretary of the Interior—

The CHAIRMAN. Will the Solicitor of the Department of the Interior give an opinion on that?

Mr. HAVELL. Mr. Graham, of the Solicitor's department, is not here. He has been with us on many occasions, but he is not here. I don't know that I am the proper person of the Interior Department to express an opinion here, but as I said this morning, I do not know of the question—everything having been referred to the Solicitor of the Interior Department. I don't know that the matter has ever been gone into, or an opinion expressed by the General Land Office.

My personal opinion is that the matter, when it was raised, should have been referred to the Solicitor of the Interior Department for an opinion. It has not been. I think possibly our good friends in the Grazing Service have been remiss in their duty in discontinuing the administration of this area until they got an opinion from the Solicitor of the Interior Department.

As I see the situation today, the lands are withdrawn, and if the theory that has been advanced here today is sound, then the lands are being grazed without any supervision or administration, which clearly is not the intention or purpose of the Taylor Grazing Act. What super-

vision is being given to these lands. Are they a "no-man's land" being grazed by any and everybody who wants to? I think it was the purpose of the Taylor Grazing Act to place grazing lands under an administration.

Mr. PAGE. All in specified allotments, Mr. Havell.

Mr. HAVELL. My personal opinion is—and I fear I might be reversed when the matter is referred to the Solicitor—my personal opinion is that under section 1 of the Taylor Grazing Act, lands that are withdrawn or reserved, may be placed in a grazing district with the consent of the Federal agency having jurisdiction. I think it could be really reasoned legally that since the Secretary of the Interior placed these lands in the grazing district, and since the Secretary of the Interior had the administrative jurisdiction over the lands that were reserved—the 44,000 acres—that the Secretary's action in so doing was his consent to the inclusion of the lands in the grazing district for administration. That is my personal opinion, and I may be reversed by the Solicitor, but once more, I think the record that is being made here is going to be very helpful to the Department in disposing of this question that is now before it, as to the future action on the pending questions for a supplemental withdrawal.

Mr. KARTCHNER. Let me say this: Naturally we are subject to any final decision that might be made. In this case, with the information available, we naturally come to the assumption that this area is not under the jurisdiction of the Grazing Service.

The CHAIRMAN. You asked a question a minute ago. You said, What higher authority could you follow than the advice of the Solicitor of the Interior Department? That immediately aroused my attention as to whether there was an advice, or conclusion by the Secretary of the Interior.

Mr. LEECH. Well, not to my knowledge, Senator. I am in a position on the case, Senator, I think we should have submitted it to the Department and had an opinion from the Department before we returned any grazing fees, or quit administering the area in 1942. I have to agree with Mr. Havell. I think we should have submitted it to the Department and been instructed.

The CHAIRMAN. I would offhand take that same view, because, as I understand it now, the Secretary of the Interior included these lands in the district. In other words, there was no distinction made between the temporary withdrawn lands and the general lands of the district and, when you allotted the lands to the stock growers, you included this temporary withdrawal as well.

Mr. LEECH. Yes, sir.

The CHAIRMAN. And you charged them for the use of it as well, just as you did the outside lands. That being true, the lands had that status until some order from the Secretary of the Interior came down changing the status. Wouldn't that appeal to you as being the reasonable position?

Mr. LEECH. That is the way it should have been, Senator, except no order has come down from the Department.

The CHAIRMAN. Therefore, you shouldn't have changed the service.

Mr. LEECH. Action taken by the Grazing Service, without reference to the Department, which I admit, in my opinion, was wrong.

Mr. KARTCHNER. What I have in mind here, Senator, is the statement of Senator Hayden that he had been told, informally by the

Solicitor of the Department of the Interior, that this was the case; and it had been confirmed by the records of the United States Land Office.

Mr. HAVELL. As I said this morning, Senator, the letter from Senator Hayden addressed itself to the existence of the temporary withdrawal, and I am quite sure, if the Senator asked, we said that withdrawal was still in force and effect, and it is, but I don't think the Senator addressed his question as to whether the creation of a grazing district had the effect of lifting that withdrawal, or modifying it. I think that is the purport of the letter from the Senator. I really think that is what the Senator meant.

The CHAIRMAN. I really think, gentlemen, we are largely making a tempest in a teapot as regards the present status. Let's assume that the Grazing Service has inadvertently, or otherwise, made a mistake and should have been charging fees for the use of these withdrawn lands. It doesn't affect the order temporarily withdrawing the lands. The lands still have the status of being temporarily withdrawn lands. Nor does it affect your position. You now come in and ask for an amended, permanent withdrawal, or rather, the Wildlife, I take it, would ask for that, or would you ask it?

Mr. KARTCHNER. No; the Game Department initiated that.

The CHAIRMAN. You asked for a permanent withdrawal, of an amended nature. That is the reason I asked you the question in the first place, would your application request the return of the surplus land over and above the 23,000 acres? It seems to me that it should. Otherwise, you would have a temporary withdrawal, and a permanent withdrawal within a temporary withdrawal, and you would still have the questionable status of the balance then, between this 44,000 and the 23,000 acres, which should be cleared up at once.

Mr. DAY. Mr. Chairman, to answer that question, the withdrawal that we had prepared and which was submitted to the Land Office, and turned back to the Grazing Service, where all of this circle began to start, says as follows:

Subject to valid, existing rights to an existing reservation for purposes affecting portions thereof, the Public Lands within the following described area are hereby withdrawn from all forms of appropriation under the Public Land laws, including the mining laws, and reserved under the jurisdiction of the Department of the Interior for use by the Game and Fish Commission of the State of Arizona as the House Rock buffalo range and Wildlife Management area, under such conditions as may be prescribed by the Secretary of the Interior.

It describes the land itself, and then the last paragraph:

Executive Order No. 5522 of December 31, 1930, withdrawing the public lands in the above-described area with other lands for classification and in aid of legislation is hereby revoked—

which turns the rest of it back to the grazing district.

The CHAIRMAN. That would clear the land; the difference between 23,000 acres and 44,000 acres would return to the open public domain.

Mr. ARTHUR WOOLLEY. May I ask Mr. Leech a specific question concerning this?

The CHAIRMAN. Yes.

Mr. ARTHUR WOOLLEY. How many acres in your total adjudication did you allot to the 200 head of buffalo?

Mr. LEECH. In the decision, Mr. Woolley, I said a carrying capacity for 143 buffalo yearlong, and, as the herd increased, other carrying

capacity, within the House Rock Valley, was to be furnished this herd. I gave, under the decision, and the map, no particular allotments. It was all in carrying capacity, based on the testimony of the range examiner that testified at the hearing.

Mr. WOOLLEY. What acreage do you give per cow?

The CHAIRMAN. Per buffalo?

Mr. WOOLLEY. No; domestic cattle?

Mr. LEECH. I believe the carrying capacity varies, in the House Rock Valley. I would have to ask Mr. Brooks as to the variation, of whether it is 10 acres, or 12, or 15 per head.

Mr. BROOKS. We figure, I think, anywhere from around 7 to 15 head of cattle, per section, yearlong.

The CHAIRMAN. How do you agree with the testimony given here yesterday as to the necessary acreage for support of one animal, one cow, one head of cattle, I think it was. I believe the testimony was one and a third grazing acres per animal.

Mr. BROOKS. No; that was forage acres, Senator.

The CHAIRMAN. Does the Grazing Service—

Mr. BROOKS. It takes several acres of land to produce a forage acre of feed.

The CHAIRMAN. The forage acres, as testified to yesterday, do you agree with that?

Mr. BROOKS. We agree with it; yes, sir.

The CHAIRMAN. That is all right. I just wanted to get the two departments to agree on the one subject.

Mr. PAGE. Well, Senator, speaking about the testimony yesterday, beautiful areas and meadows—

The CHAIRMAN. Waving grass, and mowing hay, and one thing and another—

Mr. PAGE. Were to be better to carve out a wildlife preserve area already under the Government—

The CHAIRMAN. It is all being used for grazing, isn't it?

Mr. PAGE. Not in the parks.

Mr. ARTHUR WOOLLEY. When they first brought the buffalo here they grazed them at Bright Angel. That is now in the park where the tourists go down there, in a very rich meadow.

The CHAIRMAN. I tell you frankly, gentlemen, it seems to me we have boiled this down to the point where the quarrel is between you gentlemen and the State of Arizona.

Mr. PAGE. It would be, Senator, if the Wildlife Service had not injected itself into the picture, bluffed the Grazing Division out and confused the issue, and it must be the one to get this withdrawal made under Federal authority. Therefore, it is a Federal question, and, therefore, we maintain, it is in the jurisdiction of this committee.

The CHAIRMAN. Did you say "bluffed the Grazing Service out"? You can't tie the Grazing Service down long enough to bluff them out.

Mr. ARTHUR WOOLLEY. I think they dogged them out with the coyotes.

Mr. DAY. Mr. Chairman, could I make a statement, on the position of the Fish and Wildlife Service? We have no intent in this thing, no particular desire to come in here and run the buffalo herd, no such intention. As I stated this morning, we came into this picture by authorizing the expenditure of some \$18,000 of money that we must

approve. To do that we asked the State to give us assurance that this buffalo herd had a permanent right in there, at least long enough to drink \$18,000 worth of water. If they couldn't do that, we wanted the assurance—they asked us if we would consider withdrawing sufficient land to take care of this buffalo herd. As to the 44,000 acres, Mr. Page himself told me last night that he planned the 44,000-acre withdrawal. In fact, I think he wrote the order and he helped get it through. Maybe it doesn't take 44,000 acres now, but it did at the time this withdrawal was made at his request, so I am assuming that the Arizona buffalo herd has some rights in there. It is something that the State of Arizona wanted away back a long time ago.

Mr. PAGE. The further project was to buy out the cattlemen's water there, too, along with taking the Federal range under this proposition. There is nothing there limiting the rights of the cattlemen's water.

Mr. KARTCHNER. Mr. Page, you told me they wouldn't take less than \$50,000 for the water.

Mr. PAGE. That's talking about 1930, when I handled it myself.

The CHAIRMAN. So now, more and more, I am coming to the conclusion that it is not within the province of this committee. It is between the State of Arizona and its own citizens. That is exactly what it looks like now.

Mr. PAGE. Not if it gets a withdrawal by the Wildlife Service, taking additional—

The CHAIRMAN. But, your State of Arizona is asking for the withdrawal.

Mr. PAGE. The game warden, not the State of Arizona.

Mr. KARTCHNER. I am merely representing the Arizona Game and Fish Commission, which in turn is representing the sportsmen of this State and the entire public.

The CHAIRMAN. The Legislature of the State of Arizona could stop this whole matter, in a twinkling. All the Governor would have to say is, "Mr. Kartchner, don't make that guess on authority of the State of Arizona." I still think it is the State of Arizona—

Mr. ARTHUR WOOLLEY. May I make this observation, Senator, that the original order was a withdrawal in aid of legislation which contemplated a gift to the State of Arizona, of certain lands. Now, the proposed withdrawal is not vesting anything in Arizona, but puts a control of another Bureau over an acreage of that land, a Federal Bureau, with no right in the State of Arizona.

Mr. Kartchner has undertaken to infer here that he was deceived and so is justified in now circumventing the agreement with these cattlemen. He lays that upon Mr. Page's opinion, which you now assume is not true. He now justifies a betrayal of that agreement which was incorporated in the minutes of the board, which employs and supervises him, which is still in force and effect.

Now, to entirely evade the effect of that agreement by inferring that he has been deceived, based upon an opinion which is contrary to Mr. Page's; therefore, Mr. Page and the stockmen have deceived the State of Arizona, and he is exonerated from the agreement.

Now, that is the worst I have ever encountered, in all of my life.

The CHAIRMAN. I don't follow you. I wish I could. But I can't follow you that the Wildlife Bureau of the Interior Department is involved in this situation. The Wildlife Bureau testifies here before

me that on request of the State of Arizona, speaking through its wildlife agency, they will ask for this permanent withdrawal. They say they don't want it themselves. They don't want anything to do with it. They will turn it over to the State of Arizona for their buffalo herd.

Mr. PAGE. But it will be theirs just the same.

The CHAIRMAN. If the State of Arizona doesn't ask for the withdrawal, I take it the Wildlife isn't going to ask for the withdrawal.

Mr. JOHN SCHOPPMANN. I understood him to say a minute ago that he understood they wanted \$50,000 for their holdings. I don't think Mr. Kartchner ever asked anyone what they would take for their holdings in House Rock Valley.

Mr. KARTCHNER. I asked Royal B. Woolley what it was worth, and he said, "You can't buy it for \$50,000."

Mr. ROYAL WOOLLEY. I said it wasn't for sale at any price.

The CHAIRMAN. Anyway, it does seem to me that we have intricacies enough here. I want to keep away from the entanglements—

Mr. ARTHUR WOOLLEY. I have commented on the commitment of the wildlife. Now they did not desire this supplemental or amended withdrawal.

The CHAIRMAN. Will Mr. Day correct me if I am wrong? My understanding from the statements made here before this committee this morning is that unless the State of Arizona requests through the Wildlife Bureau of the Federal Government a withdrawal for these buffalo, the withdrawal will not be requested by the Wildlife Bureau. Is that correct?

Mr. DAY. That is correct. We have that request, from the State of Arizona that this be done. This whole thing was started on that basis, as far as the legal question is concerned. I am perfectly willing to submit this to our solicitor and find out whether the original 44,000 acres is the same, or whether it isn't, and after we get that we can proceed from there.

As far as I am concerned, I think these boys ought to get together. If they can reach an agreement, I know that the Grazing Service and Wildlife can reach an agreement.

Mr. KARTCHNER. Oh, they are trying to get together. They want to put us over in the southeast corner with some 1,000 acres. We initiated the application in good faith. We requested the Fish and Wildlife Service to bring about an amended withdrawal for some 23,000 acres, in lieu of the original 44,000. That was our sponsorship throughout. The Fish and Wildlife Service made no proposal whatever, except in approving the project for \$18,000 in developing water. They, naturally, asked us what tenure would be there for the buffalo herd.

Mr. ROYAL WOOLLEY. Might I say something? I would like to ask Mr. Kartchner, talking about the State of Arizona. I would like to ask you if the State of Arizona is making this request, or the game warden of the State of Arizona?

Mr. KARTCHNER. The Arizona Fish and Game Commission is making this request.

Mr. ROYAL WOOLLEY. The State of Arizona is not?

Mr. KARTCHNER. I am asking for them.

Mr. ROYAL WOOLLEY. Do I understand you to say the request must come from the State of Arizona?

The CHAIRMAN. No; I didn't say that. What I said was this: Mr. Kartchner is a servant of the State of Arizona. He is either appointed or elected, I don't know which. I take it you are appointed.

Mr. KARTCHNER. That is right, by the commission. The commission is appointed by the Governor.

The CHAIRMAN. In other words, you are a servant of the State of Arizona; and certainly the State of Arizona through its sovereign set-up can stay your hand any time it wants to in matters of this kind. There is no question about that at all.

Mr. ROYAL WOOLLEY. I am sorry Mr. Page wasn't here when this first started, and Mr. Kartchner gave considerable prominence to the fact that at this Game Commission meeting referred to, on September 11 or December 11, 1931; the prominence in the discussion of any accrual from this 44,000 acres, he was going to take advantage of, and he said Mr. Beech also made the same statement.

Now, I was there, and I don't remember being given that promise. I do remember a little discussion, on the side, between Mr. Kartchner, Mr. Painter, and Mr. Page on the question as has been discussed here. Now, I have thought that if that had been given such prominence that the minutes would so state, that they reserved the right to anything that accrued. The minutes doesn't say anything about it at all. I don't remember the statement that way.

Mr. W. S. CONNOR. Chairman, Arizona Game and Fish Commission, Phoenix, Ariz. I want to clarify this remark of Mr. Woolley's that it was Mr. Kartchner's request for these different things. We commissioners are appointed by the Governor of the State of Arizona to administer the fish and wildlife in the State, and the State game warden is appointed by the commissioners, and we have given him full authority to make statements in this meeting.

Now, we would feel it very remiss in our duty to the people of the State of Arizona if we would not have it in the record here that we are representatives of the people, and what goes on here is being said for the people of the State of Arizona.

The CHAIRMAN. That is all right.

Mr. ROYAL WOOLLEY. Can I ask the gentleman a question? I want to know whether or not your board, acting formally on the matter of making the request through the Wildlife Division of the Federal Bureau—

Mr. CONNOR. Did they make it formally?

Mr. WOOLLEY. Did you make a formal request, as a board action of which you have minutes?

Mr. CONNOR. Through our Pittman-Robertson set-up, we have.

Mr. WOOLLEY. Did you meet as a board and pass a resolution or directive to your game commissioner to make this request of the Wildlife?

Mr. CONNOR. Absolutely.

Mr. WOOLLEY. On what date?

Mr. CONNOR. What occasion?

Mr. WOOLLEY. What date?

Mr. CONNOR. At a regular commission meeting.

Mr. WOOLLEY. Do you remember when it was?

Mr. PAGE. I asked Mr. Kartchner before I left Phoenix if there had been any minute entry concerning the buffalo matter since the minutes that I read this morning. He said there had not been.

Mr. KARTCHNER. Let's keep the matter straight, Senator. You had reference to another subject, Mr. Page. You said, "Have you taken any action to rescind that agreement of December 11, 1940?" And I said "No."

The CHAIRMAN. It all comes back again. I am sorry, I would like to change my mind, but I can't change my mind. I say the State of Arizona, acting through the executive department, can stay the hand of the fish and game commission of the State of Arizona, or Mr. Kartchner, as their representative, any time they want to. They can hold it up, or put the approval to the request.

Mrs. KEITH. Mr. Chairman, speaking for the Arizona Cattle Growers Association, I just want to take issue with the Fish and Wildlife Service, on one thing. A number of years ago—that was before Mr. Day, I think, was connected with it—I heard a man who was in charge of the Fish and Wildlife Service, then the Biological Survey, in Arizona, say that they deplored the fact that they own no land in Arizona, and that was too bad. So I think, maybe, in the background of the United States Fish and Wildlife Service they might like to own some land in Arizona. I just wonder if that policy has changed; so that they don't care any more?

Mr. DAY. I'd be glad to answer that. We are having difficulty in getting enough men to administer the lands that we have now. We are not looking for any more, particularly in Arizona. I don't know who said that, but we have no designs.

The CHAIRMAN. It boils down to the conclusion I came to some time ago. I can't see—

Mr. PAGE. Senator, if it is a withdrawal, proposed and in process, a withdrawal by the Interior Department for the Wildlife Service, it certainly is putting a Federal agency preserve in a new place, and making a new withdrawal in Arizona.

The CHAIRMAN. Yes, yes; but it is being made at the request of the State of Arizona. Now, there is no question about that. Mr. Kartchner speaks for the State of Arizona in this respect. If he doesn't speak for the State of Arizona he can be told so by the State of Arizona. If he does speak for the State of Arizona and he is making his request to the Wildlife Department of the Federal Government, who in turn makes a request for the withdrawal on the request of the State of Arizona—they have told you, over and over again, they don't want it. If they don't want it for themselves they want it only for the State of Arizona, speaking through its wildlife department. That is the whole story, isn't it?

Mr. KARTCHNER. That's the way I understand it.

Mr. ROYAL WOOLLEY. I would like to clear up one point right there. Is it the game commissioners, Mr. Kartchner, or the State of Arizona? I give you an instance; the Arizona Legislature was in session last year, and the State game department made the request, or introduced a memorandum, asking the State Legislature of Arizona to memorialize Congress to set 23,000 acres aside for a buffalo refuge; and the legislature—it foundered in the committee of the legislature. I want to know, is it the State of Arizona or Mr. Kartchner?

Mr. CONNOR. As chairman of the fish and game commission, I would like to reiterate our statement. We are requesting the Fish and

Wildlife Service to secure this land, in permanency, for the buffalo.

The CHAIRMAN. Yes, that is quite clear to me; and I think it is clear to Mr. Day, of the Wildlife Service. I think it is clear to Mr. Havell, and to everyone here.

Mr. ROYAL WOOLLEY. May I make a request?

The CHAIRMAN. Yes.

Mr. ARTHUR WOOLLEY. Well, we'll request that Mr. Day's Bureau do not act upon it until the State of Arizona, as the people think they are, have a reasonable opportunity to stop this thing. It has now just come to light to them that it is being perpetuated.

The CHAIRMAN. I don't know how far I can go here. I am feeling out for jurisdiction. To be very frank with you—

Mrs. KEITH. May we make the request, the Arizona Cattlegrowers Association, that the State game and fish commission ask for it as State land; that it be withdrawn as State land? We need some.

The CHAIRMAN. All of that addresses itself to your servants.

Mr. KARTCHNER. I might make this statement on that; that we had thought about, and would try anything. We would try anything we thought possible to secure that land as a permanent buffalo range, but it didn't seem possible to have it directly granted to the State. The only possibility there seemed to be was to have it included in the amended withdrawal through the Fish and Wildlife Service, to be turned over to the Arizona Game and Fish Commission for the operation of this buffalo herd.

The CHAIRMAN. Of course, all that the Federal Fish and Wildlife could do, after the Executive order was made withdrawing the territory, would be to turn it over to the jurisdiction and management for a specific purpose. The land would remain subject to Executive order, and the whole matter of lands would still be Federal land, withdrawn for a specific purpose.

Now, if you went into the subject of having the land turned over to the State of Arizona, I give it to you as my offhand opinion that you would have to go through Congress in order to do it.

Mr. DAY. The order, Mr. Chairman, that we have drawn, and this is nothing new—we have done this in several instances, under the Pittman-Robertson, where the State acquires tracts of land, and intermingled with Federal land—we have withdrawn those, and turned them over to the State for administration with their State land, which is just good business. This order as drawn stipulates specifically that:

It is reserved under the jurisdiction of the Department of the Interior for use by the Game and Fish Commission of the State of Arizona, as the House Rock buffalo and wildlife management area.

We couldn't use it in any other fashion under that order, than that, for use by the State of Arizona.

The CHAIRMAN. That's right. If the State of Arizona ceased to use it for that purpose—

Mr. DAY. This order would be invalid.

The CHAIRMAN. The land would revert and remain in your jurisdiction. It would be invalid as far as one part of it is concerned, but the Federal Government does not lose control over it.

Mr. SPEAR. I would like to know from the gentleman if the grazing of these buffalo will be limited to the lifetime of the game warden?

The CHAIRMAN. Well, may he live long!

Mr. ALEC FINDLAY. We have never objected to this 200 head. We don't care how many sections it takes to feed those buffalo, up to 200 head. We are willing to give them that. Now, all we want is what is left. We have agreed to that. That has been the understanding, all the time. This withdrawal, over where the water is, that was simply by the request of the Grazing Service. Now, we don't come into this picture until after Mr. Leech gave his decision on the House Rock Valley. We got 947 head, I believe, as I remember. Now we come in there in good faith, paid \$20,500 for that property; and under this withdrawal they come within 2 miles of our main ranch, which will virtually take all value away from it. It is not worth a thing, if we haven't any grazing privileges; just a water hole there, piped down from the mountain.

Now, we have never denied the Grazing Service anything of our facilities out there. They come and camp in our house, and I presume they burn our wood and keep warm—the game department does, and they are welcome to do that. We never made any objections, and we have watered their buffalo for something over 2 years for nothing; and, under these papers we got from the old company, we have a quitclaim deed to this particular water they piped down. Now, I don't know whether that quitclaim deed is worth anything or not. There is a lot of springs listed there. I don't even know where they are. But I do know where these South Canyon springs are. We have a quitclaim deed to them.

I don't know where the game commission got their water rights from; maybe from the Forest Service, prior to the time we got this water. The Forest Service had piped it down into the South Canyon area, and I presume the game commissioner got the right to pipe it on out. I don't know how he is going to use some area up at the pools, when the water is down there. If we decide not to water them any longer—we're not trying to run the buffalo out, but we want this thing settled; and we don't figure they should take our property away from us, which they do when they take our ground, because it isn't worth anything else.

That is all. Thank you.

The CHAIRMAN. All right, thank you.

I don't know that I have any right to make an observation on the matter at the present time. I can, maybe, express myself as to how it appears. It appears that this withdrawal would be a most unpopular thing, certainly in this section of the State of Arizona. From what I can gather, and this may be wrong again, but, from the expressions here today, it would look as though it is unpopular. It would seem to me, while I have no right to make any suggestion to the servants of the people of the State of Arizona, it seems to me it would be a time to pause and go into the matter, and get popular support for the activity.

Now, if I can address myself to the Federal agency, it would be partially along the same line. I don't know whether that would get anywhere, or not, but it would ease the situation.

Mr. HAVELL. As I said this morning, I got in touch with the home office, and I have asked that no action be taken in this matter until the report of this hearing can be examined. If there is anything

else that anyone here would like to present to the Department for consideration before action is taken, we would be very happy to get it.

Mr. LEECH. Mr. Chairman, in that connection, this proposed Executive order has been the subject of numerous conferences between representatives of the Fish and Wildlife and the Grazing Services. After we received the copy for our endorsement, we made a counter-proposal, as we explained this morning, I think the matter is still a matter for the users and the State to agree on, if they wish a withdrawal of so many sections of land. The Grazing Service is understanding, and has always insisted that there be enough carrying capacity set aside there for the 200 head of buffalo. I think Mr. Day and I are in perfect agreement on that, and always have been.

The CHAIRMAN. Again may I revert to the fact that the congressional delegation of the State of Arizona certainly should know of this; and certainly this record will be of great interest to them, Senator Hayden and Senator McFarland, and the Congressmen; and they are amply, and eminently, able to deal with it. It is presumptuous on the part of this chairman to make these suggestions, and I have been overly presumptuous in doing it; but I thought, perhaps, something might grow out of this that might bring ease into the situation.

Mr. PAGE. Senator, just one more thought as to the game department, and that is, before they proceed on that new basis, without anybody knowing it—in fact, we didn't know it, until recently, the Wildlife in this withdrawal, on a new set-up to another Federal agency—it would seem that they should have rescinded their agreement that was made, which I read this morning, and which the Commission members directed the game warden to work out with the Grazing Service, as to the buffalo in House Rock Valley.

Mr. A. T. SPENCE. Senator, if that closes that question, I have a case I would like to present.

The CHAIRMAN. I'll see if this is closed.

Mr. Royal Woolley, do you care to be heard further? I have your name here on the list.

Mr. ROYAL WOOLLEY. I don't know what there is left to be said. But I will say this: Mr. Leech said that we all recognized the fact that there should be an area set aside, equal to the carrying capacity of 200 buffalo. I think, as far as that goes, we are all agreed. I think, if that can be done, this thing can end in 10 minutes.

Now, I have been a member of the advisory board, and Mr. Leech stipulated, in his first decision there that there was an area there for 143 buffalo, and, as the herd increased, we gradually would increase the area; which we have done. I think we have moved back and enlarged the area three different times. Take the Grazing Service, I figure they should be the arbitrators in the matter. Well, it should go under their range survey, the area that has been approved by the advisory board and the Grazing Service. That area has a carrying capacity of 231 buffalo, year-long. We have no quarrel from there on.

The CHAIRMAN. They graze at large, do they not, with the other livestock?

Mr. ROYAL WOOLLEY. The other livestock piped their water down, and we got along fine, until they got some water, and then they got cocky.

The CHAIRMAN. Who, the buffalo?

Mr. ROYAL WOOLLEY. The game commission. They don't water at our waters, as they go dry. Our water goes close to the highway. I will ask Mr. Bowman, now, to say a word. He has a different angle to discuss.

STATEMENT OF HAROLD I. BOWMAN, JACOBS LAKE, ARIZ.

Mr. BOWMAN. I happen to be a representative of the game department, on the advisory board. After years of dealing with the tourists, that buffalo herd, of course, primarily has that issue with me, or with what I have been able to observe. I think a buffalo herd that is permitted to roam at large has a great value. If this controversy were to come to the point that we require fencing them off, in a corner, or place on the highway, you might as well not have a buffalo herd.

In other words, I feel that 50 head of buffalo would be worth more, along that highway, than a thousand would down there in an area that people couldn't have access to.

In connection with my lodge, out there, in the evening we run a colored picture, showing the Indians in their dances and ceremonials, along with scenes from Grand Canyon and Kaibab, in the fall; and then we wind up by showing the buffalo herd; and you'd be surprised at the interest that creates. If people were assured they could drive along the highway and contact this herd of buffalo, they are thrilled, because they are a wild, roving herd. But as soon as we place them under a fence they cease to have that value. So that it seems to me that if it could be agreed to have the 200 head, and let that become definite, instead of evading, and saying we are not now asking for more definite policies, there wouldn't be a controversy.

I maintain, if you take the tourist value away from the buffalo herd you have no value left. This morning there was a difference of opinion expressed on the sportsmanship of shooting a buffalo. All right; you go out here and come to a herd of cattle; you would have more trouble shooting one of the cows than you would have shooting one of the buffalo. I think any stockman would bear me out on that. It is kind of silly, especially when they herd one of them to the side, and tell the hunters which one to shoot.

I feel that the buffalo herd is really a tremendous value to the State of Arizona, and we should have it; and I think the control measure that has been adopted by the game department is right, in putting them up as a bonus to the fellow that buys a hunting license. I agree with them all on that, but I think too much value is placed on that and not enough on the tourist attraction.

In other words, I think the tourist business in Arizona is one of our leading industries. You eliminate that in the State, and you eliminate a big source of the revenue that comes from the outside, which adds to our resources, and is not just taking away all the time. So that may interests, and I have expressed myself like this for the last 4 years—I talked to the president of the Fish and Game Wildlife Association, which represents the sportsmen in this State, and made an appeal in a lot of places, that if an agreement could be reached with the cattlemen, so this herd could remain wild, and stay along the highway where people could see them, they would really be doing a service.

Now, I feel that, just in fairness to both sides, there should be a permanent policy agreed upon; no question from year to year until

the duration is over—that might be 6 months, or 6 years, and there is no permanency, or security, from a tourist standpoint. I would certainly like to see them settle the point, where we are sure this buffalo would stay along the highway.

Mr. PAGE. Mr. Bowman, how could the buffalo be along the highway if this new preserve is created down in the south part of the valley?

Mr. BOWMAN. They can't.

Mr. PAGE. That would remove the buffalo from any benefit to the tourists?

Mr. BOWMAN. The only way the buffalo can stay along the highway is with the consent of the ones who control the water and range along the area where the buffalo come. In other words, to be a tourist attraction, if the controversy goes on to the point that there is a distinct separation, then it means that a fence must be built, in order to keep them out. In order to preserve the buffalo at all, they need to be in an area—they would be kept away from water, and they wouldn't have any security, or any other place on the range.

The CHAIRMAN. All right. Thank you very much.

Mrs. Keith, do you care to be heard further?

STATEMENT OF MRS. J. M. KEITH, SECRETARY OF THE ARIZONA CATTLE GROWER'S ASSOCIATION

Mrs. KEITH. Senator McCarran, we would like to express our gratitude to you for coming here and holding this hearing. I think it has meant a lot to the people on the strip. We are all glad that you are the chairman of the Land Committee, because land is the basis of the livestock industry. In fact it is the basis of everything in the Nation. As you know, everything we have, or ever will have, comes from the land. So the proper use of this land is important.

The proper use of the land in Arizona—the citizens here have the privilege of using it properly, but only 25 percent of it, because 75 percent is under the control of the Federal Government. Then, the agencies administering the 75 percent are certainly charged with a grave responsibility, to administer it fairly, and for the best interests of the people. Of course, each one of us sees from our own little individual standpoint; the Park Service sees it from just including everything, so it will grow up wild; the Forest Service sees it from trees and the watershed; and the Grazing Service, well, I think they have not been organized long enough to have it settled on any one thing, but we will come to that later.

The CHAIRMAN. Are you referring to the Grazing Service?

Mrs. KEITH. Well, we see it from the standpoint of production, producing meat and producing taxation, and goodness knows, this country is going to be taxed, and it is going to be something to produce money. We have heard some people say that, temporarily, permits should be given during this period of need for beef. But it is not temporary, because there is going to be need for taxes, and the taxes are coming out of these gentlemen, who are here, not the gentlemen who are administering these lands—they will just pay the withholding tax, every month; but these other gentlemen are the ones who pay the taxes.

There is one thing that I would like to mention that seems too bad to us from this hearing. I gather by rumor there will be at least one

Federal official removed, and I think maybe there were one or two in the former hearing you held in Arizona. Now, I just wonder if these Federal agencies could not clean their skirts without an investigating committee by Senator McCarran. You couldn't come here often enough, probably, to keep the agency's personnel right. So I think that they should be charged with the responsibility of dismissing their men, when they know they are not fair, or doing the right thing, and not just shoving them off onto another unsuspecting State. That happens lots of times, where a man is not doing the right thing in one area; he is just passed on to someone else.

I think that the men who are here, most of them, are my personal friends; so I am not speaking of them as individuals, but as these bureaus. They should have the courage to dismiss a man who is working for the public and drawing a taxpayer's money, when he is not doing the right thing.

Again, I want to say, thank for you coming, and for the privilege of allowing us to meet with you.

The following letter, widely circulated in Arizona, was received after the hearing, for the record, from the Arizona Game Protective Association:

To All Citizens and Organizations Interested in the Welfare of Arizona:

HELP SAVE OUR BUFFALO

READ AND ACT—NOW

In 1905, under private ownership, a small herd of buffalo was brought into House Rock Valley in northern Arizona as an experiment in cross breeding with cattle. The experiment failed and in 1927 the State of Arizona purchased some 100 head in order to prevent the extinction of this fine animal and to give Arizona a rare tourist attraction.

In December 1930, at the request of the citizens of Arizona, the then President Hoover set aside 44,000 acres of Federal land in House Rock Valley for "future classification and as an aid to legislation" with the intention that all or part would be established as a permanent home for this buffalo herd.

After years of experience the State of Arizona decided that 23,000 acres would be sufficient to carry the herd and the State game department then proposed that an area of this size, from the already withdrawn 44,000 acres, be set up under the jurisdiction of the Federal Fish and Wildlife Service for administration by Arizona as a permanent home for these buffalo.

The land already having been withdrawn, Arizona, in cooperation with the United States Fish and Wildlife Service, under the Pittman-Robertson Act, then built an 8-mile pipe line into the area, thus insuring an adequate water supply for the herd.

Reasonable in our request and acting under the premise of the Federal Government's action in 1930 as regards these lands, all that remains to be done is that the citizens of Arizona urge that Senator Hayden handle for an amended Executive order establishing these 23,000 acres for continuous and permanent use by the buffalo. If this Executive order is obtained the Fish and Wildlife Service has agreed to handle as requested.

With no further withdrawal of land involved and with all interested agencies in agreement, it would seem that the Executive order required could easily be obtained. However, certain powerful Utah interests, who have for many years utilized land in northern Arizona, doubtless without or at nominal payment of taxes, now vigorously oppose any action which would set aside land for the buffalo herd.

These Utah interests want the entire 44,000-acre withdrawal canceled and the land set up under the ever land-hungry United States Division of Grazing, with the suggestion that this Federal agency would grant Arizona a license permitting use of the land by a specified and limited number of buffalo.

Under this arrangement Arizona would have no voice in the control of the herd, as the buffalo would then be under the jurisdiction of an advisory board, the

voting members of which are exclusively stockmen and, in this instance, preponderantly citizens of Utah, with no interest whatsoever in Arizona's buffalo herd.

These Utah interests are now active and doing all in their power to neutralize the many years of effort of the citizens of Arizona.

It is for this reason that we of the Arizona Game Protective Association now request and urge every citizen, every civic club, or other organization in Arizona to immediately take the only action possible in saving our magnificent buffalo herd; a letter by you to Senator Hayden requesting that he take immediate action to the end that the 23,000 acres desired be set aside.

Your Governor, the Honorable Sidney P. Osborn, is in full accord with this plan, is doing all he can, and now only needs your help to save your buffalo for you. Write Senator Hayden today.

HARRY FUNK,

President, Arizona Game Protective Association.

P.S.: The reason for our request that you write Senator Hayden is that he is entirely familiar with all the circumstances of this problem as it has developed over a period of years.

STATEMENT OF A. T. SPENCE, JACOB LAKE, ARIZ.

Mr. SPENCE. Senator McCarran, there are quite a few things here that I would like to bring out, and it has been requested of Mr. Allen to bring the records of the permittees of the Division of Grazing on the east side of the Kaibab Forest.

The CHAIRMAN. Who is Mr. Allen?

Mr. SPENCE. The district grazer.

The CHAIRMAN. Do you have those?

Mr. ALLEN. Yes, sir.

Mr. SPENCE. If he would bring them in here, I think we could bring this out, in short manner and not take up too much of your time; no controversy.

The CHAIRMAN. I suggest, if there are some records in this matter, that they be made available.

Mr. LEECH. What records does he wish, Senator?

Mr. SPENCE. The permittees of the Sandhills, and House Rock Valley, starting from the time that the permits were being issued, and up to date.

The CHAIRMAN. Permits or licenses?

Mr. LEECH. He means the case files on them, Senator. We will have those available from 1938. I don't know whether all the files prior to 1938 are available or not.

Mr. SPENCE. I also have a map made up here that will give these cases here as they stand on the ground. I think you can see from here to the board over there, and we can point out the cases as they come.

The CHAIRMAN. Do the cases involve a general policy in one direction or another?

Mr. SPENCE. Yes, sir. I will try not to take up any personal issues of it, at all, except to the administration of the Division of Grazing.

This map covers the Sandhills and House Rock Valley fairly well. It doesn't take in all of House Rock Valley.

Mr. LEECH. Now, what files do you wish, Mr. Spence?

Mr. SPENCE. First, Mr. Alec Cram's.

Mr. LEECH. Would you want to read that from the files?

Mr. SPENCE. I can ask you a few questions, Mr. Leech, pertaining to the files in 1936. What was Mr. Cram's permit allowed him at that time?

Mr. LEECH. Now, I have prepared here, by Mr. Allen, beginning in the year 1937—

Mr. SPENCE. In 1937, what was it?

Mr. LEECH. He was—the year 1937–38, Alec Cram, season, December 1st to April 30; 376 cattle.

The CHAIRMAN. Where is Mr. Allen now?

Mr. LEECH. He has gone to get some more files, Senator.

Now, the next reference he has is 1940. That seems to be from May 1 to November 30; 226 cattle.

Mr. SPENCE. And what was this year?

Mr. LEECH. The winter season of 1940, looks like December 1 to—I beg your pardon, from May 1 to December 31, 176 cattle and 42 horses.

Mr. SPENCE. And, Mr. Leech, may I ask you if the Division of Grazing is still operating under the theory of your original decision?

Mr. LEECH. I will have to ask Mr. Brooks and Mr. Allen if the decision of 1937, which was the adjudication of the House Rock Valley, has been changed in any way?

Mr. BROOKS. I don't know that it has. I haven't been in the area all the time during that period.

Mr. LEECH. Mr. Allen—

Mr. ALLEN. Do you want that tentatively, what that decision was?

Mr. LEECH. I have the decision.

Mr. ALLEN. There have been a few changes, but that is purely in sales of allotments, or one individual selling out to another man. Otherwise, the numbers practically remain the same.

Mr. LEECH. On this point, Senator, I would like to mention that on July 28, 1937, as chief examiner of the Grazing Service, after a number of appeals from the House Rock Valley, and a rather lengthy hearing, I rendered a decision, based on the testimony brought out at those hearings, adjudicating the House Rock Valley, attaching to each decision a map. That decision has been mentioned a number of times today by Mr. Page, Mr. Woolley, and others, and a paragraph or two of it was included in Mr. Page's testimony.

I would like at this time to put the entire decision and the map in the record.

The CHAIRMAN. You can't get the map in the record, but you can put it on file. We will take the decision, and, at your request, we will put it in the record.

Mr. LEECH. All right, sir.

(The following is the document referred to:)

DEPARTMENT OF THE INTERIOR, DIVISION OF GRAZING,
Salt Lake City, Utah, July 28, 1937.

IN THE MATTER OF THE APPLICATION FOR GRAZING PRIVILEGES OF H. S. STEPHENSON, TRUSTEE FOR THE BENEFICIARY OF THE GRAND CANYON CATTLE CO., AND APPEAL FROM THE DECISION OF THE REGIONAL GRAZIER, PHOENIX SERIAL NUMBER 076547, ARIZONA GRAZING DISTRICT No. 1

Decision of Regional Grazier Reversed. Grazing Licenses to Issue. Subject to Right of Appeal

FINDINGS OF FACT AND DECISION OF EXAMINER

March 16, 1936, H. S. Stephenson, trustee for the beneficiary of the Grand Canyon Cattle Co., Phoenix, Ariz., filed application, Phoenix Serial No. 076547, requesting grazing privileges for 7,000 head of cattle and 25 head of horses on public lands of the United States, within the boundaries of Arizona Grazing District No. 1. This application resulted in the issuance of a grazing

license, nonuse, for the year 1936 for 849 head of cattle on lands within the House Rock Unit of Arizona Grazing District No. 1.

February 6, 1937, applicant filed request for renewal of license from May 1, 1937, to May 1, 1938, for 2,000 head of cattle and 15 horses for the same period of time, stating in the application for renewal that same was made on basis of 2,500 head allowed as carrying capacity of the House Rock Unit, the area in which grazing privileges were requested.

Consideration of the application for grazing privileges May 1937 to May 1938 resulted in the decision of the regional grazier, dated May 1, 1937, granting to applicant 815 head of cattle from May 1, 1937, to May 1, 1938, within the House Rock Unit of Arizona Grazing District No. 1.

From this decision, Stephenson has appealed.

Formal notice of hearing issued, designating Fredonia, Ariz., May 27, 1937, as place and date of hearing, before J. H. Leech, examiner, Division of Grazing, Department of the Interior.

At the time and place designated, duly appeared Huling Ussery for and in behalf of the Division of Grazing. The appellant appeared by counsel, John H. Page of Phoenix, Ariz. Formal intervention was made by the following persons: Alex Cram, Royal B. Woolley, W. J. Mackelprang, William Brown, A. H. Brown, Ernest A. Curtis, J. F. Bonal, and Riley Baker.

Arizona Grazing District No. 1 is divided into units. Grazing privileges are granted to applicants and their use is within specified units. Thus, grazing privileges granted to H. S. Stephenson, trustee for the beneficiary of the Grand Canyon Cattle Co., would necessarily affect grazing privileges granted to the above-named intervenors, who have grazing privileges in the same unit. Any reversal or modification of a decision rendered by the regional grazier on the application of one would, to some extent, affect the privileges granted other applicants within the unit. Therefore, each of the above-named intervenors was duly notified of the place and date of hearing and appeared because of such notice having been given to them by the Division of Grazing office at Phoenix, Ariz.

Many witnesses were sworn and testimony was taken May 27 and 28, 1937. It was then stipulated and agreed that the hearing would be continued at a later date in order that the testimony of Range Examiner Miera, a material witness for the Division of Grazing, could be taken. The testimony of this witness was taken July 9, 1937, at Fredonia, Ariz., and gives the results of a detailed range survey made by the Division of Grazing in the House Rock Valley unit.

This survey covers the topography, carrying capacity, of both owned and public lands, location of artificial barriers, watering developments, and stock watering facilities. A very vivid picture is painted by this witness, and his testimony is supported by Division of Grazing's exhibits A, B, and C (of July 9, 1937). The three maps so identified are type cover maps, water facility map, land status map, with service area radii.

May 16, 1936, a hearing was held at Flagstaff, Ariz., involving the 1936 application of H. S. Stephenson, trustee for the beneficiary of the Grand Canyon Cattle Co. The entire proceedings of that hearing were introduced by counsel Page in evidence at the hearing held at Fredonia and such record, together with all exhibits, was before the examiner and considered by him in this decision.

Reference is also made by the examiner to the record made in the case of the *United States of America v. John H. Page, K. K. Kontz, and David B. Morgan*, defendants, involving Phoenix serial No. 072365.

Witnesses testifying for the Division of Grazing, the appellant, and the intervenors, were as follows: John Adams, Riley Baker, J. F. Bonal, A. H. Brown, Alex Gram, Ernest Curtis, Alexander Findlay, Charles Lewis, W. J. Mackelprang, S. M. Miera, and Royal B. Woolley.

The House Rock Valley unit of Arizona grazing district No. 1 is a triangular strip of land bounded by the Colorado River, the Vermilion Cliffs, and the Kaibab Forest. It contains the following lands:

Patented.....	1, 260
State.....	16, 820
Public water reserve.....	1, 945
Vacant.....	142, 846
Withdrawal.....	23, 620
Homestead entry.....	1, 760
Power site.....	2, 020
Total area.....	190, 271

The parties, in addition to the appellant, using this area and to whom grazing privileges have been granted on applications filed with the division of grazing, are as follows:

William M. and A. H. Brown (serial No. Phoenix 077032), 62 head of cattle yearlong.

W. J. Mackelprang (serial No. Phoenix 077098), 628 head of cattle yearlong.

Earl P. Parker (serial No. Phoenix —), 17 head of cattle yearlong.

Ernest A. Curtis (serial No. Phoenix 077253), issued on a basis of a protected pasture, 20 head of cattle yearlong.

Royal B. Woolley (serial No. Phoenix 076847), 377 head of cattle yearlong.

Alex Gram (serial No. Phoenix 076609), 439 head of cattle yearlong.

Riley Baker (serial No. Phoenix 077240), rejected.

Jules F. Bonal (serial No. Phoenix 076107), 310 sheep May 1, 1937 to May 1, 1938

The applications filed by these applicants, who are considered as intervenors, are made a part of the record and such applications list in detail the commensurate property offered by these applicants on which basis grazing privileges were requested.

The history of the cattle industry in this unit was given by the testifying witnesses. Witnesses testified as to numbers of stock run by the Grand Canyon Cattle Co., the numbers of stock that used the watering places of the Grand Canyon Cattle Co., which had been leased to other operators after the company ceased its operations in the House Rock Valley some 10 or more years ago.

The various stages of development of the watering places of Cram, Mackelprang, Baker, Bonal, and Woolley are given at length in both the record made at Flagstaff, Ariz., May 16, 1936, and the record made at Fredonia, Ariz., May 27 and 28, 1937.

The testimony as to numbers of stock and prior use from commensurate watering is contradictory and variable. There is no doubt that the public lands of the House Rock Valley have been abused over a period of years by overgrazing. Various operators have found it necessary to move stock from the valley to prevent their death from want of food during the years 1933 and 1934.

From the contradictory nature of the testimony and the uncertainty of witnesses as to carrying capacities, amount and volume of water, service areas, and direct conflict as to prior-use numbers, it would be impossible to grant grazing privileges on the basis of testimony adduced by the appellant and by intervenors.

FINDINGS OF FACT

(1) Testimony of interested witnesses as to service area and prior use is conflicting and can be given little weight or consideration in applying commensurate rating standards.

(2) The waterings offered as commensurate property by H. S. Stephenson, Alex Cram, W. J. Mackelprang, and Royal B. Woolley are admittedly class I properties as defined by the rules of January 28, 1937. These applicants have an overabundance of stock water and are qualified in volume of water far in excess of carrying capacity available on public lands of the United States within the House Rock unit. Applicants Brown, Parker, Curtis, Baker, and Bonal come within the purview of class I definition of preferences contained in the rules of January 28, 1937, but their properties do not have the commensurate value of both volume of water and prior use numbers as possessed by the commensurate properties of Stephenson, Woolley, Cram, and Mackelprang.

Applicant David C. Lowery, holder of grazing privileges in an adjoining unit, has some use in the northeast portion of the House Rock unit, such use being fully described in finding of fact No. 14. In finding of fact No. 14, provision is also made for preferences of W. R. Russell.

(3) The division of grazing has conducted a thorough range survey and examination in House Rock unit, the results of which survey and examination are given in detail by Range Examiner Miera.

(4) On the basis of the range survey made by Range Examiner Miera and his party the following findings are made: The survey shows that the carrying capacity of the House Rock unit is 2,141 cows yearlong, such figure being arrived at after elimination of types and within the unit but appearing on division of grazing exhibit A (July 9, 1937). This basis was used in an endeavor to arrive at

commensurate ratings due to the topography of the country and location of natural barriers.

(5) House Rock Reservoir unit (consisting of the reservoir and its feeder spring) services the following described area within a 5-mile radius, as limited by competing waters:

Beginning at the NW corner of sec. 15, T. 39 N., R. 3 E.; thence south and east along the forest boundary to the west quarter corner of section 30, T. 38 N., R. 4 E.; thence in a northeasterly direction to a point one-eighth mile south of NW corner sec. 29, same township and range; thence northeasterly to the SE corner of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of sec. 16, T. 38 N., R. 4 E.; thence northerly to the SE corner of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ sec. 21, T. 39 N., R. 4 E.; thence westerly and northerly along the Vermilion Cliffs to the S $\frac{1}{4}$ corner sec. 11, T. 40 N., R. 3 E.; thence west one and one-half miles to point of beginning.

This area is also serviced by Parker tank, located in sec. 31, T. 39 N., R. 4 E.; Hod Brown tank in sec. 14, T. 39 N., R. 3 E.; and Bonal tank, located in sec. 27, T. 39 N., R. 4 E., and is used in connection with the protected pasture of Curtis. While One Mile and Two Mile Springs both are available to service the area, they are not within House Rock unit and are contending for no grazing privileges within said unit. Therefore they are disregarded in this adjudication.

The carrying capacity of this area is 230 cows yearlong.

As to the settlement claim of Bonal, it is considered by the examiner that he comes within the purview of the rules of January 28, 1937, and under each such rules Bonal will be granted grazing privileges from Death tank within the area previously described.

(6) Kane Spring services the following area within House Rock unit, based on a five-mile radius as limited by competing waters:

Beginning at the NW corner of sec. 6, T. 37 N., R. 4 E.; thence south and east following the Kaibab National Forest boundary to the SE corner sec. 15, T. 36 W., R. 4 E.; thence in a northeasterly direction to the NE corner sec. 14, T. 36 N., R. 4 E.; thence northeasterly to the north quarter corner of sec. 12, same township and range; thence northerly to a point one-fourth mile west of the NE corner T. 36 N., R. 4 E.; thence north to a point $\frac{1}{4}$ mile west of the east quarter corner sec. 25, T. 37 N., R. 4 E.; thence northwesterly to a point one-third mile north of the SW corner sec. 14, T. 37 N., R. 4 E.; thence northwesterly to the NE corner sec. 6, T. 37 N., R. 4 E.; thence west 1 mile to the point of beginning.

This area has a carrying capacity of 319 cows yearlong.

(7) Anderson tank, located in sec. 23, T. 37 N., R. 4 E., is considered public water as the tank is located upon public lands of the United States and is not held under any declaratory reservoir site statement, nor appropriation from the State, nor under section 4 of the act of June 28, 1934, and has only a seasonal use.

(8) Jacob's Pools and its feeder source, namely: Sunset Spring, Millsite Spring, Haycock Spring, and Main Springs, service the following area within the House Rock unit, based on a 5-mile radius as limited by competing waters and natural barriers:

Beginning at the NW corner of the SE $\frac{1}{4}$ SE $\frac{1}{4}$ sec. 21, T. 37 N., R. 4 E.; thence southerly to a point $\frac{1}{4}$ mile east of the W $\frac{1}{4}$ corner sec. 16, T. 38 N., R. 4 E.; thence easterly to the SE corner sec. 18, T. 38 N., R. 5 E.; thence east $\frac{1}{2}$ mile; thence easterly to the E $\frac{1}{4}$ corner sec. 15, T. 38 N., R. 5 E.; thence northeasterly to approximately the NW corner sec. 13, same township and range; thence northerly to a point $\frac{1}{4}$ mile west of the section line between sections 1 and 2, same township and range, along the Vermilion Cliffs; thence following the Vermilion Cliffs in a westerly, southerly and northerly direction to the point of beginning.

Bonal's Death tank also services part of this area. The carrying capacity of this area is 289 cows yearlong.

(9) Soap Creek Waters, claimed by the Grand Canyon Cattle Co., H. S. Stephenson, trustee beneficiary, located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ sec. 28, T. 39 N., R. 6 E., services the following described area, based on a 5-mile radius as limited by competing waters and natural barriers:

Beginning at approximately $\frac{1}{4}$ mile east from the NW corner sec. 20, T. 39 N., R. 6 E.; thence following the Vermilion Cliffs westerly and southerly to approximately the NE corner of the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, sec. 2, T. 38 N., R.

5 E.; thence southerly to approximately the NW corner sec. 13, T. 38 N., R. 5 E.; thence southeasterly to the west quarter corner sec. 21, T. 38 N., R. 6 E.; thence east to the rim of Marble Canyon of the Colorado River, located approximately the center of sec. 22, same township and range; thence following northerly along the rim of Marble Canyon, northerly, westerly, and easterly to a point approximately $\frac{1}{4}$ mile NE of the SW corner sec. 30, T. 39 N., R. 7 E.; thence northwesterly approximately 2 miles to the rim located approximately $\frac{1}{4}$ mile west of the E $\frac{1}{4}$ corner sec. 23, T. 39 N., R. 6 E.; thence following said rim southerly and westerly to a point $\frac{1}{4}$ mile south of the NW corner sec. 33, T. 39 N., R. 6 E.; thence northerly to the rim of the Vermilion Cliffs, approximately $\frac{1}{8}$ mile east of the NW corner sec. 20, T. 39 N., R. 6 E., which is the point of beginning.

The carrying capacity of this area is 207 cows yearlong.

(10) Alex Cram Well, located in the NE $\frac{1}{4}$ sec. 4, T. 37 N., R. 5 E., services the following area, based on a 5-mile radius as limited by competing waters and natural barriers:

Beginning approximately at the E $\frac{1}{4}$ corner sec. 15, T. 38 N., R. 5 E.; thence southwesterly to the W $\frac{1}{4}$ corner sec. 33, T. 37 N., R. 5 E.; thence southeasterly to the SW corner of the NW $\frac{1}{4}$ NW $\frac{1}{4}$ sec. 33, same township and range; thence east 1 mile; thence northeasterly to the rim of the Marble Canyon at a point located approximately at the center of sec. 25, T. 37 N., R. 5 E.; thence following the rim of the canyon in a northerly direction to its junction with North Canyon; thence following the south rim of North Canyon in a southwesterly direction to approximately the center of sec. 13; thence northeasterly along the north rim of North Canyon to approximately the N $\frac{1}{4}$ corner of sec. 8, T. 37 N., R. 6 E.; thence northerly to the NW corner sec. 29, T. 38 N., R. 6 E.; thence northwesterly to approximately the NW corner sec. 13, T. 38 N., R. 5 E.; thence southwesterly approximately $1\frac{1}{4}$ miles to the point of beginning.

The carrying capacity of this area described is 380 cows yearlong.

(11) The Woolley watering place located in the SE $\frac{1}{4}$ sec. 31, T. 38 N., R. 5 E., services the following area, based on a 5-mile radius as limited by competing waters:

Beginning at the N $\frac{1}{4}$ corner of sec. 20 T. 38 N., R. 5 E.; thence southwesterly approximately 7 miles to a point $\frac{1}{4}$ mile west of the E $\frac{1}{4}$ corner sec. 23, T. 37 N., R. 4 E.; thence southeasterly approximately $1\frac{1}{8}$ miles to the E $\frac{1}{4}$ corner sec. 25, T. 37 N., R. 4 E.; thence northeasterly approximately $7\frac{1}{2}$ miles to the point of beginning.

The carrying capacity of this area is 47 cows yearlong.

(12) The Anderson Well, located in NE $\frac{1}{4}$ sec. 36, T. 38 N., R. 4 E., services the following area based on a 5-mile radius as limited by competing waters:

Beginning at a point approximately $\frac{1}{4}$ mile east of the W $\frac{1}{4}$ corner sec. 16, T. 38 N., R. 4 E.; thence southwesterly approximately $2\frac{1}{4}$ miles to a point approximately $\frac{1}{4}$ mile south of the NE corner sec. 30, same township and range; thence south $1\frac{3}{4}$ miles to a point $\frac{1}{8}$ mile west of the SE corner sec. 31, same township and range; thence southeasterly approximately 5 miles to a point $\frac{1}{4}$ mile west of the E $\frac{1}{4}$ corner sec. 23, T. 37 N., R. 4 E.; thence northeasterly approximately 7 miles to a point $\frac{1}{8}$ mile east of the NW corner sec. 20, T. 38 N., R. 5 E., thence northwesterly approximately 5 miles to point of beginning.

The carrying capacity of this area is 232 cows yearlong.

(13) The Bean Hole Well, located in the SW $\frac{1}{4}$ sec. 32, T. 38 N., R. 5 E., services the following area based on a 5-mile radius as limited by competing waters:

Beginning at the N $\frac{1}{4}$ corner sec. 20, T. 38 N., R. 5 E.; thence southwesterly approximately $7\frac{1}{2}$ miles to the W $\frac{1}{4}$ corner sec. 30, T. 37 N., R. 5 E.; thence northeasterly approximately 9 miles to the E $\frac{1}{4}$ sec. 15, T. 38 N., R. 5 E.; thence southwesterly approximately $2\frac{1}{2}$ miles to the point of beginning.

The carrying capacity of this area is 87 cows yearlong.

(14) Jet Springs, located in the SW $\frac{1}{4}$ sec. 20, T. 39 N., R. 6 E.; Cottonwood Spring located in the SW $\frac{1}{4}$ sec. 29, same township and range; and Dutchman Spring located in the SE $\frac{1}{4}$ sec. 10, same township and range, are considered public water as they are in their natural state, undeveloped, and there is no

evidence before the examiner that they have been appropriated or are controlled by proper State authority.

Water in Badger Creek, running through sections 1, 2, and 12, T. 39 N., R. 6 E., and water in Soap Creek running through sections 17, 20, and 21, same township and range, are embraced in public water reserves under Executive order of April 17, 1926, and service the area known as the bench, between the upper and lower Vermilion Cliffs and situated in T. 39 N., R. 6 E., except the area lying southwest of a line beginning at the Vermilion Cliffs at a point $\frac{1}{4}$ mile east of the NW corner of sec. 20, thence running southeasterly to the W $\frac{1}{4}$ corner, sec. 33, the approximate location of the lower Vermilion Cliff barrier, this area being serviced by other waters.

Therefore, as the public waters cannot be offered as commensurate property and prior use cannot attach to their use, this area is to be used in common by the holders of adjacent commensurate waters, which waters are: Soap Creek Water owned by H. S. Stephenson, Baker tank controlled by Riley Baker, Baker Springs, also controlled by Riley Baker, the William Russell homestead, located in sec. 28, T. 39 N., R. 6 E., and the waters of David C. Lowery, located in sec. 4, T. 39 N., R. 7 E.

The carrying capacity of this area is 46 cattle yearlong.

(15) The S $\frac{1}{2}$ sec. 30 and the W $\frac{1}{4}$ sec. 31, T. 38 N., R. 4 E., are not serviced by, owned, controlled, or public water situated in the House Rock unit. Due to this fact these lands should be grazed in common by stock operating from House Rock Reservoir, Mackelprang's Anderson Well, and Kane Spring. One-third of the carrying capacity is to be utilized from Kane, one-third from House Rock and one-third from Mackelprang's Anderson Well.

The carry capacity of this area is 12 cows yearlong, or 4 cows yearlong each.

(16) It is found that a fractional part of secs. 26 and 30, all of 31, parts of 32, 33, 34, and 35, in T. 37 N., R. 5 E.; and parts of secs. 2, 11, 14, 15, 19, 20, 21, and all of secs. 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, and 18, T. 36 N., R. 5 E.; and parts of secs. 1, 12, and 14; and all of sec. 13, T. 37 N., R. 4 E., are not within a 5-mile radius of, and therefore not serviced by, owned, controlled, or public water, except by a seasonal tank, and public water known as the Anderson tank located in sec. 23, T. 37 N., R. 4 E., and snow and flood waters of North and South Canyons.

All of the sec. 31, parts of secs. 26 and 30, 32, 33, 34, and 35, T. 37 N., R. 5 E., and parts of secs. 1, 12, and 14, and all of sec. 13, T. 37 N., R. 4 E., are serviced by storm water. The carrying capacity of this area, or its equivalent in feed units, is equally divided between the contiguous waters of Gram, Stephenson, Woolley, and Mackelprang, each of whom are granted one-fourth of the estimated carrying capacity, or 20 head each.

All of the public land in the enumerated sec. in T. 36 N., R. 5 E. having a carrying capacity of 143 cows yearlong, or the equivalent of feed units, are reserved for the purpose of pastureage for the herd of buffalo now roaming and ranging in the House Rock unit. These buffalo roam and range part of the year in the House Rock Valley and part of the year on adjacent forest lands of the United States under the jurisdiction of the Forest Service, Department of Agriculture.

The office records indicate the existence of an agreement between the division of grazing and the Biological Survey, providing for the grazing of not to exceed 200 head of buffalo in the House Rock unit. When and if this herd reaches that number specified in the agreement, adjustments will then be made.

(17) The NE $\frac{1}{3}$ sec. 19, S $\frac{1}{2}$ sec. 20, S $\frac{1}{2}$ sec. 21, SW $\frac{1}{4}$ sec. 22, the fractional W $\frac{1}{2}$ of sec. 27, and that part of secs. 28 and 29, lying north of the north rim of House Rock wash, are not within a 5-mile radius of owned, controlled, or public water, and can be used only with seasonable storm waters. The carrying capacity of this area is 18 cows yearlong. This carrying capacity is granted for utilization in connection with Soap Creek water of applicant H. S. Stephenson.

(18) Part of sec. 33 lying west of the Colorado River Canyon, that part of the E $\frac{1}{2}$ sec. 32 lying south of the south rim of the House Rock Canyon, T. 38 N., R. 6 E.; also that part of sec. 4 lying west of the Colorado River Canyon and the E $\frac{1}{2}$ of sec. 5, T. 37 N., R. 6 E., are not within a 5-mile radius of any owned, controlled, or public water.

The carrying capacity of this area is estimated to be 11 cows yearlong and is to be used during floodwater periods by stock of Alex Cram, because this area is nearest the facilities of Cram.

(19) The Baker Tank in section 7, the Riley Baker Springs in section 18, the Lowery Spring development in section 33, and the public waters on Badger Creek, service the following area:

That area in T. 39 N., R. 7 E., lying between the rim of the Colorado River Canyon and the lower rim of the Vermilion Cliffs, and that area in secs. 12, 13, 24, 25, 23, lying east of the lower Vermilion Cliffs and north of a line running from the east quarter corner of sec. 26 in a northwesterly direction to a point one quarter mile west of the east quarter corner of sec. 23, T. 39, N., R. 6 E.

This area is granted in common to David C. Lowery and Riley Baker, 20 head carrying capacity to Baker, or the equivalent in feed units of this area, and a drift use by Lowery in connection with his license for 15 head in the Ferry Swale Unit. This adjudication is made in accordance with class I privileges under the rules of January 28, 1937.

(20) It is considered that the waters represented to be owned and offered by H. S. Stephenson, trustee for the beneficiary of the Grand Canyon Cattle Co., as commensurate property and waters in House Rock Unit represented to be owned and offered as commensurate property by Cram, Mackelprang, and Woolley, are all admitted to have preference class I rating under the rules of January 28, 1937, and are all, insofar as volume of water is concerned, overcommensurate. That is, these waters furnish a greater amount of stock water than there is public range to be serviced.

(21) As to those applicants having private lands and State-leased lands within the House Rock unit, such are considered as unprotected grazing land as they are unfenced, and such applicants are entitled to a deduction in payment of grazing fees to the extent of the carrying capacity of the sections owned or leased by them. However, as such lands are companionate range to the public lands upon which grazing privileges are granted, such lands are not considered dependent commensurate property.

(22) The carrying capacities and service areas given in the above findings are not in any sense land allotments and are used in this decision for the sole purpose of rating the dependent commensurate properties of the applicants in carrying capacity of cows yearlong. It is fully realized by the examiner that to make allotments of land, as described in these findings of fact, would be wholly impractical. The location of the various watering places are such that it has been necessary to draw radii from each development or facility to determine a service area in order to arrive at the commensurate rating of each. Where these service areas overlapped, divisions were made by bisecting conflicting arcs.

The ownership pattern of land and watering facilities in this unit as they now exist make the granting of allotments impractical, thus necessitating granting of grazing privileges in common.

In view of the complexity of the situation presented in arriving at commensurate rating of the properties, it is thought advisable to attach to this decision a photostatic plat of the unit showing the method by which commensurate ratings were determined.

(23) The carrying capacity of House Rock Valley unit being 2,141 cows yearlong, it cannot be exceeded in the granting of grazing privileges and the above findings of fact are made upon a carrying capacity of that figure.

(24) The licenses previously granted to Jules F. Bonal, Earl P. Parker, and William and A. H. Brown will not be disturbed by this decision. They are for the period of time May 1, 1937, to May 1, 1938, and are to remain in full force and effect until that date, if fees are paid.

DECISION OF EXAMINER

(1) The previous decisions of the regional grazer as to Earl P. Parker for 17 head of cattle, Jules F. Bonal for 62 head of cattle, or its equivalent, W. M. and A. H. Brown for 62 head of cattle, and Ernest A. Curtis for 20 head of cattle, are sustained.

(2) The regional grazer is directed to issue licenses, upon payment of the proper and necessary fees, to the following applicants:

	Head of cattle yearlong
H. S. Stephenson, trustee for the beneficiary of the Grand Canyon Cattle Co.	941
Alex. Cram	411
R. B. Woolley	67
W. J. Mackelprang	343
David C. Lowery	26
Riley Baker	31
William Russell, upon application therefor	11

(3) By consensus of intervenors, copy of transcript for intervenors, if requested, is to be furnished to Royal B. Woolley.

(4) The above decision as to Riley Baker and David C. Lowery is fully explained under findings of fact Nos. 14 and 19.

(5) Findings of fact Nos. 22, 23, and 24 are made a part of this decision, but as they are fully explained under findings of fact so numbered, they are not repeated under the heading "Decision."

You are allowed 10 days from receipt of this decision within which to file notice of appeal. If notice of appeal is filed and you request a copy of the transcript of testimony, such copy will be furnished to you without cost. Notice of intention of appeal and request for copy of transcript must be filed in the office of the chief examiner, Division of Grazing, Department of the Interior, Salt Lake City, Utah.

Within 30 days after date of receipt of the transcript of the testimony, appeal from this decision to the Secretary of the Interior, together with any brief in support thereof, must be filed in the office of the chief examiner, Division of Grazing, Department of the Interior, Salt Lake City, Utah.

J. H. LEECH,

Regional Grazier in Charge of Hearings (Examiner).

Mr. SPENCE. For the present testimony, Mr. Leech, you have before you there—how many head was it that Mr. Cram was allotted in 1936?

Mr. LEECH. I do not have it for 1936, Mr. Spence.

Mr. SPENCE. I think I have. You gave Mr. Cram 411 head originally; it was 608 head he applied for.

Mr. LEECH. Well, you will no doubt find there have been changes in numbers on practically every license. We have 22,000 of them.

Mr. SPENCE. May I ask you and Mr. Allen—has Mr. Cram ever disposed of any of his holdings in House Rock Valley that his permit was based upon?

The CHAIRMAN. Mr. Allen, will you answer that?

Mr. ALLEN. No, sir; he has sold none of his base property.

The CHAIRMAN. Let's go back. I want to get this clear, because it may be interesting before we get through.

In 1936 Mr. Cram made a request for 600 head—

Mr. SPENCE. 608 head.

The CHAIRMAN. Is that according to your records?

Mr. ALLEN. We do not have the 1936 record here.

The CHAIRMAN. Were you in charge then, Mr. Allen?

Mr. ALLEN. No, sir.

Mr. LEECH. In the decision of 1937, July 28, I directed the regional grazier to issue to Alec Cram a license for 411 head of cattle.

Mr. SPENCE. They have already stated that he hasn't disposed of any of his base property.

Mr. LEECH. And, as we read from the record a moment ago, he was given 376 in 1938.

The CHAIRMAN. Gradually he went down in numbers, didn't he?

Mr. LEECH. Then in 1941, Senator, it was 221. That is all, you say, Mr. Allen, that he applied for?

Mr. ALLEN. That is all he applied for.

The CHAIRMAN. Is that all he applied for?

Mr. ALLEN. Yes, sir.

Mr. SPENCE. The balance of his permit was to be carried nonuse.

Mr. LEECH. These numbers that are being given, Senator, as I understand from Mr. Allen, are actual use numbers. Mr. Cram had applied for 350 and would have gotten 350.

Mr. ALLEN. In 1941, I couldn't tell you for sure, back in 1941, without examining the records.

The CHAIRMAN. How many was he allowed in 1940?

Mr. LEECH. 176 head of cattle, and 42 horses.

Mr. SPENCE. Isn't there an additional, to that in 1940; under that in 1940?

Mr. LEECH. There seems to be two entries in 1940, 226 head from May 1 to November 30.

The CHAIRMAN. Who made the records, Mr. Leech?

Mr. LEECH. Mr. Allen.

The CHAIRMAN. Why doesn't he testify on his own records? It will save time.

Mr. ALLEN. A complete case file of Alec Cram is here, from 1938 to date, if you care to examine it.

Mr. SPENCE. How many head permit was Mr. Cram issued in 1943? That has never been answered yet.

Mr. ALLEN. In 1943 Mr. Cram's application was for 185 cattle, year-long; and 90 cattle from July 1 to November 30, 1943; and 90 head of cattle from May 1 to June 30, 1944; and 20 head of horses.

The CHAIRMAN. Now answer the question. What was he allowed?

Mr. ALLEN. That was the application, and it was approved.

Mr. SPENCE. Senator, I would like to attract your attention here. This is taken from a map of 1941 of Mr. Cram's individual allotment; usually runs in common, but that is drawn out as their individual allotment; and there is a withdrawal of the game department, from Mr. Cram, taking away approximately 17 sections, here, at this black line, which indicates where the game department asked that the boundary be put for withdrawal. But, instead, the Division of Grazing has withdrawn that whole area from Mr. Cram. And why is that done, Mr. Allen, taking up this entire area on your '43 permit, going back there in '42 or '43, to give a whole description of his boundaries there, which cuts off this much of his permit. Why is that done?

Mr. LEECH. Let me see if I understand the question? You are speaking now of the first, the proposed buffalo withdrawal, as proposed by the Fish and Wildlife, and then the second line, that you indicate, is the one that was suggested by the Grazing Service. Is that right?

Mr. SPENCE. This is the one suggested by the game department, and this is the one that was withdrawn by the Division of Grazing.

Mr. LEECH. We have made no withdrawal there, Mr. Spence.

Mr. SPENCE. I think if you will present a record of this, first of the 1941 permit, that it will show that—maybe it is 1940—here in one of these permits, giving the lines for where these permits will be—

Here it is, on the 1942 permit. You will find there was that much withdrawn from it.

The CHAIRMAN. Is this the buffalo range we have been talking about all afternoon?

Mr. ALLEN. That's right.

Mr. SPENCE. Showing—I don't know from whom—but showing how discrimination was shown against this man.

The CHAIRMAN. That is what I am trying to get at.

Mr. ALLEN. That is the line of your original 44,000-acre withdrawal.

The CHAIRMAN. Which line?

Mr. ALLEN. That red line, splitting allotments, Mr. Chairman.

The CHAIRMAN. Originally, Cram had all of this; is that right? And you were then administering the buffalo allotment, or the temporary withdrawal, as under the Taylor Grazing Act?

Mr. LEECH. Yes, sir; the whole 44,000 acres.

The CHAIRMAN. Then you came to the conclusion that the 44,000 acres should not be administered under the Taylor Grazing Act, so you eliminated that; is that correct?

Mr. LEECH. We no longer administer it.

The CHAIRMAN. Did you take it from his allotment?

Mr. LEECH. No, sir.

The CHAIRMAN. Off the record.

(Off the record discussion.)

Mr. SPENCE. Another thing I would like to call your attention to, here; how would you make it possible, Mr. Cram's permit here for 42 head, and the same thing for this year, 60 percent on Federal range? As you know, Mr. Cram has nothing other than Federal range.

Mr. LEECH. What about that, Mr. Allen? Do you mean by 60 percent Federal range that the rest is on the 44,000 acres withdrawal?

Mr. ALLEN. Yes.

The CHAIRMAN. In other words, he would utilize the Federal range for 60 percent of the year, and the 44,000 withdrawal for 40 percent of the year?

Mr. LEECH. I believe they figured it in numbers, instead of periods of time.

Mr. ALLEN. Figured on percentage basis.

The CHAIRMAN. Of cattle, or time?

Mr. ALLEN. Percentage of the cattle, for the entire year.

The CHAIRMAN. In other words, if he had 200 head, 60 percent of those would run on that allotment for the year and 40 percent would run on the open range for a year?

Mr. ALLEN. It would be just the other way around—60 percent on the Federal range and 40 percent on the game refuge.

The CHAIRMAN. Well, that is it. All right, what is next?

Mr. SPENCE. Well, as you can see, that is a small area he is allowed, left to run; which will leave him a space of approximately 200 or 240 cattle, after he is cut down in that manner.

The CHAIRMAN. As yet he is not cut down, because, as I understand it, he is running on the temporarily withdrawn land now without paying fees. So he is not cut down. But in this new withdrawal, were it to go through—how would it affect him?

Mr. SPENCE. Well, it would cut him down to this space here. That is all that he would have left.

Mr. ARTHUR WOOLLEY. I didn't get that. Would the line be the same, under his allotment, under the 23,000, as it is under the 44,000? Whether or not, under the proposed 23,000 withdrawal, would it affect him the same as the 44,000? You answered "yes."

Mr. SPENCE. Not if the 44,000 was not taken out. But the Division of Grazing has taken this out, and the game department say they have not asked for it. Why would the Division of Grazing take the authority to exclude this from the permit when the game department hasn't asked for it?

The CHAIRMAN. The Division of Grazing admitted an error here a while ago; and it is of record that they have made an error in that. In other words, they should have continued to administer that 44,000 withdrawal; and they should have continued Mr. Cram so much of it as was necessary for his herd; and they should have charged him fees as they had done in times past. They didn't do it; and he was deprived. I don't think he was deprived of anything. I am not certain.

Mr. LEECH. No; he was not.

The CHAIRMAN. I think he got a little gravy there.

Mr. LEECH. He only paid on 60 percent of the range.

Mr. SPENCE. Well, the final outcome in this—not interested in just today—a man is developing a ranch, not for what it is this year, but what it is going to be 10 years from now. That is the final value of it.

The CHAIRMAN. You have a perfect right to inquire into it, and to try to see if we can straighten it out.

Mr. ARTHUR WOOLLEY. Illustrate what would be done if they took this thing over.

Mr. SPENCE. Next, I would like to take you to the Hod Brown allotment, up here [indicating], which Delwin Hamblin claims ownership now, but sold to me under contract. What is the record of the permits that you have on that?

Mr. LEECH. What records do you have, Mr. Allen?

Mr. ALLEN. *Hod Brown case*, no license issued under that allotment. It is under litigation in the State court; no licenses are issued at present in it; nor in my recollection.

Mr. SPENCE. There have been permits issued on it, have there not?

Mr. ALLEN. I think there have.

Mr. LEECH. Do you have any record on it?

Mr. ALLEN. No, sir.

Mr. LEECH. Do you know anything about the license issued on the Hod Brown case?

Mr. ALLEN. I know it was in litigation, possibly from the time they started issuing licenses on it; and for that reason it is being held in abeyance, as far as we are concerned.

The CHAIRMAN. Are we talking of permits or licenses?

Mr. LEECH. We are talking of licenses.

The CHAIRMAN. We are calling them permits, but we mean licenses.

Mr. LEECH. I don't know whether any permits have been issued in here or not.

Mr. ALLEN. Not on the the Hod Brown; no permit at all.

Mr. SPENCE. Do you recall on August 26, 1940, Mr. Leech, you held a hearing on this particular case, didn't you?

Mr. LEECH. On the Hod Brown?

Mr. SPENCE. At least it was introduced by you, as being the hearings officer.

Mr. LEECH. Well, I remember the case, Mr. Spence. I was just trying to find, on the list, whether or not we had a hearing on it in 1940.

Mr. SPENCE. Well, you did have, on August 26, 1940. This is dated here.

Mr. LEECH. Well, is that my decision?

Mr. SPENCE. It is.

Mr. LEECH. All right.

Mr. SPENCE. And, Mr. Leech, you rejected this permit for 42 head that was given on that place at that time; closed it until ownership was determined.

Mr. LEECH. That is correct.

Mr. SPENCE. That is your reason for rejecting. You knew at that time Mr. Hamblin was in possession of that place, and was living there?

Mr. LEECH. I believe the transcript would say what happened, Mr. Spence. I can't remember, offhand.

Mr. SPENCE. And Hamblin was put off of there, not allowed to run cattle there any longer, was he, at that time?

Mr. LEECH. I don't know whether he was put off or not.

Mr. SPENCE. He presented in this case a quitclaim deed from William Brown, did he not?

Mr. LEECH. That is right.

Mr. SPENCE. And a quitclaim deed is, in ordinary circumstances, sufficient proof of ownership; and a man in possession of a place is nine points of the law, isn't it?

Mr. LEECH. Well, as I remember this case, there was a good deal of so-called quitclaim deeds for various people that were claiming the Brown place; and as I remember I directed they proceed to litigate the matter, and come into the Grazing Service with whoever owned the place; to come in and establish that he owned it; that we were not going to try to determine between the conflicting claimants over the Hod Brown place.

I do not have the record before me, but I am speaking from my memory of the case, as it happened in 1940. Is that about according to what you read?

Mr. SPENCE. That small permit is within the area of the House Rock Valley allotment, in which Mr. Royal B. Woolley operates.

Mr. LEECH. It is within the House Rock Valley; yes.

Mr. SPENCE. And there is no fence between. It is open for the cattle to run in House Rock Valley, and to come right out on the Hod Brown allotment.

Mr. LEECH. I would suppose they do; yes.

Mr. SPENCE. Mr. Woolley is the man whom you referred to as being, or "just other people holding quitclaim deeds." If you notice, they were of later dates than Delwin Hamblin's quitclaim deed.

Mr. LEECH. As to the decision of the examiner, what action was taken by the claimants of this Hod Brown case? I haven't been familiar with it since. I do not know.

Mr. SPENCE. What I asked you, Mr. Leech, was, weren't these other quitclaim deeds of later date; and, on the record, the deed showing after the subsequent receipt of this property by Mr. Cram, immediately after it was issued to him from William Brown, they were of later date; and the first deed would naturally hold as the one in ownership of that, wouldn't it?

Mr. LEECH. Well, I think that would depend on the circumstances surrounding it, and all the facts concerning it. I am not trying to answer any of the particular questions as to those quitclaim deeds, at this time, because I would have to have them before me again to know what we are talking about.

Mr. SPENCE. What I am trying to do here is show that man was in possession of this. He had legal rights, holding it until somebody dispossessed him. Legally he had the right to continue on there.

The CHAIRMAN. Was a permit given to him?

Mr. SPENCE. None open in the range for him. Mr. Woolley, who holds the adjoining permit which allows that much more range, and deprived Delwin Hamblin of anything—who was the holder at that time?

The CHAIRMAN. The trouble is in a case of this kind, if this is illustrative of a policy that is general, the committee would entertain it; but if it is merely to call upon the committee to act as a court of review in an individual case, we question very much that we have that power.

Mr. SPENCE. I am not trying to bring in this court case. It is merely to show an example of how the administration of that Division of Grazing has been carried on in this Arizona strip.

The CHAIRMAN. That is the reason I am entertaining it. If it be one link in a chain of policy, I am going to listen to it. I am waiting for you to round out and show us what the policy is. I think it would have been well for you perhaps to have stated what you proposed to establish in the way of a policy. If you have a policy you can go ahead and show it.

Mr. SPENCE. This is to show the policy of administration.

The CHAIRMAN. That is all right. We'll listen to it as long as we can listen.

Mr. SPENCE. Well, this is a long drawn-out hearing, and Mr. Leech spoke of furnishing this decision for the record. And if necessary Mr. Hamblin could forward to the committee a copy also of the hearing, to show how these cases have been administered here. It would take a long time to go through it in detail, as it is a long drawn-out case.

The CHAIRMAN. Let's see what you are driving at. If you mean it would take a long time to go through this in detail; that is, the individual case, I am not certain that we are going to go through it. But if it is a question of taking a long time to go through a policy, which policy reflects a favoritism on the part of an agency, this committee has ample time to hear it. We will hear it, either now, or at some other time.

Mr. SPENCE. Well, to be frank, my object is to show that in this area we are represented on the advisory board by a man that—well, we don't get any consideration from—as an advisory board member, unless we belong to his group. That is putting it in the plainest words I know how.

The CHAIRMAN. You are referring to whom?

Mr. SPENCE. Royal B. Woolley. Alec Findlay was another one. They are on the mountain here, they are in partners together, in the company. If you have any opposition to them, why consideration is not very great, when it goes before the advisory board.

I would like to cite you these cases to show you.

The CHAIRMAN. The committee is interested in that, if that can be established. We are very much interested in it; so don't hesitate at all.

Mr. SPENCE. Then we will jump from the Hod Brown allotment—

Mr. LEECH. I would like to ask two or three questions on this Hod Brown case, Senator?

Now, Mr. Spence, just what is this Hod Brown tract, a 40-acre tract, is it?

Mr. SPENCE. It is a water right.

Mr. LEECH. In the House Rock Valley?

Mr. SPENCE. It is adjoining House Rock Valley, up on the edge of the cliff there.

Mr. LEECH. That was owned by Mr. Brown, at one time, wasn't it?

Mr. SPENCE. William Brown and Hod Brown.

Mr. LEECH. Both had an interest in this place?

Mr. SPENCE. That is right.

Mr. LEECH. As I remember it.

Mr. SPENCE. That is right.

Mr. LEECH. And one of them sold a certain interest to Hamblin?

Mr. SPENCE. That is right.

Mr. LEECH. And then there were other parties, perhaps Woolley, if I remember right. Did he claim a purchase, also?

Mr. SPENCE. He bought up Will Brown; at a later date, another quit claim deed from him, and from a widow woman here in Fredonia, who, her husband came in and signed the water filing, both of Hod Brown and William Brown.

Mr. LEECH. Was that case later litigated in Flagstaff?

Mr. SPENCE. It has never been litigated. They have been trying for 2 years to get a jury on it, and haven't been able to do so yet.

Mr. LEECH. As I remember this decision, it was to the effect that until an ownership of this place was established on which the Grazing Service could issue a license or permit, we would not issue any.

Mr. SPENCE. But you did issue one, Mr. Leech, until Mr. Woolley attached claim to it.

Mr. LEECH. Who to?

Mr. SPENCE. To old man Brown, and Curtis, who had the lease; and later, Delwin Hamblin took it back; and I think he had a permit on it.

Mr. LEECH. If I remember the fact, the license was issued to Brown as long as he had it. After it was disposed of, to two or three people, did not know to whom to issue it.

Mr. SPENCE. He had the first quit-claim deed of record, when you issued the claim for 1 year.

Mr. ARTHUR WOOLLEY. A suit was pending, in the Arizona courts, about the title to the water hole?

Mr. SPENCE. Yes.

Mr. WOOLLEY. Who is the plaintiff?

Mr. SPENCE. Woolley and Delwin Hamblin.

Mr. WOOLLEY. They brought the suit against whom?

Mr. SPENCE. Delwin Hamblin. It is to determine ownership of the place.

Mr. WOOLLEY. Who brought the suit?

Mr. SPENCE. That I haven't legal knowledge enough to grant you.

Mr. WOOLLEY. Do you know, Mr. Woolley?

Mr. ROYAL B. WOOLLEY. Delwin Hamblin.

Mr. ARTHUR WOOLLEY. Against whom?

Mr. ROYAL WOOLLEY. I don't just remember. I can tell you the outcome of it.

Mr. ARTHUR WOOLLEY. Are you sued in it?

Mr. ROYAL WOOLLEY. Yes; I am a defendant.

Mr. ARTHUR WOOLLEY. Anyone else a defendant?

Mr. ROYAL WOOLLEY. No; my wife and I.

Mr. LEECH. Mr. Spence, at this time do you own any part of the Hod Brown place?

Mr. SPENCE. At the time these sales were made——

Mr. LEECH. At this time.

Mr. SPENCE. I do.

Mr. LEECH. Have you applied for a grazing license from it?

Mr. SPENCE. I have asked for consideration; but I was told it would be useless to do so until ownership was brought into court.

Mr. LEECH. Are you trying to determine that ownership now?

Mr. SPENCE. I am.

Mr. LEECH. When you determine the ownership, the Grazing Service is ready to issue the license or permit to the owner of that property.

Mr. SPENCE. Well, this other man has had this for 4 years; and without reason, a man who was in legal possession until he was dispossessed by an order of the court, he was in possession of this place; and I don't see that the Division of Grazing had any right to dispossess him of the property and kick him out on the road; and I bought those rights.

Mr. LEECH. I don't agree that we did that—kicked him out in the road.

Mr. SPENCE. You have forbidden him a permit, which is the same thing, Mr. Leech. He couldn't stay there any longer without one.

The CHAIRMAN. Well, now, let's see if we can find some light out of this. Who was granted the permit?

Mr. LEECH. Until someone determines ownership of that place, we have not issued a permit in connection with the Hod Brown place.

The CHAIRMAN. Who gained an advantage by there being no permit issued to the Brown place—anyone?

Mr. LEECH. If any advantage was gained, it must be the people that use the House Rock Valley, but I would not know that we increased anyone, anyone increased to the extent of that 42 head.

Mr. ALLEN. No.

The CHAIRMAN. There would be that less number of cattle or livestock?

Mr. LEECH. On House Rock Valley; yes.

Mr. SPENCE. But the other men would have the advantage of the range.

Mr. ARTHUR WOOLLEY. Is the area included in the so-called Hod Brown allotment a common area with a number of other permittees?

Mr. ALLEN. Yes, sir.

Mr. ARTHUR WOOLLEY. In use?

Mr. ALLEN. Yes.

Mr. WOOLLEY. How many other permittees have common use of the area?

Mr. ALLEN. Five owners that bought into the Grand Canyon Cattle Co.: Alec Cram, Billy McIntyre, Woolley, and five others. Those I named, and those other five.

Mr. ARTHUR WOOLLEY. There are how many?

The CHAIRMAN. Let's get that straight if we can. The successors to the Grand Canyon Cattle Co. are the people who hold the permits on this outside range.

Mr. ARTHUR WOOLLEY. Five of them, and two others, two individuals.

Mr. ORMAN CRAM. Mr. Chairman, which there is an excess of 44 head there at the time, which wasn't being used on this Hod Brown place. Still we were cut down on our allotment.

The CHAIRMAN. Who do you mean by "we"?

Mr. CRAM. Me and Alec Cram, my brother.

The CHAIRMAN. You were cut down, notwithstanding the fact this Hod Brown place was given an allotment?

Mr. CRAM. That is right.

The CHAIRMAN. You were cut down and Howard Brown was cut down. Who else was cut down?

Mr. CRAM. I don't know, but Mr. Woolley has been raised on his allotment.

The CHAIRMAN. What do you call the successors to the Grand Canyon?

Mr. ALLEN. Do you want the names?

The CHAIRMAN. Isn't it a corporation?

Mr. ALLEN. It was entered under the name, Hoyt Chamberlain, trustee.

The CHAIRMAN. Who are the owners of the trust?

Mr. ALLEN. Royal B. Woolley, John B. Schoppmann, C. H. Vaughn, Alec Findlay, Rubin Broadbent.

Mr. SPENCE. Which two are on the advisory board?

Mr. CRAM. Mr. Woolley had a private allotment of his own, 47 head. That was raised to 107, if I am not mistaken. Then he traded that to have the other boys that are interested in the Grand Canyon Cattle Co.

Mr. ARTHUR WOOLLEY. That would be a meager statement of the transaction involving Mr. Woolley's permit, I am sure.

The CHAIRMAN. Well, there is a sinister implication of favoritism. We had it here yesterday, made by Mr. Woolley, and now we have it made by someone else, reflecting on Mr. Woolley. I am perfectly willing to hear it through, the same as I did the other.

Now, I want you to be free to tell the whole story. I am not aware what it is. If there is favoritism or reprisal on the part of any agency, we are ready to hear it through. That is a policy, and we are ready to hear it through.

Mr. MILTON CRAM. I am a permittee, with a small holding and, whether in the line of business or out of duty, I was told that my allotment was too small to pay any attention to by the Division of Grazing.

The CHAIRMAN. Who told you that?

Mr. CRAM. Mr. Allen.

The CHAIRMAN. Mr. Allen?

Mr. CRAM. Right.

The CHAIRMAN. How many cattle do you have?

Mr. CRAM. I have a permit for five head.

The CHAIRMAN. Where was that statement made to you?

Mr. CRAM. At my place.

The CHAIRMAN. When?

Mr. CRAM. I can't give you the date of it, but before I—for a while Mr. Allen was under Mr. Blankenagle.

The CHAIRMAN. How long ago was that?

Mr. CRAM. Two years and something.

The CHAIRMAN. That was the former district grazier?

Mr. CRAM. His attitude was this, we got to eliminate the little guy, so we won't have so much trouble with the larger ones.

The CHAIRMAN. You say that was his attitude; he used the express attitude. On what do you base that as a conclusion?

Mr. CRAM. Well, that is a conclusion, maybe, in the power that they have.

The CHAIRMAN. But the other statement you have recited here was actually made by Mr. Allen to you?

Mr. CRAM. I don't know whether it was in the line of duty or not.

The CHAIRMAN. It was actually made to you?

Mr. CRAM. Yes, sir.

The CHAIRMAN. Well, you know when we set up the Taylor Grazing Act, the argument was made on the floor of the Senate and elsewhere, that this would afford an opportunity for the small stockmen, and it was that argument that got the Taylor Grazing Act approved by the Congress. I want to tell you that, frankly, it never would have been approved in the Senate, had it not been for the argument that was made that the little stockmen, the homesteaders, and the small stockmen would gain by this act.

Now, I am not ready to form a conclusion on this thing. I would like to have Mr. Allen make a statement. He is certainly entitled to do so.

Mr. ALLEN. Mr. Cram, I said your outfit was too small to pay any attention to?

Mr. CRAM. Yes, sir; Mr. Allen, you made that statement.

Mr. ALLEN. I sure don't remember. Maybe it is your word against mine.

Mr. CRAM. I have a witness to that effect, and if he wasn't overseas in the armed forces he could verify that statement.

Mr. ALLEN. I am not going to verify that. The facts will verify the statement that there was quite a little bit of work entered into in order for you to run your allotment.

Mr. CRAM. That's right.

Mr. ALLEN. And you know at the time it was obtained I spent quite a little time going over the country with you and getting the facts to the board, so a just decision could be rendered. If it was too little to pay attention to there was no point in going out and going over the area, whether it was one head or three head, or five. I think the record will speak for itself.

Mr. ORMAN CRAM. There is another little matter, Mr. Leech. What was the original allotment for the Emmet Spring?

Mr. LEECH. You are referring to my decision of July 28, 1937? I don't believe that in the adjudication I considered Emmet Springs. Is that what you mean?

Mr. CRAM. Yes, that's right. And now we have piped that down, or started to, within approximately half a mile of Alec Cram's allotment, and put it there. They say it is good for the range. I talked to Mr. Brooks about it, and Mr. Allen, and neither one of them would come down and see our side of it on the range.

Mr. LEECH. You are speaking of a proposed section 4 permit fence; are you not?

Mr. CRAM. Yes.

Mr. LEECH. The Grazing Service fence and a pipe line?

Mr. CRAM. That is the pipe line, brought down; it is not fenced, or anything, you understand.

Mr. LEECH. I know there was something, some agreement made for fences; were there not, between Mackelprang and—

Mr. CRAM. Between Mackelprang and ourselves, supposed to run in common on Soap Creek. They bring this pipe line right down. I don't think it is hardly finished, but it is approved, and they have a right to cross under the highway with the pipe line, and they bring it right down approximately right there. We have already been cut down and they want this water brought down to here and crossed to us, so they can put their cattle in there, while we come out here and feed and eat.

The CHAIRMAN. Who do you refer to as "they"?

Mr. CRAM. The Division of Grazing, and the company here, over here; Mr. Woolley, I suppose, represents them, and so on.

The CHAIRMAN. Who?

Mr. CRAM. This company over here, the owner of Emmet Springs.

Mr. LEECH. I would like for Mr. Brooks to tell us the status of this proposed pipe line. Has it been approved, Les?

Mr. BROOKS. Yes; the pipe line has been approved. However, not as indicated.

Mr. LEECH. Not as indicated by Mr. Cram?

Mr. CRAM. I said started.

Mr. BROOKS. You were in the office, I believe, Mr. Cram, talking with me about it, and I took it up immediately with our district grazier, and asked him to make an investigation of it and determine where the proper location would be, in order that you, or anyone else, would not be hurt, and I am sure that was done. Part of the pipe line has been put in, but not all of it.

Mr. CRAM. That is right.

Mr. BROOKS. As far as I am informed by Mr. Allen, there is no intention to put it across the road.

Mr. CRAM. I have spoken of it, because that was the original intention.

Mr. BROOKS. That was taken up with the District Grazier Allen, immediately upon your appearing in the office, and I asked him for reconsideration of it, and a reconsideration was given.

Mr. CRAM. Who would that benefit—that water being piped down there, Mr. Brooks? As Mr. Leech said, this water never had no base priority or anything in 1937. Who would it benefit?

Mr. BROOKS. Mr. Allen is more acquainted with the users in there than I am. I will ask him to answer it.

Mr. ALLEN. Do you want your question answered?

Mr. CRAM. What's that?

Mr. ALLEN. On the contrary, the records—that entire area in House Rock Valley is open range; it is not fenced. The country is used in common. There is quite an area between what you term as your father's water, and the Soap Creek water, the Emmet pipe line being piped down, whether it is a new improvement, or an old improvement

being repaired, that facilitates the use of the range by livestock, by furnishing additional well-placed waters to afford easier access to the range by the livestock.

Mr. SPENCE. Mr. Allen, may I ask you on the Soap Creek, Mr. Cram previously held a permit on Soap Creek; did he not?

Mr. ALLEN. I don't know. My recollection is, the answer would be "no."

Mr. SPENCE. You don't know?

Mr. ALLEN. As far as I know, he had no license on Soap Creek.

Mr. CRAM. We had 20 head at one time. Here is a letter here.

The CHAIRMAN. What became of the 20 head?

Mr. CRAM. I don't know who got it.

The CHAIRMAN. What became of the permit for the 20 head?

Mr. CRAM. I don't know that either.

Mr. LEECH. Where was this supposed to be, on Soap Creek?

Mr. CRAM. Right on the water, I think you have that there.

Mr. LEECH. The original adjudication showed Cram 380 in one application, outside of the service area of water marked off, 11 head more for the right south of his allotment. He was to run in common with Woolley and Mackelprang, to the extent of 80 head.

Where was this 20 head, that's what I would like to know?

Mr. CRAM. We had one at Soap Creek at one time, 20 head. It doesn't show it here, but I know we had one. Mr. Woolley had 20 head before I bought the place, and Mackelprang had 20 head.

The CHAIRMAN. Mr. Woolley had 20 head before they bought the place?

Mr. CRAM. That's right, the Grand Canyon Cattle Co. had 20 head. Mr. Mackelprang had 20 head.

Mr. LEECH. Is that the area that I said that Cram, Woolley, Mackelprang, and Stevenson run in common?

Mr. CRAM. No; at the same time—we haven't got that now, either, but it was down here at Soap Creek.

Mr. LEECH. Well, at Soap Creek, if I remember right, there were 46 head; were there not? This map shows that the original adjudication said 207 head for the Grand Canyon Cattle Co.

The CHAIRMAN. Is that aside from the three-hundred-odd head that Mr. Woolley has, and some over on South Creek?

Mr. ALLEN. That is on the forest area, 305 on the forest.

The CHAIRMAN. I see.

Mr. LEECH. That is a different operation altogether.

Mr. ALLEN. I might go a little further in clarifying my statement here on this license on Soap Creek. Here is a long-form application made by Alec Cram on March 20, 1938, in which he lists all of his base property. In that he lists one well developed in 1917, located in section 3, Township 37, north, Range 5 east. That is the only water he lists at all.

Mr. CRAM. That was in 1938.

Mr. ALLEN. He lists on here his private holdings, which amount to approximately 160 acres.

Mr. CRAM. Two hundred and thirty acres.

Mr. LEECH. Now, this 20 head that you speak about on Soap Creek; what was that in connection with?

Mr. CRAM. The waters of Soap Creek; one time declared a public water hole; and the land was withdrawn on either side when this bill was first set up. We had run there for years.

Mr. LEECH. Do you still run up there?

Mr. CRAM. No, sir.

The CHAIRMAN. What became of your right?

Mr. CRAM. That's what we would like to know.

Mr. LEECH. That is something I will have to have looked up.

The CHAIRMAN. Were you gradually cut down, or did it all happen at one time?

Mr. CRAM. Gradually cut down. Asking about that pipe line, Mr. Woolley told mother and father he didn't want anything to do with the Emmet pipe line. Here is a letter here where him and Alec Finlay asked Mr. Blankenagel for it. If you come right down to this, if anybody is going to benefit—if there isn't some favoritism somewhere, I will be——

Mr. LEECH. One thing I would like to pursue, Senator, and that is how Mr. Cram—how this Cram allotment has been reduced.

The CHAIRMAN. How are these allotments——

Mr. CRAM. And who has been benefited by this reduction that we got?

Mr. LEECH. I wouldn't know——

Mr. SPENCE. It describes it on your permit there, and gives the outlying sections where the corners lay.

Mr. LEECH. How many numbers; I mean in numbers, Mr. Spence?

The CHAIRMAN. We will pause here for 10 minutes.

(Recess for 10 minutes.)

The CHAIRMAN. Very well, we will proceed.

Mr. LEECH. Mr. Chairman, in connection with the *Cram case*, I am going back again to this decision of July 28, 1937, and——

The CHAIRMAN. That, as I understand, was the date on which you decided the House Rock Valley question. Is that right?

Mr. LEECH. Yes, sir; and there were many conflicting service areas for the waters. The way we determined the service area of those waters was by a 5-mile radius from each one. These circles, different colored circles on the map represent the conflict in the service areas of those waters. We realized that we could not make land allotments where such a confusion of conflicts existed, so I attempted to adjudicate it on carrying capacity and the running of the livestock in common.

I found that Cram's well, which is indicated there by the name "Cram," was entitled to 380 head of cattle, yearlong, within the serviced area of his water. Then south of the service area there was an area available for 80 head, that we provided for Cram and Woolley and Mackelprang and Stevenson, who at that time was the Grand Canyon Cattle Co., to run 80 head here on the east of the Cram allotment outside of the serviced area of the waters, where there was carrying capacity for 11 head more.

I have refreshed my memory a little bit during the recess, and Emmet Spring, indicated here by the words, "Emmet Spring," was left out of my original adjudication. The Grand Canyon Cattle Co. appealed, and we reconsidered the Emmet Spring, and, if I remember right, gave it 15 or 20 head, part of which had to come off of the

Cram and the other allotments, and then this 80 head, as I understand it now, they would run in common. That has to some extent been taken up by the buffalo herd, which in the original adjudication was given 143 head yearlong.

I will be very glad to file with the committee a very detailed statement and reference to the map of this type, with the colored circles, which will explain it much more fully. It has been a long time since I made this adjudication, and I have forgotten a good many of the details.

The CHAIRMAN. Well, I don't know that that detail is essential to the committee; and I don't know that the committee is particularly interested in that. What I am interested in now is again the policy. There is a direct charge here of certain users losing their rights. I want to know why they lost their rights, and why somebody else picked——

Mr. LEECH. If that is the case, Senator, we are very anxious to know that also.

The CHAIRMAN. That is what seems to be the implication, and that is what I am driving at.

Mr. LEECH. Now, I believe the first reference Mr. Spence made, of course, is due to the elimination from our administration of the 44,000-acre buffalo withdrawal. That is a fact, isn't it, Mr. Spence?

Mr. SPENCE. But there is no reason yet shown why, Mr. Leech, you cut that off of these fellows' boundaries, from within their boundaries, when the game department hasn't even asked for it.

The CHAIRMAN. That is admitted. Mr. Leech made the admission here early in the day that that was an error, and that error could be an honest error, without a question of a doubt, and as a matter of jurisdiction.

Mr. BROOKS. Mr. Chairman, I would like to ask Mr. Allen a couple of questions.

The CHAIRMAN. Very well.

Mr. BROOKS. Mr. Allen, in connection with Emmet Spring's pipe line, was there any agreement, or any understanding, with the permittees, or users, in that area, before the pipe line was moved?

Mr. ALLEN. Well, at first there was, first a disagreement on it and two different trips were made into House Rock in regard to this proposed pipe line. The last trip before the pipe line was to be built, Alec Cram was contacted, and I met him right there on the highway, where his road turns off to go to the well. We went back to House Rock waters there, House Rock Station, and there he repeated twice to me that he had no objection whatsoever to that pipe line being built. That was before the work was ever started on the pipe line.

Mr. BROOKS. Even after that was the pipe line changed from its original proposed location as a result of an investigation that was made by you, or Mr. Blankenagel after the protest of Mr. Cram?

Mr. ALLEN. The only change that was made after Mr. Cram's protest was that the end of the pipe line, proposed end, was definitely located by legal description.

The CHAIRMAN. By what?

Mr. ALLEN. By a legal description, and since that time there has been another adjustment, and the pipe line will not cross the high-

way, the end of the line being approximately between 6 and 7 miles from the well of Mr. Cram.

Mr. ORMAN CRAM. I disagree with the mileage there, and so on. I think, if you look at the map, there is approximately 3 miles from the well to our boundary, about 2, or a mile and a half from the other line. Emmet Springs is up in the canyon, and inaccessible to the cattle, if you have them go in and water. If it was piped out to the edge of our allotment and not sent and so on, it would certainly damage us if it was piped out. The nearer it gets down toward our allotment, the more it hurts us.

Mr. ALLEN. Your father definitely disagreed with your statement the last time I talked with him. He had no objection to the pipe line.

Mr. CRAM. Why is it he went in and talked to Mr. Brooks in Phoenix—made a trip down to talk to him? Why did he call in Blankenagel and ask him if he would come down and see how it would hurt us? Mr. Blankenagel never did show up. He told me that he would.

Mr. ALLEN. Mr. Senator, it isn't the object to argue this. The point we are trying to make, after all of this discussion had come about and complete understanding was had, there was no objection to the pipe line by Mr. Cram before the pipe line was installed.

The CHAIRMAN. After he filed an objection, you changed your policy on the pipe line to conform to his objection. Is that right?

Mr. BROOKS. That is correct, and these water improvements, Mr. Chairman, artificial ones, it is important that we give every consideration to the users in the areas, and whether or not by the development of waters in a certain area there will be a tendency to hurt some other user. So we attempt to place those in the most feasible locations, so that they will not hurt any one individual, or any group of individuals. Of course you can't always get unanimous decision as to the exact location of these water developments, but we attempt to obtain it and usually we are successful.

Mr. LEECH. May I ask Mr. Brooks a question? In the location of these improvements, Mr. Brooks, you are dealing purely with the development of the Federal range, and are in no way showing any favoritism to any particular licensee?

Mr. BROOKS. That is correct. The improvements enable the users to use the Federal range to better advantage, not only to themselves, but also to the Federal range. Along that same line, they enable the livestock to graze the range properly, or more nearly properly, because of the improvements having been placed there with the few water developments that are there. Natural ranges are generally overgrazed around the water developments, and perhaps undergrazed in areas farther removed from the developments. The water developments enable a better administration of the range lands, and also enable the stockmen to get more benefit from the ranges than they ordinarily would, otherwise.

Mr. ARTHUR WOOLLEY. Did the location of the Emmet pipe line change any allotment?

Mr. BROOKS. It did not.

Mr. WOOLLEY. Did it affect the issuance or withdrawal of any permits?

Mr. BROOKS. No, sir.

Mr. WOOLLEY. Is the area served by the new pipe line, as it will be located, open range in common?

Mr. BROOKS. It is.

Mr. WOOLLEY. Who are the several permittees who will have use of that improvement, and what are the numbers of their permits; that is, how many cattle?

Mr. BROOKS. I will ask Mr. Allen to give those numbers, and also the names.

Mr. ALLEN. Cattle that have been running in common, in House Rock Valley would be benefited by that.

Mr. WOOLLEY. How many does Cram have that he runs in the valley?

Mr. ALLEN. At present?

Mr. WOOLLEY. Yes.

Mr. ALLEN. At present he made application for 185 head of cattle and 20 head of horses yearlong, and 90 head of cattle on the split season, from July 1 to November 30, and from May 1 to June 30. He puts 90 head of cattle on the forest during the wintertime.

Mr. LEECH. He was granted everything he applied for, Mr. Allen?

Mr. ALLEN. Yes, sir.

Mr. SPENCE. Might that not be far-fetched if the company decided to cut waters as they have done this summer in the valley, cutting other people's cattle away from the water?

Mr. Cram would hold no interest in the water. It is not declared public water, and it wouldn't be far-fetched to have that water cut going on in the valley, anyone else's cattle being watered there other than the company's.

Mr. ALLEN. The improvement isn't completely installed yet, Mr. Spence.

Mr. SPENCE. It is not set up as public water.

The CHAIRMAN. Let me get the picture clearer. Who has the greater number of livestock in the valley?

Mr. ALLEN. The Grand Canyon operators.

The CHAIRMAN. These other fellows are comparatively small operators?

Mr. ALLEN. They would run about in proportion: 941 cattle granted to the Grand Canyon operators, 325 to Cram, and 354 to Mackelprang.

The CHAIRMAN. Where do you come into this, Mr. Spence?

Mr. SPENCE. I am representing Mr. Cram, senior. He is sick in bed, and I have a power of attorney to appear for him.

Mr. ARTHUR WOOLLEY. These were his sons who asked the questions?

Mr. SPENCE. Yes.

The CHAIRMAN. Of course, I take it, the implications—there are a lot of implications going on here. The implication is that the owners of the greater number of the cattle would get the greater benefit from this pipe line, and that those who had the smaller number of cattle would be the losers, because their range would be fed out by the larger number closer to the water. Isn't that the general implication that flows?

Mr. ARTHUR WOOLLEY. Who has the closest allotment to this outlet, as proposed?

Mr. ALLEN. This water is on the Grand Canyon allotment.

The CHAIRMAN. All right. Let's go on.

Mr. SPENCE. I would like to call Mr. Curtis on this *Hod Brown case*. He has a statement that he would like to make with reference to the way it was handled. He was one of the witnesses at the time.

STATEMENT OF E. A. CURTIS, JACOB LAKE, ARIZ.

Mr. CURTIS. I have an allotment here in House Rock Valley. I have got a decision here in my pocket that was written by Leech. Through an agreement with him, this line here was drawn between me and Delwin Hamblin. My kick on that is I agreed to the fence, and they built it, but I give them some private land to fix a driveway through the way they wanted. I wanted, and a neighbor there, Delwin Hamblin—they agreed to pipe this Hod Brown spring down and turn it over to Delwin Hamblin, and they never did a darn thing like it.

The CHAIRMAN. Who did it?

Mr. CURTIS. Mr. Blankenagel. He made that agreement. If you make a deal with Uncle Sam, I think he should live up to his agreements.

The CHAIRMAN. Now, as I understand the way it was, Blankenagel made the agreement to pipe water down there?

Mr. CURTIS. For Delwin Hamblin, on the Hod Brown place. For 5 years I had a lease on it.

The CHAIRMAN. They didn't keep their agreement?

Mr. CURTIS. No.

Mr. BROOKS. May I ask whether you made any attempt to talk to Mr. Allen or me about it recently?

Mr. CURTIS. Well, I don't believe Mr. Allen or you in recent months. I talked to—I am thoroughly disgusted with it, and finally I quit. I have got a decision written by Mr. Leech and decided that he must be a Christian Scientist. In that decision, if you read it, you will see—A. H. and William Brown was present. That was after old Hod had been dead for a year. Mr. Leech had him testify.

The CHAIRMAN. Who? Old Hod?

Mr. CURTIS. Old Hod.

Mr. BROOKS. I would like to make a comment, Mr. Chairman. Whenever any of these fellows have anything—This is an old, old case, and no action has been taken on it; and we would be very, very glad to have them approach us, and discuss the matter with us, and see whether or not we can work something out.

Mr. CURTIS. Well, I wouldn't have agreed to this line if I knew, and I knew, too, in my own mind; I did it against my better judgment. If I had known they were going to turn it over to Royal Woolley I wouldn't have agreed to the line. I wanted Del Hamblin, my neighbor, to have it. I thought he had a right to it and they agreed he did have that right.

Mr. LEECH. When was that agreement made with Mr. Blankenagel?

Mr. CURTIS. Right after this hearing. You sent him out the next day to talk with me.

Mr. LEECH. What did you and he agree to do?

Mr. CURTIS. I would withdraw my claim on the Hod Brown set-up, which consisted of a lease. I never did claim to own it. But my attitude of holding on was causing Delwin to lose out on it. He could have had the C. C. boys put Delwin in a good pipe line and make a set-up for another man to make a living on in the valley, though I don't believe it. They could have tore the Hod Brown springs down to where it had been used, and replaced it with one that was there, only in better condition.

The CHAIRMAN. What finally became of it?

Mr. CURTIS. Well, they give it to Royal Woolley, to all intents and purposes.

The CHAIRMAN. Royal Woolley, is that it?

Mr. CURTIS. Well, that is the company. I don't believe they issued him permits, but it does fall within his area, the company area, this serviced area. If you put a cow out there they would have it trespassed, but he services it from House Rock.

The CHAIRMAN. Who does?

Mr. CURTIS. Royal Woolley and his associates. I believe that is pertaining to the fairness of the thing. That is the reason I wanted to get up here.

Mr. LEECH. May I ask some questions?

The CHAIRMAN. Certainly.

Mr. LEECH. Mr. Curtis, this allotment of yours was set up by agreement. Is that right?

Mr. CURTIS. That is correct.

Mr. LEECH. Did you sign the agreement?

Mr. CURTIS. I signed the agreement.

Mr. LEECH. You were granted an allotment for 25 head?

Mr. CURTIS. No; it was cut down. Originally I had a permit for 50 head, my own base, off and on 1 year to the other. Finally it got down to 12 head.

The CHAIRMAN. How did that reduction come about?

Mr. CURTIS. I don't know. Well, it is kind of a long story to go into. They contended I had no legal waters. Well, when I come in here in '29 I filed on a spring and kept it piped in during those prior-use years. Mr. Page finally succeeded in proving it was a well, and I lost it through a suit with the Commercial Corporation of California, and, of course, that is the water I was using on the place. I had it piped down there and kept it there for 4 years, and during that prior-use period it is the water I had. They contended that I was an outlaw of some kind, had no right to that water. But, as a matter of fact, I did have a permit from the State engineer to put that to use. Simply stopped me from getting the final filing on it and I used it on my own place, piped to my own place.

The CHAIRMAN. Was anybody else using the water during the time you used it?

Mr. CURTIS. Not a soul. Never used it since until the last month. I finally bought those springs and I own them now, 800 acres of patented land up there. The only time in that 20 years that spring was ever used was the time I had it piped down there. I proved that. Mr. Page proved it was a well constructed on the land. That is the way they got possession of it.

The CHAIRMAN. Who?

Mr. CURTIS. The Grand Canyon Cattle Co., represented by Page. Of course, the successor of that outfit is Mr. Woolley here and his company.

The CHAIRMAN. During the time that the Grand Canyon Cattle Co. was in existence, was it?

Mr. CURTIS. Yes; back in 1936.

The CHAIRMAN. Before Woolley and his associates took over?

Mr. CURTIS. Yes.

The CHAIRMAN. All right. Finally you got cut down anyway?

Mr. CURTIS. Yes; I lost my shirt, anyway, when I made this deal. I thought, at least, I would have a neighbor, instead of having Roy there.

The CHAIRMAN. Isn't he a neighbor?

Mr. CURTIS. Yes.

Mr. LEECH. What number of head are you running now?

Mr. CURTIS. Twelve head on the public domain.

Mr. LEECH. That's what you applied for this year?

Mr. CURTIS. I believe it is $12\frac{1}{2}$. It is a 5 or 6 months' period.

Mr. LEECH. You have a license for all the cattle you applied to run?

Mr. CURTIS. What?

Mr. LEECH. You have a license, do you not, for the number that you applied for to run?

Mr. CURTIS. Heck, no; not the last year. Of course, I have done give up since I got the fence around me. You won't find any record where I ever got what I asked for. Of course, the last 2 years I was just asking for the carrying capacity.

Mr. LEECH. How much this year, Mr. Allen?

Mr. ALLEN. Twenty-five head of cattle from May 1 to October 31.

Mr. LEECH. How many were granted him?

Mr. ALLEN. Twenty-five head for the same period.

The CHAIRMAN. What did you start out with?

Mr. CURTIS. I started out, I come in here in 1929 and filed a home-
stead there, filed on this spring, got reservoir, fall of 1929 and early
spring of 1930, and bought a few head of cows, and was adding to
them, running ever since, bought and sold ever since.

The CHAIRMAN. What was the greatest number you had?

Mr. CURTIS. I never varied it a heck of a lot during the prior-use
period, in the neighborhood of 50 head of cows and horses.

The CHAIRMAN. Now you are down to 25?

Mr. CURTIS. Down to 12.

The CHAIRMAN. How about this 25?

Mr. CURTIS. I do have a permit for 50 head on the forest, of course,
with the section of patented land, and feeding operations which can
winter on the forest. That is taken care of by the patented land use.
But this 25 head I get is for just a 6-month period.

The CHAIRMAN. How many do you run altogether on the forest
and the Grazing Service?

Mr. CURTIS. Fifty head, altogether, forest, Grazing Service, pat-
ented lands.

The CHAIRMAN. What other business have you?

Mr. CURTIS. I haven't any.

The CHAIRMAN. Can you make a go of it with 50 head of cattle.

Mr. CURTIS. Well, I think that is one of the things we have got the
boys fighting for, now. What we fought for during the World War,
is the right to try, anyhow.

The CHAIRMAN. That's right. But I would imagine it would take
a pretty hard try.

Mr. CURTIS. Well, if you like it, I think that should be our priv-
ilege.

The CHAIRMAN. That's right; that is all right.

Anything more, Mr. Spence?

Mr. SPENCE. Yes; I have another case here that I would like to cite you.

The CHAIRMAN. All right.

Mr. SPENCE. That is the Jarvis place, Mr. Allen. Have you got the record of the permit allotted, the area allotted to the Jarvis allotment?

Mr. ALLEN. I think I have; yes.

Mr. LEECH. All right, he has it, the Jarvis file.

Mr. SPENCE. What was the allotted number allotted to Mr. Jarvis, in consideration for his improvements?

Mr. BROOKS. What year?

Mr. SPENCE. Starting—he says he didn't bring the records past 1938.

Mr. ALLEN. I have the old file on the Jarvis case.

Mr. SPENCE. What was his permit in 1940?

Mr. ALLEN. I can give it to you from 1936 up. You want 1940. In 1936 nonuse for everything.

Mr. LEECH. And that was Mr. Jarvis?

Mr. ALLEN. Yes, sir. In 1940 he applied for 12 head of cattle from May 1 to December 31.

Mr. SPENCE. What was his allotted area, taking into consideration the improvements, Mr. Allen; is what I asked you?

Mr. ALLEN. At this time, figured on a board estimate, which was 14 head to the section—merely an estimate of the advisory board—it amounted to 203 head.

Mr. SPENCE. And he had an agreement with the Division of Grazing that at the time the water was proven sufficient, he got an additional eight sections, did he not?

Mr. ALLEN. I can't give you the exact details on that old agreement.

Mr. LEECH. Was it a written agreement?

Mr. SPENCE. Yes, it is; and it is of record.

Mr. LEECH. If it is a written agreement, I would like to file a copy of this agreement that Mr. Spence speaks of.

The CHAIRMAN. All right, if you can get it.

What finally became of it?

Mr. SPENCE. After buying that place—it is like all the other waters up in that area, they may go dry, and it has been very dry for the past 2 years, but the first summer I was on there I watered 400 cattle there all summer, which I contended showed there was sufficient water there to water the cattle for the additional eight sections. As it is, you will note here on this Jarvis allotment, the water is here within less than half a mile of the fence. The area that was given to him was all back this way [indicating], and it was not considered a serviced area.

Now, in connection with that, Mr. Allen, I would like to ask you what the permit on the Bonal allotment is, on the adjoining area?

Mr. LEECH. Do you now own the Bonal allotment?

Mr. SPENCE. I own the Jarvis allotment, and was refused the additional eight sections which I supposed at the time I bought the place was laying there to be administered to that water, in case it was proven sufficient to handle it.

Mr. LEECH. And you also own the Bonal?

Mr. SPENCE. I own the Jarvis water, and I bought a third interest on the Bonal allotments; had to settle for four sections.

Mr. LEECH. Do you have an appeal pending on any of these at this time?

Mr. SPENCE. I did not appeal it; no; because the complete rebuff I got from the board when I asked for this additional eight sections, I considered it useless, until some change was taken upon the matter of administration of the Division of Grazing and its advisory board.

The CHAIRMAN. What did the advisory board say to you?

Mr. SPENCE. They turned me down flat in a letter, after I had bought a third interest in this allotment, this Bonal allotment. They straightened out my fence corner there, said there was an additional agreement put on there by Mr. Woolley. I bought Alec Findlay's interest and said that I released all claims, my claim in the Bonal—they call it Goldfish Pond but another water right that Mr. Woolley has up there in Sandpine Pockets, and I asked for that. It was refused me on those grounds, that it was not, that I had signed my rights away when I signed that agreement, that I signed away any right that I had. But at that time it was not supposed to have been a part of the Bonal allotment, nor of the Pine Pocket allotment, either, because that was supposed to be shut up there until the waters were proven sufficient, as I understood it. I was turned down flatly by the board on the ground that, when I accepted this four sections as part of the Bonal allotment—from any settlement on the Bonal allotment they turned me down completely and flatly.

I didn't sign away my rights to the eight sections in——

Mr. ARTHUR WOOLLEY. Do you have a waiver in writing of that?

Mr. SPENCE. Yes, sir.

Mr. ARTHUR WOOLLEY. Have you put it in writing?

Mr. SPENCE. I have.

Mr. ALLEN. Here's a copy of the agreement between you and Alec Findlay.

Mr. SPENCE. This is the grounds that I was turned down on; yes, that's it.

The CHAIRMAN. All right.

Mr. SPENCE. It looks like if on the agreement that I signed that was a part of the Bonal allotment, that the Division was getting a little bit ahead of itself in their issuing this permit to the Bonal allotment, because there hadn't been sufficient time allowed for the various waters to prove there was water there for more cattle.

Mr. ALLEN. Mr. Spence, have you got a copy of that old agreement there that you are speaking of? I can't find it here.

The CHAIRMAN. Is this in reference to the other sections?

Mr. ALLEN. He said the Grazing Service got ahead of themselves there. The reason I said I knew nothing about it, I can't quote verbatim and it is rather indefinite in there, is that it does not state a specific time in which this water of Mr. Jarvis had to be proven, didn't set a closing date on it.

The CHAIRMAN. Who benefited by the transaction, anybody?

Mr. SPENCE. Mr. Woolley.

Mr. ROYAL WOOLLEY. I want to correct you there, owned a very small part——

Mr. SPENCE. You controlled 30 head of it.

Mr. WOOLLEY. No; I didn't.

Mr. SPENCE. I said Mr. Woolley & Co.

Well, we can jump from that, as far as I am concerned, if they will answer the question of what the permit was up until the time Mr. Woolley acquired—Mr. Woolley & Co.—acquired it, and show how the size of it increased after he acquired it, which cut out any further chance of any other allotment being increased.

Mr. ALLEN. You are talking about the Bonal allotment, are you not?

Mr. SPENCE. Yes.

Mr. ALLEN. In the spring of 1939 that was set up as 146 head.

Mr. SPENCE. And in 1941, after Woolley & Co. owned it, what did it rise to? Just the permit for 1941, what was the size of it?

Mr. LEECH. As soon as we find the file we will read all of them.

Mr. ALLEN. The only record I have here, Mr. Woolley had 51 head in the Bonal allotment.

Mr. SPENCE. But the size of the annual allotment——

Mr. ALLEN. I have no record and no way of knowing all of the things you want to bring out.

Mr. SPENCE. That was 160 head, you say, on top, in 1939?

Mr. ALLEN. One hundred and forty-six.

Mr. SPENCE. But you know it was 240 immediately in 1941, after Woolley & Co. acquired it?

Mr. ROYAL B. WOOLLEY. Mr. Chairman, I would like to make some corrections. I have got a better memory than they have got and the record. At the time that was allotted 146, Mr. Bonal owned it. And, on an appeal from Mr. Bonal, under a new code, Mr. Leech came down and made a readjudication which says waters serving an area jointly can be divided equally, and moved the Bonal allotment; and took some off the Jarvis.

The CHAIRMAN. What was the outcome, as regards numbers?

Mr. ALLEN. Two hundred and twenty-nine on the Bonal.

Mr. SPENCE. Today; but in 1940 it was 240, Mr. Allen.

Mr. ROYAL WOOLLEY. On an appeal; after an appeal. Isn't that what your record shows, Mr. Allen?

Mr. ALLEN. Yes.

Mr. ROYAL WOOLLEY. I think I can clear it up, Senator. This Mr. Spence purchased in there. He wanted to straighten out his lines. Well, we had purchased the Bonal from Mr. John Adams and Jennings—Alec Findlay and several of us. Alec Findlay had the lion's share. Mr. Spence came in there and purchased the Adams-Jennings and the Jarvis allotment. He wanted to straighten his fence out, so he made a proposition, "You give me these sections here, and I will buy Alec Findlay out." All right, he bought Alec Findlay out for so much. We got eight sections, and he got four. If that is out-trading him I wouldn't come here and admit it. But that is the fact anyhow. He is free, white, and 21, and if he can't——

Mr. SPENCE. It is not a fact, Mr. Woolley, by golly, you say you got 8 and I got 4. The Bonal allotment calls for 24 sections. You got 20, and I got 4. Now, the map will show it, and the records should show it, on the Division of Grazing. You got 20, and I got 4.

Mr. ARTHUR WOOLLEY. Was it a trade you are kicking about?

Mr. SPENCE. What I am kicking about is being refused on the Jarvis, that additional water; when I proved I had sufficient water, which water was within half a mile of my fence; and I was turned down flat.

MR. ROYAL B. WOOLLEY. I would like to ask Mr. Spence a question on the proving of the water. Now, last year, Mr. Spence, you didn't have sufficient water for your livestock, did you? You had to move out four-hundred-some-odd head.

MR. SPENCE. For 4 days.

MR. WOOLLEY. Where did you come?

MR. SPENCE. Two-mile.

MR. WOOLLEY. Did you have a right there?

MR. SPENCE. I had a right there; yes, sir.

MR. WOOLLEY. Where did you get it?

MR. SPENCE. Mr. Hamblin told me I could come there; and, after Mr. Hamblin told me I could come, later you came to me and told me I could water on Two-mile. But Mr. Hamblin had already told me I could water there—Mr. Hamblin. I got a permit from the Forest Service to run on the Forest Service, those 4 days, and trail the cattle back to Two-mile to water.

MR. ROYAL WOOLLEY. This year the same thing happened, didn't it?

MR. SPENCE. Yes; I watered on Walt Hamblin's allotment.

MR. WOOLLEY. At Two-mile?

MR. SPENCE. Yes, sir.

MR. WOOLLEY. Does that prove the adequacy of your water?

MR. SPENCE. Up until that time, by golly, I was watering 400.

MR. ARTHUR WOOLLEY. How long did you water 400? How many years in succession?

MR. SPENCE. All of the summer, each summer.

MR. ARTHUR WOOLLEY. How many years in succession?

MR. SPENCE. Except for the few days, we were dried out.

MR. ARTHUR WOOLLEY. How many years in succession?

MR. SPENCE. Two years.

MR. ROYAL WOOLLEY. You have been there 5 years altogether?

MR. SPENCE. No, sir; this is 3 years. I was away from that place for 4 days—the grazier over here, Mr. Allen—no; I will take that back, it was Mr. Schoup was there, on two different occasions.

MR. ROYAL WOOLLEY. How long have you been at Sand Hills?

MR. SPENCE. Three summers.

MR. WOOLLEY. Two of which you haven't had enough water.

MR. SPENCE. For 4 days.

MR. WOOLLEY. Driving cattle over your allotment, to privately owned waters.

THE CHAIRMAN. I think we are getting out in a field. I think we had better come back to the corral again, and go on.

MR. LEECH. Mr. Chairman, I take it now, from Mr. Spence's remarks, with reference to the cases that he is endeavoring to establish, that the Grazing Service has been favorable to Board Member Woolley. That is the whole substance of your approach, is it not, Mr. Spence?

MR. SPENCE. Not entirely, Mr. Leech. There are a number of men with the Division of Grazing that I have the utmost respect for.

MR. LEECH. Mr. Allen or Mr. Brooks—

MR. SPENCE. Mr. Allen and Mr. Brooks I haven't anything to say against. But Mr. Blankenagel, who you transferred to New Mexico to get rid of, I claim that he—Mr. Curtis named him very closely a while ago—"Charlie McCarthy," without any Edgar Bergen.

Mr. LEECH. You merely disliked some of his official acts?

Mr. SPENCE. His official acts.

Mr. LEECH. And these cases that we have been talking about; are those his official acts?

Mr. SPENCE. That is part of them.

There is one more that I have to fight yet, that I think is very unfortunate; and what I would like to say is—you are aware of it, Mr. Leech, but do you remember one time, approximately a year and a half ago or 2 years ago, when I was in Salt Lake and Mr. Rutledge and Mr. Molohan, who is in the Army now, and Mr. Kerr and I went to lunch? At that time I presented Mr. Rutledge or one of the three—they were all men in charge of the office in different sections—and I brought you from Major Coker, who is in the armed forces at the present time, an oath showing that a hearing here in St. George that Mr. Blankenagel threatened Mr. Coker that if he cross-questioned him upon the stand that he would see that his client's permit was canceled forever; he would never have a permit upon the forest. That was one of the actions that the people and myself or my attorneys had against this case of Mr. Blankenagel. It was presented to him.

Mr. Blankenagel is still working for the Division of Grazing, as I understand it, and was transferred from this area. I suppose that is one of the men Mrs. Keith referred to a while ago, that the other State is going to have to put up with.

The CHAIRMAN. I want you to correct yourself, if it is to be corrected. You said that Blankenagel stated this party should never have a permit on the forest. You didn't mean that?

Mr. SPENCE. On the Division of Grazing.

Mr. LEECH. Did you say that you brought up to Salt Lake City an oath from Attorney Coker?

Mr. SPENCE. An affidavit, and notarized.

Mr. LEECH. Who did you say you turned that over to—one of those three men?

Mr. SPENCE. One of those three men, while we were at lunch. They were all men of authority in the office; and it was one of those three men that I gave it to.

The CHAIRMAN. Mr. Rutledge?

Mr. SPENCE. Mr. Molohan and Mr. Kerr, too.

Mr. LEECH. I misunderstood Mr. Spence. I thought he said he delivered it to me.

Mr. SPENCE. No; I said you were aware that I was there. I said something of the complaint to you in your office. I said you were aware of the fact that I brought this up here.

Mr. LEECH. I never knew of it—the sworn——

Mr. SPENCE. I gave it to one of those three men, which were at lunch.

The CHAIRMAN. Well, Mr. Blankenagel; he has moved now?

Mr. LEECH. Yes, sir. At the present time he is in New Mexico.

The CHAIRMAN. I see; go on.

Mr. ROYAL B. WOOLLEY. I thought the other side of this faction got rid of him.

The CHAIRMAN. Was there a controversy in a factional dispute over him?

Mr. ROYAL B. WOOLLEY. Well, I understood there was objections from the other group to him.

The CHAIRMAN. Which other group?

Mr. WOOLLEY. The group he is attacking; the cattle company people.

Mr. SPENCE. I never heard that, Mr. Woolley. That is news to me.

The CHAIRMAN. Let's move along, if you please.

Mr. SPENCE. Well, another thing; up to the Bushhead allotment; that is another case.

Mr. LEECH. That is a case I would like to know, if that is now pending on appeal before the Grazing Service.

Mr. ALLEN. No, sir.

Mr. SPENCE. I appealed that; asked the advisory board to give it consideration, or whatever the procedure is.

The CHAIRMAN. What did you ask for?

Mr. SPENCE. Mr. Woolley was on the board, and he is two-thirds owner in Bushhead. I asked for the service area of Bushhead. Bushhead is another one of these waters, like the Jarvis water; it can go dry; only the Bushhead goes completely dry. The Jarvis water never goes completely dry, because it has a small spring feeding it from the bottom.

I asked for the service area of Bushhead.

If you will note here [indicating], this is the dependent water for the Sand Hills, most dependent out there. Here is where the lines come to, from here, against that old established water, and I asked for the service area.

Mr. Williams was sent down here as hearing officer for that case, to hear the case. Mr. Roy Woolley came; and Art Woolley came down here from Salt Lake City to represent Mr. Royal Woolley; and I came to town prepared, with my witnesses; thinking we were going to have a hearing. And in a criminal attorney's manner, the case was argued until 4 or 5 o'clock; and the hearings officer never did take one bit of testimony from each side.

They said it was because they knew there would be too much controversy. Well, the Division of Grazing, with the grazier going out there considerably; it looks like they could have shed a direct light upon the actual condition of this water, or his right for more area. It was argued until 5 o'clock. This hearings officer refused to take any of the testimony.

The CHAIRMAN. Who was the hearings officer?

Mr. SPENCE. Mr. Williams. And I finally conceded, gave up this rather large area, here, six or seven or eight sections. They gave me about two and a half or three sections, over here; losing about four sections to them.

The CHAIRMAN. To whom?

Mr. SPENCE. To Mr. Woolley, and Hamblin, his brother-in-law and partner, I thought there was no other way out, because they refused to take the testimony, under the circumstances.

Mr. LEECH. Mr. Chairman, may I inquire?

The CHAIRMAN. Certainly.

Mr. LEECH. Mr. Spence, you filed an appeal, and it was set for hearing on March 6, 1942. Is that a fact?

Mr. SPENCE. On what?

Mr. LEECH. March 6, 1942.

The CHAIRMAN. Hearing on appeal.

Mr. SPENCE. I had an attorney on that, at the time.

Mr. LEECH. You were represented by O. M. Trask?

Mr. SPENCE. That's right; substituting for Elmer Coker, who was in the Army.

Mr. ROYAL WOOLLEY. He was a lawyer.

Mr. LEECH. That resulted in you men meeting here, and having a pre-hearing conference, and going over the various facts. Mr. Brooks was there, Mr. Blankenagel, Mr. Glenn Hamblin, Mr. Royal B. Woolley, A. T. Spence, and Howard Smith.

Mr. SPENCE. Yes.

Mr. LEECH. And O. M. Trask.

Mr. SPENCE. Yes.

Mr. LEECH. It resulted in an agreement, signed by all of you, on March 6, 1942; and, in connection with Mr. Spence's statement, Mr. Chairman, I would like to file a copy of that, with the committee.

(The agreement is as follows:)

IN THE MATTER OF THE APPEAL OF GLEN HAMBLIN AND ROYAL B. WOOLLEY FROM THE ACTION OF THE REGIONAL GRAZIER IN ARIZONA GRAZING DISTRICT NO. 1 (ARIZONA STRIP DISTRICT)

AGREEMENT

The above matter was set for hearing in accordance with the provisions of section 9 of the Federal Range Code before an examiner of the Grazing Service at Fredonia, Ariz., March 6, 1942, at 10 a. m., at which time and place the appellants appeared in person and were represented by Attorney Arthur Woolley of Ogden, Utah. The Grazing Service was represented by L. R. Brooks, regional grazier and Emil C. Blankenagel, district grazier. Also appeared as an intervener, A. T. Spence in person, represented by Attorneys Ozell M. Trask and Howard J. Smith, of Phoenix, Ariz.

The question in issue, as found by informal discussion by and between the parties in interest and representatives of the Grazing Service, is the matter of establishing a permanent and mutually agreeable range division line between the Bushhead allotment of the appellants and the allotment of A. T. Spence. This matter is a continuation of a controversy between Adams and Jennings whose properties have been purchased by A. T. Spence and Royal B. Woolley and Glen Hamblin, which matter was set for hearing at Kanab, Utah, April 21, 1939, as shown by a stipulation entered into at that time between the parties in interest and which later failed of its purpose in the establishing of an allotment division line.

It is now agreed between the appellants and the intervener that conceding the proper adjudication of grazing privileges from the waters used as base properties by the parties in interest that the proper and permanent division line between their allotments shall be established and is described as follows:

Beginning at a point on the south rim of the Paria Canyon immediately south of the north quarter corner of sec. 9, T. 41 N., R. 6 E., thence due south a distance of approximately $6\frac{3}{4}$ miles to a point a short distance east of the north quarter corner of sec. 16, T. 40 N., R. 6 E.; thence east along the section line to the northeast corner of said section 16; thence southeast through sections 15, 23, and 25 to a prominent point on the north ledge of the Vermillion Cliffs which point is located in the NW $\frac{1}{4}$ sec. 25, T. 40 N., R. 6 E.

It is the mutual desire of both parties that this line be fenced and in view of accomplishing this purpose the district grazier agrees to flag this line as closely as possible to the line described with due regard to taking advantage of topographic features of the terrain and to secure the shortest and most practical fence line.

It is further agreed that the allotments of the appellants and the intervener will be adjusted in accordance with this agreement and licenses issued accordingly as of July 1, 1942.

In view of this agreement the appellants hereby withdraw their now pending appeal. Dated at Fredonia, Ariz., the 6th day of March 1942.

Luster R. Brooks, E. C. Blankenagel, Perry T. Williams (examiner),
Glen Hamblin, Royal B. Woolley, Arthur Woolley, A. J. Spence,
O. M. Trask, Howard J. Smith.

Mr. SPENCE. Mr. Leech, there is no denial that I signed an agreement at 5 o'clock that afternoon, after I was argued down to where I didn't have resistance enough to stand up. By golly, as I told you, criminal attorney procedure had been taken; and not one bit of evidence was accepted by the hearings officer.

Mr. LEECH. Well, that was a conference that you men were holding before the hearing, to determine whether or not you could come to an agreement, wasn't it?

Mr. SPENCE. I asked numerous times, of Mr. Williams, if he was not going to hear our testimony.

Mr. ROYAL WOOLLEY. Have you the transcript of the proceedings at that hearing?

Mr. LEECH. No; I only have a copy of an agreement, Mr. Woolley.

Mr. SPENCE. Were there any proceedings made of record?

Mr. ARTHUR WOOLLEY. I don't remember making a speech on that occasion.

The CHAIRMAN. If you didn't, it was an off occasion. Something was wrong about it.

Mr. SPENCE. They argued from 9:30 in the morning until 5 o'clock in the afternoon.

Mr. ARTHUR WOOLLEY. You certainly put up an argument. You argued with the lawyer; and I never could figure out which one of you fellows was the most bull-headed. I thought, at the time, it was the irresistible force meeting the immovable object. There were you two great big fellows, and as bullheaded a looking pair as I have ever seen. It took all day, trying to argue you both down; and you tried to argue my brother; and finally you compromised on a 50-50 basis. That 50-50 has settled more lawsuits than any other rule; hasn't it, Senator?

The CHAIRMAN. I don't know.

Mr. SPENCE. Well, along with the district grazier, you finally got your argument. He put up as much of an argument as you did.

The CHAIRMAN. Well, all right. What was the outcome of that?

Mr. SPENCE. That was the outcome of it, Senator. It looked like there was no alternative, except to weaken and give him that additional area. As the hearings officer wouldn't hear it, I just give up.

The CHAIRMAN. Who did it give it to?

Mr. SPENCE. Woolley and Hamblin.

Mr. ROYAL WOOLLEY. The essence of that agreement was they would fence between—

Mr. SPENCE. It has been absolutely a year from that date; and the Division of Grazing has not fenced it.

Mr. ROYAL WOOLLEY. We are trying to get them to fence it.

Mr. SPENCE. So am I.

Mr. ROYAL WOOLLEY. We want it fenced, so we won't be bothered with you.

Mr. SPENCE. So am I.

The CHAIRMAN. Well, we've got you both bothering the Division of Grazing now.

Mr. BROOKS. Mr. Chairman, I am happy to report, in connection with this, that fence is under consideration for this fall. However, we have to go through W. P. B. in Washington to get approval on various things.

Mr. LEECH. Are we building the fence, or these two licensees?

The CHAIRMAN. The Division of Grazing promised to build the fence?

Mr. SPENCE. Wasn't that the same thing that you were trying to do last spring, a year ago, Mr. Brooks; trying to get a permit from the War Department to construct the fence?

Mr. BROOKS. That is a long story; several different delays there.

The CHAIRMAN. I have very grave doubts that you will get a priority to use war essential material, especially barbed wire.

Mr. SPENCE. As far as I am concerned, I will furnish half of it, if they will do it.

The CHAIRMAN. It is not a question of furnishing it. You can't get the permit. It is very doubtful if you can get the priority.

Is there anything more on this?

Mr. ROY WOOLLEY. I think I am entitled to say a word in defense of the charges brought. It seems to me, from the evidence, it is not a case of favoritism, but of a man being outraded. And I'd shut up about a bad trade.

The CHAIRMAN. I have some ideas on that.

Mr. ROYAL WOOLLEY. Maybe I shouldn't have said it. I'll retract it.

The CHAIRMAN. I think you had better. I think that can be stricken from the record. I wouldn't say it if I were you.

I don't think it is the part of the Division of Grazing to permit a man to be outraded if he is trying to make a living on the open public domain.

Mr. SPENCE. Advised by an advisory board.

The CHAIRMAN. He should see to it that the man gets a fair break, in all justice and fair play. That is all the comment I have on that. I don't think it is a question of trading; it is a question of fair play.

Mr. ARTHUR WOOLLEY. I wonder if the record might show how many total cattle Mr. Spence is permitted in the area?

Mr. SPENCE. I have bought permits and rights for approximately 1,600 head of cattle, including those four sections here. The Adams-Jennings permit allotted and rated 1,365 cattle; Jarvis, 203—never got the allotment on the four sections from Bonal; and I judge it would be at least 40 head—1,600 head this year. Without even any action, the Division of Grazing mailed me a 10-year permit for 1,173. That is what I have got to show for over 1,600 head of cattle, my reduction. I bought and paid for it, and I haven't got it.

Mr. LEECH. Do we have the record on Mr. Spence?

Mr. ALLEN. Yes.

Mr. LEECH. How many does he run?

Mr. ALLEN. It's hard to determine, when a person represents carrying capacity of the range when it is solid; but in our records, up here, the original record shows that Mr. Spence had a carrying capacity for 1,255 head of cattle, yearlong. That is the original record in our files.

The CHAIRMAN. How many has he a permit for?

Mr. ALLEN. We issued a term permit for 1,172 head of cattle.

Mr. LEECH. That is all the cattle he had?

Mr. ALLEN. That is what the permit reads for. He has never filed a license yet.

Mr. ARTHUR WOOLLEY. Never what?

Mr. ALLEN. Never completely filed the permitted number yet.

The CHAIRMAN. How many cattle are you running, the total?

Mr. SPENCE. I haven't got my permit filed, not even 1,172, because the range is in drought this year. The Division of Grazing has suggested it advisable to keep it light. I thought so myself, consequently it has been kept light. I didn't like to have my prior rating reduced down to this number, when a 10-year permit is issued. I brought that to the attention of Mr. Blankenagel, and I think I mentioned it to you, didn't I, Mr. Allen?

Mr. ALLEN. How's that?

Mr. SPENCE. Didn't I mention to you why the 10-year permit was only listed at 1,172?

Mr. ALLEN. You questioned us on that.

The CHAIRMAN. He claimed he was entitled to 1,600. I don't think it is for the committee to go into that. I think you have to charge that to administration.

Is there anything further?

Mr. SPENCE. That is all I have. I asked for that permit, but that was it.

The CHAIRMAN. Anyone else want to be heard on this line?

STATEMENT OF GEORGE MACE, KANAB, UTAH

Mr. MACE. Well, I have a ranch right here, right on the line, straddling the line.

The CHAIRMAN. What line?

Mr. MACE. The Arizona-Utah line. I was given an allotment 7 years ago, for eighteen 40's; lay on it, adjoining my ranch, between me and Dan Judd. I got Mr. Shoup and one of the officials, Anderson, I think was the young man's name. They came there together, to go over the boundaries. We located them; and finally I fenced on those boundaries, and Dan Judd protested with my fence. Mr. Blankenagel came out to settle this difficulty, looked over the situation; and he said that there was a number of 40's lay inside of Milt Cram's fences, where he had filed on homestead, and that, some cause or other, they had not granted him the full homestead. There was seven 40's, I think, that had been rejected, or had never been set aside, as grazing ground, by the division of grazing.

Well, to settle the thing, he asked if I would accept those 40's, instead of Milt's place, and let Dan have the extra three 40's that he claimed should come in his allotment. Before it, prior to this, the allotment amounted to eighteen 40's; that is, cutting off what was under the point of the hill, up here, about 100 acres. I think I told them, if I could have—if there was vacant 40's, to the amount they claimed them in there—I could have the whole thing, I would accept that, and let Dan have that which was under the point of the hill, adjoining his place.

Well, I don't know under whose instruction it was all carried on, but my fences were removed, and the partition fence put on the line that we settled on, between Dan and I; and another fence was built, to provide a pass for Dan's cattle in between these two buttes, that you see right here [indicating], north of us, about three-quarters of a mile of fence. The C. C. C.'s built the fence. I don't know who furnished

the material. Afterward, I went and talked to Milt Cram, and he said there was only four 40's there, rejected, because they were not set aside as grazing ground; and that he had a lawyer working on it, to get that included in his application. These four 40's, as fenced, have been designated as grazing ground.

The Division of Grazing sent me a map of the condition there. But they cut several of these 40's in two, over here, where I was to join Milt; and I raised a question on it. I would not sign until it established the line there, the survey lines. But it went on for a year, I guess a little over, and during that time the C. C. C.'s built this spring fence, across here. It was on this ground that it had been rejected. The four 40's had been rejected on account of not being set aside for grazing ground.

Well, it took me quite a period of time. I didn't get to contact Blankenagel on the proposition, but there was a man came out here from Arizona, and I talked to him, there, on the street, in Kanab, about it. He said they were going to get it fixed up. Well, the way they fixed it, finally, they notified me that Mr. Cram was entitled to all the ground inside of his fences. Of course, that left that spring fence along this ground. It was an obstruction to the passage of cattle; and the fact that they built the fence in such a way, against the hills, on this side, it was an obstruction to the passing of any cattle.

If I had got the ground over there, which they give Dan, the full width of this valley; but the fence still remains. Now, I understood Mr. Blankenagel to say it would take an act of Congress to move that fence. Now, there is still a 40, laying, that they allotted to me afterward, laying inside of Dan's fences, that would have to be fenced on three sides, in order to throw it in with my allotment.

The CHAIRMAN. What do you know about this?

Mr. MACE. I want to get the privilege of moving that fence over; fencing my land here myself.

Mr. ALLEN. Mr. Mace is talking about two entirely different pieces of ground, a mile and a half apart, separated by the highway, up here.

Now, in regards to the portion of the east side, in Milton Cram's area, that was the place where I was accused of discriminating against Mr. Cram. We went out there, and it has been the policy of the Grazing Service, that where a man has made application for a homestead, and, due to the passage of the Taylor Grazing Act, his homestead—that land being classified prior to 1934, and he has had his land—we have gone ahead and recognized him as having exercised control over the land under his fences, even though he doesn't get the full 640 acres. In this case, Mr. Cram got a portion of his land. The rest of it was still under the fence. It was fenced on the west, the south, and the east side, by Mr. Cram's; and on the north by the Chocolate Rim, which you can view from the doorway here.

In inspecting the entire area, with the district grazier, with the recommendation of the advisory board—they recommended, there, that Mr. Cram should have the small area he always had had under his fence, and had exercised control of, since he had made his application for homestead, and on this west portion of ground, over here. That is quite a controversial subject, between Mr. Mace and Dan Judd. That is one of those places where you can get 30 people to swear that

you are a liar, and 40 people to uphold you. It is just one of those things, back and forth, and as to that, Mr. Judd here can speak for himself, if you so desire.

Mr. MACE. I would like to say this: I have been on that place up there ever since 1908. I lived there, and milked cows, and fought the Indian reserve and everybody else and finally got a title to 640 acres. During that time I was running my cattle in this vicinity, here. They was other fellows came in and took up homesteads and gradually surrounded me until there wasn't much land left. But I raised around 75 to 100 tons of forage there and I have a permit, I have water to water about 5,000 head of cattle on my place, Kanab Creek, and a couple of springs besides.

The CHAIRMAN. How many cattle are you running?

Mr. MACE. A hundred head permit. On the summer grazing, up in district 4, 75 head; and this allotment on this, back here.

The CHAIRMAN. Is there any chance to move any of that water up to the Kaibab?

Mr. MACE. Well, I moved some of the stock out there, once in a while. That condition—I have used that range there before Dan Judd or any of these other fellows had a cow on it, and the other fellow got the consideration. I have got "squoze" down to a couple of sections of brush ground on the gravel surface. It takes more than we can ever get in this country to make grass. That's about the size of it.

The CHAIRMAN. Is this matter still under consideration?

Mr. LEECH. Senator, it is not clear to me whether Mr. Mace is talking about a grazing license or permits, or whether he is talking about an agricultural homestead entry.

The CHAIRMAN. He is talking about moving a fence.

Mr. MACE. Haven't got any allotment fenced. That spring fence there built by the C. C. C. is an obstruction.

Mr. LEECH. Is the fence, however, on an area you were trying to homestead?

Mr. MACE. Wasn't trying to homestead; that fence, that wasn't on my homestead. I was trying to find out if it was possible to get to move that fence. My allotment, that is partly in Dan Judd's.

Mr. ALLEN. The particular piece of fence you required to move in there, Mr. Mace, the Senator has told you materials are extremely difficult and hard to get, and the material has been difficult to get in, taking care of our work.

The CHAIRMAN. Isn't this fence now on the ground?

Mr. ALLEN. Yes. This fence he is speaking of has been constructed.

Mr. MACE. On the ground allotted to me at one time.

Mr. ALLEN. It is no longer in his allotment. The fence, as it was built at that time, was supposedly on a range division line between Mace and Mr. Judd. But the land was allotted to Milton Cram.

Mr. MACE. After they promised it to me, they took it back and gave it to Milt.

Mr. ALLEN. Agreed to split up another man's property.

Mr. ARTHUR WOOLLEY. It is a surplus fence you intend to move some place else. Mr. Cram wants to move it down.

Mr. ALLEN. We have four applications down here at Fredonia to move that for us.

Mr. MACE. I think I've got the priority on that, because it was put there to separate Dan and I; put there for my benefit. I think I've got the first right to it.

Mr. ALLEN. I think we claim the first right, Mr. Mace.

Mr. MACE. Well, if you consider that justice, that's all right.

The CHAIRMAN. I don't know how to decide it. You fellows are on the ground here, and you know more about it. It looks to me like it is an individual case. I tried to listen to it, to see if I could do anything—

Mr. BROOKS. I will be glad to look into this, and if there is any injustice, in any way, we'll take care of it.

The CHAIRMAN. I wish you would.

Mr. MACE. The upshot of it, I got left out. Dan and Milt got the fence and land, and I am just out.

The CHAIRMAN. The land proposition came in under a homestead; isn't that right?

Mr. ALLEN. It was land that had been applied for, but could not be proven up.

Mr. MACE. Vacant ground; at the time we made the agreement.

The CHAIRMAN. I wish you would give further consideration; go into it and see what can be done.

Does anybody else want to be heard?

STATEMENT OF AJAX MORONI, ST. GEORGE, UTAH

Mr. MORONI. I am going to start out with Pipe Valley, about 25 miles out here. In 1930, I came out there and homesteaded, filed a stock-grazing claim, and my intention was to raise cattle. That is the reason I filed that stock-grazing claim, and my father, adjoining the section that I filed on, filed a stock-grazing claim also; and we developed water on my father's place—a well. The well is out in the vicinity, on top—what I mean by on top, there is a low valley, and then there is a high plateau up there and, on top, there was no water developed up there. We developed some water in this place in 1932; the latter part of 1932.

Well, we had no cattle. The depression came at that time, and we didn't have any cattle when we first developed the water. But we leased our place to Mr. Brinkenhoff, a sheepman. I don't know just exactly how long it was leased to him, but it was leased. I think he used it 2 years, and it was also leased to Ben Sorenson, that run cattle out there at that time. He isn't out there now. We applied for a permit, and used the priority for priority rights—the grazing that Mr. Brinkenhoff and other people had done, from that water out there. We were allowed, at one time, 25 head permit, nongrazing permit; see? I had a few head of cattle, but I had 2 sections of land to graze them on. I always figured it would be better for me to graze inside, on the 2 sections, and not use—we let the 25 head nongrazing permit ride, and figured somebody else around there could use it better. Not as well as we could, but it would help somebody else, as long as I had just a few head and could graze there on the 2 sections.

Well, later on, I got enough cattle that I could see that I had to have more outside land. I have tried to get a 25-head permit. I have tried for more. I applied, I think, several times, for 100

head, 50 head—I made several applications for enough cattle that a man can make a living. You can't make a living on a handful of cattle. We never have got on that water. We have never got but a 12-head permit; and a 12-head permit is not enough for anyone. Their argument, the Board's argument, is that we haven't had any priority right.

Well, there are several others. I don't name these here homesteads, because I don't aim to put a slam in against anybody. But I have to name two of them, but not for a slam. One homestead up there, I know all about. I drilled one water well on it and picked a location for the other water well, and I know all about that. The water well that claims a priority was drilled after 1934, and the one that never did amount to much, I drilled that myself, I drilled that in 1933.

The CHAIRMAN. Please get to your point. I think we have the background. What is your complaint?

Mr. MORONI. I want enough land out there to make a living on.

The CHAIRMAN. You want grazing rights to make a living on?

Mr. MORONI. This section, I feel—my father has the one on the next property, and I expect to buy the other, as soon as it is broken. I can't make a living on the 12-head permit, though I own 123, and one-fourth interest in my father's estate. I have three and three-fourths sections of land that I own.

The CHAIRMAN. How much water?

Mr. MORONI. I have plenty of water, and I maintain—

The CHAIRMAN. Who else is running in there?

Mr. MORONI. Lee Esplin and Tom Jensen; and I maintain I went out there—

The CHAIRMAN. Wait just a minute. How is this situation?

Mr. LEECH. Mr. Chairman, on this case we had an appeal from this man, and it was set for hearing, as I understand it, and he did not appear at the hearing. Now we have told him that we will look further into the matter, and the Grazing Service is prepared to make a full examination of it, and, if possible, to do something for him.

Mr. MORONI. May I explain why I didn't appear? I came in here on March 6, wasn't it, 1942. I came in to appeal, and I sat there all day. I am hard of hearing. They argued a half day, up until 9 o'clock, one night. I thought we was having a trial.

The CHAIRMAN. What were you having?

Mr. MORONI. We were having a pow-wow. I thought it was a trial. I was dumbfounded after we had all the talk. They talked like Mr. Spence said—he probably talked his head off, and I did, too—and, come to find out, it was a useless pow-wow. It wasn't a trial I had come in to on that date. That was supposed to be the day. They asked me to come in, and I figured my trial was going to take place. I was told, that night, at 9 or 10 o'clock, that it was too late to continue with the trial now, since I wanted one.

I says "Well, I have to go home." I was in town, here, with another party. Mr. Lee Esplin was also in at the time, and he was going back in the country where I live, and I asked Mr. Esplin if I could go back out with him. I went back out with him, and I was going to come in with him, the next morning, to the trial, but it was raining and

storming like it is now, and the roads was pretty bad, and Mr. Esplin had some cattle to take care of; so I got into town in time to see the bunch leaving. I was supposed to have a man up there, to take care of our interests. This man had one-fourth interest in that estate, and he could have took care of it as well as me. Either one of us could have took care of it.

The CHAIRMAN. Well, you are still going to have a chance.

Mr. MORONI. The reason I didn't appeal it, like Mr. Spence said, I have tried for years out here to get something, and all I ever been is told I haven't any rights. I have got a right to make a living. I've spent more money developing water out there than any one individual in this section.

Mr. LEECH. The day they were discussing the case, I believe they were trying to determine what the issues were they were going to a hearing on. We would be glad to look into it fully, Senator.

Mr. MORONI. I would certainly like it looked into. I think when a man goes out there, like we have—not only myself, but dozens of them—out into this country, and developed it, and put more water out there, and the big cattlemen put out there, and we are out to have a living. You can't live on a 12-head permit.

The CHAIRMAN. Well, the Grazing Service say they are going to hear this matter, and I take it they will hear it. I am going to request that they make a thorough investigation and hearing on it.

Mr. MORONI. Thank you.

The CHAIRMAN. Is Mr. Roy Bundy, from Mt. Trumbull, present? Will you please come forward?

STATEMENT OF ROY BUNDY, MT. TRUMBULL, ARIZ.

Mr. BUNDY. I pretty well represent the community where I come from. I have got it wrote down, so I don't get rattled, and forget some of it. I think I can speak loud enough so the lady will hear me. She'll get it.

I am not—I did not understand from your letter I have in my pocket, here, just what was coming up here. I understand your S. 31 to mean you wanted to enlarge the advisory board's power. I will read this, or give it to you, and then I will tell you why I don't think we should have it enlarged.

Before you enlarge the power of the local board, in our districts, better inform them that there is a section 3 of the Taylor bill that states that local residents, settlers, and owners of land and waters, who have been using the range in the past, are given preference, by the terms of the act, and use of land within such districts: District advisory conference, Salt Lake City, Utah, January 13, 14, 1936, page 26, F. R. Carpenter said, once and for all, land and water.

Page 59, December 9, 10, and 11, 1935, Mr. Carpenter answered a question of Mr. Findlay's, "How can you give the owner of water priority over land owners?"

Mr. Carpenter said, "You cannot."

Now, gentlemen, take my word for it, investigate, and see if all the fences that are put up by the Grazing Department are not for the interests of some member of said board, or has-been members; and it is to their advantage not to have the fence, because they are getting the

feed of the other fellow, which is the case over our way, which another member put it in the local paper, he has 30 miles of fence.

Board members come first in this grazing district. How does it come about?

The CHAIRMAN. What is the number of your grazing district?

Mr. BUNDY. Nos. 1 and 2.

The CHAIRMAN. What section of the strip does it cover?

Mr. BUNDY. This west part; on the rim, and off of the rim.

How does it come first in this grazing district? How does it come that they got all the rating on the public water reserve, when circular No. 1028, regulations relative to the use of land in withdrawn public water reserves, any citizen, or nation of citizens of the United States, or any corporation, duly created, in existence under and by virtue of the laws of the States of the United States, who may desire to improve the productiveness of any water hole or sources of water within the boundaries of public water reserves, or construct such waters from their source within the reserve to a point or place more convenient for public use, may file in the office of the registrar of the United States land district, within which the reservation is situated, an application for permission to use the reserved land or conduct the water over or through the same.

How does it come, I say, Board members get it all and can run it in a sink hole, to keep the others from watering there, which the Arizona State laws make it a misdemeanor for anyone wasting water or trying to keep another from getting it?

Now, I would like to throw a stone at the grazing bill, while I am at it.

The CHAIRMAN. At the bill?

Mr. BUNDY. At the bill.

Grazing bill, section 7, allows for 320 acres of homestead. How is it going to be proven that it is more valuable for agriculture, if he is not going to be allowed to go on it and is stepping on a board member's toes by doing so? We ask for an investigation into the thing, together, the livestockmen and the inspector for the sanitary board of Arizona. They should be able to tell you how much stock such and such a fellow has, since the beginning of this act, and their ages and acres, and how many they have shipped out. You will see who is getting the grass and how many they have permits for on your records. It will tell you.

July 11, 1936, a letter, signed by C. F. Dierking, with license and receipt in, says:

You will be confined to a 5-mile radius around your water, and will not graze within 3 miles of water held by others, except where there is a conflict, and then the case will be divided equally.

Investigate, I say, and see if that is being done to that community over our way.

Senator, the statement you said about the committee, this morning, to investigate the park, the forest up here; we would like to have that committee.

In a letter dated December 30, 1936, signed by John Ray Piker, the letter says:

Federal range has been allotted to you. Failure to provide water for your stock within the allotment, or to keep your stock within the allotment lines, will result in the cancelation of this license.

I would like to say to the regional grazier over there, Is that the policy still?

Mr. BROOKS. What is that question again, please?

Mr. BUNDY. Divide the land half way between to keep within our own allotment, and where there is a conflict divide the line half way between?

Mr. BROOKS. You both have equal water and equal rights, yes; and the land is capable of being covered by livestock equally.

Mr. LEECH. I believe you are referring to section 2-L of the Federal Range Code, where it says that in conflicting areas we will divide it equally between the areas in conflict. Carrying capacity for the area in conflict would be divided between the two waters.

Mr. BUNDY. Mr. Brooks, I want to ask Mr. Brooks if he was over to my place. I have met this man for the first time the other day. Do you know whether or not the line that you said we would try and put through, the fence line, is half way between or not?

Mr. BROOKS. No; I don't know.

Mr. BUNDY. Do you, Mr. Allen?

Mr. ALLEN. I don't know just where your base property is. Is it closer to your base property than it is to the person to whom you refer?

Mr. BUNDY. Well, you were out there, the other day, when we had a plan out there to try to get assigned lines. We have been in the grazing business here now for about 9 years, and they have been getting the graze. You will have to admit that, won't you, Mr. Allen, on my allotment, on my brother James' allotment, my brother Chester's allotment?

Mr. ALLEN. Well, you can't control cattle in Arizona without a legal fence, and I don't believe your allotments are fenced. They are in common, at the present time.

Mr. BUNDY. We asked for a fence a long time back on an investigation into it.

Mr. BROOKS. We have promised that. We will go into that as soon as we can. It is only a mile and a half of fence, and I think we can get that done.

Mr. BUNDY. But all this time that this is being put off members of the advisory board are feeding the feed in our allotment.

The CHAIRMAN. Let me hear that. All this time this is being put off members of the advisory board are getting the feed? Or did you say "fees"?

Mr. BUNDY. The feed that we should have around that community.

The CHAIRMAN. Who are the members of your advisory board?

Mr. BUNDY. They may be ex-members, I don't know; pretty near like the other fellow, pretty near got disgusted, coming in to try to get an adjudication or justice at all.

The CHAIRMAN. Do you know the members of the advisory board?

Mr. BUNDY. Yes; I know the member on the board gets feed, Mr. Jack Findlay and the Schmutz brothers.

Mr. JOSHUA A. CROSBY, Mount Trumbull, Ariz. I would ask Mr. Allen to explain the legal fence that he is controlled. There is an allotment adjoining onto Mr. Bundy and my allotment on the north, just through the fence, the division, and for the past 5 years there hasn't been 30 days in what is called Fern Esplin's Reservoir, controls 17 sections—

Mr. BUNDY. Nineteen.

Mr. CROSBY. Go down onto sheep allotments, and what are you going to do? Mr. Bundy leased the waters, his water, a year ago, and you call for 7 head to the section. If they was 17 head, there was a thousand, on Mr. Bundy and my allotment. Then the rain came, and they moved their cattle from down under No. 2, and by the time they got them there this water, this particular water, was dry, and they were turned loose and went down onto the sheep allotment, 1942; and Mr. Findlay, between 12 and 1 o'clock at night, come and woke me up and wanted to water his horse.

What are going to do about it?

Mr. ALLEN. Would you make your question clearer, Mr. Crosby?

Mr. CROSBY. What?

Mr. ALLEN. Would you make your question clearer, please?

Mr. CROSBY. You say you have a legal, lawful fence in order to control it. Then if Mr. Findlay has a right to move his cattle over on this allotment, and they drift over into these other sheep allotments, coming down Lang's Run; what more right has Mr. Findlay got than anybody else?

Mr. ALLEN. Are you interested in the Fern Pond allotment?

Mr. CROSBY. No; but I am adjoining it; but I was interested in the allotment adjoining Mr. Bundy's, which was overstocked, and they had their allotment in that, and there was enough to cover twice over, or full. I went to market, and they still got an over—

Mr. ALLEN. Don't you think, Mr. Crosby, it is a question of time until those allotments are fenced, and that you have that under control?

Mr. CROSBY. Probably so.

Mr. BUNDY. It's been 9 years.

Mr. CROSBY. But when you was here 2 weeks ago, Mr. Allen, you told me that you and Mr. Brooks would come up and see me personally and contact me, to give me a license to run cattle; and today you tell me that probably you will be out on the 20th of next month; and the cattle are perishing. What is a man going to do with it? Are you going to give it to Mr. Schmutz and Findlay?

Mr. LEECH. Do you have a license now, Mr. Crosby?

Mr. CROSBY. I applied for a license, and it was rejected on the grounds that I did not have water. The reason, the simple reason that I don't get water is that I applied to the S. C. S., the water-facilities, 4 years ago, applying to take care of my Taylor Grazing in a community allotment, a community set-up, in connection with Nixon Spring, Little Spring and Big Spring, which is mentioned in the withdrawal in 1916, signed over on community. I signed it over and, for the simple reason that I leased it in 1939 to W. A. Kent, Mr. Blankenagel informed me that it is canceled. It takes two to make a contract, and how are you going to break it, if Mr. Blankenagel tells me it is canceled, and I haven't got it. Therefore, I haven't got a license.

Mr. ALLEN. You have an appeal pending, haven't you?

Mr. CROSBY. I applied for an appeal, and it was posted in St. George, Utah, on the 17th day of April, to meet here in Fredonia on the 27th day. At Mount Trumbull I received it on the 5th of May. Then I asked for an appeal, and Mr. Allen simply ignored my legal

counsel, and later on he made an application that he would later notify me, which he has not; and I contacted him. He said that he could go over the advisory board's head and give me a license. I have water today, and Mr. Findlay and Mr. Schmutz' cattle are watering; therefore, I haven't got any license.

Mr. BROOKS. Mr. Crosby, as I understand, you have filed an appeal. Your case is now pending, and it hasn't yet been settled?

Mr. CROSBY. Yes, sir.

Mr. BROOKS. We are having one of our men in the regional office accompany Mr. Allen—

Mr. CROSBY. He informed me 2 weeks ago he would meet me.

Mr. BROOKS. We are having Mr. Allen and one of the men in the regional office investigate the four appeals now pending and see whether or not they can be worked out amicably or satisfactorily before a date is placed for a hearing. If those appeals, including yours, cannot be worked out satisfactorily, then you will be given an opportunity to appear at a hearing and put your evidence in the record, and the hearings examiner will make the decision. We are going to come out to your place personally.

Mr. CROSBY. I would like to meet you.

The CHAIRMAN. All right. That will be carried out?

Mr. LEECH, Yes, sir, Senator.

Mr. BUNDY. I want to check this here; scratch it a little. I am glad to hear you say what you said, that the Taylor bill was made for the little fellow. I am wondering how the range code got in there, to put land or water, so the board can perpetuate themselves into office, and whatever they had, the biggest part of that they made the ruling in our district on this water.

Mr. LEECH, you know I have got a stone to throw at you.

Mr. LEECH. All right, Mr. Bundy.

The CHAIRMAN. He is all battered up from this afternoon. You'd better have a heart.

Mr. BUNDY. He knows how much heart he has for me.

I asked you to put in public waters—if I gave it to you, you would do it for me—didn't I?

Mr. LEECH. Yes.

Mr. BUNDY. But you didn't do it. You sent it back to me, did you not?

Mr. LEECH. Which one is that, Mr. Bundy?

Mr. BUNDY. You told us at the hearing that my papers, we wanted to file, I would take them.

Mr. LEECH. Yes, sir.

Mr. BUNDY. I gave you this very number, 1026, on the public water, but you returned it to me without filing it; without carrying it on up.

Mr. LEECH. I returned all of the papers that you gave me for your records; didn't keep them in the file. I made copies of them.

Mr. BUNDY. You made copies, thank you. That is better. I won't hit you quite so hard.

As I said before, this thing has gone about long enough. I believe that right will win out. I didn't think I would ever get a chance at that man, but I knew this local board business would finally come to a hearing, where we might get what the law said that we should have. I say again, investigate it, gentlemen, investigate it, and see whether we have got 5 miles from our holdings.

We asked for an allotment, for a community allotment, give us 5 miles or 6 miles on each side. We own, over there, nearly a township. Did we get it? I bought a section of land, and they painted it in; painted one grazing to match it; and it stayed painted on the books for a long while. I asked them one day—thought they would give me a hearing on that; and, first, Painter rubbed out the paint, before my eyes, and turned me down, while others has got it over there, on their land. I cannot cry as much for an allotment. They gave me—they have cut me down from what they gave me at first, but I wouldn't cry now if the other fellow wasn't getting the feed all the time. I have got my stock on my own patented and leased land today because the other fellow has got his on my range allotment.

As I tell you, this has gone on from year to year. I can bring you plenty of letters from Mr. Painter, from Mr. Dierking; they are going to do something; but we haven't got it done yet. For 9 years, the other fellow gets the feed.

I don't want to forget I want to throw that stone at Mr. Leech over there. Mr. Leech, in 1939, the first time I met you, at an election meeting in St. George; that was it, was it not?

Mr. LEECH. I believe so, Mr. Bundy.

Mr. BUNDY. You told me—I told you about this fence they were going to build in there, that Mr. Crosby here spoke about. Only put that 3 miles; my reservoir, on leased lands. They gave the section down there that belonged to Fern Esplin, a nonresident, 19 sections. Why? Because the grazing board expected to buy it. That was a nonresident.

Now, I can bring you plenty of it. And I asked you at that time about it, and you told me that if they put it in the wrong place they would move it, did you not?

Mr. LEECH. That's right.

Mr. BUNDY. I had occasion to go—since that time I had occasion to go to town. Coming back, I ran into Mr. Brooks. The next day or two he was surveying that fence. That fence went in, and it is there today to bar us. Helped the rest of the cattle, coming 8 miles from their water onto that allotment; no by the Grazing Department's estimate of the carrying capacity of my 11 sections, or 12, but by the feed being tramped out while we wait.

Mr. LEECH. I still say, Mr. Bundy, if the fence is in the wrong place, and if it is established that it is in the wrong place, I will see that we do move it.

Mr. BUNDY. Thank you. But this is the thing I have got against you; we drug along for a year and a half or 2 years, before we got our decision back. I was kind of ignorant about it, knowing the way the hearing would be like. But there was nothing done at that hearing, was there, accomplished; nothing accomplished by it?

Mr. LEECH. Which appeal are you referring to?

Mr. BUNDY. My case.

Mr. LEECH. Is that the one, in 1940, Roy Bundy and Charles H. Esplin?

Mr. BUNDY. That is where you put it, but I objected on all those lines up there. That fence line was the particular one.

Mr. LEECH. I mean he was the intervenor in your appeal, wasn't he—Mr. Esplin?

Mr. BUNDY. Esplin, the fellow you had.

Mr. LEECH. Is that the one we had in 1940?

Mr. BUNDY. Yes, sir.

Mr. LEECH. And what did you say about the decision not reaching you? Didn't you get a decision out of this hearing, within a few days?

Mr. BUNDY. No.

Mr. LEECH. I know I had to write up to you again a time or two to find out. It was finally carried up to the Secretary of the Interior, and he sustained the hearing. It was appealed on the investigation and the examiner's decision was sustained, if I remember right.

Mr. BUNDY. All right. This is the thing I have got against you, and I have got against the other grazing board; this old cripple has time enough to make a living, without being rawhided. When a man takes a man to law, and when you find there is no foundation under him, to come back at him, or anything; why, I call that rawhiding. You had no jurisdiction over the withdrawal of the Boulder Dam recreation withdrawal, where this hearing was had on Esplin, where they are running the water down into the sand pits.

Mr. LEECH. At the time we held the hearing, if we did not have jurisdiction over the area, we certainly thought we did, Mr. Bundy, or we would not have been holding a hearing concerning any part of it.

Mr. BUNDY. I have a letter stating that the Department knew it in 1936, whether you knew it or not; but you should.

Mr. LEECH. Who is the letter from?

Mr. BUNDY. It came around to Carl Hayden, up there, I think, and back to me.

Mr. LEECH. Well, that is an area that, if we issued a license or permit on at the time we thought we were administering it. If that hearing concerned lands within that recreational area, we thought we were administering at that time, Mr. Bundy, or, I swear, we wouldn't have assumed jurisdiction over it.

Mr. BUNDY. I think you were collecting the fees on it right along, like Mr. Waring testified here this morning; collected the fees on it. We are down there in that withdrawal, and that is where the Esplin thing was heard; not on my allotment up here where the fence was, that I spoke to you about; and I asked to have it on all of it.

Now, I would like to get into the Park Service a little, or that recreation man. Isn't he here?

The CHAIRMAN. That is he, right over there.

Mr. BUNDY. He was on this here gazing proposition, that sounds kind of prejudiced to us. There is a map there; Mr. Rose prepared it. I heard them say—you heard me read these letters, and I would like to have you take a look at that Lomereoux and Esplin—I don't know what you call it—driveway, or what not, down there. That goes 10 miles from that recreation line, Boulder Dam withdrawal, or whatever you want to call it. Their water is still up here another 3 miles. This driveway around there, that is anywhere from a half to a mile wide, and it goes over this Tuweep Monument, against the fence there, for two and a half or three sections of land.

If we are going to stay—you read right down there and see; they are following this grazing department's recommendations. Here is a letter from Mr. Hayden.

The CHAIRMAN. While we are on this subject, before we close it—yesterday morning, with reference to a joint meeting or understanding, in that recreational area down here, as to the grazing permitted on it under the Grazing Service—have you gentleman had an opportunity to confer since you have been here?

Mr. LEECH. We are going to do that in Phoenix, when Mr. Rose arrives.

Mr. TILLOTSON. I phoned Mr. Rose this noon, and asked him to be at Phoenix. We will have all of the grazing files for that purpose.

The CHAIRMAN. I think maybe we will be able to work something out of it. I think you have shot enough rocks here, haven't you, Mr. Bundy?

Mr. BUNDY. No; I want to shoot another here, on farming on these communities out here in these districts that is supposed to have, by your Grazing Act, preference, according to it.

In a situation there, we have seven sections. How does the Secretary of the Interior know when to classify that grazing preference of grazing land, or agricultural, without somebody goes on there and demonstrates it? We have got men present here that has been threatened to be taken off; and we have got produce, and plenty, out there, to show you that it will produce; and we would like to have you take and see it.

The CHAIRMAN. Let me say, Mr. Leech, I may have to cut through some lines here, because we are approaching a late hour, and we have to conclude this hearing tonight. But, I say, I want to give you grazing gentlemen, and also the Land Office, just a general statement that has come to the chairman of the committee during the time that I have been here, and that is a very bitter complaint with reference to the denial of homesteads.

In other words, where men have attempted to take up homesteads, they say that no homestead is allowed; and that a very cursory examination, and, in fact, an unworthy examination—I use that expression myself—is made; and that the homestead proposition is merely out. Nobody seems to be able to file a successful homestead, notwithstanding the fact that the land, in many instances, will produce.

Now, that is quite a general complaint. I want to leave it with you. I think it would be very much worth your while to look at it pretty carefully.

Mr. LEECH. We'll do that, Senator.

The CHAIRMAN. I want to say further that I say this on my own individual responsibility. The Taylor Grazing Act did put an impediment in the way of homesteading. In other words, it required another investigation, and another examination, and another agency, to pass on the authority necessary for the homestead entry; but, in my judgment, the time is approaching very rapidly when homesteads will be more sought after, and more to be encouraged than they have been in the past.

I think the time is not so far distant when we will be able to make more use of subterranean waters, and other means of homestead purposes. The time is coming when the little fellow is going to have to

raise enough to sustain himself and his family. The world is getting more congested all the time. The time for the fellow to raise the things that he needs is approaching; so I make mention of that, hoping that I may enlist your sympathetic thought on matters of homesteading.

I think, where land will sustain human activity and human life, under ordinary circumstances, it should be looked upon with favor.

Mr. BUNDY. Thank you.

The CHAIRMAN. That is the thought I have in the matter. I mention that because the complaint has come to me, right along.

Mr. CROSBY. Just one thing for Mr. Allen. Mr. Marshall, an ex-serviceman, has applied as a homestead, pending, and his horses—he has worked horses a-running on the range.

The CHAIRMAN. Where is he now?

Mr. CROSBY. He is supposed to be a-grazing on my allotment. I wish Mr. Allen would not trespass him until there is a decision, whether I have got a grazing right or not. Mr. Schmutz informed me, when I went to vote, that I was a trespasser. Mr. Painter gives me a permit for 143 head, and the permit was canceled; community set-up, and it has been canceled; and, in a meeting, I would like to know how a contract can be broken? I have not received only just the information from Mr. Blankenagel and Mr. Allen, that it is canceled.

The CHAIRMAN. Mr. Crosby, I want to say to you, frankly, as we go along toward the end of the day, that you are speaking very much in generalities. I am sorry to say that, because—

Mr. CROSBY. I will get legal counsel.

The CHAIRMAN. You don't need legal counsel, at all. I think I grasp your subject. I tried to cut through all the red tape and get at the point. That is the reason I made the statement to Mr. Leech that I did. I thought I would be of assistance to you.

I am happy that you brought this subject to our attention. I understand there is an ex-serviceman who has attempted to establish a homestead in good faith. I understand that this is one of the few places in the world where he can live, by reason of the fact that in the First World War he was gassed. I understand his wife is not in good health, that they can both live here in this altitude and locality, if they can be permitted to work out an existence by their own efforts, through a homestead. I don't know the name of the gentleman.

Mr. CROSBY. Robert B. Marshall.

Mr. HAVELL. Mr. Chairman, may I say that case has been before the Department of the Interior twice, and it has been denied, on classification. Nevertheless, I have taken responsibility this morning to ask one of our agents to go and look at the land and see if any injustice is done; and see if there is anything that can be done. It has enlisted our sympathy.

The CHAIRMAN. Thank you very much.

Mr. CROSBY. I wish he wouldn't trespass his horses.

The CHAIRMAN. All right, that is the story.

Now, gentlemen, I regret—I don't know whether you get tired or not, but I am getting a little tired, and we have got to come to an end. Before we go any further, is there anything of serious moment that you would like to present?

STATEMENT OF SENATOR JAMES E. BABBITT, FLAGSTAFF, ARIZ.

Mr. BABBITT. Mr. Chairman, I would like to say just a few words.

We had brought out at this meeting that the Grand Canyon National Monument extends back beyond the rim. The Park Service, Mr. Tillotson, said they had no objection to cutting that back to the rim, which would increase the grazing in that area. Now, then, as far as these people from Fredonia are concerned in this park area, if it could be cut back here to say, within 2 miles of the rim, this would solve every objection that these people have made in regard to their grazing. They would have enough cattle to put on that area to make a fair living, and I am sure that the Division of Grazing would properly handle the forests and the grass.

Now, the same thing applies to the Wupatki National Monument. If they could put it back to where it was, instead of making an antelope range out of it, which they intend to do; that the State has already set aside, that would help us a lot.

Those are the three points I wanted to get before the committee. Then there is a peculiar situation in this district here. The forest office for the Kaibab Forest, all of which is in Arizona, is in Kanab, Utah. We feel that since the forest is in Arizona, the district office should be in Fredonia here. We feel the same way about the Division of Grazing office for this area. All of that land is in Arizona, but the Division of Grazing office is at St. George, Utah. We feel that should be in Arizona.

The CHAIRMAN. All right. Thank you.

Mr. ARTHUR WOOLLEY. Reference has been made, if the Senator please, to certain documents and reports which ought to be inserted in the records. I have the telegram of Roy B. Woolley referred to, addressed to the President of the United States, dated January 4, 1941. I would like to file a copy if I may.

Here is the letter to Senator Smoot from Mr. Albright of January 7, 1933.

The CHAIRMAN. On what subject is that?

Mr. WOOLLEY. With respect to the withdrawal for the Hoover Dam reclamation. It would not affect grazing.

Here is the report of the Kaibab investigating committee, June 8 to 15, 1931, of which the conclusion was read. If the chairman would like to have the whole report, I have copies which I will furnish.

On August 31, 1931, at the request of Governor Hunt, of Arizona, a report was made upon this area, particularly the Kaibab, and these withdrawals, by two gentlemen, one representing the Governor of Utah and the other the Governor of Arizona. It contains a great deal of information and informative discussion. If the committee would like it, I will leave it with you.

In this connection, Roy B. Woolley wrote to Senator Smoot under date of July 19, 1930, a letter which contains a great deal of information concerning the deer situation, and I beg leave to submit it.

The CHAIRMAN. All right.

(The documents referred to Mr. Woolley were placed on file with the committee, and accompany the original transcript of this record.)

Mr. WOOLLEY. I want to thank you very much for your courtesy and fine attention.

Mr. BABBITT. For the purpose of the record, could I also state that only two members from Arizona are on this advisory board covering this grazing district?

The CHAIRMAN. All right.

Now, sir, what is your trouble?

STATEMENT OF EARL PRESLEY, SHORT CREEK, ARIZ.

Mr. PRESLEY. My name is Earl Presley, and I am a homesteader. I have been out running stock out there since 1926. I went out there and squatted a homestead to see if I could make a living by farming.

Before I went into the ground I found I could raise pretty good crops, although the cattle kept—

The CHAIRMAN. Did you have any water?

Mr. PRESLEY. Yes, sir; I built a pond, one of the first things I did, and I built one 2 years later. I built another pond.

Mr. BROOKS. I think we have a record of this, Senator.

The CHAIRMAN. I would like to have you go into this.

Mr. BROOKS. He was out to see Mr. Presley last week. I am sure we can straighten it out.

Mr. PRESLEY. If you please, I would like to bring to your attention how many head of cattle are allowed to graze on the section out there.

Mr. ALLEN. That varies, according to the type of vegetation on the ground.

Mr. PRESLEY. Didn't you say up here, before the Taylor Grazing representative, Mr. Williams—didn't you tell him it is eight head to the section there?

Mr. ALLEN. I might have made that statement there. I would have to refer to the record on our surveys on that.

Mr. PRESLEY. That has been the understanding all through there, eight head to the section in that locality.

Mr. ALLEN. That country is not uniform in there. The vegetation varies, and the type of vegetation determines how many cows per section it will run.

Mr. PRESLEY. Yet you told Mr. Williams up there you could run eight head to the section. That was the allotment at that meeting up there.

The CHAIRMAN. All right, what about it?

Mr. PRESLEY. I have been calling for a little bit more grazing rights. I built two ponds there to water my stock. Of course, at times they still go dry in a drought. Other ponds there that have not serviced the range as much as either one of my two ponds are drawing from 16 to 19 sections. One especially, a sinkhole pond, that hasn't had water in it for years, wouldn't hold water when it does go in any longer than the holes in the wash; not as long and it is drawing 19 sections rating.

When they mapped that water through that part of the country, these fellows come in, Mr. Brooks, I believe Mr. Blankenagel, Mr. Parker, and Mr. Lawrence. That country was strange to them; they didn't know where there was a water hole there, and they wanted to map it out.

I went with them and showed them the ponds and showed them the nearest sections and stated my water. In fact, not only that, but another pond there that we had used for a number of years prior to

the Taylor Grazing, and also a well we dug in clay holes and used that during drought. We got no consideration on those whatever. That was given to other parties.

All right. This one pond that was built by the same spring that my pond was built up around—I run 5 miles above—they don't hold water. But as long as mine does, it draws 16 sections rating right down within half a mile of my pond. That is their line. I had three 40's on section 12. That wasn't surveyed, but I supposed because it is big, they give it both sides right there in the field.

The first pond I built is on that three 40's of about—probably 40 acres. That line there—in giving them the 16 sections on that, run that line, come right down there and cut off my three 40's of my section 12. I never was recognized. Their cattle run all over the block in there and they ate my crop and drank my water, and I never been recognized on it by the Taylor Grazing.

The CHAIRMAN. Has this matter been tried out?

Mr. LEECH. It will be fully gone into if it hasn't already, Senator.

The CHAIRMAN. Has this matter been looked into, and has there been a determination on it?

Mr. ALLEN. On the damage that was done?

The CHAIRMAN. No; the question of whether or not he has his rights?

Mr. ALLEN. Yes, sir. We have an appeal on that. They had an agreement on that rather than go to appeal. Since that time, he has filed another protest and he was denied for additional range on that. He did not post any type of appeal on that. I discussed the whole matter with them this last week out there, and tried to explain it. Whether he understands it yet or not, I don't know.

Mr. PRESLEY. How about this man that came out to me and mapped that water; went there and seen the improvements I done there; how I cleaned out there. Those are natural black rock pockets, one or two; one above where the stock can't get in and down below where the stock does go. I kept that cleaned during the years prior to the Taylor Grazing, and used that for our stock; the pond above the pockets. The other pond we used that for culinary purposes for years. We got no consideration on that whatever. They just ignored it. But this headman that mapped that water, Mr. Morrow, said, "Who did all these improvements here?" I said, "My neighbor and I." He said, "Anybody else do any improvements?" I said, "Never, as long as I have been around this pond."

He said, "That gives you prior right to this pond. We will map this to you."

Two years later I saw that the C. C. Lieutenant was up there looking for water to improve, and he marked that to E. Presley. But I never have been—I have been ignored. It has been allotted to others, the clay-hole wells that we dug. After we got it dug it was a flowing well.

Mr. LEECH. We will be glad to look into it.

The CHAIRMAN. I wish you would go into this again.

Mr. PRESLEY. Here's what I want to bring up to you: I have only been allowed 1 section and three-fourths, and yet I am paying a grazing permit on 28 head of horses, equal to 28 head—18 head of horses and 50 goats.

The CHAIRMAN. I have asked the Grazing Service to go into this whole matter. It would be impossible for this committee, or me, to

determine the matter. The Grazing Service is willing to go into it and give it every possible consideration.

Mr. PRESLEY. The Grazing Service will not give us justice out there whatever. I have been years and years trying to get a little bit more grazing allotment, and all I ever asked for is 5 sections right around my place. It would be handiest for me right on my own water.

The CHAIRMAN. Who has the sections; anybody?

Mr. PRESLEY. Right to my very line, there is a corral on one side, Mr. Findlay and Jensen. On the other side, and I believe Pace and Prince on the other side.

The CHAIRMAN. Well, it is impossible for me to sit here and determine it. All I can do is refer it to the Grazing Service.

Mr. ANDY MATSON (Flagstaff, Ariz.). I understand it will be possible to file a brief with this committee. I have a brief that I would like to file, in regard to the extent of the injury to the taxpayers in regard to the withdrawals of these lands.

The CHAIRMAN. I will be very glad to have it; yes, in deed.

We have got to come to an end. The committee wishes to thank all those who have attended this hearing, and wishes to express the interest shown in the subject matter of this hearing.

(The hearing adjourned at 6:55 p. m.)

ADMINISTRATION AND USE OF PUBLIC LANDS

FRIDAY, SEPTEMBER 3, 1943

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS,
Phoenix, Ariz.

The committee convened, pursuant to call, at 10 a. m. in the ballroom of the Westward-Ho Hotel, Phoenix, Ariz.

Present: Senator Pat McCarran, Nevada, chairman.

Also present: E. S. Haskell, chief investigator.

The CHAIRMAN. The Committee on Public Lands and Surveys of the United States Senate, having appointed a subcommittee to investigate matters pertaining to the acquisition and administration of public lands in the United States has called this meeting pursuant to the request of many of the citizens of Arizona. I regret to say that due to other very important engagements no other member of the subcommittee is able to attend this meeting here today. We had very much hoped that Senator McFarland and Senator Hayden of Arizona would sit with us during these hearings. Senator Hayden has been called away hurriedly and will return tonight and be with us tomorrow. We hope that Senator McFarland will be able to join us.

All of the proceedings of the hearings are reported in detail. The report is transcribed and then printed, so that everyone who attends the meeting, or those who desire copies of the report, will receive the printed copy. There will be passed among you now, at the opening of the meeting, cards for you to sign your name and your address and what, if any, organization you represent, or what, if any, official position you hold, or any other matter that will identify you in the meeting.

(The list of persons registered is as follows:)

LIST OF PERSONS REGISTERED AT PHOENIX HEARINGS

N. J. Anderson, associate range examiner, United States Grazing Service, Phoenix, Ariz.	Mrs. Ed Bowman, Coolidge Dam, Ariz.
Ramon Aso, 2023 North Eleventh Avenue, Phoenix, Ariz.	L. E. Bowman, Coolidge Dam, Ariz.
John G. Babbitt, 215 North Park Street, Flagstaff, Ariz.	Everett Bowman, Route 1, Box 451-A, Tempe, Ariz.
George A. Ballam, field engineer, Department Mineral Resources, Box 495, Tucson, Ariz.	Bill Boyle, Route 5, Box 258, Phoenix, Ariz.
Curtis A. Bell, High Haven Ranch, Sonolita, Ariz.	Thomas F. Britt, register, United States district land office, Phoenix, Ariz.
Stephen L. Bixby, Gila County Cattle Growers Association, Globe, Ariz.	L. R. Brooks, regional grazier, United States Grazing Service, 504 Heard Building, Phoenix, Ariz.
Henry G. Boice, 75 Primorosa, Tucson, Ariz.	William A. Brophy, special attorney for the Pueblo Indians, 806 First National Bank Building, Albuquerque, N. Mex.
	Eather Brown, Eagar, Ariz.
	S. C. Brown, Eagar, Ariz.

LIST OF PERSONS REGISTERED AT PHOENIX HEARINGS—Continued

- Moris Bunge, Poston, Ariz.
 J. M. Cartwright, Arizona Cattle Growers Association, 140 South Central, Phoenix, Ariz.
 Eugene Campbell, Ash Fork, Ariz.
 La Moine B. Christiansen, field examiner, General Land Office, Branch of Field Examination, Albuquerque, N. Mex.
 Bert J. Colter, Springerville, Ariz.
 James P. Converse, Post Office Box 1831, Tucson, Ariz.
 J. S. Cupal, director, Department of Mineral Resources, 413 Home Builders Building, Phoenix, Ariz.
 George E. Crosby, Greer, Ariz.
 John O. Crow, superintendent, Truxton Canyon Indian Agency, Valentine, Ariz.
 Catherine Cundiff, assistant secretary, Arizona Cattle Growers Association, 140 South Central, Phoenix, Ariz.
 Milton Curtis, St. David, Cochise County, Ariz.
 L. Walter Davis, Western Farm Management Co., 309 Security Building, Phoenix, Ariz.
 W. J. Davis, McNeal, Ariz.
 Albert M. Day, Assistant Director, United States Fish and Wildlife Service, United States Department of the Interior, Chicago, Ill.
 C. F. Dierking, regional grazier, United States Grazing Service, Reno, Nev.
 F. Roy Dobson, Chandler, Ariz.
 Dale E. Doty, Office of the Secretary, Department of the Interior, Washington, D. C.
 Clyde Douglas, Morristown, Ariz.
 Jerome O. Eddy, box 111, Prescott, Ariz.
 Mrs. Jerome Eddy, Diamond and Half Ranch, Prescott, Ariz.
 H. B. Embach, 204 Home Builders Building, Phoenix, Ariz.
 R. Earl Evans, route 2, Glendale, Ariz.
 R. B. Ewing, forest supervisor, Apache National Forest, Springerville, Ariz.
 Norman Fain, State senator, care of Jerome route, Prescott, Ariz.
 Frederic Finter, care of Arizona Stockman, 216 Home Builders Building, Phoenix, Ariz.
 Larkin Fitch, route 1, box 256, Mesa, Ariz.
 Evan L. Flory (regional chief, soil and moisture operations), Indian Service, 607 Goodrich Building, Phoenix, Ariz.
 John C. Gatlin, regional director, United States Fish and Wildlife Service, Department of the Interior, Chicago, Ill.
 C. H. Gensler, Colorado River Indian Agency, Parker, Ariz.
 B. H. Gibbs, attorney at law, 302 Home Builders Building, Phoenix, Ariz.
 Levi Grantham, Young route, Globe, Ariz.
 R. S. Hamblin, Eagar, Ariz.
 Ed Horrell, box 543, Globe, Ariz.
 Hugh Harvey, forester, United States Indian Service, 614 Goodrich Building, Phoenix, Ariz.
 Thomas C. Havell, General Land Office, Washington, D. C.
 Roy Hays, Kirkland, Ariz.
 Mrs. Roy Hays, Kirkland, Ariz.
 Beulah L. Head, superintendent, Sells Indian Agency, Sells, Ariz.
 Sterling Hebbard, 30 East Adams Street, Phoenix, Ariz.
 C. E. Hellbusch, 1006 West Roosevelt, Phoenix, Ariz.
 E. O. Hemenway, land commissioner, Santa Fe Railway Co., Albuquerque, N. Mex.
 Douglas E. Henriques, field examiner, General Land Office, Branch of Field Examination, 355 Federal Building, Salt Lake City, 10, Utah.
 Barney R. Hodgins, engineer, Soil and Moisture Division, Indian Service, Goodrich Building, Phoenix, Ariz.
 Charles T. Hohenthal, field examiner, General Land Office, Branch of Field Examination, 355 Federal Building, Salt Lake City, 10, Utah.
 John P. Hunt, Fairbank, Ariz.
 J. L. Hylton, district grazier, United States Grazing Service, Kingman, Ariz.
 C. C. Jackson, Kirkland, Ariz.
 Harold H. Jackson, acting district grazier, United States Grazing Service, Safford, Ariz.
 Thomas Jensen, Fredonia, Ariz.
 A. T. Jones, Buckeye, Ariz.
 K. C. Kartchner, State game warden, Phoenix, Ariz.
 Mrs. J. M. Keith, secretary, Arizona Cattle Growers Association, 140 South Central, Phoenix, Ariz.
 James E. Kentuir, Valley National Bank, Phoenix, Ariz.
 Allen F. Kinnison, State conservationist, Soil Conservation Service, 510 Goodrich Building, Phoenix, Ariz.
 F. Lee Kirby, forest supervisor, Tonto National Forest, Box 2260, Phoenix, Ariz.
 Mrs. Pete Klabby, Route 9, Box 486, Phoenix, Ariz.
 L. F. Kneipp, Assistant Chief, United States Forest Service, Washington, D. C.
 Harry S. Knight, Camp Wood, Yavapai County, Ariz.
 John G. Koogler, Soil Conservation Service, 510 Goodrich Building, Phoenix, Ariz.

LIST OF PERSONS REGISTERED AT PHOENIX HEARINGS—Continued

- C. E. Koontz, Mayer, Ariz.
 Carl Lausen, regional field examiner,
 General Land Office, Branch of Field
 Examination, Albuquerque, N. Mex.
 Bob Lockett, Box 562, Flagstaff, Ariz.
 L. C. Lakin, Lakin-Peter Cattle Co., 818
 Security Building, Phoenix, Ariz.
 Jerrie W. Lee, secretary, Arizona Wool
 Growers Association., 14 East Jeffer-
 son Street, Phoenix, Ariz.
 Joe H. Leech, Chief of Lands, Grazing
 Service, Department of the Interior,
 Salt Lake City, Utah.
 A. N. Lindstrom, 206 North Seventeenth
 Avenue, Phoenix, Ariz.
 Sherman Lumpkin, Eagar, Ariz.
 T. McAllaster, Land Commissioner,
 Southern Pacific Co., 981 Southern
 Pacific Building, San Francisco, Calif.
 E. A. McCray, superintendent, San Car-
 los Indian Agency, San Carlos, Ariz.
 Catlett McEven, Fort Thomas, Ariz.
 W. C. McFadden, Box 441, Globe, Ariz.
 John A. McLeod, Jr., Post Office Box
 2511, Tucson, Ariz.
 F. B. Mulking, Bowie, Ariz.
 Neaka Masse, Aguila, Ariz.
 Pete Masse, Aguila, Ariz.
 Andy Matson, Flagstaff, Ariz.
 Lem Mathews, editor, Phoenix, Ariz.
 J. A. Medd, Skull Valley, Ariz.
 C. A. Merker, forest supervisor, Coro-
 nado National Forest, Box 551, Tuc-
 son, Ariz.
 M. D. Moeller, Army Air Corps, Thun-
 derbird No. 1 Field, Phoenix, Ariz.
 J. H. Moeur, attorney at law, Phoenix,
 Ariz.
 James R. Moore, 519 Title & Trust
 Building, Phoenix, Ariz.
 J. Morgan, Box 10, Camp Wood Stage,
 Prescott, Ariz.
 G. A. Morrison, Pima Indian Agency,
 Sacaton, Ariz.
 Eugene C. Naegle, President, Naegle
 Land & Cattle Co., St. Johns, Ariz.
 A. C. Naegle, St. Johns, Ariz.
 Robert E. Perkins, Jerome Route, Pres-
 cott, Ariz.
 Floyd H. Phillips, regional forester,
 United States Indian Service, 614
 Goodrich Building, Phoenix, Ariz.
 Paul Phillips, soil conservationist,
 United States Indian Service, Win-
 dow Rock, Ariz.
 Smith Pickrell, secretary-treasurer, Ari-
 zona Livestock Production Credit
 Association, Phoenix, Ariz.
 F. C. W. Pooler, regional forester,
 United States Forest Service, Albu-
 querque, N. Mex.
 Hobart E. Reed, Coyote Spring Ranch,
 Jerome Route, Prescott, Ariz.
 Francis A. Riordan, grazier, United
 States Grazing Service, Phoenix, Ariz.
 A. E. Robinson, superintendent, Pima
 Indian Agency, Sacaton, Ariz.
 Mrs. Frank Roehl, U. Circle Ranch,
 Oracle, Ariz.
 Frank Roehl, U. Circle Ranch, Oracle,
 Ariz.
 Carlos E. Ronstadt, Santa Margarita
 Ranch, Tucson, Ariz.
 Robert H. Rose, superintendent, Boulder
 Dam National Recreational Area,
 Boulder City, Nev.
 D. B. Sanford, Klondyke, Ariz.
 R. L. Sharp, Nutrioso, Ariz.
 G. W. Shute, 312 Title & Trust Build-
 ing, Phoenix, Ariz.
 Roy Slade, Eagar, Ariz.
 Howard J. Smith, Goodrich Building,
 Phoenix, Ariz.
 J. M. Smith, Central, Ariz.
 S. A. Spear, managing director, the Ari-
 zona Tax Research Association, Heard
 Building, Phoenix, Ariz.
 Wm. A. Spencer, Springerville, Ariz.
 A. T. Spence, 2521 East Elgth Street,
 Tucson, Ariz.
 A. R. Spikes, Bowie, Ariz.
 Lester B. Sutcliffe (Gazette reporter).
 Cal Taylor, range assistant, Agricul-
 tural Adjustment Administration,
 State office, Phoenix, Ariz.
 Keith Taylor, Valley National Bank,
 Phoenix, Ariz.
 Wayne Taylor, Box 466, Superior, Ariz.
 H. B. Thurber, Box 1, Sonoita, Ariz.
 M. R. Tillotson, National Park Service,
 Santa Fe, N. Mex.
 Loy Turbeville, Higley, Ariz.
 Judge Levi S. Udall, St. Johns, Ariz.
 Victor L. Udall, Eagar, Ariz.
 H. G. Udall, Eagar, Ariz.
 Paul H. Vershuis, 910 West Latham
 Street, Phoenix, Ariz.
 A. W. Voigt, Springerville, Ariz.
 N. F. Waddell, regional field examiner,
 General Land Office, Branch Field Ex-
 amination, 355 Federal Building, Salt
 Lake City 10, Utah.
 Francis M. Wilkinson, Division Engi-
 neer, Real Estate Branch, War De-
 partment, Phoenix, Ariz.
 O. C. Williams, State Land Commis-
 sioner, Phoenix, Ariz.
 G. E. Wardwell, Fish and Wildlife Ser-
 vice, Las Vegas, Nev.
 J. D. Waring, Fredonia, Ariz.
 A. C. Webb, Roosevelt, Ariz.
 R. K. Wickstrum, 513 West Wilshire,
 Phoenix, Ariz.
 Frank S. Wingert, Wagoner, Ariz.
 Mulford Winsor, director, Department
 Library and Archives, State House,
 Phoenix, Ariz.
 P. V. Woodhead, assistant regional
 forester, United States Forest Ser-
 vice, Albuquerque, N. Mex.
 W. B. Young, Kirkland, Ariz.

The CHAIRMAN. We have assigned 2 days to this meeting. We must leave here Sunday morning for Albuquerque, N. Mex. We will utilize every hour possible during the 2 days, and will work late, if necessary, in order that everyone who desires to be heard, on any subject pertaining to the regulation of the open public domain or to any other matter within the authority vested in this committee, may be heard.

At a hearing, just concluded, on the Arizona strip, so called, which was exceedingly well attended, the hours were not long enough and the days were too few, but we tried to cover the subjects brought before us. We'll do the same here now.

Let me say that there is one matter that has aroused some public attention, known as Senate bill 1152, which has to do with the conservation of wildlife on the open public domain. If, during the course of these hearings, there is anyone, or any group, who desires to be heard with reference to S. 1152, arrangements will be made so that they may be heard.

Mr. Williams, of the land department of the State of Arizona, is with us and has been designated to lead off on matters pertaining to this hearing. We will now hear from Mr. Williams on the subjects he sees fit to discuss.

As each one comes forward before the committee, or as you stand in the audience to ask questions, you will assist us very much if you will kindly announce your name and your address and what, if any, official position you occupy, and what subject you wish to discuss.

I want to say to all of you here now that this is an informal hearing. We realize that stockmen, ranchers, and those whose business keeps them largely out in the open, are not accustomed to speaking in groups or crowds. We realize that in all probability if we were to go out to your home, you would sit down with us and tell us your story, but to arise in a crowd or group, you will find some difficulty. We hope that you will dispel that difficulty, that you will regard the whole matter as though you were in your own back yard and that you will speak frankly and candidly and in such language as you see fit, providing the reporter can take it down. So be at ease in all of these hearings, be informal, and tell us your story, because that is what we want to hear.

Mr. Williams, will you proceed?

**STATEMENT OF O. C. WILLIAMS, STATE LAND COMMISSIONER,
PHOENIX, ARIZ.**

Mr. WILLIAMS. Thank you Senator. I am O. C. Williams, the land commissioner for the State of Arizona.

It may not be out of place as lead-off man in this hearing to say that having been with the Senator in Fredonia we found him to be very understanding. He is a western man, and he talks western English, and understands it, and he means what he says about wanting people to be at ease. He has been very fair in all the hearings.

I think the first thing that Arizona is interested in—

The CHAIRMAN. Just one moment; do those in the rear of the room hear Mr. Williams now?

FROM THE FLOOR. Not very well.

The CHAIRMAN. Very well, Mr. Williams, if you will try to make yourself heard—it may be some strain, but I wish you would because the object is for everyone here to hear you.

Mr. WILLIAMS. I believe our greatest concern in Arizona, and possibly in this part of the West, is the withdrawals by Presidential proclamation. I think that threat, which is an unseen enemy, which we cannot fight, is a very bad thing; and that we could settle down to a more stable condition in the livestock industry in Arizona if that threat were eliminated. Therefore, we support and urge the passage of a bill now before the Congress, which would take from the President the authority to withdraw land by proclamation. We feel safer in the hands of Congress because we feel that we have representation there and that we can at least have a hearing.

We feel also that there should be a review of the public land agencies with a view of reducing the acreages to the necessity for which these agencies were established. This would be national parks, monuments, and even the national forest. We believe that the parks and monuments should be reduced to the object for which they were created, and the other lands should be turned over to the Forest or Grazing Division or to the public domain, in order that those lands may be utilized to the best advantage.

We believe that on the forests there should be liberalized grazing, of course, under proper supervision, and that all the forage thereon should be used for the production, not only of beef, mutton, and wool, but also to create a national revenue and wealth for State, county, and school districts that are hard pressed for finances with which to maintain their respective governments.

We believe that so far as the forests are concerned they are established primarily for the care and handling of timber, and the forests have done a very splendid job on this. We commend them; and we will support them. However, we believe that the forest limits should be rolled back to the tall timber, and, outside of that it should be turned over to the grazing districts which are also doing a splendid job, and that the grazing business outside the grazing districts should go back into public domain.

From a State viewpoint, and that of the livestock industry, we believe that there should be a liberalization of exchanges in grazing districts. We should have the privilege of using a base for one district for exchange in another district. We also believe that there should be very definite changes in our laws as regards mining and the livestock industry. We find there is no tie between the legitimate miner and the legitimate stock raiser. But we do find there is an interloper who can come in, and, under the guise of a 20-acre placer claim or lode claim, set himself up in the cattle business in the middle of an established unit to the detriment of one who uses the range, provides the water, and has protected the grazing until it is an inducement for someone to come in and live off the other man's legitimate operation.

We also feel that we should have a cancelation of all Indian allotments outside of established Indian reservations. This is quite a serious thing, in some parts of the State where extensions have been created. The promise was held out in those counties, when this was being agitated, that if this extension was allowed, the Indians would

be kept on that reservation without further extension, and that they would not be mixed up with the white men outside of those reservation lines. I understand this may take some special law in Congress to bring this about, as these are individual allotments, and they are administered differently than the reservation as a whole. But we would like to see this brought about.

We are also confronted with some reclamation projects where withdrawals have been put on certain lands, and later withdrawn, and lands taken up under the State or by homesteads, and later under withdrawals clamped on until these titles are so mixed up that we are unable to straighten out with the limited legal talent the titles and abstract titles in the State. We might send to Philadelphia and get someone to do it. We would like to get it straightened out and cleared up.

I think possibly the most important thing before us now is the return of the railroad lands, under the Transportation Act of 1940. This is my main subject, and I want to go into detail on that. Our Senator who is with us, from Nevada, has introduced Senate bill 978 to return these lands to the States. H. R. 838 was introduced in the House as a similar bill, and passed the House last year, and was tied up in committee, and did not pass or get into the Senate. Immediately with the convening of the new Congress, a similar bill, 978, was introduced again. This bill would return to the Federal agencies all railroad lands that fell within their exterior boundaries. We feel that this is taking taxable values from the counties and from the States, that we so badly need to maintain our institutions. Many of these lands, in fact the majority, were not on the tax roll, but we feel that they should have been, and we feel at least that it is potential wealth that is getting away. If this bill of the Senator's, with one amendment, that would better fit our State and other States, was passed, it would not interfere in any way with the administration of any Federal agency, because any lands falling within any such agency's exterior boundaries would be used as base which would be selected from the public domain outside. These lands would then produce revenue for the State and State institutions, thus relieving the tax burden by direct levies in the counties and in the school districts of this State.

The CHAIRMAN. While we are on that subject, I am very glad that you are discussing more or less in detail those particular bills. There are many things involved in those bills. There is the question of withdrawal from the State at the present time of such revenue as flows to the State by their being taxed in the name of the present owners, the railroad companies. Then there is the question of whether or not, if these lands are returned, whether they should be returned to the Federal domain, and thus pass under the jurisdiction of respective agencies, or whether, by returning them to the respective States for specific purposes, or to return them to the respective States for general purposes. The thought of the author of the Senate bill was that they could well be returned to the States for specific purposes. The instant that I cited was for school purpose. In other words, they would return to be a base for school support. It strikes me that that would relieve the taxpayer, to a large extent, of a burden that he must meet from year to year. He must maintain his schools, and it con-

stitutes quite a burden. It might be a relief to him in other ways. That bill, any one of these bills, should be the subject of careful study by those who know the land subjects; and the author of the Senate bill, who happens to be here today, would welcome constructive criticism and suggested amendments, so that the very best might be worked out.

Thank you, Mr. Williams, I am sorry for the interruption, but I thought it might be well worth while.

MR. WILLIAMS. I am glad to get that. That is why I had offered an amendment, which I think had reached the Senator by way of our Senators in Washington. The Senator's bill provides that the revenue of these lands would go entirely for educational purposes. Our proposed amendment which would fit the conditions in Arizona is that the legislature should state the purpose for which these lands shall be used. Now, this is brought about because of one of the biggest subjects that has been before Arizona since statehood, and that is our "L" grant, or railroad bond lands. I don't think that I shall burden the record or you listeners with the full history of this, but I will state the facts that in the late nineties a narrow-gage railway was proposed to be built from Tucson to Prescott. It later developed that this was a swindle from the very beginning. They never intended to build a railroad, but they did induce the counties to bond themselves to the amount of some six hundred thousand dollars for the building of this railroad. These bonds were issued in good faith, and they were good bonds. However, this group who were promoting this railroad connived to exchange worthless bonds, which they themselves issued, for these other bonds. When the bubble burst the counties had worthless bonds for the railroad guaranteeing construction, and the promoters had the good and legal county bonds, and they were in the hands of innocent third parties. As a result this case went to the Supreme Court of the United States, and we beat the bondholders on their illegitimate swindle, or deal, in proposing to build this railroad. However, at the time of statehood or prior thereto this was taken up by the Congress of the United States, and the State of Arizona was saddled with these bonds and, under the direction of Congress, was to pay those off.

The Congress, realizing that they had at least a moral obligation, then said, "We will give you lands or a land grant of \$1,000,000 with which to pay these bonds."

During the years of litigation and the years before the State could make selection and get set up in the handling of this land, the sale thereof, or rents to pay off these bonds, the interest ran up to more than the principal. The counties, feeling that they had unloaded this responsibility, since it was placed upon the State, refused to levy any more to pay them off. However, the courts came back and said that the counties had not unloaded this responsibility, but they must carry on until the State could pay these off. As a result, these \$600,000 in bonds, through accruing interest, now amount to over \$1,300,000. The rentals of this land will not pay it off, nor would the sale of the lands that were possible now liquidate this obligation put upon us by Congress.

We find ourselves in this further peculiar position: During this time the livestock units have been definitely established, and they have been

fed, water provided, and other improvements necessary to the carrying on of livestock units. Now if these lands were forced to sale, it would mean the ruination of our livestock industry, because they would have one of two paths to follow, either force the operators to buy all these lands, which they could not do, because it would break any operator if he was forced to purchase all these lands; the other path is, if they were forced on the market and he could not buy, then they would be thrown open to the general public, and they, buying the lands within the stockman's unit, would ruin him. So, either way we go, they would completely ruin the livestock industry of the State of Arizona.

We have, therefore, undertaken the passage of a law that would give us an additional grant of lands to meet this payment, through the rentals that would accrue to the State. We could ask our Senators to prepare such a law for passage, and Senator Hayden had a bill ready to present when the Railroad Transportation Act of 1940 came into the picture prominently. We immediately asked that these railroad lands be returned to the State, and under the amendment to the Senator's bill, that we be permitted to use so much of these lands as was necessary to add to our "L" grant lands, and through that the rentals pay off these bonds which were saddled upon the State of Arizona. This is the reason for our proposed amendment to the bill, and the major reason that we need these railroad lands, as well as meeting additional revenues to the State.

Now, then, to add to this picture and make it a little more clear, I have here figures prepared by the Federal departments, and I'm sure they are the most nearly accurate of any we have had, which show that Federal holdings in Arizona are now 74 percent of the total acreages of the State, this excluding the new acquisitions for Army purposes, which is rather heavy in itself. In other words, the small balance that we have is the only taxable property with which we carry on the institutions in the State of Arizona. This is very critical. We have in this State the second largest county in the United States. In that county, 8 percent of the land is State or privately owned, 92 percent being federally owned. With that balance they must carry on with only 8 percent of the land all of the institutions of that county.

So we feel that further Federal extensions have gone beyond proper limits. We feel that the granting to the State of Arizona, and the other States of the West, of these railroad grant lands would be a show of good faith, and would also enable us to carry on the institutions of the State with that additional revenue that would come to us. As you know, these lands—the revenue goes to the various institutions, and many of these lands find a way to patent, and come under the tax rolls of the State. Therefore, it would mean a substantial increase of revenue for the State of Arizona. We, therefore, as a State, and as a livestock industry of the State, and the Land Department, urge and recommend that this bill of the Senator's be passed through Congress, returning these lands of the various States; and that this amendment be added whereby the legislatures of the States, who know their individual problems in every State, be given the distribution of these lands to the various State institutions. And I might say that, with our "L" grant land, while that is our biggest problem now, as soon as they are paid off, all of these revenues will go to the State institutions. In this

instance the "L" grant land revenue, after the bonds are paid off—the balance will go to schools, for educational purposes, and will ultimately reach the State end that the Senator's bill would bring about, if it were passed as it now is.

I think, Senator, that is the land picture of Arizona as we see it. There will be others called to amplify it.

(The following data were received for the record from Mr. E. C. Hemenway, land commissioner, Santa Fe Railroad Co., Albuquerque, N. Mex.):

Summary showing land-grant acreage released to the U. S. Government by the Santa Fe Ry. Co. in connection with Transportation Act of 1940

[Exhibit A covers unsurveyed lands that were not on the tax rolls; exhibit B covers surveyed and identified lands on the tax rolls]

State	County	Exhibit	Acres
New Mexico.....	Socorro.....	A.....	16,269.02
	Sandoval.....	A.....	1,440.00
	Bernalillo.....	A.....	120.00
	Valencia.....	A.....	
	San Juan.....	A.....	1,762.48
	Catron.....	A.....	1,280.00
	McKinley.....	A.....	16,236.15
	Total New Mexico.....		37,157.65
Arizona.....	Coconino.....	A.....	18,518.44
	Do.....	A.....	67,325.84
	Do.....	#B.....	85,844.28
	Total Coconino County.....		214,609.57
	Yavapai.....	A.....	39,993.96
	Yuma.....	A.....	104,480.64
	Mohave.....	A.....	391,187.80
	Do.....	A.....	37,539.68
	Do.....	#B.....	428,727.48
	Do.....	#B.....	183,394.96
	Total Mohave County.....		612,122.44
	Total Arizona.....		1,057,050.89

SUMMARY

Total "A" outside Walapai Reservation.....	591,338.49
Total "A" within Walapai Reservation.....	104,865.52
Total "B" within Walapai Reservation.....	696,204.01
Grand total.....	398,004.53
	1,094,208.54

DIVISION

Outside Walapai Reservation.....	591,338.49
Within Walapai Reservation.....	502,870.05
Total.....	1,094,208.54

Of the lands released only the surveyed lands inside the Walapai Reservation were on the tax rolls. The last taxes paid were for the year 1940, as follows:

	Acres	Taxes
Arizona, Mohave County.....	214,609.57	\$3,860.42
Arizona, Coconino County.....	183,394.96	2,127.83
Total.....	398,004.53	5,988.25

The CHAIRMAN. Very well. I'm gratified that you touched on that particular bill, because it is of vital interest to the States that have a high percentage of public lands. Arizona, New Mexico, Nevada, and other States similarly located have a high percentage of federally owned land, and the passage of a bill such as S. 978 should receive the greatest and most serious study.

Thank you, Mr. Williams.

Now, the Arizona Cattle Growers Association has its vice president. Mr. Norman Fain here. Mr. Fain, you may make any statement you see fit to make at this time, on the subject of unpatented mining claims. You may call witnesses, or parties, to make any statements that you see fit.

STATEMENT OF NORMAN FAIN, VICE PRESIDENT, ARIZONA CATTLE GROWERS ASSOCIATION, PRESCOTT, ARIZ.

Mr. FAIN. Thank you, Senator. At a meeting held yesterday, in the office of the Arizona Cattle Growers, many members were there. But we realized there were many members who were unable to attend the meetings yesterday afternoon and last night. If there are any members here who have any other problems that are not brought out in our present outline, please see me.

The CHAIRMAN. I beg your pardon for interrupting you, Mr. Fain.

Ladies and gentlemen, I do not need to introduce your junior Senator, Senator McFarland. I just want to say that, in my period of service in the United States Senate, I know of no one who has come into that body, and in such a short time, made such fine progress, and rendered such fine service for his State.

STATEMENT OF ERNEST W. McFARLAND, JUNIOR SENATOR FROM ARIZONA

Mr. McFARLAND. Thank you, Pat, for those kind words. On behalf of the people of my State, may I welcome you to Arizona. We are sure glad to have you here.

Senator McCarran is one of our best neighbors and he is welcome to Arizona. We have a lot in common with Pat's State, and we are glad to work with him and have him work with us. I don't have to say anything good about Pat, because all that anyone knows is good; and up in Nevada they think he is tops, and we think he is tops down here. Thank you. [Applause.]

Mr. FAIN. Senator McCarran, I might restate that, at a meeting yesterday of the Arizona Cattle Growers Association there were many members who were unable to attend, and if they have other problems which we do not bring out, I think Senator McFarland, as well as the Arizona Cattle Growers, want them to present their problems. I feel safe in saying that the Arizona Cattle Growers heartily endorse the statements made by Mr. Williams, the present State land commissioner. I don't think we can overlook the fact too strongly at the present time, as Mr. Williams stated, that 74 percent of the State is owned and controlled by the Federal agencies. I think the present figures, with the later acquisitions by the Federal Government, puts the figure up close to 82 percent; and as taxpayers, as well as livestock

producers, we must certainly keep in mind that we have a very small part of the sovereign State left to tax.

The CHAIRMAN. Have you, representing the general land office, any corrected figures as to the percentage of land in the State of Arizona that is Federally owned?

**STATEMENT OF THOMAS C. HAVELL, GENERAL LAND OFFICE,
WASHINGTON, D. C.**

Mr. HAVELL. Senator, as of June 30, last year, the percentage was 74 percent. As Mr. Fain has just stated, there are, however, withdrawals that have been made since then. The withdrawal problem is kaleidoscopic; it changes from day to day. The figures today may be different from what they are tomorrow, particularly now while they are making military withdrawals. But the figures, I think, are substantially correct.

The CHAIRMAN. Thank you. I take it that your statement does not include the acquisitions made by the military, and other acquisitions that have been taken off of the tax rolls.

Mr. HAVELL. The 74 percent represents only the public lands that have been reserved, and does not include the purchased lands.

The CHAIRMAN. Now, the purchased lands come under several heads. One is the lands purchased for the Indian Service. Another is the lands purchased for military service. Are there any other heads under which purchased lands come?

Mr. HAVELL. Senator, I think a great many of the bureaus of the various departments have land-purchase programs. Agriculture had quite a land-purchase program, the resettlement and submarginal land program, and I think it runs through the service pretty generally.

Mr. FAIN. From the tax angle alone, I think it can readily be seen the danger that faces this State. All of our taxes, instead of being on land base, must go to our less taxable assets. Every citizen and taxpayer of the State is certainly interested in that problem.

From the livestock point of view, I do not recall ever hearing any livestock producer who has not preferred the State lands over any federally owned and controlled land. I think that speaks well for the management of our State land; and it also gives us the added assets on the tax rolls.

I have several resolutions here, by the Arizona Cattle Growers, in support of these views. This is not altogether a recent fight. Three years ago this memorial was passed by the State senate protesting any withdrawals of State lands for Federal control whatsoever.

The CHAIRMAN. That resolution, do you have a copy of it?

Mr. FAIN. I can obtain it.

The CHAIRMAN. If you have a copy of it, it will go in the record at this point.

Mr. FAIN. I have here resolutions by the Arizona Cattle Growers on different types of withdrawals:

OPPOSING THE WITHDRAWAL OF STATE LANDS

Whereas the State Land Department of the State of Arizona, through the State Land Commissioner has by resolution requested the discontinuance of the policy of arbitrarily withdrawing State lands without notice for the use of the Federal Government and its agencies where there already exist Federal lands

equally or better suited to the purpose behind the withdrawal, and that where it is determined to be necessary to withdraw State and private lands for the use of the Federal Government and its agencies that a hearing should be granted in order to provide opportunity to those interested to be heard, now: Therefore be it

Resolved, That the Arizona Cattle Growers' Association in open meeting assembled have unanimously and wholeheartedly endorsed the resolution expressing the above policy of the State Land Department.

I hereby certify that the above is a true copy of Resolution No. 10, unanimously passed by the Arizona Cattle Growers' Association, assembled for the thirty-eighth annual convention in Prescott, Ariz., February 10 and 11, 1942.

Mrs. J. M. KEITH,
Secretary, Arizona Cattle Growers' Association.

I think in view of the present emergency, this might be somewhat softened, this resolution, in the case of vital and necessary strategic war use at certain small areas of the land. That would be fine, if it were properly used. We will try and show today that there have been a great many abuses in the taking of this land, under the pretext of war use, where other lands, already owned by the Federal Government, could be employed with less hazard to the stock grower than the land they did take.

Our second resolution reads as follows:

RESOLUTION

Whereas approximately three-fourths of all lands in Arizona are now owned or controlled by the Federal Government; and

Whereas such of these lands are not utilized for any useful purpose by the Department administering same; and

Whereas the State of Arizona is in great need of more lands for livestock grazing and other agricultural purposes: Now therefore, be it

Resolved by the Board of Directors of the Arizona Cattle Growers' Association. That we are unalterably opposed to the Federal Government withdrawing any further lands in Arizona for any purpose whatsoever, and that we request the return of lands now held by the Federal Government to the State of Arizona.

Adopted by the Board of Directors, in meeting in Phoenix, July 28, 1943.

Mrs. J. M. KEITH,
Secretary, Arizona Cattle Growers' Association.

We will try and show you, throughout the testimony this morning, the need we have for the land and the desire to have at least some of the land returned to the State.

Our third resolution reads as follows:

OPPOSING ACQUISITION OF LAND BY FEDERAL GOVERNMENT

Whereas there is increasing activity by Government agencies to acquire lands in Arizona, with destructive effects upon State tax structures: Now therefore, be it

Resolved, That no land located in Arizona shall be acquired by purchase, condemnation, or otherwise by the United States or any agency thereof; and be it further

Resolved, That no interdepartmental transfers of land between Federal agencies be made without public hearings.

I hereby certify that the above is a true copy of resolution No. 16, unanimously passed by the Arizona Cattle Growers' Association, assembled for the thirty-eighth annual convention in Prescott, Ariz., February 10 and 11, 1942.

Mrs. J. M. KEITH,
Secretary, Arizona Cattle Growers' Association.

Our last and final resolution is somewhat longer, and I believe more up to date, than some of the others. I wanted to read all of the resolu-

tions to show you the particular meaning of them to the present time, even before the war emergency existed:

RESOLUTION

Whereas to assist in the stabilization of the livestock industry it is the declared policy of the Federal Government to control and conserve forage upon the public ranges of western States;

Whereas the Taylor Grazing Act was passed in the year 1934 for the purpose of accomplishing such control and conservation; and

Whereas a substantial part of lands within the State of Arizona show some surface evidence of mineralization; and

Whereas due to such mineral showing the United States General Land Office has in some instances refused the issuance of grazing leases of qualified stockmen applicants; and

Whereas indication of mineral and/or the location of purported mining claims has and is being made a pretext for the release of livestock within range areas controlled by others; and

Whereas Federal authorities have failed, refused, or been without power to protect legitimate livestock operators from such encroachment; and

Whereas the continued uncontrolled use of mining locations for purposes foreign to mining has and will nullify Federal conservation statutes and defeat the location of public range by proper legal authority: Therefore be it

Resolved, That the Public Lands Committee of the Arizona Cattle Growers' Association, meeting in Phoenix, Ariz., on the 23d day of July 1943, respectfully request that the Secretary of the Interior or the Congress, by appropriate legislation if necessary, take such steps as will insure mining locations, either lode or placer, be confined in use to the purpose for which they were located and proper machinery be established to assure an immediate cessation of the present use of such locations for purposes other than mining.

I would like to bring out one fact here before calling on some of the other people to testify. We do not have a quarrel with the mining industry as such. This is referring to the last resolution. We find we have a type of people using mining claims, under false pretenses to run their stock, and the Federal Government has not furnished the machinery to protect the legal lessees of these claims for grazing. We do not wish to interfere with the miner, and I do not believe that our objection is to the legitimate miner, I know it is not. Our objection is to the man who is using the mining claim as a pretext on which to turn his stock out on a legitimate range proceeding.

Mr. Ronstadt is chairman of the public lands committee, and Mr. Boice is chairman of the forest committee. They will be introduced and the statements they will make will be to portray the reactions of the Arizona Cattle Growers' Association as to the policy, management, and so on, of the federally owned lands in Arizona.

The CHAIRMAN. Before you call them, I wish to make a statement that may be of interest to the people of the State of Arizona and to nearly all of the western public land States.

In enacting any legislation bearing on the subject of ownership or the utilizing of mining claims, great care must be resorted to for this reason: There is a policy proposed to be set up, and it is furthered by some powerful influences, that would do away with our present mining laws and put all mining under a permit or leasing system. To my mind that would be the most destructive thing that the country could endure at this time, or at any future time. The incentive for the prospector has been that he would be the owner of his discovery, within certain limits. If we take from the prospector

the incentive that has caused him to follow his burro into the desert hills of this country and make discoveries in the past, I say, if we destroy the incentive, we will impair, if not entirely destroy, discovery. That is my personal view on the subject. When you come to amending existing laws, which, in my judgment, should be amended in many respects, touching on the subject discussed here by the President of the Cattle Growers' Association, it must be done with great caution and great care, because, as I have stated, there are those who would like to have all mining placed on a lessor basis, which would have the result that I have discussed. So, when your association or any other association considers a change in the mining laws, those who guide the legislation through the Congress must be very careful that it does not take on an entirely different character from our present laws with reference to discovery and possession.

Mr. FAIN. I wish to state again, Senator, that we certainly have no quarrel with the legitimate miner, and I believe this problem can be worked out to the satisfaction of everyone concerned. We would like the cooperation of the mining group, rather than its opposition.

Mr. Ronstadt, who is chairman of the committee on public transfer of the Arizona Cattle Growers, will now take the stand, and introduce other witnesses in support of the objection to the policy, or formation of policy, as seen by the association.

Mr. CHAIRMAN. All right, Mr. Ronstadt, will you come forward, please?

STATEMENT OF CARLOS E. RONSTADT, TUCSON, ARIZ.

Mr. RONSTADT. Senator McCarran, ladies and gentlemen, last night, at a meeting of the public lands committee of the Arizona Cattle Growers' Association, several problems were discussed, among them the abuse of the use of unpatented mining claims. The Senator's statements just now were considered very carefully, last night, and the Cattle Growers' Association concurs with your belief, sir. We feel that it is not the mining interests, nor the legitimate locators of the mineral, that are abusing this privilege, but rather it is our own group. It is supposed, livestock operators, or would-be livestock operators, who are trying to find some method of operating on the public range at the expense of the legitimate lessees, especially on section 15 leases. The problem also comes on the Forest, but, as we understand, they have a method by which they can control it. We also understand that within grazing districts it is being controlled, but this abuse of this use of unpatented mining claims, I again restate, is caused rather by our own group. It is a problem which we can settle among ourselves, because the policy of the Land Department must be changed or must be regulated in order to cover this abuse.

Again, restating what Mr. Fain had to say, unless we can find some method, by amending existing grazing laws such as the Taylor Grazing Act, or possibly by regulations, the amendment of regulations issued by the General Land Office, it may not be able to be solved without an act of Congress. We don't know, we are not competent to say how it can be done, but we are hoping that it can be done by proper policing, possibly, by the General Land Office, or by a change

or regulations. I would like to call some witnesses to tell their stories.

We have tried to pick out, Senator, typical cases, and these cases are, we think, typical of what is going on all over the State. We have many of them and it would be unfair to burden you or these gentlemen who are here and are limited in time with a lot of cases similar to each other. We have tried to pick out short, typical cases, to be given by the men themselves, if that meets with your approval.

STATEMENT OF ROY HAYS, KIRKLAND, ARIZ., CHAIRMAN OF THE BOARD OF DIRECTORS, YAVAPAI CATTLE GROWERS ASSOCIATION

Mr. HAYS. In our neighborhood I and some of my neighbors have a problem where there has been people come in and in some places located claims, and in other places leased the claims that were already located, and have turned these away in excess of carrying capacity for these claims, brought in an inferior class of Mexican bulls, turned them loose on our ranges, and we haven't so far been able to control this in any way. The Department of the Interior have had their men out there and they haven't been able to solve the problem. It seems like they don't have the power or authority to trespass these cattle that are being turned on this range.

The CHAIRMAN. What is the nature of the surrounding range; is it under Taylor Grazing or under Forest?

Mr. HAYS. Taylor Grazing, State lease, and patented lands. I have—majority, my land, most of it, is State leased, several thousand acres of Taylor Grazing land, but we have a problem there where I take my cattle out over the range, and try to conserve that, I had my cattle away on pastureland for the winter, and these parties brought in 200 head, approximately, and turned them loose where I was taking my cattle off and trying to conserve the range.

The CHAIRMAN. They must have a series of either placer or lode claims on which they turn the cattle loose, is that correct?

Mr. HAYS. They have one—one party leased one claim on that State lease, but I believe the claim is a legitimate claim, because it was there before the State acquired the land, but after that they went out and leased some other claims that were scattered around through this area, but the cattle drift plumb off of this area, all over the whole country, for miles away, over the range.

The CHAIRMAN. If they drift on Taylor Grazing land, what is your attitude, Mr. Leech?

Mr. HAVELL. Senator, these are not district grazing problems, these are section 15 grazing leases, as I understand it. Is that correct?

Mr. HAYS. Yes.

Mr. HAVELL. Evidently from what is being said here, they drift from the mining claims onto the leasehold of the lessee, under section 15.

Mr. HAYS. Some of my leases have these mining claims filed right over the leases I am paying lease for, on this land, and the other fellow claims he has the right to graze his cattle, too, on account of his mining claim. We would like some regulation of this, to be controlled so we would be able to handle our ranges as it should be handled.

The CHAIRMAN. Turning 200 cattle loose on a 20-acre mining claim doesn't run up very good to form. I imagine it was an exceptionally fine claim.

Mr. HAYS. In this same area I had leases on some of this ground. They were 1-year leases, and when the lease expired, were excluded for mineral rights along the side of it. Maybe they would take 40 acres out—40 checkerboarded those leases, cutting me off from my water by their mineral rights. I'll admit there is a mineral showing on almost all of this belt that I am in, but why they would reserve one 20 acres, and 20 along side of me, I can't understand. I believe that is about all I have to say.

The CHAIRMAN. Can any member of the Federal agencies here give us any explanation on this? Do any of you desire to make any comment?

Mr. RONSTADT. Senator McCarran, I thought—may I offer this suggestion for your approval?

The CHAIRMAN. Yes, sir.

Mr. RONSTADT. Might we hear the witnesses, and then ask the questions; and then probably we can arrive at some definite conclusion?

The CHAIRMAN. Very well, that is a very good suggestion.

STATEMENT OF HARRY S. KNIGHT, PRESCOTT, ARIZ.

Mr. KNIGHT. My name is Harry S. Knight.

The CHAIRMAN. You are engaged in what line of business?

Mr. KNIGHT. Cattle raising.

The CHAIRMAN. You may proceed and make your statement.

Mr. KNIGHT. I am not very much of a speaker, but I have a little story to tell. I am located in Camp Wood, and I have a winter range down Burro Creek. That Burro Creek country, I have been there 25 years—it has been prospected by a lot of real prospectors; that is, men who knew minerals, and they all told me there is no mineral in this country. Whenever we speak to one of them about it they just pass it by. Nevertheless, a party went down there as soon as these different agencies went in, the Taylor grazing district and lease lands and so on, and located a mining claim. Now, understand, this is in this particular place, and as I say, it is all, practically all, in a malpais country. I have lived there since 1880, in Arizona, and I never heard of any minerals in malpais. Those people have located, I don't know how many claims, but enough to establish themselves, and they are using my range.

Last winter my boys were putting cattle into the winter range; put about a hundred head of cattle down in that particular part of the country. They keep about anywheres from 4 to 8 dogs, and my cattle were only in there about 2 days before they all came home. We went down to see what was the matter, and we found horse tracks and dog tracks where they had dogged them out the canyons when they went in there for water. When the cattle go into the canyons to water, they set the dogs on them and run them out. This outfit went in there with 10 or 15 head of cattle, gentle and broke to milk, raise cattle, and they have pretty close to 40 or 50 head now, 5 or 6 years. If anybody can tell how these dogs live, we have never figured it out, and yet that is my problem.

It isn't the matter of just what they can graze on their own patented claims. We have got several sections in there, and they won't allow our cattle to go in. They dogged them out, and there's nothing I can do about it; yet my range is under fence, and they are inside of the fence.

The CHAIRMAN. Are there any questions from any members of any department? At any time, if there are any questions or suggestions from anyone present, don't hesitate to arise and state your name and ask your questions.

All right, thank you very much for your statement, Mr. Knight.

Mr. RONSTADT. Mr. Earl Evans, of Phoenix.

STATEMENT OF R. EARL EVANS, GLENDALE, ARIZ.

Mr. EVANS. My name is R. Earl Evans.

The CHAIRMAN. Mr. Evans, have a seat. You are from Phoenix?

Mr. EVANS. Yes, sir.

The CHAIRMAN. You are in what line of business?

Mr. EVANS. Cattle production.

I have been asked to make a brief statement concerning the use of mining claims on the withdrawn public lands, stock drives. This location of mining claims on the stock drives has resulted in the location of livestock units, who use a free range that was set aside for a very different purpose, to the extreme abuse and almost absolute ruination of the same.

The CHAIRMAN. Get that picture, now. You are dealing with the subject of driveways?

Mr. EVANS. Driveways, in relation to unpatented mining claims.

The CHAIRMAN. Unpatented mining claims in relation to driveways. In other words, these unpatented claims are held on public territory that is set aside for driveways. Is that right?

Mr. EVANS. That is correct.

The CHAIRMAN. And they use the patented or unpatented mining claims as a basis for running livestock upon this withdrawn area?

Mr. EVANS. Yes, sir.

The CHAIRMAN. All right.

Mr. EVANS. With no restriction of any sort put on the use of these public lands driveways. There are regulations that they do not enforce; no machinery to enforce them. I think, in a previous hearing, we asked Mr. Havell if some such machinery could possibly be set up, and he told us that at the time it could not; and there has been no such machinery set up up to date. The unpatented mining claim on the drive is quite often positively without any mineral showing whatever. Many of them are placer claims; and this is not confined to any one class of livestock, but principally goats and cattle. The south driveways have a very definite function in the livestock industry throughout the State, but they certainly do need some sort of control over their use.

That is all I have to say.

The CHAIRMAN. All right, thank you.

Call your next witness.

Mr. HAVELL. May I ask a question before the gentleman leaves the stand?

Do you know whether these mining claims that are on the south driveways were initiated before or after the establishment of the

driveway? I ask that question because the south driveways are not subject to mining location.

Mr. EVANS. Many of them have taken the location after the establishment of the driveways.

Mr. HAVELL. I do not want this point to get away. If there has been any attempt to locate a mining claim on the south driveway, after the establishment of the driveway, it is contrary to law. We would like to know it, and we will take appropriate action in the matter.

Mr. EVANS. To my personal knowledge such is the case.

Mr. HAVELL. While we are here, can we get together on that? I am anxious to know the locations. You have our 100 percent support on that question.

STATEMENT OF W. B. YOUNG, KIRKLAND, ARIZ., ARIZONA MOHAIR GROWERS' ASSOCIATION

Mr. YOUNG. I was sent here as one of the committee of three from the Arizona Mohair Growers' Association to testify in regard to mining claims on the section 15 leases.

We are very much opposed to regulations. We are very well satisfied with the leases. But there is one exception, and that is in regard to the mining claims. These people take these claims and use them for grazing livestock on where we are paying the leases; and we think we should have some protection. We are not opposed to the legitimate miners, but it is our own livestock people that are doing this, and we are very much opposed to it.

The CHAIRMAN. Let me understand you. The mining claims are taken up within the lands held under section 15?

Mr. YOUNG. That's right.

The CHAIRMAN. Are they taken up before or after the permit or leases are given under section 15?

Mr. YOUNG. I believe some before and some after.

The CHAIRMAN. Then these mining claims are utilized as a base for the running of livestock. Is that right?

Mr. YOUNG. That is true.

The CHAIRMAN. Is mining actually prosecuted upon the claims?

Mr. YOUNG. No, sir; in a lot of cases, no.

The CHAIRMAN. Not at all? How about the annual work?

Mr. YOUNG. Well, I think that on some of them the work has been done; but they are exempt at the present time from doing any work on those claims.

The CHAIRMAN. That is right.

Has this custom come into existence recently, or is it a custom or practice that has been going on for years?

Mr. YOUNG. Well, it is since the Taylor Grazing Act, that is my opinion. Before that it was public domain, and we had no leaseage on this land.

The CHAIRMAN. You had no leaseage?

Mr. YOUNG. No.

The CHAIRMAN. It used to be, as I recall it, customary for the stockmen to lease the placer claims along creeks and creek beds, and thus hold control of the range in that way. That was customary, and I

think it is customary yet in some places in the country. Have you any such process as that, that you know of?

Mr. YOUNG. I think that has been done.

The CHAIRMAN. I knew of placer claims that exist that took in an entire stream, and I never knew of any annual work to be done on the placer claims; but the claims were leased to a stockman who controlled a whole countryside with it. So it has grown up from an old custom apparently, and is now being abused along a different way. The line of demarcation is the line of use. The spirit of the law was to permit a miner to acquire a certain territory for the purpose of prosecuting mining, either placer or lode; but the spirit of the law has been abused into a kind of a letter of the law, whereby they have possession of this surface, and use the surface of the mining claim for an entirely different purpose and object from that for which it was originally granted under the Federal statute.

Is there anything further?

Mr. YOUNG. I believe that is all I have.

The CHAIRMAN. Very well. Are there any questions from anyone?

Mr. RONSTADT. Senator McCarran, I would like to restate the policy of the association, that we feel the Taylor Grazing Act was passed to prevent such things as this, and that is directly contrary to the purpose for which the act was passed.

I'd like to call Mr. H. B. Thurber, from Sonoita, Ariz.

STATEMENT OF H. B. THURBER, SONOITA, ARIZ.

Mr. THURBER. My name is H. B. Thurber.

The CHAIRMAN. You are engaged in what line of business?

Mr. THURBER. Grazing, raising of cattle. The statement that I would like to make, we are living in a mining district, controlled mostly by placer claims, and we have an element down there, I would say, of outfits who move in with their cattle and families, and make their homes. Sometimes assessment work is not done. In one particular instance, in what we call the Gulf country, an old gentleman over there has twenty-five or thirty-five hundred acres of claims, and he controls the water. If you want to drill a well on this particular property—I took it up with the Forest Service, the national forest. The ranger suggested we go and see the old man and talk to him before the Forest Service would issue a permit for the well. We went and talked to him, and he very graciously permitted us to drill the well and put up the windmill and equipment, and today we haven't yet a permit from the Forest Service permitting us to put in that well. That seems to be the extent of the mining laws, at least the way they interpret the mining laws. West of us we have a condition—Atkinson Proctor, he is a legitimate rancher. After Atkinson moved in, these nesters came in on mining claims, Forest Service, there for 2 years, riding that area; have an allotment of cattle. He permits them, some way or another, to carry his cattle. I have talked to the ranger, and he has quite a little trouble straightening things out.

I am a small operator, fenced up in various pastures, some purebred cows, as we have to have purebred bulls through the allotment. That is required by the Forest Service. Through the allotment there are 160, or 80 acres, 9 claims, which are claimed by mineral prospectors, or whatever you want to put it. If they should desire, want to come

and patent this particular country and claim in place—I don't doubt but what there is mineral in place in that particular part of this country—if they did that, as they saw fit, I would be out. These patented lands is 2 or 3 miles apart; they don't come together. That is the situation as we have it at the present time down there. I have talked with the Forest officials and they seem to be sympathetic, but their hands are tied. The mining laws are the law, and the Forest Service is purely administrative. That is all I have to say.

The CHAIRMAN. Are there any questions from any members of the departments, or anyone else?

STATEMENT OF FRANK ROEHL, ORACLE, ARIZ.

Mr. ROEHL. I live at Oracle, and my business is raising cattle. The situation I have is similar to that described by Mr. Thurber. I am dealing with a real-estate promoter who has come out from the East and has already acquired land on the forest, patented it, cut it up into subdivisions, and sold the lots. In connection with that, he has also acquired this range, and that has been done in one section of the forest. Now he is moving down into the center of my ranch and contemplates patenting 30 claims, a sizable amount of land carrying water in there. As I say, his whole history has been that of a promoter, purely. I don't think he intends to go into the cattle business at all, as a matter of fact, but that is the situation. That creates a worry on the part of anyone having forest permits, if a man can come in and patent land in the middle of your property which would be detrimental to the operation of the ranch.

The CHAIRMAN. Let me ask a question to be answered by some member of the Federal group here: Under what act could the land be acquired in fee simple?

STATEMENT OF L. F. KNEIPP, ASSISTANT CHIEF FORESTER, WASHINGTON, D. C.

Mr. KNEIPP. Senator, the act authorizing the creation of national forests specifically stipulates that the lands reserved shall be subject to the mining laws. Otherwise, the lands are withdrawn from all forms of entry except under the forest homestead and under certain rights-of-way and easement acts. The only way these withdrawn lands could be acquired where they are not chiefly valuable for homestead purposes would be under the mining laws. I might say the attitude of the Forest Service with regard to the situation that is described here is that while the mining locator has the right against anybody else to the lands covered by his locations for mining purposes, locations under the mining law do not give him a right to use those lands for purposes unrelated to mining; so that when, within the national forests we find a man who has attempted to use unpatented mining locations for purposes other than mining, such as grazing, we immediately file with the General Land Office—that is, assuming that the claims are not valid claims. We file with the General Land Office a protest and a request for the cancelation of the claims.

Now, as Mr. Roehl has suggested, it sometimes takes quite a while to carry the protest through. But that is the procedure that is followed within the national forest. We do not recognize the right of

a mineral locator to use the claims for any purposes other than mining, and if he attempts to do so he is required to obtain permits; and if he declines to do so, and if the claims are not obviously valid claims with minerals in place and with the development work properly performed, we then file a request for cancelation with the General Land Office. However, if there are mineral values, and if the claimant has met the requirements of the mining law, he can of course proceed to patent; and after he obtains the patents, he has the same rights as any other private owner.

The CHAIRMAN. This appears to present a picture of an individual who has acquired land, and he proposes to subdivide, and that land, as related here, is in the forest. How could that be done? How could he acquire title, so as to subdivide for sale purposes?

Mr. KNEIPP. The process is quite a common one, Senator. He would file locations, either lode or placer. In due course of time he would apply to the General Land Office for a patent, under the mining laws. If that patent were granted, he could then subdivide the land. Prior to patent, if the land were within the forest, and he attempted to take such action, we would follow the procedure that I have just outlined.

The CHAIRMAN. Thank you.

Are there any questions from this witness before he leaves the stand?

Very well, Mr. Ronstadt, you may proceed.

Mr. RONSTADT. Mr. Wayne Taylor.

STATEMENT OF WAYNE TAYLOR, SUPERIOR, ARIZ.

Mr. TAYLOR. My name is Wayne Taylor.

The CHAIRMAN. Mr. Taylor, you live where?

Mr. TAYLOR. I live at Superior, Ariz.

The CHAIRMAN. You are engaged in the livestock business?

Mr. TAYLOR. Yes, sir.

The CHAIRMAN. You may proceed, Mr. Taylor.

Mr. TAYLOR. We operate livestock in Pima, Yuma, and Maricopa Counties, on State land, section 15 land, grazing district land, Forest Service land, Indian Service land, and also patented land. Sometime this spring, in February, there was a man turned loose some cattle. Some 200 head came up to the water we owned, and we started to moving out those cattle; didn't stay there long. But we had to go into court and get a temporary restraining order to make him take his cattle off; but that is only temporary. We own and control all the water, and have the ranges fenced.

The CHAIRMAN. Are these patented mining claims?

Mr. TAYLOR. No.

The CHAIRMAN. I haven't caught the gist of your story. Go back over it a little bit again, please.

Mr. TAYLOR. Well, they turned these cattle loose on unpatented claims without water on them.

The CHAIRMAN. I see. How long have the mining claims been in existence?

Mr. TAYLOR. Well, some of these claims have been, I suppose, for 40 years.

The CHAIRMAN. Was the annual work done on the claims when annual work was required, to your knowledge?

Mr. TAYLOR. Well, I think so, off and on.

The CHAIRMAN. Are they lode or placer claims?

Mr. TAYLOR. Lode claims.

The CHAIRMAN. Now, it is being used for stock raising purposes rather than for mining?

Mr. TAYLOR. Yes.

The CHAIRMAN. Well, it's probably more profitable.

All right, thank you, sir.

Mr. KONSTADT. Senator, we have two more witnesses, to make a brief statement, but we would like to bring—the association would like to point out to the committee that we feel that there is not sufficient regulation of the location of mining claims; not sufficient administration or policing of the use of these mining claims; and especially not sufficient policing for their annual assessment work. We know that the affidavits are filed, in many cases, and the work is never done. To check on these mining claims is quite a job.

We would like to call Mr. Williams, who has a brief statement to make. I assure you it will be brief, but it is about this problem, of which he has very good knowledge.

Mr. O. C. WILLIAMS. It's hard to know where to start on this particular problem. In many cases, where the State is most vitally affected, the State lands, these claims were put on just prior to the filing of the survey by which we acquired the lands for the State land department. In many of these cases, there never was any assessment work done, nor was there any location work done, merely the filing of the claims in the county recorder's office. The main weakness seems to us to be the fact that they are not required to file with any Federal agency, and put them on notice of these claims. We go to the General Land Office, to make exchange applications, and they have no knowledge to these claims; and after we have received the land, in many instances, then they come back and set forth that a claim was put on there, possibly just a few months, or a year, before the survey plat was filed. It appears to us that in many cases it was deliberate knowing that these surveys were being made and it was their last chance to slap this mining claim on. They filed in the county recorder's office and then so far have been able to substantiate that it is a legal claim whether any work has ever been done or not. We feel that if they had to file with the register here of the General Land Office then we would all be put on notice; then the field inspection could be made to ascertain the validity of the claim and as to whether there was any mineral or not. We think that much of our difficulties would be overcome because we are sure that in many of these cases it was strictly a desire to get into the cattle business; a well-organized and watered and protected unit, under the protection of mining, when there are no minerals of sufficient value to justify mining. This is borne out by the fact that they do not attempt to mine; they go into the livestock business, in competition to already established units.

Now, I might say that, while Mr. Havell is here, and the chief investigator, Mr. Lausen, we are going to have a hearing on many of these specific cases, and see if there is any way they can take to iron out our difficulties. It is very serious. I might say that it could fire into open range war, because it has brought up some very bad blood; and some of these westerners still can use firearms, if they have to resort to it. We want protection, so that will not come, to blemish the State of Ari-

zona. I want to say, also, that we are plagued with this when prices are high. When cattle prices are low, they do not have the inducement to carry on this operation; but just as soon as the cattle are scarce, and prices are high, then we are plagued by faked mines and mining claims, as a back door through which to get into the cattle industry.

I think that covers it, Senator, pretty well.

Senator MACFARLAND. Before Mr. Williams leaves, may I make a little statement in regard to these railroad lands? I would like to make a statement, in order that you will understand just what Mr. Williams and Senator Hayden and I have been trying to accomplish, as far as these lands are concerned.

I understand that Mr. Williams made a statement in regard to the railroad lands before I came in. As you know, in 1940 there was an act passed which permitted the railroads to feed back to the Government the lands which had previously been granted them. In other words, that they might relieve themselves of the land rights provided under legislation. Now, there was a bill introduced in the House, which passed the House and came over to the Senate in the last session, which would have given these lands to the Indians. Mr. Williams took this matter up with me, and I was a member of the Indian Affairs Committee. I have been accused of holding that bill in my pocket. I guess I did. My reason for doing that was that I asked the Land Department to tell me just what lands were involved, under that act. In 1940 it excepted from that grant back to the Federal Government, lands from which they had already parted title, and they had deeded quite a large acreage of those lands to private ownership. We don't know just how much land was involved, or what land was involved. They have never furnished me that statement. I thought we should have the statement, upon which to base an amendment along the line which, I am sure, Mr. Williams described to you, in the first statement here this morning.

I can speak for both Senator Hayden and myself. We have intended to either introduce or support an amendment to legislation already in existence, already introduced, along this line. Whether it would be the bill which passed the House in the last legislation, which died, I mean, or a similar bill, or one similar to the one which Senator McCarran has introduced, I'm not sure. That pretty well tells the story, doesn't it, Mr. Williams?

Mr. WILLIAMS. Yes; it does, Senator. Thank you very much.

I might state that this might have gone through, but a little A. P. clipping got into our press; so I wired our Senator, who was able to hold this thing until we could at least review the matter and do something about it.

The CHAIRMAN. Very well.

Mr. RONSTADT. I would like to call Howard Smith, who has a short statement to make on the matter of mining claims.

STATEMENT OF HOWARD J. SMITH, PHOENIX, ARIZ.

The CHAIRMAN. What is your business, Mr. Smith?

Mr. SMITH. I am an agent, in behalf in livestock interests, and have been for a number of years, in connection with both State and Federal leaseholders. With regard to the mining situation, I would like to confine my remarks to one with which I am particularly well acquainted; that is an elaboration upon the situation which faces Roy Hays.

I might say in that regard, that Mr. Hays acquired certain range, all of which was held under lease, either through the Federal or State governments, from a second party. During that time, there were numerous conflicts, and by and with the assistance of agents of the field examiner's office, in Albuquerque, all of those conferences were terminated by agreement. The presumption then being of the necessity, much time having taken place, or gone by, that for one who had any legitimate interest, that is, insofar as livestock operations were concerned, was represented through filing, either within the State or Federal land office. I think everyone with any interests whatsoever was so represented.

The agreements were dictated, as I say, in company with an agent of the Federal Government. Lines were drawn between these several outfits, and, because no further difficulty was anticipated, and with the knowledge of such agents, fences were constructed. Subsequently, leases were received, when, to our surprise, we found that in the midst of the Hays holdings certain lands have been rejected, and today remain open and available to use by anyone; this on the basis of a mineral showing. Additionally, before and since this action, there were locations made in that territory.

Now, these locations, of course, were unknown, in great part, to all of the people involved. Any one who has lived in the State of Arizona, and, for that matter, in any of the Western States, knows that there are tens of thousands of such mining locations. I might add, at this point, that when the Taylor Act was passed I anticipated that the difficulty would be had, as a result of this mining situation. I then tried to interest Government agencies in the determination of the existence of mining locations, but they thought, and they may be right, that these could be adjusted as they came to the attention of the authorities.

Now, peculiarly enough, and involved in this self-same case, immediately adjacent to land which was refused lease upon was a western Navajo exchange application. That necessitates a declaration that the land is not mineral in character. That application was approved for patent by the General Land Office. Subsequently it was withdrawn, because there was no necessity at that time for going through with it.

We have been informed, indirectly, and, I should say, not officially, that petitions had been submitted to the General Land Office for consolidation of additional section 15 leases in this area. This happens to be the only instance of which I am aware where the mineral character, or potential mineral character, of land has been the occasion for refusing to issue leases. We have innumerable cases of where leases have been issued subject to mining claims, because of the belief that there may be mining claims in that particular territory.

Mr. Hays finds himself in the position of having acquired range that was under lease, and which he presumed would continue under lease, and now is unable to control it. I think it is perfectly obvious, because of the mineral character of a large part of the State of Arizona, that if the individuals involved in this were using this land to the location of mining claims, the operation of livestock units, succeed in what they are attempting to do, they have estab-

lished a precedent which can, without any question of doubt, completely defeat the allocation of these lands by Federal authorities. I might add that it is my view, and I think the view of all livestock men, as stated, no one wants to interrupt the continuation of legitimate mining; it means too much to the State of Arizona. But if the livestock interests are to conserve the range for which they are paying fees, they must have some protection from this misuse of land.

Thank you, Senator.

The CHAIRMAN. Are there any questions from either of the departments? This is a very interesting statement here. Mr. Havell, have you any explanation to make on this statement with reference to the application of patents?

PRESCOTT, ARIZ., August 28, 1943.

Mr. E. S. HASKELL,

Care of Arizona Cattle Growers Association, Phoenix, Ariz.

DEAR SIR: In 1940 we put in an application (serial No. 079890) for a Taylor grazing lease (see Sec. 15) for sec. 22, T. 14 I W. which is not patented but held by placer location and has been mined off by dredge. Our applications were turned down after field men Baker and Neil passed favorably on it. It is about half fenced and other improvements consist of rock house and about 2 miles of fence put on land in the 1880's, and concrete dam and ditch put in Lynx Creek by present holder, G. S. Fitzmaurice. The creek runs through the south half of section 22 from west to east and there is no gold on the part of the section.

As all other placer ground in the vicinity was allowed and owing to the fact that the present holder, G. S. Fitzmaurice, has no livestock and hasn't been mining for 4 or 5 years, we cannot understand how it can be held just for mining claims when it has been mined off. We have cattle ranches that join and wish to renew our applications for Taylor grazing lease on this section 22, as it has stock water on it. All we want is the stock water and grazing, as neither of us are interested in mining.

For reference to this entry or application see Departmental Decision A-22761, dated October 28, 1940. We have both been raised in Yavapai County and been in the cattle business all our lives here.

Very truly yours,

W. B. STORM,
Jerome Route, Prescott, Ariz.
BRUCE M. RUSH,
Mayer Route.

Mr. HAVELL. Senator, as the gentleman has just stated, I think this is the only case where we have declined to issue a grazing lease because of the presence of unpatented mining claims.

In that case, if I remember correctly, we made an investigation and found the mining claims to be valid, and under the Supreme Court decision that a mining claimant has property of the highest order in his claim, we thought we did not have the authority to cover those lands within the grazing lease.

Now, I did not intend to discuss this problem at this time. I thought we would get all the witnesses in. But the other side of the story of the problem is troublesome. To what extent has the mining claimant—let's assume a valid mining claim—to what extent has a mining claimant the right to use the claim for other than mining purposes? That is the real problem, as I see it. I think we are surely safe in not issuing a grazing lease under section 15 for lands that are included in a valid mining claim. But whether the mining claimant has a right to use that land for grazing purposes and to lease it for grazing purposes is the real vexatious problem.

Mr. SMITH. I think that is correct, Senator. I might say, in that regard, that is exactly the point we want clarified; exactly what we have not been able to have clarified up to this date. If the mining claim—that is, the locator—could be confined to his use in mining, we would have no difficulty today.

The CHAIRMAN. Very well. That is the reason I asked the question. That was the last witness on the agenda I have before me under the head of unpatented mining claims. Is that the last witness that you have to offer?

Mr. RONSTADT. Yes, Senator; that is the last witness on this particular subject.

The CHAIRMAN. I understand now it would be orderly, and it appears to me that it might be orderly, if we had the departments, if they see fit, discuss under this particular heading of unpatented mining claims.

Mr. RONSTADT. I was going to ask the Senator's permission to do that; to make a suggestion that, unless there are others in the room who might have something they want to say—

The CHAIRMAN. Is there anyone else in the room who cares to discuss under this subject, "unpatented mining claims?" Also, their effect on grazing in the State of Arizona and elsewhere? If there is, don't hesitate to speak; don't be afraid to speak. It doesn't make any difference how you make your statement, we will understand you. Make it any way you like. If you want to swear about it, go ahead and swear.

Now, do the departments care to be heard? I think we have had one statement from the General Land Office, Mr. Havell, and if he cares to discuss this subject further, we can hear him now. It probably would be orderly.

Mr. HAVELL. Mr. Chairman, I think, first of all, that perhaps next to the committee there has not been a more attentive listener to what has been said here this morning than I. It is a problem that the Land Office has been, and is now, wrestling with. I am quite certain we all agree that we don't want the mineral wealth of this country to be locked up merely because we want to use the surface for grazing. In fact, the Taylor Grazing Act specifically provides that lands affected by that act are still open to the operations of the mining laws, so that mining claims can be initiated within a grazing district on the open public lands, within a forest reserve, or within a section 15 grazing lease. The law so provides. We have no discretion in the matter. But I am satisfied that the law contemplates a valid mining claim.

We had this same problem discussed over at Glenwood Springs, as you remember, in connection with the oil-shale cases. They were placer claims initiated under the old placer laws. There the mining claims are being leased for grazing. We have just completed a field examination of those claims. We have also just completed a field examination as to the validity of the mining claims in the case that was discussed here by Mr. Hays. Those two reports are of very recent date. Just about the time I left the office at home they were received, and they are under consideration, and will be further considered in the light of the record that is being made here today.

Unfortunately, the Federal Government is not able to attack the validity of a mining claim for failure to perform assessment work.

That is a right extending only to third parties. Failure to perform assessment work exposes the claim to relocation; but it does not, according to the Supreme Court decision in the *Krushnic case* (280 U. S. 360), and the *Virginia-Colorado Development Corporation case*, give the Federal Government authority to attack the claim. In the *Rizzinelli case* (182 Fed. 676) in Idaho in 1910, concerning the national forest; in the District Court held that the mining claimant had no right to use the claim for such a purpose as a saloon. Just how far the courts will go to support us in holding that the mining claims cannot be used, say, for grazing purposes, is a question. My personal opinion is that the mining claimant has a right to use the claim for mining purposes, or anything incident to mining, but that he has no authority to use the claim for things that are foreign to mining. Unquestionably a mining claimant holding a valid mining claim has a right to graze livestock on that claim, if the livestock, horses or mules, we will say, are used in the mining operation. Whether he can use the mining claim for the grazing of range cattle is a question that has never been determined by the courts. We propose to bring that to an issue just as soon as this matter has been considered in connection with the reports now before us.

Perhaps there is involved in this question the State range laws. We issue a section 15 grazing lease upon the record of the General Land Office, and, as the State land commissioner has pointed out, mining claims are not of record in the General Land Office, or in any of our district land offices. When we have an application for section 15 grazing leases, we look on our tract books, and if we find that the lands are vacant and if the applicant is qualified, the grazing lease is issued for the area shown upon the record. It often happens that there are mining claims of record in the county recorder's office, of which we have no knowledge. If the mining claim is a valid one, unquestionably the mining claimant has a right to fence his property or to keep livestock off of it. I imagine that would be handled through the machinery of the State courts.

Therefore, our grazing lessees, holding leases under section 15, are confronted with a problem with the local mining claimants. When we issue the lease under the Taylor Grazing Act, the lessee has a leasehold. In my opinion, he has a right to defend in the local courts, if there is a trespass. The Federal Government—the General Land Office—has not felt that it was its duty to defend against trespass lands that are leased. I don't know, but I imagine, the State land commissioner, when he leases a piece of school section for grazing purposes, doesn't defend that lease against trespass, but leaves it to the lessee, the same as any lessee would be expected to defend his own property against a trespass.

This is a novel problem. It has never been before the courts in the form in which it is presented here. We are working on two cases the outcome of which, I hope, will be beneficial to the grazing interests without injury to legitimate mining operations.

MR. SMITH. Senator, could I ask a question?

THE CHAIRMAN. Certainly, sir.

MR. SMITH. Did I understand you to say, Mr. Havell, it is the opinion of the General Land Office that the question of the sufficiency of unpatented claims cannot be challenged by the General Land Office?

MR. HAVELL. No; I said that we cannot challenge the mining claims

for the failure to perform the assessment work. If there is lack of discovery, dummy locators, or if the law has not otherwise been complied with, we are in a position to make the attack; but if the sole ground of complaint is the failure to perform assessment work, that is not a matter that we can bring the action on.

Mr. SMITH. Thank you.

Mr. HAVELL. I might add, before I sit down, Senator, that I stated, when we had our meetings here last year, that if anybody found there was an invalid mining claim interfering with any Federal activities, such as a grazing lease, national forest or grazing district administration, if the matter is brought to our attention, we will make a field investigation and do just what Mr. Kneipp has indicated to you. We would bring an action that will, if the claim is invalid, result in its cancelation. We would be very glad to receive any such complaints and give them our careful consideration.

Mr. FAIN. May I make a statement?

The question was raised of fencing these claims. It looks simple to fence the 20-acre mining claim, to take care of the stock that might be turned loose on it. But we find that there is mineral on the whole surface of the State of Arizona, practically the whole surface; so mineral can be found, at least plenty of claims can be made, in any area desired to furnish a foundation to turn loose these, what we might call, illegitimate stock.

In the Forest Service, we do have protection from trespass stock; so we are putting our problem straight up to you, and to the Grazing Department, to protect us on these section 15 leases, and the abuse that has come about. If it was merely a case of fencing, I believe we could handle it ourselves; but it is way past our handling, and the solution lies in either legislation, if the Grazing Department themselves were not able to take care of it.

The CHAIRMAN. I have a letter here and before we go any farther, this letter will go into the record just preceding the statement made by Mr. Havell.

(The chairman therefore read into the record the letter which will be found above, incorporated into the transcript.)

Mr. HAVELL. Senator, I'm not familiar with that case. If the committee would care to let me have the letter—evidently that case has been to the Secretary of the Interior on appeal and final decision has been rendered.

The CHAIRMAN. You may get the letter from the reporter.

Mr. FAIN. May I make a statement on that same case?

The CHAIRMAN. Yes.

Mr. FAIN. At one time I held the lease on this land. A Federal lease was given by your department on the land. I was given a grazing lease on the same lands. I was under the impression at the time that neither conflicted with the other. Actually, we had no conflict in operation. The owner of the mineral lease felt that the grazing lease was a detriment to their holding, particularly in view of sale, and so on. We could never get an interpretation from your department which definitely outlined the status of either party. The case was headed for the courts. We felt that we could better settle among ourselves as neighbors, and, upon the request of the owners of the mineral lease, we canceled our grazing lease. I could give you

correspondence, at the present time, stating our reasons for canceling it, and, if it was ever submitted for release or grazing, that we desired to lease it. But under the existing conflicts it was not practical to hold the lease as it merely resulted in a lawsuit. I would like to talk to you personally about the case further since it came up. I thought we should bring to light all parts of it.

Mr. HAVELL. Senator, there are doubtless many individual cases that present their individual problems, but it has been the policy of your committee, announced many times, that you do not take the time of the committee to discuss individual cases, unless there is a policy or fundamental principle involved.

I would like to say I will be here tonight and tomorrow and probably the next day and would be glad to take up any individual cases. You say a mineral lease was issued; tell me what kind of a mineral lease it was; under the Leasing Act of 1920?

Mr. FAIN. I couldn't give you the date on it, it was a placer lease.

Mr. HAVELL. A what?

Mr. FAIN. Placer.

Mr. HAVELL. What mineral?

Mr. FAIN. Gold.

Mr. HAVELL. Well, you see, the Federal Government does not issue mineral leases, except for leasing mineral oil, gas, oil shale, phosphate, and so on. There is no authority of law for the issuing of a gold lease, so there is something wrong in the facts.

Mr. FAIN. I would like to check it with you personally, but, since the question was raised, it shows we have a lot of clearing up to do on section 15 lands.

The CHAIRMAN. It is now 5 minutes to 12. The committee will pause now. We will reconvene at 2 o'clock. The committee will stand at recess until 2 o'clock. (Recess until 2 p. m.)

The committee convened pursuant to call.

Present: Senator Pat McCarran, Nevada, chairman, and Senator Ernest McFarland, Arizona.

Also present: Congressman John R. Murdock, Arizona, and E. S. Haskell, investigator.

The CHAIRMAN. The meeting will come to order.

Now, Mr. Leech, you were about to address the chair when we recessed.

Again I wish to say to those who are assembled here, I hope you may feel free to interrogate and free to make any expression that you like, when anyone is before the committee.

STATEMENT OF J. H. LEECH, CHIEF OF LANDS, UNITED STATES GRAZING SERVICE, SALT LAKE CITY, UTAH

Mr. LEECH. Mr. Chairman, I merely wanted to state, I was going to say, the policy of the Grazing Service on unpatented mining claims was that the miner, the valid mining claim, we have no controversy with, whatever, but the claim that is not valid, we insist that the locator has only that part of the surface necessary for his mining operation. Our policy is practically the same as that of the Forest Service. If we find these claims in the district, we refer them to the General Land Office, with the request for investigation and cancellation.

The CHAIRMAN. Are there any questions to ask Mr. Leech? He is now speaking for the Grazing Service, on this particular subject of unpatented mining claims.

I think those of you who are here heard the expression, that the chairman of this committee made this morning on the spirit of the law with reference to mining claims. The spirit of that law is to give to the miner the right to certain surface of the earth, on which to work out mineral values. I don't believe it was ever the spirit of the law, or the intent of the makers of the law, that the mining claims should be used for strictly grazing purposes, nor as a basis for grazing rights. It did not enter into the spirit of the times in which mining claims were established by law; and it does not enter into the spirit of the law now.

I am glad the members of the several authorities are here, the Land Office, the Grazing Service, the Forest Service, the Park Service, and others, because I think it all becomes a part of their study to work these problems out. I am sure that while we are here those who seek to confer with the heads of these departments will find a ready ear on the subject.

We now have section 15 leases, as given to us by our agenda submitted here.

Mr. RONSTADT. Mr. Chairman, we have had numerous complaints sent in to the State cattle growers office, that it is very difficult to obtain Federal investigations. Many times there are great delays in the issuance of section 15 leases; and there are great delays in requests for investigations of abuses. It all evolves itself down to the fact that Arizona has to depend upon an office established, I believe, in Albuquerque, N. Mex. We have been told that most of the time the Federal investigators are taken up with going back and forth between Arizona and New Mexico; and the cattle growers request that, if possible—I think we made this request once before—an office be established in Phoenix for the purpose of giving better service to the lessees of section 15 leases. After one or two witnesses, we would like to ask Mr. Havell, with your permission, to give us a summary, or rather a brief statement, as to the policy of the Land Department when it issues section 15 leases, and ask him if it would be possible to establish an office of the Federal examiner in Phoenix.

We would like to have an expression from Mr. Havell as to the policy of issuance of leases, in relation to the fees charged, and any other pertinent information that might be of value to section 15 lessees.

We have two witnesses that we would like to have tell their story. We don't know what they are, because we don't have too much time to go into it; but they requested time, and would like to have your permission to offer them.

The CHAIRMAN. You may call them.

STATEMENT OF FRANK WINGERT, WAGONER, ARIZ.

Mr. WINGERT. I am a little operator of cattle, an independent outfit, came in in the spring of '20 and been in existence since 1892. I am in Yavapai County. I first come in on township 10 north, range 1 west, and then I come into township 9 north, range 2 west, on a homestead.

The Taylor section 15 come along and has taken two of my corrals away from me, and State water rights. I am back to half a section. They have patented mining claims, and deprived me of the use of that. That is my complaint on section 15.

The CHAIRMAN. That grows out of the operation of section 15?

Mr. WINGERT. Out of section 15 of the Taylor Act. Section 15 of the Taylor Act come in; I was operating, paying taxes on either 530 or 550 head of cattle. Now I am down to 115, and I will have to cut this fall unless it changes.

The CHAIRMAN. How long had you been in business and running in that locality, when the Taylor Grazing Act went into effect?

Mr. WINGERT. I went in in the spring of 1920.

The CHAIRMAN. And the Taylor Grazing Act became operative; it became a law in 1934, and became operative along in 1935. Is that correct?

Mr. HAVELL. Yes.

Mr. WINGERT. Approximately.

The CHAIRMAN. Now, were you operating during the base years, so-called, under the Taylor Grazing Act, the 5 years preceding the enactment of the law?

Mr. WINGERT. Yes, sir.

The CHAIRMAN. How many cattle were you running during that time?

Mr. WINGERT. Well, I think along in 1934, either 530 or 550, I was paying taxes on.

The CHAIRMAN. Was that running on the open public domain?

Mr. WINGERT. Partly; I am on forest, State, and Taylor.

The CHAIRMAN. You were running partly on the open public domain and partly on the forest?

Mr. WINGERT. Yes, sir.

The CHAIRMAN. For what percentage of time were you on the forest, and what percentage on the open public domain, off the forest?

Mr. WINGERT. Well, I ran probably 60 percent off the forest, 40 percent on.

The CHAIRMAN. Were you ranging 500 cattle on the forest with a permit?

Mr. WINGERT. No, sir.

The CHAIRMAN. What were you ranging under permit on the forest?

Mr. WINGERT. My permit first started, was about 120 head.

The CHAIRMAN. Then the balance of your 500 head were kept off of the forest?

Mr. WINGERT. Off.

The CHAIRMAN. When were you first reduced in numbers, and how?

Mr. WINGERT. Well, I wasn't reduced; I just saw it coming and had to sell and keep cutting down.

The CHAIRMAN. What did you see coming?

Mr. WINGERT. Well, it was the Taylor Act was coming; my cutting down on the property; the range was soaked up.

The CHAIRMAN. Go into that a little more in detail. In 1935 the Taylor Grazing Act became operative. You were advised to make a showing as to what your use of the open public domain had been. Did you make that showing, before the authority of the Taylor Grazing Act?

Mr. WINGERT. I did; I tried to the best of my ability.

The CHAIRMAN. And you gave them a description of the lands, or the territory on which you had grazed your cattle?

Mr. WINGERT. I did.

The CHAIRMAN. What was the result of your application for Taylor Grazing Act permits, or license, rather?

Mr. WINGERT. Well, the first applications I got more ground than the last. Come down to the last settling of it, I got very little.

The CHAIRMAN. Let's get this a little clearer. The first decision of the Taylor grazing administration gave you all the ground that you had applied for?

Mr. WINGERT. No sir, not nearly.

The CHAIRMAN. Did it give you enough to run your 500 head?

Mr. WINGERT. It did.

The CHAIRMAN. In connection with the forest and the State. Now, then, when were you reduced in acreage?

Mr. WINGERT. Well, it was—I don't know for certain—probably about 4 years ago, the first time.

The CHAIRMAN. Now, how did that come about?

Mr. WINGERT. Through Taylor section 15.

The CHAIRMAN. Well, it wasn't, then, through the Taylor grazing administration that you were reduced?

Mr. WINGERT. Well, it was redistribution for section 15 that did it.

The CHAIRMAN. Is there anyone here in the Land Department who can give us more light on this subject?

Mr. HAVELL. Mr. Chairman, I don't know this particular case, but I imagine we have the same thing here that we had all over the West. Section 15 of the Taylor Grazing Act provides for the leasing for grazing of the public lands so situated so as not to justify their inclusion in a grazing district, provided that preference is given to the homesteader, owner, or legal occupant of adjacent land, to the extent necessary to make the proper use of the so-called base property. In most cases we have found that more than one person is entitled to a preference, because of more than one person owning property adjacent to the open range. When we receive those conflicting applications, our agents meet with the applicants, around the table, and discuss the problem; and they endeavor to work out an agreement among themselves as to what the proper division of the range should be. There is not usually enough public lands remaining to give everyone all that they would like to have. It must be divided according to the respective civic rights.

I imagine that is the case here.

The CHAIRMAN. Let me clarify a little further.

Mr. Leech, are you familiar with this particular locality mentioned?

Mr. LEECH. No, sir; this is not within a grazing district, Senator.

Mr. HAVELL. It is section 15.

The CHAIRMAN. It's a section 15 problem.

Mr. WINGERT. May I add that I did not know of any division of this; didn't get any final notice from the Government; have one day before this 30-day time expired to file the contest. That is the point I don't like.

The CHAIRMAN. I was going to ask you this question: Was there a division between yourself and some other users?

Mr. WINGERT. No, not to my knowledge; and not to my agreement, Senator.

The CHAIRMAN. Was the land taken away from you and given to some other stock raisers?

Mr. WINGERT. Well, it comes so damned close to it I don't know what else you'd call it, taking my improvements.

The CHAIRMAN. Well, that's close enough.

There was, then, a controversy between you and someone else as to the use of the land?

Mr. WINGERT. Three.

The CHAIRMAN. Two others?

Mr. WINGERT. There was four in the community, and the other three set the lines, and I took what was left; nothing asked of me, or nothing given to me.

The CHAIRMAN. Was that decided by a representative of the Land Office?

Mr. WINGERT. I don't know who it was decided, but——

The CHAIRMAN. The case must have been heard by someone. Who heard it, do you remember?

Mr. WINGERT. I wasn't there, or didn't know.

The CHAIRMAN. Was there a hearing?

Mr. WINGERT. I don't know. Not to my knowledge, there wasn't, that I was present at or got any notice of.

The CHAIRMAN. No notice was given to you to appear at a certain place, at a certain time, and make representation as to the use?

Mr. WINGERT. Not in the last and final decision.

The CHAIRMAN. In any decision?

Mr. WINGERT. For the first year, for 1-year lease, and the second lease; didn't have anything done.

The CHAIRMAN. The first lease, did that give you all the land you wanted?

Mr. WINGERT. Well, no; but I think I could have lived off it.

The CHAIRMAN. Speaking of all the land, reminds me of an incident that happened some years ago in Nevada. A very outstanding farmer by one means or another acquired nearly all of the land in one fertile valley. He was an old German citizen, very frugal and industrious. One of the Government agents said to him, "Mr. Springmeyer, why do you want so much land?" He said, "Why, I never wanted very much land; all the land I ever wanted was what adjoined me."

So, sometimes we run into those things.

Has it come to the attention of either of the services?

Mr. HAVELL. I am unable to give you very much information now, but I hope to, before the hearing is over.

Mr. WINGERT. I would like to have a conference.

The CHAIRMAN. You have a conference with Mr. Havell, and if there is anything more you want to bring out at the hearings, don't hesitate. We have to stay away from the individual cases.

Mr. WINGERT. Mine is rather individual, but it means that or quit.

The CHAIRMAN. Well, we hope something will be worked out for you.

STATEMENT OF WILLIAM A. SPENCER, SPRINGERVILLE, ARIZ.

Mr. SPENCER. My name is William A. Spencer, cattleman, Springerville, Ariz.

The CHAIRMAN. We will hear anything you have to say, Mr. Spencer.

Mr. SPENCER. One matter with reference to the section 15, under the Taylor Grazing Act, that I want to touch on, briefly, was the division of a certain piece of land that had been part and parcel of the range that I had purchased in 1934; that was divided up in such a way a controversy is arising over the decision; a contested case, and I wanted to place it briefly before your committee, Senator.

The CHAIRMAN. I think it might be well, for identification purposes, if you would name the parties to the contest.

Mr. SPENCER. The parties to the contest, Mr. Sherwood of St. John, Ariz. This is just a matter of 40 acres, which in itself was of very little value. The land is bordered on one side, in the first place—I might state that lots 1 and 2, each lot comprising approximately 40 acres, section 6, township 10 north, range 29 east. I made application for this tract of land under section 15 of the Taylor Grazing Act.

There is a fence, an old-established fence line, along the west boundary of lot 2. I hold it under State lease, and I hold under State lease the land adjoining lots 1 and 2 on the north; that is, the south half of the southeast quarter of section 31, and also hold the land, all the land contiguous to lot 1 on the east, under State lease; and I hold the north half of the northeast quarter of section 6, which is contiguous land on the south, in fee simple; and the water on the west portion of section 5, which is also flat land.

The tract of land in question was one-half mile, east and west; one quarter mile north and south. There was a fence, an old-established fence line, built by my predecessor some 30 years ago, along the west boundary of lot 2, the lot in question. The investigator, Mr. Turner, made investigations there, and Mr. Havell was also up there and investigated it. The lease, Taylor Grazing Act lease, section 15 lease, was granted Mr. Sherwood, on lot 2 of said section 6.

Now, Mr. Sherwood has made a practice of turning cattle in on all the range in that entire area, with the exception of the southwest quarter of 31, which is also contingent on the west, which is owned by Mr. Sherwood. But the value of the land—he would fence that lot too, which would intervene me, creating a corner, and the cattle get hold up going from range to water. It could be watched and would not because it is a great inconvenience. The cattle come back and water along the fence; but as far as holding the lease on that, and turning cattle in that fence—the only land he controls is this pasture. It doesn't seem fair. I'm having to keep a man there all the time to keep these cattle drifted out. I discussed this matter with Mr. Havell, and he said it was a matter of the division of this range. I cited the fact that my predecessors in interest had had a fence around there, which it didn't go across the west boundary of lot 2. It was virtually necessary to enclose this little portion of unappropriated public domain in order to make a straight fence line.

The CHAIRMAN. I understand you have no objection to the manner in which it was decided to allot that 40 acres? In other words, the

allotting of the 40 acres rights to your neighbor was not objectionable to you. It is the manner in which he uses it; is that right?

Mr. SPENCER. It was that, and it was, too, objectionable to me, Senator. If I were fencing him, he would build a fence three quarters of a mile to fence in the 40 acres, in that part of the county, and it wouldn't pay to put in a 4-wire fence around that, just for the grazing value of the 40 acres.

The CHAIRMAN. Do I understand that your neighbor uses the 40 acres to turn his cattle loose on you?

Mr. SPENCER. I don't know whether he uses—he uses the pretext; goes up and turns the windmill on the patented lands; used to fill the tanks to which the cattle have access to water. I don't think it is fair that, under the circumstances, he be granted that 40 acres as an entering wedge to cause difficulty and trouble among neighbors.

The CHAIRMAN. The 40 acres was as contiguous to someone else as it was to you?

Mr. SPENCER. Well, I controlled land on two sides of it, and he controlled land on one side of it.

The CHAIRMAN. Was there a division of continuous open land? There were two lots, each of 40 acres. Was one of them given to you and one to your neighbor?

Mr. SPENCER. One to him and one to me. But it places him—I didn't make application for any unoccupied, unappropriated public domain, outside of my old-established fence lines, which followed the contour; some patented lands scattered throughout the whole—

The CHAIRMAN. I think it is admittedly an individual case; no part of a policy.

Mr. SPENCER. As far as I am concerned it's strictly individual. I don't know, as far as it affects the policy of the wisdom exercised in this decision, the wisdom of Solomon in the division of the child; I don't know.

The CHAIRMAN. Anyway, you have got one leg.

Mr. SPENCER. One leg, but I can't walk on one leg. That is, the 40 acres require three quarters of a mile fence into his property.

The CHAIRMAN. The difficulty that I see, if you'll pardon me, is this: That the committee of the Senate cannot set itself up as a final arbiter for a matter that does not enter into a general policy. It is an individual case, and if the congressional committee were to set itself up as a final arbiter of all these individual cases, well, we would just be at it all the time, and we wouldn't have any authority whatever.

Mr. SPENCER. My sole purpose, Senator, if you'll pardon me in saying so, in bringing this to your attention, was to see whether or not it is a policy. I feel it is an unfair policy, if it is the general policy. That is my sole purpose in presenting an individual case. I think there are other individuals in the State that have had the same treatment, and I feel that my individual case is unfair, and the same treatment is accorded others. If it is the general policy, it is not for me to determine, because all I can say is that it happens to be my case. If it happens in all other cases, I feel it is rather unfair and unjust.

The CHAIRMAN. Do any of the men of the departments have anything to say?

Mr. HAVELL. No, Mr. Chairman; except that I am not familiar with the details of this individual case. We have thousands of them, and it isn't possible to carry all of them in my mind. I might say, however, for the benefit of the group here as well as for the committee, that over in that section of Arizona we had more applicants than we had land. That presented a problem both to the State land commissioner and to the General Land Office. At the invitation of the State land commissioner I came out here last summer over the eastern part of the State and Mr. Williams and I spent considerable time with the stockmen looking at the range and working out a division of the range that was available to the State as well as to the Federal Government. I believe that good resulted from that joint undertaking. I'm not familiar with this case; we didn't go out and look at this piece of land; but evidently there were two applicants who qualified for preference rights. Two subdivisions were divided between them. That fence that has been spoken of must have been put up on the public land when it was an open range which is contrary to law. The Department has ruled that unlawful fences have no weight in the division of the range between preference claimants.

Mr. SPENCER. The matter was called to my attention today in which the Department through someone else as it did in my case, in spite of the fence, contended the preference rights to this land was not jeopardized because of the previous existence of an illegal fence. That is the case of William S. Litner, Phoenix case 08025.

The CHAIRMAN. As I understand the expression of Mr. Havell just made, an illegal fence does not necessarily jeopardize an application, but neither does an illegal fence give any support to an application. That is the way I understood the rule.

Mr. HAVELL. That's right.

The CHAIRMAN. I wonder if the land department would give this further consideration?

Mr. HAVELL. We would be very glad to.

Mr. RONSTADT. Mr. Chairman, at this time I would like to state the policy adopted by the Cattle Growers Association relative to section 15 lands; the general policy. It has been the belief of the Arizona Cattle Growers Association that all federally owned lands should be given to the State of Arizona. That is a general policy. We feel that a big burden could be taken off the shoulders of the General Land Office, the State of Arizona would be benefited immeasurably, which they are entitled to, if all section 15 lands were turned over to the State of Arizona. That is the statement of general policy.

We also would like to go on record, thanking Mr. Havell for the fine cooperation last year, and his continued cooperation this year. The cattle growers, and all the stock growers in the State of Arizona, appreciate his fine work. At this time we would like to have Mr. Havell give us a brief statement of the general policy of the Land Department, in relation to section 15 leases. We have no further witnesses to offer on section 15 leases.

The CHAIRMAN. Mr. Havell, the committee would be glad to hear from you.

**STATEMENT OF THOMAS C. HAVELL, GENERAL LAND OFFICE,
WASHINGTON, D. C.**

Mr. HAVELL. Mr. Chairman, I feel very pleased, indeed, to have the people in Arizona pay the field examiners of the General Land Office the compliment, that they would like to have them come over into Phoenix and live with them. That bespeaks a friendly and cordial relationship between our field examiners and the local people with whom they deal. As to whether a branch office can be opened in Phoenix, and some special agents, or field examiners, stationed here permanently, is an administrative matter that can only be decided by the Commissioner and the Secretary of the Interior. I am not able to make any commitment as to that, because, as I said before, this entire record will be reviewed by the Department, and they will see from the record the expression on the part of the people of Arizona to have some special agents stationed here permanently. That is as far as I can go on that.

As to the policy of the Land Office with reference to the administration of section 15 of the Taylor Grazing Act, we are governed by a single section in the Taylor Grazing Act itself. The policy has been set forth in the regulations that are available. Copies may be had from the Register of any of the district land offices. I don't believe that the committee would expect me to take the time to read the regulations, but, in substance, the regulations, and the policy, is that the public lands that are vacant and unappropriated and not included in a grazing district, are subject to lease under section 15. Anybody is qualified to apply; but preference must be given, according to the act, to the owners, homesteaders, or legal occupants of the adjacent lands, to the extent necessary to make proper use of the adjacent lands; with the further preference that, where the remaining public land is an isolated tract of 760 acres or less, the whole of the tract must be awarded to the adjoining owner.

Even there, we have difficulty, where there are two preference applicants claiming, as we heard just now, a mere 80-acre tract. We have endeavored to divide the range equitably, according to the needs of the respective applicants. That is the policy in a nutshell.

Now, as to the grazing fees, they are not competitive with the Grazing Service. They are worked out on the same basis as the charges within the grazing district. We do that purposely so that there will be no pressure, because of a difference in fee, to have lands taken out of a grazing district and put over under section 15 leases, or vice versa.

The CHAIRMAN. Thank you, Mr. Havell.

Are there any questions that anyone would care to propound to Mr. Havell, the representative of the General Land Office?

Mr. J. M. SMITH (Central, Ariz.). I would like to ask Mr. Havell if the length of section 15 leases would have anything to do with the fee charged? In the past there have been 1, 2, 3, and 4 leases issued. I have understood, when they were raised to 10-year leases, though, that the fee was increased. Is it the policy of your department to increase fees for longer leases?

Mr. HAVELL. When we started, in order to get the land into use under some sort of administration, we issued the leases for 1 year. During that year our field men were out examining the range, and gathering information on which they could issue a longer lease; so we began to issue leases, then, for 2 and 3 years, and now we are issuing leases for 10 years. There has been no change in the lease, or in the rental, from the 1-year lease to the 2-, 3-, or the 10-year lease. The formula is the same, all the way through.

The CHAIRMAN. Does that answer your question?

Mr. SMITH. Yes, I didn't quite understand his statement a while ago. If you are based on the basis of the grazing district in the vicinity; the fee was based on the basis of the Taylor grazing district in the vicinity. Is that the statement you made?

Mr. HAVELL. The fees are not competitive between the grazing districts and the section 15 leases. It is based upon the 5 cents a head for cattle and horses, and 1 cent per head for sheep; it has been all the time, and is that now.

Mr. SMITH. Mr. Chairman, I knew a case where a neighbor had applied for a 10-year lease and it was granted. His fee was raised from $1\frac{1}{2}$ cents an acre on the land to 3 cents an acre. That is the reason—

The CHAIRMAN. It was raised from what?

Mr. SMITH. From $1\frac{1}{2}$ cents an acre to 3 cents an acre; and he had considerable difficulty in having it cut back down to 2 cents. I think he paid that 2 cents an acre.

Mr. HAVELL. I'd better qualify what I said a minute ago. What I said was correct as to the fees. The rentals, under section 15, however, under no condition, are more than the State charges for its lands. So, when the State was charging a penny and a half, we held ours down to it. If the State raised it, and it was worth the increased amount, we raised ours an equal amount. I qualify my first statement as to that extent.

Mr. SMITH. Let me make this statement, Mr. Chairman, that the State lands were selected a good many years ago, and some of the finest lands in the State are under State lease. What was left for the Taylor Grazing Act and section 15 is not comparable and should not be charged the same amount as State lands.

The CHAIRMAN. I think that is a matter for study and consideration. It is a matter that you will have to work out administratively, I imagine.

Very well. Now, Congressman Murdock is here, and, with reference to Senate bill 978, discussed this morning, Congressman Murdock has a statement that he desires to make.

STATEMENT OF CONGRESSMAN JOHN R. MURDOCK, OF ARIZONA

Mr. MURDOCK. Senator, I want to thank you again publicly for the invitation to attend and take part in this session. I want to say publicly, while you are among us, that I have even more appreciated the several invitations I have had from you and your office to attend other committee hearings, mostly in the city of Washington with reference to mining.

I don't know how many mining men may be present in this audience, but I want to say to you that Senator McCarran, of Nevada, is

the chief exponent of some of our mineral production, especially of the white metal, at the Nation's Capitol; and, naturally, since this is a silver-producing State, I am glad to work with him, and under his direction, on such matters.

There is also a matter on which I wish to express approval of the Senator's efforts. This bill, S. 978, has been partly approved by several bodies, official bodies, here in the State. Senator, you have received communications from several boards of supervisors, unqualifiedly supporting this bill, and I'm glad to say that it has my hearty support. I might say that I was hoping to get here before the matter had been taken up; but I find, upon my late arrival this morning, I had missed the general session on it. I might say that interest in Arizona concerning this bill arises partly out of another bill which is before Congress, chiefly now before the House Public Lands Committee, and that is H. R. 838. That bill, on which hearings have been held, but not concluded, is a departmental bill, which would place all lands relinquished by the land-grant railroads back as a part of the public domain, with the provision that all tracts of land relinquished by railroads should become a part of those withdrawals or reservations within whose exterior boundaries such tracts lie. By "reservations and withdrawals," I have reference to Indian reservations, national forests, and the like.

Now, of the 8,000,000 acres of land in 13 Western States released by land-grant railroads, 2,400,000 acres plus are within the State of Arizona. The departmental bill, H. R. 838, would make the disposition of such lands, as I have just explained. I have opposed that bill. Final action has not been taken on it by the House Public Lands Committee.

This bill, Senator, S. 978, makes somewhat different disposition. At least, this bill would provide that for every acre returned to such reservations and withdrawals an equal quantity of land shall be selected by the State land departments from the public domain and become the property of the State within which it lies, the benefits of which are to be used for educational purposes. I want to say, Senator, that we in Arizona feel that that is a very wise provision, and we trust it will be enacted into law. It would mean, in this State, about 2,400,000 acres administered by the public State land department of Arizona; and it would mean that land formerly on the tax rolls, paying taxes to local and State government, would become again a producer of local revenue for the support of the State institutions.

For my own part, I would like to see the term "educational," as used on page 2, line 1, and page 2, line 21, defined and broadened a little bit, so as to be capable of interpreting the support of eleemosynary institutions, as well as educational institutions.

With that, I want to say, Senator McCarran, thank you for the hearty support of S. 978 in the State of Arizona, and I pledge you my support in its enactment.

The CHAIRMAN. Thank you, Congressman.

Now, we are going to change the order just a little, because our national park and monument authorities cannot be with us tomorrow. They are here now, some of them. We are sorry that Mr. Drury, who is the head of the national monuments, cannot be with us here. He was called back to Wyoming, on account of the Wyoming incident of

the Teton National Park. The heading now is, "National parks and monuments and recreational areas."

Mr. Ronstadt, what do you have?

Mr. RONSTADT. Senator McCarran, it is the policy of the Arizona Cattle Growers Association to again state that we feel there are too many agencies administering grazing lands. We have to deal with the United States General Land Office, the Forest Service, the Grazing Division and national parks and monuments and recreational areas. It is our hope that, some day, this might be consolidated. We don't want to go into it now, however, but we would like to call some witnesses to give some testimony as to what has been going on within our national parks and monuments.

Senator Hayden has a bill before Congress relative to the Saguaro National Monument. We have a man here who lives in this area and knows that problem, and we would like to call on him.

STATEMENT OF JAMES CONVERSE, TUCSON, ARIZ.

The CHAIRMAN. Will you state your name, please?

Mr. CONVERSE. James Converse, Tucson.

The CHAIRMAN. What line of business are you in, Mr. Converse?

Mr. CONVERSE. Livestock.

I think that before this monument question is discussed, and this one in particular, I might say this monument is being used, more or less, as an example; that it would be well if Mr. Kneipp of the Forest Service gave this group some historical background of the set-up of this monument, after which I would be very glad to continue with other angles.

The CHAIRMAN. To which monument do you refer?

Mr. CONVERSE. To Saguaro National Monument.

The CHAIRMAN. Mr. Kneipp, we would be very glad to hear from you.

STATEMENT OF L. F. KNEIPP, ASSISTANT CHIEF, UNITED STATES FOREST SERVICE, WASHINGTON, D. C.

Mr. KNEIPP. For the record, I'll say that I am L. F. Kneipp, Assistant Chief of the Forest Service.

The Saguaro National Monument had its origin in 1932, when President Hoover and Secretary of the Interior Mr. Wilbur visited Tucson and were shown the wonderful stand of saguaro cacti growing near Tucson. At that time President Hoover indicated that he would be glad to take some action which would preserve it. There were certain events that occurred that month that left him only a very little time in which to take such action; so, in the succeeding February, Mr. Frank M. Hitchcock, who had been Postmaster General under the previous administration, after a conference with the directors of the university, and other interested parties, came to Washington with a proposal that the monument be established. It had to be done very quickly.

The attitude of the forest supervisor at Tucson and of the regional forester was that the area proposed for inclusion in the monument was far greater than was necessary. They were proposing to establish a monument of over 63,000 acres, whereas the outstanding or climax growth of the saguaro was on about 10,000 or 15,000 acres. Nevertheless, it was reasoned that since, at that time, national monuments which

were within national forests were administered by the Forest Service, without any impairment of other uses, that, even though the monument appeared to be excessive, there was no real objection to the carrying out of the wishes of the people of Tucson. Therefore, none was offered by the Department of Agriculture. So, on March 1, 1933, a monument was created by proclamation of President Hoover. But it did contain this significant statement:

The reservation made by this proclamation is not intended to prevent the use of the lands now within the Coronado National Forest for national-forest purposes under the proclamation establishing the Coronado National Forest and the two reservations shall both be effective on the land withdrawn, but the national monument hereby established shall be the dominant reservation, and any use of the land which interferes with the preservation or protection as a national monument is hereby forbidden.

The reason for the establishment of the monument was:

Whereas a certain area in the Catalina division of the Coronado National Forest in the State of Arizona and certain adjacent lands of outstanding scientific interest because of the exceptional growth thereon of various species of cacti, including the so-called giant cactus, it appears that the public interest will be promoted by reserving as much land as may be necessary for the proper protection thereof as a national monument.

That was the way the monument came into being.

That same year, the President, by an Executive order, transferred to the National Park Service the jurisdiction over all national monuments, including those within National Forests. That did not cause so much of a change because, by agreement with the National Park Service, the Forest Service continued to administer the grazing, and the fees charged were exactly the same as on the adjoining national forest lands.

The outstanding difference was the fact that within the monument the grazing preferences would last only during the life of the permittee and were not transferable.

In 1934, Dr. Shantz, who happens now to be employed by the Forest Service, but who, at that time, was the president of the University of Arizona, wrote a letter to Arno Cammerer, who at that time was the Director of the National Park Service, in which he raised the question as to the desirable permanent extent of the national monument. His letter was dated February 28, 1934, and he outlined some discussion he had with the representatives of the Park Service. He makes this statement:

We have gradually bought off the settlers and now hold five and a half sections marked in blue on the attached map. This is held in lease from the State with the exception of the quarter sections in sections 10 and 15 to which we have title. The heaviest stands of cacti are in sections 8, 16, 17, 20, and 29. The good stands extend up to the Tanque Verde ridge but thin out to some extent. They extend roughly to about the yellow line. They are scattered stands farther over in the Rincon Basin but it is safe to say that the national monument as set up lies largely outside of the area of the Saguaro stands. With this in mind Mr. Langley thinks it desirable to suspend all plans for the development of the area until an examination can be made to determine boundaries. I have drawn roughly on this map a green outline which would take in all of the best of the Saguaro stands and would also make available the high land back of the stand. In our conference we felt that probably the retention of the sections lying north and east of the Tanque Verde ridge would offer ample opportunity for developing a highland road especially desirable in that it would afford a view of the whole area. I think it would be unwise, however, to make decisions by a study of the map but would much favor a careful examination of the project

on the ground for the purpose of determining the desirable sections of the monument and to eliminate the possibility of developing a large area of wooded mountain which is in no way distinctive and which is in no way connected with the Saguaro stand. The university sees no objection to a reduction of the area to include only the main stand of Saguaro.

That was the point at which a proposal for a reduction in the 63,000-acre area first took definite form. The next major development is the act of May 21, 1934, under which the university was empowered to select certain lands within the adjoining monument area.

The next is a letter from the forest supervisor, under date of May 10, 1937, which brought out certain points as follows:

When the question of establishing the Saguaro National Monument was first under discussion, the meetings for the most part were held in the Forest Service office and the tentative draft of the executive proclamation was drawn up in this office. Not much question arose as to the desirability of including the University sector as a national monument, for it was felt that the stand of Saguaro and other desert-plant growth within this particular area fully measured up to national-monument requirements. Grave doubt was expressed, however, as to the wisdom of including some 53,000 acres of national-forest land included in the Rincon division within the proposed monument for the very good reason that it contained no outstanding scenic features which would justify national-monument designation. In fact, this particular area is typical of thousands of similar acres included in southern Arizona national forests primarily for watershed and forest-protection purposes and to a less extent for the grazing of livestock and for the support of wildlife species.

Then, in June 1937, Senator Hayden introduced a bill S. 2648, which, if enacted, would have had two or three conspicuous results. One would have been to include some limited additional areas in the monument, authorize the acquisition of certain lands and the appropriation of \$95,000 for that purpose, and further authorize a certain selection by the university. Then the bill provided that, with the exception of the lands as described in the first sections, the rest of the monument area would revert to a national-forest status. That bill was not passed; so, on January 4, 1939, Senator Hayden introduced S. 7. Its major features were very much the same. The result of the bill would have been a national monument of 10,960 acres and the return to the national forest of about 50,880 acres. On June 8, 1941, Senator Hayden introduced another bill, S. 259. On January 12 he reintroduced S. 394, of which the purpose was merely to correct a typographical error, or omission, from S. 259. Neither of those bills was enacted, and on January 14, 1943, Senator Hayden introduced the pending bill, S. 379.

The attitude of the Department of Agriculture on these several bills has been generally favorable. The Secretary of Agriculture questioned certain details of the bill, but thought its general purpose was quite desirable, and, except for minor changes, not of very great moment, all of the bills which have been introduced up to S. 394, have had the general endorsement of the Department of Agriculture. I do not believe that the Secretary of Agriculture has as yet made a report on the pending bill, S. 379.

That is the background for the monument, as far as it is seen by the Forest Service. As to the details, I presume the stockmen who are here could speak more in detail upon it than we could.

The CHAIRMAN. Let me say that the bill S. 379 is now pending before the Committee on Public Lands and Surveys and has been referred by that committee to a special committee of two, consisting of the senior

Senator from Nevada and Senator Willis, of Indiana, and these hearings will be conducted so as to give as much information to that special committee as possible. Senator Hayden has, I think, two amendments pendencies to 379. I have copies of those amendments here, but Senator Hayden will be here himself tomorrow and he will have an opportunity to discuss it.

Thank you, Mr. Kneipp. Are there any questions of Mr. Kneipp?

STATEMENT OF JAMES CONVERSE, TUCSON, ARIZ.—Resumed

Mr. CONVERSE. That gives you the background of this Saguaro National Monument.

I think one of the things that the stockmen are vitally interested in in connection with these parks and monuments is the method of acquisition, in many cases. As Mr. Kneipp pointed out, in the early stages the national monuments lying in forest areas were administered by the Forest Service. Their policies were not averse to grazing, and there was never any friction with the stockmen, and things rocked along fine.

When Mr. Roosevelt took office, they took from the Department of Agriculture these monuments and placed them in and under the jurisdiction of the Department of the Interior. Then, of course, the only sensible thing to do was to mix the damned things in with the national parks; and they did that. To create a national park it takes congressional action. To create a national monument requires an Executive order, or the equivalent thereof. The sentiment within the law providing for the creation of these monuments was that, in the places of unique interest, small areas, where there were objects of antiquity and things of that nature, they should be preserved for the use and the beautification of the country and the use of the public. That act provided the machinery whereby these things would be acquired and established immediately, without congressional action. Obviously, after this jumped into the Department of Interior's kitty, it was pretty easy to say, "Well, boys, this is a monument." They had the monuments and the parks, both; it didn't make much difference, it was all the same, from their viewpoint.

I personally think and a lot of the cowmen who are sitting around here will agree with me, that this is a sort of a rough policy; but it was an abuse of this policy as we see it. Originally, there was an agreement between the departments as to the administration of these things, and, as you know, which you probably heard from what Mr. Kneipp had to say, the Park Department did not go along on that agreement, and didn't play their end of the deal.

I hope we are not getting too rough on any park officials that are here, but this is the way I see it, and I'm going to get this whole thing off my chest.

The national parks were set up with the same motive as the monuments, to perpetuate and protect objects that were of national interest, unique places, places of particular beauty, and so on; but it took a little more time to do it. But the law very definitely, in setting up the national parks, specified that these areas should comprise only an area necessary to safeguard and protect that particular object, or those objects. Now, then, when you reach out and take 63,000 acres

to protect ten-thousand-eight-hundred-odd acres, for which I gave them 3 sections to start the deal—because it should be preserved and it was a commendable project. But they are sort of like a pony going down the road, that's too long-legged, and is overreaching a little bit. First, they thought they'd take this site over for the University of Arizona, and then it got over into a State deal. Hitchcock and Hoover got together, and they got shoved along by the influence of some Tucson gals' clubs, and a few things. They went down to Washington and put the pressure on, and it was all done in a hurry. There was no malice in any of it, they weren't out to grab land; but they made the deal in a hurry, and they couldn't see this far into the future.

Now, we had a fire up there, and about 10,000 acres were burned. The lines had been defined as to the Forest Service. They blocked out what belonged to the Park Service. The Park Service has a big-sized corral up there. They hollered about a lot of Chihuahua pine, Mexican pine, being unique to that particular area. Gentlemen, that is not the truth. Those pines are no more unique in this particular area than people are in this room. Those pines exist, have grown and died, on the Catalina and all of the other damned mountains in that end of the country. But the Park Service needed a little more trading stock; they were trying to get the Forest Service out of something that was mapped.

Now, this fire busted loose in that area. There are some experienced fire fighters, good cowboys, who know how to trail a bull elephant through a snowdrift, which is more than the Park Service men demonstrated they knew. Well, they heard about that fire, and they got an airplane, and they flew them over the top of the damned thing in an airplane, and looked the situation over. That is true; I can prove it. The Forest Service boys tendered their services to fight this fire on the Saguaro National Monument, and they were turned down. Instead, the Park Service flew in 13 head-of-park officials in there, from all over the country. They didn't know that country, or anything about it. I sat on the radio all night, while this fire was going on, listening to 13 officials up there watching that fire burning, and fighting each other. Now, I want you to get this story, so you can see the sort of thing that's going on. If I am taking up too much time, I'm sure the Senator will throw me overboard.

Well, they couldn't make up their minds who was the boss, and they kept fighting, and the fire kept a burning, and they refused the services of competent fire fighters, backed up by some Federal fire fighters. Finally, they decided they couldn't do anything about it, so they called the Forest Service over, and they said, "This is the line. This fire is going over into the forest." Well, the Forest Service gathered up all the boys who'd had a number of years of experience in fighting these things, and when those boys get to work with a shovel they can put a fire out fast. The park officials had turned them all down, but they finally had to make use of them; and with the help of the men who knew what they were doing, they finally put it out. That's exactly what happened. The Forest Service went over, and they got shoved around a little. Old Ed McFarland knows what he is doing. He's the forest ranger, in charge of that Catalina district, on that national forest. They had quite a little chin music between the two of them out there, three or four on one

side and a number on the other; and finally Ed said, "This is the Forest Service line; when the fire gets to this line, the Forest Service will put it out;" and that's what happened. The fire could have been put out quite easily in the early stages of the game.

I'm not telling you something I don't know; but because it happens to be on my ranch, I think maybe I do know something about it. But it burned this 10,000 acres, and it burned this Chihuahua pine they were so anxious to save, the whole lot of it; and it cost the public about \$15,000 or \$20,000; closer to \$20,000 than \$15,000.

The whole thing embraced an area far greater than it should have. It was far greater than was originally intended. The project took in things which were no more unique than those found on the top of any mountain in southern Arizona. That was timber, and it was there without adequate protection.

The Park Service never had a man that knew anything about what to do. I told them about some springs on the north side of that mountain, and I figured they could follow the tracks and get to the springs; but they couldn't do it. They had no business being there. But I did, when the fire burned the roots, show them the springs where they could get some water. They had 500 soldiers—lost, strayed, and stolen soldiers—all over that country.

I'm telling you this story to try and show you what I don't believe need be shown, that—I'm going to be awful frank, and somebody's going to get mad at this—but again, I don't give a damn. When Mr. Ickes and his gang get through with their grabbing land, the cowman sure is going to have to look hard to find a place to go.

I think that's all I have to say. [Applause.]

The CHAIRMAN. I told you at the outset to say what you had to say and say it the way you wanted to say it; so everything is all right.

(The following resolution by the Arizona Game Protective Association was submitted for the record after the close of the hearing:)

RESOLUTION No. 22

Whereas the area embraced by the Saguaro National Monument is much greater than is practicable and covers a great area upon which there is no Saguaro cactus: Therefore be it

Resolved, That the Arizona Game Protective Association in convention assembled at Prescott, Ariz., this 25th day of September 1943, strongly protests the unnecessary size of this monument and recommends that it be reduced to an area adapted only to Saguaro cactus, and that the surplus land be returned to the agency from which it was originally taken.

Resolution adopted.

The CHAIRMAN. Mr. Ronstadt, do you have someone else?

STATEMENT OF JOHN G. BABBITT, FLAGSTAFF, ARIZ.

Mr. BABBITT. My name is John Babbitt, and I am a cattleman from Flagstaff, Ariz.

The CHAIRMAN. I want to express the apology of the committee to you, Mr. Babbitt, in that time did not permit us to hear you at Fredonia.

Mr. BABBITT. That was my brother. He is the politician in the family, and I am the cowman.

I'd like to say a few words about the Wupatki Monument, Senator.

About 10 years ago, Senator, 2,200 acres of Indian ruins were set

aside up in our country, in Coconino County, and about 5 years ago we woke up one morning and found out that they had enlarged 2,200 acres of land to around 36,000 acres; and I can say right now that the only reason it wasn't doubled was the fact that the rest of it was on the forest, and the forest people helped us fight it. Well, we weren't able to get a lease on that land until last year, and now the proposition they have to give us is a 3-year lease, which is supposed to be renewable for the life of the permittee.

Well, now, as far as we're concerned, that is a terrible sort of a lease. We have \$25,000 or \$30,000 invested in pipe line, 17½ miles long, that comes down within a half a mile of that national monument; and that water, as far as we are concerned, might be canceled out tomorrow. We have no protection whatsoever. We can't go ahead and develop our land. It is an area enclosed and has a winter carrying capacity of 1,100 head of cattle. If we have to go out of there, with 1,100 head of cattle, we don't know what we'll do with them.

Another thing is we cannot borrow on it; can't sell it; can't do anything. The only thing we can do is pray that we live a long time. I think that it is just common sense that on an area such as that, which shouldn't have been made one-tenth that large to begin with, if they must have that area, they should give us some kind of protection on a lease.

Now, on that lease, this area has on this enlarged area—it hasn't any more Indian ruins on it than any other section of land on our entire range. I don't think that is an exaggeration to say that. I don't believe there is a section of land on any of our ranches, up there, that hasn't got a lot of Indian ruins. Why they want to enlarge it to take in such a tremendous area is something we cannot understand. But since they have got it, let's get some kind of a lease that will give us some kind of protection there; go ahead and develop the country and spread out our cattle; only use it in the winter, when there are no tourists around anyhow. We don't think that is at all unreasonable to request that such a lease be given us on that particular land. As you probably have heard before, in Coconino County we have only 8 percent of the land left in private ownership. The Federal Government has had 60 or 70 years to take the best 82 percent of our county, and we feel that this remaining 8 percent should be saved for the people to live up there; and in that regard, I'd like to say that on this railroad-land proposition we certainly hope that the Federal Government will see fit to give it to the State, those Santa Fe lands for base, so that we can have some revenue in that county, and so that there won't be any Federal acquisitions of land in that county, because we just can't stand to lose any more.

One other thing I'd like to bring your attention to, Senator, not on either of these points, but it is the question of Indian lands. It does not affect us, except in such a very small way, but we have a lot of neighbors, in Navajo and Apache Counties, who have been promised their Indian allotments would be taken out of their holdings and put back on the reservation. That was a promise made when the reservation was extended here some years ago. These Indian allotments have never been consolidated, and are still out on these private ranches, and, although the Indians may have had residence rights there, the

cattlemen certainly have, too. We would certainly think the only fair thing would be that the Indians be made to get back on the reservations.

I think that is all I have to say.

The CHAIRMAN. Just a moment. Are there any questions? This is a very explicit, knowing witness. Is there anyone here who would care to interrogate Mr. Babbitt?

STATEMENT OF M. R. TILLOTSON, REGIONAL DIRECTOR, NATIONAL PARK SERVICE, SANTA FE, N. MEX.

Mr. TILLOTSON. The arrangements that were made with the Babbitt brothers, in regard to the use of the lands on Wupatki National Monument, grazing rights there, I understood, were perfectly satisfactory to the company. Now, they have been a long time working out the deal. Mr. Richards, superintendent of the monuments, made a special trip, in fact several trips, to deal with Mr. Babbitt and his associates, and on his return with the final agreement, I understood that it had been worked out, and the matters were entirely satisfactory, until at Fredonia I asked your brother, Jimmy, about it, Mr. Babbitt, and he said it was unsatisfactory in regard to the termination and the death of the holder.

Mr. BABBITT. Well, Mr. Tillotson, I think we have always tried to cooperate with the National Park Service. I'll tell you, though, when you offer us a 1-year lease, or 3-year lease, or if we finally are able to get a lease for the lives of the survivors, you know what we are going to take. I'm not criticizing you because of the law. I believe the law at the present time is set up that way. The only thing I say is that it is unfair for us to go ahead on that kind of a lease, because we know that some day that is going to be stocked with antelope, or something. Now, we haven't got anything against antelope, we board 700 or 800 of them on our own private land and State leases. They are so numerous that they have declared open season on them this year. We don't object to them. We think they're a fine thing. But this country we are speaking of, there are no conflicts there between the antelope and the cattle, or anything else. But the whole thing is that, with the guiding force in the National Park Service, as Mr. Converse stated, in Washington, you just can't trust them. We have another national monument set up there, without anyone knowing a thing about it. Senator Hayden went to the park officials in Washington and the park officials denied there was any such thing even contemplated. At that minute, there was a proclamation on the President's desk setting up that national monument. So, I say, we want as much protection as possible. If we could only get it through legislation, we think that we are entitled to get it.

Mr. TILLOTSON. The entire matter of policy in regard to determination of grazing permits on the national parks and monuments came in for considerable discussion at the Fredonia hearing; and that is simply a policy, and it is a matter of whether or not the Department of the Interior continues that policy, or whether they see fit to make a change.

Mr. BABBITT. Of course, when this was set up, Mr. Tillotson, there was the original proclamation, saying it was set up subject to vested

right; and I wrote Senator Hayden and asked him what they meant. He said he thought, in his opinion, that that covered stock rights. When those rights were mentioned; there was no time limit put in that proclamation as to how long those rights are going to be good. It says that it is subject to existing rights. If that means what it says, it seems to me those rights should be transferable and be good for perpetuity.

Mr. TILLOTSON. That is an interpretation, and probably a proper interpretation of the limitation.

Mr. BABBITT. As I said, I am not criticizing local officials. We have gotten along fine with them.

Mr. TILLOTSON. There is no question as to that. It's not a matter of personalities, everybody understands that; but that is simply a matter for interpretation of the intent of the proclamation in regard to existing rights.

The CHAIRMAN. If the Federal authorities want to create the parks or monuments until they have covered a substantial part of the State of Arizona, or any other State, and if they continue with the policy that these grazing rights are neither transferable nor can they be handed on, it will be only a couple of lifetimes until there will be little or no grazing in some of these Western States, of which Arizona gives promise of being the very first, because of its natural objects. But, as Mr. Tillotson said, we are dealing with a policy. It seems to me that the matter is properly brought before this committee, because it is the duty of this committee to go into policies, and make its recommendations, and attempt to have legislation passed.

Is there any question while Mr. Babbitt is on the stand? Very well, Mr. Babbitt, thank you.

Mr. RONSTADT. Mr. Chairman, now we have had our witnesses. I would like to state the request for recommendations of the Cattle Growers Association. We request of our congressional delegation and your committee that you try and enact legislation to prohibit the withdrawal by proclamation or Executive order of any recreational, national park areas.

The CHAIRMAN. I might say to you in that respect that Senator O'Mahoney of Wyoming and the chairman of this Committee have already taken time by the forelock and introduced a bill to repeal the monument law. I don't know how far we are going to get with it, but we are going to get somewhere, if we just create a disturbance with it.

Mr. RONSTADT. Also, it has been defined by law, as to the method of granting leases, based on the commensurability of those who grazed in that area previous to the withdrawal.

The CHAIRMAN. I didn't quite catch that last.

Mr. RONSTADT. Also, regulations have been set up, by law, similar to those of the Taylor Grazing Act, setting forth the rights of those grazing within those areas, based on the commensurability of the adjoining lands, and so forth.

The CHAIRMAN. And their right to transmit, or pass on, and dispose of?

Mr. RONSTADT. Correct.

The CHAIRMAN. Is there anything further on this subject? Does anyone here care to say anything further on this particular subject? If so, you may be heard now.

STATEMENT OF J. A. MEDD, SKULL VALLEY, ARIZ.

Mr. MEDD. This is a resolution, in cooperation with the other stock growers of the State of Arizona, presented by the Arizona Mohair Growers Association:

The Arizona Mohair Growers' board of directors, in regular meeting August 28, by unanimous vote, regularly passed the following resolution for the information and guidance of the Arizona congressional delegation and the McCarran Lands Committee.

In the past much land has been withdrawn from beneficial range use by the establishment of national monuments by Executive order. This withdrawal has, in many instances, worked a hardship on the livestock industry of the State, reduced the State tax base, and interfered with private use of land: Be it therefore

Resolved, That this association go on record as being unalterably opposed to this procedure, and that they urge that Congress, at the earliest possible date, pass such legislation as is necessary to revoke the authority granted the Chief Executive by previous legislation to create national monuments by Executive order and place this authority in the Congress.

The CHAIRMAN. The resolution will be entered into the record.

Are there any questions? Does anyone care to state anything further?

Mr. MEDD. I have nothing further at this time.

Mr. RONSTADT. Mr. Chairman, I am sorry; I overlooked one witness, Mr. Steve Bixby, of Globe, Ariz.

STATEMENT OF STEPHEN L. BIXBY, GLOBE, ARIZ.

Mr. BIXBY. Senator, I have been asked to bring to your attention, because in your last hearing there was a discussion of a fencing project on the Tonto National Monument, in Gila County. As an outgrowth of that, Mr. Hugh Miller, their acting regional superintendent, I guess, or Director of the National Park Service, agreed to get together on the ground with the affected stockmen regarding fencing of the monument. They followed through, in part, but not in whole, and so the situation is still very bad, as far as the stockmen are concerned. The situation was that, following the hearing, Mr. Richey, Director of the Southwest National Monument, got together on the ground with the local forest ranger and the local custodian and the stockman, Mr. Cooper, neighboring stockman, and Mr. Neil, and agreed on a fenced line.

Well, then, when they started fencing, on one end of it they did all right. They more or less followed the agreed line. But on the other end of it they deviated so far from the agreed line that they took in about a section more than they had agreed to, and also got over the natural drift of the cattle to about two additional sections of range. That man who operates on this area is a very small stockman; he only has a forest permit for 160 head, breeding herd; so that large an area, cut out the best part of the range, is materially lost to him. He feels he has been short-cutted, because they have a definite agreement on the ground. Although he protested to the foreman of the fence job all the time during construction, it went ahead and they fenced it off.

The CHAIRMAN. With whom was the agreement?

Mr. BIXBY. With Mr. Richey.

The CHAIRMAN. Is Mr. Richey here?

Mr. TILLOTSON. No, Mr. Chairman.

The CHAIRMAN. How far away is he?

Mr. TILLOTSON. He is in Santa Fe, Assistant Director of the Southwestern National Monuments.

The CHAIRMAN. Do you know anything about this?

Mr. TILLOTSON. This is simply a matter of an individual case, about the location of the fence; is that right?

Mr. BIXBY. Yes; but it shows they don't always follow through what they say they will at these hearings. That is why I want to bring it out. We think these hearings could be valuable, in a legislative way, if these administrators would follow through with their expressed intentions here.

The CHAIRMAN. We had hoped that they would serve both purposes, and to a large extent these hearings have served both purposes. It is really encouraging to know how many individual cases have come to a fairly satisfactory conclusion, after these hearings, and I hope that this one can be worked out the same way.

Mr. TILLOTSON. May I make a point, Mr. Bixby, to take this up immediately on my return to Santa Fe, which will be the 9th of September? I don't know enough about the details of the fence lines to go into it with you now; but I would be glad to talk to you after the meeting, and I assure you I will find out about it as soon as I get back to the office on the 9th of September.

Mr. BIXBY. I appreciate your expressed intention.

Mr. TILLOTSON. What is the name of the individual concerned?

Mr. BIXBY. Chester Cooper. I hope the results will be a little bit better next time.

The CHAIRMAN. This supervisor, will he be at the Albuquerque hearing?

Mr. TILLOTSON. He can be there.

The CHAIRMAN. I would be pleased if he would be there.

Anyone else on this subject of grazing districts?

Mr. RONSTADT. Senator McCarran, the Arizona Cattle Growers Association held a meeting last night, and questions were asked as to any testimony that might want to be given today by any individuals as to their relations with the Grazing Service. There were no individual cases, at that time, that might typify policy, but we did go on record as appreciating the good work that has been done in this State by Mr. Brooks, of the Grazing Service, and the fine cooperation that the cattle growers have had from his department. We wish that that be made a part of this record.

However, there may be many here that were not at the meeting last night, who have some problems they would like to bring before the Senate committee.

There is Senate bill 31, however, that came to the attention of the committee last night, which has been introduced by you, Mr. Senator; and the Cattle Growers Association wishes to endorse that bill and pray that it be passed. That bill covers—I might read for the benefit of the audience:

The Secretary shall not make any change in the fees payable for grazing livestock within any district unless the advisory board for such district has consented to such change.

We would like to have a brief statement from Mr. Leech, of the Grazing Service, as to any contemplated changes in policy, if he has any.

The CHAIRMAN. Very well, Mr. Leech.

Mr. LEECH. Are you referring to the question of fees under S. 31?

Mr. RONSTADT. Yes.

Mr. LEECH. The matter of fees, increase, or change in fees is held in abeyance for the duration, under an agreement between the Director of Grazing and the National Advisory Board Council. That meeting was held at Salt Lake City in January of 1941, at which time the range appraisal that was presented to Senator McCarran's committee at a number of hearings, was gone over again, fully, with the national council; and at that time the director and the council agreed to hold the matter of fees in abeyance for the duration.

The CHAIRMAN. I might say that, with reference to S. 31, there are many reasons behind the introduction of that bill. I can anticipate that the Department will not look with favor upon the bill. At the same time, if a democratic form of government is to prevail, with reference to the administration of the Taylor Grazing Act—and that was the policy set up by the Interior Department—then the advisory boards should have a greater place, or a place of greater prominence, in the fixing of fees in their respective districts, because they, being on the ground, and knowing the conditions, should certainly be consulted, and have a heavy hand in the fixing of charges and dues pertaining to the welfare of the stock-raising industry.

Is there anything else under that head?

Mr. Havell, of the Land Office, I notice your name is on here. Is there anything you wish to say?

Mr. HAVELL. I think there is nothing here calling for a discussion.

The CHAIRMAN. That brings us down to stock driveways.

Mr. RONSTADT. Mr. Chairman, we had quite a long discussion; we have had stock driveways—I might mention for the record that it may be unusual in this State, I don't know whether it happens in other States or not, that the mohair growers, the wool growers, and the cattle growers, always agree on land problems, which is quite unusual, I think. Today a meeting was held with the president of the wool growers' association, the cattle growers' association, and the two associations agreed to try and settle their difficulties on the stock driveways, and to submit it to the Department of the Interior, or the General Land Office, for their approval. We would like to go on record, at the present time, notifying Mr. Havell that he will receive, shortly, a compromise agreement between these two organizations, and hope that he will accept it.

The CHAIRMAN. That also applies to the other services as well?

Mr. RONSTADT. I think so, although that was not discussed.

We have one witness who would like to be heard; two witnesses, in fact. Mr. O. C. Williams, of the State land department has had quite a lot of experience with stock driveways, and we would like to have the committee hear what he has to say.

Mr. O. C. WILLIAMS. Mr. Chairman, I had thought that this last meeting of these two services, or two organizations, would possibly take care of the stock driveway questions.

The CHAIRMAN. In these stock driveways, it is a brand-new question to this committee, because at no other hearing have we had it, neither at Wyoming, Utah, Nevada, or any of the other hearings. It is a very interesting subject, and it seems to me to be a rather perplexing

one. Anyone who has anything to offer to the committee, that might look toward a solution of the problem, it seems to me, should offer it.

Mr. WILLIAMS. I might say, on these stock driveways, we have had numerous meetings with the wool growers and cattlemen, trying to work out this problem, and it is a complex one. The complete problem arises from the necessity of making connections from public domain land, connecting links of stock driveways, from the forest department lands and public domain land, and connecting up with the feeding ground, where the sheep are transported. If this question is pursued, some purchases will have to be made, and lands set aside for these stock driveways, because they are only on isolated sections now, sometimes 10 miles between one stock driveway section and the next one. In the intervening lands, they have to be driven over patented lands or State lands. I believe that it might be best, unless there is some particular question you want to ask, to let this question go over until these committees meet and make the recommendations to the General Land Office and the other land agencies, and then, at a later date, see if we can't work this problem out.

The CHAIRMAN. Are there any questions to Mr. Williams? Is there anything that anyone wishes to ask Mr. Williams?

Mr. HAVELL. Senator, we might call attention to the fact that one of the bills on the agenda, H. R. 2197, is for the purpose of making available funds for the purchase of lands to remove the bottlenecks in these driveways, and for other grazing purposes.

The CHAIRMAN. That has passed the House?

Congressman MURDOCK. That has passed the House; yes.

Mr. HAVELL. It is on the agenda of this committee.

Mr. WILLIAMS. Mr. Havell, may I ask—the livestock association wanted to know—these funds come only from the grazing lands in the grazing districts, do they not?

Mr. HAVELL. No; Mr. Williams, the funds come from the Taylor grazing administration; and if the funds are from the grazing districts, they will be available; if the funds are from section 15 grazing leases, they will be available. This bill is broad enough to permit the purchase of lands within or outside of grazing districts.

Mr. WILLIAMS. Thank you.

Mr. HAVELL. That would include our stock driveways.

Mr. WILLIAMS. We had that question up last night and couldn't answer it, so we are very glad to get that information.

The CHAIRMAN. Is there any other question or discussion?

Mr. MEDD. Since I am representing the Arizona Mohair Growers, I think the mohair growers should be on that driveway committee too.

The CHAIRMAN. My understanding was that they were.

Mr. RONSTADT. The conference is between the wool growers and cattle growers, but I'm sure, I know, the cattle growers would welcome a representative from the mohair growers.

The CHAIRMAN. We will pause here for 10 minutes.

(Recess until 3:45 p. m.)

The CHAIRMAN. The meeting will come to order.

On the subject of stock driveways, has all been said that you care to say?

Mr. RONSTADT. Senator, many times in the past—I won't say many times, but sometimes in the past—agreements have been worked out

between sheep and cattle men as to their respective rights on driveways, with the consent of the Department of the Interior, or rather, the General Land Office, for their approval, and they have stayed there and nothing has come out of it, and the cattlemen are very anxious that should not happen.

The CHAIRMAN. Mr. Havell, can you say anything on that subject?

Mr. HAVELL. Senator, I don't recall anything reaching the office, but the office is a big one, and it may be there. I know nothing about it. Perhaps it would be better if you were to write me an additional letter, to me personally, in Washington, and call it to my attention. I assure you some action will be taken upon it.

Mr. RONSTADT. I'll see that the cattle growers do that, thank you.

STATEMENT OF JERRIE W. LEE, SECRETARY, ARIZONA WOOL GROWERS ASSOCIATION

Mr. LEE. There has been one case in which there was worked out an agreement with the cattlemen and the sheepmen and passed on by the field investigators. It was submitted to Washington but was turned down. We still have that matter pending, and we would like, if we are to have a committee meeting between the various groups here and agree on something, to have due consideration given to our recommendation.

The CHAIRMAN. I don't understand from that that there is anything now pending in the Land Office.

Mr. LEE. It is the case of F. N. Bard, on the Hillside stock driveway.

Mr. HAVELL. Is it a request for the elimination of some lands from the driveway, down on the Bard property?

Mr. LEE. Yes.

Mr. HAVELL. There has been a field examination made of that, and the matter is still under consideration. I had a talk with Mr. Bard, within the last few months. The matter is still under consideration.

Mr. LEE. The trouble there is, they can't use the driveway. Anything that would be helpful to us in disposing of it, we would like to have it.

Mr. HAVELL. I'll be glad to give it to you.

The CHAIRMAN. Is there anything further, under this heading of stock driveways? Does anyone else care to be heard?

Very well, we will consider that item closed, for the time being.

The next topic comes under the head of Indian lands.

Mr. FAIN. Senator, I have a couple of letters from Mohave County that I would like to read. As was stated before—I beg your pardon, we have two letters here from Mohave County in regard to Indian lands where they are particularly concerned as a county. With your permission I will read them:

KINGMAN, ARIZ., August 17, 1943.

Mrs. J. M. KEITH,

Secretary, Arizona Cattle Growers' Association, Phoenix, Ariz.

DEAR MRS. KEITH: I have your letter August 4, 1943, regarding railroad lands returned to the Federal Government and granted to the State, the proceeds to be used by the State exclusively for education purposes.

In the Hualapai Indian Reservation, mostly in Mohave County, there are some 400,000 acres of such lands on which the taxes have been paid by the railroad company.

If these lands are taken out of the county a very serious tax situation will prevail.

It is our opinion that if those lands now in Mohave County, and therein taxed, be exchanged within Mohave County, it will not materially change the tax structure.

The lands in the reservation could first be put up for exchange so that individuals or corporations within the county could acquire them, giving the reservation public domain in the place of the railroad lands taken out, thereby holding together our taxable property.

Then if the Federal Government wishes to give the lands to the State, the Grazing Service or the Hualapai Indian Reservation, Mohave County, would not be financially affected.

Very truly yours,

ROBERT ODLE,

President, Mohave County Livestock Growers' Association.

I might also add that this would affect the State tax structure, possibly to a smaller extent than the county structure; nevertheless it would also affect the State.

I have a somewhat longer letter from Mr. Ed Jameson, State representative for Mohave County. He was a big cattle producer in Mohave until the range was taken and he was thereby put out of business. The letter reads as follows:

KINGMAN, ARIZ., August 17, 1943.

Mrs. J. M. KEITH,

Phoenix, Ariz.

MY DEAR MRS. KEITH: In Mohave County the loss to the Federal Government during the last few years has been principally through two withdrawals. One was a withdrawal of land by the Department of the Interior for a recreational area along the banks of the Lake Meade, which consisted of about 990,000 acres. The avowed intention of this withdrawal was for recreation. In my opinion, the amount of land actually used for recreational activities would not exceed 5,000 acres. While the remaining acreage was not very valuable at present, because of its semidesert character, it does have a potential value of unknown amount for mineral possibilities. This area had never been thoroughly prospected. The presence of the water in Lake Meade would make such a survey practicable now. It seems unreasonable to set aside 990,000 acres for the use of people for recreational purposes when at least 980,000 of these acres would never be seen by persons so occupied.

The next large acreage lost to the Federal Government is the land inside the exterior boundary lines of the Hualapai Indian Reservation. This reservation includes about 1,000,000 acres of the best grazing land in Mohave County, at least 700,000 acres of which are usable for grazing.

The total population of the Hualapai Tribe is 490. This means that about 2,000 acres of land is now being used for every man, woman, and child in the tribe. By the testimony of the superintendent of the reservation, each member of the tribe had an income of about \$1,200 last year. This income for a family who have the use of land absolutely free, no taxes, no fees, no improvement or upkeep costs, seems a little out of line when compared with the average income of the white ranchers, costs taken out.

There is a suit now filed in the Federal court to gain possession of an additional vast acreage of land adjoining this reserve on the west, to be used for this same tribe of Indians, which is, of course, a matter for the courts to decide. However, we remember when this half million acres inside the reservation, claimed by the Santa Fe Railroad as grant lands, was a matter for the courts to decide, and we also remember that the Federal court at Prescott and the court of appeals at San Francisco decided against the Indians, only to have the case reversed by a Roosevelt Supreme Court, after the Santa Fe had been removed from the case by the provisions imposed by the Transportation Act of August 1940.

The loss of taxes on these lands may appear to be a small matter, but the people of this county are very much against the principle involved. We feel that the local government should be consulted before such land control is switched about. We feel that matters which are principally of local concern should be under local control, and that matters which are of State concern

should be under State control. We find it a constant struggle to carry on as a county when we find it necessary to police, school, and provide roads, etc., for such a large area of land when such a small percentage of the land is now or ever will be taxable.

Such a tax on Federal property is not probable, at any rate, so we are opposed to a further widening of the gap between the payers and the spenders of tax money.

We held a meeting of the cattle growers' association and these matters were taken up and discussed. Our secretary was directed to write you a résumé of that discussion, which I am sure he has done.

Sincerely,

E. L. JAMESON,

Cattle Grower and State Representative, Mohave County.

(Marginal note on above letter: "Like Mr. Havell's statement, we do not want grazing or mineral wealth locked up.")

I might say I believe we agree with Mr. Havell, of the Department of the Interior, that we should not lock up the mineral reserves, and we are not trying to do it in the land we are using. We do not believe that such an area as this should be set aside for the land to be used.

I believe that is about all that we have to give on the Indian questions.

The CHAIRMAN. Does anyone else care to be heard? Are there any representatives from the Indian tribes who would care to be heard? Is there anyone connected with the Indian Service who cares to be heard?

Congressman MURDOCK. Senator McCarran, if I may at this point, following Mr. Jameson's letter, state that I find the facts about as he has related them with regard to the Indian lands in Mohave County; and that is the basis of my opposition to a bill now before the Public Lands Committee in the House, of which your bill, 978, would be a substitute. I wanted to go on record at this point in the Senate hearings that I also agree with Mr. Jameson that it is contrary to good public policy for those lands to be incorporated in the Hualapai Indian Reservation.

The CHAIRMAN. Thank you, sir.

Is there anyone who cares to discuss the matter from any other angle? Don't hesitate if you have anything else to present on this subject.

Mr. FAIN. Another problem that has arisen in the livestock industry, as a result of the war, has been the taking over of large areas for cantonments, and so on, training camps, ammunition dumps, bombing ranges, target ranges, within the State. We realize that there is a necessity to have these camps and ammunition dumps, and so on, but we found that the big part of them have come out of our little 18 percent of private land that we have left in the State; private and State lands. We have found in many cases the possession of the land has been taken away from the original owner and he has been immediately dispossessed with very little recognition; and later there is considerable difficulty in arriving at a price for the land taken, and considerable misunderstandings have developed.

I believe in 1942 a delegation of stockmen and the State land commissioner were sent to Washington to consult there with various representatives of these Western States. They received very fine consideration; legislation was enacted whereby men only owning permits and licenses on public lands were allowed to be paid for their improvements

and their holdings there. We thought the question was fairly well settled. Later, though, when this was put into operation we find although legislation was enacted, it was not followed through as we were given to believe by our committee in Washington, and we're having considerable trouble in many cases of even getting the question before the courts. Now, we have a few examples to illustrate these cases and I would like to first call on Mr. Jack Morgan of Prescott.

STATEMENT OF JACK MORGAN, PRESCOTT, ARIZ.

Mr. MORGAN. My name is Jack Morgan, and I live at Prescott.

The CHAIRMAN. What line of business are you engaged in?

Mr. MORGAN. I'm a cattle grower.

I want to touch on the apparent policies of the real estate division of the Army. Briefly, I have leased from the Santa Fe Railway Co. large acreages of land and I hold a grazing license for 1,140 head on that land. The real-estate division, after several months, offered me \$611 a year for the use of that land and stipulated that I was to continue to pay the leases and taxes on that land. Now, that aggregates something more than \$2,000 a year. In other words, I was to pay \$1,400 a year out of my pocket.

The CHAIRMAN. Were your cattle to be excluded, or livestock to be excluded from the range?

Mr. MORGAN. I had not put the land into production yet, but I was ejected from the land. The land is posted, and I can't even get on it.

The CHAIRMAN. That is being used as a bombing range?

Mr. MORGAN. An aerial gunnery range.

The CHAIRMAN. So that you're paying the fees to the agencies from which you acquired the land, and you're receiving how much from the Army?

Mr. MORGAN. Well, I haven't received anything yet, but they offered me \$611 a year.

The CHAIRMAN. How was that arrived at, especially that \$611? I'm interested in that.

Mr. MORGAN. I haven't the slightest idea. I can't find out anything from the office. You ask them and they say they don't know or can't tell you.

The taxes alone on this property are something a little over \$1,200 a year, and my deal with the railroad was to pay them a certain amount for the leases and the taxes.

The CHAIRMAN. You are to pay the taxes besides?

Mr. MORGAN. Yes sir.

The CHAIRMAN. How much were you to pay for the lease?

Mr. MORGAN. Something over \$800.

The CHAIRMAN. And the taxes come to how much?

Mr. MORGAN. \$1,200 and something.

The CHAIRMAN. Making two-thousand-odd dollars?

Mr. MORGAN. Yes sir. I have a letter in my grip now from Mr. Hemenway asking me to pay something around \$1,000 which is due right now and, I'm being requested, as you might say—I just can't afford to keep up my leases, and I can't afford to sign up and accept their \$611.

The CHAIRMAN. Who visited you from the Army?

Mr. MORGAN. Well, offhand, I don't know their names. Mrs. Morgan, my wife, was handling some of the deals. She'd called on the office in Phoenix here, Mr. Wilkinson, I believe, she talked to a number of times, and finally in about April of this year a man came from the Los Angeles office. I was living in Fullerton, Calif., at the time and this man formally called on us with this offer of \$611 a year.

The CHAIRMAN. Is there a representative of the real-estate board here? Is there any representative of the Army in Phoenix that has to do with this line of business?

Mr. MORGAN. The real-estate office of the Army is, or was, located here.

The CHAIRMAN. Does anyone know whether it is located here?

Mr. WILLIAMS. It is located here. Mr. Wilkinson is in charge.

The CHAIRMAN. What is his given name?

Mr. WILLIAMS. Francis, I think.

Mr. MORGAN. I have a copy of the lease which they presented to me right here.

The CHAIRMAN. We'll attempt to have Mr. Wilkinson here tomorrow morning to discuss this matter, because it is not an isolated case; it is a case the nature of which has come to the attention of the committee in other places.

Mr. MORGAN. I might say, in that same area, there are other cattle growers that are interested, and they have been treated much the same way, as far as I know. At least, that is what I have been told.

The CHAIRMAN. In other words, this applies to several stock growers besides yourself?

Mr. MORGAN. Yes, sir.

The CHAIRMAN. How long have you been engaged in the stock business?

Mr. MORGAN. Since 1934; and my wife and her family were there for year and years.

The CHAIRMAN. Running in that locality?

Mr. MORGAN. Not in that locality; they have a place in Preston, and this particular place that I'm speaking of is at Yucca.

The CHAIRMAN. Well, I know nothing we can say at the present time except to try to get a representative of the Army real-estate board here tomorrow morning and see if we can get his version of it.

Mr. FAIN. Senator, we have three other witnesses on this subject. Would you rather hold them over until the morning?

The CHAIRMAN. I think it would be well to hold them over, and take it all at one time, with the hope that we may have the representative of the real-estate board here. I have asked our investigator to get word to him at once and we would like to have him here tomorrow morning.

Mr. FAIN. We had supposed, Senator, with these hearings on these other subjects that we would use about all the time up today. The Forest Service program, the balance of our program is not as yet prepared. It is rather late to start on it anyway. Could you handle the meeting now, bring up anything you might have, and leave the rest of our program until tomorrow?

The CHAIRMAN. That is all right. I think it would save time to have a representative of the Army real-estate board here, and we may go

over. He probably will say he has no jurisdiction, that it addresses itself to some other tribunal; but we'll try and find out and get information as best we can. I want to say to you very frankly that the matter of dealing with these condemnations and these leases of the Army, and the utilization of the open public domain by the Army is an exceedingly difficult problem because the Army, as you all know, and as we all know, is having pretty much its own way, in preparation for the war and, while we try to work the spirit of justice into the thing, sometimes arbitrary methods are resorted to. I am not saying they are in this case; I am not prejudging the matter at all, but we are going to try to get all the authorities here that we can get here to have a full and free discussion on the subject.

Now, there is another subject that I wish to bring to the attention of this group. I touched on it this morning and I touched on it at Fredonia just the other day.

There is introduced in the Senate of the United States, by the chairman of this committee, a bill known as S. 1152. S. 1152 grows out of hearings conducted by this Committee and is for the purpose of arousing the interest of the people of this country in vital matters pertaining to the conservation and preservation of wildlife, and at the same time the preservation of the open public domain.

The bill has, up to date, served a valuable purpose in that it has aroused more attention to the subject than has been aroused in the history of this country before. Magazine articles, rather scathingly couched, have been put out, some of them taking a shot at the author of the bill, and all of them taking a general shot at the object of the bill; but none of them discussing the subject from its fundamental standpoint. If there are those here who desire to discuss S. 1152, or the matter of preservation of wildlife, or the matter of reduction of wildlife on the open public domain, an opportunity will certainly be afforded you, because the committee and the author of the bill are very desirous of having a full and free discussion of the subject, to the end that when, as and if, legislation is enacted, it may be legislation based on progressive, far-sighted views.

It is never a good thing, and especially in a case of this kind, to merely condemn. It is very easy to condemn; it is no trouble for those who are interested in the subject to say, "Kill the bill," but killing the bill will not answer the question. The question in the bill and the subject matter of the bill arise from experience itself; a condition, and not a theory that confronts the people of western America. The condition arises from experience.

I wish to state preliminarily, so that those who wish to discuss it later may have the benefit of the views of the chairman, who is, by the way, the author of the bill, that the law has been fairly well settled. In fact, has been definitely settled as to what the Federal Government can do with wildlife on the open public domain. It was settled by the famous Arizona case of *Hunt v. The Government*. It arose out of conditions on the Kaibab National Forest. It was also settled by a North Carolina case, known as the *Chalk case*. It has been settled by State courts as well.

The Supreme Court of the United States has emphatically stated the law, that the Federal Government, being the owner of the open public domain, whether it be in forests or parks or on the grazing

lands, has a right to go upon the lands and remove anything that is destructive of the open range or the conditions in the localities. You will recall the *Kaibab case*, where the Government, through the Forest Service, went in and destroyed vast numbers of deer because the deer were destroying the range. They had become so prolific that they were a destructive agency. It was sought to stop the Federal Government. The Supreme Court of the United States, to which the case was taken, decided the law, which had always been the law, which reannounced the law emphatically, in which the Government was upheld in destroying the deer.

The *North Carolina case* went along the same lines. Other cases have gone along similar lines. The question is, Who owns the wild animals on the open public range in the States? There is an erroneous theory that has gone wild that the wild animals belong to the State. That is not a correct statement of the law. Animal life on the open public domain belongs to the people; belongs to all of the people. The State is the custodian, and the State has the right to regulate the taking of animals on the open public domain, and is custodian, and acts in that capacity, regulating, so that all may take alike, and all may enjoy the animal life that grows on the open public domain. But the open public domain belongs to the Government of the United States. If the public domain belonged to John Smith or Tom Jones, he would have a right to go in and remove trespassers or those that were destroying, whether wildlife or otherwise, his property. The same principle applies to the Federal Government as applies to an individual.

Now, why are we looking to having the public aroused by this pending bill, known as S. 1152? Because of some things that have developed here today, among other things. We have two methods in this modern day and age by which law becomes effective against the individual. One is by congressional act and the other is by Executive order. Executive orders have become more prolific, if I may use that term, in the last 10 or 15 years than have legislative acts. Executive orders are issued without even the knowledge of the legislative delegation from the respective States. Witness the Executive orders that have issued just a few months ago with reference to the Jackson Hole territory in Wyoming. The congressional delegation of the State of Wyoming had no previous information or knowledge that an Executive order was going to issue whereby hundreds of thousands of acres would be taken out of the open public domain and out of use by the grazers of that country and placed in a monument, if you please.

Now, the same might occur in the State of Arizona. In the State of Nevada, where 84 percent, perhaps 86 percent, of all the lands within the boundaries of the State of Nevada belonged to the Federal Government, an Executive order, exaggerated perhaps, but an Executive order, could issue putting it all into a monument with just as much cogency as did the Executive order placing the Jackson Hole country in a monument. If that may be true, then an Executive order could issue tomorrow morning, without knowledge of anyone, directing any one of the services to go in upon the open public domain and destroy the wildlife because it was too promiscuous, there was too much wildlife in any particular territory.

What we are seeking to do is to preserve, as far as possible, the sovereign rights of the sovereign States over wildlife, for the preserva-

tion of wildlife, and yet at the same time to bring a coordination between the Federal Government, the owner of the open public domain, and the State, where the people enjoy the right of sportsmanship, to go out on the open public domain and take, under the permission of the State, the wildlife. If something is not done legislatively, then something may be done executively. To get away from the disturbing conditions that usually prevail in an Executive order, the conditions cannot be amended by legislation and it is very difficult to amend by departmental order. It struck this committee as being worth while to arouse the people of this country to the conditions, that they might be discussed freely; and, out of that proposed legislation, there might come progressive, far-sighted legislation that would give to those who like to take wild game upon the open public domain the rights that their States would afford them, and at the same time would insure that another Kaibab incident might never occur.

That is the object of the bill. It is no trouble for you to say, "Kill the bill." The author of the bill introduced it and then had the bill referred to his own committee and it is now in this committee, subject to amendment. It is subject to discussion. We think that those who live in the open public domain States might well discuss the subject from a constructive standpoint; so at each meeting we are bringing it to the attention of those who assemble, that at any time during the meeting that group interested in the subject might request a period at which their thoughts on the subject might be presented; and we assure you that they will be welcome; that they will be studied; that they will be considered to the fullest extent.

Is Mr. Kartchner here?

Mr. KARTCHNER. Yes, Senator.

The CHAIRMAN. We are glad you are here, Mr. Kartchner. I don't know whether you heard my statement at Fredonia, but I have made it here today. I am very happy that you are here, being president of the Western Fish and Game Commissioners. The same statement is being made at each group meeting.

Mr. KARTCHNER. Senator, may we have a little time tomorrow morning to discuss 1152?

The CHAIRMAN. We would be very glad to have you, either tomorrow morning, or it might be well in place of tomorrow morning if you could come in tomorrow afternoon.

Mr. KARTCHNER. That would be just as well.

The CHAIRMAN. In other words, we'll continue with this general hearing until tomorrow afternoon and we will be glad to hear you and your group before we adjourn the meeting tomorrow.

We have just been advised that Mr. Wilkinson has sent word to us that he will be here tomorrow morning to discuss this gunnery range, bombing range matter.

Mr. WILLIAMS. I had one subject pertaining to lands, State and Federal, that I would like to take up before we get to something else.

The CHAIRMAN. Very well.

Mr. WILLIAMS. This runs to the question of these lands in reclamation withdrawals that are so mixed up as to title, and I would like to have Mr. Mulford Winsor take the stand and tell us something in detail about it.

The CHAIRMAN. I want to say, in furtherance of another subject that was brought up here by one of these letters, the subject of the utiliza-

tion of the recreational area of Boulder Dam, or Lake Mead, that the Park Service and the Monument Service have been very courteous in having their representatives assembled here at the request of this committee, with the idea that they would get together during the session here and work out the problem of the utilization of the Lake Mead area for grazing.

Mr. TILLOTSON. You may be interested to know that has been worked out and completed this noon and it is now being typed; it is all complete.

The CHAIRMAN. Thank you very much. Can we have that as soon as it is finished?

Mr. TILLOTSON. Yes; it will be ready tomorrow morning.

STATEMENT OF MULFORD WINSOR, DIRECTOR, DEPARTMENT OF LIBRARY AND ARCHIVES, PHOENIX, ARIZ.

Mr. WINSOR. My name is Mulford Winsor, and I live at Yuma, but I am never at home.

The CHAIRMAN. You and the chairman of this committee are in the same boat.

Mr. WINSOR. It is a pretty rocky boat, Senator.

At the suggestion of the State land commissioner, I am glad to make a statement regarding a situation that affects the title to a great many tracts of State school land. I happen to be one of those individuals who find that his title to a tract of State school land, for which he paid his hard money and improved, is now confronted with the unpleasant suggestion on the part of the General Land Office and Reclamation Service that the State had no right to sell the land and that, therefore, the ostensible owner has no land, improvements or otherwise.

Mr. Williams, perhaps, has the figures. I understand that there are some two-hundred-odd tracts in that condition. You are aware that as early as 1854 Congress enacted legislation giving to the Territories and States, or States derived from the Territories, for the benefit of the schools, sections 16 and 36. Arizona was no exception to the rule. Those sections were reserved for the future State of Arizona, through the medium of several enactments by Congress; and in 1912, when Arizona became a State, the State land department undertook the administration of sections 16 and 36, and, in addition thereto, sections 2 and 32, which, by the Enabling Act of 1910, were granted to the State. The remarks that I am making do not refer to sections 2 and 32, but to sections 16 and 36. The rights of the States, under the law, became effective upon the approval of a survey by the United States Government of sections 16 and 36. A great many of those lands were sold by the State land department and certain of them were under reclamation withdrawals.

Now, it develops—I don't care to discuss this question from my own personal standpoint, but in order that the picture may be properly made here I might as well state my own case.

A reclamation project is being developed, known as the Gila project, under which I have a tract of land that I acquired in 1926, which was sold by the State of Arizona in 1918. I undertook the improvements of that land in 1926, and from that date until now I have

held the contracts with the Reclamation Service for the delivery of water to my land, and have paid 2 percent per annum for the construction costs of the projects, having paid something like \$34 an acre already on the construction costs of the project. Now, the Gila project proposes to supply water to that land, which will be a very fine thing. I was requested by the Reclamation officials for right-of-way for a canal, to which I had no objections. But I did have some questions to ask that would clear up certain engineering points. While those negotiations were in progress, the Reclamation officials advised me that the Reclamation Council in Washington had decided no right-of-way was necessary; that the State had no title to the lands and it was under reclamation withdrawal at the date of statehood, and that the State, therefore, had no right to dispose of it; and the State having no title, I had no title; and therefore, there was no occasion for a right-of-way from me.

That creates a very undesirable situation. It is probably comparable to the situation in which 200 or more other landowners find themselves; and they can do nothing with their land. More unfortunately still, they cannot borrow any money on it to grow their crops. It is a matter that the credit and the faith of the State of Arizona is very seriously involved in, having sold these tracts and given patents to them. It is a matter that, as a matter of policy, should be ironed out.

I wonder, possibly, if the Land Commissioner might not care to ask me some questions that would clarify the matter.

The CHAIRMAN. Mr. Havell?

Mr. HAVELL. I am not familiar with the case, Mr. Chairman, but I might ask if the lands were reserved for reclamation purposes before the survey was made that identified the land.

Mr. WINSOR. No, sir; the survey was made long before the lands were withdrawn for reclamation purposes.

Mr. HAVELL. Do you know on what ground it was held that the State had no title?

Mr. WINSOR. Merely on the ground that the land was under reclamation withdrawal at the date that Arizona became a State, the contention on that score being that the reservation of the State of Arizona did not become effective when there was a reclamation withdrawal on the lands.

The CHAIRMAN. In other words, while the State of Arizona was a Territory, she was not entitled to sections 16 and 36 out of each township?

Mr. WINSOR. That would appear to be the argument. Of course, as a matter of fact, the land was reserved for the future State of Arizona.

Mr. HAVELL. No title passed to the Territory. Of course, the lands were held in trust for the future State. I don't know the basis upon which the State's right and title was held not to be good. It is a principle of law, of course, that is well recognized, that if the lands were withdrawn before the State's title would have otherwise vested, whether that vesting took effect at the date of the grant, the lands being then surveyed, or took effect at a later date, when they were surveyed and identified, then the State's right did not vest. Now, whether those are the facts attending this case or not, I don't know, but there must be some reasoning back of the decision of the Department that the State did not get title to these tracts of land.

The CHAIRMAN. As we would gather the theory, it is that 16 and 36 were surveyed and identified during the time Arizona was a Territory, and the reclamation withdrawal having taken place after the survey, but before the State became a State, therefore the reclamation withdrawal became dominant over the State. That seems to be the theory. Whether there is anything in the theory, I don't know.

Mr. WINSOR. That would be the theory, Senator.

Mr. HAVELL. That would not only be the theory, Senator, but it would be the law.

The CHAIRMAN. Well, I suppose—

Mr. HAVELL. There is this further thought: in more recent years Congress has passed an act that authorizes the States to apply for a patent as evidence of title—that was in 1934—and thus have an adjudication, and forever close the chance of the Federal Government raising the question. That could be tried out.

Mr. KNEIPP. Mr. Chairman, this question also came up in connection with some lands in the national forest. I might, perhaps, be able to throw a little light on the problem. It arises out of the wording of the two acts of statehood. Those acts, as Mr. Winsor said, not only granted the State sections 2 and 32, but went on to provide in the sections that if the lands thus granted were at that time within any permanent form of reservation, the State title would not attach until the described sections had been eliminated from that reservation.

Now, the two acts were so worded that, according to the Comptroller General of the United States, and I think, also, the Attorney General, that stipulation applied not only to the sections 2 and 32, which were additionally granted by the act, but also to the sections 16 and 36, which previously had been granted under the act of 1854. The people in the Department of Agriculture were studying the question when I left; but that is the crux of the whole situation, the peculiar wording of the two State enabling acts, or the sections thereof which granted these lands to the State.

Mr. WINSOR. I might say that, in the course of the negotiations between the Reclamation officials and myself, for a right-of-way, they submitted to me a deed of execution, ostensibly proposing that if I would execute that deed conveying to the United States certain rights-of-way—and I must say that they included all the rights-of-way that have ever been thought of—and agreed to certain allegations, including the allegations that the State of Arizona erroneously sold the land and had no title thereto, that they would execute a withdrawal for cancellation of the reclamation withdrawal.

That proposition was one that I could not comply with for the reason that I could not make the allegation that the State had intentionally—I couldn't make the allegation that the State had no right to sell the land, and it was impossible to agree to the terms.

Now, as to the effectiveness of the reclamation withdrawal, which I don't care to enter into a legal discussion of, it strikes me that there is very serious doubt as to whether the reclamation withdrawal would take precedence over the reservation to the State of Arizona for the reclamation law distinctly says that the Reclamation Service may withdraw lands needed for reclamation projects on the public domain, and I seriously question whether the lands reserved to the future State on their survey is subject to any other withdrawal. Perhaps

the Attorney General may have an opinion on the subject, but I am not aware of any final determination of that question in the courts. I am sure it is not the desire of the purchasers of State school lands, who are in the predicament that I mentioned, to advise what judicial determination should be asked. It doesn't seem that that is necessary. Here is a matter of equity, of honesty, of fair play, and justice. Certainly it can be ironed out, without the necessity of legislation, but I do believe that if it can't be done without legislation, it is a fit subject for legislation.

The CHAIRMAN. Has the matter ever gone to a departmental decision, to your knowledge?

Mr. KNEIPP. In connection with the national forests, it developed that the enabling acts provide that the lands shall continue as part of the reservations in which they were situated at the time of the statehood, and not be the property of the State until they are eliminated; but the State shall receive from the revenues of the reservations that part thereof which is proportionate to the area of these granted sections. In calculating the payments due the States, we had assumed that all lands that had been surveyed prior to the creation of the national forests were State lands, and, therefore, not subject to the act; and that they should not be taken into account when figuring the proportionate revenue, and the right of the State to lease them had been recognized. A decision by the Comptroller General of the United States as to the amounts payable to the States held that even though the Territory had acquired title prior to 1910 and prior to the creation of the reservation, yet, under the terms of the State enabling act, the lands, nevertheless, were subject to the same conditions as the lands newly granted by the act. I have a recollection that the Attorney General passed on it, but I am not sure on that point.

Mr. HAVELL. This question has gone to the Department on appeal many times, and so far as the administration of the Interior Department is concerned, it is uniformly followed that a withdrawal before the State's right attaches is superior to the State's right.

Mr. WINSOR. That doesn't answer the question of when the State's rights attach?

Mr. HAVELL. No; that is a matter of adjudication, in each particular case. We were talking of general principles, I gather. I think what the witness referred to a while ago came to my attention in the office. I think the Reclamation Service, in this particular case, offered to lift the reclamation withdrawal, so that the State rights would attach, if certain agreements were entered into. Now, that is a matter between the Reclamation Service and the claimant.

Mr. WINSOR. Yes; that's correct; but impossible conditions were imposed.

Mr. HAVELL. If the reclamation withdrawal is lifted, then the State right does attach.

The CHAIRMAN. It seems to be quite a serious problem here, involving a considerable amount of land.

Congressman MURDOCK. Do I understand from the witness that if this is not to be judicially determined; that legislation is the logical remedy?

Mr. WINSOR. It is an extremely important matter and serious situation. My idea would be that it should be determinable without leg-

isolation; but, in the event that it is not, then it is a fit subject for legislation. The equities are so clear; the interest, not only of the land purchaser, but of the State of Arizona, are so clear, that there certainly should be a means of arriving at an agreement with the departmental officials and straighten it out that way.

The CHAIRMAN. From the statement made by Mr. Kneipp, although I have never had occasion to look at the enabling act, I would gather that the enabling act is the turning point in the case.

Mr. KNEIPP. I think that is correct, Senator, and I believe this question arises only in Arizona and New Mexico, and by virtue of the language of the acts creating those two States.

The CHAIRMAN. I think it might be well, if it is convenient, Mr. Williams, that we might have a copy of the enabling act.

Mr. WILLIAMS. I might say that there are some 200 parcels of land affected; that is, virtually 200 sections. It goes to the patents and titles of those lands. We are having a meeting this evening with the General Land Office, and we would like to have the privilege of taking the subject up again in the morning, and of bringing the copies of the enabling act, and also whatever information we may get tonight from this meeting.

The CHAIRMAN. I think that the matter addresses itself very vitally to the congressional delegation of the State of Arizona, and the Committee, of course, would be glad to assist in every way in working the problem out. It certainly is a serious problem.

Mr. WINSOR. Mr. Chairman, the last Legislature of Arizona concerned itself with this question, and adopted a memorial. It strikes me that, if you have no objection, it would be worth while putting that memorial into your record.

The CHAIRMAN. We will be very glad to do it. I was going to say that it might be well to put a copy of the Enabling Act into the record also, if it isn't too voluminous.

Mr. WILLIAMS. We will have copies for you.

(The memorial referred to, and excerpts from the enabling act, are as follows:)

[S. J. M. 4, State of Arizona, Senate, Sixteenth Legislature, regular session]

A JOINT MEMORIAL Requesting Congress and the United States Land Office to clear the title to certain school lands sold by the State

To the Congress of the United States and the Secretary of the Interior:

Your memorialist respectfully represents:

By numerous Acts of Congress, sections sixteen and thirty-six in each township were reserved and set aside for the benefit of the public school systems of the territories of the public lands area of the West and of the states thereafter to be created out of such territories.

By the Acts approved September 9, 1850, and July 22, 1854, following the Treaty of Guadalupe Hidalgo and the Gadsden Treaty, respectively, the same course was pursued with respect to New Mexico, of which Arizona was at that time a part.

The Act of July 22, 1854 (10 U. S. Stats., 309), provides: "That when the lands in the said Territory shall be surveyed * * * sections numbered sixteen and thirty-six * * * shall be, and the same are hereby, reserved for the purpose of being applied to schools in said Territory, and in the States and Territories hereafter to be created out of the same."

By authority of the Act of Congress of March 26, 1896 (29 U. S. Stats., 90), authorizing the Territory of Arizona to lease "all of the school land in the Territory of Arizona for school purposes, the Territory of Arizona, under the Act of the Territorial Legislature effective September 1, 1901, assumed the ad-

ministration, through the Boards of Supervisors of the several counties, of all school lands which had been surveyed and the plats thereof approved, and continued to administer them until statehood, for the benefit of the public schools.

The Arizona Enabling Act, approved June 20, 1910, recognized and confirmed the reservation of sections numbered sixteen and thirty-six, and granted two additional sections in each township.

Following the state's admission into the Union, the Arizona state land department assumed the administration of these school lands, and in conformity with the terms of the Enabling Act, the state constitutions and the state land code, sold and leased the same.

Among the lands sold were numerous tracts of school land comprising all or parts of certain sections numbered sixteen and thirty-six, located chiefly in the Salt River Valley, the irrigated and irrigable areas near Yuma, and at other points adjacent to the Colorado river, which in most cases have been brought under a high state of development and large investments made thereon.

It now appears that the United States Land Office denies that title to these lands has ever vested in the State of Arizona, basing its denial upon the withdrawal of the lands from entry under the terms of the Reclamation Act of 1902, prior to the granting of statehood to Arizona, while ignoring the fact that they were reserved for school purposes by the Act of July 22, 1854, and that the lands were surveyed and the plats approved long prior to the passage of the Reclamation Act, and were administered by the Territory by authority of an Act of Congress of 1896.

Thus the State of Arizona, which administered in good faith the grant in favor of the common schools, and in all respects complied with the laws of the United States, is placed in the position of a defrauder, a seller of property to which it had no title, and of taking under false pretenses the money received for these lands. The innocent purchasers are in the position of having bought and paid for the lands, made large investments and extensive improvements thereon, and having for their money, their enterprise, and their labors a title repudiated and denied by the United States.

Wherefore, your memorialist, the Legislature of the State of Arizona, urgently requests:

1. That the United States Land Office, upon application of the State Land Department of Arizona, issue patents to all such sections sixteen and thirty-six which have been sold and deeded by the state, failing which, that the Congress by legislation validate the title of the State of Arizona to such lands.

LAND GRANT

ORGANIC LAWS

(R. S. U. S., Sec. 1946.) Sections numbered sixteen (16) and thirty-six (36), in each township of the territories of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana, and Wyoming shall be reserved for the purpose of being applied to schools in the several territories herein named, and in the states and territories hereafter to be erected out of the same.

ENABLING ACT

SECTION 24. That in addition to sections sixteen (16) and thirty-six (36) heretofore reserved for the Territory of Arizona, sections two and thirty-two (32) in every township in said proposed state not otherwise appropriated at the date of the passage of this act are hereby granted to the said State for the support of common schools; and where sections two (2), sixteen (16), thirty-two (32), and thirty-six (36), or any part thereof, are mineral, or have been sold, reserved, or otherwise appropriated or reserved by or under the authority of any act of Congress, or are wanting or fractional in quantity, or where settlement thereon with a view to preemption or homestead, or improvement thereof with a view to desert-land entry has been made heretofore or hereafter, and before the survey thereof in the field, the provisions of sections twenty-two hundred and seventy-five (2275) and twenty-two hundred and seventy-six (2276) of the Revised Statutes, and acts amendatory thereof or supplementary thereto, are hereby made applicable thereto and to the selection of lands in lieu thereof to the same extent as if sections two (2) and thirty-two (32), as well as Sections sixteen (16) and thirty-six (36), were

mentioned therein; Provided, however, that the area of such indemnity selections on account of any fractional township shall not in any event exceed an area which, when added to the area of the above-named sections returned by the survey as in place, will equal four (4) sections for fractional townships containing seventeen thousand two hundred and eighty (17,280) acres or more, three sections for such townships containing eleven thousand five hundred and twenty acres (11,520) acres or more, two (2) sections for such townships containing five thousand seven hundred and sixty (5,760) acres or more, nor one section for such townships containing six hundred and forty (640) acres or more; and provided, further, that the grants of sections two (2), sixteen (16), thirty-two (32), and thirty-six (36) to said State, within national forests now existing or proclaimed, shall not vest the title to said sections in said State until the part of said national forests embracing any of said sections is restored to the public domain, but said granted sections shall be administered as a part of said forests, and at the close of each fiscal year there shall be paid by the Secretary of the Treasury to the State, as income for its common-school fund, such proportion of the gross proceeds of all the national forests within said State as the area of lands hereby granted to said State for school purposes which are situated within said forest reserves, whether surveyed or unsurveyed, and for which no indemnity has been selected, may bear to the total area of said sections when unsurveyed to be determined by the Secretary of the Interior, by protraction or otherwise, the amount necessary for such payments being appropriated and made available annually from any money in the Treasury not otherwise appropriated.

Mr. WINSOR. I might say, on that score, that I could almost repeat the terms of the enabling act in that regard:

In addition to sections 16 and 36 heretofore reserved to the future State of Arizona, there is hereby granted sections 2 and 32—

it goes specifically to the previous reservation of sections 16 and 36. I believe that is clear, that sections 16 and 36 are not of the same category with sections 2 and 32.

Senator McFARLAND. I might state to the witness that I agree that if this cannot be worked out, it is a problem subject to legislation, but I hope that it can be worked out where legislation won't be necessary.

Mr. WINSOR. That would be the better way to work it out, without legislation.

The CHAIRMAN. Of course, if what Mr. Kneipp says is true, the Comptroller General has passed on it, and perhaps the Attorney General. You may have those impediments.

Senator McFARLAND. It can be worked out by the withdrawals.

Mr. HAVELL. I don't think we are bound by the Comptroller General's decision. His decision goes to the distribution of moneys. He has no jurisdiction over the questions of law relating to the public domain. I think the Attorney General's decision would be the one, not the Comptroller General's decision.

Mr. KNEIPP. This decision, Mr. Chairman, came up in connection with New Mexico. I think there might be a slight difference between the two acts. The crux of the decision is that the limitation of the act applied not only to the newly granted lands but to the previously granted lands.

The CHAIRMAN. Is there any further statement on this subject? It will come up again tomorrow. Is that correct?

Mr. WILLIAMS. Yes.

The CHAIRMAN. Very well.

Senator McFarland has intimated that he might have to leave tomorrow afternoon. I think it had better come up early in the morning, for I would like to have it come up while a congressional delegation is here. We'll try to take it up the first thing in the morning.

Is there anything further that you have to offer this afternoon?

STATEMENT OF ROBERT H. ROSE, SUPERINTENDENT, BOULDER DAM NATIONAL RECREATIONAL AREA, BOULDER CITY, NEV.

Mr. ROSE. Senator, I thought perhaps I had better make a statement to help clarify a couple of questions that came up in the letter referred to, about 30 minutes ago, by the gentleman at the end of the table. The questions brought up in the letter, signed, I believe, by Mr. Jameson, referring to, first, the lands included within the recreational area established up there in the Boulder Dam country, and, second, to the privileges of mining or the exclusion of those lands from mining. I think it is well, perhaps, for the record that I do include a statement or two for clarification, and perhaps Mr. Jameson will also be interested in having the information.

The Boulder Dam National Recreational Area includes lands that have previously been withdrawn under the reclamation laws. That was prior to the establishment of the area, October 13, 1936, and were the lands that were withdrawn which were necessary in connection with Boulder Dam and the reservoir project. Therefore, when the recreational area was established, this did not involve any additional withdrawals. That merely superimposed the recreational area upon lands already withdrawn, and thereby did not remove any more public domain included within those boundaries.

Now, going to the second question, the question of mining; mining and prospecting are permitted within the confines of the recreational area. The procedure is slightly different than the procedure applying to public domain.

The procedure for mining on reclamation withdrawn lands is outlined in an act of Congress approved April 13, 1932. In that act it states that where public lands of the United States have been withdrawn for possible use for construction purposes, under the Federal reclamation laws, and are known or believed to be valuable for minerals, and would, if not sold, be subject to location and patent under the general mining laws, the Secretary of the Interior, when in his opinion the rights of the United States will not be prejudiced thereby, may in his discretion and so on open the lands to location, entry, and patents, and the general mining laws. Therefore, I think it is rather important to have then in the record the statement that if this procedure, outlined by the act of 1932, is followed then the lands may be subject to entry and location.

The CHAIRMAN. Let us analyze that a little bit, Mr. Rose.

The prospector would have to apply to the Park Service or the Interior Department, to some service, for permission to take out a mineral discovery?

Mr. ROSE. That is not quite, Senator, the way the procedure is set up. Under the procedure as set up, the person who believes that there are mineral values makes application to the General Land Office to have the lands in question thrown open to mineral entry. Then, once the lands are opened to mineral entry, the procedure more or less is the same as on the public domain. The General Land Office, however, will refer that application for mining to the National Park Service and such other agencies as might be involved.

It is rather interesting, and perhaps relatively simple, this procedure, from the prospector's standpoint, because the General Land

Office handles that matter of reference to all of the other agencies rather than the prospector himself having to do that.

The CHAIRMAN. May he set up his discovery monument, or make his location, before he has permission; before it is thrown open?

Mr. ROSE. I have been quite interested in that question, Senator. That involves certain legal technicalities which I doubt whether I could answer. It does seem to me, however, that the prospector who has been out in that country a long time searching for minerals, and who has lived under the rather trying conditions, he should certainly have a prior right to locate the mineral lands in question.

The CHAIRMAN. I'm just wondering how we could establish that right as against another locator's. There is an interesting kink in the thing.

Mr. ROSE. I think that is rather an interesting kink, Mr. Chairman, the question as to the prior right of the individual who makes the request to open the lands to entry. Unless the person originally making the application for throwing the land open to mineral entry does have a prior right, it does seem to me that certain prospectors could live under those difficult conditions, perhaps, on dry bread and stale bacon, and so on, and then perhaps some armchair miner, sitting off somewhere watching the activities of this prospector in question, might come in and locate ahead of the man who actually initiated it in the first place.

Now, I am not fully enough informed on just that technicality, but it does seem that the person who did the hard work should be entitled to the prior location.

The CHAIRMAN. Have you had any attempted procedure along that line? Has anyone attempted to acquire the mineral rights?

Mr. ROSE. I will say that there has been one instance of confusion that has arisen in that regard. That has to do with a little manganese mining location, some few miles from Boulder Dam. I think the particular instance I bring up was satisfactorily adjusted among the claimants involved. I know we lent such help as we could in solving the problem, but I believe they largely solved it through counsel among themselves.

The CHAIRMAN. It seems to me that question of removal of sands from that area was uppermost and we had to put through legislation so they could remove the sands on a royalty basis. Am I right in that?

Mr. ROSE. That is correct. There has been legislation enacted by which sands and other nonmetallic minerals can be removed. I don't recall just what the limitations of the areas involved in that act are, but I do know that it is already applying to certain lands in the vicinity of Overton in southern Nevada.

Mr. FAIN. May I ask a question of the witness, Senator?

The CHAIRMAN. Yes.

Mr. FAIN. Could you tell me if this procedure, as outlined by you, has been in common usage? Is it a practice that is being used successfully for prospecting and locating minerals at the present time?

Mr. ROSE. I believe, in answer to the question that has been raised, I can answer that in the affirmative; that the procedure has been used. Our files contain as many, I believe, as 8 or 10 different examples of where applications to the mine have been made, under the procedure

outlined. I would like to give you a copy of that procedure, as outlined in the act of 1932.

Mr. FAIN. Has the right been granted to these applications, to go ahead and mine?

Mr. ROSE. I believe there have been cases where these applications have been cleared by the various services involved. I am sure that I am correct in that.

The CHAIRMAN. Are there any further questions?

Mr. ROSE. That is all; thank you very much.

The CHAIRMAN. We were very glad to see you here, Mr. Rose.

Is there anything else that anyone wishes to bring up this afternoon? We are about to take a recess until tomorrow morning, at 9:30. We want to get through with everything that anyone wants to bring up tomorrow. We will remain in session until we do get through with it.

If there is nothing else, the committee will stand at recess.

(Recess until 9:30 a. m., Saturday, September 4, 1943.)

ADMINISTRATION AND USE OF PUBLIC LANDS

SATURDAY, SEPTEMBER 4, 1943

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE
ON PUBLIC LANDS AND SURVEYS,
Phoenix, Ariz.

Present: Senator Pat McCarran, Nevada, chairman; Senator Carl Hayden, Arizona; Senator Ernest McFarland, Arizona.

Also present: Congressman John Murdock, Arizona; and Mr. E. S. Haskell, special investigator.

The CHAIRMAN. The meeting will come to order.

We are very happy to have the senior Senator from Arizona with us this morning. With these two Senators present from Arizona, the Senator from Nevada has to sit on his hat, because anything that isn't nailed down, and chained to the other side, these boys will bring it to Arizona. They're working for Arizona morning, noon, and night. We are happy to have them with us.

We are also happy to have the Representative of the congressional district, Mr. Murdock; and we hope the other Congressman may be present.

Senator HAYDEN. May I say a word, Mr. Chairman? I want to let you know how much we in Arizona appreciate your coming here. You have performed an excellent public service, by taking the time that other Senators would spend in their own States, or off on long vacations, in view of the trying times we have had, to come here to listen to our problems. You have accomplished a useful purpose, in that respect. There are controversies that naturally arise between occupants of the public lands and those who control the administration of them. A sore will fester when it is covered up. You come in and expose the proud flesh and interested people get a chance to tell their story. In many instances, to my own knowledge, you have accomplished adjustments promptly that otherwise might not have been made at all, or would have been long delayed. For your time, efforts, energy, good nature, and patience, we thank you.

The CHAIRMAN. Thank you, Senator.

Mr. Wilkinson, will you kindly come forward and have a seat with us? Will you kindly state your name and your place of residence and your business?

STATEMENT OF F. M. WILKINSON, DISTRICT ENGINEER, UNITED STATES ARMY, PHOENIX, ARIZ.

Mr. WILKINSON. My name is F. M. Wilkinson, 92 West, division engineer, War Department. The address is 204 Home Builders Building.

The CHAIRMAN. You are in the real estate business here?

Mr. WILKINSON. No, sir; not personally.

The CHAIRMAN. Have you been?

Mr. WILKINSON. Yes, sir.

The CHAIRMAN. What is it that you are now doing, Mr. Wilkinson?

Mr. WILKINSON. I am chief of the suboffice of the Division of Engineering, Acquisition of Real Estate Department, of the War Department.

The CHAIRMAN. What experience have you had, in the past, evaluating property, especially grazing property and country property?

Mr. WILKINSON. For several years I farmed in the valley here; irrigated land. For 43 years I was Federal appraiser; 15 years making loans on land to the farmers. For 15 years I was in charge of the loans of the Joint Stock Land Bank in Arizona. For 6 years I was governor of the Water Users Association, the Salt River Valley Water Users Association, and 2 years president.

The CHAIRMAN. Is the gentleman present who brought up the matter of the acquisition of the gunnery range?

Mr. JACK MORGAN. Yes, sir; Jack Morgan.

The CHAIRMAN. Are you familiar with the Morgan matter, the Morgan case?

Mr. WILKINSON. More or less.

The CHAIRMAN. Did you sit as an appraiser in that case?

Mr. WILKINSON. No, sir.

The CHAIRMAN. Do you know how the appraisal came about?

Mr. WILKINSON. I believe his appraisal was based on the C. Y. L. carrying capacity.

The CHAIRMAN. "C. Y. L. carrying capacity" means what; year-long use of the range by cattle?

Mr. WILKINSON. Yes.

The CHAIRMAN. Did you have to do with that case at all?

Mr. WILKINSON. I talked to Mrs. Morgan. She came in to my office, and we talked to her about it.

The CHAIRMAN. Who made the appraisal?

Mr. WILKINSON. Harry Embach.

The CHAIRMAN. Is he here?

Mr. WILKINSON. Yes.

The CHAIRMAN. In this locality?

Mr. WILKINSON. In my office.

The CHAIRMAN. Was he under you in the making of the appraisal, or was he superior to you in the office?

Mr. WILKINSON. No; he was under me.

The CHAIRMAN. Is Mr. Embach in the room?

Mr. WILKINSON. No; I think he is up at the office.

The CHAIRMAN. Do you know what the terms, or conditions, of the taking were? How did it come to your attention, in the first place? Tell us the whole story; who brought it to your attention, who asked you to act, what authority or capacity did you act in, and what did you do?

Mr. WILKINSON. Capacity as chief of the suboffice. We received orders; orders were received from the division office to appraise this land. Certain appraisers are assigned to certain projects. In this case Mr. Embach is the appraiser in the Yavapai. The appraisals are turned in and submitted for approval and then we are ordered to

negotiate on the basis of the amounts the Government authorizes us to offer. That was done in that way.

The CHAIRMAN. What did you find in your office as to the number of cattle that Mr. Morgan and his outfit had?

Mr. WILKINSON. I don't recall that there were any cattle at all on the range.

The CHAIRMAN. Would your notes or your records show definitely?

Mr. WILKINSON. Yes, sir.

The CHAIRMAN. You haven't those with you?

Mr. WILKINSON. No, sir.

The CHAIRMAN. I submit this to the members of the committee here, in order to shorten the thing up. Would it not be well to have Mr. Wilkinson bring his assistant and the records here so that we might go over them all at one time and be through with them? Could you do that within a reasonable time?

Mr. WILKINSON. I can telephone and have them come down.

Senator McFARLAND. Mr. Chairman, before you do that, would it not be a good idea to ask if there are other cases that need to be discussed, so that he could bring other records?

Mr. J. MOEUR (attorney at law, Phoenix). Mr. Chairman, I had a number of those cases, Mr. Jameson, and John Neil, and several others. I want to say, as far as Mr. Wilkinson is concerned, that I think he tried to work out an amicable adjustment of this matter and a decent adjustment. I don't think he was able to do so. I think the amount paid these people—I have some details here. I think it was absurd and out of line with the bill that was passed that proposed to give them reasonable compensation. I had some correspondence with Senator Hayden on it; rather, I think he has some. I think the probable illustration is a case where they actually paid the man less than his railroad leases, by the time he gets through with it.

The CHAIRMAN. Well, this case that was presented yesterday, the Morgan case, where they offered \$611 for a settlement which embraced taxes and leases amounting to about \$1,200, as I recall—

Mr. MORGAN. Better than \$2,000, Senator, the total taxes and leases together.

The CHAIRMAN. I just wanted to get to the method by which the conclusion was arrived at.

Senator McFARLAND. Mr. Chairman, there isn't any limit placed on the amount that the Government will pay in this bill. I don't know what limitations they are working on, because there are no limitations in the bill. The limitation of the bill would be what the property is worth. I don't know where the War Department gets any limitation.

The CHAIRMAN. Well, it might be well for us to find out what the basis of evaluation was. I think the details should be disclosed here, because it has been stated here by Mr. Morgan that his outfit have been running cattle in that vicinity for many years—

Mr. MORGAN. I beg your pardon, Senator. I had never put the property into production, but I held a nonuse grazing lease for 1,140 head.

The CHAIRMAN. Didn't you state here to us yesterday that your wife's folks had been running cattle in there before?

Mr. MORGAN. Not on that property.

The CHAIRMAN. But in that vicinity?

Mr. MORGAN. In the State of Arizona.

Mr. MOEUR. All these people I represent were running cattle there. That is the difference.

Mr. WILKINSON. You are aware, Senator, that the instructions to the employees of the War Department do not allow them to disclose appraisals, War Department appraisals.

The CHAIRMAN. Well, I don't know that this committee is going to be barred by that.

Mr. WILKINSON. I don't say you are.

The CHAIRMAN. I want to conform in every way that is reasonable, but I'm not going to be barred by an unreasonable—

Senator McFARLAND. I think one thing ought to go in. One of the complaints that has come to me is the people can't find out what the appraisals are. The people that want to settle these claims can't find out what the War Department is appraising them at. I think they are entitled to know.

Senator HAYDEN. I would suggest, when the witness returns, that he bring the instructions under which he operates. What Senator McCarran is interested in is the way in which you do business, the general basis of your operations; the limit and scope of your authority. That is, whether you have authority to settle a thing yourself, or whether it has to go to somebody else, for approval in some other place.

Mr. WILKINSON. We can negotiate for the greatest amount the Government offers in that particular case. That is as far as our authority goes.

Senator McFARLAND. Who sets the figure though? Who makes the offer?

Mr. WILKINSON. There is an appraisal made and we negotiate on that basis.

Senator HAYDEN. That is to say, a man has a permit in a grazing district, and you want to move him off. First, someone goes on the land and looks it over and estimates what his property is worth. That figure is handed to you, above which you cannot go?

Mr. WILKINSON. That is correct.

Senator HAYDEN. If you are in your own mind satisfied that the figure is too low, what can you do about it?

Mr. WILKINSON. Refer it to the division office, and ask for another appraisal. They may permit it and they may not.

Senator HAYDEN. Where is that located?

Mr. WILKINSON. Our division office is in San Francisco.

Senator HAYDEN. You have to refer everything to San Francisco when there is a dispute?

Mr. WILKINSON. Yes.

Senator HAYDEN. If the landowner or permittee is satisfied, you settle; if they are not satisfied, you can refer it back to San Francisco. Who passes on it there?

Mr. WILKINSON. The division director. If he is not satisfied, he can pass it up to the Chief of Engineers, at Washington.

Senator HAYDEN. Are the people that pass on these questions at all familiar with the local conditions?

Mr. WILKINSON. They have reviewing appraisers in this office and the San Francisco office, and those reviewing appraisers have been in

this territory. You not only have an appraiser but a reviewing appraiser that passes on his work.

Senator HAYDEN. In this case, has a reviewing appraiser passed on it?

Mr. WILKINSON. Yes, sir.

Senator HAYDEN. Is that the last there is of it, short of a condemnation suit?

Mr. WILKINSON. I can't say. We have been ordered to put in a condemnation. I hope some arrangements can be made, a better settlement. In many cases where we take a declaration of taking, we can settle by a stipulation. Later the court provides. These people are protected, they don't have to accept that.

Senator McFARLAND. There is no protection in the courts, Mr. Wilkinson, under this bill where it is under the Taylor Grazing Act, because the Government does not recognize any rights. It is left up to the fairness of the War Department to make a fair settlement.

Mr. WILKINSON. In this particular case they pay no grazing fees.

Senator McFARLAND. That may be true of this particular case; but in most of the cases there is no protection of the courts. They can't go into a court. They are wholly dependent upon a fair settlement from the War Department.

Senator HAYDEN. I want to inquire about livestock to be removed from Butler Valley. I have here a memorandum from Henry P. Steele, one of those affected there. According to a notation that I have from the Grazing Service he had a license for 1,900 goats on his Federal range allotment within the area and all of his livestock must now be removed. The letter that I have from him indicates that he is going to suffer a serious loss. Do you have the papers in his case in your office?

Mr. WILKINSON. That project has just been given; in fact a directive came in on it about a week or two ago. The appraisers are just in from the field and were to write up their appraisals now; that is on the grazing, not on the mining. The appraisals haven't been written up.

Senator HAYDEN. I have a list from the Grazing Service here, showing a record of all who have livestock interests of any kind in the area. Then I have a letter from Mr. Steele that states his case. According to what you say, the matter is not finished, because the appraisers from your office have just gone out and are writing up appraisals now.

Mr. WILKINSON. They came in this morning.

Senator HAYDEN. If they made an appraisal satisfactory to any particular landowner the case is settled. If it is not as I understand you, the permittee or whoever has livestock out there can file an appeal that goes to San Francisco and then they will send some other appraisers to check the work of the first ones.

Mr. WILKINSON. They may or they may not.

Senator HAYDEN. What is the use of making an appeal if they won't?

Mr. WILKINSON. If they feel that the appraisal is adequate they may not, or a new appraisal—

Senator HAYDEN. How do they know if they don't look into it?

Mr. WILKINSON. As I say, they have reviewing appraisers that go over these matters, and their work is final, unless the chief will order a new appraisal. The appeal is made directly to him.

Senator HAYDEN. I want to reiterate what Senator McFarland said. We had considerable difficulty when this question first arose, because the War Department merely took the position, I remember, down in the Gila Bend country, that there were certain persons there with permits to graze upon the public domain and that all that had to be done was cancel the permits and tell them to move off. When they took their cattle away they had no rights at all.

The present law does permit consideration to be given to the range improvements, how long they have been there, how it affects their business. As the Senator said, there is no limit in the law on what can be paid to a man. It simply depends upon the judgment of the appraiser in coming to an agreement with the stockman as to what is the right thing to do. It has been surprising to us that, in a considerable number of instances, there was such a wide variance between what the permittee felt was due him and what was allowed.

Mr. WILKINSON. The Gila Bend was all cleared up, cleared them up and paid them off.

Senator HAYDEN. They got their money?

Mr. WILKINSON. Yes.

Senator HAYDEN. How long did they have to wait for it?

Mr. WILKINSON. They didn't wait very long after I came in charge of it. I was in charge of the southwest division. Before it was turned over to me—but after the appraisals were made, I don't think it was more than 60 days before they paid off.

The CHAIRMAN. Is Judge Shute here? Will you please come forward?

I think, Mr. Wilkinson, if you will do us the courtesy of getting the data from your office, and also have your assistant here as soon as possible, we will go into this thing again.

Senator McFARLAND. Mr. Chairman, I would like for Mr. Williams to tell us at some state of the game, either before or after Mr. Shute, how he thinks this law is working in the State as a whole.

The CHAIRMAN. Very well.

Mr. Shute, will you kindly state your name, your place of residence, and your business?

STATEMENT OF JUDGE J. W. SHUTE, PHOENIX, ARIZ.

Judge SHUTE. My name is J. W. Shute, my residence is Phoenix, Ariz. Sometimes I practice law and sometimes I monkey with this cattle business.

Senator McFARLAND. Which is more profitable?

Judge SHUTE. That is not a fair question.

The CHAIRMAN. Did you have to do with any of these cases of taking by the Government for military purposes?

Judge SHUTE. Yes, Senator.

The CHAIRMAN. Will you kindly state the cases and what your experience and observations were, and what the results were, in your own way?

Judge SHUTE. Well, Senator, I couldn't state it any other way except in my own way; but as a sort of preliminary to my statement that I may make, I wish to assure you that I don't think I ever felt more at home than I do in making my statement that I have to make to you, because I based that upon contacts that I have had with others from

Nevada, your Governor, your present attorney general, your engineers up there. I have always found that all of those representatives from Nevada were extremely generous and extremely anxious to accommodate, and willing to go more than half way on any subject that you might present to them, and my experience and my understanding of this 2 days we have had here with you leads me to believe you have been tarred with the same stick they have been tarred with.

The CHAIRMAN. I fell in the tub!

Judge SHUTE. Well, anyhow, I have been sort of boosted into the position here of making a sort of a protest against the action of the War Department and other departments, too, in dealing with the citizens of Arizona in acquiring the land which they have needed for the furtherance of the war effort. That protest goes, I think, to a policy, although you might call it a habit; certainly it is a practice.

Senator McFARLAND. Judge, would you mind stating what capacity you speak in?

Judge SHUTE. In a dual capacity. I was asked by the Arizona cattle growers to present this question to this body; and I also act in the capacity of representing two or three of these people whose lands have been taken—I was about to say condemned, but I withdraw my thoughts of condemnation. If I should permit a little feeling to creep into the matter, I hope you will forgive me, for it does seem to me we ought not to permit feeling to sway us in any way in times like these and in matters such as these, but sometimes we can't help it.

I think the cattlemen of Arizona yield to no man in their loyalty and patriotism, or to any group of men, for that matter, in carrying on the war, and in doing what they can to benefit and bring it to an end as quickly as possible.

In order to lay the proper foundation for the statement that I may make to you, I think I can say without fear of contradiction by anyone that all of these ranges in Arizona have been occupied for two or three generations. You find them much the same as you find them in Nevada and other Western States, and all of them, I think, with but very few exceptions, were occupied, fully used, taxed, and constituted a part of the going political and social concern of Arizona, even long before the Forest Service was ever thought of. That lays a sort of foundation for my statement, because a part of these lands are influenced, either directly or indirectly, by forest regulations.

In order to illustrate it properly, I will furnish you with two specific instances, and then I shall be glad to answer any questions that may be shot at me, either from a legal viewpoint or a practical viewpoint, as best I can.

Just west of Flagstaff, at a little place called Belmont, where this Navajo ordnance concern is put in, there is a range that embraces almost two townships, 4 and 5 east, 21 and 22 north. In order to get this picture properly, I may again restate that these lands have been occupied as cattle range, well, since the beginning of our history. A good many years ago—that is, several years ago—a man and his wife by the name of Osborne occupied these two sections, the eastern part, or section, of township 5, which contains all the permanent waters. Township 5, used in connection with and as a part of section 4 lying to the west, was used as a basis for putting all the permanent improvements upon the land. On this township Osborne put fences,

houses, corrals, tanks, and other improvements necessary to conduct the business that he was engaged in.

Now, in order to have a little bit better and more full and complete picture of this proposition, I want to explain to you, Senator, that the west part of this range, or township 4, has no permanent water on it of any significant size. It is used in connection with township 5 and it contains good grazing and can be used in connection with that very profitably, as I shall attempt to show you by actual figures which have been compiled for this purpose. Some time about the 1st of March, or the latter part of February of 1942, not very long after our unfortunate incident at Pearl Harbor, certain individuals, whose names I do not now have, went to Osborne and made the statement to him that they wanted to use a portion of his range for the purpose of putting in this arsenal.

They were met more than half way, and he consented to their going upon the land and making a survey of it, and consented to tentative figures that were arrived at for the purpose of later getting a price for this cattle ranch. On the 4th day of March—I will use these figures from data that I have—on the 7th day of March 1942 a Mr. Russ Tatum, whom I know lives here in Phoenix and with whom most of us are very well acquainted, secured from Osborne and his wife a written permit for a survey of these lands.

Senator McFARLAND. Are these lands patented?

Judge SHUTE. I will state that a little later. Most of them are not patented.

Senator McFARLAND. Was this before the bill was passed, or after?

Judge SHUTE. It was long before that, long before the bill. I can see your trend of thought, because I'm sure your thought and mine run along the same way.

Anyway, this arrangement was made in writing. Russ Tatum signed the agreement with a man by the name of—this looks like "Blair"—whoever that may be; I don't know him. At the same time Tatum, representing himself to be empowered with the right to appraise the lands, made a tentative arrangement with Osborne for that purpose. The exact amount of that arrangement is somewhat surrounded in mystery, somewhat in doubt, and therefore I do not use it. However that may be, it was not so very long after that until Osborne, after he had thought the matter was arranged properly and that he was going to be paid and recompensed for his land, had to go home for some purpose, or was going home for some purpose, after he had been away for a few days. He feeds cattle here in the valley, largely, and is gone a good portion of his time and devotes a good portion of his time between the two places, going back and forth.

I will go back a ways to make more explicit the situation with respect to your question, Senator, McFarland. On township 5 of this range, Osborne has approximately 900 acres of patented land, and, of course, on this patented land his houses and improvements were put, the tanks, and things of that sort. The tanks and improvements were placed wherever he thought the tanks would do the most good for the purpose of the range, and I may say in passing that all these tanks cost not under \$1,000, and from that on up to \$1,500, or along in there. They were large tanks, such as are in general use throughout that sec-

tion of the country, and are used for storing water for the benefit of the livestock using that particular range.

Osborne, upon returning from the visit to wherever he was, was confronted at the gate of his place by an armed soldier who told him they had taken the place over and he couldn't go in. He was not able to remove the furniture from the house until he had gotten an order and a permit from the commanding officer. Now, probably I shouldn't have any objection to that, as I understand that is a military way of doing things; but in view of the situation that developed prior to that time, it was an aggravating way of going about acquiring the ownership of land.

In August of 1942 Osborne was served with a petition of condemnation. Simultaneous with the filing of this complaint or petition, the authorities who were in charge of the operation up there secured from the Federal court an order for the immediate possession of these lines.

Senator McFARLAND. That would have been shortly after this bill was passed, wouldn't it?

Judge SHUTE. About a month after the passage of this bill.

Senator McFARLAND. I believe the President signed it some time in July.

Judge SHUTE. The bill was passed on the 12th of June 1942, and became a law on that day.

Immediately the military authorities proceeded to do with this land as they pleased. Then it became known that all they wanted for it was this township 5. As I have heretofore stated, all of his living water—he had some beautiful meadows—all the improvements and practically everything of any moment at all were upon this township 5. They proceeded to fence it. Then they came back about that time with an offer of compromise—I am not sure about this exact figure; I hoped Mr. Osborne would be here, so I might get it—but I think the offer was \$6,400, that they offered for this entire township, or township 5, eliminating completely the west half of it, and putting the fence down on the line between townships 4 and 5, thus making it impossible for Osborne to use township 4 since, as I have heretofore stated, there was no water upon it that would support the cattle that he wanted to use for that time.

Now, going back just a little, he had a forest permit on the forest for 472 head of cattle.

Senator McFARLAND. Judge, I would like to state this, if I may interrupt you, that it was thoroughly discussed at the hearings on this bill, and it was thoroughly understood by the War Department, and everyone concerned, that frequently the taking of a part of a range might make the whole of a range valueless to the owner.

The CHAIRMAN. That appraisal should take that into consideration.

Senator McFARLAND. That was thoroughly understood by everyone concerned in Washington.

Senator HAYDEN. We had some difficulty in making them understand it, you remember, Senator McFarland, wherein the Gila Bend case left Tom Childs' house and well just outside his grazing permit? That case, however, was just the reverse to what you are talking about here. Tom Childs was left with water and no place to put his cattle. Here they take the water, and there is no place for the cattle to drink; so the range is useless.

Congressman MURDOCK. I would like to verify the statement my colleagues have just made. Such was the understanding, at the other end of the Capitol, in the enactment of this law.

Judge SHUTE. They shouldn't have much difficulty in understanding that. If I am correctly informed, about all you can find in Washington is lawyers, especially in connection with these different departments, because it has always been the law of condemnation that, if you take a man's property, a part of it, and thereby damage the other property, you must pay for it. That's always been the law. I don't believe anyone would dispute that situation.

I have rather lost the trend of my story, but I believe I had reached the point where Osborne was down to this permit for 472 head.

Senator McFARLAND. Would you rather we would not interrupt you?

Judge SHUTE. I would like for you to make a more perfect record; but do whatever you feel like. I'm a good deal like the story they used to tell about the sausage; cut them off anywhere, and you still have sausage.

Now this permit for 472 head didn't by any means tell the story with respect to what John's right was on these 2 townships because on the patented land that he had on both sections, townships 4 and 5. It permitted him to run an amount in excess of that, which ran the matter up to 654 head that he could use for the season. Well, after the putting of these fences through, and the taking of the east half of township 5—and let me say in extension of that, that it does not embrace exactly the entire township, but so near it we may use them without regard to a few acres—it runs under in some spots, and over in others. After they had fenced it, and had made John this counteroffer of \$6,400 for the eastern township, and the west thus becoming absolutely worthless to John, he had to do something with it; so the Howard Sheep Co., who owned permits both north and south of township 4, was approached. Finally, an arrangement was made whereby, for this west half, or township 4, they paid John \$7,800.

Now, I want to emphasize particularly that on this west township there were no improvements of any magnitude at all. True, it was fenced, and valuable; but the difference immediately shows you how absolutely out of line it was on the compromise, when you take into consideration the sales that have been had.

Now, stopping just for a moment, of course, these things, as soon as we get into them, bearing in mind this has been well over a year now since these negotiations were entered into—after the filing of the complaint, in almost a year and a half since they began negotiations, it created quite a lot of interest in different spots. Much correspondence was had with Senator McFarland, in which I have expressed myself several times. I don't know whether I ever wrote Senator Hayden or not. If I didn't, its the first time I never wrote to him about something.

We have had communications from officials representing the War Department, one of which is particularly interesting, and upon which I might be permitted to comment, bearing in mind that all of the people of Arizona, represented by their individual, wonderful land man, Mr. Williams, here, and other citizens, had been to Washington, and

had an understanding. They told all the people of Arizona about what was going to be done with the wholesale taking of these lands in Arizona. In answer evidently, to a letter which Senator McFarland had written to the War Department, I have before me a letter, dated July 29, 1943, addressed to the Honorable Ernest W. McFarland, and signed by Thomas McRobbins, major general, Acting Chief of Engineers. Probably this letter will explain some things. I will not read it all, but the second paragraph of that letter, which is important to this question, says:

A report from our field representative has just been received which discloses that the appraisals of the land within the above project area have been made on a fair and impartial basis. Special consideration has been given to the cases, referred to by Mr. Stanley Leonard, Phoenix, Ariz., in his letter of June 24, 1943, and in each case it is felt that the prices offered are fair and consistent with the current market values.

Either Major Robbins wilfully misrepresented, or was woefully mistaken in his facts.

Now, he can get on either horn of that dilemma that he wants to. The reason that he makes this statement is this, that on all of these national forests they have consistently recognized these permits as property. Now, the Forest Service, and the forest supervisor, will probably deny that, from a legal standpoint; but whether they do or don't is wholly immaterial because they recognize them. A man may sell or may waive the grazing permit. He can without exception, as far as I know, always secure the permit upon the forest. Now, in order to know whether or not the deal is what it should be, the Forest Service generally requires the filing of these papers and records with them, so that they may know what has been done. In many instances that I have handled myself, the figures upon the sale represent how it was done, usually upon a per head basis; and the amount that was paid would depend entirely upon the character of the range carrying capacity, where located, and would run from \$15 to \$80 per head, from my own experience. Now, it would not have been difficult for Mr. Robbins, or any one of the lackeys, which he has, and I think he has plenty of them, to have investigated the heads of these departments, and have seen at a glance what these permits were worth, if they wanted to use that basis.

Now, these things are usually sold, I may say, in three different ways: first, a man may say, "How much do you want for your range?" "I want so much," without regard to rhyme or reason. That is an old way, that is not followed much any more. The usual, and the way it is most often followed, is, "I have a forest permit for 500 head of cattle, and I think it is worth \$30 a head," or whatever they may agree on. In my own experience, that has run from \$15 to \$80 a head, short-season permit. A short season up there, and that drops down to an ordinary scale, because it isn't a year-round operation. But, on the other hand, it represents a grass country, where they can put their yearlings and cattle in, and get them ready for market during the summer months; where ordinarily the country is covered with grass and feed for them. But, however, that may be. If they didn't want to take those figures of so much per head, it would have been a simple matter for those who wanted to find out the value, to have found out what the return would be upon that.

For that purpose, I have some sales here which have taken place in this area: E. M. Smith, Hibbard, 714 head, sold for forty-eight-thousand-some-odd dollars, which equals \$67 per head for the 5-month period; or \$28 per head for the permit.

The CHAIRMAN. What was the date of the sale?

Judge SHUTE. That date was 1941, in April or May. These figures, no matter what they may be, the longer back they are the less they would be. Since the migration of the dudes, they have been going up with mighty leaps and bounds.

We have another one here: Miss Fry, 547 head sold for \$19,000, or \$34.73 per head, for the same period of time, in the same area. Here is another one: 245 head, \$90 per head year-long, or \$38 per head, which was turned down because they wouldn't take it. Another: 541 head, \$63,910, or \$118 per head year-long, \$49 per head for the 5 months. Travis, Miller: 400 head, \$18,000; \$45 per head for the 5-month period. The total of the 5 sales averaged \$38.94 per head upon that basis.

Now, I wish to say that in leaving that question of value, and how it might have been arrived at, that is the very thing that these people would have discovered had they seen fit to go to the heads of the departments and ascertain the actual sales that had taken place of similar ranges in that vicinity.

The CHAIRMAN. Now, these sales and records are on file in the local offices, the grazer's office, the forest ranger's office?

Judge SHUTE. In the forest supervisor's of each of these forests.

Senator MCFARLAND. I might state in that connection, Judge, at the hearing the statement was made there in response to a question of mine as to policy, whether they were going to pay the man for the use of the premises during the duration of the war, or whether they would buy them outright; and the grazing authorities said they wanted it so they could have authority to pay them a price that they could go and buy lands and grazing permits in other places and set up in business in another place.

Judge SHUTE. That is the word that came out here. That was the word that most all of these cattlemen received.

Senator MCFARLAND. You may be sure Mr. Williams gave you the correct report on that matter. All the departments were represented, and when this bill was drawn up, it was agreed to by our representatives in Arizona, and agreed to largely because of the attitude of those in Washington in the War Department, in the grazing department, and in every department.

Senator HAYDEN. And the Attorney General's office.

Senator MCFARLAND. And representatives of the Attorney General's office. The only objection that was made to this bill—Senator McCarran, you can correct me if I am wrong—was a fear of Senator McCarran that, because the bill did not set up machinery for court action, they would not give the cattleman a fair break.

The CHAIRMAN. That is right.

Mr. WILLIAMS. The Senator's statement is correct, and we had all interested parties at those conferences. It was decided that the settlement would be a fair per animal unit basis; that, if they had to go elsewhere for the duration, they could continue in the cattle business there, or return after the duration on their own premises, if it was not a per-

manent installation; and they would be paid sufficient to set-up in the cattle business later; or the revenue would be the same for the time they were dispossessed so that when they came back they could continue in the cattle business.

Congressman MURDOCK. To confirm that, Mr. Chairman, it was pointed out in all hearings that meat production is a part of the food production, and vitally a part of the war effort, and that this was a part of the war effort the same as the establishment of gunnery schools and bombing ranges.

Judge SHUTE. Now, that just about concludes this first illustration, this first example, except that I wish to say Osborne has never received one dime for his stuff. He has been kept out of the possession of his land, except what he got out of the sale, which he himself accomplished, to the Howard Sheep Co. of township 4. I may say that is the situation as far as I have been able to ascertain. It has been fairly illustrative of the way most of those cattlemen up there were treated. But I do want to use one other illustration that I think is very illustrative of the high-handed methods that these men will take, and which is another fine example of what will happen when you pin a tin star on the best citizens of the world, or place a gun in the hands of some man with the power to use it. He will run over you roughshod. They seem to think that is the thing that should be done.

This second illustration is one I take a considerable amount of pride in—it is a small thing. I mean by that I like to tell it.

A young fellow by the name of M. D. Moeller, he is an airman. Here is the boy now. I am going to tell this story and then you can shoot at him, because I think he can tell it better. Anyhow, he is flight instructor at Thunderbird No. 1 Field, Phoenix, where he has been training these boys to show the Japs and Germans what bombing in airplanes really means.

He has been working along, and he decided he would like to have a place where he and his wife could go in the summer for a vacation and at the same time have a place to live on. Proceeding up near Flagstaff, 6 miles from Flagstaff, east from Mr. Osborne's allotment, and under the same jurisdiction, he paid \$2,000 for 120 acres of land. I think he paid all the land was worth. At least that was his own business and the business of the man who was selling it to him. Mr. Moeller was approached in the same way that Osborne was approached, and, I suppose, with the same weasel words, induced to say, "Everything is lovely; I want to participate; I want to do what I can to further this war effort." He agreed that he would take for his land just what he had paid for it, \$2,000. He was going to improve it. He bought it in August, and he was approached in December. I want to say that, so it cannot appear that he in any way was speculating. He wouldn't know the meaning of the word. He was buying it for the purpose of a summer home.

He agreed to take that amount. A little later the authorities came back and said they had had the matter appraised and offered him \$2,000 for it. He was rather curious to know why this \$2,000 would be the exact amount. They said they had gone to the recorder's office up there and found, from the revenue stamp on the deed, that was what he had paid for it. An appraisal was so near it that they made it \$2,000. He thought he was going to get the money. I don't know

whether he had spent any of it or not. Not very long after that he found out they had changed their minds completely about it, and they came back and offered him for that land, as a compromise measure, the magnificent price of \$3 per acre, or \$360 for the land. Needless to say, he refused it. It has been my understanding that he has not gotten a dime out of it either.

Now, let me review for a moment how this affects me in representing these different people. I recognize the power of the Federal Government, and particularly do I recognize the power of the War Department in time of war. All of the machinery, taking and paying, is in the hands of this War Department or in the hands of some of the other governmental agencies who have been given the power to condemn and to take, or to take and condemn. Men like Osborne and men like Moeller, who are fairly illustrative of the entire cross section of the citizens who have been dealt with, they can ill afford to rent the courts, because they know that behind the governmental agencies with whom they are dealing are hired paid attorneys, who can take the matter to the Supreme Court of the United States if they want to, which is a long process, and in the end they might get something out of it; but the day is long and the road is rough.

Senator McFARLAND. May I interrupt you right there and state that is one reason we didn't try to put anything in the bill in regard to court actions. In the first instance, we had the Government officials against us, which made the passage of the bill problematical. If we had tried to do it, the chances are we wouldn't have got it passed. But particularly our people, our representatives, came to us and told us that the ranchers did not want to go into court. All they wanted was a fair settlement; to get the money and go on to someplace else or buy something else. What you are saying was told to the people in Washington at the time the bill was passed.

Judge SHUTE. Well, it is now being put into effect.

Now, realizing long ago that the probability of getting anything for Osborne, or one or two other clients that I represent—and I wish to say here, I do not represent this boy Moeller in his effort; I happened to know about that, that about what the effects are—it just seemed to me there was the one thing to do, get in and have the matter adjudicated. Whatever they would say we were entitled to, we would be satisfied with it upon that score, and the only score we had fear upon was that the attitude of these officials meant that we probably would never be able to get a dime until the end of the road.

Now, what has brought that about? I do not know. I've had a motion, a couple of times, to set a couple of these cases, and I haven't been able to get my motion set. My motion has been presented, but it hasn't been set. There may be a justification for that, on account of the work in the courts. Maybe, in view of the fact that we were just entering the summer period, caused the courts to stop and hesitate, in view of statements to the effect they were trying to work these things out. I hardly agree with those statements. I wish to say, if they had a little more time we'll be worked out entirely, to where we won't get anything.

I think, Senator, that is about all of my statement. I'd be glad to answer any questions.

I wish to say these actions have been brought under the Second War Powers Act, and I know, or at least I think I know, what it contains.

I see no reason why these men should be treated like they are, particularly in view of the fact they were all so anxious to cooperate and aid in the effort to carry on the war successfully.

The CHAIRMAN. Where is the place of residence of the general whose name you mentioned?

Senator HAYDEN. Robbins is assistant to Major General Reybold. He signs the mail when the General is out of town. His name is Thomas M. Robbins.

Senator McFARLAND. He's in Washington?

Senator HAYDEN. Washington, D. C.

Let me add this, that in talking with officers of the Land Division of the Office of Chief Engineers I have found, in some instances, a disposition not to settle; but to let a local jury determine the value, the implication being, of course, that the case can go promptly to trial, and the jury can fix the amount in a condemnation. If the dispute can't get to trial, then the whole process is blocked. What is surprising to me is that there should be opposition on the part of those representing the Government to letting a jury pass upon the values, in a condemnation proceeding.

Judge SHUTE. Well, Senator, maybe I made the wrong impression. I don't know. I know that in urging my motion for setting I was rather emphatic about it, and Judge Ling said we shouldn't do anything which would in anywise interfere with the war effort, and stated to me he had been trying cases over in California, some of which had been pending for a period of 3 years. That didn't sound very good to me, so I immediately suggested that probably that was due to the fact the work over there was congested. He said it was probably true; but it had no application to Arizona, since the work in Arizona is not congested, at least, to the extent that we ought to be delayed in going to trial. He did say, however, in most instances where they had left those matters to the juries, the juries had not found an amount for the owner in excess of the amount that had been offered.

In many instances they found less. But that is all right; that part of it. We must take our chances with the jury. I did not feel we would have much danger, in any of the cases that I represent, or either of the two instances that I have recited to illustrate the protest which we made over the treatment we are receiving.

Senator HAYDEN. There is an old saying, "All injustice lapses with time." If delayed long enough, all the parties would be dead. I am just stating that the policy of the Army Land Division as indicated to me, was to let a jury of the vicinity, determine what the value of the land is, and then promptly pay the bill." I can't understand why there is any reason for putting off a trial if that is the basic attitude.

Judge SHUTE. Of course, that would be the theory upon which I would try to get my case set, Senator Hayden. I am as well satisfied, as I am telling this story, that there are lawyers enough mixed up in that so that we won't get final judgment until we have gone through the usual procedure, at least through the circuit court of appeals.

Senator HAYDEN. Let me interrupt there. We negotiated for this law with the distinct understanding, as far as the Department of

Justice is concerned, that it was to be fairly administered. We had difficulty with lawyers who were utterly inexperienced in respect to western conditions, to get it through their heads just what we were driving at. But we finally did, and they then became enthusiastic advocates of the bill, and helped us out materially. It may be true there would be a minor official of the Department of Justice who would like to drag out his job; but I don't believe, once you have got the cases to the jury, it would be difficult to get a settlement. You starve a man to death by denying his subsistence.

Judge SHUTE. You must remember, all the time these things are dragging forward, being turned over, and hashed and rehashed, you're building up a psychological situation in the minds of the people. They absolutely refuse to go anywhere, except upon their own estimates or appraisals, that are made in some way unknown to me, and I tried my best to find out how they arrived at that figure, approximately. They told me it was none of my business; in a nice way, of course, but that is the way I was told. I've tried to see if we couldn't get together and make an offer to compromise. In one instance, I did get quite a ray of hope, maybe I'll be able to get some place. But in this *Moeller case*, and the *Osborne case*, we have not been able to go anywhere; and you can see from the difference in the appraisals made how hard it's going to be to get anywhere.

The CHAIRMAN. Who, in your judgment, makes the appraisals, as far as you can determine; local people, or people from the outside?

Judge SHUTE. Senator McCarran, I really don't know. Russ Tatum acted for a while and in one instance we were sent to the man we were talking about yesterday, in the Lawyers Tower, to take the matter up with him. Whether he did it or not, or how it was done, I don't know. When I talked to the attorney, I was told that was a matter they could not divulge. In another instance they could not divulge what basis or what figures they were using, so it was whistling in the dark, so far as we were concerned.

The CHAIRMAN. Mr. Wilkinson was here before us this morning. I think that was before you came in. He gave us, preliminarily, the first statement that he was precluded from divulging the method of appraisal, or how it was brought about, or what value they had arrived at, and said he wanted the committee to protect his office in that. I'm not altogether certain that the committee is going to take any such stand whatever. The committee is going to take the stand that it will bring to light the truth. We are going to take a stand all the way down the line on that, and we're going to try to bring the light out, so that we can find out whether or not these things are justified. If they're not justified, we're going to try to find a way to justify them. It may take a little time, and a little drastic action, but the committee is not afraid of its position.

Senator MCFARLAND. Judge, just one other question: I don't want to comment on the case that is in court, because I don't know anything about it, but does that case involve a patented land, involve patented land, or do some of those cases involve the grazing permits?

Judge SHUTE. They involved both. I think the basis of their appraisals has been on patented land. They took the position, when I first began to treat with the situation, that as far as the State land leases, of which there is one here—section 18—were concerned, and the

forest lands were concerned, we didn't have anything, and therefore it was not worth anything, and therefore they wouldn't pay us anything.

Senator McFARLAND. They recognize in Washington the vested rights in the State leases in the permits under the Taylor Grazing Act. They wouldn't recognize the vested right that you could go into court and recover on, but it was always recognized in Washington by everyone that these cattlemen had a right that should be paid for, and the Congress of the United States recognized that. Now, if these people are not carrying out the intent of Congress, I am very sorry, because it was the intention of Congress, when this bill was passed, that these people have a fair price for their property.

Judge SHUTE. Well, the passage of the act of July 12, 1942, was——

Senator McFARLAND. That is the act that I say we recognized they did have a right there, for which they should be paid.

The CHAIRMAN. I am going to ask at this juncture if the Forest Service cares to enlighten the committee on any knowledge bearing on these cases.

Mr. KNEIPP. Mr. Chairman, in relation, for instance, to the Navajo ordinance depot, the Forest Service had no prior knowledge; in fact, it was pretty much accomplished by the time we heard of it; and from that time on, as far as I am aware, the Forest Service had nothing to do with the appraisal of the land.

The CHAIRMAN. I am wondering if at any time the Forest Service, or anyone connected with the Forest Service, was consulted by those seeking to take the land.

Mr. KNEIPP. Going back to the act of July 12, the only part the Forest Service had in that was to go there before the committee and express the opinion that, where a cattleman or sheepman was deprived of the use of a part of his range, he did suffer a real loss, and ought to be compensated for it. We had no part in determining what the method of payment should be, or how it should be computed. We did make some suggestions to Col. John J. O'Brien, who was in charge of this real-estate work for the War Department, as to the principles of evaluation. But I don't think they were, in fact, I am sure they were not, adopted in full; and it was some time before we were able to determine what method they had finally decided upon. The method that was discussed most generally was that the compensation would be on the basis of what they term damage appraisals; in other words, what was the outfit worth before the range was taken away from them, what was it worth after the range was taken away from them, and the difference between the two represented the damage sustained by the livestock men. Whether that is the principle they are following, I cannot say, but that is the principle we were discussing, the last time I heard about the matter.

Senator HAYDEN. That goes to the very heart of the situation. If you can't know what instructions were given to the appraiser; if he is simply acting on his own judgment, and making guesses, without a directive that tells him how to arrive at his conclusion, you are going to have different results in different instances. I think, Mr. Chairman, what we've got to find out before we get through with this hearing is the basis for such appraisals, and what kind of instructions came from on high down to the man who was on the ground making them.

The CHAIRMAN. Certainly there can't be anything confidential or secret in that. That is a policy.

Senator HAYDEN. One can understand perfectly, if a law suit is anticipated, a Government lawyer would not disclose his case to the opposing attorney before they went to court; but that hasn't anything to do with the basic principle upon which an appraisal should be made. That certainly should be determined by the War Department in the instructions given to the appraiser.

The CHAIRMAN. Are there any questions of the Judge, while he is on the stand here? Does any member of the Land Department here desire to question him?

Thank you, Judge, very much, for that very enlightening statement.

I wish to say that I made an error this morning, in opening the proceedings. I promised Mr. Havell of the Land Office that he might correct or modify a statement which he made in the record yesterday, and I now apologize to Mr. Havell. He may make the statement now.

Mr. HAVELL. Thank you, Mr. Chairman.

Yesterday, I made the broad statement that mining claims could not be established on a stock driveway. That was the provision of the original act, but I overlooked an amendment to that act that permits of the establishment of mining claims on stock driveways, with the restriction that it shall not interfere with the surface use of the land any more than is absolutely necessary; and such provision is carried into the patents.

Thank you for the opportunity of correcting my statement.

The CHAIRMAN. Judge Shute, will you come forward again, please? Mr. Sterling Hebbard, will you also come forward? Will you kindly state your name and residence, and your business.

STATEMENT OF STERLING HEBBARD, PHOENIX, ARIZ.

Mr. HEBBARD. My name is Sterling Hebbard, and I live in Phoenix, Ariz. I'm in real estate and ranch lands.

The CHAIRMAN. Have you had experience, or occasion, to observe these transactions whereby the Federal Government, through the War Department, or other agencies, seeks to take private property for public use?

Mr. HEBBARD. Yes, sir.

The CHAIRMAN. Will you kindly state to the committee, in your own way, whatever you may know about it, and what experience you have had, or what you know, if you know anything about these systems or plans or policies adopted and applied?

Mr. HEBBARD. I know nothing of the system or policy applied by the Government in arriving at their values.

The CHAIRMAN. Is there anything else you wish to state, with reference to your experience or knowledge?

Mr. HEBBARD. I have sold a great number of these ranches throughout the State, and the value of them, the sales price, should determine the value of the property. Taken over a reasonable length of time, there have been a number of sales in the various vicinities.

The CHAIRMAN. Those are private sales?

Mr. HEBBARD. Yes.

The CHAIRMAN. In the various vicinities. Now, in negotiating these transactions between the Federal Government, or an agency of

the Federal Government, and a private owner, did you bring to the attention, or did you have occasion to bring to the attention, of the representatives of the Government, the sales made in those localities?

Mr. HEBBARD. I have never discussed it with any member of any Federal Government agency.

The CHAIRMAN. What experience have you had? What have you observed of the manner in which it is conducted?

Mr. HEBBARD. From what I have observed, along the same lines as Judge Shute brought out, that the prices that have been offered have, in my opinion, not been in accord, at all, with the fair value of any of the properties, in any of the instances that I have heard about.

The CHAIRMAN. Did you make your opinion or conclusion known to those who were purchasing?

Mr. HEBBARD. Not the Federal agents. I never discussed it with any Federal agent.

The CHAIRMAN. Have they ever attempted to discuss it with you, with the idea as to getting information as to the value and the specific locality?

Mr. HEBBARD. Yes, one time there was a gentleman from San Francisco who called me up and asked me to come to the Lawyers Tower Building, and offered me a job as a Government appraiser.

The CHAIRMAN. Did he discuss with you the method of making the appraisal?

Mr. HEBBARD. No, sir.

The CHAIRMAN. Did he go into the matter, at all, as to what you would be expected to do in the way of acquiring the land?

Mr. HEBBARD. No, we discussed compensation, and that's as far as we went.

The CHAIRMAN. You didn't go into the Service?

Mr. HEBBARD. Not for \$2,400 a year, and pay my own expenses.

The CHAIRMAN. Is there anything else you wish to say, based on your experience, for the enlightenment of the committee?

Mr. HEBBARD. Well, the various ranges taken over by the Government for their various purposes, from what I have heard, the prices offered have been within—I am guessing at this—10 to 25 percent of what a fair market value would be on that property, at the present time.

The CHAIRMAN. That covers the whole range, of which you have knowledge?

Mr. HEBBARD. Yes.

The CHAIRMAN. The whole range of transactions of which you have knowledge?

Mr. HEBBARD. Yes, sir.

The CHAIRMAN. And you base that statement on a number of years of experience in the line of business which you are in?

Mr. HEBBARD. I have been in the business a great number of years, and appraisals, selling, all over the Southwest.

The CHAIRMAN. Are there any questions anyone cares to propound to Mr. Hebbard?

Senator McFARLAND. I have one question. Do you know of any cases in which a satisfactory settlement has been made, from the standpoint of both parties, the party that had the range?

Mr. HERBARD. Not to my personal knowledge, there hasn't been any settlements.

The CHAIRMAN. Thank you very much.

Senator HAYDEN. Mr. Chairman, Mr. Wilkinson has brought us here, and I have had an opportunity to glance over, the general policy statement with respect to Army appraisals. From reading it, it is quite evident that it is based upon the acquisition of property in the eastern part of the United States, where range conditions do not exist at all. For instance, it says, with respect to farm lands—

Where farm lands are concerned, inspection should include a particular examination of the cultivable fields in order to determine the type, character, quality, of the soil, their fertility and other conditions contributing to the land values.

There is no indication that they were thinking about anything else except tillable lands. That is the only reference I find here to lands. The instructions to the appraiser are—

Since the appraised evaluations are confidential departmental information, the appraiser must be careful not to divulge his findings and opinions to anyone except his immediate superior or other appraisers engaged in the same project.

This indicates that the appraiser should fully inform himself, in case he is later called upon to testify in court as to why he arrived at the conclusion, but not until that time. My judgment is that there was no contemplation of the condition such as described here this morning in handing down the general instructions, as far as may appear on the printed pages.

Senator McFARLAND. As far as that instruction is concerned, it applies to permits under the Taylor Grazing Act. I think it is clearly improper, because they have no right—the Government does recognize a right to go into court and condemn, and they ought to put their cards right on the table, where the people can see them and see the basis for them.

The CHAIRMAN. Are there any questions coming from those present, either from the departments or others present? I want to say again, don't hesitate at any time to ask a question from the audience. We will be very glad to hear you, and you don't have to worry about how you are going to have to propound the question. We'll understand you some way or another, so don't worry about that.

Is Mr. Howard Smith here? Mr. Smith, your name is given to us here under this heading of "Military lands," and we would like to know what experience or observation you have had with reference to the acquisition of military lands in the State of Arizona.

STATEMENT OF HOWARD J. SMITH, PHOENIX, ARIZ.

Mr. SMITH. I've had very little, Senator, and I don't think I could elaborate on the statements that have been made by others here to the advantage of this committee. I think it has been covered by others, and anything that I might add would be entirely repetition.

The CHAIRMAN. Very well; thank you, unless there is a question.

STATEMENT OF J. H. MOEUR, ATTORNEY AT LAW, PHOENIX, ARIZ.

Mr. MOEUR. My name is J. H. Moeur. I live here in Phoenix, and I am a practicing lawyer, and, like Judge Shute, I spent a considerable time in the practice of land, mining, and irrigation law.

If the committee please, the War Department acquired a considerable acreage of land for target range in Mohave County. Evidently they let it be known they were contemplating the acquiring of these ranges about 2 years, with the result a good many stockmen in that country were very much disturbed, and some of them did not attempt to restock the ranges. They sold some of their cattle because they thought this thing was coming, and thought they were going to be protected, because they knew of the passage of this act in Washington that has been referred to here by Mr. Jameson, in particular, one of the leading stockmen in this country. He was in Washington with Mr. O. C. Williams when the act was passed, and they all thought they were going to get, shall I say, a fair deal.

Senator McFARLAND. Mr. Jameson testified before the committee.

Mr. MOEUR. I represent him and his partner, John Neil, Mrs. Gardner, and Lester Pyeatt. Also I have been in conference with most of the other people affected by the target range, including Mr. Lloyd Lakin, who is here today, and may have something to say about it.

As I say, they let it be known they were contemplating these ranges, and made no effort to determine what would be paid for the using or to determine what they wanted. The matter was referred to the War Department in Washington, Board of Engineering, without any previous notice. The matter then having been referred to the proper legal department, they served Mr. Neil here in Phoenix with an order for immediate possession. They didn't even tell these people they were taking this range over. The suit was filed Saturday, and they started Sunday using arms and told these people to move off. The people didn't have a chance to protect themselves. Most of these people were living and occupying and using these ranges; most of them living on the ranges, many of whom have been on it for a good many years. John Neil has been in business up there for 50 or 60 years. I'm not going to call your attention to all of these; some of them are so much out of line, Senator. The Senator here says he's sorry this act will not work. He has reason to be sorry.

The CHAIRMAN. You may feel at liberty to present it vividly, by cases and examples, if you will.

Mr. MOEUR. I'm going to cite two or three cases, briefly give you the facts and figures, and show you what happened in two or three cases that are typical of the other cases involved, which to my mind was pretty bad. As I said before, I am not blaming Frank Wilkinson or Harry Embach here, or the local office. Somebody else is grossly to blame for the inadequate compensation.

Senator McFARLAND. That is what we want to find out.

Mr. MOEUR. It's up to you to find out, because we couldn't find it out.

When these suits were filed and immediate possession was begun, we contacted the local office to find out what was it all about. Well, at the conference in my office were Mr. Wilkinson, Mr. Carson, representing the legal department, and Mr. Hemenway of the Santa Fe Railroad Co.; and we were told that offers would be made to us under this picture. The offers were made and were so grossly inadequate that we refused the offers and asked them to renegotiate. We didn't get far with the renegotiation. Let me say first, preliminarily, most of these ranges, most of these rights affected by those target ranges up there,

are composed of approximately one-half of land owned by the Santa Fe Railroad and the other half was under grazing permits, particularly in the grazing district.

I am very apprehensive about trying any of those cases in court. Carson told us, frankly, if we went into court they would be compelled to take the position, as far as the case in court was concerned, that no compensation would be allowed for the permit. They held that in the grazing district any compensation for the holdings of their permits would have to be allowed; but while the War Department negotiations—the court itself did not allow that. I rather think he is right. I think maybe—in spite of the congressional delegation not agreeing—I am apprehensive about the results of one of those cases in court.

Senator McFARLAND. Let me interrupt you right there. At the suggestion of Senator McCarran, here, any right that may have existed was protected by the bill; the bill did not take any right away from the people. Senator McCarran would have opposed the bill if we had taken any rights away from them. That's one thing he thought ought to have been in the bill, and would like to have seen in. If we had thought we could have gotten—

Mr. MOEUR. Your bill provided that the War Department had the authority to negotiate and take things into consideration, and should take them into consideration. Whether the court would allow that damage to be proved or not, I question very much, because every permit on section 15, Taylor Grazing Act leases, carries the provision that if the United States Government needs that land for any purpose they can take it without compensation.

I'm going to give you a couple of illustrations, in order to better illustrate it. I want you to see the way these ranges are cut up. I will present to you here a plat, which will give you the illustration, because I think you have entirely overlooked what might happen to the rest of the range.

This particular plat that I am now referring to, for the sake of the record, is a plat of the Kingman aerial gunnery range. This is the Yucca gunnery range.

Mr. MORGAN. Since my property is in that area, may I have the privilege of looking at it?

The CHAIRMAN. Come forward now and look at it.

Mr. MOEUR. I call your attention to one particular range in here, this Piatt range. This is included in this gunnery area, a portion of that range which is exactly in the center there, having left a tract on each side. Do you get the significance of this? I am going to give you figures, and facts of what happened on this Piatt range.

The establishment of the Yucca gunnery range, owned by Piatt—I refer first to the lower range, 14 north and 18 west, consists of 29 sections in this range down here. As far as the upper range is concerned—at the time this condemnation suit was filed Piatt had no cattle on this range, it was only partly fenced and he used it as a winter range, and had been using it for years. In the upper range at the time this suit was filed Piatt had approximately 300 head of cattle ranging there. His home is on the eastern part of that and was not taken in by the gunnery range. The records of the Phoenix grazing office indicate that on this particular tract below the tract he has a permit for 174 head. That is the record of the Grazing Service here.

In the upper range, consisting of 70 sections, he had a permit for considerably more cattle, for 266 head; and these two ranges were used, back and forth, by Piatt. At the time the suit happened he had actually 300 head of cattle on this upper range. Now we asked him if there was any possibility to fence more range off, over to the railroad by Yucca here, to fence off this portion over here. They considered he wasn't damaged by that and they told us we couldn't fence that. I say that the eastern part of the range is practically rendered useless. For some unexplained reason the cows insist in drifting back onto the other side here. They offered him the sum of \$971 for 3½-year period, out of which he would have been compelled to pay the railroad leases for that 3½-year period, which would have totaled \$1,083. That was the original offer.

If I am not correct in these figures, I notice Mr. Wilkinson and Mr. Embach have come back and they can give you the figures on this picture. We tried to work out a joint use on these ranges. They refused to consider any joint use on the lower range; and as far as I know, I don't know whether he had signed up or tried to work out joint use up above here. After the suits were filed they indicated that the cattle might use these ranges and range partly, at least 2 or 3 days a week. By that method some thought we might get some use out of these ranges. The cattlemen thought they would have to sell the herds and go to raising steers. They could, by running steers out 2 or 3 days a week, get some benefit out of this. As a net result, when we got through with this picture, after a lot of these negotiations and sending to Washington two or three times, we offered to take what they originally offered us, and be allowed to use this range in joint use; but they came back and said, "No, we can't do that." Those local boys would have done that if they had had an opportunity to do so. If you get joint use you have to pay the grazing fees, and of course you have always got to pay your railroad leases; consequently the matter comes down to practically nothing as far as that north range is concerned. On the actual overhead, in final analysis, on these 70 odd sections on the north range, they offered him \$827, and his grazing fees and Santa Fe leases for the same period came to \$552.15; a net use to you, for the period of 3 years, \$275, which was what they offered him for that, if they took exclusive use. Whether they did take the exclusive use was a question.

The second proposition they offered him, under the joint-use proposition, taking that portion of the range, they would pay him annually the sum of \$126.50 grazing fees on that portion of the range; and the railroad leases would amount to \$130.55, or would have cost him a net of \$4.05 for the privilege of the Government having the privilege of using that under what they offered him for joint use.

The CHAIRMAN. And he was deprived of the right of letting his cattle drift in?

Mr. MOEUR. He could use it to some extent, but it would cost him \$4 and some-odd-cents a year.

Senator HAYDEN. I assume that if any of the cattle were killed he would take the loss?

Mr. MOEUR. He assumed all risk of personal property and cattle.

On the lower range, the only offer they ever made him—they were going to take this over exclusively. I hand you this paper from the

War Department, from their engineers' department. The total amount offered him is \$4.65 less than it cost him to pay his railroad leases in that tract there.

Mr. LLOYD LAKIN, Phoenix, Ariz. In addition, was he not required to sign a relinquishment or rather a responsibility from any danger or accident that might be incurred through the use of the range? Isn't that true?

Mr. MOEUR. That is true; the assumption on his part of anything that might happen. What is more, they do not agree to put the improvements back in the condition they are in or anything else.

The situation with reference to Mrs. Gardner's range was practically the same, except a little worse. That Gardner range is shown here. She is the widow of a man who had been in the cattle business, who had a son, Kenneth Gardner, who runs these two places together. The proposed target range took in only a portion of their range, the west portion. The east portion of it remained out. Again, they could not get provisions for fence or anything else, nothing. They finally moved their cattle several miles north to the Charlie Michael ranch, and paid \$1.17 per head per month for pasture. The Michael range was sold shortly after that, and they had to sell their cattle; had sold their cattle and gone out of business and they never received a dime. It cost them \$500 to remove those cattle and get them up to this upper range, and they're never going to get them back again. The offer made to Mrs. Gardner, and she finally signed up, they told her she was aiding the war effort, but the offer was way out of proportion. The Gardner holdings consisted of approximately 126,000 acres of land, approximately 50 percent of which was already leased, 5-year cancellable railroad leases.

The CHAIRMAN. And the balance?

Mr. MOEUR. The balance was the permit from the Grazing Service. In some of these instances, some patented lands. Most of those ranges—that is the difficulty up there, you have got a range where the Government owns half of it already and the other half is by the railroad. Mr. Hemenway will tell you they have recognized these railroad leases as an ownership in the property as long as people pay their rent, renew them again, operators of the range and the improvements on there. Mr. Lakin will tell you he bought a range for \$30,000 and spent \$26,000 for improvements on that ranch, and they took it as part of this range. He can tell you what he got for it.

Now, Mrs. Gardner had, as I see it—

The CHAIRMAN. Let me ask you a question right there. Are these holdings under the Taylor Grazing Act permits or licenses?

Mr. MOEUR. Permits from the Grazing Service.

The CHAIRMAN. The permit, then, is a 10-year permit? The reason I asked is that the status has not yet been arrived at—was it under annual licenses?

Mr. MOEUR. These are 10-year permits. For instance, Mrs. Gardner's first is dated July 1, 1941, expiring June 30, 1951. That is answering the question. The designation of that permit is number 1-9DG1745. Under that permit, under those two joint permits, they have 600 or 700 head of cattle; permits have been issued on the basis of 60-percent carrying capacity of this range up there. The gunnery range on the Gardner range takes in, out of the 126,000 acres, about

57,000 acres on the west of that range. The break-down on the offer is this: The amount offered for that part of the ranch didn't take into consideration what is going to happen to the rest of the ranch. The amount offered, that part of the ranch, they take this 3½-year period, \$3,330.50, out of which the Gardners are compelled to pay State land leases and railroad leases in the amount of \$2,100, which left them in the neighborhood of \$1,700 for 3½ years for 57,000 acres of land. And that is the only offer ever made.

We came back and offered to take the \$3,330 if they would give us the joint use, and they answered "No; if you get the joint use you have to pay half the grazing fees on this particular range that you occupy just the same." When we asked them under the joint use to give us any assurance that they would continue to use it the same as they were now using it, what would happen if they started to using cannons instead of .30-caliber machine-gun bullets, they wouldn't tell us what they are going to do. They said they were going to take it and do what they pleased with it.

Now, I appreciate that is all the War Department can do; but if you accept a proposition like that you have to take full responsibility for anything that happens to you. A good many of these people signed up, and they don't know whether they are precluded from further release or not. I don't blame these local men; if these people had been let alone, some decent proposition would have been worked out. Somewhere down the line somebody slipped, and it has been bad. They practically bankrupted Mrs. Gardner on her range up here, and have hurt everybody else.

Now I have tried to find out what the basis of these appraisals was. I was met with the same situation met here this morning. At one time I was informed that these were appraised on the basis of the actual carrying capacity of the particular portion of the range taken in by the target range. That was unofficial. I was told, and I have some correspondence, that that was based on \$30 per head carrying capacity. I told the man who gave me that information that if he could buy those ranges for \$30 a head I would quit practicing and, like some of these contractors, I'd go into some of this Government work. We see all around us these Government contracts. There's a lot of money spent in the war effort, and we should all do all we can to further the war effort, and they are doing these things regardless of expense.

Here are people who are actually in business, and have been for years and years, and they seem to want to chisel them down to the last possible dollar, like this little fellow Pyeatt. He hasn't the money to go into court and fight one of these cases; hasn't the money to go in and fight that case and pay the attorney to carry that case on through. All he could ever expect to get out of it would be a nominal amount. It seems absurd to ask him to pay \$4 and something a year and give the Government the privilege of using his range for a target range.

Senator HAYDEN. There are two things that are perfectly obvious: first, so far as the scope and authority of any official having to pass upon these appraisals, the act of congress gave him the widest latitude and discretion to make adequate compensation. The second thing is that there is no question about the fact that money is available to make the appraisalment. We have appropriated for the fiscal year

beginning July 1, 71½ billion dollars for the United States Army, and 2½ billion for the United States Navy; that is, \$99,000,000,000; 99 thousand million dollars to run this war, which is \$300,000,000 a day that is available to carry on the conflict. There is no question about the money being available to make the payment immediately if a just settlement can be made.

Senator McFARLAND. Third, if I may add to the comment of my colleague, it is clear that it was the intent of Congress that a fair value should be paid to these people.

The CHAIRMAN. That is what I was going to say, that at the hearings conducted before the approval of the bill, and before the passage of the bill, the spirit was indicated that Congress desired to express in the law that these people, when their rights were taken away from them, should be paid on a fair and equitable compensatory basis. The whole spirit of the hearings, if they had read the hearings, if they had read the statements made by all those interested in it, would have disclosed what the intentment of Congress was, as to what should be done in the way of fairness.

Senator McFARLAND. They would also have read their own promise of the War Department to be fair.

Mr. MOEUR. I attempted to get the figures on the sale of this Michael ranch. I can't say except from hearsay. I understand the Michael ranch, from which she moved her cattle off, have sold on the basis of between \$60 and \$70 a head on the carrying capacity. All the ranges that I know of, and I have handled a good many sales in the forests and different places for the last 10 or 15 or 20 years, all of the sales I know of recently or proposed sales, have been on the basis of \$60 and \$70 per head carrying capacity. The last Forest Service case I handled was for a livestock company permit on the herd. I remember it was around \$55 a head, some 4 years ago. Since then they have gone up. There is pretty good range up there, worth \$30 a head carrying capacity.

Mr. MORGAN. This Lester Pyeatt that you refer to, his lower place: I wanted that, because I surround it on 3 sides. I offered Mr. Pyeatt \$100 per section for his leased rights, and Mr. Pyeatt refused it, saying it was not enough.

Senator HAYDEN. How would that translate into carrying capacity?

Mr. MORGAN. One hundred and seventy-four head for approximately a township; but he refused it, saying that it would not be enough just for his lease rights, and then, of course, I would have had to continue paying the Santa Fe, Pacific Railroad their leases.

Mr. MOEUR. Now, actually, the Government is offering him—there is no chance for him to run the cattle—the sum of \$4 and some-odd cents for the 3½ period; less than it will cost him to pay his Santa Fe leases.

Mr. MORGAN. I would like the opportunity, when time permits, to enlarge a little on my business in that area.

Mr. MOEUR. I think that is all I have to offer at this time, except to say these are typical of the rest of the situations up there. A little more money; a little more of the range may be taken into the target range. Mr. Jameson and Mr. Neil, I think everybody concerned up there; I think Mr. Lakin will tell you the same thing. I would like to have him give you the facts on what they offered him, there on his

range, and what he accepted, because he was a good sport and didn't want to go into court about it.

Judge SHUTE. May I amplify one point that I overlooked, that your conversation has brought out? I did overlook it. It is true that Congress has appropriated billions of dollars to carry on the show, as you expressed it, Senator Hayden. But not one dollar has been appropriated for the purpose of A's, B's, or C's land. It is a general appropriation to carry on this expense. Now, the title to these lands, where actions are brought in condemnation, does not pass until a judgment of condemnation is entered; when you are proceeding under the Second War Powers Act, that is. Title does pass under the act of 1931, when you file your declaration of intention to take it and use it. They have carefully kept away from that declaration of intention to take it, have not filed this declaration of intention to take in any case. So, if the war ends tomorrow, what are these men going to do? There is no appropriation; and they are going to be compelled to go into the Court of Claims where their great-great-grandchildren may at some time in the future realize a dime out of it. That is the situation I wanted to make a point of.

Senator HAYDEN. Mr. Morgan said he would like to amplify his statement.

Mr. MORGAN. First, I just want to state that some of Mr. Moeur's clients are adjacent to my property. Mrs. Gardner is to the south of the property; Mr. Lakin is to the east; and Mr. Pyeatt, this portion referred to as his lower place, you might say, is in the middle.

To state very briefly the history of my dealings in this territory, in July 1941, which, by the way, was several months before Pearl Harbor, I began dealing with the men that had some sections leased from the railroad company there. I finally purchased his leases and paid him \$100 a section for his lease rights and then proceeded to lease some larger area from the railroad company. I finally took in a total of about 110,000 acres, leased from the railroad company and about equal acreage which is Government land, making a total of about 220,000 acres. Now, the first lease I signed with the railroad company was in September 1941.

Then there was another area included later, which lease was not signed until March 1942, principally because the springs in the lease were erroneous, and it was sent back to Mr. Hemenway and was changed, and it was May 1942 before this lease was signed.

In the meantime, I had started arrangements to improve this land. I made numerous trips out there, and wore out an automobile going over the rough roads, and consulting fence contractors, and got them out there to build the fence. Well contractors were giving me prices to build wells. I bought a carload of barbed wire and made all the necessary arrangements, and even made an arrangement with the Santa Fe Railroad Co. to buy water from live land, and discussed, in a preliminary way, the arrangements for water from the Peter Lakin ranch, who have a well right close to the boundary line, investigated numerous springs on what is known as the Chemeluevi Mountain, and my wife and I were prepared to improve the range and stock it. Apparently we had been discriminated against because we were not using the property and did not have it actually in use, but

we were prepared to, and have gone to a lot of expense to get the land into production.

Senator HAYDEN. Just for the record, because somebody is going to read this record who has no conception of this type of range, how many acres does it take to carry a steer in that area?

Mr. MORGAN. Some of that land, according to the graziers, the United States grazer's appraisal, is rated at 2 cows to the section, and some of it is rated as high as 10 cows to the section. On my first lease we took in 54,000 acres of railroad lands and about an equal amount of Government lands. I was given a nonuse permit for 1,140 head of cattle. That was approximately half of the ultimate acreage that I had to take in.

Senator HAYDEN. What is the average annual rainfall in that area?

Mr. MORGAN. I'm sorry, I don't know.

Senator HAYDEN. The average around Phoenix is about 7 inches, in Yuma it is about 3. My guess would be somewhere between those two figures; very light annual rainfall.

Mr. MORGAN. It is lower than here. I imagine it is 3, or 4, or 5 inches.

Senator HAYDEN. I'm asking these questions because some time ago when the township near the Big Sandy were surveyed, they found out that by error a great many of the settlers were living on railroad lands. To obtain patents for the ground in which they were living, Congress had to provide for an exchange. I had great difficulty impressing on the House of Representatives how low the carrying capacity of this land is. Somebody says, "You have acquired the right to use better than 200,000 acres of land," and thinks you are a land baron who is monopolizing the country. But, if they realized that it required a half section to carry a cow, it paints a very different picture.

Mr. MORGAN. I want to point out that I also own cattle range in Yavapai County in Prescott which I have stocked, and which has been in continuous operation, either by myself or my wife's family, since 1909. I was considering this range near Yucca as an auxiliary range. That is, some seasons of the year this range would be good and at other seasons the range near Prescott would be good.

The CHAIRMAN. I missed some of your statement. How did you acquire, or, what holdings do you have on the Yucca range, so-called?

Mr. MORGAN. In July 1941 I bought out a man who held some leases from the railroad company, paying him \$100 per section for the lease rights.

The CHAIRMAN. Did he have the range stocked?

Mr. MORGAN. No; I don't believe he did; but he had paid the fee for the grazing license that he held there.

The CHAIRMAN. That was from the railroad company? Is that right?

Mr. MORGAN. Leased it from the railroad company.

The CHAIRMAN. Paid the railroad company how much?

Mr. MORGAN. I imagine the same amount per acre that I am paying.

The CHAIRMAN. What is that?

Mr. MORGAN. Well, the whole thing amounts to a deal whereby I pay them the lease and the tax on the property, and it amounts to little better than \$2,000 per year, for my holdings there.

The CHAIRMAN. For how many land sections?

Mr. MORGAN. For 110,000 acres.

The CHAIRMAN. And you haven't that range stocked?

Mr. MORGAN. No, sir.

The CHAIRMAN. You are simply holding the range by lease from the railroad company and anticipating stocking the range later?

Mr. MORGAN. I was in the process; all ready to improve it. The fence contractors were out there, and I had bought barbed wire, and I had gone out with well drillers, getting prices on drilling wells, as I stated a minute ago. And I have worn out an automobile, going over the property and hunting the springs and making plans on how to improve these watering places and springs; and had considerable correspondence with the Santa Fe Railroad Co. with regard to purchasing water from them, in one of their watering stations. Then these rumors started coming up about the aerial gunnery range, after I had leased the property.

The CHAIRMAN. How long before you heard of the aerial gunnery range had you leased the property from the railroad?

Mr. MORGAN. I started dealing for the property along in July 1941, and I finally signed the lease in September 1941, which was a few months before Pearl Harbor. I want to bring that out because the impression has been created that some of us were trying to speculate on war business. Certainly I had no hint that we were going to be in the war that early.

The CHAIRMAN. How many cattle were you running on the other range, at that time?

Mr. MORGAN. At the Prescott place?

The CHAIRMAN. Yes.

Mr. MORGAN. At the Prescott place it will carry 200 head the year round. I don't remember, at that time; I probably had 150 head.

The CHAIRMAN. How long had you been running them at that time?

Mr. MORGAN. At that time, those cattle were purchased in 1938, I believe. I wouldn't be sure about those dates.

The CHAIRMAN. Had you taken any steps toward the purchase of cattle to stock this Yucca range?

Mr. MORGAN. I had discussed purchasing some Brahma cattle to put out on there, with different parties, and then, because of the rumors of the War Department taking that area over, I stopped my preparations for purchasing and improvements on there, because I didn't want to spend several thousand dollars there and have it go for nothing.

The CHAIRMAN. Is there any one else ranging, or utilizing the range, on the Yucca range, so-called?

Mr. MORGAN. Not this particular part.

The CHAIRMAN. Any part of it?

Mr. MORGAN. Oh, yes; adjoining me.

The CHAIRMAN. I mean, on the land you had leased from the railroad company.

Mr. MORGAN. No, sir.

The CHAIRMAN. Was any one else using it?

Mr. MORGAN. No, sir.

The CHAIRMAN. It was not being grazed, then?

Mr. MORGAN. No, sir; and because I could not improve the property, I didn't want to build fences on there. Then I thought, per-

haps, I could utilize this property and put it into production, I could run goats or sheep on there.

The CHAIRMAN. How long since that range had been grazed, if at all, to your knowledge?

Mr. MORGAN. Well, I would say probably 5 years. I don't know.

The CHAIRMAN. You know of no grazing on that particular range that you leased from the railroad company within approximately 5 years?

Mr. MORGAN. To my personal knowledge, I don't.

The CHAIRMAN. So that the range had been rested to that extent.

Mr. MORGAN. Yes, sir; you might say it was virgin country. Parts of it were in very good shape; and Lester Pyeatt—Mr. Moeur referred to him—has this little area here, that I surround on three sides, and Lester Pyeatt has been running cattle in that area, which is very similar to parts of my ranch. As I say, I started to buy some goats, because I could run those without a fence. I made the deal to buy the goats, and I paid one-fourth of the money down on this herd, and hired a man to operate them, and bought a pick-up truck. In fact, I went to considerable expense. Then the rumors began getting thicker and thicker about the War Department taking over almost certainly. I dropped the goats.

The CHAIRMAN. What were you offered for the range, if anything, by the War Department?

Mr. MORGAN. I was offered \$611 a year for the use of the range, and it cost me \$2,000 a year for my railroad leases and the taxes.

The CHAIRMAN. With whom did you negotiate, or who negotiated with you?

Mr. MORGAN. Mr. Wilkinson's office; and a man called on me with a lease already prepared, with these conditions set forth. I refused to sign it, and he asked me what he should report back. Well, I told him—

The CHAIRMAN. Who was that man, if you know?

Mr. MORGAN. I don't recall his name. He was sent down from the Los Angeles office, I think, merely to deliver these papers and have me sign them, to be sent over to Phoenix. I told him that I thought the market value of the range was \$6,700 per year, based on the estimated carrying capacity of 1,140.

The CHAIRMAN. Who had made that estimate of the carrying capacity of the particular range?

Mr. MORGAN. U. S. grazier's office in Kingman.

The CHAIRMAN. That, you knew?

Mr. MORGAN. Yes, sir.

The CHAIRMAN. Is there any one in the Grazing Service who has intimate knowledge of this case?

Mr. L. R. BROOKS (regional grazier, Phoenix). We have, Senator.

The CHAIRMAN. What did you estimate for the carrying capacity?

Mr. BROOKS. I don't have the figures on the detailed estimates of the carrying capacity.

The CHAIRMAN. How does the estimate appear, that was just made by the witness as to carrying capacity rated at \$67?

Mr. BROOKS. Well, the carrying capacity in that area is extremely low, Senator. That is a slope down toward the Colorado River, southwest from Yuma, and from Kingman or Yucca, and the rainfall is

exceedingly low. I don't happen to know what it is, probably not over 4 or 5 inches a year. The vegetation does not grow in there, except in times of considerable rainfall, and those times are not every year. The area is in a seasonal type of range, used only when there is adequate rainfall to produce annual growth. Insofar as this particular permit is concerned, the application was made in 1941, and we granted it, subject to the showing of waters which would service the area, and granted nonuse. There was no livestock put on it whatsoever. Then another application was made, and it was still granted nonuse, subject to a showing that there was control of waters. The area, insofar as the Grazing Service knows, was not grazed during the priority period. There were no livestock on the area, and as far as we have records, we consider it a class 2 area. There was only the one application made for use of these lands, and that was by, I presume, Mr. Morgan.

Mr. MORGAN. That's right.

Mr. BROOKS. It is in the name of Learah Morgan. We do not recognize a class 1 right in the area, since the area has not been stocked to our knowledge.

Senator HAYDEN. The period over which you would have knowledge was a period of a long drought in this State, was it not?

Mr. BROOKS. That is right, including the year 1941, which was an exceptionally good year, Senator.

The CHAIRMAN. Was the showing of developed water ever made to you?

Mr. BROOKS. No showing has ever, as yet, been made, Senator.

Mr. MORGAN. I hadn't gotten to that point, Senator. We had made numerous trips down there, and had found water. We found off hand, I would say, probably 8 or 10 springs. There were two wells. We had made arrangements to purchase water from the Santa Fe Railroad Co., in our land adjacent to the railroad, and we had also discussed, as I said a minute ago, tentatively, a proposition to acquire water from the Lakin-Peter's range, which joins us on the east. There is water there. I have been, personally, on 6 or 8 of the springs. I have made a survey to locate the sections there, and I have been to 2 or 3 of the wells. I understand that the man that made the appraisal of that property turned our range in as a dry range. Now, one of the men that was there—I wasn't able to be there, but Mrs. Morgan was there, and she went out with him upon the mountain, to the foothills of the Chemehuevi Mountain, to show him these watering places. It seems they were having trouble with their tires and car, and were hot and tired, and only went to one well. Mrs. Morgan asked them if they didn't want to go up into the next canyon to see another watering place, and they replied, "We have seen what we need to see," and went back to the ranch house, which happens to be my wife's sister's place, and spent 4 or 5 days around the house. To my knowledge they never made another trip up into the country.

The CHAIRMAN. Do you remember who that was?

Mr. MORGAN. I think his name was Mackus.

The CHAIRMAN. Where was he from?

Mr. MORGAN. Mr. Wilkinson's office, I believe.

The CHAIRMAN. Are there any questions by any member of the departments? Does anyone in the audience wish to interrogate?

Thank you very much, Mr. Morgan.

Mr. FAIN. Senator, we have one other witness on this subject who might add a little light on it. He has had the same experience, along this line. He is a range operator. His name is Mr. Lloyd Lakin.

Mr. MOEUR. In connection with your statement just made, Mr. Brooks, these ranges of Yucca, the Pyeatt range, Mr. Lakin's range, and the Gardner range—those are all ranges, are they not?

Mr. BROOKS. They are; yes.

Mr. MOEUR. They have water developed and are not in the same situation as the range you are talking about, which is farther west?

Mr. BROOKS. They have been recognized by the Grazing Service.

Mr. MOEUR. What is the carrying capacity on those ranges; do you know?

Mr. BROOKS. Considerably higher than the lower slope down toward the Colorado River.

Mr. MOEUR. I wanted to get that impression.

The CHAIRMAN. Do you mean that the committee should understand these ranges, mentioned by the last questioner, have a higher carrying capacity than the range mentioned by Mr. Morgan?

Mr. BROOKS. By and large; yes. There may be certain portions of them that still have low-carrying capacity, but parts of them are up in the higher mountains, that area that is considerably higher, and has a higher carrying capacity.

Mr. MORGAN. The area taken over by the gunnery range—I have in mind particularly the Lakin-Peter range, which joins me on the east, and the Gardner range—do you consider those considerably higher carrying capacity than the range I control?

Mr. BROOKS. The east portions of them are.

The CHAIRMAN. Will you kindly state your name for the record?

STATEMENT OF LLOYD LAKIN, PHOENIX, ARIZ.

Mr. LAKIN. My name is Lloyd Lakin, Lakin-Peter Cattle Co., Phoenix.

I didn't expect to be called on. I am not fully prepared to testify.

The CHAIRMAN. You don't need any preparation.

Mr. LAKIN. We had 189,000 acres, part of which is on the Yucca gunnery range. Of that 105,000 acres was taken over by the gunnery range, and we were told in, I believe, September 1941, to remove our cattle. The road from Yucca to Sentinel is the dividing line, which divides also our range from that portion of our range which was taken over by the Army. Through our range is a matter of 15 miles, along this road that is not fenced. Well, naturally, it would be very difficult for us to move our cattle from the 105,000 acres and put them on the portion left to us, some 84,000 acres, and to keep them from drifting back into the gunnery range, which we were told to keep our cattle off of. We decided to try and remove enough cattle, so that the rest of them could have enough feed. We attempted to ship to Phoenix, and we were unable to get automobile transportation, because of the scarcity, as you know, so we did attempt railroad transportation. On one shipment, alone, we lost 7 head, through delayed transportation. It took 5 days to get 3 carloads to Phoenix, and 7 head out of that we lost. We decided we couldn't do that,

and then we found another range near by, the Dowdle range, and negotiated for that, and purchased that range, approximately three townships, for \$30,000, simply because we had to have a place to go to with our cattle. We were made the offer, as the rest of the cattlemen in that vicinity have been made, of a very unsatisfactory deal.

The CHAIRMAN. Do you care to give us the details of it?

Mr. LAKIN. It was pretty hard to get any details. We couldn't pin them down to anything real definite.

The CHAIRMAN. Was any definite offer made?

Mr. LAKIN. Well, it was approximately \$1,300 a year that we would have been paid for the use of that 105,000 acres. Then Mr. Wilkinson—then I wrote a letter to Mr. Wilkinson stating that although I felt it was entirely unfair, and definitely unsatisfactory, we did not want to be placed in the position of obstructing in any way the war effort. We didn't want to go to court, so we would agree to accept the proposition if they would build 15 miles of fence along the division line, which would allow us to use the rest of the range that was left. That was definitely refused.

Then Mr. Wilkinson came back to us with the proposition of what Mr. Moeur has mentioned, the joint use, in which we were given the privilege of paying the Government \$12.85 a year to use the 105,000 acres at our own risk in case any cattle were killed. In addition to that we had to assume all liability for any accidents that might occur through the use of the range. In other words, if somebody should be driving down that road and had been hit by a .50-caliber machine gun, we would be liable for maybe a \$50,000 lawsuit; and we would have to accept that responsibility. Naturally we didn't care to do that.

The CHAIRMAN. You would pay the grazing fee?

Mr. LAKIN. We would pay the grazing fee. Everything summed up, the net total was an obligation for us to pay \$12.85 per year.

Senator McFARLAND. That is, the grazing fees would amount to that much more than what they would give you?

Mr. LAKIN. The grazing fees and the rental.

The CHAIRMAN. Are there any questions?

Mr. LAKIN. There is one more thing I would like to say. We had hesitated in signing up for a long time, and finally Mr. Wilkinson met me on the street one day and said, "When are you going to sign upon that?" Well, I said, "I don't know that we are going to sign up," and he said, "Well, you had better because if you don't you are very likely to lose your rights up there. The Government will declare a writ of taking," or whatever the legal language is, "on that and you will get no compensation whatever for the use of your range." Shortly after that we signed.

The CHAIRMAN. Now, under what conditions are you operating?

Mr. LAKIN. Well, we still—

The CHAIRMAN. Joint use?

Mr. LAKIN. No; we did not sign on the joint use.

The CHAIRMAN. You signed to turn the range over to the Government for approximately \$1,300 a year?

Mr. LAKIN. That's right. It amounts to something like \$4,000 for the 3½ years.

The CHAIRMAN. And what has it cost you to remove your cattle to another range? The purchase of the range was how much?

Mr. LAKIN. I couldn't give you the exact figures on that. The purchase of the range was \$30,000 and in addition, that expense in attempting to move the cattle, moving the cattle from the ranch to the present location which, by road, is some 90 miles from our headquarters to the headquarters of the latter place. While we do adjoin the range, it is 90 miles to get from one place to the other.

The CHAIRMAN. You paid \$30,000 for the new range. Is that a range that you lease, or have a permit on?

Mr. LAKIN. The same thing as the other, a Santa Fe lease and Taylor Grazing; yes, sir.

The CHAIRMAN. I see.

Are there any questions by anyone?

Mr. MORGAN. I would like to ask a question. The amount you were paying—I think you mentioned \$1,300 a year over and above the amount you have to pay for your lease and taxes?

Mr. LAKIN. Mr. Wilkinson could probably give you the exact figure. It was something over \$4,000.

Mr. MORGAN. Over and above your leases?

Mr. LAKIN. That is net; yes.

Congressman MURDOCK. I have heard a great deal about the joint use. Would you amplify that a little bit? You say you did not see fit to avail yourself of it. What are the conditions?

Mr. LAKIN. Joint use—you would be permitted to move your cattle back on to the range they have taken over in September 1941. They told us we must remove our cattle from, and we couldn't move our cattle back on there. Under joint use we could move our cattle back on there now, but we would accept all responsibility and any loss entailed through killing of cattle would be ours.

Congressman MURDOCK. Do you know whether any stockmen ever availed themselves of that offer?

Mr. MOEUR. Mr. Jameson and Mr. Neil took the joint use.

Mr. LAKIN. I might also add, we were definitely assured that the airplanes that are doing the shooting would all be aimed in the other direction when they came close to our lands; but more than 20 .50-caliber machine gun bullets have been picked up in the yard around our headquarters, and within the last 2 weeks a small child, a baby who belonged to our foreman, was nearly hit by a bullet. We remonstrated with a colonel up there in charge, but I haven't heard anything from him.

The CHAIRMAN. Very well, thank you very much.

Senator McFARLAND. I thought maybe Mr. Embach could tell us something further about this.

Mr. WILKINSON. May I make a statement, Senator, before Mr. Embach takes the stand?

The CHAIRMAN. I think you better come forward.

Mr. WILKINSON. I don't want you to get the impression our office is not willing to testify if you insist on the appraiser divulging his appraisal. We will comply, but we'll do that under protest for the reason that our instructions from the War Department are not to divulge appraisal methods.

Senator HAYDEN. As far as I am concerned, I would like to hear from Mr. Harry Embach, not for my purposes at least, by requiring him to divulge the reason why any particular appraisal on any par-

ticular range was undertaken, but I would like to know what basic instructions he has, by what he is bound in arriving at his conclusions. In other words, on what basis do you operate? Are your instructions so inflexible that you cannot function in the way in which your own private judgment would dictate?

STATEMENT OF H. B. EMBACH, PHOENIX, ARIZ.

Mr. EMBACH. The appraisal on them is all based on condemnation. Under condemnation the basis for arriving at a valuation of range is the market value, as evidenced by what a willing buyer, who is not forced to buy, would pay a willing seller who is not forced to sell, and as a basis for arriving at those, we have had to secure the authentic sale data on various ranches in the localities in which these projects are located. Then, of course, it is the question of measuring up the particular outfit as to the above or below average of what those nonsales represent. That is the basis of all of our War Department appraisals, the appraisals for condemnation purposes.

Senator HAYDEN. Are sales of this kind of property frequent?

Mr. EMBACH. Sometimes there are long periods in between. We have to take the last-known sales.

Senator HAYDEN. In the Mohave County area, have there been many recent transfers which you could use as the basis?

Mr. EMBACH. Mohave, northern Yavapai, and parts of Yuma cattle localities, there has been quite a few sales within the last 3 or 4 years.

Senator HAYDEN. Please elaborate a little bit on how you go about it as a general rule.

Mr. EMBACH. The first principle, of course, is to base the value of the range on the carrying capacity. We have instructions, on all these range outfits, to base our appraisal values on the carrying capacity of the range in question.

Senator HAYDEN. Do you get the figures from the Grazing Service?

Mr. EMBACH. The Forest Service, the Grazing Service, and investigations, in most cases.

Senator HAYDEN. And you feel you could obtain accurate information in that respect?

Mr. EMBACH. I feel that information is, in most cases, very accurate. Researches have been made, reconnaissance records made, by different Government agencies.

Senator HAYDEN. How do you account for the discrepancy between \$30, as against \$60 and \$80?

Mr. EMBACH. There may have been some sales recently at those values. We take sales only up to the day of condemnation. The Government condemned the Yucca area on September 25, 1942. For the purpose of condemnation, we do not take the sales that happened after that date. In other words, sales that happened prior, comparatively fresh sales within 2 or 3 years. That is the time that the Government sets the value on the range, not 1 year after or 2 years after.

Senator McFARLAND. Let's put it this way: Do you consider the regulations of fair value being offered to these people, or is it disagreement with an owner as to the fair value? What do you consider the trouble here? What we're trying to get at is, what is causing the difficulty?

Mr. EMBACH. Well, in answer to that, let me elaborate a little. You have two classes of acquisitions, a fee acquisition, where the Government is taking the property in perpetuity. The Navajo Ordnance Depot Airport, Wachuka Artillery, are not leased propositions but permanent installations of the Government, and you have also these aerial gunnery ranges, a leased proposition whereby the Government leases from the owner for a term of years not to exceed 6 months after the ending of the emergency. In that case the owner is paid a rental, based on the appraised value of the property. In some cases where an owner has a range that is pretty nearly all public domain, monthly leases or anything like that, of course, his operating cost is lower and he gets a higher value, and he may probably be more satisfied with the offer made him than a party who has higher operating costs but whose range, from the point of view of the average buyer, is not worth as much as the fellow who hasn't got the heavy overhead cost.

Senator McFARLAND. Have you any precedents to go on in valuing these leases?

Mr. EMBACH. We have rental values, not very many of these non-rental values where rentals have been paid for ranges prior to the date of condemnation. Those, we have those all tabulated; and those figures are approved in Washington and are submitted as to the rate of rental, based on comparable rental paid for other similar ranges.

Senator McFARLAND. Coming right down to the meat of the question in regard to those leases, I am speaking, of course, generally. We cannot apply it any other way unless we take specific cases, of course; but, generally, has the difficulty been that in your opinion the Government has not offered a fair value on account of regulation, or that the owner wants too much for the property, in your opinion?

Mr. EMBACH. Well, the cases we have not settled yet, apparently the owner wants too much for the property. That is, taking the appraisals—and I haven't made all of them; I've made a few of them—taking the appraisal as a fair appraisal, the fact remains, Senator, that 90 percent of the property taken has been settled without going into court.

The CHAIRMAN. That doesn't answer the question, because of the argument made.

Mr. EMBACH. That is true.

The CHAIRMAN. The argument made as testified here, the argument was that it probably would effect a settlement because the owner gives up in despair, or else he feels that a patriotic duty is imposed upon him, according to the statements made here.

Senator McFARLAND. In addition to that, he can't go into court. That is the position of the Government; he can't go into court in regard to these permits; he hasn't any right or standing to go into this court. The Attorney General has given that ruling, and I think all the attorneys of all the departments of the Government have given this ruling, that he can't go into court. I am wondering in what percentage of the cases are the owners fairly satisfied with the settlement that has been made, or have they been settled because they figure they couldn't get what they thought they ought to have? What is your opinion in regard to that?

Mr. EMBACH. I would say, roughly, I think it is 50-50. Some of them have settled without reservation because they've been satisfied.

Others have undoubtedly settled because they didn't want to go to the bother of going into court, and also because they didn't want to interfere with the war effort.

Senator McFARLAND. I appreciate your frank answer in that. I want you to know that I do.

The CHAIRMAN. Are you familiar with the *Osborne case*?

Mr. EMBACH. Yes, sir.

The CHAIRMAN. Did you negotiate on that?

Mr. EMBACH. Yes, sir.

The CHAIRMAN. Did you hear the statement of Judge Shute this morning?

Mr. EMBACH. I wasn't in here, sir.

The CHAIRMAN. The *Osborne case* has not been settled as yet?

Mr. EMBACH. No, sir.

The CHAIRMAN. What seems to be the trouble there?

Mr. EMBACH. The appraiser never does the negotiating, Senator. Apparently, from my knowledge of the case, the amount offered him by the negotiator wasn't high enough.

Senator McFARLAND. Who are the negotiators?

Mr. EMBACH. The different project managers in charge of each particular project. No appraiser is permitted to negotiate.

The CHAIRMAN. You appraised that Osborne property?

Mr. EMBACH. Yes, sir.

The CHAIRMAN. Have you followed the outlines to see the negotiation going on?

Mr. EMBACH. Not particularly.

The CHAIRMAN. Did you appraise in the *Moeller case*?

Mr. EMBACH. Yes; I appraised that.

The CHAIRMAN. The record made this morning was to the effect that he was first offered what he asked, which was the amount that he paid, of \$2,000; and then, when he was ready to accept that, another offer was made of approximately \$300, if my memory serves me. Can you give us any light on that change of attitude, and change of negotiation? Why was it?

Mr. EMBACH. I think the reason was that an entire reappraisal was ordered for the Navajo ordnance depot.

The CHAIRMAN. Well, you had the facts before you that he had paid \$2,000 for the range?

Mr. EMBACH. No, sir.

The CHAIRMAN. You didn't?

Mr. EMBACH. No, sir. I appraised the property as it was, without regard as to what it had cost him. Those are our instructions.

The CHAIRMAN. Wasn't that a recent sale to Moeller, from the party owning the property?

Mr. EMBACH. It was made in 1941.

The CHAIRMAN. That was about as recent a thing as you could find in that locality, wasn't it?

Mr. EMBACH. I don't know whether the deed disclosed the situation or not, offhand. I don't remember.

The CHAIRMAN. Weren't you interested in what he had paid for it?

Mr. EMBACH. As an abstract measure, yes, sir. But our instructions are, for condemnation purposes, to appraise that property on the basis of what the market had been on it, the going market.

The CHAIRMAN. It had come because there was an acceptance of that?

Mr. EMBACH. An acceptance of the first option. I had no knowledge of it. The appraiser never has anything to do with the negotiations.

Senator McFARLAND. I believe the testimony was that the negotiator made the statement that the appraisal was so nearly what he paid for it that they would give him the \$2,000. The appraisal and the price that was paid were so nearly the same that they would give him the \$2,000.

The CHAIRMAN. That is right, hence the price that he paid for it must have been known to you, if you were the appraiser, according to the statement made before the committee.

Senator McFARLAND. It must have been known, Mr. Chairman, to the negotiator.

The CHAIRMAN. Undoubtedly to the appraiser also.

Mr. WILKINSON. Prior to the Phoenix office having charge of that project, it was in the southwest division, and some work was done up there. The southwest division is in Dallas, Tex. This project was turned over to this office and the records left by their office were not sufficient for us to carry on the negotiations, so we had a new appraisal of the whole project from this office. In fact, we started in and appraised it as a new project. That was handled from another division.

The CHAIRMAN. Didn't the records show the evaluation made by the other division?

Mr. WILKINSON. I didn't get those records.

The CHAIRMAN. Had you no knowledge whatever as to the amount he had paid?

Mr. WILKINSON. Absolutely none.

Mr. EMBACH. Not at the time the appraisal was being made.

The CHAIRMAN. Or since?

Mr. EMBACH. Since, I have heard it said that he paid \$2,000.

Senator McFARLAND. What I can't understand, Mr. Chairman, is why a reappraisal of the whole district would make such a big change in the appraisal of this particular property, if the property was originally appraised, according to the evidence, at close to \$2,000. Now, it evidently was appraised at about \$300 at one time or another. The appraiser must have made a terrible mistake.

The CHAIRMAN. The evidence is, they knew what he paid for it and were willing to pay him the amount that he had paid for it. That is the evidence before us here today. Whether it be in this office or in the former appraiser's office, makes but little difference. Certainly the records must have been transferred here if there was a business transfer of the whole matter.

Senator McFARLAND. Can you explain why there was such a change in the value of the property, why the reappraisal would have brought about such a big change in the value of the property in so short a time?

Mr. EMBACH. Appraising is not exact, since two appraisers may look at the same thing, may agree on it, may vary. I don't know what the original appraisal was.

The CHAIRMAN. Let me ask you, how long have you been engaged in the business of calling upon your judgment as an appraiser in this locality?

Mr. EMBACH. I have been in Arizona for about 35 years, identified with the cattle and sheep business most of the time. I have been in the loan business, making loans on these outfits, and I have appraised for the Ohio National Life Insurance Co. I have appraised for the War Department since August 8, 1942.

The CHAIRMAN. Did you appraise these properties for the War Department on the basis of your experience in appraising and in the making of loans?

Mr. EMBACH. That was part of the ground work of my experience, was as an appraiser.

The CHAIRMAN. You realize these people were parting with their property, don't you?

Mr. EMBACH. Certainly.

The CHAIRMAN. So it was not a question of loan value, in these instances?

Mr. EMBACH. No; this was appraised for condemnation.

Senator McFARLAND. I'm a little bit confused as to the facts. Did you make the first appraisal?

Mr. EMBACH. No, sir; the second.

Senator McFARLAND. I understood it the other way. I beg your pardon.

The CHAIRMAN. Wasn't the record of the first appraisal available to you, before you made the second appraisal?

Mr. EMBACH. No, sir.

The CHAIRMAN. Weren't the files and records of the other office available to your office?

Mr. EMBACH. They were fragmentary, as I understand.

The CHAIRMAN. Well I'd like to know on what basis you make that.

Mr. EMBACH. On knowledge, and what I have been told.

The CHAIRMAN. There are no files or records removed from the former office to your office?

Mr. EMBACH. I believe there were some. I would like Mr. Wilkinson to answer that. He is the chief of the office.

The CHAIRMAN. Will you answer that?

Mr. WILKINSON. The files were very meager. In fact I had to write into Washington for any options made on this project. I couldn't get them; couldn't find them.

The CHAIRMAN. Do you have any files or records bearing on the first appraisal on the *Moeller case*?

Mr. WILKINSON. I am not sure about that.

The CHAIRMAN. Consult your records during the noon recess, and let us know, please.

Senator McFARLAND. Now, in line with what the chairman asked, it is my understanding you have that consideration and experience in regard to values in Arizona; do you feel that the regulations permit you to make an appraisal that reflects the fair value of the property?

Mr. EMBACH. Yes; I believe they do. Of course, those regulations are supplemented by letters from Washington, from the Chief Engineer's office, enlarging, and also bringing up new subjects; but we are held, of course, in appraising for value by appraising for condemnation.

Senator McFARLAND. I am trying to get at whether there is anything in Washington that ought to be changed, as to whether the difference

of opinion is a difference of opinion in the values of property by the individual, or whether it is controlled by regulations which don't permit you to make a fair value.

Mr. EMBACH. I don't believe I'm competent to answer that, Senator. I may have certain opinions about certain people, and the other person's opinions might be entirely different.

Senator McFARLAND. Maybe I didn't make myself clear. What I meant was, coming back to my original question, whether the regulations in Washington permit you to place a value on the property which could be considered a fair value, in line with your experience and knowledge of the values of property in the State of Arizona?

Mr. EMBACH. Yes; the regulations do.

The CHAIRMAN. Do you put a value on permits and licenses on the open public domain, when you evaluate the grazing economic set-up?

Mr. EMBACH. Inasmuch as they reflect part of the per head value on the range.

The CHAIRMAN. What do you estimate the per head value on the average range in the State of Arizona is?

Mr. EMBACH. Frankly, I don't know that there is an average. Most of the country in Arizona is desert, or mountain country; and then you have some of the finest grazing in the world, and some of the poorest range. It is pretty hard to match up what would be the range.

The CHAIRMAN. What is the judgment of the range taken over by the Ordnance?

Mr. EMBACH. Pretty good, most of the permits, of course, were not a year-round range.

The CHAIRMAN. What was the average value of that range taken over?

Mr. EMBACH. I'm sorry, that is disclosing information.

The CHAIRMAN. I'm asking you for it. I'm asking you what the average value was.

Mr. EMBACH. \$30 for a 5-month permit.

The CHAIRMAN. The committee will take a recess now until 1:30 o'clock.

(Recess until 1:30 p. m.)

AFTERNOON SESSION

The CHAIRMAN. Will the witness who was on the stand when we recessed, please take the stand again? Is either of the gentlemen here, either Mr. Wilkinson or Mr. Embach? As soon as they come in we will continue with that subject. We have to try to utilize all the time we can.

Mr. LAKIN. I would like to have a further statement.

The CHAIRMAN. You may make such statement as you see fit.

Mr. LAKIN. I just wanted to say that more than a year before the condemnation of the gunnery range in this area, Mr. Peter, my partner, and I had decided, because we thought it was wise, to attempt to increase cattle production. We had spent more than \$27,000 in the area that the Government took over. We built 65 miles of barbed wire fence; 9 miles of pipe line, piping water down into an area that did not have water; and we drove four deep wells. The water is quite deep up there, 500 feet to the water. All of this was expensive. We did spend \$27,000 on the area that was taken, not in the area or any part of the land we have left.

The CHAIRMAN. Was that brought to the attention of those who appraised the land?

Mr. LAKIN. Yes; I talked to Mr. Wilkinson about it.

The CHAIRMAN. Mr. Embach, will you come forward?

To clarify the record in my own mind, you have been in the appraising business here in this vicinity for how long?

Mr. EMBACH. Actually appraising, for about 4 years.

The CHAIRMAN. You were connected with the wool industry at one time?

Mr. EMBACH. Yes, sir.

The CHAIRMAN. What was your official position with the wool industry?

Mr. EMBACH. General manager of the National Wool Growing Corporation.

The CHAIRMAN. What other ranges have you appraised for purchase, if any, by private agencies?

Mr. EMBACH. In the past years, I have appraised ranges for Babbitt Bros., in my capacity with them years ago as a member of their livestock department.

The CHAIRMAN. In the same vicinity in which you appraised these properties for the War Department?

Mr. EMBACH. Generally, yes, sir.

The CHAIRMAN. How did your appraisal for the property of the Babbitt Bros. compare with your appraisal of the property for the War Department, as to the carrying capacity, particularly?

Mr. EMBACH. We had a general knowledge, in those days, from observation of cattle on the range, and from the general livestock information, about what a range would carry.

The CHAIRMAN. Was it \$30 per head in those days?

Mr. EMBACH. No, sir.

The CHAIRMAN. How much?

Mr. EMBACH. In those days the forest ranges and other public ranges—there wasn't much value attached to the range. It was the cattle you were buying. That was common all through the West.

The CHAIRMAN. Do you know of any private sales that have been made where the carrying capacity was evaluated at as low as \$30, where the transaction was between private individuals?

Mr. EMBACH. Yes, sir.

The CHAIRMAN. Will you name these people, please, some of them?

Mr. EMBACH. I'm afraid I would have to go through my records for that. Which outfit are you referring to now?

The CHAIRMAN. Any outfit, where there was a sale from one individual to another, where the seller was not forced to sell and the buyer was not forced to buy.

Mr. EMBACH. The sale of the Barnard cattle outfit up in Coconino County, 1942, I think it was, or maybe later in 1941, a year-long permit. It was sold on the basis that would be less than \$30 per head for a 5-month period.

The CHAIRMAN. Did you have to do with that transaction, so that you know its details?

Mr. EMBACH. I secured it for the man that bought the outfit.

The CHAIRMAN. How did you arrive at the figure of \$30 per head carrying capacity?

Mr. EMBACH. I think, if I remember rightly, Senator, there were 4 or 5 sales that had been made in very recent years, in Coconino County, that were made from about \$25 to \$35; that is, up to the time that the appraisal was made, and in comparison, the base on the Navajo ordnance was \$30; some higher than that on the Navajo ordnance.

The CHAIRMAN. What was the highest on the Navajo ordnance?

Mr. EMBACH. \$32.

The CHAIRMAN. And the lowest?

Mr. EMBACH. \$30.

The CHAIRMAN. Was that year-round permit?

Mr. EMBACH. Those are for 5-month permits.

The CHAIRMAN. 5-month permits, all of them?

Mr. EMBACH. All of them at the Navajo.

The CHAIRMAN. Did you have to do with the transaction related here before the committee this morning and just concluded by the witness who left the chair?

Mr. EMBACH. As I came in he was concluding.

The CHAIRMAN. Did you have to do with the Lakin transaction?

Mr. EMBACH. Yes, sir; I was in charge of the appraisal.

The CHAIRMAN. Were you advised of the amount of money invested in improvements on the Lakin holdings?

Mr. EMBACH. Yes, sir.

The CHAIRMAN. What did you place the value of the carrying capacity per unit on the Lakin holdings?

Mr. EMBACH. If I remember rightly, it was \$34 a head, yearlong. The value in improvements, of course, Senator, made up that market value.

The CHAIRMAN. You give credit, of course, in value, to the permits, do you not?

Mr. EMBACH. To the permits?

The CHAIRMAN. Or the leases?

Mr. EMBACH. Anything that makes up the fair market value.

The CHAIRMAN. The leases or the permits, and their stability and duration, and so on and so forth?

Mr. EMBACH. Yes, sir.

The CHAIRMAN. I take it you also take into consideration the character of the range, together with the character of the cattle?

Mr. EMBACH. Well, if you mean the condition of the cattle, yes. On this particular range, Brahma cattle, there wasn't anything else. We would not—some breeding cattle—we would not mention any distinction on that. It would be the condition of the cattle.

The CHAIRMAN. Well, the grade of a herd also has to do with its value; and if it has to be moved, that would, I think, be taken into consideration, if it had to be moved from a place where it was brought up to its present standard?

Mr. EMBACH. In appraising for eminent domain, Senator, all we take into consideration, in setting our appraisal values, is anything that goes into the market value.

The CHAIRMAN. Were you appraising for eminent domain in these cases?

Mr. EMBACH. Yes, sir.

The CHAIRMAN. Under what authority?

Mr. EMBACH. Instructions of the Government. We know that is what is going to happen.

The CHAIRMAN. Eminent domain had not been invoked. The Government was as a private purchaser; no court had taken over; nor had the jurisdiction of any court been invoked, as I understand it.

Mr. EMBACH. The Yucca range was.

The CHAIRMAN. Go back to this eminent domain. Where did you get your authority to base the value of this property under eminent domain? Eminent domain is a condemnation of a public agency for public use of private property. This was a private agency, coming in here under authority of a specific act of Congress. Now, where did you get it into your head that you were acting under the authority of eminent domain?

Mr. EMBACH. Under the War Powers Act, that Yucca condemnation; Yucca condemnation was entered on Yucca on September 25, 1942.

The CHAIRMAN. Before you entered into this, did you read that act that was passed the 12th of July, I think it was?

Mr. EMBACH. I have seen that.

The CHAIRMAN. Did you give it any consideration?

Mr. EMBACH. Yes, sir.

The CHAIRMAN. What part of it did you give consideration in fixing the value?

Mr. EMBACH. The fullest values we possibly could, in our opinion as appraisers.

The CHAIRMAN. And you are willing now to say that you did give the fullest values that you possibly could?

Mr. EMBACH. Based on the information that was available to us at the time, a fair market value based on the comparable sales.

The CHAIRMAN. Does anyone care to interrogate?

Mr. MOEUR. I would like to ask him a few questions, if I might, Senator.

The CHAIRMAN. Yes, sir.

Mr. MOEUR. Mr. Embach, I'm going to refer particularly to the Mohave County set-up. What ranges were sold in Mohave County, or the vicinity, that you took into consideration in arriving at this value?

Mr. EMBACH. Well there was the Sloger sale.

Mr. MOEUR. How much did that sell for, on carrying capacity basis; do you know?

Mr. EMBACH. I couldn't tell you that offhand. There was a deal of Smith's, Al Smith's.

Mr. MOEUR. When was the Sloger sale?

Mr. EMBACH. I think that was probably in 1941. Now I am just guessing at this, because I would have that recap before me.

Mr. MOEUR. And the Al Smith sale, when was that?

Mr. EMBACH. That was about the time, I think all the sales, if I remember correctly, were from 1939 on.

Mr. MOEUR. Were they small outfits or big outfits?

Mr. EMBACH. Very large outfits. The sale of the Gardners in 1939, I believe it was.

Mr. MOEUR. Did you take into consideration improvements made on these places after they were bought?

Mr. EMBACH. Yes.

Mr. MOEUR. When you took that into consideration, it figured out \$30 a head?

Mr. EMBACH. We may have figured in some cases it did.

Mr. MOEUR. Don't you know you couldn't have bought, anywhere in Arizona, in the last 2 or 3 years, decent range at any price like that? You know that of your own knowledge, don't you?

Mr. EMBACH. It all depends a good deal on what you consider decent range.

Mr. MOEUR. Those are pretty good ranges, the Jameson, the Neil range, and the Gardner range?

Mr. EMBACH. Yes; the Jameson-Neil range and part of the Gardner is good range; not the part that was taken, however.

Mr. MOEUR. Don't you know that by private sales, that you couldn't have bought a ranch that was running a thousand head of cattle for \$30,000, at any time in the last 3 or 4 years?

Mr. EMBACH. Sales to base an appraisal on, I couldn't, out of my head, give you a list of my sales. Those are the instructions the appraisers are given. If he didn't observe that, the reviewing appraiser would throw the appraiser out. The appraisals are reviewed to see that they are particularly correct.

Mr. MOEUR. Did you give any consideration to the cost the operator would be to, in moving cattle, and so on, to another range?

Mr. EMBACH. Not in the consideration.

Mr. MOEUR. Any consideration to the rest of the range that he could use?

Mr. EMBACH. We did, when we granted severance.

Mr. MOEUR. Explain that.

Mr. EMBACH. If we had damaged a man by taking part of the outfit away and rendered the remaining part of the outfit less valuable, the difference between the remainder and what the whole would be, we would grant him severance on the outfit damage proven.

Mr. MOEUR. Did you do that in the Mohave County set-up?

Mr. EMBACH. I think nearly every case had severance.

Mr. MOEUR. How did you arrive at these values when you got through? How could you say that a man whose range is cut down the middle is to get the small amount of money that he gets?

Mr. EMBACH. Naturally, the rental would be lower than it was on appraisal. He is getting the rental. I don't mind saying that the Pyeatt range, in the opinion of the appraiser, has the lowest value for range in that district.

Mr. MOEUR. From the appraisal standpoint?

Mr. EMBACH. Yes; in my opinion.

Mr. MOEUR. After they appraise the ranges, then the negotiators enter the picture. Is that correct?

Mr. EMBACH. That's correct.

Mr. MOEUR. The amount of the negotiation is the amount of your appraisal; or is it a less amount?

Mr. EMBACH. I think, as a general rule, the negotiator offers the rental value, based on the appraisal; offers the price of the appraisal. In some cases they probably do get it for a little less.

Mr. MOEUR. You said this morning, in testifying here, that in your opinion, 50 percent of the people were satisfied with these settlements.

Mr. EMBACH. That is from observation. I don't know some of their innermost thoughts. The only thing that I am basing that on

is the ease of the negotiating. If the negotiator has no trouble in getting the signature on the option, apparently there is not much disagreement.

Mr. MOEUR. Do you think that 50 percent of the people in Mohave County are satisfied with those settlements?

Mr. EMBACH. I am not talking about Mohave; I'm talking about all of the War Department.

Mr. MOEUR. Talk about Mohave County. You think 3 percent of them in Mohave were satisfied with those settlements?

Mr. EMBACH. No; I don't think they were.

Mr. MOEUR. As a matter of fact, you appraised this land as though you were proceeding to condemnation?

Mr. EMBACH. Yes; because condemnations had already been entered.

Mr. MOEUR. You found, under the rules and regulations you thought you had to work under, you couldn't give him credit on this congressional act. That is what happened on this, isn't it?

Mr. EMBACH. Of course, the act authorizes the head of an agency to do anything he sees fit.

Mr. MOEUR. I'm talking about you personally. I'm not criticizing you; but you found you were up against that?

Mr. EMBACH. We gave as liberal values as we could.

Mr. MOEUR. You couldn't give any values at all, hardly, could you?

Mr. EMBACH. We had to base values on known sales in order to have something that would stand up in court, later on.

Mr. MOEUR. As a matter of fact, when you went in to give appraisals you felt you couldn't give much attention to this act, because of the rules and regulations you were working under?

Mr. EMBACH. No; I wouldn't go so far as to say that, because an appraiser is allowed certain latitude as an appraiser. Beyond that point he cannot go.

Mr. MOEUR. I think that is all I have to ask.

The CHAIRMAN. On what basis was your compensation?

Mr. EMBACH. Per year.

The CHAIRMAN. Per year?

Mr. EMBACH. Yes, sir.

The CHAIRMAN. Are there any questions?

Mr. LAKIN. I want to correct Mr. Embach's statement as to \$34. It was \$25 for 626 head on the part they took from us.

Mr. RONSTADT. Senator McCarran, I think that people are entitled to know, if possible, if it is a fair question, as to what the appraisal value of this gentleman was, on a specific piece of property, so they can compare with the offered price. I think that is where the trouble is, the negotiators.

The CHAIRMAN. He made the statement before lunch that it was \$30.

Mr. RONSTADT. I had in mind a particular case that I think is before everybody's mind; that is the Moeller case. An appraisal and offer was made on one appraisal of \$2,000. Mr. Embach testified he had made the second appraisal, and the offer of the second appraisal was \$300.

The CHAIRMAN. They stated before lunch, or the recess, that the records transferred to this office were rather sparse. I asked them to bring in what records they have. I take it that they have the records with them. Have you the records of the first appraisal?

Mr. WILKINSON. Yes, sir.

The CHAIRMAN. What was the first appraisal?

Mr. WILKINSON. \$2,000.

The CHAIRMAN. Have you any record there that shows, in substance or effect, that some agent, either the appraiser or the negotiator, stated that the appraised value was so near the amount he had paid for it that they were going to give him the amount he had paid for it, the \$2,000?

Mr. WILKINSON. No such record. This appraisal was sent to me by the division office. I did not receive it from the project office connected with the southwest division.

The CHAIRMAN. When was that record first in your office?

Mr. WILKINSON. The letter of transmittal was dated July 28, 1942.

The CHAIRMAN. When was the second appraisal made?

Mr. EMBACH. About August 15, I think. August 10 or August 15.

The CHAIRMAN. Before the file was received in your office?

Mr. WILKINSON. No; that would be after.

The CHAIRMAN. After. Then you did have knowledge that he had been offered \$2,000, when you made the second appraisal?

Mr. EMBACH. No, sir; I had no such knowledge.

The CHAIRMAN. The knowledge was available to you. It was in your office, was it not?

Mr. EMBACH. Senator, the appraiser is not——

The CHAIRMAN. I don't want you to evade the question. Answer the question.

Mr. EMBACH. No; it was not available to me.

The CHAIRMAN. It was not in your office?

Mr. EMBACH. I don't know whether it was in the office. Mr. Wilkinson says it was in the office.

The CHAIRMAN. Did you make an exertion to find out what the first appraisal was, in order that you might be guided accordingly, or did you just go at it as though there had never been another appraisal?

Mr. EMBACH. Reappraisal of the second appraiser; he goes at the matter cold and performs his own opinion.

The CHAIRMAN. You went at this one pretty cold?

Mr. EMBACH. Yes; I did.

The CHAIRMAN. Well, you cut it down from \$2,000 to \$300.

Are there any questions?

Mr. RONSTADT. He hasn't been asked yet what his appraisal was, the second time.

The CHAIRMAN. What was your appraisal the second time?

Mr. EMBACH. \$360.

The CHAIRMAN. That was based on what?

Mr. EMBACH. On a fair piece of land, 120 acres, lying out, some rock over it. It had been cultivated at one time; there was a shack in ruin, and about 100 feet of rusty barbed wire.

The CHAIRMAN. Well, some young man, who is now giving his services to the Government, had thought enough of that property to pay \$2,000 for it. Does that impress you, at all?

Mr. EMBACH. It wouldn't have impressed me in the slightest, under my instructions for appraisals.

Mr. MORGAN. I have a question, please.

In your appraisals for various properties, to what extent do you take into consideration the taxes on the property; and how do you account

for the fact that, in my particular case, I was offered \$611, when the taxes on the property are over \$1,200 per year?

Mr. EMBACH. You had a lot of land down there, about a hundred-and-some-odd-thousand acres, roughly speaking, valued at a tax valuation of 40 cents an acre, and the rate, I think, last year, was 2.8; well, almost 3 cents per \$100 valuation. As far as giving consideration to tax valuation is concerned, we give no consideration whatever, because there is no relevancy between what a county assessor puts on a piece of property as tax value and what the property is actually worth, or what it should be valued as a fair market value.

The CHAIRMAN. Are there any further questions? I'd like to have you bring the record forward on this *Moeller* case, if you please, the record that is in your office.

That is all, Mr. Embach.

Is there any correspondence in that from the other office, or from any former evaluator?

Mr. WILKINSON. This is the appraisal.

The CHAIRMAN. The first appraisal?

Mr. WILKINSON. Yes.

The CHAIRMAN. Is Mr. Moeller in the room?

Mr. MOEUR. No, Senator; he had to leave.

The CHAIRMAN. Will you kindly state what you have just stated to me, here, inaudibly?

Mr. WILKINSON. There is a letter in the file, from the Southwest Division, stating they had transmitted an option to Washington. It did not give the amount of the option, but the statement was they had transmitted the option to Washington. We have never had a copy of the option in the file. If the option was transmitted to Washington, and it was accepted and approved by the Chief of Engineers in the War Department, Mr. Moeller received an acceptance notice of that option. He should have received a copy of the option, with the acceptance on it. If he received it, there is no reason why he shouldn't collect the amount of his option.

The CHAIRMAN. I notice here that the first appraisal gives the appraisal of land, \$600; improvements, \$700; and home site an additional \$700; making a total of \$2,000 for the appraisal on the *Moeller* case. That is the first appraisal.

Now, Mr. Embach says that he gave no consideration, and didn't see—he said he didn't see this file before he made this second appraisal, and so on.

Mr. WILKINSON. As far as being the chief of the Phoenix suboffice, I wouldn't allow him to see the file if I could help it. He is supposed to make the appraisal on his own initiative and his own knowledge. That is the reason for the appraisal. If we are ordered, from the chief's office of the division office, to have another appraisal made, we never show the first appraisal to the second appraiser. That would defeat the object of the second appraisal.

The CHAIRMAN. All right. That is all.

Mr. WILKINSON. I would like to make a little statement here, if I could, generally.

The CHAIRMAN. Yes; certainly.

Mr. WILKINSON. In acquiring the use of this land, over some 3,000,000 acres of Federal land, about 170,000 acres of State land, there has been about 23,000 acres of private land acquired in fee, at a valu-

ation of some \$33,000. That is the acquisition in fee of private land. There has been some 70,000 acres of State land acquired. The leaseholders have been paid off, and the State land is up for transfer with Federal land, and there are some 70,000 more acres of State land that is not under lease.

Now, our relations with the State land department have been very cordial, and the State, through Mr. Williams and the Governor, have allowed the Government to use this land for nothing, or a very nominal amount, to make the transaction legal, and relations have been very cordial. This applies to other parties in Tucson, Phoenix, the Counties of Mohave and Navajo; they have leased land to the Government for \$1 a year, for the use of certain of these fields.

I want to go on record that in this office here, relations have been very cordial with these people; and, as far as we are concerned, we consider they have rendered every effort to be cooperative.

The CHAIRMAN. Are there any questions?

Mr. Williams, would you care to be heard on this?

The Federal statute bearing on this subject will be inserted in the record at the proper place.

(The statute is as follows:)

[PUBLIC LAW 663—77TH CONGRESS]

[CHAPTER 500—2D SESSION]

[S. 2599]

AN ACT Authorizing the head of the department or agency using the public domain for war purposes to compensate holders of grazing permits and licenses for losses sustained by reason of such use of public lands for war purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever use for war purposes of the public domain or other property owned by or under the control of the United States prevents its use for grazing, persons holding grazing permits or licenses and persons whose grazing permits or licenses have been or will be canceled because of such use shall be paid out of the funds appropriated or allocated for such project such amounts as the head of the department or agency so using the lands shall determine to be fair and reasonable for the losses suffered by such persons as a result of the use of such lands for war purposes. Such payments shall be deemed payment in full for such losses. Nothing herein contained shall be construed to create any liability not now existing against the United States.

Approved, July 9, 1942.

STATEMENT OF O. C. WILLIAMS, ARIZONA STATE LAND COMMISSIONER

Mr. WILLIAMS. Mr. Chairman, I don't know what I should add to this.

As has already been stated, I went to Washington, and had a hand in the passing of this law. In our conferences, it was definitely understood that every effort would be made to make a prompt settlement, and fair settlement, so that these men could either have money to live on, for the duration and then return to their own lands, or might have money to set up elsewhere. We especially made the plea that this should be set up so that they would not have to go into court; that there be no court action, and that it would be unnecessary for them to hire attorneys, and spend what little they would get out of their property.

This has been a general disappointment among livestock interests, in the fact that it has been impossible to get early settlements; and I think that, as far as I know, there has been no satisfactory settlement, so far as prices and amounts paid. I don't know of one in the State, that they felt that they got the full value for the property taken away from them. It seems, in no instance, has the fact been considered that these people are dispossessed, must leave their homes, in many cases, break up a lifetime of experience in operations, and that they must either go to town and hold their hands until the war is over, or else get into some other business, or buy some other ranch, at a price in excess of what they themselves received. I think, in spite of this condition, they have been very patient. They are all willing to do their part, and have very gladly given up what the Army needed; but they feel they should not stand the full cost of the war effort, and should be reimbursed.

As far as the State goes, as stated by Mr. Wilkinson, our relations have been most pleasant; and in cases where we have unleased lands, we have offered them to the Army without charge for the duration; and there are many thousands of acres of State lands so occupied. We, in many cases, helped them get leases from our lessees, and these leases, in some cases, were turned over without any payment to the lessees. We waived our fees, giving them the land for \$1 for the entire piece of land; not for every acre, but \$1, for the duration; which dollars we have not yet seen, and never expect to. I am sure no one can charge the people of this State, the cattlemen, with not cooperating in every possible way. We feel there is some reason why prices have been beaten down lower than they should be, and there should be some good reason why payments have not been made.

These are the things that the cattlemen are disturbed about; the things they would like to get to the bottom of. If this committee can help to solve that problem, I am sure you will have their undying gratitude.

I think that is about all, unless there is a question to me.

The CHAIRMAN. Thank you, Mr. Williams.

(The following letter was received for the record after the close of the hearing:)

PHOENIX, ARIZ., September 7, 1943.

Mr. E. S. HASKELL,

Care of New Mexico Cattle Growers Association,

Albuquerque, N. Mex.

DEAR MR. HASKELL: In accordance with our conversation at luncheon Saturday, September 4, I am pleased to submit for your and Senator McCarran's information the following data on sales and offers refused for properties comparable to those properties taken over by the War Department and located at what is known as the Navajo ordnance depot, Belmont, Ariz. These sales and offerings were all made approximately within a year's time of the Government's acquisition of the Belmont properties.

E. M. Smith, purchaser; Barney Schley, seller: Bar Heart permit containing 714 head yearlong. June 1941. This allotment lies approximately 20 miles west of the Navajo ordnance depot in the Kaibab and Prescott National Forests, and the price based on 5 months' carrying capacity is \$28 per head. This is the low sale that Mr. Embach recited at the hearing. I would like to add that this was a stock ranch and was bought range and cattle. After evaluating the cattle, the permit was considered cheap at this figure. This might also be construed as a force sale as Mr. Schley was going into the Air Corps, which he did do and has since been killed.

Jack Frye, purchaser; Al Smith, seller: Government Mountain permit containing 547 head for a 5-month period. July 1942. This is located just north of the

Belmont project in the Kalbab National Forest, and the price based on a 5-month carrying capacity is \$35 per head.

Tremaine, offer; Fox, owner: Foxboro permit located in the Coconino National Forest containing 245 head yearlong. I offered Fox for Tremaine a price equal to \$38 per head for 5-month carrying capacity and this offer Fox turned down. This was in June 1942.

Leeds, purchaser; McGill, seller: This was a permit for 541 head yearlong located in the Prescott National Forest a considerable distance from the Belmont project and the territory is not as good. This was bought in June 1941 and based on a 5-month period, sold for \$49 per head.

Miller, purchaser; Travis, seller: This is a permit for 400 head for a 5-month period located in the Kalbab National Forest, approximately 30 miles northwest of the Belmont project. It was purchased in the spring of 1942 at \$45 per head.

The average for the 5 sales based on a 5-month period of time is \$38.94 per head. This information I gave to a Mr. Munholland who I believe was the assistant to Mr. Wilkinson, of the United States War Department appraisers, and told him where and how the information could be obtained by their appraisers. When I was on the stand and the Senator asked me what contact I had had with the War Department appraisers, I forgot about this Mr. Munholland calling on me.

I placed a value of \$50 per head on the John Osborne range located in the Belmont project. The reason for putting this above the average is that it is a better than average range particularly because of transportation accessibility, water, and feed.

Mr. Moeller asked me to correct his initials and the spelling of his name which went into the records erroneously. It is M. D. Moeller. His rank I do not know but he is in the Air Corps and stationed at Thunderbird No. 1 Field, Phoenix, Ariz., rather than Luke Field as Judge Shute stated on the stand. You will recall that his case is the one that Embach reappraised at \$300 which had cost Moeller \$2,000 in August 1941.

I trust Senator McCarran will be successful in bringing some pressure to bear on the War Department to make satisfactory settlements at a fairly early date with these various parties. Don't hesitate to contact me for any additional information. I am only too glad to help.

Trusting that I may have the pleasure of meeting you again and with kindest regards, I remain

Yours very truly,

STERLING HEBBARD

(The following letter and memorandum are inserted in the record by request of Senator Hayden:)

MOEUR & MOEUR,

PHOENIX, ARIZ., September 13, 1945.

HON. CARL HAYDEN,

United States Senate, Washington, D. C.

DEAR CARL: I had hoped to see you before you left Phoenix to discuss with you some two or three matters, but I was unable to contact you, and hence I am forced to write you concerning these various things that I have in mind.

With respect to the hearing before the Senate subcommittee on the question of compensation offered stockmen for ranges taken over for war purposes, particularly the Kingman and Yucca aerial gunnery ranges. As far as I am concerned it was evident from the testimony of Wilkinson and Embach that the War Department has completely ignored the congressional enactment that was entered to give some relief to these stockmen and further, that after arriving at value of the ranges in question, for some unexplained reason, there has been deducted from this value the cost of leases that will have to be paid to the railroad company as well as the grazing fees that were waived.

For instance, in the case of Lester Pyeatt on his lower range, they arrived at a gross term rental value of \$432.04, then deducted the grazing fees that he would have to pay the Grazing Service during that period of time of \$95.50, leaving a net to him for the term of \$336.54, and then deducted the term lease costs to the Santa Fe of \$341.19 which left net to Pyeatt for that range \$4.65 in the red. Undoubtedly they should have added the \$341.19 and not deducted it. That was a part of the cost that he still has to carry and should have been a part of the compensation offered him. I think that their basic figure of \$432.04 is all out of line and should have been considerably higher; if instead of paying him minus \$4.65 for the term they had offered him the gross rental less grazing

fees or \$336.54 plus the \$341.19, or \$677.73, the situation would not have been so absurd.

I have prepared a brief memorandum in which I have analyzed the hearing. I would like for you to look it over, and if you think it would serve any useful purpose, I would like to have it put in the records.

I want to emphasize that these people that did accept the offers made them do so under pressure. We were told if we did not accept these offers that undoubtedly the War Department would proceed with the condemnation of the fee taking the land over from the railroad company, which would, of course, have put the stockmen entirely out of business. They would have merely received the compensation for the unexpired term of their leases and would have no assurance that after the war was over they would be able to continue in business. That was the club that was held over their heads and the reason that most of them signed up on the absurd basis offered them.

These people need some help, and I hope that something can be done for them.

Very truly yours,

J. H. MOEUR.

MEMORANDUM RE KINGMAN AND YUCCA AERIAL GUNNERY RANGES

The hearing before the Senate Subcommittee on Public Land with reference to the compensation offered and paid stockmen for land taken for war purposes seems to clearly indicate:

First, that the compensation offered these stockmen is grossly inadequate;

Second, that the War Department has completely ignored the spirit, if not the letter, of the congressional enactment that was passed for the purpose of enabling the War Department to deal fairly with these stockmen;

Third, that a number of stockmen have been high-pressured into accepting the inadequate offers made to them because of the costs of carrying the matter through the courts and because they do not want to be put in the light of in any way impeding the war effort. If these stockmen get any relief, it will be through the efforts of the Senate subcommittee. Just exactly where the fault lies seems difficult to ascertain, but apparently the local appraisers are largely to blame. However, I am inclined to think that a part of this fault can be attributed to the War Department officials in Washington. The absurdity of the situation taken by the War Department, both locally and in Washington, can best be illustrated by one or two examples:

The committee's attention was directed to the case of Lester Pyeatt, a small stockman who had two little ranches that were affected by the creation of the Yucca aerial gunnery range. Let us consider the situation with reference to the so-called lower Pyeatt range consisting of 29 sections in township 14 north, range 18 west. We know that this was not a particularly good range, that it was not particularly well improved and only partly fenced, but Pyeatt had been running cattle on this range for several years. This range is composed of approximately 50 percent Federal land and 50 percent Santa Fe-owned land that Pyeatt held under lease. The Santa Fe land was a year to year lease, but the railroad has always recognized the right to renew where the land was being used for range purposes. Evidently the Grazing Service considered this ranch of some value because the records of the Phoenix Grazing Service show a permit issued to Mr. Pyeatt for 174 head of cattle on this ranch. Assuming the inadequately low figure that the War Department set on ranges of this kind of \$30 per head carrying capacity, then this range according to their own estimate should have been worth to Mr. Pyeatt \$5,220. A witness who testified before the subcommittee, named Morgan, said that he had offered Pyeatt \$100 a section for his leases on this range, that Pyeatt had refused this offer. So evidently Morgan thought the range was worth \$2,900 and Pyeatt thought it was worth more. Any conservative value of the range must be somewhere between \$2,900 Morgan offered and the value of the range from a carrying capacity standpoint. Assuming the very lowest figure of \$3,600, if Pyeatt had been offered a reasonable return on that investment of, say 10 percent, this would have amounted to \$300 a year, or, for the 3½-year period, something over \$1,000. Instead of that, the appraisers by some method that was not fully disclosed, arrived at the conclusion that the range for the term in question was only worth \$432.04, and then proceeded to deduct from that pitifully small amount the grazing fees that Pyeatt would have paid to the Grazing Service and the cost of the leases to the Santa Fe, which left him exactly \$4.65 in the red.

Why, in the name of common sense, do they deduct these rentals after having arrived at the value of the range? I think that is the trouble in all of these cases. The range was certainly worth something to this man over and above what he had to pay for rentals. This fact must be obvious, and I am of the opinion that the trouble with all of these cases is that these appraisers have arrived at an inadequately low price for the value of the ranches affected, and then have deducted from that low price the grazing fees and rentals instead of adding them to the appraised value.

We next direct your attention to the holdings of Eudora L. Gardner and Kenneth C. Gardner. Eudora L. Gardner is the mother of Kenneth C. Gardner, and while there are two ranches and two permits involved, they are operated as one unit and, therefore, can best be analyzed jointly.

The total holdings in these two ranches is 126,728 acres. Actually included in the gunnery range was 65,643, or over one-half of the total acreage of both of these ranches. Again, these ranches consist of approximately 50 percent Santa Fe Railroad land held under a 5-year noncancelable lease dated June 15, 1943, expiring June 15, 1948, and approximately 50 percent government land held under Taylor permits. These two permits total 524 head and were actually very low because these people had not overstocked their range. Grazing Service admits that this was not more than 80 percent of the actual carrying capacity of the range, and would probably at any time application had been made to them, increase these permits. Included in these ranges was also a small amount of State land held under lease. The ranches were both fenced and were being used at the time of the creation of the gunnery range.

As a matter of fact, this information was given to the War Department appraisers together with the further information that these people, in compliance with the Government order, had moved about 400 head of the cattle at an out-of-pocket cost in excess of \$500 to another range where they purchased feed. At least 15 head of the cattle died as a result of being moved and many others were seriously hurt. The pasture that they purchased for these cattle cost them \$1.17 per head per month, and they were obliged also to spend an additional sum in caring for the cattle while they were on this other range. These cattle were pastured on the range of Mr. Charles Mickle. Afterward Mickle sold his ranch and the Gardners thereupon sold their cattle, all at a loss.

As we have heretofore pointed out, the gunnery range actually took in approximately one-half of these ranches, to wit, the west half thereof. Assuming the lowest figure possible—that is, that the total ranch had a carrying capacity of 524 head, then one-half of that carrying capacity at \$30 value set by the appraisers would indicate that the value of that portion included in the gunnery range was \$7,860. At 10 percent per annum for the 3½ year period on that value would amount to \$2,751. This would disregard any damage by reason of the fact that the rest of the ranch could not be used, and would disregard any cost of moving cattle or loss incident thereto. If these people had been paid just 10 percent of the actual value of that part of the ranch included in the gunnery range, plus the cost of the leases on that part of the ranch, then the offer to them would have been the figure of \$2,751 plus the sum of \$2,100, cost of rentals to the Santa Fe Railroad and State land department, or a total of \$4,851. Instead of that, they were offered and finally forced to accept the sum of \$3,830.50. Certainly these people were entitled to some consideration for the inconvenience and expense they were put to and also some consideration for the loss of the use of the rest of their range. Again, apparently the appraisers arrived at some value for this ranch and then deducted from that value the cost of the rentals.

This same general situation exists with reference to the holdings of other stockmen on the Kingman aerial gunnery range, the Yucca aerial gunnery range and the Kingman ground-to-ground gunnery range.

Respectfully submitted,

MOEUR & MOEUR.

STATEMENT OF JUDGE LEVI S. UDALL, ST. JOHNS, ARIZ.

Mr. UDALL. My name is Levi S. Udall, and I live at St. Johns, Ariz. I am justice of Superior Court of Apache County, engaged on the side in farming. However, I do not appear here in any way in my official capacity.

It should be self-evident that my appearance before you has nothing to do with my judicial position; and it may be that as one who has never held a forest permit, nor made any particular study of the forest rules and regulations and the laws governing same, I should not presume to attempt to make any constructive contribution to this phase of the hearing.

I appear here today, gratuitously and at my own expense, at the request and in behalf of the great majority of the few remaining people living in the communities of Alpine and Nutrioso. These two mountain settlements lie on the Apache National Forest in Apache County, Ariz., on what is known as the famous Coronado Trail, running between Springerville and Clifton. They were both settled long before there was a Forest Service, back in the late seventies or early eighties. Each of them became thriving communities, with a fairly stabilized population, consisting of from 40 to 60 families each. Some of the big men of the State, such as the late W. W. Pace, of Safford, laid the foundations of their fortunes there.

For more than 20 years past I have had occasion to be in both of these communities two or three times a year, and I have seen them gradually decrease in population until now Nutrioso has less than 50 people, where once there was 300, and the beautiful town of Alpine, which is at the crossroads of the Coronado Trail, and one of the beauty spots of the State, is down to less than 100 people, or approximately where they were 60 years ago. I attribute this decrease wholly to what I consider the short-sighted and unfair policy of the Forest Service in the administration of this, our greatest resource, and the practice and system that has grown up of parties being permitted to traffic in forest permits. If I understand the situation, originally these permits were not commercialized by being bargained and sold as they are today, but they were granted by the Government to permittees with those residing on the forest being given first and superior rights.

Please understand that I am not criticizing the men who now hold these important forest positions, such as my good friends, Mr. Pooler, the regional forester, and the local supervisor, Bob Ewing. Nor am I charging that there has been any discrimination against my people in these communities. As a matter of fact, I consider Mr. Ewing one of the best and fairest supervisors we have ever had on the Apache National Forest. It is the system that I am complaining of. I think it is all wrong. Surely it is not the policy of the Federal Government, the present administration of which professes such solicitude for the welfare of the common man, to stifle the development of such communities as those referred to.

These towns are located at elevations of from 7,000 to 8,000 feet. Their growing seasons are short, the crops that can be grown at all are limited, and diversified crops are out of the question. By farming alone, one cannot support a family. Stock raising presents the only chance for economic security, and yet by and large the people living in these communities—and I have no doubt there are many other similar communities over the State—are only given a permit for 10, 15, or 20 head of stock, which anyone knows is but an aggravation, the economic unit being too small for a livelihood. They are unable to even keep the calves from their milk cows. I could cite you many individ-

ual cases where men who have lived there for 60 years, who have reared families, been good, loyal, and law-abiding citizens, have as of today permits for no more than the figures just given. As their children reach their majority they have had to leave home as there is no future there for them.

It may be that many of the individuals who have lived in these communities have not been too far-sighted. Some may have sold their birthrights for a mess of pottage. Doubtless when some financial crisis arose in their lives they may have in their desperation sold their permits.

In the State of Arizona we have a law, and court decisions confirming same, that makes water and the land inseparable. Might not some such arrangement be worked out by law or forest regulation whereby these permits, held by local individuals on the community permit, could not be sold, however desperate might be the individual's need, without the patented land being sold with the permits, and then limit these sales to others in the community? It seems most unjust and unfair that entire communities of old-time settlers should be allowed for their community permit but a small fraction of the number of livestock which are granted to other adjacent large holders, many of whom are even nonresidents of the State of Arizona.

I am not suggesting that permits now held be confiscated, nor do I subscribe to the doctrine that vested property rights should be taken from those who own them and given to others, at least not without fair and just compensation. But I do say that some changes in the system must be made so as to encourage the growth and development of such communities, rather than sound their death knell. If something is not done to change the system and offer economic security to the inhabitants, it will only be a few more years until these communities are but a memory, and one or two ranchers will hold forth where once were thriving communities. Their homes, schools, and churches will crumble and go back to the forest primeval.

I note that the Forest Service, in its rewording of the so-called Johnson bill (S. 1030), declares it to be the sense of Congress—

That it is in the public interest to bring about the greatest practicable stability in the use of the range resources of the national forests by domestic livestock consistent with (a) the protection of the range and other resources of the national forests * * * (c) and equitable distribution of the grazing privilege among those found to be most in need of the privilege * * * and particularly those which are the basis of individual family support.

This states concisely and exactly what my people are contending for, and I trust that this Senate committee and the Forest Service will put these principles into law and actual practice. In other words, my appeal is for a more liberal treatment of the small bona fide settler on the forest, and for a gradual increase and expansion of these so-called community permits. They ask no more, and less than that would be an injustice.

I thank you.

The CHAIRMAN. Are there any questions?

Mr. KNEIPP. At the proper time I believe there are some other gentlemen who are going to make similar statements with respect to other areas. Perhaps you might want to hear them first.

Senator HAYDEN. I would like to ask the judge this question: Can the policy you have indicated be carried out without serious disruption of the existing livestock industry?

Judge UDALL. I should think it could, Senator Hayden, particularly if it were done over a period of a few years. I don't think in any one respect it is to be done instantly, but I am saying to you, Senator, those communities are going to be wiped out if the present policy is continued.

Senator HAYDEN. One factor to be considered is: What is a sound economic unit for the individual stockman to depend on for his livelihood? If he has irrigated land, he has something to go on.

Judge UDALL. These communities are on the forest. Attempts to irrigate from this elevation, and their limited crops, I think, experience will show that no man can successfully make a livelihood who depends only on his farming activity.

Senator HAYDEN. That would be your idea, to supplement the farming activity by—

Judge UDALL. Suitable permits.

Senator HAYDEN. On the forest. The two would have to go together.

Judge UDALL. That is right. Furthermore, Senator, I am not blaming the Forest Service entirely. I think the people who live there have been very unwise and not farseeing themselves. I think they should be protected from themselves. I think there should be some system whereby they were unable to sell these permits, and there ought to be a gradual increase in the community permits. I am speaking as one who has lived there. I haven't owned a permit, but I have observed those conditions, and they are getting gradually worse.

Senator HAYDEN. I know, as a matter of fact, there are a good many of the large stock outfits in Arizona and elsewhere which have been built up by buying out groups of small stockmen who could not make it because they did not have an economic unit on which to function. My own judgment is, taking good years against bad years, wet seasons against dry, high prices against low prices, by and large, a man is safe in trying to support a family solely from the livestock industry only if he handles about 500 head of cattle.

Judge UDALL. I think these people would be happy if they had permits for even 50 or 75.

Senator HAYDEN. You wouldn't expect a family to make a living from 50 to 75 cattle?

Judge UDALL. On the farms they have they would get along nicely, Senator, and would be very happy about it.

Senator HAYDEN. You are predicating that on the point that there are two classes of permits, one where the man is engaged in nothing but the livestock industry—he must therefore have a substantial unit to support himself and a family in good years and bad. There is another type where the man has an outside income from a farm, from labor, or something else, where a few head of cattle will benefit him. Do you think those two processes can exist side by side by proper adjustment?

Judge UDALL. Yes, sir; I do, Senator.

The CHAIRMAN. Are there any questions?

Thank you very much, Judge.

At the Fredonia hearings it was brought out, with considerable emphasis, that the recreational areas surrounding Mead Lake on the Arizona side had been withdrawn from use for grazing. At that time the chairman of this committee requested Mr. Drury, head of the Park Service, who was with us there, Mr. Tillotson, Mr. Leech of the Grazing Service, and others connected with that recreational area, to please get together and see if a plan could not be worked out whereby grazing might be permitted on the recreational area on the Arizona side surrounding Mead Lake. Mr. Drury was exceedingly gracious about it, as was everyone else connected with it.

I am advised by Mr. Leech that the plan has been worked out, that grazing will be permitted now in the recreational area. Mr. Leach is here and we will hear from him now, briefly, on the subject.

Senator McFARLAND. Just before you do that, may I take this opportunity to say—I have got several appointments to fill this afternoon and then I have to be on my way to Washington. I am going to drive back, so I'll have to start a little bit ahead of Senator Hayden and Congressman Murdock.

I want to assure you that I will read the record of the rest of these hearings and consult with Senator Hayden and Congressman Murdock and Senator McCarran, and we will study these proceedings very carefully, as will Senator Hayden, of course, consult with us on the hearing that we had yesterday. I again want to thank you, Senator McCarran, for coming here, and I am glad to have heard the problems of our State discussed here yesterday and today. [Applause.]

The CHAIRMAN. Now, this is a very interesting proposition. It affects vitally those who have grazing, or would have grazing rights on the recreational area, and it effects a complete change of policy from that which has prevailed. I think it may bring a ray of contentment and happiness to those who are interested. We hope so.

Mr. J. H. LEECH (Chief of Lands, United States Grazing Service, Salt Lake, Utah). Mr. Chairman, under your instructions given at Fredonia, we have worked out a memorandum of understanding, signed by Mr. Day, of the Fish and Wildlife Service; Mr. Rose, of the National Park Service; Mr. Tillotson, of the National Park Service; and Mr. Brooks and Mr. Dierking, of the Grazing Service. It covers the recreational area, both in Nevada and in Arizona.

It provides that grazing will be handled by the Grazing Service under their machinery of issuing licenses and permits up to 10 years. On improvements placed on the area, the various agencies will consult, and improvements satisfactory to the Fish and Wildlife Service or the Park Service can be constructed by the permittee or licensee. The fee rate is the rate charged by the Grazing Service.

There are certain stipulations concerning watering and the distances of grazing from Lake Mead; those are stipulations that were put into the agreement.

We all believe that this agreement will work very nicely, and it is in effect right now as having been signed yesterday and this morning, and we will offer the agreement.

The CHAIRMAN. It may go in the record. Thank you, Mr. Leech.

Mr. LEECH. That distance is from the dam itself, and not from Lake Mead.

(The agreement is as follows:)

SEPTEMBER 3, 1943.

MEMORANDUM OF UNDERSTANDING

Between the regional graziers of regions 3 and 9, Grazing Service; Superintendent of the Boulder Dam national recreational area, National Park Service; Bureau of Reclamation, Boulder Canyon project; and the Fish and Wildlife Service, Department of the Interior, covering grazing on the Boulder Dam national recreational area and Boulder Canyon National Wildlife Refuge, Nev. and Ariz.

PREAMBLE

Pursuant to the memorandum of understanding between the National Park Service and the Grazing Service, approved by the Secretary of the Interior on February 20, 1940, which is designated for the purpose of coordinating range supervision with reference to livestock which graze part time in grazing districts under Grazing Service regulations and part time in reservations under the jurisdiction of the National Park Service, and particularly to section 4, which provides for the formulation of field agreements to be entered into by local representatives of the two Services covering the details of such cooperation, and further pursuant to paragraph 5, article II, of the memorandum of agreement between the Bureau of Reclamation and the National Park Service, approved by the Secretary of the Interior on October 13, 1936, under which the Boulder Dam national recreational area is developed and administered and which places responsibility in the National Park Service for handling grazing on the recreational area, and

Whereas the Fish and Wildlife Service, Department of the Interior, having jurisdiction over all wildlife on a large area embraced within the confines of the Boulder Dam national recreational area known as the Boulder Canyon National Wildlife Refuge, is vitally interested in any grazing by domestic livestock on the refuge area, and (for the purposes of this agreement the Boulder Dam national recreational area shall hereafter be designated as the recreational area, and the Boulder Canyon National Wildlife Refuge shall hereafter be designated as the refuge; the superintendent of the recreational area shall hereafter be designated as the superintendent; the director of power of the Boulder Canyon project, Bureau of Reclamation, shall hereafter be designated as the director, and the refuge manager of the refuge shall hereafter be designated as the manager) as further evidenced by the agreement between the Park Service and the Biological Survey (now the Fish and Wildlife Service) approved by the Secretaries of Agriculture and the Interior on April 3 and May 12, 1937, respectively, and

Whereas grazing supervision on the recreational area and the refuge can best be coordinated by the Grazing Service, particularly since the same stock graze part time on adjacent grazing district lands and part time on recreational and refuge lands; therefore it is mutually agreed that—

1. The Grazing Service will supervise all grazing by domestic livestock on the recreational area and refuge in the manner provided in the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269), as amended, and the rules and regulations thereunder, commonly known as the Federal Range Code, approved September 23, 1942, and subsequent amendments thereto, insofar as supervision of grazing is not in conflict with the purposes of the said recreational area and refuge where contiguous, or the recreational area where not contiguous with the refuge.

2. Grazing permits or licenses issued by the Grazing Service in accordance with this memorandum of understanding will carry, in addition to Grazing Service, or special recreational area, or refuge provisions, as the case may be, a stipulation providing for the cancelation or modification of grazing privileges or areas on lands covered by this memorandum of understanding when such lands are required for higher use or for wildlife purposes. Advance written notice of 12 months will be prerequisite to actual cancelation of grazing privileges, and notice of cancelation or modification and reasons therefor shall be given the Grazing Service in writing by either the superintendent, director, or manager when involving the refuge and by the superintendent when not involving the refuge, with copy of such cancelation order to be provided the other agencies concerned.

3. It is mutually agreed that no refund of a grazing fee for any of such lands involved in this agreement shall be made unless application therefor is made within 30 days after the expiration of the grazing period described in the license. The Grazing Service shall make every reasonable effort to obtain final disposition of such applications for refunds within 5 months from the receipt of any such applications; and the refunds of grazing fees for any of such lands, which may be made by the Grazing Service, shall be deducted from the grazing fees collected for the lands before payment is made to the Bureau of Reclamation

as provided in paragraph 4 hereof. The grazing fees fixed by the Secretary of the Interior for the use of grazing district lands adjacent to the recreational area and refuge shall apply also to the lands in the recreational area and refuge.

4. In accordance with the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1066), as amended, the Grazing Service shall pay to the Bureau of Reclamation the grazing fees collected in connection with the lands involved pursuant to this agreement, less such refunds of such fees as may be made in accordance with the provisions of paragraph 3 of this memorandum. Said payments shall be made to the Bureau of Reclamation by the Grazing Service annually upon a calendar year basis. The accounting for such payments shall be in such manner agreed upon by the Grazing Service and the Bureau of Reclamation, as will meet the accounting requirements of both.

5. In order to secure the best possible management and use of the recreational area and refuge, users of the range will be encouraged to finance and to construct necessary improvements under special free use permits to be issued by the Fish and Wildlife Service providing such permanent improvements are first approved by the superintendent and the director or their authorized representatives as to location, design, need, and affect of same on higher use purposes of the lands involved. Where improvements to lands involve only recreational area lands the superintendent or his authorized representative will issue special use or section 4 (see preamble) permits. All permanent improvements shall be maintained by and at the expense of the permittee using same in a manner satisfactory to the manager and/or the superintendent and/or the director, as the case may be. All permanent improvements upon completion shall become the property of the United States, shall not be removed by the permittee, and shall be under the jurisdiction of the National Park Service when located on recreational area lands outside the refuge, and under the jurisdiction of the Fish and Wildlife Service when located on refuge lands. Temporary improvements placed on the lands must be removed by the permittee upon cancellation of his grazing permit when so requested by the manager and/or the superintendent and/or the director, as the case may be. If not removed within 60 days after termination of grazing permit or date of cancellation thereof, property shall automatically become the property of the United States, under the jurisdiction of the National Park Service when located on recreational area lands outside the refuge, and under the jurisdiction of the Fish and Wildlife Service when located on lands inside the refuge area.

6. There shall be performed each year, if desired by either the Fish and Wildlife Service, Grazing Service, or Park Service, a joint inspection of the area or areas used or to be used by livestock, and which inspections may be the basis for issuance, cancellation, amendment, or modification of existing or proposed grazing permits.

7. Before the beginning of each grazing season the respective regional graziers, superintendents, and the manager, or their respective authorized representatives, shall confer and decide upon areas to be grazed, the number of livestock and species of livestock to be grazed on each respective area, and grazing season. Where refuge area is not involved the manager will not be represented.

8. Copies of permits for the manager, the director, and the superintendent, setting forth the area, number of livestock, species of livestock, and period of grazing, as well as the owner of the stock and the brands or other identifications on the stock, shall be provided by the Grazing Service at the time, or before the stock is turned loose on the area.

9. The memorandum of agreement between the Bureau of Reclamation and the National Park Service, dated October 13, 1936, is hereby amended insofar as any stipulations included in this memorandum of understanding may be at variance with the already existing memorandum of understanding mentioned above.

10. It is understood by all concerned that there shall be no grazing within a radius of 8 miles from the Boulder Dam.

11. In connection with the above supervision of grazing by the Grazing Service it is agreed that the Grazing Service will cooperate with the National Park Service and the Fish and Wildlife Service in any trespass by domestic livestock either from stock permitted by the Grazing Service outside or inside the recreational area or refuge. In the case of trespass stock inside the refuge area the regulations of the Fish and Wildlife Service shall apply, and on the recreational area not coinciding with the refuge, the National Park Service regulations shall apply.

The National Park Service and/or the Fish and Wildlife Service as the case may be, shall notify the Grazing Service of any trespass stock before any trespass action is taken by either the National Park Service or the Fish and Wildlife Service, and if appropriate action cannot be taken by the Grazing Service, then the affected agencies shall enforce their trespass regulation.

The National Park Service or the Fish and Wildlife Service, as the case may be, may request the Grazing Service in cases of repeated trespass for the cancelation of the permit of the offending permittee.

12. Necessary amendments to this agreement may be made from time to time in accordance with suggestions from the agencies involved, each of the agencies to be signatory to such amendments and to receive copies thereof.

Approved:

ROBERT H. ROSE,
Superintendent of Boulder Dam National Recreational Area.

L. R. BROOKS,
Regional Grazier, Region 9, Arizona.

C. F. DIERKING,
Regional Grazier, Region 3, Nevada-California.

ALBERT M. DAY,
For Regional Director, Region 3, Fish and Wildlife Service.

M. R. TILLOTSON,
Regional Director, Region 3, National Park Service.

J. H. LEECH,
Acting Director, Grazing Service.

The CHAIRMAN. Thank you, Mr. Leech, and the chairman of the committee, in behalf of the committee, expresses the gratitude of the committee to Mr. Leech, Mr. Rose, Mr. Brooks, Mr. Tillotson, Mr. Drury, and the others who participated in the agreement. I think it is a progressive agreement and I think it will be a boon to those who see fit to utilize that area. If the committee has not done anything else since it has been in Arizona, I think we have accomplished a little something for the people of Arizona, in that respect. We are very happy about it.

The CHAIRMAN. There is a wire here from Margaret M. R. Lee, from Tuscon, Ariz., addressed to Mrs. J. M. Keith, Arizona Cattle Growers Association, that reads as follows:

Cannot be at Senator McCarran's hearing, but wish to protest expensive Army maneuvers, and particularly future Coronado national monument on our range. The war will be over some day but the Park Service will go on forever.

Mr. RONSTADT. Mr. Chairman, may I ask a question on this agreement? The Cattle Growers Association would like to know if these permits are transferable, or just for the life of the permittee?

Mr. LEECH. The permits are issued by the Grazing Service and are attached to the property. There is no provision made in here of this lifetime of the permittee. As I understand it, we will issue the 10-year permit, based on the property.

Mr. RONSTADT. In other words, it will be just like the Grazing Service?

The CHAIRMAN. Let's clarify it a little further: It is not revocable on the death of the permittee?

Mr. LEECH. It will be our regular permit form. Of course, it carries a provision that if a man loses his base property the permit is canceled.

The CHAIRMAN. That is the general provision?

Mr. LEECH. Yes, sir.

The CHAIRMAN. There were some things that, I think, should be brought up here. One that I want to bring in is an Indian matter

that Senator Hayden has. That, I think, might come in right now in the hearings. Senator, if you will proceed with it as you see fit, we would be very glad.

Senator HAYDEN. Mr. Chairman, I received a long-distance telephone call from Leo Weaver, at Flagstaff, advising me that four Hopis, interested in protecting their reservation were on their way to this hearing. I suggested to him that they come here with someone to speak for them, and that they prepare a statement with regard to the matter. Two of them would like to be heard. I think the first one, perhaps, is the president of their organization, Emory Sikoquapluva.

Have you a statement you would like to read to the committee?

Mr. SIKOQUAPLUVA. I have the statement that I brought along with me, and I will read it to you if you would like.

At a general meeting of the stock owners of Third Mesa, on the Hopi Reservation, called by the Hopi Stockmen's Association, it is thought best to discuss the livestock reduction program by the Superintendent of the Hopi Agency.

The stock owners see no necessity for this reduction as the Hopis are endeavoring in every manner to produce enough meat and wool to maintain themselves and to contribute to the war effort.

The members of the association have had difficulties in producing any surplus of livestock on our range. The Hopi Superintendent now claims that his records show overgrazing, but by actual count of our livestock we are able to produce figures contrary to the Agency's count.

For the above reasons this proposed reduction will seriously affect the Hopi's livelihood and the Nation's urgent need of both meat and wool. In a meeting held August 10, 1943, with a representative of the Hopi Superintendent present, we found irregularities on the reservation which existed without our knowledge. During the month of November 1942 our horses were branded and handled very roughly by the range rider, the result being that one Indian mule was nearly killed. This man used profanity with the Indians and was the cause of much trouble from the beginning.

Our complaints are never considered and the Indian field representatives have never furnished us with their report findings, all of which we feel is an injustice to our people at large. We further feel that there should be no secrets in the Indian Service or any information withheld from the Indians, especially information concerning the Indians.

We have always been taught that we live under a democracy and we have developed this land as first Americans and yet are given no rights whatsoever.

We ask that district No. 6, which was set up by the Navajo service, be abolished in its entirety and that the Executive order of 1882 be restored in full to the Hopi people and then to be managed by the Hopi Tribal Council in conjunction with representatives of the Office of Indian Affairs.

We respectfully request your assistance toward the end that the Hopi Tribal Council be called into consultation before any other decisions are made regarding stock reduction or other matters of importance to the Hopi people.

Senator HAYDEN. Mr. Chairman, I wonder if there is anyone here representing the Indian Service who might discuss this matter?

The CHAIRMAN. Is the attorney for the Indian Service here?

Mr. WILLIAM BROPHY (United States Indian Service). I am attorney for the Pueblos, Mr. Chairman, and I don't know anything about this particular problem.

The CHAIRMAN. Is there anyone here in the audience connected with the Indian Service sufficient to know this problem? Will you please come forward?

Mr. FLOYD H. PHILLIPS (regional forester, Indian Service, Phoenix, Ariz.). Mr. Chairman, I doubt very much if I can give you any information in regard to this particular question. I have only been here since March of this year, and I am not familiar with the Hopi situation. However, I would be glad to answer any questions which I could, if you so desire.

Senator HAYDEN. You may know whether it is true or not that there has been a demand for a reduction in the number of livestock carried on Indian lands in northern Arizona. Is that true?

Mr. PHILLIPS. I understand that is true, Senator Hayden.

Senator HAYDEN. Do you know when that reduction was ordered?

Mr. PHILLIPS. No; I could not give it to you.

Senator HAYDEN. Perhaps you can answer, Emory. This program has been going on for some years. Have you made reductions heretofore, or is this the first time the Indian Service has called on you to cut the numbers of livestock?

Mr. EMORY SIKOQUAPLUVA. Back in 1936, I believe it was; I have got the regulations there with me, in my brief case, over there, maybe I could get that.

Senator HAYDEN. What I want to know is whether this is something that has been going on for a long time, or something new?

Mr. SIKOQUAPLUVA. Well, it has never been in effect there, you know, until last spring. In that statement, you know, when the horses were branded, that was the first time that it was taken action on.

Senator HAYDEN. It makes a lot of difference what kind of a season you have, whether you have had good rains or not, and whether your range is in good shape or not, as to how many it will carry. Were these regulations made at a time when there was a drought, and do you have good grass now?

Mr. SIKOQUAPLUVA. We have practically the same conditions now that we grazed on when that was made. I mean when that was put into force.

Senator HAYDEN. One complaint is an objection to reduction in the number of livestock that are to graze on the range?

Mr. SIKOQUAPLUVA. Yes.

Senator HAYDEN. The second proposition here—I can illustrate it Mr. Chairman, if you will glance at this map of Arizona. You will notice that there is a large square area to which he refers in his letter, under "Executive order of 1882." Now, he says that that order set aside a reservation for Hopi Indians. The hatched area, in the center, with the red lines, the very much smaller area, indicates, apparently, the actual grazing region now occupied by Hopi Indians; but you will observe that it is very much smaller than the larger square area. His prayer is that the Executive order reservation be restored, in full, to the Hopi people, to be managed by the Hopi Tribal Council; but there, of course, you enter into a conflict of interests between yourselves and your neighbors, the Navajos?

Mr. SIKOQUAPLUVA. Yes.

Senator HAYDEN. Do you believe it is possible to adjust that difference, without harm to either side?

Mr. SIKOQUAPLUVA. The Hopi people, as I understand, do not wish to harm anybody, and we are not asking that anything be given to the Hopi people that is not theirs rightfully.

The CHAIRMAN. How many are there of you, now, in the reservation? How many Hopis?

Mr. SIKOQUAPLUVA. Approximately 3,000, Senator.

The CHAIRMAN. How does that compare with your former population?

Mr. SIKOQUAPLUVA. It is maintaining itself, at least.

The CHAIRMAN. It has not reduced?

Mr. SIKOQUAPLUVA. It has not reduced any to make much difference, Senator.

Senator HAYDEN. Upon the other hand, your Navajo neighbors have multiplied greatly in numbers?

Mr. SIKOQUAPLUVA. That is true.

Senator HAYDEN. Mr. Chairman, in view of the fact there is no one present from the Indian Service who can discuss this matter, may I make this suggestion, that this communication be incorporated in the record, and that the clerk of your committee be directed to bring it to the attention of the proper authorities in Washington. When the response is made, I shall be very glad to cooperate with you in seeing what action be taken that might be effective in the matter.

(The communication referred to is as follows:)

FLAGSTAFF, ARIZ., September 2, 1943.

Senator CARL HAYDEN,
Westward Ho Hotel,
Phoenix, Ariz.

MY DEAR CARL: The bearers of this letter are Hopis—Emory, Roger, Fielding, and Simon—all highly esteemed in their country. You will find them intelligent, honest, and receptive to suggestion, and you may talk with them as you would with me.

C. B. Wilson and I have talked with them and find them sorely in need of your help as to how they should proceed with their serious problem. C. B. is most anxious that you understand that we do not wish to offer you our advice in this procedure, but we are asking yours, as your long experience will be most helpful and the Hopis will follow your advice implicitly.

My own thought on the matter is, there is to be a tribal council meeting at Oraibi in the near future which will be a representative gathering of the Hopi Tribe as a whole and C. B. and I will attend this council in the hope that we may be able to assist them. We, in turn, will immediately forward you the findings of the meetings. You may perhaps feel it wise to postpone testimony of the Indians at the public-land hearings to be held in Phoenix, Saturday.

It is most important that you understand that the Hopi people have no desire to take away from others * * * they have no desire to injure any individual, for they are asking only what rightfully belongs to them. President Chester A. Arthur, in 1882, set aside for the use of the Hopi people a tract of land, designated as the Executive order. During the ensuing years, the Hopi people have been restricted in the use of this land until today they are allowed to use but one-third of their own reservation. The range they are now allowed to use is known as district No. 6, and the attached map will enlighten you as to the restriction.

The Hopi people must of necessity produce sufficient meat and wool for their own consumption. They would like to place, to Government use and the war effort, any possible surplus. They are patriotic * * * they have sent their young men to fight for our democracy and they are loyal to our Government to a degree.

Their plea is for relief.

Their hope is that their land be made accessible to them as it was in the past. This will allow them their simple living and will improve their daily standards which is their just due, even as it is yours and mine. They realize this will demand a tremendous effort on their part and are prepared to put forth this effort, and we believe you will be doing a wonderful service for a people if you will assist them.

Accept my sincere thanks and with all good wishes,

Sincerely yours,

LEO WEAVER

The CHAIRMAN. We had the promise that three superintendents would be here. I think one of them was the Hopi Superintendent.

Mr. HAVELL. I understand, Mr. Chairman, that the Indian Service will be represented at Albuquerque. Mr. Stewart is to be there, the former Chief of the Lands Division.

Mr. BROPHY. I will undertake to have a report furnished to the committee by the Superintendent of the Hopis, and by the Indian Office.

Senator HAYDEN. Can you do that at Albuquerque when the committee is there?

Mr. BROPHY. I will try to have it ready in Albuquerque.

(The following letters and report were later received for the record:)

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C. November 9, 1943.

HON. PAT MCCARRAN,
Chairman, Subcommittee of the
Committee on Public Lands and Surveys,
United States Senate.

MY DEAR SENATOR MCCARRAN: At the recent Phoenix meeting of your subcommittee a question was raised by some members of the Hopi Tribe concerning the division of use of grazing lands between the Hopi Tribe and the Navajo. The Superintendents of the Navajo Service and the Hopi Agency has prepared a statement on this matter, copies of which I enclose for your record.

Sincerely yours,

OSCAR L. CHAPMAN,
Assistant Secretary.

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
NAVAJO SERVICE,
Window Rock, Ariz., October 7, 1943.

MY DEAR MR. BROPHY: There is returned herewith original letter dated September 2, 1943, addressed to Senator Hayden by Leo Weaver of Flagstaff, Ariz., enclosing two petitions signed by the Governor of Kigotsmovi and the president of Hopi Stockmen's Union, opposing the livestock reduction program insofar as it applies to Hopi livestock and also insisting that the original Executive order area of 1882 be restored in full to the Hopi people.

Under date of December 16, 1882, President Arthur signed an Executive order whereby an area consisting of 2,472,320 acres, or approximately 3,860 square miles, was set aside for the use and occupancy of the Hopi Indians, together with such other Indians as the Secretary of the Interior might settle thereon. This wording implies that the Hopi rights were not exclusive.

It is known that both the Hopis and Navajos inhabited the area at the time it was set aside by Executive order, and at that time there were approximately 2,000 Hopis and several hundred Navajos living within the area in question.

Since 1882, the Hopi population has increased to a total of 3,500 and the Navajo population within the area to approximately 4,500. Records indicate that even though there were few domestic livestock grazing within the area in 1882, land-use disputes existed between the Navajos and Hopis at that early date. The increasing infiltration of Navajo Indians within the area has created a grave economic and administrative problem and threatens seriously to throttle the Hopi Indians from an economic standpoint. Neither tribe is willing to agree to a division of the area and the creation of respective reservation boundaries. The Hopis believe that such an agreement would embarrass their traditional claims to large areas of land. The Navajos wish the privilege of utilizing the entire 1882 reservation as far as possible. From an administrative and economic standpoint it has been necessary to divide the Executive order area into a land-use district for the use of the Hopis and the balance allocated to Navajo land-use districts. The setting up of land-use districts on this and contiguous Navajo areas has been absolutely necessary for the proper protection of the range from destruction and for the effective enforcement of the regulations, that Hopi and Navajo grazing be separated. In the years 1936 and 1937, it became obvious that the entire area of the Navajo and Hopi Reservation was deteriorating, due to overuse by the grazing of excessive numbers of livestock. Range surveys and forage checks were made and livestock inventories obtained.

Subsequently, efforts were and are still being made to adjust the numbers of livestock grazing within each district area to the carrying capacity of the range, as determined by careful surveys; and although many livestock were removed from the range, there are yet areas upon which the livestock numbers are in excess of the rated carrying capacity. The land management district set apart for the exclusive use of the Hopi Indians and identified as district No. 6 is entirely inadequate for the needs of the Indian population. This is likewise true of the contiguous Navajo land management districts.

Precipitation within district No. 6 during the year 1943 has been far below average; production of corn, the principal food crop, is estimated to be less than 50 percent of normal; forage for livestock is estimated to be less than 50 percent of normal. This is true of the entire Executive order area in question, and the range lands located therein are in a very bad condition, and unless large numbers of livestock are moved out, extremely heavy livestock losses will occur during the forthcoming winter. Regardless of the serious economic problem, the protection of these Indian lands from destructive overgrazing must be maintained. The entire Hopi-Navajo grazing lands in Arizona are woefully inadequate to support the Indian population and unless some means of expansion is found, the economic situation of these people will quickly become a national tragedy.

Sincerely yours,

J. M. STEWART,
Superintendent, Hopi Agency.
BURTON A. LADD,
Superintendent, Hopi Agency.

Senator HAYDEN. Did the Governor desire to present a statement, also, to be inserted?

Mr. SIKOQUAPLUVA. He will have to use an interpreter. Ask him, please, to come forward and identify himself and submit the paper.

The CHAIRMAN. Your paper will go into the record.

Senator HAYDEN. Will you be kind enough to explain to the Governor that, because of the press of time, we would like to have him present his letter, and ask to have it printed in the record; and, also, that we will give copies to representatives of the Indian Service. This matter will be considered by the committee when it meets at Albuquerque next week.

Mr. SIKOQUAPLUVA. He is very glad and very happy to present the statement, and he will not read it on account of shortage of time.

Senator HAYDEN. Then, I ask, Mr. Chairman, that the statement be included in the record.

The CHAIRMAN. It will go into the record at this point.

STATEMENT OF ROGER QUOTSHYTEWA, GOVERNOR OF KIGOTSMOVI

I, Roger Quotshytewa, Governor of the Hopi village of lower Oraibi, herewith present you with a statement: In behalf of my people, I oppose the present proposed drastic reduction in the Hopi's livestock. All Hopi people are opposed to it and definitely do not want it.

This is our principal problem and our superintendent and his employees are not interested in our welfare, neither have they shown any inclination to cooperate with our tribal council members. We are sorry to point out to you that they have violated our self-government bylaws when they refuse to talk over our problems and to offer us the opportunity of shouldering our own responsibilities and problems. They also force on us rules of which we have never heard, and this has caused much difficulty and misunderstanding among our people and has disrupted our tribal council membership. We all feel that we are like sheep that have gone astray without a shepherd.

In the year of 1881, Chester A. Arthur was president of the United States and during that year the Hopi people sent delegates of the tribe from all Hopi villages in their desire to deal in a friendly manner with the Government in Washington. Our desire was to secure perpetual use of land for the Hopi people.

Why has not the Indian a right to settle anywhere in his own country? As that great statesman, Abraham Lincoln, declared, "All men are created equal, with liberty and justice for all."

Our land is sorely inadequate for our needs; out of 2,000,000 acres of land, comprising the Hopi Reservation, our Hopi stock owners are permitted to use less than one-fourth of the range area of our reservation. The balance of our own reservation is set aside for the use of Navajo stock and the Navajos have a reservation of thousands upon thousands of acres.

The above statements are very important to us and on behalf of my people, the Hopi Indians, we plead for your full consideration of our problems and respectfully request your help.

I hereby present my petition as Governor of the Hopi village, Kigotsmovi, at Oraibi, Ariz.

Senator HAYDEN. We are very much obliged to you.

Mr. J. M. SMITH (Central, Ariz.). I have noted, with some interest, this conversation, and I'm glad these Indian boys are sticking up for their rights a little bit. I don't know how many thousand stock they have—less than 10,000—but there is plenty of room on the Apache Reservation. In the recent last 10 years several thousand head, some of those Indian outfits, have been moved out of Graham and Gila Counties, and the only thing you've got down there is a bunch of grass growing up to burn your reservation up, with no cattle to eat it.

The CHAIRMAN. What reservation is that?

Mr. SMITH. The Apache. There was a time when I objected very seriously to the removal of the white men off the reservation. I was one of them. We are all gone now. But it's a funny thing to me, you have got one part of the State there where in a time like now, when we would like to have production, and you fellows that want to go to the butcher shop and get a steak can't buy one because you've got a scarcity of beef—that you can throw a rock from here to one of the best ranges in the State of Arizona that hasn't got a cow on it. Now, there's something wrong somewhere with the Indian Service. I'd like to see those Hopi boys—I doubt if they're overstocked up there; I question it; I haven't seen the range, but I question it. If they haven't got over 10,000 head, there is plenty of room for them down on the Apache Reservation.

The CHAIRMAN. Do you care to be heard? Will you please state your name?

STATEMENT OF SIMON E. SCOTT, HOPI

Mr. SCOTT. My name is Simon Scott, and I am a member of the cattle association of the Hopi Reservation.

The CHAIRMAN. Take your time and tell us what you have to say.

Mr. SCOTT. At a time when I began to go to school, to learn something for what life is today, and the first instructions was given me by the superintendent of Riverside, Calif., school, my school I went to. At the time I was there they instructed us very definitely—of course, we are Indians and are slow thinkers. At that time he had instructed us that in time to come that we shall stand up on our toes and speak for the rights of our people. That is first law I was handed down by the United States Government, or Indian Office. After the instruction was given to us that we shall take and thoroughly study what purpose of educating Indians—and I guess I must be one of them—I have took it seriously. Of course, I am sorry to say I did not finish the school; but, however, my father had a little stock at home, and he was

too old to take care of it himself, so he asked me to stay home, which I have did. Up to this time we began to visit among our white brothers in their country, through Nevada and California, and other places, and I was very interested in those countries where I have been. All the ones that I have went through I have studied that, I have put through in my head, and I wish I had the money to do like my white brothers out here. When I come home and live in my little home, I look around, and there was no way to make a living.

I have a family today of my own, and I want to live up as a standard, because time comes that we Indians are going to be taxpayers, and that is the way the Government is preparing the Indians for that life. I am sorry to say this is my knowledge: I have worked very hard and worked with my officials on my reservation. I have asked this and that but have never been given no opportunity whatever to be given it. I sometimes fought pretty hard, as I think. Look among you white men here, as my brothers, that I should be doing this and that, because that is what I am educated for. However, up to this time we are in such fix we can make no production, on account of small area that has been given to us on this Executive order map, which was given by President Arthur in 1882; so we ask your Senators' committees to take this matter with you and take it under deep consideration for my people, so that in time they will have better life to live. Our children are now in the Army, in the training camps, or now fighting, I suppose. I had one boy who is now in a training camp today.

At one time we had a meeting with our superintendent on the reservation. I am the father of my children, and it was my idea to give them a start with a few head of stock; and he says to me that it cannot be done; after the war they will have better opportunity than the Indian ever had. I just could not believe, because I know very well that the Government promised anything; and I just want to know if that has been put down in black and white; whether they are going to get the best opportunity after the war is over. I want you to take this with the Indian Office, when you go back, and in the long run we may have better chance to live.

I thank you. [Applause.]

The CHAIRMAN. Is Mr. Boice here? You may make such statement as you see fit, Mr. Boice, representing the Arizona Cattle Growers Association, and you may name such parties as you see fit, who care to make statements.

STATEMENT OF HENRY G. BOICE, TUCSON, ARIZ., REPRESENTING ARIZONA CATTLE GROWERS ASSOCIATION

Mr. BOICE. Mr. Chairman, I am chairman of the national forest advisory board of the Arizona Cattle Growers Association, and I have been asked by them and designated by them to present their position in respect to forest legislation.

A few years ago—I don't remember the date—Senator Johnson, of Colorado, introduced a bill in the Senate, which was designated as Senate bill 1030. The Arizona Cattle Growers Association endorsed the principles of that bill. However, it was not enacted. When that bill died, the representatives of the cattle association had several

conferences with representatives of the forest office in an effort to iron out the differences between the forest permittees and the officials of the Forest Service. Considerable progress was made in ironing out those differences. However, there was one difference which remained and which apparently was impossible to reach an agreement on. As a result there is a revision of the old Johnson bill, S. 1030, which I will refer to as "the stockmen's revision." There is also a revision I shall refer to as "the Forest Service revision." Both of these bills are in mimeographed form, are not before the Senate. I wonder, Senator, if those copies should be put in the record?

The CHAIRMAN. I think these copies, if they have not already been put in the record, will be put in the record, at your request, at this point.

This so-called "Forest Service revision"—I am not certain that that designation is correct, but it is a revision. I want to be fair with the Service; it is a revision which I believe the Forest Service would accept. I think probably that is a better way of putting it; otherwise it might be construed as a revision drafted by the Forest Service, and I am not sure that the Forest Service wishes to be put in that position. I wouldn't want to embarrass them by forcing them into that position. (The two revisions of the former Johnson bill are as follows:)

REVISION OF S. 1030 (JOHNSON BILL)¹

A BILL Relating to the management and administration of national forest grazing lands

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That in the administration of national forest grazing lands, the Secretary of Agriculture, or his authorized representatives, shall not (a) deny any permittee, who has complied with the regulations and instructions to which he may be subject and who owns commensurate property or other facilities, as provided in section 2 of this Act, a renewal of his permit to graze livestock in the national forests, similar as to number and kind of livestock and for national forest grazing land of substantially equivalent grazing quality and accessibility, or (b) reduce the number of permitted livestock upon the transfer by any permittee of livestock, land, or both, unless the secretary, after according the permittee an opportunity to be heard, finds that such denial of renewal or such reduction is necessary—

- (1) to protect such lands from overgrazing;
- (2) to preserve public resources thereof from destruction or improvident impairment; or
- (3) for the orderly administration of the use or uses to which such lands shall in fact be put for reforestation, recreation, wildlife conservation, mining, public watershed protection, or public water storage and flood control.

In the event of such denial or reduction, the Secretary, upon the request of the permittee affected, shall set forth in writing the grounds upon which such denial or reduction is based.

SEC. 2. (a) The renewal of a preference in the grazing use of the national forests shall be contingent upon the ownership of commensurate property by the applicant or permittee and upon the use of such property by the applicant or permittee in management of the permittee's livestock. For the purposes of the first section, property shall be considered commensurate if it consists of a recognized livestock operating base which is adequate to support permitted livestock in accordance with the customs of the localities during the period or periods of the year in which grazing upon national forest lands is not authorized, and which is complementary to such national forest lands in comprising a properly balanced year-long livestock operation: *Provided*, That where such grazing is authorized during

¹ Form approved by American National Livestock Association.

the entire year, property shall be considered commensurate for such purposes if it consists of suitable headquarters and ranch or range improvements, or other facilities.

(b) The Secretary of Agriculture is authorized to promulgate regulations and instructions fixing such additional standards for each area containing national forest lands as may be necessary and proper for the purpose of determining whether property or the facilities are adequate and suitable for the purposes specified in subsection (a).

SEC. 3. (a) To provide national forest grazing permittees means for the expression of their recommendations concerning the management and administration of national forest grazing lands, a local advisory board shall be constituted and elected as hereinafter provided for each national forest or administrative subdivision thereof whenever a majority of the grazing permittees of such national forest or administrative subdivision so petitions the Secretary of Agriculture. Each elected local advisory board existing for such purpose at the time of the enactment of this Act, and recognized as such by the Department of Agriculture, shall continue to be the local advisory board for the unit or area it represents, until replaced by a local advisory board or boards constituted and elected as hereinafter provided.

(b) Each such local advisory board shall be constituted and elected under rules and regulations, consistent herewith, now or hereafter approved by the Secretary of Agriculture, and shall be recognized by him as representing the grazing permittees of the national forest or administrative subdivision thereof for which such local advisory board has been constituted and elected.

(c) Each such local advisory board shall consist of not less than three nor more than twelve members, who shall be national forest grazing permittees in the area for which such board is constituted, elected, and recognized. In addition, a wildlife representative may be appointed as a member of each such board by the State game commission, or the corresponding public body of the State in which the advisory board is located, to advise on wildlife problems.

(d) Each such local advisory board shall meet at least once annually, at a time to be fixed by such board, and at such other time or times as its members may determine, or on the call of the chairman thereof or of the Secretary of Agriculture or his authorized representative.

SEC. 4. Upon the request of any party affected thereby, the Secretary of Agriculture, or his duly authorized representative, shall refer to the appropriate local advisory board for its advice and recommendations, and any matter pertaining to (a) the modification of the terms, or the denial of a renewal of, or a reduction in, a grazing permit, or (b) the establishment or modification of an individual or community allotment. In the event the Secretary of Agriculture, or his duly authorized representative, shall overrule, disregard, or modify any such recommendations, he or such representative, shall furnish in writing to the local advisory board his reasons for such action.

SEC. 5. (a) At least thirty days prior to the issuance by the Secretary of Agriculture of any regulation under this Act or otherwise, with respect to the administration of grazing on national forest lands, or of amendments or additions to, or modifications in, any such regulation, which in his judgment would substantially modify existing policy with respect to grazing in national forests, or which would materially affect preferences of permittees in the area involved, the local advisory board for each area that will be affected thereby shall be notified of the intention to take such action. If, as a result of this notice, the Secretary of Agriculture shall receive any recommendation respecting the issuance of the proposed regulation and shall overrule, disregard, or modify any such regulations, he or his representative shall furnish in writing to the local advisory board his reasons for such action.

(b) Any such local advisory board may at any time recommend to the Secretary of Agriculture, or his representative, the issuance of regulations or instructions relating to the use of national forest lands, seasons of use, grazing capacity of such lands, and any other matters affecting the administration of grazing in the area represented by such board.

SEC. 6. Nothing in this act shall be construed as limiting or restricting any right, title, or interest of the United States in any lands or resources.

[NOTE—The president and the executive secretary of the American National Livestock Association have later suggestion that the first sentence in section 2 (a) be eliminated, as unnecessary.]

FOREST SERVICE PROPOSAL FOR REWORDING S. 1030

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it is declared to be the sense of Congress that it is in the public interest to bring about the greatest practicable stability in the use of the range resources of the national forests by domestic livestock consistent with (a) the protection of the range, and other resources of the national forests, (b) the proper correlation of the grazing use with other uses of the national forests, and (c) an equitable distribution of the grazing privilege among those found by the Secretary of Agriculture to be most in need of the privilege, with due consideration to sustaining those enterprises which include use of national-forest ranges, and particularly those which are the basis of individual family support, and to encouraging the largest practicable contribution by such enterprises toward an adequate supply of livestock products for the public need. In promulgating and administering rules and regulations to govern the use of national-forest ranges by livestock, the Secretary of Agriculture is directed, in making any further adjustments which he finds necessary to accomplish the purposes of (c) above, to bring about the adjustments in such manner as he may determine will least affect existing permits.

SEC. 2 (a). To provide national-forest grazing permittees means for the expression of their recommendations concerning the management and administration of national-forest grazing lands, a local advisory board shall be constituted and elected as hereinafter provided for each national forest or administrative subdivision thereof whenever a majority of the grazing permittees of such national forest or administrative subdivision so petitions the Secretary of Agriculture. Each elected local advisory board existing for such purpose at the time of enactment of this Act, and recognized as such by the Department of Agriculture, shall continue to be the local advisory board for the unit or area it represents, until replaced by a local advisory board or boards constituted and elected as hereinafter provided.

(b) Each such local advisory board shall be constituted and elected under rules and regulations, consistent herewith, now or hereafter approved by the Secretary of Agriculture, and shall be recognized by him as representing the grazing permittees of the national forest or administrative subdivision thereof for which such local advisory board has been constituted and elected.

(c) Each such local advisory board shall consist of not less than three nor more than 12 members, who shall be national-forest grazing permittees in the area for which such board is constituted, elected, and recognized. In addition, a wildlife representative may be appointed as a member of each such board by the State Game Commission, or the corresponding public body of the State in which the advisory board is located, to advise on wildlife problems.

(d) Each such local advisory board shall meet at least once annually, at a time to be fixed by such board, and at such other time or times as its members may be determined, or on the call of the chairman thereof or of the Secretary of Agriculture or his authorized representative.

SEC. 3. Upon the request of any party affected thereby, the Secretary of Agriculture, or his duly authorized representative, shall refer to the appropriate local advisory board for its advice and recommendations, any matter pertaining to (a) the modification of the terms, the denial of a renewal of, or a reduction in a grazing permit, or (b) the establishment or modification of an individual or community allotment. In the event the Secretary of Agriculture, or his duly authorized representative, shall overrule, disregard, or modify any such recommendations, he, or such representative, shall furnish in writing to the local advisory board his reasons for such action.

SEC. 4 (a). At least thirty days prior to the issuance by the Secretary of Agriculture of any regulation under this Act or otherwise, with respect to the administration of grazing on national-forest lands, or of amendments or additions to, or modifications in, any such regulation which in his judgment would substantially modify existing policy with respect to grazing in the national forests, or which would materially affect the preferences of permittees in the area involved, the local advisory board for each area that will be affected thereby shall be notified of the intention to take such action. If as a result of this notice the Secretary of Agriculture shall receive any recommendations respecting the issuance of the proposed regulation and shall overrule, disregard, or modify any such recommendations he or his representative shall furnish in writing to the local advisory board his reasons for such action.

(b) Any such local advisory board may at any time recommend to the Secretary of Agriculture, or his representative, the issuance of regulations or instructions relating to the use of national-forest lands, seasons of use, grazing capacity of such lands, and any other matters affecting the administration of grazing in the area represented by such board.

Sec. 5. Nothing in this act shall be construed as limiting or restricting any right, title, or interest of the United States in any lands or resources.

Mr. BOICE. I think probably, Senator, that is more accurate a statement than the statement I have made, so if I refer to statements on the Forest Service revision, I mean the revision which the Forest Service is willing to accept.

At a meeting of the national forest advisory board of the Arizona Cattle Growers Association, on the 2d of July, both of these bills were read and discussed. As a result of that discussion a statement of the position of the board was prepared and I am instructed to present that.

At this meeting referred to, the board unanimously endorsed the stockmen's revision of S. 1030 and definitely opposed the first section of the revision prepared, or approved, by the Forest Service. The first section of the Forest Service bill, and the two sections of the stockmen's bill, deal with the question of distribution, which is the term we use in referring to the former policy of the Forest Service in taking portions of permits from one stockman and giving them to another stockman. Ever since the Forest Service started distributing grazing permits, the stockmen have strenuously objected, because it created antagonism between neighbors and between stockmen and officials of the Forest Service. It made it difficult and almost impossible to cooperate in matters of range conservation and range development. The distribution policy made the use of forest ranges unstable, and on account of the interlocking of forest ranges with outer lands, made the whole foundation of the livestock business in this State unstable.

In 1936 and 1937 the Forest Service conducted an intensive economic survey, and, as a result, modified the regulations so that for all practical purposes distribution was discontinued. Harmony was immediately brought about in cooperation between the users and those interested in the forest reserve, and has rapidly increased. The Forest officials tell us that they have no intentions of going back to a system of distribution, but they do not want to be legally deprived of the authority to again distribute forest permits, if they should decide to do so at some future time. The difference between the Forest Service version of the proposed legislation and the stockmen's version, boils down to the insistence of the Forest officials that their authority to distribute be equalized, and the stockmen's insistence is that the law be so written as to prevent officials or groups from putting into effect another distribution policy.

In support of their position, the stockmen's committee would like to point out that the Forest Service was created by an act of Congress, whose primary object was the preservation of timber and watersheds. At that time the ranges set up in the forest reserves were already occupied by livestock. In carrying out the purposes of the Conservation Act it was necessary for the Forest Service to regulate the use of the forest range. The authority to say who should use the forest range was not given by the Conservation Act. The Forest Service assumed that authority, and we believe that this action on their part had re-

tarded the conservation and development programs which they were created to carry out.

Congress has never acted directly in regard to the distribution policy of the Forest Service. However, it did definitely express its ideas when it passed the Taylor Grazing Act. In that legislation Congress expressed itself by recognizing the right to graze on the public domain by those who owned land and water and who made prior use of the public domain.

The CHAIRMAN. Let us pause a moment.

Ladies and gentlemen, I have the honor to announce the presence of your youngest Congressman, Congressman Richard Harless, of Arizona. [Applause.]

Congressman HARLESS. I just came in and I'm sorry I have not been here to hear what has been going on. Please proceed, Mr. Chairman.

Mr. BOICE. To repeat the last sentence, Congress has never acted directly, with regard to the distribution policy of the Forest Service. However, it did definitely express its ideas, when it passed the Taylor Grazing Act. In the legislation Congress expressed itself by recognizing the rights to graze on the public domain by those who owned land and water and who had made prior use of the public domain. In that way the redistribution of grazing rights on the public domain was definitely forestalled and stability was established.

We believe that the users of the ranges on the national forests are entitled to the same stability which Congress has granted to the users of the public domain. The proposed legislation does not weaken the authority of the Forest Service in any of its conservation programs. Under this legislation the Forest Service can provide for reforestation, recreation, wildlife conservation, mining, public watersheds, production of public water storage, and flood control. The stockmen willingly concede to the Forest Service those functions and the bill specifically grants the right to make reductions in livestock for range protection without limit where cases of need for protection exist. In other words, the proposed legislation merely prevents the Forest Service from taking range from one permittee and giving it to someone else, and we feel that the enactment of the proposed bill will give the ranges to Arizona and harmony and cooperation will be increased and the conservation and development of ranges will proceed with increased rapidity.

The provisions with regard to the advisory boards are the same in both the Forest Service and stockmen's proposed bills. Both recognize the importance of having these committees legally established with more duties and responsibilities.

That completes the statement of the national forest advisory board of the Arizona Cattle Growers' Association.

I would like to add one thought. With the exception of the provisions in the bill dealing with cuts on transfers, the bill puts into effect, to all practical purposes, the regulations which the Forest Service now have in effect. This bill has been discussed in its present form and in its original form, and there is almost unanimous agreement in support of this bill.

There have been elected, by the permittees on the various forests in Arizona, forest advisory boards. Each of those boards has sent a delegate to this hearing, and, with your permission, Senator, I would

like to call on each one of these delegates to express the opinion of their board in connection with this proposed legislation.

The CHAIRMAN. Very well. Are there any questions, first, to Mr. Boice? If not, we will call your people as you wish.

STATEMENT OF A. C. WEBB, ADVISORY BOARD, TONTO NATIONAL FOREST

Mr. WEBB. My name is A. C. Webb, and I am secretary and member of the advisory board on the Tonto National Forest.

The CHAIRMAN. Mr. Boice, do you care to interrogate, or to have him make his statement?

Mr. BOICE. Let him make the statement.

Mr. WEBB. I have been on this board since its inception, and while our going hasn't been too smooth all the time, I feel it has been worth while, and I think, with more authority, it could be a lot more effective.

The CHAIRMAN. How did you go in in the first instance? How was the board constituted?

Mr. WEBB. The board was constituted by appointment. I believe Mr. Pooler—I won't be sure of Mr. Pooler—the forest officials, Mr. Woodhead, at least, and Mr. Dutton, and our cattle growers officers, that also included the local supervisors, I think—they made selections of the first board. The next board was elected.

The CHAIRMAN. How are the memberships selected now?

Mr. WEBB. Our board was elected during January of last year by a ballot submitted to the permittees on each district, and a member elected from each district, and we had a representation by mail of about 60 percent of the permittees on the whole district.

Mr. P. V. WOODHEAD (assistant regional forester, United States Forest Service, Albuquerque, N. Mex.). May I interrupt, and clarify the record on one point? Those boards were originally appointed by the board of directors of the Arizona Cattle Growers Association, I believe, were they not?

Mr. BOICE. I don't remember.

Mr. WOODHEAD. At any rate, the Forest Service didn't have anything to do with the selection or appointment of the original board members.

Mr. WEBB. I wasn't present at the meeting, and I might not be correct in my understanding. The first thing I knew, I got a letter asking if I would be willing to serve.

Mrs. J. M. KEITH (secretary, Arizona Cattle Growers Association). He was asked to serve until such time as they could hold an election.

The CHAIRMAN. Very well, thank you, Mrs. Keith.

Now, what provision in this bill, called the "stock-growers bill," is it that you are especially interested in with reference to your advisory board?

Mr. WEBB. Certain matters that must be submitted to the board by the Forest Service. I'm not too familiar with this bill, but—

The CHAIRMAN. First of all, is this not the thought, that, under existing conditions, your board is selected by vote, but that whole set-up is permissive, whereas if it was set up by a statute it would become a part of the statute law?

Now, that same thing applied in the Taylor Grazing Act when the Taylor Grazing Act was first set up. The Secretary of the Interior

voluntarily set up what he called an advisory board. It was entirely permissive, and then we amended the Taylor Grazing Act so as to make the board recognized by the law.

Mr. WEBB. That is correct. Our board now is strictly advisory under this law now. For instance, now, any appeal over any decision in which the Forest might not agree, would be just a refusal to accept our idea, while, if it was under the law, it would be necessary for the appeal, the reasons for the appeal, to be put forth in writing, which would be much more definite.

The CHAIRMAN. I want to say to you that there is a bill, and it has been introduced, that would provide that no change in the fees in any district would be sanctioned without the acquiescence of the advisory board. I suppose that would strike you as being about right?

Mr. WEBB. I would hardly be capable of saying anything on that subject. The fees have been increased under the present plan until they are quite high, and I think there is maybe some adjustment in the fees that might be asked for.

The CHAIRMAN. Well, if the advisory board is in the position of being advisory, and if it is in the district, it is supposed to know the district, and it would know whether or not an increase of fees would be justified. Don't you believe that?

Mr. WEBB. They would; yes, sir.

The CHAIRMAN. Of course, this bill will not have the sanction of the Forest Service, nor would it have the sanction of the Interior Department, but nevertheless it is the thought that your advisory board might well hold in consideration.

Is there anything further that you wish to state?

Mr. WEBB. Only that I wish to make it plain that we are very much in favor of the legislation, and we would like to see it put through as it is; that is, the stockmen's bill.

The CHAIRMAN. Another item in that legislation proposed is putting a stop to the reduction from the forest, the cuts, the transfer cuts. That would be prohibited by the so-called Johnson bill, which is now called the stockman's bill.

Very well, are there any questions?

Mr. BOICE. William A. Spencer of the Apache National Forest, would like to be heard.

**STATEMENT OF WILLIAM A. SPENCER, SPRINGERVILLE, ARIZ.,
MEMBER, ADVISORY BOARD, APACHE NATIONAL FOREST**

Mr. SPENCER. Senator McCarran, I am a member of the forest advisory board for the Apache National Forest. The board consists of three members, one member representing each of the two districts, and I represent the forest as a whole, the Arizona division of the Apache Forest.

Speaking for the forest advisory board of the Apache Forest, we are unanimous in our support of the revised Johnson bill, the stockmen's revision. The feature of it that we particularly approve is the elimination of the possible reduction or distribution as breaking down the established economic unit. Another feature of the bill which we approve of is the fact that commensurate property is taken into consideration in the granting of permits; that is, permit preferences.

We, in our country, use the forest ranges seasonably; they run from an elevation of about 7,000 feet close to 10,000. Different permittees have permits for different lengths, all summer ranges, some of them have 5, some of them have 6 months.

The CHAIRMAN. Do you not have some on that area that are year around?

Mr. SPENCER. Not in that immediate section. There are some small permits under the mountain that are used partly as winter range; but, by and large, they depend on commensurate property, deeded lands in that valley upon which crops are produced, patented grazing lands, and State lands. It represents quite an investment regardless of the size of the permittee, the value of the croplands or grazing lands off the forest, it must maintain, in order to establish a balanced operation. It is a country in which a good deal of supplemental feeding is done in the wintertime. If a permit on the mountain is reduced without comparable reduction in that portion of the range use of the winter range, the operation is out of balance. The investment in the patented and State grazing lands and improvements off the forest, mean quite a heavy burden for the operator to bear unless he can run sufficient livestock to meet his costs. Those are two features of the proposed, or amended, revision of the Johnson bill that we approve of and believe are necessary.

Both bills, as I understand it, that one which the Forest Service might approve and that which the stockmen propose, provide by statute for the advisory boards. Theoretically, in that regard, I think that is quite worthy. I believe the advisory board, while it should remain entirely advisory rather than administrative, there is a certain function they can perform, a certain service they can render to the permittees, a service between the administrator in the uses of these forest ranges.

The CHAIRMAN. What have you to say about transfers and administrative cuts?

Mr. SPENCER. I think the cuts should be made wherever necessary for range protection. I am aware of the fact that we do not own this range, that it is owned by the people of the Nation as a whole, the same interest in it accruing to the residents of New York as that to the residents of Arizona. We are the users of it, and we should not be allowed to destroy it. I have always been in agreement with the administrative policy of the forest to reduce these animals to the point where they will not despoil the range. They are a public trust. I don't think that the present generation has any right to dissipate them. That is my philosophy; and I think it is true down my way.

The CHAIRMAN. That addresses itself largely to your opinion as to administrative cuts; but the transfer cuts seem to have come in for the greatest amount of criticism in our various hearings.

Mr. SPENCER. Yes; they are the ones that disrupt the operating organization, and will make a ranch, if cut below a certain point, undesirable and unprofitable to operate.

The CHAIRMAN. Very well, thank you very much.

**STATEMENT OF JOHN A. McLEOD, JR., TUCSON, ARIZ., MEMBER,
ADVISORY BOARD, CORONADO NATIONAL FOREST**

Mr. McLEOD. Mr. Chairman, I am a member of the Coronado advisory board, and, in the absence of Mr. Findlay, who is Chairman, I wish to say that our board endorses the stockmen's revised Senate bill No. 1030; and, furthermore, the number of permittees that I have been able to contact on the forest have all expressed their endorsement of the bill. I am a brand new member of this board, and I don't believe I have anything more to add, unless there are some questions.

The CHAIRMAN. Thank you, Mr. McLeod.

**STATEMENT OF STEPHEN L. BIXBY, MEMBER, ADVISORY BOARD,
OF CROOKS NATIONAL FOREST**

Mr. BIXBY. Mr. Chairman, I am here representing both the Crooks National Forest advisory board, of which I am a member, and have been delegated by the Chairman, who was unable to be here to represent that board, and also the Gila County Cattle Growers Association, the headquarters of which is at Globe, Ariz., which is my residence.

I am a cattleman in that neighborhood. I could go to great length, but I realize time is growing short in this hearing, and I'll try to make my remarks as brief as possible and touch on generalities.

The CHAIRMAN. Thank you.

Mr. BIXBY. Most of the cattlemen in my neighborhood, all of them operate on the forest. Most of them are small; there are some medium-sized operators, but they are all practically unanimous in endorsing this stockmen's revision of the Johnson bill. In fact, last Saturday, both at Clifton and at Globe, meetings were held of local cattlemen. At Clifton the meeting was a meeting of the Greenlee County Cattle Growers Association, and the meeting at Globe was a meeting of the Gila County Cattle Growers Association. At both of these meetings, without any prearranged attempt, the Johnson bill, that is, the stockmen's revision of it, was, by resolution, heartily endorsed. At both meetings they requested that Congress be urged, as soon as possible, to enact legislation of that kind.

They also expressed dissatisfaction with the so-called Forest Service revision.

The CHAIRMAN. Why?

Mr. BIXBY. Well, because, frankly, they feel like the Forest Service revision is trying to write out of the bill exactly what they want written into it. We feel that the stockmen's revision is present forest policy, so why should the Forest Service try to change it? We just want the present Forest Service policy written in the law. We have worked for a good many years to get the present forest policy, and we don't think we should take a step back into the past, and have all the trouble to go through again that we have had about this taking from one to give to another.

At both of these meetings, disappointment was expressed that Congress has not enacted legislation of this kind. Of course, we realize

that we are in a war, and more matters have come first. However, we do hope you can find a little spare time to enact legislation of this sort.

I want to stress that some people seem to think that this stockmen's revision of this bill is a large stockman's bill. It definitely is not. Like I say, in my neighborhood we are very small, with some medium operators, and, at both of these meetings that I speak of, there was not a single voice of opposition to the stockmen's revision. The small cattlemen are just as eager to get the stability that this legislation will give us, as the large ones.

The CHAIRMAN. That is your statement? Very well, thank you very much.

Mr. Eugene Campbell, will you please come forward? It seems to me I have heard of the Kaibab Forest somewhere before.

**STATEMENT OF EUGENE CAMPBELL, ASH FORK, ARIZ., MEMBER,
ADVISORY BOARD, KAIBAB NATIONAL FOREST**

Mr. CAMPBELL. I am a committee member of the advisory board of the Kaibab Forest. In our last meeting we unanimously endorsed the stockmen's revision of the Johnson bill, and are opposed to this other one.

The CHAIRMAN. Do you think that was a fairly well attended meeting?

Mr. CAMPBELL. Yes, we had a full membership there.

The CHAIRMAN. Do you think they had pretty good understanding of the bill?

Mr. CAMPBELL. Yes, sir; both bills were read and discussed.

(The following telegram was received from the chairman of the Kaibab National Forest Advisory Committee:)

FLAGSTAFF, ARIZ., September, 2, 1943.

Hon. PAT McCARRAN,

Care Mrs. Keith, Arizona Cattle Growers' Association.

Phoenix, Ariz.:

The permittees and advisory committee of the Kaibab National Forest strongly endorse S. 1430 as substitute for the old Johnson bill. We feel it is necessary that the continual threat of cuts in permits should be removed in order to give protection, stability, and permanence to the permittees' rights and investments. Furthermore, the bill gives the advisory committees legal standing, and defines definitely their duties and responsibilities which is very necessary if the committees are to properly function. Our sincere hope is that this bill will have your strong support in the interest of the livestock industry.

H. V. WATSON,

Chairman Kaibab National Forest
Advisory Committee.

The CHAIRMAN. Thank you very much.

Mr. BOICE. Mr. Chairman, that completes the representatives of the forest advisory boards. Mr. Robert E. Perkins, of Prescott, is here. He is a representative of the Yavapai cattle growers. He doesn't happen to be a member of the advisory board, but I think the Yavapai Cattle Growers Association has acted on this bill, if you would like to hear his statement.

The CHAIRMAN. You represent the Arizona cattle growers?

ROBERT E. PERKINS, (Prescott, Ariz.). No; I represent the Yavapai cattle growers. I am secretary of the Yavapai Cattle Growers Asso-

ciation. I am quite sure, from all the past proceedings, that the Yavapai cattle growers are unanimously in favor of this revised stockmen's revision of the Johnson bill, because it involves the very thing that they have endorsed, from time to time. They have a full advisory board, that is functioning, and they seem to be well satisfied with the procedure. However, most of them feel that these advisory boards should have more authority than they have just at the present time.

I think that is about all I have to say.

The CHAIRMAN. Thank you very much.

Mr. BOICE. Mr. Chairman, the President of the Arizona Wool Growers Association is here, and many of their members are permittees on the national forest. I would like to ask Mr. Bob Lockett, president of the Arizona Wool Growers Association, to present their position on this.

STATEMENT OF ROBERT LOCKETT, FLAGSTAFF, ARIZ., PRESIDENT, ARIZONA WOOL GROWERS ASSOCIATION

Mr. LOCKETT. Mr. Chairman, speaking for the Arizona Wool Growers Association, I want to say that they very heartily support this bill. That is all I have to say.

The CHAIRMAN. Has it been discussed by the members of your association?

Mr. LOCKETT. Yes, sir.

The CHAIRMAN. Do you think they have a fair knowledge of its contents?

Mr. LOCKETT. Yes; they do.

The CHAIRMAN. Very well; thank you.

Is that your list of witnesses?

Mr. BOICE. That completes the witnesses in connection with the Johnson bill.

There is one other matter I want to mention for the record. Would you like to have that now?

The CHAIRMAN. Very well.

Mr. BOICE. The fees paid on the national forests, at the present time, are based on a range appraisal which was made, I believe, in 1924. This range appraisal determines the base fees. The current fees are fluctuated from year to year in relation to the market price of cattle. I think that, while the fees have been raised on account of that formula, the formula is generally approved. In Arizona and New Mexico, they have entered into the range appraisal, which is so very complicated, an arrangement in connection with the improvements which existed, or had been placed upon the forest ranges by the permittees prior to the time of the range appraisal. The method of handling these improvements, the ownership of which was recognized as being in the permittees, was rather complicated. These improvements have now been considered by the Forest Service to be retired, and they consider that the permittee no longer has an investment in these improvements. As a result, there has been a substantial increase in the amount of cash grazing fees which have been paid during this year.

The advisory board on the Coronado Forest has checked into this matter, and they believe that the old range appraisal program, which

was made in about 1924, needs revision. They believe that there are a number of arbitrary comparisons, which enter into that arrangement, which need revision; but they suggest that this revision be postponed until after the war and the manpower is available.

However, there are several matters which can be adjusted, at present, in connection with the computation of these grazing fees. These matters have been taken up with the Forest officials, and are in process of negotiation now. We are in hopes that some of the inequitable features can be worked out. The use of 8 percent as an interest rate, applied to investments, is obviously high, under present day standards. The question of the retirement of these improvements, involving as it did, no allowances for depreciation during the period that they were being retired, also, we feel should be adjusted.

These matters, as I stated, Senator, are in process of negotiation, but I was asked by the members of the committee to present the facts here.

The CHAIRMAN. Thank you, very much.

Now, the Forest Service is with us, headed by Mr. Kneipp. We would be very glad to have Mr. Kneipp make a statement now, if he sees fit, bearing on any subject pertaining to the department that has come up.

STATEMENT OF L. F. KNEIPP, ASSISTANT UNITED STATES FORESTER, UNITED STATES FOREST SERVICE, WASHINGTON, D. C.

Mr. KNEIPP. Mr. Chairman, and gentlemen: This has been a very interesting afternoon. First, Judge Udall's statement, and then the statement of Mr. Boice and the members of the advisory boards. They present the two extremes of this picture. I think it was quite evident that, no matter how desirable it might be, from the standpoint of individual, community, and State and national forests, to effectuate some redistribution of stock, to meet the conditions which Judge Udall so effectively described, if this stockmen's bill is enacted there will be no possibility of doing so. I think that ought to be definitely borne in mind in considering this subject.

The CHAIRMAN. Will you tell us why?

Mr. KNEIPP. Because, first, we have to remember that, after all, the ranges do not have an unlimited capacity. Certain physiological growths of plants produce so much vegetation and will support so many cattle. Therefore, new people are to be given permits, and the small permittees are to be increased; it can be done only by reducing the permits of those who have larger shares. If those permits are, by statute, made immune to reduction, then the small permittees cannot be provided for.

That is the reason the Forest Service and the Department of Agriculture did not favor the Johnson bill.

There were three phases of the bill, one with regard to commensurability, one with regard to the statutory recognition of advisory boards, and one with regard to distribution; that is, the limitation of reduction on established permits.

As I reported at other meetings of the committee, the Department's last formal expression of opinion on that bill was through the

letter from the Under Secretary of Agriculture, under date of July 23, 1941. Since that letter has already appeared in the record, it does not seem necessary to read it again in detail, but, in substance, the report was this: That, as to the commensurability standards, the general theme of the report was that no need for legislation was seen by the Department. The bill would require the local publication in minute detail of all of such standards; and the Secretary's opinion was that no great service would be rendered by that practice, because the permittees could all familiarize themselves with the standards, but that, if it were deemed desirable, for any reason, to provide by statute for such publication, the Department interposed or offered no objection.

As to the advisory boards, the Department pointed out that, from the very beginning of the Forest Service, the recognition of the advisory boards has been the accepted practice. I can say personally that the regulations of the Forest Service as they exist today, in relation to grazing on national-forest lands, are largely the outgrowth of those advisory boards, which have been an important feature in the whole range management work of the National Forest Service. In fact, the practice was so firmly established that the need for legislation was not evident. But there, again, the Department's attitude was that, if there was a general desire for a statutory authorization of advisory boards, the Department had no objections to offer.

So that reduces the negative attitude of the Department toward S. 1030, or the recent redraft thereof down to one element, the element of distribution.

Now, it is true that in recent years, in deference to a great many demands arising here and there, based upon economic conditions and need, there has been a rather general cessation of reductions for distribution. That does not seem, however, to be a fixed condition. It is quite conceivable that in the years to come there may be new conditions, widely recognized, that would dictate some modification, some readjustment, of grazing preferences; and the Department believes that the Secretary of Agriculture should not be barred from making those adjustments if he finds that they would be generally in the public interest.

Now, at earlier meetings—it has not occurred here—at Glenwood Springs, for instance, several frank references were made to the fact that what the proponents were seeking to establish by the Johnson bill was a property right which could be transferred or be defended in court. The general viewpoint of the Department throughout has been that the establishment of property rights in the forests would be quite negative to the general public interests in those reservations; and that the Department, therefore, should continue to oppose any legislation which would either have that result or which would contribute to that result.

There has been a great deal of emphasis, by stockmen supporting the Johnson bill, on the fact that what they want is a definite policy; but the stockmen's draft is not a policy, it is a rule of law. The draft in which the Forest Service participated is a policy; it is a statement by Congress of what it believes should be the fundamental conditions governing the disposal of range resources. The Johnson bill is a definite fixation of certain existing rights against any possible change

to meet new needs or demands of people, no matter how well qualified they might be.

As you have heard me say before, the transfer cut actually grew out of the recommendations of a livestock association in Idaho, many years ago. It was based on the simple premise that if reductions were going to have to be imposed upon the permittees, to prevent damage to the range or provide room for new applicants or small permittees, it would be more equitable to impose such cuts upon the men who were going out of business, going to cease their use of the range, than upon the men who intended to continue the use of the range for the rest of their active careers. That was in the days before these preferences acquired a high market value. Possibly the Idaho Wool Growers Association today might take a different position; but the logic of their proposal at that time seemed good to the Secretary of Agriculture, and the Department, and it was adopted as a working principle. I don't know whether there would be dissent on the part of all concerned as to the equity of that principle now or not. Obviously dissent would be expressed by a man who thereby under the principle was able to capitalize only 90 or 80 percent of the preference, as against a full 100 percent; but, viewing the subject in a large way, looking at it from the standpoint not alone of the current permittees but also that of potential permittees or small permittees seeking a more practicable basis, there may still be some logic in the principle.

There is one other point in this situation, as it stands, that is quite significant. That is, out of all the national forest cattle and horse permits, 17 percent of the permittees use 63 percent of the cattle and horse ranges. The other 83 percent only use 37 percent of the range. Out of all the sheep and goat permits, 8 percent of the permittees use 33 percent of the range, and 36 percent of the permittees use 75 percent of the range. So there exists a very definite question as to whether these proportions are the final proportions, or those that would finally be accepted as being the equitable and best balanced, most economically sound distribution of grazing privileges among those people who live in or near the national forests and depend on those resources for their livelihood.

That is essentially the position of the Forest Service up until the time I left Washington, which was not very long ago. There had been no change up to that time. In other words, if it is desirable to recognize advisory boards by the statute, such action really won't make any difference, because they have been administratively recognized ever since 1905, or '07, or along in there. If it is desirable that range commensurability requirements, which vary widely, according to local practice, shall be advertised annually in minute detail, no objection is made to that except the cost. So the crux of the whole argument about the stockmen's bill is on this one point of reduction in preferences.

Mr. Boice touched also on the matter of fees. He said, however, if I understood him correctly, that the formula is generally approved. He referred to the range appraisals being made for 1924. Actually, Chris Rachford was brought in to Washington and assigned to that job in 1920, and the collection and compilation of rental data continued until, as I recall it, 1927, and resulted in the accumulation of a tremendous amount of data. Finally, I think partly at the sug-

gestion of the stockmen themselves, the basic formula that is now in use was adopted.

The CHAIRMAN. What is that formula?

Mr. KJEPP. That formula was—I can read briefly from the instructions here—this is a part of the national forest manual:

FEES

Derivation of the 1931 base fees for national forests.

The 1931 base fees for grazing on the national forests were derived from a study of the rentals paid to private persons, corporations, States, Indian reservations, and other Government agencies for use of comparable grazing lands. This study covered a period of years and areas sufficiently large to insure fair comparisons. Allowance was made for cases showing abnormal competition or involving considerations other than use of the forage. Base fees per head per month thus derived averaged 14.5 cents for cattle and 4.5 cents for sheep.

Derivation of base livestock prices.

The periods, 1921 to 1930 in the case of cattle, and 1920 to 1922 in the case of sheep, were selected as fairly reflecting representative and complete price cycles for each industry. Therefore, the average prices received by producers in the 11 Western States during these periods were established as the base prices for use in determining the relationship between current grazing fees and current livestock prices. Base livestock prices thus derived were \$6.62 per 100 pounds for cattle and \$0.15 for sheep.

Adjustment to correlate with annual fluctuation in livestock prices.

Current fees will bear approximately the same ratio to the 1931 base fees that livestock prices received by producers for the year preceding bear to the base livestock prices. The 1931 base fees will be adjusted annually to assure this ratio, except that no adjustment will be made where application of the formula affects the monthly base fee by less than one-half cent for cattle and one-quarter cent for sheep.

Each year in January the Chief's office will obtain from the Bureau of Agricultural Economists the average livestock prices of the preceding year. These will represent the average prices per hundred pounds paid producers in the Western States for beef cattle (exclusive of calves) and lambs. These prices will then be used to calculate the percentages to be applied for the current year to the established 1931 base fees, as follows:

1. The average price received for beef cattle for the period 1921–30 was 6.62 cents per pound.
2. The average 1931 base fee was 14.5 cents per head per month.
3. The average price per pound received for beef cattle in the 11 Western States in 1941 was 8.64 cents.
4. The 1941 market price of 8.64 cents is 130 percent of the base livestock price of 6.62 cents.
5. Then the 1942 average fee per head per month would be 130 percent of the 1931 base fee of 14.5 cents or 18.85 cents, which, when rounded off to the nearest 1 cent, would be 19 cents.

That has been followed ever since; and is now in effect.

In 1933 the cattle rate dropped to 9.05 and the sheep to 2.05, because there had been a slump in prices. In 1934 it dropped to 7.51 for cattle and 2.38 for sheep. In 1935 it rose to 8.04 for cattle and 2.71 for sheep. In 1936 it went up to 13.05 for cattle and 3.36 for sheep. In 1937 it dropped again to 12.55 for cattle and rose to 3.66 for sheep. In 1938 it rose to 14.98 for cattle and 4.24 for sheep. In 1939, 13.4 for cattle and 3.3 for sheep. In 1940, 14.89 for cattle and 3.68 for sheep. In 1941, 15.97 for cattle and 3.85 for sheep. In 1942 it was 18.9 for cattle, 4.6 for sheep, and in 1943 it is 23 for cattle and 5.5 for sheep.

The CHAIRMAN. That doesn't say anything about points, does it?

Mr. KNEIPP. No, this was before we got 16 points apiece, Senator.

There are some deviations. This rule does not apply in the eastern regions; their conditions are different. In region 7, fees fluctuate from year to year as in the case of western regions. Region 8 has a flat rate of 4 to 6 cents per cow or horse a month for grazing under open range conditions. In the Lake States Region the price is 15 cents per head for horses and 12 cents for cattle, 4 cents for goats, and 9 cents for swine. In other words, the cost of the permittee's range fees bears a very direct relation to what he had received for the product of the previous year's use. Mr. Boice referred to the particularly peculiar condition that exists here in Arizona and New Mexico, which in essence is this: National forest fees were based on rental paid for the comparable private land after adjustment for the relative values of the forage. As an element affecting the price actually being paid for those private lands, consideration also was given to the nature and extent of the improvements on those lands, which the permittees had to install or maintain. If, as in the national forest lands, as frequently was the case, the permittees had to install and maintain larger investments in range improvements, that fact was recognized by taking the difference between the investment on the private land and that on the forest and crediting the established fee with a sum equal to 8 percent of the improvement differential each year for a sufficient period of time to amortize, or retire, the difference in cost of improvements, or for the time the improvements would normally remain usable, or until such time as they were replaced by other and better improvements.

Now, the objection to the 8-percent rate is not clear to me, because it would seem to be favorable to the permittees. If the permittee were only given a credit of 5 percent on his improvements, he would get a smaller credit than if he got 8 percent. I want to emphasize this fact. In this region, here, at the time these range appraisals were being made, the total investment in range improvements made by the Forest Service was only \$60,000 or \$70,000. Since that time, there have been about \$5,000,000 worth of range improvements constructed in the forests in the two States, at the expense of the United States.

Senator HAYDEN. That was to provide work for the unemployed.

Mr. KNEIPP. Nevertheless, these improvements are there and if soundly conceived, they enhance the value of the range. I understand that the stockmen had their part in formulating the program contributing to the usability and value of those ranges. That fact, however, has not entered into the calculation of the grazing fees. That fact also tends to minimize the importance of those early improvements, which the stockmen had constructed, for which they were given credit in the manner that I just briefly outlined. I understand some of those credits are being given, in some cases yet, for the reason that there was a period during which they had been suspended. When that fact came to the attention of the Forest Regional Office, they adjusted the matter by giving the credit that was not given in earlier years.

We feel that the principle on which the national forest fee is based is quite fair to the grazing permittees. I think the members of the committee will be struck by the fact that when the public range is so managed, and is available at such a reasonable fee, that it has a capital investment value of \$30 to \$90 per head, and is recognized on the open market at those values, it can't be an awfully poor range and it cannot

be charged for at an exorbitant price because that investment for range for one cow is a pretty heavy investment, pretty close to what economists regard as the maximum allowable investment.

That is all I have to say, unless somebody wants to take me apart and show how wrong I am.

Mr. BOICE. Mr. Chairman, I would like to ask Mr. Kneipp a question in regard to transfer cuts. It is perfectly true that when the Forest Service was following a policy of distribution, the stockmen naturally figured that they would rather have the man cut that is going out of business than the man that stays. At that time most of the forest allotments were community allotments, which makes a great deal of difference, a different situation from the one that exists today, where most of the allotments are exclusive allotments. I have wanted to ask Mr. Kneipp if that was not the condition?

Mr. KNEIPP. I think that is true, Mr. Boice. The individual range allotment is now more generally the case than it was in the earlier years. But I don't think the stockmen were concerned wholly by distribution cuts even in these days because when these forests were taken over and were found to be supporting stock far in excess of what they could support—in fact, some of them are yet—the protection cuts, so-called, coincident with the distribution cuts, were in those earlier times considerable. It is true that in earlier years cuts were applied to considerable numbers of permittees whereas those cuts might now fall on a single permittee. However, it would be possible by readjusting certain fences to make the cut—

Mr. BOICE. That is the point now, with the exclusive allotments, with reduction in permits. Of course, Senator, the stockmen have no objection to protection cuts, if they are needed. We don't ask the Forest Service to restrict themselves in cases where protection cuts are necessary. But in the case of an exclusive allotment which exchanges hands there is certainly no sense in a transfer cut.

Mr. KNEIPP. Only, Mr. Boice, where the numbers of stock on that allotment are safely within the permanent capacity of that allotment. Now, there are any number of allotments where that is not true.

Mr. BOICE. Then it is up to the Forest Service to make a protection cut.

Mr. KNEIPP. That is true. As a matter of fact, it too often has seemed necessary to temporize or compromise in past years. I am for rigidly adhering to the purposes for which the national forests were created.

Mr. BOICE. Now, another question: The Forest Service, for a period of over 35 years, followed a policy of distribution designed to take care of the situation which, we might say, is illustrated by the situation which Judge Udall presented. At the end of 35 years those conditions still exist. Now, I have a very high regard for the officials in the Forest Service, after having about 25 years' acquaintance with them; but on account of the fact that they are human, and these are economic problems, I doubt their ability to handle these things conclusively. I believe that after 35 years more of distribution the same condition would exist as exists today, and for that reason the stockmen have been very much in favor of the complete discontinuance of distribution.

Mr. KNEIPP. There are all kinds of angles to the situation. I have seen a lot of them myself. I had the pleasure of once working with Bert Potter when he first developed the national forest-range program. The play of human forces is quite interesting. Many people have come in and gotten their small permits, and were fairly well content; and then some man who wanted to enlarge his operations, under the regulations of the Forest Service, would get the little fellow to waive his permit, on at least part of the stock, and buy him out. That has been going on all the time. Then, sometimes, the new permittee, after being in the stock business a few years, found it wasn't as attractive as he thought it would be.

There has been that fluctuation of livestock ownership going on all the time. The motives of some new applicants may have been speculative. But if this country finally is going to develop into what it should be, provision should be made for correlating range use with economic need. You will look for full realization of the West's potentialities, more homes, more people out through these mountain countries. That will depend on people's ability to maintain a reasonably adequate existence. They will be willing to stay in a locality only if they can make a living there. In many instances the associated use of the range, associated production of livestock, is going to be one of the essentials to that end. Settlers may not be able to market their bulky crops; by any practicable means other than to feed them to a certain number of livestock. The connection of range use with farming operations would give them a better balanced operation and a little more security, a little more cash, thereby making it possible for them to maintain an economic life in their small communities. The establishment of such conditions unquestionably should be the objective of the public agencies.

The CHAIRMAN. Very well, Mr. Kneipp.

The committee will take a 10-minute recess now.

(Recess until 3:50 p. m.)

The CHAIRMAN. One of the members of the Hopi Tribe here has requested, during the recess, that he be permitted to make a further statement; a short statement.

You may come forward now and make your statement. For the record, your name is what?

STATEMENT OF SIMON SCOTT, HOPI INDIAN

Mr. SCOTT. My name is Simon Scott. I have forgotten one thing that I would like to express to you, Senators' committee, and friends here at this meeting.

It is my knowledge that these Senators' committees at this present meeting, that we have rights; that they are to protect us from what we have been led during the past; so I urge them, when they go back to Washington, and I wish that they will take into deep consideration and make such adjustment for my people so that in time we will have better life to live. I ask the people in Arizona to give us some support also, as we are one nation. You must understand this, that this is not Japan nor Germany, but America; so let us work altogether and stand shoulder to shoulder so that in time the Indian will live standard; and I wish you people at this meeting today would take this consideration to yourselves and help us along in the line of life.

We Indians realize that you people have been paying taxes in order to educate the Indian, and from that point we Indians appreciate what you have done. Furthermore, if there is some appropriation to be made by the Congress, we would like to have what has been passed by Congress spent right on the reservation so we will get the benefit of the appropriation.

Congressman MURDOCK. Do I understand that the part of the reservation you are now using is about one-fourth of the original reservation, according to the measure of 1882 that established it?

Mr. SCOTT. Yes, sir.

Congressman MURDOCK. How long have you been confined to the one-fourth of the original reservation?

Mr. SCOTT. Since 1934.

Congressman MURDOCK. If I am not mistaken, prior to 1934 then, you were using the entire reservation of 1882?

Mr. SCOTT. I have been trying to use it as much as we can, but, however, we have been encroached on by some other tribe, and have lost our rights. We have made several reports to our agencies to take it up, and they promised to do it, but no action has been taken.

Congressman MURDOCK. Have the other three-fourths been used by other Indians?

Mr. SCOTT. Yes, sir.

Congressman MURDOCK. I want to say, Mr. Chairman, that the witness has made a splendid statement of what we hope will follow after this war, when he posed that question which none of us were so ready to answer on his first appearance. We hope, at the conclusion, the men of Indian blood as well as the men of white blood will know for what they have been fighting, and will realize their hopes.

Mr. SCOTT. Thank you very much, sir.

The CHAIRMAN. Thank you very much, Mr. Scott.

Now, the president of the Cattle Growers' Association wishes to make a final statement here.

Mr. FAIN. May I correct that, Senator? I am the vice president of the association, in the absence of Mr. Reid, our president.

I have a brief summary to make. Before making it, I wish to say a word about the witnesses called and the manner in which they were obtained. The Arizona Cattle Growers' Association was requested by the committee to present a list of people who would like to appear and state their cases. That was one manner in which the witnesses were obtained.

The Arizona cattle growers have certain policies, and formations of policy, which they wish to bring out, and in doing so they invited and requested certain witnesses to appear; so the witnesses came from two sources, and I might say that I know of no one who asked to appear and state his troubles through the Arizona cattle growers that was not put on the list. If anyone has not had his opportunity, I would certainly like to know of it.

I would like to briefly summarize some of the main points which we, as the Arizona cattle growers, think should be corrected in the policy of administration of our forests and public lands. I stated yesterday we are opposed to withdrawals of any kind. We are particularly opposed to withdrawals by proclamation. If necessary, we feel it should be done by Congress, and we certainly hope for the passage of the pending bill, with the amendments. We agree that most of these

withdrawals should be returned to the State; and would like to repeat again the substance of the statement made yesterday; I believe that 99 percent plus, in fact, as far as I know, 100 percent of the users of the various types of land in Arizona prefer State land over any other type of land.

We would like to see the parks and monuments cut down to a reasonable size. Under the Taylor grazing bill, peculiarly, the main object does not come to the administration of the major part of the land in this hearing; but we find that section 15 comes in for most of the criticism, first, in regard to the livestock turned loose on mining claims on section 15 land. Secondly, we need an office in the locality for the administration of these lands. I would not say this is a direct criticism of the Department or management of the lands, but we do find that machinery has not been set up to adequately take care of section 15 lands. Whether it needs departmental regulation or legislation, we are leaving that in the hands of the Department and the committee.

The CHAIRMAN. I think a statement was made by Mr. Havell on that subject. You heard that statement, did you not?

Mr. FAIN. Yes.

Third, we have been greatly impressed by the unfairness and failure to abide by the spirit of the act of 1942, in the acquisition of lands for military purposes. The policy as followed has not only been unjust, but it creates a lack of faith in our Government, and we have no recourse to court in correcting this error.

We are very much in favor of the stockmen's version of the Johnson bill, when it comes to the Forest Service, because the stockmen—and I have found it equally true, or the association has, of the small stockmen as well as the larger ones—they are mainly interested in stability; and we feel that we do not at present have that stability.

We have tried to give a fair and unbiased opinion in statement of facts and illustrations of these policies.

On behalf of the Arizona cattle growers, I wish to thank the committee, Senator McCarran, and our delegates to Washington, and the various departmental officials who have helped and aided in the hearing, as well as the witnesses who have appeared; and in closing I might ask if the Senator, or anyone present, has ever seen so many sheepmen and goatmen and cowmen all driving in the same direction, as we have had at this hearing?

The CHAIRMAN. Now, S. 379, pertaining to the boundaries of Saguaro National Monument; we will take that up now. We had it up, temporarily, yesterday; but we wanted to take it up while Senator Hayden and the Congressmen are here, because, as I view it, from the history given yesterday in detail, it is quite an important question in the State of Arizona; and Senator Hayden and Senator McFarland, on the Senate side, I think we stand together pretty solidly against withdrawal of further public domain. I am speaking now of public domain from the State of Nevada and the States of Arizona and New Mexico and the other Western States. We certainly stand solidly against the withdrawal of vast acreages of public domain in monument form where small, or very much smaller, acreages would suffice to preserve the natural or historic features sought to be preserved.

Senator Hayden has introduced a bill, and then he has introduced some amendments to it. If either Senator Hayden or anyone wishes to

discuss it, I think this is the time to discuss it. The chairman of this committee occupies a peculiar position in that he was appointed chairman of a subcommittee of two, Senator Willis, of Indiana, being the other member, to pass upon and report on this particular bill. So Senator Hayden, if you care to be heard, or to call any witness, we would be very glad to hear you.

A copy of the bill will be inserted in the record at this point.

[S. 379, 78th Cong., 1st sess.]

A BILL To revise the boundaries of the Saguaro National Monument

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the exterior boundaries of the Saguaro National Monument, Arizona, established by proclamation of the President dated March 1, 1933 (47 Stat., pt. 2, 2557), are hereby revised and amended so as to include within said monument all lands in section 8, the northwest quarter, the south half of the northeast quarter, and the south half of section 9, the southwest quarter of section 10, the west half of section 15, sections 11, 14, 16, 17, 20, 21, 22, 23, 26, 27, 28, 32, 33, and the north half of section 34, township 14 south, range 16 east, Gila and Salt River base and meridian.

SEC. 2. The Secretary of the Interior is hereby authorized and empowered, on behalf of the United States, to purchase at an appraised value of \$25 per acre, all privately owned lands and rights thereto within section 8, the south half of the southeast quarter of section 9, the north half of section 17, and section 29, township 14 south, range 16 east, Gila and Salt River base and meridian. There is hereby authorized to be appropriated the sum of \$12,000 for the purposes of this section.

SEC. 3. The Secretary of the Interior is hereby authorized and empowered, on behalf of the United States, to purchase, at the appraised value of \$1,300, a certain well and pumping machinery in place, together with the following-described land surrounding and including said well:

Beginning at a point one thousand and seven feet south of the north boundary of section 31, township 14 south, range 16 east, Gila and Salt River base and meridian, and thirty feet east of the west boundary of said section 31, thence due east four hundred and sixty-eight feet, thence due south one hundred and eighty-six feet, thence due west four hundred and sixty-eight feet, thence due north one hundred and eighty-six feet to the point of beginning, a total of two acres more or less, all located within the northwest quarter of the northwest quarter of said section 31: *Provided*, That such purchase shall include easements of way for power lines and water lines to be forever vested in the United States through the north half of said section 31 between the above-described land and the dedicated county highway land on the north boundary of said section 31: *And provided further*, That said purchase shall vest in the United States absolute title to all water rights in the west half of the northwest quarter of said section 31. There is hereby authorized to be appropriated the sum of \$1,300 for the purposes of this section.

SEC. 4. The Secretary of the Interior is hereby authorized and directed, on behalf of the United States, to acquire title from the University of Arizona to the southwest quarter of section 10, and the west half of section 15, and from the State of Arizona to all of sections 11, 14, 22, 28, and the east half of section 21, all in township 14 south, range 16 east, Gila and Salt River base and meridian, and there is hereby authorized to be appropriated to said university as partial reimbursement for the value of the southwest quarter of said section 10, the west half of said section 15, and in consideration of the expenditures of said university in protecting and acquiring for the benefit of the United States the cactus forest growth on all of the lands described in this section, the sum of \$55,000.

SEC. 5. With the exception of the lands described in section 4 of this Act, the State of Arizona may relinquish in favor of the United States such portions as it may see fit of all other State lands described in section 1 of this Act, and shall have the right on such relinquishments to select in lieu thereof other unreserved and nonmineral public lands within the State of Arizona equal in value to those relinquished, said lieu selections to be made in the same manner as is provided for in the Enabling Act of June 20, 1910 (36 Stat. 558), or, in the discretion of the State of Arizona, under the provisions of section 8 of the

Act of June 28, 1934 (48 Stat. 1269), as amended and supplemented by the Act of June 26, 1936 (49 Stat. 842). The payment of fees or commissions is hereby waived in all lieu selections made pursuant to this section.

Sec. 6. The provisions of the proclamation of the President dated March 1, 1933 (47 Stat., pt. 2, 2357), creating the Saguaro National Monument, are hereby repealed insofar as they affect the north half of the northeast quarter of section 9, the north half and the southeast quarter of section 10, and the east half of section 15, township 14 south, range 16 east, Gila and Salt River base and meridian, and section 5, township 15 south, range 16 east, Gila and Salt River base and meridian.

Sec. 7. Jurisdiction over all lands within the boundaries of the Saguaro National Monument as described in section 1 of this Act is hereby vested in the Secretary of the Interior acting through the National Park Service. Except for the areas described in sections 1 and 6 of this Act, all lands within the Saguaro National Monument as established by said proclamation of the President dated March 1, 1933, are hereby restored to the Coronado National Forest, to be administered in accordance with existing law by the Secretary of Agriculture acting through the United States Forest Service, subject to all valid existing rights which may have accrued in favor of private individuals.

Senator HAYDEN. I would like to make a general statement with respect to the Saguaro Monument, which is an area near Tucson.

The CHAIRMAN. Yes.

Senator HAYDEN. That withdrawal came about by a glaring example of acquisition by precipitous Executive order, without consultation, and without facts. The President of the United States Mr. Hoover, on tour of the West, was passing through Arizona on a special train going East. Shortly after the train left Tucson, Mr. Frank Hitchcock, a very distinguished citizen of southern Arizona, pointed out of the window to a growth of Saguaro cactus, and suggested that it was a very unique plant, which it is. It only grows in the United States, from the Williams River south toward Mexico. Mr. Hitchcock suggested that the area should be set aside for cactus preservation, since people were in the habit of coming along and lighting matches to the thorns and doing other damage. An Executive order was issued without any consultation with the United States Forest Service. It actually did not cover the land pointed to out of the car window as the President went by. It included land that should not have been removed from the national forest and privately owned lands. It was just one of those hasty actions that made a mess. We have never been able to correct it.

The University of Arizona has lands, within the area, that they would be willing to surrender with compensation, because they depend upon land resources, in part, for the maintenance of the university. It is one of the most glaring examples of the evil of doing something in a hurry. I do not think any President of the United States ought to have the power, by simply signing his name to a paper, to change the status of land. [Applause.]

I say that, based upon a long experience in Congress. For instance, everybody recognizes that the Grand Canyon was an area that ought to be in a national park. But how was it first established? Theodore Roosevelt, after a hunting trip, slapped on an Executive order. That was the first great stretching of the National Monument Act over a tremendous area of land on both sides of the Grand Canyon, a large part of which was devoted exclusively to grazing. Now, the scope of that statute, I hope, will finally be determined by the Supreme Court in the *Jackson Hole* case in Wyoming, of which you are well aware. Anyone can read that law and see that it simply is

designed to take care of comparatively small areas of land, which have some historic significance. That is all it was for. To stretch it, to take in great areas where natural scenery is the prerequisite, would not be so bad, if confined to the scenery such as the Grand Canyon. To correct the original mistake Congress passed the Grand Canyon National Park Act, setting it up by act of Congress, as it should be. We said there should be, within this national park, the gorge of the canyon, and a sufficient area near the rim to provide a road system, so people could use the gorge. In that act, we very greatly reduced the size of the national monument. We returned to the national forest the area that was used exclusively for grazing. But subsequently, there have been areas added to the park by Executive order, as you very well heard about up at Fredonia, areas that Congress never contemplated.

In the Jackson Hole case there is the same situation with no attempt to consult the people of Wyoming. I think Senator O'Mahoney performed a valuable service in raising the issue, and I supported him in doing so, upon the floor of the Senate. Congress can do one thing, we can tie up the maintenance money; that is what we did this year by providing in the appropriation bill that no part of it could be used to administer the newly created Jackson Hole Monument. We did it upon the specific ground that the State of Wyoming would ask the Supreme Court to determine what Congress had in mind when it passed the National Monument Act.

There has not been an instance in this State, where it was necessary to carry out a public purpose, but what we could not come to accord with the Federal authorities if consulted. Nobody wants to abolish the Grand Canyon National Park; but that doesn't mean to take in a vast wilderness area, unless you are following, in fancy, an idea that nobody should see it unless he can organize an expensive expedition and hire guides and cooks. Otherwise, so far as the general public is concerned, this wilderness area idea is a rich man's game, and I personally do not approve of it.

I am hopeful we can do, with respect to these national monuments, what Senator Mark Smith did with respect to the Indian reservations in Arizona. He attached to a bill a provision that no Indian reservation in Arizona could be extended except by the consent of Congress, and that is exactly what we have got to do with respect to national monuments.

We have got to try now to correct the boundaries of the Saguaro National Monument, to make sense out of it. We can do that, I hope, sometime; but to do it we have to compensate the owners of private lands, and compensate the University of Arizona. It is a bad situation from end to end; and the only cure is to make it certain, by law, that the status of land desired for national monuments shall be passed upon by the Congress of the United States. Do it by law, and not by executive order.

The CHAIRMAN. In that regard, the special committee having the matter in hand will, naturally, look to your own delegation, Senator, or the Forest Service, acting with you, for a definition of what should be actually in that withdrawal, because, undoubtedly, it has too much land now, and it is proposed to put in more land, which, according to the statements made yesterday, are not covered by anything that is of a unique nature. So, it seems to me, we must have some definition of what is actually covered by this peculiar growth of cactus.

Senator HAYDEN. I shall cooperate with you in that regard. I should like to present for the record photostatic copies of certain documents containing some of the understandings at the time the monument was set up:

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, February 24, 1933.

MEMORANDUM FOR THE SECRETARY

DEAR MR. SECRETARY: Ament the attached papers, consisting of a letter from Mr. Frank Hitchcock to Secretary Wilbur under date of February 20, accompanying draft of a proposed proclamation establishing the Saguaro National Monument, Arizona, and plat thereof and Mr. Albright's memorandum of February 24 to Secretary Wilbur in relation thereto.

Members of the Forest Service who are familiar with this area state that while it may not be the finest example of the saguaro type in the Southwest, it probably is the best remaining in public ownership. The Director of the National Park Service in his last annual report emphasized the desirability of preserving a suitable area of that type, and I agree that its value for scientific and educational purposes would warrant such action.

The area shown on the plat accompanying Mr. Hitchcock's letter lies mainly within the Santa Catalina Division of the Coronado National Forest. Its establishment as a national monument would not appreciably complicate the administration of that unit of the forest if the national monument was administered by the Forest Service. If the monument were under another and separate administration, then the management of the relatively narrow strip of national forest land outside of the monument would be difficult and complicated. I recommend that you concur in the action proposed by Mr. Hitchcock, with the understanding that the monument shall be administered by the Forest Service. The boundaries as proposed embrace 15 square miles that is not now within the national forest, but the addition to the Forest of a part of the unreserved land has been proposed by officials of the university. Mr. Albright's memorandum would indicate that with the exception of 42 acres, all of the 15 square miles is in State or private ownership.

Very sincerely yours,

R. Y. STUART, *Forester.*

FEBRUARY 20, 1933.

HON. RAY LYMAN WILBUR.

Secretary of the Interior, Washington, D. C.

DEAR MR. SECRETARY: Referring to the several talks we have had about the proposed Saguaro National Monument near Tucson for the preservation of various species of cacti, I enclose herewith a draft of a suggested proclamation by the President reserving "from all forms of appropriation under the public land laws" the lands described.

The suggested proclamation has been drafted after a painstaking study of the lands concerned in which Dr. Homer L. Shantz, president of the University of Arizona, and Mr. Frederic Winn, forest supervisor of the Coronado National Forest, with their respective assistants, have actively collaborated. The phraseology of the proposed proclamation has been accepted in a joint meeting.

As the principal part of the tract selected to be reserved is within the boundaries of the Coronado National Forest, it appears that this national monument, if created, will fall more logically under the jurisdiction of the Forest Service of the Department of Agriculture than under that of the National Park Service in your Department. However, as my discussions of the matter have been with you and with Director Albright I am taking the liberty of placing the papers in your hands, knowing your keen interest in the plan and your expressed desire to have it consummated in this administration. I earnestly hope that notwithstanding the extraordinary demands on your time in these closing weeks of the administration you will be able, with the approval of Secretary Hyde, to secure the issuance of the proclamation.

Our delay in submitting this matter has been caused in large part by the failure of Superintendent Toll of the National Park Service, to arrive here sooner and to give the project a little more time. He left rather unexpectedly after spending 2 or 3 days here and so was unable to render us much assistance. Since he left

we have been working most diligently to perfect the plan and to get it before you in season for action by President Hoover.

It will be a grievous disappointment to those of us especially interested if action is not taken before March 4 to preserve for all time the remarkable growth of giant cactus included within the boundaries of the national monument as outlined.

Forest Supervisor Winn, who has immediate jurisdiction over the forest lands affected, has submitted to Regional Forester Pooler at Albuquerque, we understand, a favorable recommendation.

It is my purpose to leave for the East before the end of the present week and I expect to reach Washington not later than March 1. Promptly after arriving I shall call to see you about this proclamation, but I trust that meanwhile you will arrange for the completion of any preliminaries that may be necessary before consideration by the President.

With cordial regard,

Sincerely,

FRANK HITCHCOCK, *Tucson, Ariz.*

SAGUARO NATIONAL MOUNMENT—ARIZONA

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

Whereas a certain area within the Catalina Division of the Coronado National Forest in the State of Arizona and certain adjacent lands are of outstanding scientific interest because of the exceptional growth thereon of various species of cacti, including the so-called Giant Cactus, it appears that the public interest will be promoted by reserving as much land as may be necessary for the proper protection thereof as a national monument.

Now, THEREFORE, I, HERBERT HOOVER, President of the United States of America, by virtue of the power in me vested by section two of the Act of Congress approved June eight, nineteen hundred and six, entitled, "An Act for the preservation of American antiquities," do proclaim that there are hereby reserved from all forms of appropriation under the public land laws, subject to all valid existing rights, and the right of the State of Arizona to select for the use of the University of Arizona all or any portions of Sections 11, 14, 22, 28, and E. $\frac{1}{2}$ 21, T. 14 S., R. 16 E. G. S. R. M., and set apart as a National Monument, the following described tracts of lands in the State of Arizona:

T. 14 S. R. 16 E.—Sections 8 to 17, inclusive, sections 20 to 29, inclusive, and sections 32 to 36, inclusive.

T. 14 S. R. 17 E.—Sections 7 to 36, inclusive.

T. 14 S. R. 18 E.—Sections 7, 8, 9, Sections 16 to 21, inclusive, and Sections 28 to 33, inclusive.

T. 15 S. R. 16 E.—Sections 1 to 5, inclusive.

T. 15 S. R. 17 E.—Sections 1 to 6, inclusive, and Sections 11, 12, 13, 14, 23, and 24.

T. 15 S. R. 18 E.—Sections 4 to 9, inclusive, and Sections 16 to 21, inclusive. G. & S. R. M.

The reservation made by this proclamation is not intended to prevent the use of the lands now within the Coronado National Forest for national forest purposes under the proclamation establishing the Coronado National Forest and the two reservations shall both be effective on the land withdrawn but the National Monument hereby established shall be the dominant reservation and any use of the land which interferes with the preservation or protection as a National Monument is hereby forbidden.

Warning is hereby given to all unauthorized persons not to appropriate, injure, deface, remove, or destroy any feature of this National Monument, or to locate or settle on any of the lands reserved by this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the United States to be affixed.

DONE at the City of Washington this 1st day of March, in the year of our Lord nineteen hundred and thirty-three, and of the Independence of the United States of America the one hundred and fifty-seventh.

[SEAL]

(Sgd.) HERBERT HOOVER.

By the President:

(Sgd.) HENRY L. STIMSON.
Secretary of State.

UNITED STATES DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Washington, February 24, 1933.

Memorandum for Secretary Wilbur.

Subject: Giant Saguaro area near Tucson, Ariz.

On the attached map we have shown in red the area referred to in Mr. Frank Hitchcock's air-mail letter to you of February 20.

The lands shown in green are those within the present national forest. We have made a thorough study of the Giant Saguaro in the past several years and our findings show that the finest of the Giant Saguaro are in T. 14 S., R. 16 E. Practically all of this land in this township is either patented, owned by the State, or in the national forest. There are only 42 acres of free land at the present time.

In Mr. Hitchcock's letter he suggests that a national monument be established, and also states that no doubt it would fall under the jurisdiction of the Forest Service, but has turned the matter over to you inasmuch as he has spoken to you about it in the past.

The Park Service believes that the Giant Saguaro in this section should be preserved. I am in hopes that the Forest Service will be agreeable to establishing a national monument for this purpose. Such a national monument under the present agreement would fall under the jurisdiction of that Service.

Attached we are returning Mr. Hitchcock's letter, together with the proposed proclamation which he suggested.

HORACE M. ALBRIGHT, *Director.*

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D. C., February 25, 1933.

MR. MEADOR: The Secretary called me up about this on Friday. I promised to send a memo, which is attached.

R. Y. STUART.

FEBRUARY 25, 1933.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: I have the honor to transmit herewith the letter of the Honorable Frank Hitchcock recommending the establishment of a national monument in the Santa Catalina division of the Coronado National Forest in the State of Arizona for the preservation of the Giant Saguaro areas.

I have gone over this matter carefully and I recommend this area be reserved as a national monument. A form of proclamation prepared by the Honorable Frank Hitchcock in connection with the authorities of the University of Arizona is attached hereto. This form would, in my opinion, be satisfactory.

Sincerely,

ARTHUR M. HYDE.

The CHAIRMAN. Are there any further statements on that?

Mr. S. C. BROWN (Eagar, Ariz.). In regard to one policy, I don't believe we have anything to say—two or three of us men let get away from us a policy which we would like to discuss.

The CHAIRMAN. Would you care to come forward and discuss it?

STATEMENT OF S. C. BROWN, EAGAR, ARIZ.

Mr. BROWN. My name is S. C. Brown, and I am from the northern part of the State, Apache County.

The CHAIRMAN. What is your address?

Mr. BROWN. Eagar, Ariz., Springerville.

Mr. BROWN. What is your line of business?

Mr. BROWN. Well, I am a farmer and a small cattleman.

I would merely like to ask a few questions, and possibly state an individual case that exists with, not only me but several other mem-

bers of the little vicinity in that part of the State. I might start out by saying something in regard to the advisory boards. I listened very attentively to the comments by individuals and the way they were functioning, but as far as I am concerned personally, if they are all functioning like the one in the part of the State where I live, I sometimes wonder where guys of my own standing are benefited in any way.

I might bring up my personal opinion in regard to what I mean. I might say that the advisory board up in our part of the State consists of men—as far as I am concerned, I have no kick at all—but it consists of men who are some of the biggest permittees in that entire section; which means that, as far as I am concerned, I don't believe that I ever would get any jurisdiction or any comments from them in my regard, at all. Now, this is merely a proposal in a way, I think, that should be. I'll tell you, for one reason, I believe advisory boards could actually meet the demands of all people concerned, and should be made up of possibly one large permittee, one man, you might say, that is a small permittee, and possibly a third member without a permit. But the way we have it up there, you have three large permittees. As far as the small man is concerned, now, how is the advisory board going to act in his behalf?

I might bring up one little incident that was told to me, about a little man making application for a permit; he was notified to appear before this here advisory board to follow his application. Our supervisor, addressing his advisory board—I shall call them "his advisory board," I don't know how apt that is, as far as I'm concerned, the little man didn't have anything to do with the voting on the appointments, or anything of that sort—anyway he addressed his advisory board and says, "You men are settled in your minds that nothing can be done for this man," and turned right around and asked this little man if he wanted to plead his case. Well, he didn't have a case to plead, did he? In other words, they settled the facts before he appeared before the advisory board, and there was nothing for him, no case to plead.

The CHAIRMAN. Was that a forest advisory board?

Mr. BROWN. Yes, sir.

The CHAIRMAN. Who was the forest supervisor?

Mr. BROWN. I was told of this incident. Mr. Bob Ewing was the supervisor.

The CHAIRMAN. In other words, the matter related to you was that the supervisor said to the advisory board, "You have made up your minds there is nothing for this man?"

Mr. BROWN. "You all agree," he said, "the facts are, there are no available permits, and so on and so forth; you all agree, and so on and so forth, to the point you don't know where we are going to get him any permit; but if he does want to plead his case we will listen to him."

I might go ahead and relate my opinion, and the way I feel against the Johnson bill. Certainly, it is a good thing for possibly the majority of the men assembled here today, but I happen to be one of those smaller men, and I am going to relate a few instances. I have two or three places, of patented land; one or two of those places are on the forest. They are about 13 miles above the settlement of Round Valley, right on the forest, and we have one large ranch, White Mountain Hereford ranch, it is called, 3 miles below my place. Now, that place

has been sold four or five times to my knowledge—four times, I believe, to be specific—from the time that I have been there. Now, if this here Johnson bill is enacted, wherever is going to be my chance to secure a little permit? There have been the sales of that permit which, according to the rules and regulations, what I understand of it, the United States Forest, there should have been cuts on those permits for the redistribution for the protection of the range. It has been commercialized, this permit, to the point now that men have come in there who are range specialists, more money than they know what to do with, and have bought places like that to play with, use as playthings there. I'm a little permittee trying to get the chance to buy a few head permit, and lo and behold, you go into some of these big permittees and ask them and say, "Mister, what about selling me a little permit over here, aside from your bigger permits?" And they say, "No, no; we don't want to sign any waiver with the United States Forest Service. Whenever we sign a waiver we lose certain rights," and so on and so forth. So there I sit, waiting, you might say, for the Forest Service to take enough interest in their own rules and regulations to make their cuts on men now that are commercializing on the fact that they are not utilizing their range.

All right. On that same outfit I'm talking about right next to me, I have heard tell Forest men say, "I'm sorry, there is no available range." All right, one man, that owned that ranch, he moved his cows from his ranch right up past my place out on top of the permit, through it, and on to the allotment, and let them out on top of the mountain, through that allotment; moved them to Phoenix, for 3 years. There wasn't a cow on the allotment for that 3 years, that allotment surrounded by my ranch, and yet they said there was no available range. Well, I'd gladly take some of that range, if they'd give it to me. Well, of course, now the outfit that has that is putting cows in there; but for 3 years it wasn't utilized, and they didn't need it for the protection of the range because there is plenty of grass there.

I say, as far as my opinion is concerned, if the Johnson bill is enacted, what few guys are in the business might as well get out now, instead of staying there 4 or 5 years more.

The CHAIRMAN. How many cattle are you running?

Mr. BROWN. I have about 30 head.

The CHAIRMAN. What is your permit now?

Mr. BROWN. A permit for 22 head.

The CHAIRMAN. For the forest?

Mr. BROWN. Yes; sir; and I have tried and tried for what I can get.

The CHAIRMAN. How long have you had that permit?

Mr. BROWN. Well, my father has had it for 10 or 15 years. He got killed, and I took over his little place. When it comes right down to it, I don't have any permit. I am running those places, and feel that if there is a preference on the forest, there should be some consideration there.

The CHAIRMAN. You are running the outfit that your father ran before you?

Mr. BROWN. Yes, sir.

The CHAIRMAN. And have you increased your numbers any during the time you have been running?

Mr. BROWN. Since I have taken over, it would be practically impossible for me to increase for cattle because of the fact I have no

place to put them; although I will make this statement, with what patented land I have for foundation, quite a little. A comment as to what Judge Udall said from the stand this morning; the fact is that not a farming district suitable to a man with his family making a living on farming. For one reason we are too far away from the railroads to have any market for the produce we actually produce on our farms. You might say that the market, through our little farms in that vicinity, came from putting what you produce on them farms into the livestock, and then marketing the livestock; and, for that reason, you might say it would be nearly impossible for a man such as me, over a period of years, to exist.

The CHAIRMAN. Does the permit still stand in the name of your father?

Mr. BROWN. Yes, sir; it is in the estate.

The CHAIRMAN. You have a family?

Mr. BROWN. Yes, sir.

The CHAIRMAN. Living there with you on your unit?

Mr. BROWN. Yes, sir; I have a 6-year lease for my mother and the rest of the children on these places. I am the oldest one of the family, and I need to take that responsibility.

The CHAIRMAN. You are sustaining your own family, and your widow mother?

Mr. BROWN. Yes, partially.

The CHAIRMAN. What else do you do besides stock raising; anything else?

Mr. BROWN. Farming and stock raising in the wintertime. I possibly can say a little bunch of cows I have got are not handled in the best possible way. But why? Because a man with small group of cows can't afford to sit around all winter and feed that little bunch of cows like he could if he had enough to pay him for doing it. I have to work, maybe drive a logging truck in the sawmill, in the wintertime; let that logging truck go, catch my saddle horse, and ride out on the ranch and feed them cattle, and so on and so forth. As far as the summer months are concerned, they are utilized in the running of this place, farming, and taking care of my cows.

The CHAIRMAN. Is the supervisor of that forest here?

Mr. R. B. EWING (forest supervisor, Apache National Forest, Springerville). Yes, Mr. Chairman.

The CHAIRMAN. Do you know anything about the case?

Mr. EWING. I have a general knowledge of the case, Mr. Chairman. It is the type of case Mr. Kneipp described awhile ago, a small owner dependent to a large extent for increases on further adjustment, made possible through transfer reductions.

I want to add one thing, however, that certainly we make no effort to dictate to the advisory board. All members of the board are here this afternoon, and I believe they prefer that they speak for themselves on that subject.

The CHAIRMAN. I am wondering if, out of all this, there is any hope for the little fellow, generally speaking, without regard to this specific case.

Mr. EWING. The outlook, Mr. Chairman, is not too bright.

The CHAIRMAN. He does make one statement there that does catch my ear, and that is that large outfits come in and play with the in-

dustry. I don't know how far that goes, but there is something in that that I have heard of before.

Mr. EWING. That is true of large outfits, like the one Mr. Brown described near his home; they are running registered cattle. That is the main reason they were brought down to be placed on feeding. They are owned by the White Mountain Hereford ranch. Later, the owner of the White Mountain Hereford ranch sold, and the people there now are utilizing the range, but, of course, for a certain area on all of our allotments, certain portions are underutilized. But on each of those allotments you always find areas that are overused, and of course that is true in this case. There are areas that are underused and other areas that are overused.

The CHAIRMAN. This man has had an application in before you for some time, as I gather it.

Mr. EWING. I don't recall distinctly whether he has made application for increases or not. He probably has. Many of them have; yes, sir.

Mr. BROWN. Mr. Chairman, I would like to relate my opinion along one line. In the little allotment where I am there is one gentleman, a friend of mine, and he has a 50-head permit. Due to certain unknown reasons he got hard up and he sold the cows. He still maintains the permit. The fact was that some of my neighbors, not having permits and a few cows, which might not be right as far as the law and the rules and regulations are concerned, placed some cows on this permit that was not being used. This man didn't have the cows to fill it himself, and so on, and so forth. They were kicked off of that and this man now has 15 head of cows on it, declared nonuse on the other 35 head. It is not being utilized, and yet they say there is no available range. Until that man can actually utilize that 35-head permit, why couldn't it be given to me for a year or 2 years, until he could utilize it, to see that that grass doesn't go to waste? Those are questions in my mind. They say there is no available range and I can see it all around me.

I might add a little further. We had a few pastures around there that belonged to the Government, I suppose; ranger station pastures, and so on, and so forth. I know some small guys that made application for those pastures and they weren't given any consideration. They were turned over to men who were actually some of the biggest permittees there was. As far as the policy is concerned, I don't believe there is anything right about the granting of those pastures to big permittees for the reason that it might as well have been given to some small fellow and he would have utilized it.

The CHAIRMAN. What do you know about that, Mr. Supervisor?

Mr. EWING. The pasture lies within the White Mountain Hereford range, and they have been given the permit for the use of that pasture. There are two other Government pastures in the Greer allotment, turned over to the Greer permittees, being used by them now.

The CHAIRMAN. What is your regulation on nonuse?

Mr. EWING. I don't know anything about this case Mr. Brown refers to, but we are encouraging nonuse in many sections of the country.

The CHAIRMAN. That is to rest the range, isn't it?

Mr. EWING. For recuperation; yes, sir.

The CHAIRMAN. Well, of course, the committee cannot set itself up as a court of arbitration or a court of final determination for matters that are jurisdictional. We have stated at every meeting that we cannot set ourselves up to pass on the individual cases, unless individual cases typify a policy. Now, there have been many cases that I, personally, would have liked to have been of some assistance to iron out, and here is a case now that appeals to one, naturally. But if this committee were to undertake to set itself up as a court of last resort on these cases, first of all, we haven't the jurisdiction, we haven't the authority; and secondly, we would continuously be at it all the time. All I can say, and all the committee can ever say to those in authority, cases of this kind do present, as they are presented to us, they do present what might be typified meritorious complaints. We don't get it all; I don't think we get the whole story; but as we get it, all we can say to the administration, all the power we have is to say, please give this thing further consideration, with the idea of rendering a full and exact measure of justice. That is all we can say in any one individual case unless it typifies a policy that governs a whole course of administration.

Now, I am sorry to say to you that this committee does not have the power or the time to take up individual cases, although your case, as it is presented to us, seems to have a meritorious side to it.

Mr. BROWN. I'd like to ask a question, if you'll pardon me, in regard to the advisory boards and the Forest Service. This is a question, not only in my mind, but in several other men sitting here, which I think should make it worth merely answering a few questions for me in regard to the advisory board. Who selects the advisory boards in these vicinities? Some gentleman said something about it a while ago, but I never did get it.

The CHAIRMAN. Will you answer that?

Mr. EWING. This advisory board was selected, as Mrs. Keith described a few minutes ago, originally by the Arizona Livestock Association. Afterward an election was held and the same members were elected.

Senator HAYDEN. What are the qualifications of the elector?

Mr. EWING. Just that they have a permit.

Senator HAYDEN. Large or small, they all have one vote?

The CHAIRMAN. Does each permittee, regardless of the size of his outfit, have one vote?

Mr. EWING. Just one vote.

Mr. BROWN. How long does he hold office; for the rest of his life?

Mr. EWING. No; they were first elected 2 years ago. We are holding an election for one member this year, and another next year, and another one the following. In other words, they are elected for a period of 3 years with terms of office staggered.

Mr. BROWN. Was that put in here after the cattlemen themselves vote on that?

Mr. EWING. The present ruling is still just the permittees.

Mr. BROWN. In other words, us permittees in this section should have the right to vote?

Mr. EWING. Certainly.

Mr. BROWN. Fine!

The CHAIRMAN. In this case, where it is an estate that is being run by the son, does the representative of the estate cast the vote?

Mr. EWING. Absolutely. Didn't you get a blank ballot, Mr. Brown?

Mr. BROWN. No, sir.

Mr. EWING. We sent one to every permittee.

Mr. WOODHEAD. Mr. Chairman, the only thing I wanted to state for the record is this—this matter of how long an advisory board shall hold office, and the general procedure of the board—they meet and they shall hold an annual meeting and election of their own officers. That sort of thing is left to each board to determine; and so far we have made no attempt, the Forest Service in this region, at least, to set up any standard policy as to how long and for what period a board member shall be elected. But almost all the boards have followed something along the line Mr. Ewing has mentioned, that is, they elect their members so that one man goes out every year or two; so that on a large board you always have on the board two or three more men who have been on the board for some little time. Now, the Apache Board could change their system, as Mr. Ewing just described, if they desire to do so.

The CHAIRMAN. Thank you.

Thank you very much.

STATEMENT OF HENRY G. UDALL, EAGAR, ARIZ.

Mr. UDALL. I am chairman of the advisory board under Mr. Ewing. That is the way we were elected. The permittees all voted and had an election. I think we had two different elections, and they elected us.

The CHAIRMAN. How often?

Mr. UDALL. Just once; didn't have any election last year.

The CHAIRMAN. You were elected 2 years ago?

Mr. UDALL. Yes, sir; all three of us were elected 2 years ago. But in regard to Mr. Ewing trying to coerce the board, there is nothing to that; I want to say that Mr. Ewing has never, at any time; he has just been cooperative with the board.

The CHAIRMAN. How long have you been a permittee?

Mr. UDALL. Well, practically since about 1912, I think; somewhere around there.

The CHAIRMAN. What is your name?

Mr. UDALL. Henry G. Udall.

The CHAIRMAN. How many cattle do you run in there?

Mr. UDALL. About 300 at the time I was elected. I think I had a permit for 289 head, 6 months.

The CHAIRMAN. What is it now?

Mr. UDALL. 320 now.

The CHAIRMAN. For what length of time?

Mr. UDALL. I purchased a year ago another 46 head.

The CHAIRMAN. You run 6 months now on your permit?

Mr. UDALL. It runs 5½ months now.

The CHAIRMAN. Now?

Mr. UDALL. Yes, sir.

Mr. BROWN. Mr. Chairman, I believe there is a misunderstanding. The fact that I said Mr. Ewing told the board, I merely wanted to

make the point, the fact that the board had it settled in their minds as to the fact, inasmuch as they were talking to a man that didn't have any permit, they had utilized all there was on the forest. There was no place for the small guy because they had it all. Thank you. [Applause.]

STATEMENT OF R. S. HAMBLIN, EAGAR, ARIZ.

Mr. HAMBLIN. I am R. S. Hamblin, from Eagar, Ariz. The policies outlined by our head forester, Mr. Kneipp, I believe, are the policies that are best suited for the small man in our community; and the policies that were outlined here by the Cattle Growers Association and advanced by these advisory boards may represent a large number of stock, probably, and range; but I don't believe they represent the largest number of people that have to make a living from the benefit of the forest. For that reason I am against the Johnson bill and in favor of the program as outlined by Mr. Kneipp, because I believe that is for the benefit of the small man.

The **CHAIRMAN.** Where do you run?

Mr. HAMBLIN. I run on the Apache National Forest. I was here at this hearing 2 years ago. I represent one of the people that probably Judge Udall told about here, struggled along for several years to get a permit. I have one question I would like to ask our supervisor, or should have asked him in his own office during the time I was here before. At the present time I have purchased a permit for 50 head and that permit was cut 20 percent. The reason, according to Mr. Ewing, was that the range was overgrazed. At the same time, another man was cut 10 percent on the range and on the same kind of a purchase.

Now, that never was clear to me and I would just like to ask Mr. Ewing why that was.

Mr. EWING. I would be glad to answer that. That was not the same kind of a purchase, Mr. Hamblin. You bought only ranch property and, therefore, was subject to only 80 percent renewal. The other man bought both the ranch property and the cattle.

Mr. HAMBLIN. I didn't understand. I'm glad to know why that cut was made.

The **CHAIRMAN.** I wonder if many of these questions that are perplexing could not be straightened out if there was a little more, well, we'll call it neighborliness, between the supervisor's office and the permittee? So now, if you had gone to the supervisor's office and asked that question you would have had it and you wouldn't have been disturbed in your mind up to the present time. It would have been a much happier situation for the supervisor in authority, and everybody else. That is only a suggestion.

Mr. HAMBLIN. I am glad you brought it up, Mr. Chairman. I have often wondered what it is. I realize it is the case in most small permittees—they feel like the Forest sort of feels like they are sort of a headache on them. Maybe I am wrong, but that is the way I feel and a good many others. When we go in there we sort of are a headache to the Forest Service. Larger men seem to be more agreeable or sociable with them.

The CHAIRMAN. Well now, sometimes that grows out of imagination. If you harbor it, it will grow into colossal proportions when, as a matter of fact, it doesn't exist at all. I make that as a suggestion.

Mr. KNEIPP. Mr. Chairman, these gentlemen live in a town which is near one of the districts on the Apache Forest, the Greer district. That district presents a very complicated situation. Many small ranch owners live there, and there is a heavy demand for stock. So in 1942 there was a very exhaustive analysis made of the population, the land ownership, crop production, livestock, and all the different elements that entered into the picture. In 1943, on the basis of that analysis, there was worked out a program of action which seemed practicable. These are rather lengthy documents; but I am wondering whether you would think they were sufficiently valuable to the members of the committee, or members of Congress, to incorporate them into the record. This is a report exemplifying a problem, quite a problem, of the kind mentioned here. It includes the Nutrioso and Alpine districts which adjoin the Greer district, and where conditions are very much the same. It also illustrates the approach the Forest Service is trying to make. Whether it would be worthwhile to put those in the record—

The CHAIRMAN. How voluminous are they?

Mr. KNEIPP. Forty or fifty typed pages.

The CHAIRMAN. I would like to have those in the record because they do exemplify an activity to deal with intricate questions.

I am a little bit stingy about extending the record to that extent, but if you would let us have copies of your plan, and how you worked it out, we could file it with the committee.

Mr. KNEIPP. Yes, sir.

The CHAIRMAN. We would be very glad to have it.

STATEMENT OF R. L. SHARP, NUTRIOSO, ARIZ.

Mr. SHARP. My name is R. L. Sharp. I am from Nutrioso.

The CHAIRMAN. Have a seat and tell us your story.

Mr. SHARP. I haven't got much of a story. I am one of the advisory board. I think I got a permit on the forest for fifty-some-odd head, see?

The CHAIRMAN. How did you get on the advisory board?

Mr. SHARP. The permittees elected me, I guess.

The CHAIRMAN. Did you go out and make a big campaign?

Mr. SHARP. I sure did.

The CHAIRMAN. Well, you got enough votes to put you on.

Mr. SHARP. That's right. Thank you very much.

STATEMENT OF EATHER BROWN, EAGAR, ARIZ.

Mr. BROWN. I would like to object to this stockmen's bill. In our country, if things continue on in the future as they have in the past, 99 percent of us, I think, is going to have to move, and the four or five in the country who belong to the stockmen's association will have to take it over. Thank you.

STATEMENT OF GEORGE E. CROSBY, GREER, ARIZ.

Mr. CROSBY. Well, I have problems here, and I guess in the first place it is this revised Johnson bill, why, as has been stated, the Forest Service revision of that bill, I favor that instead of the Arizona Cattle Growers or the American Cattle Growers attitude.

I'd like, at this time, to say something on the policy of the Forest Service.

The CHAIRMAN. All right.

Mr. CROSBY. It is the policy of the Forest Service to discourage little men here in having permits. When they go before the forest supervisor, instead of letting them make an application for a permit, they refuse to accept an application.

The CHAIRMAN. Are you running stock on the forest now?

Mr. CROSBY. Yes; on the Apache National Forest.

The CHAIRMAN. When did you first get your permit?

Mr. CROSBY. All my life—

The CHAIRMAN. Did you get it by application?

Mr. CROSBY. Yes, sir.

The CHAIRMAN. How long ago did you make the application?

Mr. CROSBY. Well, I don't remember; 20 years or so.

The CHAIRMAN. You have the same permit, and have had it ever since?

Mr. CROSBY. No; they have cut some off of it since then.

The CHAIRMAN. How many cattle are you running on that permit?

Mr. CROSBY. About 50 head, or 49, or something like that.

The CHAIRMAN. Do you cast your vote for the members of the advisory board?

Mr. CROSBY. No; I didn't?

The CHAIRMAN. You do not vote?

Mr. CROSBY. No, sir.

The CHAIRMAN. You heard it stated here that advisory boards are elected by the vote of the permittees?

Mr. CROSBY. Yes, sir; that's right.

The CHAIRMAN. You have no objection to that system?

Mr. CROSBY. I object to the actions of the advisory board. They claim it's cooperation. I claim it is not; dictated by a power, a Quisling, or something of that sort.

The CHAIRMAN. Let me get that. What do you mean by that?

Mr. CROSBY. Well, for instance, they tell you there is no place, they write and tell you there is no place for you on the forest, and this case has been tried before the advisory board. Well, your advisory board and the Forest Service admitted to me just awhile back there was slack on the forest there, and the advisory board said that there wasn't, and also the Forest. When you pin them down to it, they claimed there was unused land on the forest.

The CHAIRMAN. Don't you think, or do you think, that the advisory board, composed of permittees on a given forest region, is more liable to look with favor upon the little fellow than if it were left in the hands of the supervisor?

Mr. CROSBY. Well, it could be that way; yes. I don't know whether it is or not.

The CHAIRMAN. Have you anything to complain of in that respect?

Mr. CROSBY. Only in that what they should—before they go into this and refuse you a permit, they should go into it thoroughly so that if this range is available it could be made for use. But they did not do that when you pinned them down. I did at the meeting awhile back. They claim there was range that was available, right there, at a meeting, they admitted that there was range, and Mr. Woodhead, at the regional office admitted that.

The CHAIRMAN. Did he say for you to make your application?

Mr. CROSBY. He didn't say to make an application. He said there was unused range there.

The CHAIRMAN. Did he tell you it was being unused for a specific purpose, or anything of that kind?

Mr. CROSBY. No.

The CHAIRMAN. What were you applying for?

Mr. CROSBY. For more cattle; to try to make a living with and run my ranch.

The CHAIRMAN. What is the largest number on that particular forest? Who has the largest number?

Mr. EWING. Of cattle, I think Mr. Spencer, a thousand head.

The CHAIRMAN. And Mr. Spencer is from where?

Mr. EWING. The Greer district.

The CHAIRMAN. He was a witness here today, was he not?

Mr. EWING. He is a member of the advisory board; yes, sir.

Mr. CROSBY. The last hearing, when you was here; I would reopen the Voigt case; it was brought up. I would like to reopen that case.

The CHAIRMAN. Now, the Voigt case, as I recall it, and I have a hazy recollection on it right now, was the case in which an employee of the Forest Service was given a permit, an enlarged permit. Is that it?

Mr. CROSBY. Yes, sir.

The CHAIRMAN. What was the disposition of the Voigt case; can anyone tell us?

Mr. KNEIPP. Mr. Chairman, some time ago we forwarded to Mr. Haskell, a very complete chronological report on the Voigt case in two parts, one dealing with his whole period of employment with the Forest Service, and the other dealing with his status as a permittee.

I might make an explanation. Mr. Voigt was at one time a member of the Forest Service; he resigned to go into the livestock industry and apparently was quite successful. He bought out a previously permitted outfit and was running that outfit when the C. C. C. program was inaugurated. One of the most difficult propositions was to find trained men who would plan and program the work to be done, and who were familiar with the Government procedure, and Mr. Voigt was known to possess all those abilities. Previously, when he had been in the Forest Service, he had shown unusual capacity. If he had stayed he probably would have advanced rapidly to a much higher position, so when this need arose his services were solicited. Nobody knew how long the C. C. C. program was going to run. It might have been a very short affair. Mr. Voigt was not willing to accept employment if that necessitated giving up this livestock outfit, which he had resigned from the Forest Service to build up, so he was put on the pay roll and still continued as a permittee.

It so happened that the C. C. C. program ran for a considerable number of years. Mr. Voigt's services in that capacity were of quite an unusually high order, so he was retained throughout the period. He also continued to enjoy his permit.

At Mr. Haskell's suggestion, we had the regional office prepare a very detailed record, which Mr. Haskell has, and the regional forester assures me in preparing that record, he covered every possible point, except one, and he sent in an extra page, numbered 61½, for addition to the record to cover that one additional point. I think the record will show that Mr. Voigt's status as a permittee was in strict accord with the regulations; that there was no favoritism or undue advantage afforded him. It will also show that his employment during the C. C. C. program was in accordance with the procedure that was generally in effect. The only possible criticism that I could see would be that here was a man who already had the basis of a good living in the livestock business and was also given a good job. Now, the reason he was given that job was because he possessed some unusual qualifications for that particular position; his previous experience, previous training as a forester, and his well-demonstrated ability.

The CHAIRMAN. What have you to say to that?

Mr. CROSBY. Well, I have looked at this report in the Voigt case, and find that it lies all the way through, from beginning to end. It lies, all the way through.

The CHAIRMAN. Now, you are making a pretty strong statement. Have you seen this report?

Mr. CROSBY. Yes, sir.

The CHAIRMAN. How did you come to see it?

Mr. CROSBY. I looked at it with Mr. Haskell.

The CHAIRMAN. Well, I don't think we are going to have time to settle the question of veracity here. Can you specify where it is wrong; in what specific instance?

Mr. CROSBY. It says the grazing privileges enjoyed by A. W. Voigt—it says all his privileges were obtained through the purchase of established outfits, waiver of grazing privileges in each case. Well, at three different times here, he was given added land without the purchase of any land.

The CHAIRMAN. Added range?

Mr. CROSBY. Yes, sir; added range. This map, Mr. Chairman, will show you only two times that this map shows it; but the third time is right here when the Forest Service don't dare show that. I don't know for what reason they won't dare to show that, Mr. Chairman. This was taken from the Greer allotment and it was actually taken from one Romanos Mandez, who was a sheepman.

The CHAIRMAN. As far as this committee is concerned the matter turns largely on whether or not this man Voigt was at that time in the employ of the Forest Service and if by reason of his employment in the Forest Service he was given special privileges over and above what he should have been given as a permittee. Now, the statement—let's see how far you agree with this: He did resign from this Forest Service. Is that right?

Mr. CROSBY. Well, that shows back here; yes, he did resign at one time when he purchased—do you mean he purchased this?

The CHAIRMAN. Before he purchased it?

Mr. CROSBY. Not before, no; after, 8 or 9 months later.

The CHAIRMAN. He had these permits before he resigned?

Mr. CROSBY. Yes, sir.

The CHAIRMAN. All right. Finally he resigned; and the C. C. C. activities came along. I don't construe the C. C. C. activities as a part of the Forest administration. It was a separate administration, set up for the purpose of improving the forest. Now, it would be a stretch of the rules to say that they could not employ someone to manage or supervise the C. C. C. activity for the improvement of the forest, simply because that party possessed a peculiar inability in having livestock as a permittee on the range. Now, if it could be said that there were others, possessed of the same ability, that would be one thing.

Mr. CROSBY. Well, we think there was plenty of men, at that time, just as capable as he.

The CHAIRMAN. Did he get any priority, or any of the best of it, by being connected with the C. C. C.?

Mr. CROSBY. It will show by the record that he took the C. C. C. man on to his permit, and did the improvements.

The CHAIRMAN. That is, he utilized the C. C. C. for his special advantage?

Mr. CROSBY. Yes, sir.

The CHAIRMAN. Of course, that puts another face in here. Is he in the service now?

Mr. CROSBY. No, he is not.

The CHAIRMAN. He is running cattle as a permittee, is he?

Mr. CROSBY. That is right.

The CHAIRMAN. Has his allotment been enlarged recently?

Mr. CROSBY. Well, through purchase, and this line here, purchase and otherwise. That part there was given to him.

The CHAIRMAN. How many cattle is he running on the forest?

Mr. EWING. I think the number is 286.

Mr. A. W. VOIGT. 286.

The CHAIRMAN. 286?

Mr. VOIGT. Yes, sir.

The CHAIRMAN. How many did you have when you started out, Mr. Voigt?

Mr. VOIGT. I purchased 150 head.

The CHAIRMAN. What year was that?

Mr. VOIGT. 1924, early 1924.

The CHAIRMAN. Were you in the employ of the Forest Service?

Mr. VOIGT. I was, at that moment. The purchase wasn't arranged until I had signified my intention of resigning from the service.

The CHAIRMAN. Let me get that; weren't you in the Forest Service employ when you first acquired this forest permit?

Mr. VOIGT. No, sir.

The CHAIRMAN. When you acquired the cattle, were you in the employ of the Forest?

Mr. VOIGT. The deal had not been closed, absolutely.

The CHAIRMAN. You resigned from the Forest Service before the deal was consummated?

Mr. VOIGT. I resigned as soon as I could after the deal was consummated.

The CHAIRMAN. How long was that?

Mr. VOIGT. I don't remember exactly now, but it wasn't very long; it just gave me time to finish up the work that I was doing.

The CHAIRMAN. What year was that?

Mr. VOIGT. Early in 1924.

The CHAIRMAN. 1924?

Mr. VOIGT. Yes, sir.

The CHAIRMAN. From 1924 to 1933, did you acquire any additional allotments on the forest?

Mr. VOIGT. Yes, sir; I believe I did. I purchased some cattle.

The CHAIRMAN. During the time you were working for the C. C. C., did you acquire additional allotments on the forest?

Mr. VOIGT. Yes, sir; I purchased some sheep, along with some other permittees, and later transferred to cattle.

The CHAIRMAN. What about this charge that you used the C. C. C. to improve your allotment?

Mr. VOIGT. I don't think there could be any truth to that.

The CHAIRMAN. Did you work the C. C. C. on your allotment?

Mr. VOIGT. Not personally; no, sir.

The CHAIRMAN. Personally or otherwise?

Mr. VOIGT. No, sir. Well, I'll qualify that this way: the improvements of the C. C. C. were made, the program was approved by the forest supervisor and the regional forester and the Washington office. I couldn't have any say in the direction as to the approval. There were, I think, two spring developments made on the range which was allotted me, and they were part of a program approved by the office of the Forest Service.

The CHAIRMAN. You are out of the Service now, are you?

Mr. VOIGT. Yes.

The CHAIRMAN. How long since you have been out of the C. C. C. service?

Mr. VOIGT. Since the day after this hearing, December 4, 1941, I believe.

The CHAIRMAN. You are in no wise connected with the Forest Service now?

Mr. VOIGT. No, sir.

The CHAIRMAN. You are running cattle as a permittee now?

Mr. VOIGT. In the summertime; yes, sir.

The CHAIRMAN. How many months of the year?

Mr. VOIGT. Five and one-half months.

The CHAIRMAN. Well, I am at a loss to know what this committee can do. This man has severed connections with the Forest Service and with the C. C. C. If we were to assume that he did violate a rule, or that the Forest Service violated a rule, or principle, by continuing in employment while he was running the cattle, the matter has all been ended. What could we do now?

Mr. CROSBY. There is nothing that could be done about this range that they give him; when the small man is making application for range, he can't get any.

Mr. KNEIPP. Mr. Chairman, may I make a comment? As I understand it, talking with the regional forester and the supervisor, there was a study made of the various range capacities in that section, by this method of range survey, and, as I understand it, there were some readjustments made, under which Mr. Voigt would get approximately

the same grazing capacity for cattle as the others. That involves some changes in allotment boundaries; but I was assured that the range he got does not give him a grazing capacity of one more head of stock than the others got. There was an adjustment of the range, between the several users, to balance or equalize the use over the area.

Might I ask Mr. Crosby to enumerate these instances. What did Mr. Voigt do on his range, to Mr. Crosby's knowledge, that constituted his betterment through the C. C. C.?

Mr. CROSBY. I don't say to his betterment. He took men on there and built fences, and developed springs, and one thing or another.

Mr. KNEIPP. How much fence?

Mr. CROSBY. I see by your report here—I don't know how many they built, but when Mr. Ewing was on the stand here before in this, he said they didn't do nothing but develop these springs.

Mr. KNEIPP. Was this fencing program a part of a general program of range fencing, in that part of the Apache Forest, or confined to Mr. Voight's range?

Mr. CROSBY. I'm sure I couldn't tell you. Down by my ranch they first moved the C. C. C. camp, and started to fence there, and never did finish it; so I supposed by that it was the fellow that had the most influence with the Forest Service.

Mr. KNEIPP. You assert, then, that fences were constructed on Mr. Voight's range, springs were improved on Mr. Voight's range; am I to understand that was not done also on the other ranges?

Mr. CROSBY. No, no; it was done, sure, all over the forest, as far as I know.

Mr. KNEIPP. In other words, there was a general program for the betterment of the forest through the installation of various range facilities. Mr. Voight was in charge, in a general way, of part of that program, and part of the program happened to be on his range, on his allotment. Is that the situation?

Mr. CROSBY. I suppose so; I suppose he laid out the program. He was the one in charge of it.

Mr. KNEIPP. Mr. Supervisor Ewing, were you there at that time? Do you know how it was developed?

Mr. EWING. I was there since 1928. Mr. Voigt was in charge of the work in the field, as a staff officer; but he was not concerned with the formulation of the program. That was my own job. If there is any fault to be found in the improvements constructed on Mr. Voigt's range, it is not Mr. Voigt's fault.

The CHAIRMAN. All right.

Mr. CROSBY. I'm glad to see Mr. Ewing will take that responsibility. It looks to me like something should be done in this case. You take them here; when they refuse to admit here they take this land from this sheepman alone, it looks to me like it is a pretty bad condition.

The CHAIRMAN. My understanding is that Mr. Voigt bought out the sheepman.

Mr. CROSBY. No; he did not. This was taken a long time before, 8 or 10 years before, back here this little corner here, before that purchase was ever made.

The CHAIRMAN. That is what I say, that is the reason I—

Mr. CROSBY. I say they didn't take it from the Greer permit, instead of the Romanos Mandez. They lie.

The CHAIRMAN. Mr. Supervisor, what is your recollection of that?

Mr. WOODHEAD. Mr. Chairman, I would like to get into this a little bit.

The CHAIRMAN. Were you on the ground?

Mr. WOODHEAD. No, but I did this; at the request of the regional forester, after your last hearing, inasmuch as I was a new man in the region, and I knew none of the principals—when I say I knew none of the principals, I didn't know Mr. Voigt, and I didn't know Mr. Crosby—the regional forester asked me to take all of the available records and make a careful analysis of them, and try to determine whether or not anything had been done in this case that would indicate that Mr. Voigt had received any special consideration that he would not have received had he not been an employee of the Government. I made that analysis as carefully as I could. That map Mr. Crosby has before him, I prepared from the record, and that map represents, as far as I could find out, from a very careful search, the facts.

Now, that little 160 or 80 acres, whatever it is, in that corner, that question came up when we had that meeting of the advisory board to which he referred some time ago. It may be there was some point there that I overlooked. If I did, it was an honest mistake anyone might make in analyzing a record 10 or 15 years old. Perhaps the supervisor can explain that tract of land.

Mr. EWING. Mr. Chairman, may I see the map, please?

The CHAIRMAN. Yes; indeed.

Mr. EWING. This is the area taken from the sheep allotment, shown right here. It amounted to 60 or 80 acres, and was added, I believe, in 1932. At the same time, there was a small area added from the Greer allotment. That was tacked on by the Greer association, received their approval, they went over it on the ground. This corner, as you see here, was added to give a pathway into this portion, here.

The CHAIRMAN. Who was that taken from?

Mr. EWING. It was taken from—I have forgotten the name of the outfit.

Mr. CROSBY. The Aztec Sheep Co., an old man. Why was that taken without some remuneration, or some permission from them?

Mr. EWING. It was taken, as I say, to create a pathway into this Falkes pasture. Otherwise, there would have been no corner here.

Mr. CROSBY. There was plenty to pass on, on this other side. You took some more there, and give them plenty for passing.

Mr. EWING. Well, it seems to be controversial yet.

Mr. VOIGT. Mr. Chairman, I would like to state that I know, personally, there was an agreement with that sheepman for this little area.

The CHAIRMAN. With whom?

Mr. VOIGT. I was out of the service at the time.

The CHAIRMAN. It still resolves itself down to a matter of past history, that seems to have taken care of itself. If he was continuing in the service, it would be a vexing problem. When we were here before, he was in the service at that time; but I think he severed connection with the service right after it was severely criticized by this committee.

Mr. KNEIPP. Mr. Chairman, I think Mr. Dan Judd, the other day, over at Fredonia, told you that I gave him—I was then regional

forester—I gave him the option of giving up his cattle or giving up his job. In other words, the policy has been that no permanent employee of the Forest Service could share in the use of the national forest resources. Mr. Judd was an exemplification of that policy.

The CHAIRMAN. That policy has been carried out?

Mr. KNEIPP. Yes, sir.

The CHAIRMAN. The report shows that; and the report of the Grazing Service also shows that.

All right, is there anything else?

Mr. CROSBY. We have another problem, in regard to a driveway, there; at the same time, before this C. C. C. problem. It was some shipping pens were constructed on the lower end of the Greer allotment, and we have asked the Forest Service several times to set aside a driveway, to take care of these cattle that cross the Greer permit, going to and from the shipping pens, and they have had 2 years to do it, and have refused to do a thing about it.

The CHAIRMAN. Can anything be done about it? These are all individual cases overstepping the bounds.

Mr. EWING. We haven't refused; we have made an effort to adjust that thing; shipping corrals were built. We recognized the fact it would increase the driving, to some extent, across the Greer allotment. These shipping corrals, or the pastures that went with them, were taken from the adjoining sheep allotment; but they always refused the drive on the Greer permit, the permittees who drove down that 25 or 30 miles. So far we haven't been able to adjust it.

The CHAIRMAN. That is a matter you are working on?

Mr. EWING. We are working on it.

Mr. CROSBY. Mr. Chairman, as I said, of course, the Greer allotment, that represents a group of people. There is not an individual case on the whole Greer allotment.

The CHAIRMAN. This is an individual case of the driveway, and they tell us they are working on it. We are in hopes they will work it out. If they can't work it out, I don't believe this committee can work it out.

Mr. CROSBY. I don't believe they will work it out.

The CHAIRMAN. I live more in hopes than you do.

Mr. CROSBY. So do I; but it is a problem I think we should meet, and if there isn't something done about it we're kinda like these Indians here on the stand, we are out of luck, see, bucked up there against a law, the forest law on one side, and the Forest Service on the other. That's the only condition, either starve or fight for something justly yourself.

The CHAIRMAN. Mr. Kneipp, while you are here, take that matter up and see if it can't be worked out.

Mr. KNEIPP. I might explain, these permittees on the Greer allotment, those to the south, as I understand, from information here, drove cattle around the south end of the Greer allotment. This shipping arrangement was discontinued. A need arose for a truck shipping point, and the Forest Service went in and spent about \$2,500 developing a truck shipping point for those people; and, as I understand it, that location which, incidentally, was taken from a sheep range, met with the approval of the Greer people. It is to their advantage. Now, the people to the south and east of them, who could only get to the shipping point by going along the east edge of the Greer allotment, formerly went along the south and west edge of the Greer allotment. The

cattle do pass through there, about a thousand head, from those allotments immediately south of the Greer allotment, to reach the shipping point, but it seems as if it was the best shipping point that could be suggested, and the Forest Service proceeded accordingly in making this improvement for the advantage of the permittees.

Now, there is a certain give and take there, but those in the south need an outlet, and the only way for them to get that outlet is to go through the Greer range.

Mr. CROSBY. No; like they used to do, we proposed they go—they used to come down the sheep allotment.

Mr. KNEIPP. Sir, otherwise they would have to cut across south, and up the west side of the Greer allotment, and back to the shipping point.

Mr. CROSBY. Well, all right, you might as well admit, they might as well go around there as put a whole group of people out of business.

Mr. KNEIPP. Have they put any people out of business?

Mr. WOODHEAD. Mr. Chairman, perhaps I can wind this up. We have appreciated for 2 or 3 years the need for changing that driveway situation. They have proposed building another shipping coral at another point which will leave this part. The matter has been discussed in the advisory board, and certain of the permittees on the other route object, so that it takes time to work that thing out. It is being studied carefully, and the Forest Service is not laying down on the job. I think we'll be able to work it out.

Mr. CROSBY. I would like to say one more thing. It is the policy of the Forest Service to try to put the little man out of business.

The CHAIRMAN. I am sorry to hear that; but now for 3 days we have been hearing about the little man, and nearly all from the little men, with a rare exception here and there. I haven't heard really big men in this whole set-up.

Senator HAYDEN. Mr. Chairman, Stephen A. Spear, of the Arizona Tax Research Association, had hoped to address the committee this afternoon, but the hour is such that he doubts the advisability of it. Could I ask that he be introduced and present certain resolutions relating to the regulations that affect the land in the Walapai Indian Reservation, with permission to later supply a brief regarding the matter that might be included in the record?

The CHAIRMAN. Yes, indeed.

I apologize to you, Mr. Spear. You were cut out of the hearing at Fredonia.

STATEMENT OF STEPHEN A. SPEAR, ARIZONA TAX RESEARCH ASSOCIATION, PHOENIX, ARIZ.

Mr. SPEAR. Mr. Chairman, no apology is necessary. I asked that I be left, at Fredonia, because the hour got so late there.

First of all, I want to compliment you and to express to you our thanks for the patient and understanding way in which you have conducted these meetings. I have sat through the 4 days of meetings and I know it must have been very trying to you. I hope some good has been accomplished.

I think, in line with the agreement you worked out between the Grazing Service and the Park Service, the trip is well worth while. I

hope Mr. Brooks will remember the lava flow when he's putting his grazing up there, and doesn't let the cows get out to eat the rocks.

I did have quite a bit I wanted to talk about, but the hour is so late and everyone wants to leave. I am going to give you the resolutions and then take advantage of your offer to extend my remarks in the record, as it were.

I have here resolutions from several counties in the State concerning Senate bill 978. You, being the author of that bill, I think you are well acquainted with it. I might say that all the people I have talked to are very much in sympathy with the amendment, as proposed by our Land Commissioner, Mr. Williams, which will give us a little more leeway in distributing these lands.

The CHAIRMAN. I think they are salutary and worth-while amendments.

Mr. SPEAR. We hope they will be adopted.

I also have a resolution concerning a bill introduced by Senator Hayden, with reference to the appropriation for national monuments, and support his thought very much; that it should be done only by congressional approval. I would like to have that in the record.

I also have here something which I think would be of interest to all concerned that should go into the record on behalf of the taxpayers. It is the amount of various pieces of land that have been acquired by the military throughout the State and removed from the tax rolls.

With that explanation, and with the opportunity which you have offered me for extending my remarks, I am going to again thank you for being here, and I will get the stuff out.

(The documents referred to are as follows:)

COUNTY OF MARICOPA

STATE OF ARIZONA

OFFICE OF THE CLERK

STATE OF ARIZONA,

County of Maricopa, ss:

I, James E. Desouza, clerk of the board of supervisors, do hereby certify that the following resolution was unanimously adopted by the board of supervisors at a meeting held May 10, 1943:

"RESOLUTION

"Whereas it has come to the attention of this board that legislation is pending in the United States House of Representatives (H. R. 838) providing for the relinquishment of Arizona lands by the Atchison, Topeka & Santa Fe Railroad Co., the enactment of which would deprive the State of all tax revenues therefrom: Now, therefore, be it

"*Resolved*, That the Board of Supervisors of Maricopa County express its disapproval of said proposed legislation; and be it further

"*Resolved*, That endorsement be given to United States Senate bill No. 978 which provides that the income from such relinquished lands be credited to Arizona school funds in order to reimburse the State to the extent of such receipts.

"In witness whereof, I have hereunto set my hand and affixed the official seal of the board of supervisors. Done at Phoenix, the county seat, this 10th day of May A. D. 1943.

"J. E. DESOUZA,

"Clerk of the Board of Supervisors."

MAY 13, 1943.

HON. CARL HAYDEN,
United States Senate, Washington, D. C.

DEAR SENATOR HAYDEN: Recently there was brought to the attention of the members of the board of supervisors House Resolution 838 and Senate bill 978, relating to the disposition of lands acquired by the Federal Government from the Santa Fe Railroad.

It is understood that these lands were once given by the Government to the Santa Fe Railroad Co. in the early days of railroad development through this western country. As such they were, then, private lands on which the railroad company paid taxes and from which it derived such revenues as it could from sales and rentals. As one of the considerations of the grant, the Government was given freight-free transportation of its shipments over grant lands.

The members of the board discussed the two proposed bills and have directed me to advise you that they have gone on record as opposed to House Resolution 838 and solicit your earnest efforts in defeating its passage, and in supporting Senate bill 978.

The Federal Government has, undoubtedly, been paid many times over for these lands through freight-free shipments and inasmuch as for many years they have been in private ownership, it seems that they rightfully should continue to accrue to the benefit of the people of the State of Arizona.

As you know, Yavapai County has joined with the other counties of Arizona in support of the interests and efforts of the Interstate Association of Public Lands Counties of the 11 Western States, and with the Government already owning some 63 percent of our State and some one-third to five-sixths of the lands of the 10 other Western States, is opposed to further acquisitions by the Government of large sections of land.

Your serious consideration and efforts in behalf of Senate bill 978 will be appreciated.

Yours very truly,

KENNETH AITKEN, *Clerk,*
Board of Supervisors, Yavapai County, Ariz.

GLOBE, ARIZ., May 4, 1943.

Senator ERNEST W. McFARLAND.
 Senator CARL HAYDEN.
 Representative JOHN R. MURDOCK.
 Representative RICHARD HARLESS.

DEAR SIR: The board of supervisors of Gila County has instructed me to write you relative to H. R. 838 and S. 978.

The three members of this board are in favor of the passage of S. 978 and against H. R. 838 and will appreciate anything you may be able to do to insure the passage of S. 978 and the defeat of H. R. 838.

Thanking you for your consideration in this matter, I am,

Yours very truly,

ADAH H. ANDERSON, *Clerk.*

KINGMAN, ARIZ., May 7, 1943.

ARIZONA TAX RESEARCH ASS'N,
Heard Building, Phoenix, Ariz.:

The Board of Supervisors of Mohave County urge your support of Senate bill 978 and request that you make every effort to see that House Resolution 838 is defeated.

MOHAVE COUNTY BOARD OF SUPERVISORS,
 By W. D. LANE, *Chairman.*

RESOLUTION OF THE BOARD OF SUPERVISORS, PIMA COUNTY, ARIZ.

Whereas there are pending in the Seventy-eighth Congress of the United States House Resolution 838 and Senate bill 978, relating to the release of lands heretofore owned and claimed by railroad carriers; and

Whereas it is deemed by this board to be to the best interests of the State of Arizona and the counties thereof that said House bill do not pass, and that said Senate bill do pass: Be it therefore

Resolved by said board of supervisors, that said board is opposed to the passage or adoption of said House Resolution No. 838, and that said board approves and desires the adoption of said Senate bill No. 978, and; be it further

Resolved, that a copy of this resolution be sent to Senators Hayden and McFarland and to Representatives Murdock and Harless.

Dated this 10th day of May 1943.

R. H. MARTIN,
Chairman.
THOMAS COLLINS,
Member.

STATE OF ARIZONA,
County of Pima, ss:

I, Sylvia G. Powell, clerk of the board of supervisors, Pima County, Ariz, do hereby certify that the foregoing is a true and correct copy of a resolution passed by said board on the 10th day of May 1943, as the same remains of record and on file in my office.

In witness whereof I have hereunto set my hand and seal this 10th day of May 1943.

SYLVIA G. POWELL,
Clerk, Board of Supervisors.

RESOLUTION

Whereas there is now pending before the Seventy-eighth Congress of the United States Senate bill 978, introduced by Senator McCarran, of Nevada, relating to certain lands released to the United States by carriers by railroad pursuant to section 321 (b) of the Transportation Act of 1940; and

Whereas it appearing to this board that said Senate bill 978 provides that any lands with respect to which a release has been filed with the Secretary of the Interior by a carrier by railroad shall be granted by the United States Government to the State in which said lands are located, and the proceeds from the sale of said lands to be used by said State exclusively for school purposes: Therefore, be it

Resolved, That this board go on record as favoring and urging the passage of said Senate bill 978 as written; and be it further

Resolved, That copies of this resolution be mailed to each of this State's Representatives in the United States Congress.

BOARD OF SUPERVISORS OF GREENLEE COUNTY, ARIZ.,
By S. A. FOSTER, *Chairman.*
W. L. FERGUSON, *Member.*
STANLEY GRADY, *Member.*

Signed and dated this 3d day of May 1943.

Attest:

H. E. BRUBAKER, *Clerk.*

JUNE 14, 1943.

HON. CARL HAYDEN,
United States Senate,
Washington, D. C.

DEAR SENATOR HAYDEN: During the past 30 days I have received quite a lot of correspondence regarding House Resolution 838 and Senate 978 relating to the disposition of lands released by the railroad companies to the Federal Government.

In discussing these bills the Board of Supervisors of Coconino County directed me to advise you that they favor Senate 978 as the better of the two. They are very much opposed to H. R. 838 and solicit your every effort to defeat the same should it reach the Senate.

We believe that these lands should be handled in such a manner as to benefit the taxpayers of this county and any other county in which they are located. Senate 978 does not take this into consideration but will indirectly benefit the county taxpayers by helping the schools.

Coconino County's stand on Federal acquisition of lands is well known to you and we urge that you give us every consideration on all such matters that may come before you.

For the benefit of Arizona, we urge you to defeat H. R. 838 and pass Senate 978.

Yours very truly,

COCONINO COUNTY BOARD OF SUPERVISORS,
SHELBY MCCAULEY, *Clerk.*

RESOLUTION

Whereas the Federal Government of the United States through its various bureaus administers and controls approximately 76 percent of the entire area of the State of Arizona in national parks, national monuments, Indian lands, etc.; and

Whereas such bureaus have set aside for national parks and monuments great areas of range and timber lands to the detriment of Arizona's principal industries, and these parks and monuments, in many instances, embrace considerably more acreage than is necessary for the administration of such national parks and monuments; and

Whereas tremendous areas have been withdrawn from the public domain without the knowledge or consent of the respective State's congressional delegates or the taxpayers of such States; and

Whereas the general opinion and wish of the taxpayers of Arizona is that a program of reduction, rather than further expansion, be instituted without delay; and

Whereas Senator Carl Hayden of Arizona has introduced a bill in the Congress of the United States which will prevent further withdrawals of land from the State of Arizona for parks and monuments, etc., without congressional action thereon: Now, therefore, be it

Resolved, That Arizona citizens do protest the further withdrawal of lands for parks and monuments and that those already thus withdrawn be reduced in area wherever possible; that legislation be enacted whereby no such lands be withdrawn except by an act of Congress, and that Senator Hayden's bill receive our unlimited support; and be it further

Resolved, That this resolution be made a part of the record of the hearings of the House Subcommittee on Public Lands held at Flagstaff, Ariz., the 4th and 6th of August 1943, Congressman J. Hardin Peterson, chairman and presiding officer.

Adopted August 19, 1943.

BOARD OF SUPERVISORS, MARICOPA COUNTY,
By JOHN A. FOOTE, *Chairman*.

Attest:

J. E. DE SOUZA, *Clerk*.

PRIVATELY OWNED LANDS TAKEN OVER BY UNITED STATES GOVERNMENT

AJO-GILA BEND BOMB AND AERIAL GUN RANGE

Henry Landrum et ux, Gila Bend, Ariz., February 11, 1943, 153.12 acres (tract 3): Lots 3 and 4, E $\frac{1}{2}$ of SW $\frac{1}{4}$, all in sec. 18, T. 6 S., R. 4 W., Gila and Salt River base and meridian, county of Maricopa, Ariz.

G. B. Booker, 910 West Lincoln Street, Phoenix, January 28, 1943, 153.52 acres (tract 5): Lots 1 and 2, E $\frac{1}{2}$ of NW $\frac{1}{4}$, all in sec. 30, T. 6 S., R. 4 W., Gila and Salt River base and meridian, county of Maricopa.

DOUGLAS AIR BASE RADIO RANGE STATION

Peter Peccolo, Douglas, Ariz., December 24, 1942, 11.25 acres (tract 1): Beginning SE. corner of NW $\frac{1}{4}$, sec. 24, T. 22 S., R. 26 E., Gila and Salt River meridian, running thence N 700 feet, thence W. 700 feet, thence S. 700 feet, thence E. 700 feet, to point of beginning, county of Cochise.

DOUGLAS AUXILIARY FIELD A-1

Buford Slover et ux, McNeal, Ariz., March 25, 1943, 640 acres (tract 1): All sec. 13, T. 21 S., R. 26 E., Gila and Salt River meridian, Cochise County.

DOUGLAS AUXILIARY FIELD A-2

Arthur Bergman, Douglas, Ariz., March 26, 1943, 640.78 acres (tract 1): All sec. 2, T. 24 S., R. 26 E., of the Gila and Salt River base and meridian, Cochise County.

DOUGLAS AUXILIARY FIELD A-3

Henry Grizzle, et ux, Elfrida, Ariz., March 3, 1943, 320 acres (tract 1): N $\frac{1}{2}$ of sec. 21, T. 19 S., R. 26 E., Gila and Salt River base and meridian, county of Cochise.

FORT HUACHUCA AIR SUPPLY COMMAND BASE

Joe Zaleski, et ux, Hereford, Ariz., January 4, 1943, 156.74 acres (tract 1): Lots 3 and 4, E $\frac{1}{2}$ of SW $\frac{1}{4}$ of sec. 18, T. 23 S., R. 22 E., Gila and Salt River base and meridian, county of Cochise.

Bruce L. Wilcox et ux, Post Office Box 246, Douglas, Ariz., January 4, 1943, 157.40 acres (tract 1): Lots 1 and 2, E $\frac{1}{2}$ of NW $\frac{1}{4}$ of sec. 30, T. 23 S., R. 22 E., Gila and Salt River base and meridian, Cochise County.

FORT HUACHUCA ARTILLERY RANGE

Henry Ward, 1121 B Street, Sparks, Nev., January 4, 1943, 160 acres (tract 7): SE $\frac{1}{4}$ of sec. 23, T. 21 S., R. 20 E., Gila and Salt River base and meridian, county of Cochise.

James F. Fleming, 882 Cedar Avenue, Hawthorne, Calif., March 17, 1943, 320 acres (tract 8): S $\frac{1}{2}$ of sec. 24, T. 21 S., R. 20 E., Gila and Salt River base and meridian, county of Cochise.

Oliver Fry et ux, Fry, Ariz., March 4, 1943, 160 acres (tract 10): SW $\frac{1}{4}$ of sec. 26, T. 21 S., R. 20 E., Gila and Salt River base and meridian, Cochise County.

Renee S. Donnett, care Western Farms Management Co., 309 Security Building, Phoenix, Ariz., April 13, 1943, 794 acres, RU D: Tract 11; N $\frac{1}{2}$ sec. 25 and E $\frac{1}{2}$ sec. 25, T. 21 S., R. 20 E., Gila and Salt River base and meridian, county of Cochise. Tract 11-a: E $\frac{1}{2}$ SW $\frac{1}{4}$, lots 3, 4, sec. 19, T. 21 S., R. 21 E., Gila and Salt Lake River base and meridian, county of Cochise.

Mrs. Della Williams (Hutton), Post Office Box 342, Fry, Ariz., March 3, 1943, 2 acres (tract 26): A portion of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of sec. 21, T. 21 S., R. 20 E., beginning at the SE corner of this parcel, identical with the SE corner of said sec. 21; thence W. 490.0 feet along the south line of said sec. 21 to the SW. corner; thence N. 10°15' W. 174.4°02' E. 172.6 feet to the place of beginning, county of Cochise.

Armelia Williams, 135 West Cushing Street, Tucson, December 24, 1942, 1 acre (tract 27): Portion of SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of sec. 21 in T. 21 S., R. 20 E. of the Gila and Salt River base and meridian, Cochise County.

Van W. Wetter, Fry, Ariz., January 8, 1943, 27.29 acres (tract 42): Lots 2 and 3 of sec. 33, T. 21, S. of R. 20, E. of the Gila and Salt River base and meridian, Cochise County.

Ernest Sulger, Fry, Ariz., January 4, 1943, 121.80 acres (tract 43): Lot 2 of NW $\frac{1}{4}$, lots 3 and 4 and NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of sec. 21 S., R. 20 E., of Gila and Salt River base and meridian, Cochise County.

LUKE FIELD HOUSING A. B. D. TROOPS

P. D. and Stace Claggett, Rural Route 1, Peoria and Nogales, Ariz., December 15, 1942, 53.58 acres (tract 1): All that parcel of land lying in sec. 3, T. 2 N. R. 1 W., Gila and Salt River base and meridian, county of Maricopa.

LUKE AUXILIARY FIELD A-3

Anthony Fairfax O'Brien, box 932-K-1, care of Bar FX ranch, Wickenburg, Ariz., May 29, 1943, 83.2 acres (tract 1): Lot 4 and SW $\frac{1}{4}$ of NW $\frac{1}{4}$, sec. 4 T. 3 N., R. 1 W., Gila and Salt River base and meridian, county of Maricopa.

Adelaide O'Brien, box 938, Wickenburg, May 1, 1943, 83.2 acres (tract 2): E $\frac{1}{2}$ of NW $\frac{1}{4}$ of sec. 4, T. 3 N., R. 1 W., Gila and Salt River base and meridian, Maricopa County.

Anthony F. O'Brien, box 938, Wickenburg, May 29, 1943, 83.2 acres (tract 3): W $\frac{1}{2}$ of NE $\frac{1}{4}$ of sec. 4, T. 3 N., R. 1 W., Gila and Salt River base and meridian, Maricopa County.

Geraldine O'Brien, box 938, Wickenburg, May 1, 1943, 83.2 acres (tract 4): E $\frac{1}{2}$ of NE $\frac{1}{4}$, sec. 4, T. 3 N. R. 1 W., Gila and Salt River base and meridian, Maricopa County.

LUKE AUXILIARY FIELD A-6

Arthur Lee Nelson, 6217 Converse Avenue, Los Angeles, Calif., April 23, 1943, 160 acres (tract 2): NW $\frac{1}{4}$ of sec. 12, T. 1 N., R. 3 W. of Gila and Salt River base and meridian, Maricopa County.

LUKE FIELD AUXILIARY A-7

Margaret Dillion, Arlington, Ariz., star route, January 21, 1943, 132.3 acres, (tract 6) : That part of sec. 10, T. 1 S., R. 5 W., lying north of the Southern Pacific Railroad, County of Maricopa.

MARANA AUXILIARY FIELD A-3

Clemans Cattle Company, Florence, June 30, 1943, 340 acres (tract 1) : NE $\frac{1}{4}$ of E $\frac{1}{2}$ of NW $\frac{1}{4}$ and E $\frac{1}{2}$ of SW $\frac{1}{4}$ of NW $\frac{1}{4}$, and E $\frac{1}{2}$ of NW $\frac{1}{4}$, SW $\frac{1}{4}$ and NW $\frac{1}{4}$, SE $\frac{1}{4}$ and NE $\frac{1}{2}$ of NE $\frac{1}{4}$ of SE $\frac{1}{4}$, all in sec. 34, T. 8 S., R. 10 E., Gila and Salt River base and meridian, Pinal County.

Chas. H. Golloher, Marana, Ariz., April 19, 1943, 40 acres (tract 2) : W $\frac{1}{2}$ of W $\frac{1}{2}$ of NW $\frac{1}{4}$ of sec. 35, T. 8 S., R. 10 E., Gila and Salt River base and meridian, Pinal County.

PROJECT: NAVAJO ORDNANCE DEPOT

Josie Gonzalo, 708 East Coronado Road, Phoenix: December 26, 1942; 40 acres (tract 1) ; county of Coconino.

Atchison, Topeka & Santa Fe Railroad, Topeka, Kans. ; April 26, 1943 :

Tract 5a, 4.41 acres; county of Coconino.

Tract 5b, 32.77 acres; county of Coconino.

Tract 5c, 640 acres; county of Coconino.

Tract 5d, 38.59 acres; county of Coconino.

Tract 5e, 74.89 acres; county of Coconino.

Tract 5f, 3.87 acres; county of Coconino.

C. O. Bar Livestock Co., care of John Babbitt, Flagstaff; 336 acres; June 3, 1943 (tract 8, 18 and 19) ; Coconino County.

Josephine Sauer, Flagstaff; January 26, 1943; 20 acres (tract 9) ; Coconino County.

Coconino Cattle Co., 403 Title & Trust Building, Phoenix; July 20, 1943; 16,820 acres (tract RU B).

FORT HUACHUCA ARTILLERY RANGE

Harry Wilcox, Box 55, Fort Huachuca; 640 acres; county of Cochise.

WILLIAMS AUXILIARY FIELD A-3

Anna S. Humphrey, 102 East Highland Avenue, Tracy, Calif.; June 12, 1943; 314.33 acres (tract 5) ; Pinal County.

YUMA A. FEX. G. SCH. SUB. POST

Russell Farms, Inc., Phoenix; May 26, 1943:

Tract 4: 37.06 acres; Yuma County.

Tract 5: 55 acres; Yuma County.

YUMA AIRFIELD

George A. Lewis, Route 2, Box 119, Mesa; 20 acres; December 26, 1942, Yuma County (tract 1).

Chilton C. Wilson, 110 Ninth Street, Huntington Beach, Calif.; December 1, 1942; 60 acres (tract 2).

John W. Mayes (county assessor does not have owner's address); November 19, 1942; 10 acres (tract 5).

W. E. Thornton, P. O. Box 103, Somerton, December 8, 1942, 20 acres, Yuma County.

Jce B. Hunt, P. O. Box 485, Wasco, Calif.; December 12, 1942; 30 acres (tract 7) ; Yuma County.

Edward Massey, 1628 West Adams, Phoenix; December 12, 1942; 30 acres; Yuma County (tract 7).

AJO-GILA BEND & B. & A. G. RANGE

Arthur S. Reed, Box 175, Gila Bend; 160 acres (tract 4) ; Maricopa County.

FLORENCE ALIEN ENEMY INTERNMENT CAMP

Virginia Hales (known also as Virginia Shileds); 1027 Glenwood Road, Glendale, Calif.; April 27, 1943; 6.2 acres (tract 2); Pinal County.

FORT HUACHUCA AIR SUPPLY COMMAND BASE

Vincent C. Oquirik, P. O. 3261, Lowell; March 25, 1943; 120 acres; Cochise County (tract 2).

Barbara A. Hinters, 2319 Santee Street, Los Angeles; February 3, 1943; 160 acres; Cochise County (tract 3).

Boquillas Land & Cattle Co., San Francisco, Calif., care of Sutter & Gentry, Bisbee, Ariz.; March 25, 1943; 1,964.08 acres (tract 5).

Isabel Starrett Hunt and Lou Hunt, P. O. Box 104, Fort Huachuca; May 21, 1943; Cochise County; 160 acres (tract 2).

FORT HUACHUCA ARTILLERY RANGE

Wm. M. Carmichael and Margaret E. Carmichael, Fry, Ariz., May 6, 1943; 2,953.86 acres; Cochise County (tracts 3 and 3a).

Wm. M. Carmichael, 36 acres; Cochise County (tract 3a).

Wm. M. and Margaret Z. Carmichael, 40.44 acres, Cochise County (tract 3a).

NAV. O. D. T. H. B.

Coconino Cattle Co.; 150 acres (trace B-4A); Coconino County.

Coconino Cattle Co.; 40 acres (trace B-4B); Cococino County.

Cococino Cattle Co.; 40 acres (trace B-4C); Cococino County.

FORT HUACHUCA ARTILLERY RANGE

Mrs. Exie Thurmond, Box 24, Fort Huachuca, Ariz.; Cochise County; tract 29; 1½ acres; February 3, 1943.

Virginia and Marlon Green, Box 72, Fort Huachuca, Ariz.; tract 30; acreage, 2; Cochise County; May 6, 1943.

Mrs. Ada Franklin, Box 72, Fort Huachuca, Cochise County; tract 31; acreage, 1; February 3, 1943.

Mrs. Margaret Cullins, Fry, Ariz., Cochise County; tract 32; acreage, 1; February 3, 1943.

Mrs. Anna Johnson, Box 72, Fort Huachuca, Ariz.; tract 33; acreage, 1. Cochise County; February 3, 1943.

Ishmall W. Richard and Elmore Small, Fort Huachuca; Cochise County; tract 34; acreage, 2; May 6, 1943.

Roxie Kirkpatrick, care of Halley Williams, Company H. 25th Infantry, Fort Huachuca, Ariz.; tract 39; acreage, 1; February 3, 1943; Cochise County.

Herbert Brown, 316 East Sixth Street, Tucson, Ariz.; Cochise County; 1 acre; tract 44; February 9, 1943.

LUKE AUXILIARY FIELD A-1

Mattie Myers, P. O. Box 634; Eloy, Ariz., Maricopa County, tract 2, acreage, 119.65; March 11, 1943.

Nathan Walworth Ware, 3945 Elmwood Court, Riverside, Calif.; Maricopa County; tract 2; acreage, 160; March 11, 1943.

Joseph Wittmann, care of J. V. B. Wittman, 1201 East Osborn Road, Phoenix, Ariz., tract 4, acreage 30; Maricopa County; March 11, 1943.

LUKE AUXILIARY FIELD A-3

Charlotte Pouquette, Wickenburg, Ariz.; Maricopa County; tract 5; acreage, 320; March 11, 1943.

LUKE AUXILIARY FIELD A-5

W. J. Williams, Jr., Buckeye, Ariz.; Maricopa County; tract 1; acreage, 480; March 16, 1943.

LUKE AUXILIARY FIELD A-5

Thomas F. Newcomb, 1481 Alvira Street, Los Angeles, Calif.; Maricopa County; 160 acres; tract 2; March 16, 1943.

LUKE AUXILIARY FIELD A-6

Ada L. Leland, 6600 Ben Aron, Virginia, Penn.; Maricopa County; tract 3; acreage, 160; March 19, 1943.

LUKE AUXILIARY FIELD A-7

R. B. Lichtewerk, care of A. E. Boul, 1145 South Camden Drive, Los Angeles, Calif.; Maricopa County; acreage, 40; tract 2; April 1, 1943.

LUKE AUXILIARY FIELD A-7

C. O. Hedlund, 3737 Locke Avenue, Los Angeles, Calif.; Maricopa County; acreage, 40; tract 3; April 1, 1943.

Lewis Engilbrecht, 4345 Sharon Avenue, Detroit, Mich.; Maricopa County; acreage, 160; tract 4; April 1, 1943.

N. E. Wiser, 11258 Sunshine Terrace, North Hollywood, Calif.; Maricopa County; acreage, 80; tract 5; April 1, 1943.

MARANA AUXILIARY FIELD A-4

Francis W. Allen, Tucson, Ariz.; Pima County; acreage, 160; tract 1; February 18, 1943.

J. A. Alexander, Sahaurita, Ariz.; Pima County; acreage, 160; tract 2; February 18, 1943.

Bench S. Cattle Co., Tucson, Ariz.; Pima County; acreage, 120; tract 3; February 18, 1943.

Bench S. Cattle Co., Tucson, Ariz.; Pima County; acreage, 40; tract 3A; February 18, 1943.

MARANA RADIO RANGE STATION A-4

Rosario Maish, 436 St. Mary's Road, Tucson, Ariz.; Pima County; acreage, 22.96; tract 1; April 26, 1943.

Charles Maish and Frank Maish, 436 St. Mary's Road, Tucson, Ariz.; Pima County; acreage, 1.8; tract 1; April 22, 1943.

NAVAJO ORDNANCE DEPOT

R. O. Raymond, Flagstaff, Ariz.; Coconino County; acreage, 300; tract 3; May 10, 1943.

R. O. Raymond, Flagstaff, Ariz.; Coconino County; 78 acres; tract 6; May 10, 1943.

Milton D. Moeller, Flagstaff, Ariz.; Coconino County; 120 acres; tract 10; May 10, 1943.

R. O. Raymond, Flagstaff, Ariz.; Coconino County; 66 acres; tract 13.

FORT HUACHUCA ARTILLERY RANGE

May L. Smith, Fry, Ariz.; Cochise County; T-6 Ca.; 2,320 acres, May 6, 1943.

Norman B. Cozby, 101 West First Street, Long Beach, Calif.; tract 12; 160 acres; Cochise County; May 6, 1943.

John F. Ross, Box 406, Tombstone, Ariz.; tract 13; 320 acres; Cochise County; February 3, 1943.

R. N. Furr, De Queen, Ark.; tract holding F; Cochise County; 160 acres; April 23, 1943.

Charity Pugh, care of John Pintek, Bisbee, Ariz.; Cochise County; tract 25; 147.50 acres; February 3, 1943.

Alverse Williams, 63 West Simpson Street, Tucson, Ariz.; Cochise County; tract 28; 1 acre; May 6, 1943.

NAVAJO ORDNANCE DEPOT

R. O. Raymond, Flagstaff, Ariz.; 1 acre; June 10, 1943; Coconino County (tract 15).

Dennis O'Brien, Flagstaff, Ariz.; 16 acres; Coconino County; February 2, 1943 (tract 16).

WILLIAMS AUXILIARY FIELD A-1

Estate of Seth Parker Grandy, care of Dorothy S. Grady, P. O. Box 153, Mesa, Ariz.; 80 acres; Maricopa County, March 19, 1943 (tract 1).

Mary E. Calkins, 118½ Monroe, Taft, Calif.; 60 acres; Maricopa County; March 19, 1943 (tract 2).

Irma R. Utter Peterson, Box 43, Mesa, Ariz.; 160 acres; Maricopa County (tract 3).

Fred H. Bixby Co., Long Beach, Calif.; 150.2 acres; Maricopa County; May 8, 1943 (tract 5).

WILLIAMS AUXILIARY FIELD A-3

E. G. Hughson, 853 Van Ness Ave., Fresno, Calif., 40 acres; Pinal County, February 3, 1943 (tract 1).

J. A. Reiss, 3635 Kerckhoff Ave., Fresno, Calif.; 40 acres; Pinal County, June 20, 1943 (tract 2).

YUMA AIRFIELD

Seth M. Snyder (original owner Prudence K. Dudley, care of Blue Bird Motel, Yuma, Ariz.; 160 acres; Yuma County; June 16, 1942 (tract 3).

Antoinette Tonini, care of A. E. Henna, P. O. Box 368, Oceanside, Calif.; 100 acres; Yuma County; June 26, 1942 (tract 4).

Henry Apjohn, Jacumbo, Calif.; 80 acres; June 26, 1942, Yuma County (tract 8).

Wallace Beery, 816 North Alpine Drive, Beverly Hills, Calif.; 160 acres; Yuma County, November 14, 1942 (tract 2).

Arthur Tongeland, Yuma; 235 acres; Yuma County; November 14, 1942 (tract 3).

John V. Edlund, 2529 Highview Street; Altadena, Calif.; 5 acres; Yuma County; November 14, 1942 (tract 4).

Senator HAYDEN. Mr. Chairman, I would like to have entered in the record this letter by Mr. Brooks, giving the names of those interested in the land that was taken in the Camp Bouse training area withdrawal.

The CHAIRMAN. Very well.

(The letter is as follows:)

DEPARTMENT OF THE INTERIOR,

GRAZING SERVICE,

Phoenix, Ariz., August 30, 1943.

HON. CARL HAYDEN,

United States Senate, % Postmaster, Phoenix, Ariz.

MY DEAR SENATOR HAYDEN: Pursuant to your recent request for information relative to the effect the Camp Bouse training area withdrawal will have on various livestock operators in the area, we submit the following information. The War Department advises that joint grazing use cannot be permitted in this area under any circumstances, and that all livestock ranging thereon must be removed immediately. The training area includes approximately 351,360 acres.

John Hargus has a 10-year term permit for 520 cattle or the equivalent in goats. All of his Federal range allotment is included within the Camp Bouse training area. His current use is 1,500 goats, 70 cattle, and 17 horses. The withdrawal will necessitate removing all of his livestock.

Henry Stieg has a license for 1,900 goats. All of his Federal range allotment is within the area and all of his livestock must be removed.

Tom Miller has a license for 25 cattle. All of his Federal range allotment is within the area and his livestock will have to be removed.

Mrs. Rhoda Hatch Nohlecek has a free-use license for six burros used in conjunction with her mining operations in the vicinity of Cunningham Pass. All of her stock will have to be removed.

F. C. Tatum has a license for 40 horses. All of his Federal range unit is within the area and his livestock will have to be removed.

George Cline has a Federal range allotment, most of which is in the area, and the small balance is so situated that grazing use cannot be made on it as a unit. He has a term permit for 385 cattle, but at the present time he has no livestock on his allotment.

Kenneth Hodgman and Carl Miller, operating as a partnership, have a license for 300 cattle and 6 horses. The training area embraces their headquarters ranch in section 29, T. 9 N., R. 9 W., and two reservoirs on the Bullard Wash in the same township. Their headquarters ranch is the only permanent water available to livestock on their Federal range allotment and the training area will necessitate the removal of all their livestock.

The operators heretofore mentioned are the most seriously affected by the withdrawal inasmuch as their livestock operations are entirely eliminated.

Pedro Aguillo, Mrs. Ila May Gray, and Elias Orosco range their stock in a community allotment. The Camp Bouse withdrawal eliminates a relatively small part of the allotment and will not seriously affect the normal livestock operation since the waters servicing the range are some distance from the military boundary. Pedro Aguillo has a term permit for 80 cattle but his current use is 30 cattle and 6 horses. Mrs. Gray has a term permit for 70 cattle but does not have livestock on the allotment at the present time. Elias Orosco has a term permit for 80 cattle but his current use is only 35 cattle and 10 horses.

Pete Masse has a term permit for 470 cattle. His present grazing use is only 125 cattle and 7 horses. Mr. Masse's allotment is so located that he can continue to operate his present numbers. However, he would not be able to operate the stocking allowed under term permit.

R. E. Miller and J. E. Mattison have a term permit for 242 cattle. They are ranging at present only 50 cattle and 4 horses. They can continue to operate their present numbers, but would not be able to operate the numbers allowed under the term permit.

John H. Myers has a term permit for 363 cattle. However, he is not making current use of his Federal range allotment. The training area is so situated that he will not be able to operate his full term permit numbers.

R. H. Thompson has a term permit for 365 cattle or its equivalent in goats. His current use is 75 cattle and 5 horses. Although the training area embraces considerable land in the Thompson Federal range allotment, it is not believed that the withdrawal will necessitate reduction of his present numbers. The livestock on the allotment at this time are running along the Bill Williams River and they can be controlled so that only rarely would they graze on the training area.

J. B. Wilbanks has a term permit for 465 cattle. His present operations are 300 cattle and 20 horses. The training area will not materially affect this allotment and will not cause a reduction in present numbers of livestock.

In the Bill Williams community allotment there are several operators ranging from 21 to 300 livestock. The allotment is reduced by approximately 39½ sections which necessitates a reduction of livestock under permit by 121 head. In this area current use is somewhat greater than the term permits. The excess numbers are covered by temporary licenses on a short-season basis. C. M. Kimmel has a term permit for 17 cattle. His current use is 39 cattle and 8 horses. Ivan Kuykendall has a license for 52 cattle which is the number he operates at the present time. The Jesus Madril estate has a term permit for 28 cattle and the current use is 60 cattle. S. G. Madril has a license for 30 cattle and 70 horses which just covers his current use. Mrs. Wenceslada Olea has a term permit for 21 cattle. Her current use is 40 cattle and 3 horses. E. E. Rodgers has a term permit for 20 cattle, his current use is 21 cattle. Harold Shontz has a term permit for 225 cattle and his current use is 300 cattle and 5 horses. The training area will necessitate a proportionate reduction by the operators in this Federal range allotment equivalent to 121 animal units.

Over all, the entire training area will result in a reduction in current use equivalent to 1,265 animal units and the total reduction in term permits is equivalent to 2,151 animal units.

As you suggested, we are making a copy of this letter available to Senator McCarran for whatever use he may desire in connection with his current land hearings.

Sincerely yours,

L. R. BROOKS, *Regional Grazier,*
W. J. ANDERSON, *Acting.*

Senator HAYDEN. There is also a letter written by Henry P. Stieg, which I think would be appropriate to insert, in connection with these other matters.

(The letter is as follows:)

Hon. CARL HAYDEN,
Senior Senator of Arizona,
Phoenix, Ariz.

PHOENIX, ARIZ., August 18, 1943.

DEAR MR. HAYDEN: Relative to the matter of condemnation of my property for Federal Government use.

Upon receipt of this information it was necessary for me to secure additional property for the transfer of my stock. I was able to get a lease on additional property at a cost of \$500 and have already moved 900 head. The balance of my stock will be moved within a week from this date. The expense of moving will be approximately \$600.

The Office of the United States Engineers have advised me that no funds have been appropriated for the reimbursement of expense of establishing my business or recovery of my investment. They only have the authority to appraise the property on the basis of the value to anyone else.

It is not possible to dispose of my stock at the prevailing prices for meat purposes without suffering a loss of approximately \$4,000, and of course the improvements I have made would be lost entirely, also the use of my water rights would be a loss.

The amount of my investment and expenses is as follows:

Transfer from John Hargis of the west portion of his allotment consisting of approximately 70 square miles, which is now known as the Henry P. Stieg allotment.....	\$3,000
For the purchase of goats grazing on this allotment.....	9,500
For improvements and water rights.....	4,000
Total.....	16,500

In order to establish my business it was necessary for me to incur obligations amounting to \$5,000.

It does not quite seem just and equitable according to American standards to require a person to lose his savings and deprive him of the opportunity of paying his obligations necessary in the establishing of his business. You doubtless appreciate the fact that should my holdings consist of ordinary farm land and necessary equipment for farming it would be less difficult to vacate, and when the appraisal is made on a goat ranch it will doubtless be considerably less than it would be on farm property as goat raising is a special line of business in which only a few may desire to engage.

It is my earnest desire to assist and cooperate in the war effort in every way possible and my object in addressing this communication to you is with the hope that a thorough understanding of my situation may be had and that the condemnation proceedings may be tempered with justice.

Respectfully,

HENRY P. STIEG.

The CHAIRMAN. I made the announcement that those who wish to be heard as regards Senate bill 1152 would be heard at this hearing. Is Mr. Kartchner here now? Do you care to be heard?

STATEMENT OF K. C. KARTCHNER, STATE GAME WARDEN, PHOENIX, ARIZ.

Mr. KARTCHNER. Senator McCarran, I realize the hour is getting late, and certainly I had better make this as brief as possible.

You know by this time that all the game departments of the 11 Western States are opposed to the provisions of your bill, S. 1152, and if it has not already been done I would like to introduce into the record our resolution No. 1, adopted at our annual meeting in Reno in June, pertaining especially to the provisions of that bill.

I am speaking now as a representative of the 11 Western States, for the game or conservation departments, who have unanimously gone on record against this bill. Incidentally, I might mention that your own State of Nevada has joined our association recently and we welcomed them into the organization.

Now, all I want to say in introducing that resolution, each of us has a thought as to the exact title of wildlife within the States. Some are of the opinion that wildlife within the borders of a sovereign State belong to the people of that State, and they are held in trust by the officers of the State and administered accordingly. Some others hold that wildlife on the Federal lands within the State go with the land and belong to all the people of the United States.

Now, I do not presume to be a lawyer, but I would like to cite, briefly, one or two decisions that have borne on that relationship. In the famous *Kaibab case*, *U. S. v. Hunt*, 1927, it was held and rightfully so, that the Government may stop the menace of overpopulating game, to put a stop to the damage to the trees and vegetation; and that, of course, is recognized by all State departments. There is this significant statement in that decision, however: "This is not to include the licensing of hunters to transport deer killed on reserves to places outside the same in violation of the game laws of Arizona." We feel that is a definite recognition of Arizona's claim on this game.

Here is another very interesting decision, which was back in 1896, by the United States Supreme Court, *Geer v. The State of Connecticut* (161 U. S. 519). They held that, on the subject of wild game, the State may preserve for its own citizens the wild game if it pleases. Another part of it states that the ownership of the wild game within the limits of the State, so far as it is practicable, the ownership is in the State for the benefit of all the people in common.

Another citation here is a case back in 1909, a decision rendered by the Supreme Court of the State of Florida, which is significant in its relation to the Original Thirteen Colonies, which came together in a federation and laid down the foundation for our great Nation:

The power to regulate the killing and use of game was vested in the Colonial governments of America and passed with the title to game in its natural condition to the several States as they became sovereign.

We like that decision.

In connection with this bill, 1152, we believe that the machinery has already been set up to handle over-populated areas; and we believe that the game departments, particularly of the West, of which we have most knowledge, and largely throughout the United States, have advanced in the science of game management on a par with the Federal agencies. We claim that the wildlife on Government-owned land is in the same status as the wildlife on the privately owned land. Certainly, when a deed is issued to private ownership, it does not carry with it the wildlife thereon. There are provisions set up in the State laws wherein the game damages, damage to private property, the owners may apply to the constituted agency handling wildlife for relief. It is incumbent upon that agency to take some action in the matter, and I think the same will apply in any case of over-populated game on federally owned land. The State game departments should take cognizance of the overpopulated game areas, and is ready and willing at all times to cooperate with the Federal agencies in examination of those areas, and, in a cooperative effort, to determine what the problem is and what is necessary to correct it.

I understand in the State of Colorado they have a system there of committees composed of representatives of the Forest Service, the stockmen, and the State game department, to examine these areas from time to time to determine the condition and what is necessary to

properly regulate the wildlife in its relationship to the livestock industry and other legitimate interests. We believe that that is the solution of that problem wherever a game problem arises, and that certainly the Kaibab incident, which is so often referred to, was one of the most outstanding lessons, not only to the Federal Government but to the State game departments; so what will happen if you make conditions so favorable for the production of game that eventually it will eat its head off and devastate the range. It is one of the world's worst examples in history of game management. We will all take note of that and profit by the mistake as much as the Federal Government.

We don't see any need for 1152 because, I think, the range is taken care of as well without necessitating the Federal Government stepping in, and attempting to issue licenses to anyone in the United States, regardless of State residence, taking active control of the hunting of this game, and allowing it to pass across State boundaries, and allow the sale of this game. We are getting far in the direction of usurpation of State rights when that is threatened, and we think the entire country, the great success we made in this Nation, was based upon the State unity. If such legislation as this is enacted, I wonder what would follow, in the way of Federal Government coming into the State and handling the affairs that have heretofore been handled under State sovereignty.

I believe that is all, Senator. I do have one gentleman here I would like to have heard for a few minutes.

(The resolution referred to by the witness is as follows:)

RESOLUTION No. 1

The Western Association of State Game and Fish Commissioners in its Twenty-third Annual Conference at Reno, Nev., June 24, 25, and 26, 1943, has given very careful consideration to Senate bill No. 1152 which was introduced by Senator McCarran, of Nevada, and which has been referred to the Public Lands and Surveys Committee. The association, after deliberating and after hearing arguments thereupon unanimously reports as follows:

Since the days of early England it has been the unquestioned right of the sovereign to control the taking of fish and game. Prior to the Magna Carta, the title to fish and game was fixed in the crown and since that time, and particularly since the adoption of the system of English common law by the sovereign States of the United States, it uniformly has been held that the title to fish and game within the boundaries of the State is vested in that State in trust, however, for the people thereof. This theory has been upheld uniformly by the decisions of the courts of last resort in every State where it has had judicial cognizance, and by the Supreme Court of the United States where it has been on appeal many times. It is submitted that inasmuch as the questions presented by Senate bill No. 1152 here in question, already have had the judicial interpretation of our courts, the States affected should take a determined stand that these judicial decisions shall not be reversed or again brought into question by the passage of any such bill which is obviously endorsed by certain ambitious governmental agencies.

We feel that the threatened passage and enforcement of Senate bill No. 1152 is an unlawful appropriation of the property of the people of a sovereign State which the officers of that State, and particularly the fish and game commissioners thereof, are sworn to defend. Any attempt on the part of a Federal bureau or agency, even though supported by such a bill, to transgress upon this duty and right is in direct violation of all of the principles of the organic acts and constitutions of the States involved as well as of the Federal Constitution itself. It is also in direct violation of the spirit of all former statutes and acts promulgated by the Congress of the United States, the legislatures of the several States, and the judicial interpretations rendered thereupon. We believe the States involved should see to it that this bill is defeated to the end that no part of the principles

involved shall ever accepted by the public, for while the initial steps in the passage of such a law may seem mild and of little consequence, still it may be and we believe that it would be the initial step in complete usurpation of States' rights. Furthermore, without question it would amount to confiscation of property without due process of law.

We feel that the principle is entirely unsound, unjust, and uncalled for. We believe that this is an unprecedented encroachment upon State rights even at the present level of such infringements as are being made from day to day by various bureaus and agencies of the Federal Government. If it be that Senate bill No. 1152 is being sponsored by any individual or agency in the name of the war effort, we condemn that as an absolutely invalid and unjustifiable excuse and subterfuge to hide the real motive.

Therefore, we respectfully recommend that all States involved, and every State in the Union is involved, unite in vigorously protesting the passage of this bill which, if passed, would result in Federal bureaus further seriously encroaching upon State rights.

While we are appreciative of the cooperative work done by the various Federal land administrative agencies with the fish and game departments of the several States in furtherance of propagation and protection of wildlife, and while we shall continue to welcome such cooperation as long as the same does not ripen into usurpation of State powers, we resent this attempt to take over control by Federal agencies of game on Federal land by the issuance of hunting licenses or permits. We submit further that, laying aside all questions of the legal status of game and the prerogative of its control, the provisions of the bill would be impossible of administration due to the fact that land ownership on national forests, public domain, and other publicly owned lands are of a checkerboard type, private lands, State lands, and Federal lands alternating to an extent that no hunter would be able to determine definitely at any given time whether or not he was hunting on public land, private land, or State-owned land. This fact alone is sufficient reason for defeating this bill.

NOW, THEREFORE, it is ordered by the Western Association of State Game and Fish Commissioners that copies of this resolution be sent to every Member of the United States Congress, and that, in addition, the special attention of the Public Lands and Surveys Committee be called to the facts presented herein. It is further ordered that a copy of this resolution be sent to the State game commissioners of all the States of the Union and to all State and national organizations directly and indirectly interested in the welfare and proper management of the wildlife resources of this country. It is further ordered that a copy of this resolution be sent to every livestock organization in the Western States with the request that they join this association in opposing Senate bill 1152, which would be an unjustified encroachment upon State rights.

STATEMENT OF R. K. WICKSTRUM, PHOENIX, ARIZ.

Mr. WICKSTRUM. I am representing the organized sportsmen of Arizona, and I am also the vice president and a member of the directors in the Western Federation of Sportsmen.

Mr. Chairman, I would like to say to the stock people present that, without question, the Western Federation of Sportsmen and the sportsmen of the State of Arizona very definitely recognize that the stock people of the West do have a problem in certain areas of overpopulated game. Recognizing that problem, they also feel that they have, the States themselves, have a greater problem in solving it. The sportsmen also feel that this thing is a new thing that has come into the West, in fact, we might say, in the last few years; and that the game departments, as Mr. Kartchner pointed out, have changed in their methods of handling game, and they should be given time to solve these problems in these very isolated cases where we do have an oversupply of game.

We feel, too, that the stock people themselves fully recognize that public lands do have a multiple use, and we know from our experience and contacts with them that they very much approve of wildlife on

the ranges. We are thankful to Senator McCarran that, by his introduction of S. 1152, he has brought this issue before the public of the West, and we are confident that it will bring about changes in the management of game, especially game problems that we have on the national forest, to where they will be handled by the States themselves.

We think largely the problem is one of education, that the sportsmen must be somewhat shown that there is a problem that exists there, and we believe that that can be done.

Our principal objection to S. 1152 is the point Mr. Kartchner brought out, which we believe the stockmen themselves will agree with us on, and that is that it definitely does take away from the people in the States the right to manage their own problems.

I think that is all.

The CHAIRMAN. I just want to make a very short statement there.

There isn't any question in the mind of the author of S. 1152 as to where the ownership of wildlife rests. The Supreme Court has decided it time and again.

But that is not the question, gentlemen. The people themselves have fixed the law on the subject. If the Federal Government would refuse, from year to year, to appropriate money for the eradication of predators on the open public domain, the cry would go up to high heaven, from every State in the West, and rightfully so. That the public domain is the property of the Federal Government is acquiesced in by every man who sits here today, because he lends himself to the domination of the Federal Government over the public domain when he takes the allotments from the Federal Government, and is governed by their control; so the ownership of the open public domain is a settled question. Now, has a private individual the right to remove a destruction to his property? The answer is "Yes." The Federal Government is a private owner of the public domain, so-called; so it has the right, for the welfare of the Federal Government, and for the welfare of the allottees on the Federal range, to remove that which destroys or impairs the range. You agree in one instance; you say, "remove the predators," but you question the authority on the other.

I only dwell on this to show you that the people themselves have built this law. We are not dealing with a theory; we are dealing with a condition. The Federal Government has, by reason of a certain condition in the State of Arizona, taken the step that proves the question; and that is, they went into the Kaibab and killed off the deer, and the Supreme Court of the United States held they had a right to do it. What is more, the Supreme Court went further than the circuit court of appeals and said they could remove the bodies by taking them. So we have it settled by law.

That is the law now. If we let it stand as it is, and we can do so, the Federal Government is dominant, because they have the law settled in their favor.

Now, what do we want? Do we want an Executive order, handed down to us here, to tell the Forest Service to step in, on a certain territory, and remove the game animals there? Do we want an Executive order that will say that wherever the Grazing Service finds that a certain territory is overburdened with wildlife, it may go in and kill off? Or would we rather have an act of Congress which would bring into it cooperation with the States of the Union?

No one will contend that this bill is a perfect bill. I contend that it was introduced, and is now before the public, for the purpose of arousing the interest of the public, and the knowledge of the public, in a fundamental thing; and that is, that the game on the open public domain is the property of the Federal Government, that it may be removed by the Federal Government, when it becomes a destructive agency.

Now, in order to get the State and the Federal Government into cooperation, we sought to have the Federal Government, first, compelled to go to the State and say, "You have within your boundaries a certain area that is overinfested with game animals, and we ask you to make arrangements, immediately, for their reduction." That is the very first provision of the bill. Some States have already taken the step in the other direction. My own State passed an act, in the last legislature, which is in the record now. It sets up a committee to deal with that question; that, where there is an overabundance of wildlife in a given section, a committee may be set up composed of a representative of the Forest Service, a representative of the Grazing Service, a representative of the Park Service, a representative of the State, and other representatives of interests, to deal with something there that is recognized to exist. So, there is a meeting of the minds in the State and the Federal Government, trying to get together.

This is a prohibitory bill as it stands now, because it is in there; and, if it were to become a law, the Federal Government could not go in and kill without first submitting the question to the State and asking the State to take hold of the problem. Today, it can; and if an Executive order were to issue, which might come down overnight, as the Jackson Hole order came down overnight, so other things have come down overnight, if an Executive order were to issue to go in and kill on the Kaibab, or kill on some other forest, here, you and I would have to remain mute. We wouldn't have a chance to say a word. All we could do would be to implore in the future that the Executive order might be modified or rescinded or set aside.

The law is already settled, by the Supreme Court of the United States, that it can be done. With Executive orders being handed down day and night, they have become the prevalent form of law today.

I sought to arouse the interest of the people of this country in a problem, to get the States in line, so that your organization, the State organizations, the sportsmen's organization of all kinds, in place of shooting at this thing and saying, "Kick it out," would get their heads together and say, "Let's formulate a progressive piece of legislation; get it into the hands of the States where it belongs."

If this bill, by simply being introduced, will do that, it will have served a splendid purpose.

Mr. WICKSTRUM. I think you are right, Senator McCarran.

The CHAIRMAN. The trouble is, my friends, and I say this in all good nature, you say "Kick it out," and you don't say, "Here is a suggestion I could make."

I could make a suggestion to you in a minute, because I can see through it. I think that one objection to this bill S. 1152, is that it sets up a conflict of authority, within the administrative departments of the Government. In other words, the Forest Service can say, "We will kill in here," and the Grazing Service says, "We will

not kill off here," so the Grazing Service does not harmonize with the Forest Service. I can see that; and, in that, it must be remedied. Any legislation which subsequently must get by must be remedied.

I can see another improvement to the bill. I can see, and nobody yet has suggested it, in place of putting in the alternative, where the Government says to the State that a condition exists here, and they would like to have the State go in and eliminate that wildlife, it could be said that the Federal Government shall not eliminate wildlife on any given area until it has first advised the State, and until the State has had an opportunity to act.

Those are, to my mind, proper criticisms of the bill. Some people thought the bill was going right through. Bills don't usually go through so fast. As a matter of fact, I saw to it that the bill would not go through, because I introduced the bill and then referred it to my own committee. It is here in this committee, now, and I have brought it here before you.

And that, gentlemen, is the whole story.

Mr. WICKSTRUM. May I ask, if you have no fear of this infringement of States' rights angles in the bill, do you not fear that these steps we are taking, one by one, day after day, through the years, will end in our finally being governed entirely from Washington?

The CHAIRMAN. Indeed I do. I am the most apprehensive member of the Senate, in that regard. I can see it coming, in leaps and bounds, and I regret it more than anything else, and I would stop it as much as I possibly can. I am the strongest exponent of States' rights that sits here today. I want the State to govern its people, because I believe the nearer you bring the Government to the individual, the lighter government rests on the shoulders of the individual. That is my belief, all the time.

Now, in respect to this bill, the law is already settled. It isn't a question of making a new law; the Government has the right, it is their property, and they have the right to go in and kill. They don't have to come to you at all. You simply cannot say we are throwing away States' rights in this bill. The rights are already established.

Today the Federal Government can go into the Kaibab and kill off, if the Federal Government determines there is too much wildlife in the Kaibab. That is the law now. Does this bill take anything away from that? No, it reduces that power, because this bill says before you can go into the Kaibab you have got to go to this gentleman down here, and the Governor of the State of Arizona, and whoever the authority is, and say, "We find this condition in the Kaibab and we want you, the State of Arizona, to remedy it." If you don't remedy it, they can take action. So the law, as it stands now, is much more drastic in its disregard for States' rights than S. 1152.

Mr. WICKSTRUM. We have, perhaps, two instances where that has been invoked in the United States.

The CHAIRMAN. Two are enough.

Mr. WICKSTRUM. Well, supposing the supervisor over public lands has an idea there is too much here and too much there—

The CHAIRMAN. Supposing you got an Executive order that put it down in harder and faster terms than this bill, S. 1152? Then you'd say to Congress and your Representatives, "Why didn't you take care of this by legislation?"

Now, I say to you gentlemen here, who are interested in sportsmanship, and I am, as much as you are, I say, let's get our heads together and formulate a progressive piece of legislation that will handle an intricate subject.

Mr. WICKSTRUM. I believe that is right.

Mr. KARTCHNER. May I make one more comment? You say that is already the law?

The CHAIRMAN. Yes, indeed.

Mr. KARTCHNER. The Supreme Court has carefully made the exception of not allowing the transportation of deer, if it is not in accordance with State law; and certainly in no case is there a law that provides for the sale of wildlife.

The CHAIRMAN. Here is what the Kaibab decision said: The court accepted the opinion and decree of the lower court, with the modification that all carcasses of deer, and parts thereof, shipped outside the boundaries of the reserve should be plainly marked with tags, or otherwise, in such manner as the Secretary of Agriculture might provide, to show that they were killed under his authority, within the limits of the reserve.

Mr. KARTCHNER. That is the Government doing it itself.

The CHAIRMAN. That is the Government doing it itself. Certainly, that is the owner of the territory eradicating what it deemed to be evil to the territory. They have a right to remove the bodies. The court says they have the right to dispose of them as they like. The court says so. The only thing the court says, with which we agree, is that they could not bring in licensed hunters, but that is so easily gotten around there is nothing to it. It doesn't protect us at all.

What I want is some protection for the States, and for the sportsmen of the States, and for the wildlife within the States, to get away from that drastic rule that has been the law since the Kaibab decision, and was the law before. That is the whole story.

I thank you very much. I appreciate your criticism, I hope you will give it further study, and that I might have the benefit of constructive criticism that will in time bring about legislation that will be worth while.

Mr. KARTCHNER. I want especially to emphasize for your indulgence, it is amazing to us how you can continue on with these hearings and are able to do so without getting tired. We thank you very much.

The CHAIRMAN. Each little problem is interesting to me. I get a lot of fun out of it. The only thing is, I get tired when it gets to be the same thing over and over again.

There was one case, Mr. Spence came down here, all the way from Fredonia. Is Mr. Spence here now?

Now, Mr. Spence, you testified up at Fredonia.

Mr. A. T. SPENCE. That's right.

The CHAIRMAN. Since that time the Grazing Service requested permission to put this summary into the record, showing the changes of allotments made to certain parties on the range, with reference to which you testified, and you will be permitted—the Grazing Service has not put it in the record as yet, but you will be permitted to make any comment you see fit.

(The summary referred to is as follows:)

Region No. 9—Arizona strip-grazing district

Name	May 1, 1936, to April 30, 1937	May 1, 1937, to April 30, 1938	May 1, 1938, to April 30, 1939	May 1, 1939, to April 30, 1940	May 1, to Dec. 31, 1940	Jan. 1, to June 30, 1941	July 1, 1941, to June 30, 1942	July 1, 1942, to June 30, 1943	July 1, 1943, to June 30, 1944	Term permits
Alcorn, C. W.: Goats.....	1,250	(1)								
Sheep.....	500									
Anderson, Charles C.: Sheep.....	3,500	2,920	3,100	3,000	2,400	2,400	3,650	3,000	(2)	3,275
Atkin, Joseph T., Jr.: Sheep.....	5,690	4,175	5,800	5,150	3,100	3,100	3,175	3,100	2,600	2,250
Atkin, Rudger: Sheep.....	4,912	4,200	2,505	2,505	2,400	2,000	2,200	1,500	1,800	None
Cattle.....	200	150					40	100	100	
Brown, Scott's Sheep.....										
Chamberlain, L. U.: Cattle.....	100	110	75							
Horses.....	10									
Childers, Earl: Sheep.....	1,385									
Cox, LeRoy H.: Sheep.....	1,400	725	400							
Esplin, Lee J.: Cattle.....	800	960	650	884	836	800	889	700	600	781
Horses.....	19		20					30	30	
Esplin, Ray D. (deceased; property now in name of Mrs. Lucy Esplin): Sheep.....	3,500	3,491	3,000	1,900	1,200	1,900	550	220	220	None
Cattle.....	15			25	40	170	102	9	7	
Horses.....	1,238	1,200	1,030	1,030	1,341	340	279	279	321	None
Findlay, John D.: Cattle.....	3,650	3,650	3,650	2,500	2,700	11 2,600	2,000	2,000		1,800
Findlay, Alexander: Sheep.....	30	50			75	90	126	126	226	1,126
Cattle.....						10				
Horses.....										
Foremaster, Lindau: Cattle.....	720	490	520	575	12 270	82	240	240	240	None
Horses.....	31		25	25						
Gardner, Wayne C.: Sheep.....	1,500	1,400	13 1,835	1,900	1,600	1,600	1,600	2,440	1,450	None
Griffiths, Ensign C.: Cattle.....										
Cattle and horses.....	10	10	6	6	6	8	8	8	8	None
Horses.....										
Hatch, James L.: Sheep.....	4,775	3,600	3,600	4,272	14 2,500	1,700	1,700	1,300	250	1,120
Heaton, Fred C.: Cattle.....	625	600	500	450	475	520	489	489	489	489
Horses.....	20		10							
Judd, Dan K.: Cattle.....	100	50	75	101	75	87	50	82	82	82
Horses.....	10									
Laneux, Clarence: Sheep.....	2,000	1,600	2,000	13 3,900	3,690	4,000	3,550	2,000	1,750	None
Cattle.....									110	
Horses.....										

	10	4	4	2	2	2	5	3	6	None
		2	2	3	3	2			7	
Latham, Wayne:										
Cattle										
Horses										
Mathis, W. B.:										
Cattle	800	800	700	750	750	465	550	600	800	835
Horses	35	35	30	30	35	35	85	35	30	None
Miller, John C.: Sheep	2,200	2,100	2,000	1,574	2,000	2,000	2,250	2,250	(1)	None
Fugh, Cecil C.:										
Cattle	3,000	3,000	1,905	183,120	3,100	3,000	3,000	3,000	(1)	2,980
Reber, Harold:										
Cattle	25	20	25	25	25	25	28	34	35	55
Horses	1	5								
Schmidt, Donald:										
Cattle										
Goats	5,000	4,792	3,800	2,800	114,800	4,650	7,300	5,000	45	7,320
Sheep						2,570				
Schmidt, John H., Bro. & Son:										
Cattle										
Horses	1,275	1,215	1,360	1,360	10,111	378	451	342	435	339
Seeger, George H.:										
Cattle	100	200	18,220	18,250	371	18,605	275	305	390	698
Sheep	165	200							5	
Woolley, Royal B.:										
Cattle	1,200	1,252	1,000	918	514	18,814	814	814	29,949	None
Horses	15									

1 Sold out.

2 Acquired Jump Springs and Inlay resort holdings in fall of 1939.

3 A. of yet determined (Sept. 7, 1943).

4 License during 1938 and 1937 held under name of Jos. T. Atkin & Sons, and interests divided in 1937 and 1938 between Rudger and Anthony Atkin.

5 Died and property acquired by A. F. Jensen.

6 Interests sold to Royal B. Woolley and others.

7 Properties sold to David and Lee Espin.

8 Base properties sold to Cecil C. Fugh and Merle Brinkerhoff.

9 Acquired the Earl Childers Properties in 1937.

10 Operations from May 1, 1936, to April 30, 1940, on a percentage basis on monument and forest lands; operations from May 1, 1940, to present time computed only on Federal range.

11 Acquired interests in House Rock Valley from the Grand Canyon Cattle Co. in 1941.

12 License from May 1, 1936, to May 1, 1940, issued under name of E. J. Foremaster & Sons; license from May 1, 1940, issued on a division of base properties.

13 Acquired holdings from the Nutter Livestock Co. in 1938.

14 License from May 1, 1938, to May 1, 1940, issued to Hatch Bros.; interests divided in 1941 between James L. Houston, and M. V. Hatch.

15 Acquired holdings from the Nutter Livestock Co. in fall of 1939.

16 Purchased part of LeRoy Cox base properties.

17 Acquired Junior Taylor holdings in March of 1940.

18 Acquired holdings from Lester Parker in October 1939, William Higley et al. in September 1939, John Sturzenegger in December 1938, and Nutter Livestock Co. in January 1941.

19 Acquired additional interests in Houserock Valley from the Grand Canyon Cattle Co.

20 Increase by reason of use of base properties purchased from the Grand Canyon Cattle Co.

STATEMENT OF A. T. SPENCE, TUCSON, ARIZ.

Mr. SPENCE. Well, I have additional statements here I would like to make, in addition to what I made in Fredonia; and with the permission of the committee I would like to add to the statement made at Fredonia, at which time I attempted to show from the records of the Division of Grazing how the grazing permits for certain individuals and had been imposed upon, reduced in number, or taken from them and given to others in that area.

Acquainted with the situation as I am, it seems very difficult for anyone to see this picture clearly without visiting the lands in question and investigating it, and also, at the same time, investigating how these permits have been issued.

I would like to cite a few instances to you. In one case cited at Fredonia a permit that had rated approximately 300 head of sheep which would have meant 60 head of cattle, after acquisition by another party, was increased to 240 head. In the second instance, as also previously stated to you, a permit on a given area was rated at 80 head, apparently, whereas this self-same area is now under permit to another and has been given a rating of approximately 300 head. These are cited instances, but are not by any means all of the cases in which a similar adjustment has been made.

In an attempt to secure an investigation for the situation, on two different occasions I visited the offices of the Chief of Grazing in Salt Lake City, Mr. Rutledge, and there talked to Mr. Rutledge, Mr. Mollohan, and Mr. Kerr, requesting an investigator from their office to visit the ground, and look into the matter as complained of, and on both such occasions I was assured there would be an investigator designated for this purpose, but to date no one has appeared, to my knowledge, or to the knowledge of anyone else.

If the Senator will recall, when I appeared at this hearing previously down here in Phoenix some 2 years ago, the question I advanced for discussion was with regard to the manner in which the advisory board members are elected. At that time I was concerned with and driving at this subject, with the hope that the present difficulties with which I am concerned might be avoided or eliminated.

The CHAIRMAN. Right there, will you pause for interruption?

You heard stated here today, I think, how these advisory board members are elected?

Mr. SPENCE. Yes, sir.

The CHAIRMAN. As stated here by the permittees—that was the forest, that is right, but the same is true under the Grazing Service?

Mr. LEECH. Yes, sir, Senator.

The CHAIRMAN. They are elected by the permittees?

Mr. SPENCE. That is true, Senator, but in our district up there a man might receive sufficient votes to be elected from other parts of the district, other than the precinct that he is representing, and at that time I was not so well acquainted up there. I had only been there a short time and I thought they might eliminate that trouble by getting this situation down by vote, but as I know it now, it perhaps would not have helped a great deal, because the advisory board member is still there.

Either I am right or wrong in assuming that discrimination is occurring in favor of some permittees as against others, and the ones

profiting by it specifically are members of the advisory board. I have consistently so stated, and I have been assured that the subject would be investigated in its entirety. If any effort had been made to do this, I would not be here to burden the committee with my story today; but after 18 months of constant efforts to obtain action, the matter remains unsettled. Therefore I am here for the express purpose of requesting the appointment and assignment of an investigator from the Washington office who can approach this subject without bias or prejudice or prior knowledge, and who can and will make a report upon this matter, without regard to the influence or standing of permittees within the area concerned.

The CHAIRMAN. I just want to make this remark, and it comes from the chairman on his own responsibility: An advisory board member should certainly be exceedingly cautious, and his board should be cautious, to the end that he receives no benefits, no prerogatives, no rights, more than the average permittee in the district. He occupies a very serious place. He is naturally under observation, and he would naturally be under scrutiny. It is natural for the fellow who does not get the privileges he should have to complain if he sees some board member getting something, although he may be entitled to it. It is one of the serious things that has impressed me during these hearings, because I think it was my bill that set the advisory boards into the law, and I think the advisory boards are democratic organizations. I think they bring the advice of the grazers into the office of the supervisor, and I think they do a splendid work, by and large; but I do think that great care should be exercised by the individual on the advisory board, because he is going to be under fire, and if he is under fire just to that extent he weakens the powers and influence and democratic atmosphere of the board of which he is a member.

Now, it is awfully easy to make accusations. There are some men who are bigger in certain communities and they are regarded and looked upon as powerful individuals. I think that is true in this case, that you have a certain individual who is looked upon as a powerful individual. He is, if I may use a homely expression, he is a big toad in a little puddle, and naturally the little fellows, with 25 and 30 and 50 head of cattle are looking at him all the time, and if he gets something that the little fellow thinks he shouldn't have, he is going to be the target, just as sure as I live, and yet he may be perfectly innocent.

Mr. SPENCE. Might I add this: So long as we have gone that far I offer for the information of any investigator who comes to look this situation over in this particular case, so far as large permits are concerned, I have bought, purchased, and paid for over 1,600 head. This particular advisory board member I refer to today has a much larger permit than I have. He has not purchased, I would say, much less than half of what I purchased, but today he has a larger permit than I have.

The CHAIRMAN. Well, we have that condition, and there was an expression made at the Fredonia hearing that I think should never have been made. That was when a member of the advisory board said to you while you were testifying that the only trouble with you was that you had been out-traded. That did not ring up good.

Mr. SPENCE. It was not true, Senator, in the first place.

The CHAIRMAN. I don't know whether it was true or not; whatever it was, this is not a trading question. In the administration of the open public domain, it is a question of rendering fair and exact justice, and God knows that is hard enough to render under conditions that prevail out here in the open. But that lent something to your argument that wasn't in your argument before.

Mr. SPENCE. When I say it wasn't true, I have not been outraded from an individual point. I don't think Mr. Woolley has ever outraded me, if I may mention names.

The CHAIRMAN. I am going to terminate this because Mr. Woolley is not here and it is hardly fair to go on with these hearings in his absence. He was at the Fredonia hearings.

Mr. LEECH. Mr. Chairman, I will be glad to take a list of cases that Mr. Spence would like to have looked into, and I will be glad to have each and everyone of them investigated.

STATEMENT OF DALE E. DOTY, SECRETARY'S OFFICE, INTERIOR DEPARTMENT, WASHINGTON, D. C.

Mr. DOTY. In view of the charge that has been made, an independent investigator will be sent out to this region to make the investigation.

The CHAIRMAN. That settles it. I'd like to say that I believe the charge has been made in all sincerity, and that the investigation should be made.

Mr. SPENCE. Senator McCarran, I would like to say this, too, I am very glad to hear Mr. Leech make that statement because if Mr. Leech recalls in his office I mentioned some of these subjects to him, and we were going to have an investigator down there from Salt Lake City or some place. Mr. Leech, I asked you for some other investigator than the immediate district grazier to be sent out there to investigate.

Mr. LEECH. I recall that, Mr. Spence.

Mr. SPENCE. You assured me that it would be done, and it has never been done.

The CHAIRMAN. I think you can go ahead now, gentlemen.

We are about to close this meeting. We may not have been able to meet everyone who was here, but we have utilized about all the hours there were in the day, up to this time.

We are grateful for those who came here, and we are glad of the advice you have given us. We are especially grateful for the presence here of the various services, and we want, here and now, in this city, to express our gratitude to the Second Assistant Secretary of the Interior who sent a representative of his office, who has attended these hearings right along.

If there is nothing further the committee will bring this hearing to a close.

(Hearings adjourned at 6:30 p. m.)

×

ADMINISTRATION AND USE OF PUBLIC LANDS

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON PUBLIC LANDS AND SURVEYS
UNITED STATES SENATE
SEVENTY-EIGHTH CONGRESS

FIRST SESSION

PURSUANT TO

S. Res. 241

(76th Congress—Extended by S. Res. 39, 78th Congress)

RESOLUTIONS AUTHORIZING THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS TO MAKE A FULL
AND COMPLETE INVESTIGATION WITH
RESPECT TO THE ADMINISTRATION
AND USE OF PUBLIC LANDS

PART 10

ALBUQUERQUE, N. MEX.

SEPTEMBER 7, 8, AND 9, 1943

Printed for the use of the Committee on Public Lands and Surveys

THE LIBRARY OF THE

APR 10 1944
UNIVERSITY OF ILLINOIS

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1944

COMMITTEE ON PUBLIC LANDS AND SURVEYS

CARL A. HATCH, New Mexico, *Chairman*

ROBERT F. WAGNER, New York
JOSEPH C. O'MAHONEY, Wyoming
JAMES E. MURRAY, Montana
PAT McCARRAN, Nevada
CHARLES O. ANDREWS, Florida
MON C. WALLGREN, Washington
ABE MURDOCK, Utah
EDWIN C. JOHNSON, Colorado

GERALD P. NYE, North Dakota
CHAN GURNEY, South Dakota
RUFUS C. HOLMAN, Oregon
JOHN THOMAS, Idaho
RAYMOND E. WILLIS, Indiana
EDWARD V. ROBERTSON, Wyoming

W. H. McMains, *Clerk*

N. D. McSherry, *Assistant Clerk*

SUBCOMMITTEE ON SENATE RESOLUTION 241 (76TH CONG.)

PAT McCARRAN, Nevada, *Chairman*

CARL A. HATCH, New Mexico
JAMES E. MURRAY, Montana
CHARLES O. ANDREWS, Florida
MON C. WALLGREN, Washington
ABE MURDOCK, Utah

GERALD P. NYE, North Dakota
RUFUS C. HOLMAN, Oregon

E. S. HASKELL, *Chief Investigator*
ELIZABETH HECKMAN, *Secretary*

TABLE OF CONTENTS

	Page
Abeita, Diego	3372, 3383, 3395
Adams, John A	3037, 3111, 3151, 3206
Alonzo, John	3386
Anderson, Clinton P	3085, 3068, 3148, 3332, 3347, 3355, 3470
Arthur, O. Fred	3260, 3503
Asplund, Rupert F	3293
Barker, Elliott S	3444, 3466
Beardsley, Eli	3392
Berryhill, W. A	3148, 3175
Bilbo, Arthur	3200
Bird, John	3412, 3413, 3417
Bond, E. A	3178
Branson, J. F	3181
Brophy, Wm	3507
Brownfield, A. D	3280
Bryant, Frank	3301
Burkes, M. W	3314
Case, Roy S	3316
Chapman, Oscar L	3028, 3050, 3083, 3174, 3334, 3375
Chavez, Dennis	3046, 3084, 3142, 3160, 3172, 3188, 3203, 3237, 3286, 3361, 3378, 3398, 3476, 3494
Chilligay, Deshna-Clah-Ches	3374
Clancy, Albert H	3468
Cooper, John M	3087, 3149
Cox, A. B	3298
Daker, H. J	3340
Davenport, John	3323, 3341, 3355
Day, Albert	3456
Dempsey, John J	3028, 3154, 3442
Dickens, J. S	3271
Dismuke, Dewey	3368, 3390
Eichwald, Max	3362, 3488
Evans, Lee S	3260
Fernandez, Antonio M	3256
Flory, Evan L	3373
Furman, Alan F	3233, 3234, 3336, 3342
Graham, L. O	3105
Gurule, Reyes S	3363
Gutierrez, Epifanio	3490
Harroun, D. S	3470
Havell, Thomas C	3156, 3479
Heimann, T. J	3317
Henderson, Miss Volney	3184
Henderson, Mrs. V. M	3183
Heringa, Ed	3321
Herrera, Jacobo	3353
Hovey, Bernardino Perry	3160, 3248, 3261, 3359
Hunter, Clyde	3176
Iramillo, Serafin	3255
Kneipp, L. F	3287, 3462, 3496
Lantow, J. L	3239
La Rouché, F. W	3096
Lee, Floyd	3052, 3092, 3120, 3157, 3175, 3199, 3256, 3299, 3355, 3383, 3486, 3493
Leech, J. H	3097, 3137, 3174, 3179, 3198
Lewis, Dinman	3311

	Page
Luker, C.	3276
McCall, J. S.	3313
Michael, Mike	3254
Mirabal, Antonio	3412
Mitchell, Albert K.	3319
Mollin, F. E.	3288
Montoya, Jesus Maria	3263, 3493
Montoya, Jose Alcario	3370
Moore, L. B.	3179
Morris, George	3347
Natewa, Henry	3416
Naylor, H. W.	3096, 3133, 3149, 3172, 3180
Nieto, Henry	3416
Ondelacy, Warren	3406
O'Sullivan, William T.	3200, 3290
Paisano, Abel	3417
Padilla, Joe	3420
Pooler, Frank C. W.	3462, 3495, 3504
Presley, Kelsey	3048, 3144, 3167, 3183
Pradt, George K.	3405
Rice, Bud	3409
Rutledge, R. H.	3104, 3116, 3131, 3170, 3193, 3278, 3457, 3463, 3492
Salmon, H. M.	3356, 3495, 3500
Sanchez, Joe	3502
Sargent, Edward	3175
Sarracino, Walter	3377
Seth, J. O.	3036, 3083, 3132, 3161, 3175, 3260, 3271, 3295, 3353
Sisneros, F. N.	3295
Snyder, Capt. Floyd T.	3305
Spence, Liter E.	3136, 3184
Stamm, Raymond B.	3455
Stewart, Herb.	3341
Stewart, James M.	3029, 3046, 3083, 3145, 3154, 3176, 3203, 3365, 3421
Stover, A. E.	3300
Strong, R. L.	3243, 3271
Swazo, J. Valentin	3498
Swift, John	3481, 3483
Warf, Joe C.	3505
Whitaker, Virgil K.	3300
Wood, Claude	3155, 3328
Woodhead, P. V.	3259, 3489, 3497
Woodward, Hugh B.	3451, 3460, 3465

ADMINISTRATION AND USE OF PUBLIC LANDS

TUESDAY, SEPTEMBER 7, 1943

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS,
Albuquerque, N. Mex.

The subcommittee met, pursuant to call, at 10 a. m., at Albuquerque, N. Mex., Senator Pat McCarran presiding.

Present: Senator Pat McCarran, Nevada (chairman), Senator Dennis Chavez, New Mexico.

Also present: Clinton P. Anderson, Congressman, New Mexico; Antonio M. Fernandez, Congressman, New Mexico; E. S. Haskell, special investigator.

The CHAIRMAN. The meeting will come to order.

This meeting is conducted by a subcommittee of the Committee on Public Lands and Surveys of the United States Senate pursuant to a resolution passed by the Senate of the United States. We wish to say at the outset that we approach these meetings with the hope that those who are interested in the subject under discussion will feel at ease; that they will feel at liberty to discuss the problem or the subject in their own way. You need have no fear of consequences. Let me say, emphatically, that this committee is prepared to defend its hearings; and any attempt at reprisals, as regard those who make statements for the record, before this committee, will be dealt with in a way that those found guilty will wish that it had never happened. We want the people of this community to know that this is an attempt on the part of the Government of the United States to bring the Government out to the field so that it may listen to the people who are governed; so that we may hear your problems, and understand your troubles; so that we may receive suggestions for the betterment of the administration.

We have had the privilege, in these hearings that we have conducted in Nevada and in Arizona, during the past 2 weeks, of having with us the representatives of the several departments and bureaus. They are here with us now. They have come, some of them, all the way from Washington, to be present at these hearings; that, out of these hearings, there might come a full understanding and a cooperation between the administration of the several bureaus and departments and the people who are governed by them.

We realize that men who are in the stock business and in the business of the utilization of the open public domain are not accustomed to public speaking. As a rule, they are reticent to speak in public. We realize that if we could go out onto your stock range with you or onto your farms with you, you would probably tell us your story

in your own way. We also realize that if we were able to go out to the Indian reservations we might hear from the Indians and from their administration. We want you all to be at ease and want you to tell your story just as you would to us if we were out in the reservation or on the range with you. Use your own language. Our reporter has an asbestos machine, so you don't have to worry about burning up the record. Use your own language and tell us your story just as you would tell it to your neighbor. We are here for the purpose of trying to help you in every possible way.

Now, let me say before we open this meeting, in the Phoenix paper, in the city of Phoenix, day before yesterday morning there was published excerpts from a letter purported to be signed by Henry Chee Dodge. The letter was addressed to Senator Hatch, of New Mexico. The letter appears to have been dated September 1. Senator Hatch's secretary, Mr. McMains, who is here, states that the Senator has not yet received the letter.

That letter challenges this committee in no uncertain terms. It challenges this committee by attempting to throw fear into this committee and into its investigator by saying we were coming here and would be misled by statements that would be made to us. Whoever inspired this letter was in very small business. The chairman of this committee, on his own authority, now says that this committee is not to be intimidated. No letter coming in this form, especially when delivered through the press to this committee before it is delivered to the Senator to whom it is addressed, will have much weight with this committee. We will hear these problems as they are presented and there isn't any fear of this committee being misled by anyone nor by anything. The agency that may have inspired this letter may be tempted to mislead the committee, more than some other agencies referred to. Let that matter drop right here and now. The committee has no fear of any misleading. We have feared that the truth may not come out. That is the one apprehension that we have, because men are not inclined to talk freely on their own problems.

So far as the Indian question in this district is concerned, it will be listened to freely, fairly, frankly, and without fear or favor to or from anyone.

We have with us Senator Chavez, the junior Senator from the State of New Mexico. We hope that the two Congressmen will come forward and take a seat with us. Senator Hatch, the senior Senator from New Mexico, wired me some days ago that it would be impossible for him to be here because of previous engagements. Mr. McMains, the congressional secretary to Senator Hatch, is here, and the committee invites Mr. McMains to participate in this hearing. He is the clerk of the Committee on Public Lands and Surveys of the United States Senate, and he is free and invited to participate fully in these hearings, in any way that he may see fit, either by way of interrogation or suggestion. We want Senator Hatch to have a full transcript of what transpired here in his own State.

It has been suggested, as a policy of procedure here, and we are accepting this suggestion, that the question of what is known as district No. 7 be brought up first, and then other areas in the historical belt here in New Mexico.

Let me say that Governor Dempsey is here on the platform. We hope that he will find it convenient for him to be with us at all of these meetings. We hope that he will participate so far as he may see fit. He is invited to participate in every way. The congressional delegation will also participate fully and we hope that they can remain with us constantly.

There will be cards passed through the audience. On these cards will you please place your name, your post-office address, and your business. If you are connected with any organization or if you are an officer or representative of any organization, please make note of that on the card. This is the only method of registration of the attendance that the committee has, and we find it most convenient.

(The following is the list of persons registered at Albuquerque, N. Mex., hearings:)

- Diego Abeita (secretary, Isleta Indian Pueblo), Isleta, N. Mex.
 John R. Abeita, governor of Isleta Pueblo, Isleta, N. Mex.
 Dr. S. D. Aberle, superintendent, United Pueblo Agency, United States Indian Service, Albuquerque, N. Mex.
 John A. Adams, United States Forest Service, Albuquerque, N. Mex.
 James R. Ahl, district grazer, United States Grazing Service, Department of the Interior, Alamogordo, N. Mex.
 John J. Alonzo, Box 198, Albuquerque, N. Mex.
 J. F. Akers, Conejo, N. Mex.
 Rupert F. Asplund, director, Taxpayers' Association of New Mexico, Post Office Box 557, Santa Fe, N. Mex.
 O. Fred Arthur, supervisor, Cibola National Forest, 408 Federal Building, Albuquerque, N. Mex.
 Elliott S. Barker, state game warden, Santa Fe, N. Mex.
 Arthur Bibo, Cubero, N. Mex.
 William A. Brophy, special attorney for Pueblo Indians, 806 First National Bank Building, Albuquerque, N. Mex.
 Edgar A. Bond, Ramah, N. Mex.
 W. A. Berryhill, Prewitt, N. Mex.
 J. Wylie Brown, Box 127, Quemado, N. Mex.
 George A. Boyce, director of Navajo Schools, Window Rock, Ariz.
 Wilson Bennett, Alamogordo, N. Mex.
 Frank Bryant, El Paso, Tex.
 J. F. Branson, Box 67, Thoreau, N. Mex.
 Franklin Bond, Box 1327, Albuquerque, N. Mex.
 Eli Beardsley, Box 763, Winslow, Ariz.
 Roderick M. Beach, Box 94, El Morro, N. Mex.
 Marvin E. Bezemek, Albuquerque, N. Mex.
 M. W. Burks, Mills, N. Mex.
 Isabel Benson, secretary, New Mexico Wool Growers' Association, Albuquerque, N. Mex.
 Keith Begay, Rehoboth, N. Mex.
 L. G. Boldt, assistant engineer, United Pueblos Agency, Albuquerque, N. Mex.
 A. K. Barr, care of Edward Sargent, Chama, N. Mex.
 A. D. Brownfield, Deming, N. Mex.
 E. C. Blankenagel, Grazing Service, Deming, N. Mex.
 Awashu California, lieutenant governor of Zuni Pueblo, Zuni, N. Mex.
 W. R. Centerwall, 614 Goodrich Building, Phoenix, Ariz.
 Eduardo Carillo, Pena Blanca, N. Mex.
 Victor Casados, Box 97, Cuba, N. Mex.
 Joseph Henry Cata, junior engineering aide, United Pueblos Agency, Albuquerque, N. Mex.
 Oscar L. Chapman, Assistant Secretary of the Interior, Department of the Interior, Washington, D. C.
 Juan Chavarria, governor, Pueblo of Santa Clara, Espanola, N. Mex.
 Bennie J. Chavez, Box 81, San Fidel, N. Mex.
 Vicente Roy Chaves, governor of Acoma, Acomita, N. Mex.
 Lorenzo B. Chaves, Zuni, N. Mex.

- B. A. Christmas, Las Cruces, N. Mex.
Tom Clayton, Separ, N. Mex.
Talley B. Cook, Box 127, Monticello, N. Mex.
John M. Cooper, Navajo Agency, Window Rock, Ariz.
L. A. Cooper, Sherman, N. Mex.
R. F. Copple, A. R. E., Grazing Service, Department of the Interior, Gallup, N. Mex.
G. S. Culberson, Lordsburg, N. Mex.
P. Lucas Cordova, Hernandez, N. Mex.
A. W. Cox, Las Cruces, N. Mex.
A. B. Cox, Box 2, El Paso, Tex.
L. R. Crosthward, assessor, Harding County, Mosquero, N. Mex.
H. J. Daker, district conservationist, care of Soil Conservation Service, Albuquerque, N. Mex.
William H. Danley, United States Grazing Service, Albuquerque, N. Mex.
J. E. Davenport, Espanola, N. Mex.
Albert M. Day, assistant director, United States Fish and Wildlife Service, Department of the Interior, Chicago, Ill.
Mrs. Charles H. Dietrich, chairman, New Mexico Association on Indian Affairs, 519 Canyon Road, Santa Fe, N. Mex.
Dewy Dismuke, range forestry supervisor, United Pueblos Agency, United States Indian Service, Box 1346, Albuquerque, N. Mex.
Biyle Duggan, Box 486, El Paso, Tex.
Max Eichwald, Cuba, N. Mex.
Tom Elkins, Prewitt, N. Mex.
Manuel C. Crespín, Cuba, N. Mex.
G. W. Evans, Magdalena, N. Mex.
Lee S. Evans, Marquez, N. Mex.
Leopold Eriacho, Zuni, N. Mex.
Frank Estaven, Acomita, N. Mex.
Chester E. Faris, secretary, Indian Rights Association, Philadelphia, Pa.
J. G. Fichtner, box 55, Zuni, N. Mex.
Evan L. Flory, regional chief, soil and moisture operations, United States Indian Service, 607 Goodrich Building, Phoenix, Ariz.
Ed Ford, district supervisor, Navajo Indian Agency, Crownpoint, N. Mex.
Ted Formhals, head, Resources Division, United Pueblos Agency, United States Indian Service, box 1346, Albuquerque, N. Mex.
Alan F. Furman, Soil Conservation Service, Albuquerque, N. Mex.
Eric L. Freelove, range guard, United States Indian Service, box 425, Espanola, N. Mex.
Alcario Gachupin, governor, Jemez Pueblo, Jemez, N. Mex.
Felicito Gallegos, box 62, Cuba, N. Mex.
Ignacio Garcia, Cuba, N. Mex.
John C. Gatlin, regional director, Fish and Wildlife Service, Department of the Interior, Chicago, Ill.
George A. Godfrey, vice president, New Mexico Cattle Growers Association, Animas, N. Mex.
George Goze, Magdalena, N. Mex.
Manuel Gonzales, Santa Ana Pueblo, Bernalillo, N. Mex.
P. M. Gonzales, Zuni, N. Mex.
George A. Graham, attorney for New Mexico State Land Office, Santa Fe, N. Mex.
Leland O. Graham, Assistant Solicitor, Department of the Interior, Washington, D. C.
John L. Greenwald, district grazer, United States Grazing Service, Magdalena, N. Mex.
Juan Jose Griego, Ojo del Padre, N. Mex.
Juan Guerra, Grazing Service, United States Department of the Interior, Magdalena, N. Mex.
Perfecto Gurule, Pena Blanca, N. Mex.
Reyes Gurule, La Jara, N. Mex.
Epifanio Gutierrez, La Jara, N. Mex.
R. B. Hackler, Rincon, N. Mex.
Boyd, Hammond, assistant regional grazer, Grazing Service, Department of the Interior, Wyoming.
Mazone Harker, Zuni, N. Mex.
Albert Harrington, Correo, N. Mex.
Thomas C. Havell, General Land Office, Washington, D. C.

T. J. Helmann, Mosquero, N. Mex.
Mrs. V. M. Henderson, Datil, N. Mex.
Miss Volney Henderson, Datil, N. Mex.
Clement Hendricks, Flying H, New Mexico.
H. B. Hening, editor, the New Mexico Stockman, Box 616, Albuquerque, N. Mex.
Horace H. Hening, secretary, New Mexico Cattle Growers Association, Albuquerque, N. Mex.
E. O. Hemenway, land commissioner, Atchison, Topeka & Santa Fe Railway, Albuquerque, N. Mex.
Elmer Hepler, Queen route, Carlsbad, N. Mex.
Ed. Heringa, Clayton, N. Mex.
Jacobo De Herrera, Cuba, N. Mex.
Bill Hesch, Albuquerque Journal, Albuquerque, N. Mex.
Fred P. Higgins (New York Life insurance representative), 507 First National Bank Building, Albuquerque, N. Mex.
Edgar R. Hill (life insurance representative), 408 First National Bank Building, Albuquerque, N. Mex.
William A. Hilton, chief counsel, United States Grazing Service, 401 Walker Bank Building, Salt Lake City, Utah.
Bernardino Perry Hovey, Bernalillo, N. Mex.
Sam Hughes, Carlsbad, N. Mex.
Clyde Hunter, district supervisor, United States Indian Service, Nageezi, N. Mex.
Louis Jaramillo, Seboyeta, N. Mex.
Serafin Jaramillo, Box 35, Seboyeta, N. Mex.
Paul Johnson, Old Laguna, N. Mex.
Francis P. Johnson (life insurance representative), 507 First National Bank Building, Albuquerque, N. Mex.
J. C. Johnson, Tularosa, N. Mex.
Alton Jones, Alamogordo, N. Mex.
John M. Kelly, State geologist, State Capitol Building, Santa Fe, N. Mex.
Drue Kitchens, Cienega, N. Mex.
L. F. Kneipp, Assistant Chief, United States Forest Service, Washington, D. C.
Burton A. Ladd, superintendent, Hopi Indian Reservation, Keams Canyon, Ariz.
J. L. Lantow, Chief, Range Division, Soil Conservation Service, 505 South Wellesley, Albuquerque, N. Mex.
Carl Lausen, regional field examiner, General Land Office, Branch of Field Examination, Albuquerque, N. Mex.
F. W. La Rouche, United States Indian Service, Window Rock, Ariz.
Frank Lauriano, governor of Sandia Pueblo, Bernalillo, N. Mex.
Floyd W. Lee, president, New Mexico Wool Growers Association, San Mateo, N. Mex.
O. M. Lee, Jr., Alamogordo, N. Mex.
V. M. Lee, Alamogordo, N. Mex.
Joe H. Leech, Chief of Lands, United States Grazing Service, Salt Lake City, Utah.
Martin Lewis, Cienega, N. Mex.
Martin Lewis, Jr., Salt Flat, Tex.
D. F. Lewis, Cienega Route, Box 4, Salt Flat, Tex.
D. B. Lovato, La Jara, N. Mex.
Edubijen Lobato, Cabezón, N. Mex.
L. D. Love, Soil Conservation Service, Albuquerque, N. Mex.
Mariano Lucero, Marquez, N. Mex.
C. Luker, Soil Conservation Service, Albuquerque, N. Mex.
Frank B. Main, Mills, N. Mex.
Howard Major, 123 South Richmond, Albuquerque, N. Mex.
R. O. Mammon, Box 1, Laguna, N. Mex.
Jesus Manuel, Santa Ana Pueblo, Bernalillo, N. Mex.
Anastacio Marquez, Seboyeta, N. Mex.
Benedicto Marquez, Seboyeta, N. Mex.
Crestino Marquez, Marquez, N. Mex.
Gilbert Marquez, Marquez, N. Mex.
Max. Marquez, Marquez, N. Mex.
Walter K. Marmon, Laguna, N. Mex.
Mrs. Walter K. Marmon, Laguna, N. Mex.
George W. Marris, Roy, N. Mex.
Rufino Mastas, La Jara, N. Mex.

- Walter Mayer, Box 851, Santa Fe, N. Mex.
T. McAllaster, land commissioner, Southern Pacific Railway Co., 65 Market Street, San Francisco, Calif.
Jack McArron, Cienega, N. Mex.
William McCarty, Reserve, N. Mex.
J. R. McCollum, 1126 East Silver, Albuquerque, N. Mex.
I. T. McGregor, McGregor Land & Cattle Co., El Paso, Tex.
Lon D. Merchant, Capitan, N. Mex.
Gorgonio Mestas, Acomita, N. Mex.
Lorenzo Mestas, Cabezon, N. Mex.
Mike Michael, San Mateo, N. Mex.
Placido Mirabal, San Mateo, N. Mex.
F. E. Mollin, executive secretary, American National Livestock Association, 515 Cooper Building, Denver, Colo.
Jose C. Montoya, Cuba, N. Mex.
Jesus Maria Montoya, Cuba, N. Mex.
Jose Alcario Montoya, Pena Blanca, N. Mex.
Luis Montoya, La Jara, N. Mex.
Porfirio Montoya, Santa Ana Pueblo, Bernalillo, N. Mex.
L. B. Moore, Horse Springs, N. Mex.
Juan A. Mora, Cuba, N. Mex.
Eduvijen Mora, La Jara, N. Mex.
Juan Morales, La Jara, N. Mex.
Henry Natiwa, governor of Zuni Pueblo, Zuni, N. Mex.
Billie Narton, Box 847, Gallup, N. Mex.
H. W. Naylor, regional grazier, district 7, United States Grazing Service, Department of the Interior, Gallup, N. Mex.
Mrs. Franc Johnson Newcomb, State chairman of Indian welfare, Federated Women's Clubs, 1123 Las Lomas Road, Albuquerque, N. Mex.
Harry Roe Nieto, Box 40, Zuni, N. Mex.
Warren Ondelacy, Box 20, Zuni, N. Mex.
Steve Orilla, Box 76, Acomita, N. Mex.
Joe L. Ortiz, Box 84, San Fidel, N. Mex.
William T. O'Sullivan, attorney at law, First National Bank Building, Albuquerque, N. Mex.
Felix Otencio, Cuba, N. Mex.
Isabel Padilla, Box 56, Santa Fe, N. Mex.
Abel Paisano, secretary, All Pueblo Council, Casa Blanca, N. Mex.
Frank Paisano, Box 4, Paguete, N. Mex.
James R. Paisano, Post Office Box 594, Winslow, Ariz.
Joe Pankey, Box 551, Hot Springs, N. Mex.
Leo Pena, Santa Ana Pueblo, Bernalillo, N. Mex.
Johnnie Pattone, Zuni, N. Mex.
W. B. Payne, Capitan, N. Mex.
Vern Petersen, grazier, district 7, Grazing Service, Gallup, N. Mex.
Paul Phillips, soil conservationist, United States Indian Service, Window Rock, Ariz.
Frank C. W. Pooler, regional forester, United States Forest Service, Albuquerque, N. Mex.
George H. Powell, associate soil conservationist, Hopi Indian Agency, Keams Canyon, Ariz.
George K. Pradt, Laguna, Pueblo, Laguna, N. Mex.
John Prather, Albuquerque, N. Mex.
Kelsey Presley, Gallup, N. Mex.
Harold M. Ratcliff, National Park Service, Department of the Interior, Santa Fe, N. Mex.
Bud Rice, Budville, Cubero, N. Mex.
Charles A. Richey, National Park Service, Santa Fe, N. Mex.
Lecandro Rivera, Pena Blanca, N. Mex.
Ricardo Rivera, Pena Blanca, N. Mex.
Tiofilo, Pena Blanca, N. Mex.
Ysidro Rivera, Pena Blanca, N. Mex.
Paul A. Roach, register, United States district land office, Las Cruces, N. Mex.
Macario Romero, Ojo del Padre, N. Mex.
Juan N. Romero, Ojo del Padre, N. Mex.
Culbert C. Root, Albuquerque Journal, Albuquerque, N. Mex.

J. B. Runyan, Pinon, N. Mex.
R. H. Rutledge, director, Grazing Service, Salt Lake City, Utah.
Abel Salaz, Cuba, N. Mex.
H. M. Salmon, district grazier, 707 North Twelfth Street, Albuquerque, N. Mex.
Don Sanchez, governor of San Felipe Pueblo, Bernalillo, N. Mex.
Jose B. Sanchez, Box 96, Cubero, N. Mex.
Edward Sargent, Chama, N. Mex.
John C. Sarracino, governor of Laguna Pueblo, Baguate, N. Mex.
Walter Sarracino, New Laguna, N. Mex.
Homer Schell, Mills, N. Mex.
Amado Segura, Pena Blanca, N. Mex.
Julian Segura, Cuba, N. Mex.
Marcial Segura, Pena Blanca, N. Mex.
Perfecto Segura, Pena Blanca, N. Mex.
F. O. Seth, attorney at law, Santa Fe, N. Mex.
F. N. Sisneros, Hernandez, N. Mex.
Floyd T. Snyder, captain, Corps of Engineers, head division real estate suboffice, War Department, 115 South Third, Albuquerque, N. Mex.
Liter E. Spence, regional grazier, Grazing Service, Department of the Interior, Albuquerque, N. Mex.
Raymond B. Stamm, executive secretary, New Mexico Game Protective Association, postoffice Box 178, Albuquerque, N. Mex.
Frank Oliver Starr, Box 7, Cuba, N. Mex.
H. C. Stewart, Soil Conservation Service, Albuquerque, N. Mex.
James M. Stewart, general superintendent, Navajo Indian Agency, Window Rock, Ariz.
R. K. Stovall, Cutter, N. Mex.
A. E. Stover, Dulce, N. Mex.
R. L. Strong, Soil Conservation Service, Box 1354, Albuquerque, N. Mex.
J. Valentin Suazo, Abiquiu, N. Mex.
R. N. Thomas, Carlsbad, N. Mex.
M. R. Tillotson, regional director, Region III, National Park Service, Santa Fe, N. Mex.
Fred Tenorio, San Felipe Pueblo, Bernalillo, N. Mex.
Jim R. Toulouse, Albuquerque Tribune, Albuquerque, N. Mex.
Samuel Trujillo, Cuba, N. Mex.
Clarence Tso, Nageezi, N. Mex.
Miguel Urrea, Sandoval, N. Mex.
Domingo Vigil, Cuba, N. Mex.
Martin E. Vigil, Sr., Tesuque Pueblo No. 16, Santa Fe, N. Mex.
D. R. W. Wages-Smith, 531 North Hermosa Avenue, Albuquerque, N. Mex.
C. H. Ward, Hatch, N. Mex.
Joe C. Warf, Corona, N. Mex.
Virgil K. Whitaker, United States Indian School, Albuquerque, N. Mex.
W. T. Wimberley, Alamogordo, N. Mex.
Carl Welch, Grazier, Box 996, Roswell, N. Mex.
Claude E. Wood, grazing and timber department, State land office, Santa Fe, N. Mex.
P. V. Woodhead, assistant regional forester, United States Forest Service, Albuquerque, N. Mex.
Hugh B. Woodward, president, Albuquerque Game Protective Association, 211 North Second Street, Albuquerque, N. Mex.
Charles T. Hohenthal, field examiner, General Land Office branch field examination, 355 Federal Building, Salt Lake City 10, Utah.

Let me say that if there are groups or organizations, that wish to be represented by counsel here, they are at liberty to be represented by the counsel whom they may designate. Any organization or any group desiring to have their group or organization represented by attorney or counsel or by an individual, all that they will have to do is to designate that to the committee, and we will proceed accordingly. What is more, during the course of the hearings, if anyone in the audience desires to ask a question of a witness on the stand, or if any counsel or attorney for any group desires to interrogate, they may do so. I

find that the acoustics in this room are not any too good and the lights are not good; but we hope to improve both very shortly.

Governor Dempsey, did you desire to say anything at this time?

Governor DEMPSEY. Not at this time, Senator.

The CHAIRMAN. Mr. Secretary Chapman is here and has come all the way from Washington to represent the Interior Department. If he desires to make any statement at this time, we would be very glad to hear from him.

Assistant Secretary CHAPMAN. Mr. Chairman, Senator Chavez, Congressmen, and Governor Dempsey, I see some familiar faces here this morning, and it takes me back to 1934 when we had a meeting of the stock people of this State up at the university. I can see many cattle and sheep people who were interested in that at that time; and the Department was interested in their problems and is no less interested this morning. I, for one, welcome, and feel that a good conference and a clearing of our thoughts and understanding of the program that is being administered in any given area, is a healthy thing, and is good for the administration of the program itself. So, this morning, we welcome the opportunity for an open and free discussion of the problems of the stock people of this State. We realize some of the problems that you have been faced with; and I think that a good opportunity to clear our thoughts and a discussion of them here this morning will be most helpful.

I have no further statement to make at this time other than to say that Mr. Jim Stewart, who is the superintendent of the Navajo Agency, will present to you a pretty full picture of the historical background and the problems involved in the general land purchase problem of this area, specifically discussing district 7.

Senator, I believe that is all.

The CHAIRMAN. Thank you, Mr. Secretary.

Now, Mr. Stewart, if you wish to proceed with the explanation of the history of the district, district 7, you may do so.

If, at any time, the voice of the speaker does not reach the rear of the room, kindly let us know. We will try to adjust the acoustics here as best we can. I can realize, from the way my voice is shot back at me here, that I am not reaching, at times, those in the rear of the room; so don't hesitate to let us know.

It has been suggested, Mr. Stewart, that you go into the history of the acquisitions and formations of the district mentioned.

Mr. STEWART. And the other areas as well.

The CHAIRMAN. Very well.

Ladies and gentlemen, we are honored with the presence of Governor Dempsey of New Mexico, and I have prevailed on the Governor to say a few words to this group, while we are waiting for the adjustment of our facilities here.

STATEMENT OF GOVERNOR DEMPSEY OF NEW MEXICO

Governor DEMPSEY. Senator McCarran and members of the congressional delegation of New Mexico, ladies and gentlemen, I know you are as happy as I, and proud to have Senator McCarran and his committee here with us today. Unfortunately, Senator Abe Murdock has not arrived here and I do hope he will be here before the meetings have terminated. Senator McCarran is well known to us

all in New Mexico as a Member of Congress for some 10 years. It has been my privilege to have known the Senator quite intimately, and there is no man in the United States Senate for whom I have a greater regard.

In his statement to you he has put you on notice that anything you desire to say, you are privileged to say, and you need not worry about being penalized in the future by saying it. Senator McCarran comes from a Rocky Mountain State, and because of that, and because of the fact we were once a Rocky Mountain State, we have much in common. I think that if you will unburden yourselves as freely to this committee as you have to me on different occasions, and to others representing you, that our problems will be ironed out quite satisfactorily. I know of no committee that I would welcome more wholeheartedly, to our State, than the Committee on Public Lands of the United States Senate, and the subcommittee presided over by the able gentleman from Nevada, Senator McCarran.

We have many problems in connection with our public lands and this is the time to bring the problems to the attention of those who not only have the ability but, I am sure, the willingness to solve them to the extent they believe they should be solved for you. Thank you. [Applause.]

The CHAIRMAN. Thank you Governor, Let me say, at the outset, that the committee will be unable, and we deem it beyond our jurisdiction, to hear individual cases, unless individual cases exemplify a policy. What I mean by that is this, that where an individual case or a series of individual cases emphasize a policy pursued by a department or an administrator, then we will hear the individual cases, as exemplifying the policy. But where there are isolated cases showing a difference of opinion between an administrator and an individual and it does not appear to belong to a policy, this committee has no jurisdiction. You can readily understand that the time of the committee would not permit us hearing them. We would like to hear them, would like to aid in their solution, but it is utterly impossible. We will work long hours, we will work evenings, if necessary, and we will work earlier in the morning. We are here for a 3-day hearing and we will try to put in as much of the time as our physical endurance will permit us to do.

You may proceed, Mr. Stewart.

STATEMENT OF JAMES M. STEWART, SUPERINTENDENT, NAVAJO INDIAN AGENCY, WINDOW ROCK, ARIZ.

Mr. STEWART. This map was constructed so as to give the picture to the people here of the problem of administration, not only of the Indian Service but of the several other Government agencies involved in this area. It strikes me that the people here today, as throughout the State, are definitely interested in facts as to the Indian lands, in terms of acreages; Indian lands in terms of acquisition; lands, under the control of the Indian Service, that were purchased by the Resettlement Administration, the so-called submarginal-land program, not only in district 7 but also in the Rio Grande Valley. With the permission of the chairman, I would like, first of all, to touch upon the land-acquisition program that has taken place; has been completed several years

ago in the Rio Grande Valley; and, from that description, move on to district 7, if that is agreeable with the Chair.

The CHAIRMAN. Very well.

Mr. STEWART. During 1933 a good deal of emergency relief money was made available. As all of you know, the country was facing difficult times—livestock men, farmers, businessmen, and all were economically up against it. As a result of that condition the Congress made available certain relief moneys. Out of those relief moneys, some \$25,000,000 was allocated to certain bureaus of the Government.

Now, those bureaus, in order not to confuse you, were largely relief bureaus involved in rural relief—the Federal Emergency Relief Administration, the Federal Surplus Relief Corporation, and lastly, the completed agency of these lands purchases, the Resettlement Administration. So for the purpose of simplification I shall refer to these purchases as, let us say, Resettlement Administration purchases, because that is the term that is generally and commonly accepted as an identification of these purchases, Resettlement Administration purchases.

Now, then, some time in 1933 a plan of ultimate Pueblo Indian land expansion had been drafted by the Indian Service. That plan of expansion was, so to speak, put on the shelf for future use and reference if and when conditions and moneys became available for its execution. When the Resettlement Administration program, which, as I mentioned before, was inherited from the Federal Emergency Relief Administration; when that program was inaugurated these plans which I just mentioned, of land expansion, were taken out and submitted to the general agency handling this submarginal-land program. That agency was a bureau of the F. E. R. A. The name of this bureau is the Land Program, an unusual name and term, but that is and was the name of that bureau.

The CHAIRMAN. What is that? Will you please name it again?

Mr. STEWART. The Land Program.

The CHAIRMAN. The Land Program?

Mr. STEWART. Yes, sir.

That land-program agency was directed by Mr. J. S. Lansill, and it was through his direction that the Indian Service came into the picture of land acquisition. The procedure, and the rules, as laid down by Mr. Lansill, had, among other things, not merely the release of stranded rural populations but also the release of Indian groups that were more or less in an uneconomic situation insofar as obtaining a livelihood from land was concerned. The procedure and policies of this so-called land program are very interesting. I have a letter with me setting out what should constitute an Indian land program. I shall read parts of it, from time to time, as I go on.

Senator CHAVEZ. Who was it written by?

Mr. STEWART. This is a letter of policy written by Mr. Lansill, the Director of the Land Program, Senator Chavez.

Now, then, concurrent more or less with that land-acquisition program pursuant to these resettlement or land-program funds, there was in effect in the Pueblo area another land-acquisition program. That program was the result of an action or actions taken and completed by what was termed the Pueblo Lands Board, which was created, as many of you know, pursuant to an act of Congress passed in 1924.

That act of Congress, which was supplemented and amended by Congress in 1933, had for its purpose the resettlement of long controversial claims by Indians and non-Indians within these several pueblos up and down the Rio Grande Valley, which I have indicated on this map.

I would like to briefly mention some of the important parts of those two pueblo acts, because they do have an important bearing on subsequent, or concurrent, submarginal land-acquisition programs, which took place here. The Pueblo Lands Board Act of 1924 was a recognition by Congress that a chaotic condition of land ownership existed within these pueblos. Incidentally there are 19 pueblos involving approximately 3,000 non-Indian claimants. The act authorized the creation of a board whose responsibility was to investigate, determine, and report on the status of all land within the exterior boundaries; all lands claimed by the Pueblo Indians; and, further, in passing on non-Indian claims it was provided that all claims should prove either a continuous, exclusive, adverse possession under title since January 6, 1902, with taxes paid; or be continuous, specific, adverse possession since March 16, 1889, with taxes paid, without title. The act provided that the Board should investigate and report on the values of those lands and water rights, and that the United States should compensate the Pueblos for their losses of lands, water rights, and improvements; and, in case the title was extinguished on the part of the Government with respect to non-Indians, the Secretary of the Interior was requested, in fact, directed, to report his recommendations to Congress concerning losses suffered by those who could not meet the requirement of the Pueblo Land Board sufficiently to have the Indians' title to their lands extinguished, yet who initiated claims that dated to the Pueblo grant, prior to January 8, 1912. That act is quite lengthy.

Now, this Board performed its actions as to 7,400 claims, which were considered. Many of them were not allowed. The Indians—the subsequent act of 1933 gave the Indians an increased compensation by the Congress for losses. The non-Indian claimants were, by virtue of that same act and the prior 1924 act, paid directly for their claims. I mention this, because at the time of the land program this other program was in effect and a good deal of confusion has resulted in the minds of people as to which was which and why. Both were separate, both were involved, however, in acquiring lands for Pueblo Indians.

For the record, I would like to submit this factual information. It is a statement of purchases made within the pueblos pursuant to the Pueblo Lands Board Act, as amended. It gives the lists of all pueblos, the acreage acquired through purchase, the purchase price, together with acreage acquired through exchange processes as also authorized by the act. I merely would like to read the totals and submit this statement for the record.

The CHAIRMAN. Very well.

Mr. STEWART. The acreage acquired through purchase, pursuant to that Pueblo Lands Act, as amended, 49,830.183 acres; the total amount of compensation money paid out, \$357,641.91.

So much for the purchases. As to the exchange, acquired through exchange processes, 111.326 acres; and the Pueblo lands relinquished in the exchange process 137.267 acres.

(The statement referred to is as follows:)

United Pueblo Agency—Compensation, purchases, and exchanges

Pueblo	Acreage acquired through pur- chase	Purchase price	Acreage acquired through exchange	Acreage relin- quished in exchange
Cochiti.....	199.968	\$26,655.45	4.520	8.983
Isleta.....	1,308.76	13,382.36		
Jemez.....	9,652.031	7,900.00		
Laguna.....	7,795.10	31,955.00		
Nambe.....	85.565	13,614.31	10.662	19.442
Picuris.....	58.464	5,222.05	30.394	35.632
Pojoaque.....	22.468	3,762.50	8.228	12.113
San Felipe.....	2,324.875	53,863.39		
San Ildefonso.....	320.500	44,290.05	6.043	7.168
San Juan.....	38.014	14,680.16	29.918	30.709
Santa Ana.....	331.721	2,371.37		
Santa Clara.....	230.541	51,558.90	21.561	26.22
Santo Domingo.....	132.76	15,050.00		
Taos.....	27,011.366	59,336.37		
Tesuque.....	318.05	14,000.00		
Total.....	49,830.183	357,641.91	111.326	137.267

Mr. STEWART. Now then, to get to the authorities for the submarginal land purchase; that is quite important. The authority for these purchases was originally contained in the National Indian Recovery Act of June 16, 1933, and section 55 of the act of August 24, 1935, later known as the Agricultural Adjustment Act, section 55 of which reads as follows:

There is hereby made available, out of any money appropriated by the Emergency Relief Appropriation Act of 1935, such amount as the President may allot for the development of a national program of land conservation and land utilization. The sums so allotted may be used, in the discretion and under the direction of the President, for the acquisition of submarginal lands and their use for such public purposes as the President shall prescribe.

In carrying out the provisions of this section the President is authorized: (a) to make contracts and grants; and (b) to acquire, by purchase, any real property or any interest therein (with or without reservations) in accordance with the policy herein set forth.

That is the authority under which this tremendous submarginal land program was inaugurated and not quite completed.

The CHAIRMAN. Does your tabulation, just offered for the record, contain the land purchased under the submarginal program?

Mr. STEWART. No, sir; that is coming.

The CHAIRMAN. That is a separate list?

Mr. STEWART. I am concerned with giving this committee, and the people here, a true picture of the total lands owned by Indians in this State; not those controlled, but lands owned by the Indians, as differentiating from those that have been turned over, through Executive order of one type or another, to the administration of the Indian Service. I shall also include that, subsequently.

The CHAIRMAN. With reference to these lands, to which you have last made reference, purchased under the submarginal program, were they turned over to the Indians after purchase?

Mr. STEWART. Partly so, yes, sir. I would like to lead up to that.

The CHAIRMAN. Very well.

Mr. STEWART. Would the committee care to have the procedure and policies of the land program and the Resettlement Administra-

tion, insofar as this purchase program is concerned, read or submitted for the record?

The CHAIRMAN. How voluminous is it? I think you can state it better than reading it. If it is not too voluminous, perhaps we might put it in the record.

Mr. STEWART. I would like to have that, sir.

The CHAIRMAN. Very well. It will be inserted here.

(The information requested is as follows:)

PROCEDURES AND POLICIES

The first allocation of moneys for this submarginal land acquisition program was made to the Federal Surplus Relief Corporation, and a program was set up by resolution adopted December 28, 1933, which provided in part that such lands "shall be lands that in total amount balance against the land, the reclamation or improvement of such has been provided for under the comprehensive program of public works on condition that counterbalancing lands be withdrawn from conservation."

This program was found to be inadequate, and under date of July 24, 1934, this allocation of money was transferred to the Federal Emergency Relief administration for the purpose of carrying out a program of land acquisition, outlined in a memorandum signed by Mr. John S. Lansill, director of the land program, under date of July 16, 1934. This memorandum was designed to extend the scope of land purchases so as to provide for the acquisition of lands for the rehabilitation and betterment of the economic condition of population groups. It included the following:

"Demonstration Indian lands projects: These include land projects in which land to be purchased is to be used primarily for the benefit of the Indians, under the jurisdiction of the Bureau of Indian Affairs, Department of the Interior."

In listing the objectives of the land program, Mr. Lansill states that one of these is "improvement of the economic and social status of 'industrially stranded population groups,' occupying essentially rural areas, including readjustment and rehabilitation of Indian population by acquisition of lands to enable them to make appropriate and constructively planned use of combined land areas in units suited to their needs." Attached hereto and made a part hereof is copy of letter dated July 14, 1934, addressed to the Commissioner of Indian Affairs, signed by Mr. Lansill as Director, land program of the Federal Emergency Relief Administration, and which covers changes made in the administrative structure of the land program. Also attached and made a part hereof is copy of the memorandum of July 16, 1934, above referred to.

Subsequently, on January 1, 1935, the Director, the land program, furnished a written statement outlining in detail the policy of the land program and initiating acquisition of land for Indian use. This statement or declaration of policy was approved by the Commissioner of Indian Affairs, and a copy thereof is attached hereto and made a part hereof. Particular attention is invited to this detailed declaration of policy.

Mr. STEWART. There were four major project approvals by the so-called lands program, among which item No. 3 is entitled "Demonstration Indian Land Project." These include projects in which land to be purchased is to be used primarily for the benefit of the Indians under the jurisdiction of the Bureau of Indian Affairs, Department of the Interior. In addition to that were projects of the following types: Demonstrational agricultural projects, demonstrational recreational projects, demonstration Indian lands projects, and demonstration wildlife projects. That is the total of the major project requirements. With your permission, I would like to submit this document for the record.

(The matter referred to is as follows:)

MEMORANDUM

JULY 16, 1934.

To: Hon. Harold L. Ickes, Secretary, Department of the Interior.

From: John S. Lansill, Director, land program, Federal Emergency Relief Administration.

Various conferences have been held during the past 3 months for the purpose of formulating a land-acquisition program. Active investigation in the field by the agencies cooperating in the land program has led to the necessity of reconsidering the plan and scope of the land program. The necessity for such reconsideration is agreed to by all land-use agencies involved in the land program of the Federal Emergency Relief Administration.

As a result of these conferences, in which the President, Secretary of the Interior, Secretary of Agriculture, Federal Emergency Relief Administration, and the Governor of the Farm Credit Administration have participated, it is understood that the following program of projects will be carried out under the authority of the Federal Emergency Relief Administration to expend funds for these purposes.

A. Projects will be of the following major types:

(1) *Demonstrational agricultural projects.*—These include projects in which the major use (or combination of uses) of land to be purchased includes farming, forestry, or other uses falling within the administrative jurisdiction of the Department of Agriculture.

(2) *Demonstration recreational projects.*—These include projects in which the land to be purchased is to be used primarily for recreational purposes, as submitted by the National Park Service, Department of the Interior.

(3) *Demonstration Indian lands projects.*—These include projects in which land to be purchased is to be used primarily for the benefit of the Indians, under the jurisdiction of the Bureau of Indian Affairs, Department of the Interior.

(4) *Demonstration wildlife projects.*—These include projects in which land to be purchased is to be used primarily to carry out the wildlife program of the Biological Survey of the Department of Agriculture.

(5) *Other demonstration projects.*—These will include projects which may be suggested by authorized Federal or State agencies not above named.

B. The land program has three major phases:

(1) The purchase of land.

(2) The conversion of land purchased to a use beneficial to the people of the United States.

(3) The permanent rehabilitation of the population at present living on land purchased.

C. The objectives of the land program will include:

(1) Conversion of poor land to other and more proper uses.

(2) Prevention of the misuse of land by erosion or other causes, and a restoration of land productivity.

(3) Improvement of the economic and social status of families occupying poverty farms.

(4) Improvement of the economic and social status of "industrially stranded population groups," occupying essentially rural areas, including readjustment and rehabilitation of Indian population by acquisition of lands to enable them to make appropriate and constructively planned use of combined land areas in units suited to their needs.

(5) Reducing the costs of local governments and of local public institutions and services.

(6) Encouragement of land-use planning by setting up experimental projects which will serve as repeatable demonstrations of types of adjustments applicable to various regions in the United States.

D. In general, it is understood that whenever land is being misused or whenever land may be put to a different and more beneficial use, such land may be acquired under the land program of the Federal Emergency Relief Administration.

JOHN S. LANSILL.

FEDERAL EMERGENCY RELIEF ADMINISTRATION,

*Washington, July 14, 1934.***MR. JOHN COLLIER,***Commissioner, Bureau of Indian Affairs,**Washington, D. C.*

DEAR MR. COLLIER: There have been certain changes made in the administrative set-up of the land program which are passed on to you for guidance in connection with Indian lands projects.

To clarify the new procedure, the following is enumerated:

(1) A grant of \$25,000,000 by the Public Works Administration has been made to the Federal Emergency Relief Administrator for purchase of submarginal farm lands. A grant of \$12,500,000 has been made to the Federal Emergency Relief Administration through the deficiency bill appropriation, for purchase of stricken agricultural lands in the drought areas.

(2) The Federal Emergency Relief Administrator has placed me in charge of the land program, both the land acquisition and the resettlement phases, which hereafter will function through the Rural Rehabilitation Division of the Federal Emergency Relief Administration, instead of through the Federal Surplus Relief Corporation.

(3) The Federal Emergency Relief Administrator has given me authority to secure through the regular channels sums necessary for resettlement and land acquisition.

(4) Regional representatives of the land program will be charged with the responsibility for all projects within their respective region. This will include the development of detailed plans for land acquisition and resettlement, which will be prepared under the direction of technical agencies, such as the Office of Indian Affairs for Indian land projects, the Land Policy Section of the Agricultural Adjustment Administration for agricultural projects, and the National Park Service for recreational projects.

(5) Detailed plans of all projects are to be approved by: First, the regional representative; second, by the technical Federal agency; and third, by myself; after which orders will be issued through the required channels for expenditure of funds for land acquisition, and by grants to the State relief administration, then to the Rural Rehabilitation Corporation, for resettlement.

(6) Col. Lawrence Westbrook, Assistant Administrator in charge of Rural Rehabilitation, will organize a rural rehabilitation corporation in each State, comprised of seven directors, four of whom will be the regional representative of the land program, the field representative of the Federal Emergency Relief Administration, the director of the State agricultural extension service, and the State relief administrator. These four will nominate the three additional directors.

(7) The execution of approved plans for resettlement will be done by the State rural rehabilitation corporation, with the regional representative of the land program reporting to me as to progress and execution of the plan and policies agreed upon.

Considerable red tape will be eliminated by the above procedure. As it relates to the Office of Indian Affairs, the procedure would be as follows:

Detailed plans for Indian land projects would be developed by the Office of Indian Affairs. These plans, together with options and the endorsement of the regional representative of the land program, would be forwarded to your office for approval. When the plans are approved by your office they should be submitted to me with a definite request to the Federal Emergency Relief Administrator to purchase the land specified in the plans, in accordance with the terms and conditions of the funds granted to the Federal Emergency Relief Administrator for purchase of submarginal lands. After clearance of titles by our Legal Division the necessary orders will be given for the purchase of land.

At the present time \$2,500,000 of the original grant of \$25,000,000 for land purchase has been reserved for Indian lands projects. I hope that you can submit, at the earliest moment, projects totalling this amount. I should like also to receive from you, through the same procedure, projects totalling at least \$1,500,000 additional. It is extremely important that the land purchase program begin at once. Any help that you can give to speed up operations will be appreciated. The land program is anxious to cooperate with you fully. If there is anything in this letter which is not clear will you please get in touch with this office.

Sincerely yours,

J. S. LANSILL,

Director of Land Program.

Mr. J. O. SETH. My name is J. O. Seth. I am representing the cattle growers and sheep and wool growers of the State of New Mexico. Is there a copy of that, Mr. Stewart?

Mr. STEWART. Yes, sir.

Mr. SETH. Will you please submit us a copy of that?

Mr. STEWART. Certainly.

I would like to ask if Mr. Formhals is here with the summarization of the total purchases?

Pursuant to this approved program certain projects, as they were termed, were set up. The approval of those projects as such, originally set up by the Indian Bureau, had to be approved by the original director of the then land program, subsequently by the Resettlement Administration, which had its headquarters in Ogden, Utah, and in turn had to be approved in Washington by the land program itself. The program or project was set up in what is called the Taiwan Basin project, the northern pueblo area; and then another or several projects were set up covering the central groups of pueblos down to this point and westward over Acoma to Zuni. I won't go into details because they are voluminous but, very briefly, the total purchases under this program were 851,339 acres.

Senator CHAVEZ. That is for the pueblos alone; you are talking now for the pueblos alone.

Mr. STEWART. At the moment, yes, sir. Unfortunately, within these project area boundaries were a considerable number of small operators, livestock operators. We received sudden directions, late in the fiscal year, leading up to the calendar date of June 30, 1937—we received sudden directions from the authorities of the Resettlement Administration that the funds had been drastically cut and no more options would be taken after June 30, 1937, and some of the projects were uncompleted. Some of the people in those project areas were left in there completely confused.

Recognizing that situation, the two Secretaries, the Secretary of Agriculture and the Secretary of the Interior, arranged and agreed for the creation of a board known as the Interdepartmental Rio Grande Advisory Board, which would have for its purpose and its responsibility the study and planning of a division of use of these large areas of submarginal lands heretofore purchased. That took place, and out of that total of 851,339 acres some 434,447 acres was designated to the agency of that Board for non-Indian use, leaving for Indian use, out of the total, 416,892 acres.

I have here a copy of the document approving the creation of that Board. It is very brief, and I would like to submit it for the record.

The CHAIRMAN. Approving by whom?

Mr. STEWART. Secretary Wallace and Secretary Ickes.

The CHAIRMAN. Who constituted the membership of that Board?

Mr. STEWART. Representatives of the several bureaus within the two Departments.

The CHAIRMAN. Have you their names?

Mr. STEWART. No; I do not have them; but one of the members of the Board is here present and has indicated his willingness to discuss details of the Board, its membership, and its actions.

Senator CHAVEZ. Of what Department?

Mr. STEWART. Mr. John Adams, of the United State Forest Service, is here.

The CHAIRMAN. If there is anyone now who has the names of the membership of that Board, we would like to have them stated.

Mr. JOHN ADAMS (United States Forest Service). Mr. Chairman, there were three representatives from the Department of the Interior. The General Land Office was represented by Antoinette Funk, the Grazing Service was represented by A. D. Ryan, and the Indian Service by Walter V. Woehlke. In Agriculture I was the representative of the Forest Service, E. Shevsky was a representative of the Soil Conservation Service, and the Farm Security representative was Maurice Kelso.

Senator CHAVEZ. Did you have one from the Bureau of Agricultural Economics?

Mr. ADAMS. I might correct one statement there; the two Secretaries appointed this committee to make a study of the conditions and, at the conclusion of that, we made certain recommendations. We recommended that a board be set up and that board was to constitute four members from Agriculture and four members from Interior. From then on we made our recommendations as to the divisions of these purchases.

The CHAIRMAN. You say "we recommended"?

Mr. ADAMS. I mean the Rio Grande Board.

The CHAIRMAN. Let me get that straight again. The Rio Grande Board is the board whose membership you have just mentioned?

Mr. ADAMS. No; that was the committee the Secretary appointed. He appointed the committee, and at the conclusion of their study recommendations were made, and those recommendations included the setting up as an interdepartmental board, of which there would be four members from Interior and four members from Agriculture.

The CHAIRMAN. For administrative purposes?

Mr. ADAMS. Advisory; in order to integrate and coordinate the Federal program operating in the Rio Grande Valley.

The CHAIRMAN. Was its purpose administration?

Mr. ADAMS. No; to advise.

The CHAIRMAN. Who was going to administer?

Mr. ADAMS. Separate agencies would do the administration, but the Board would endeavor to coordinate the program.

The CHAIRMAN. Who constituted that board finally?

Mr. ADAMS. The Board as set up was, from the General Land Office, Guy V. Harrington; the Grazing Service was represented by A. D. Ryan; the Indian Service by Walter V. Woehlke; and the Bureau of Reclamation by J. C. Foster. In the Department of Agriculture the Soil Conservation Service was represented by Hugh G. Calkins, the Bureau of Agricultural Economics was represented by Maurice Kelso, the Farm Security Administration was represented by Ralph Weil, and the Forest Service by myself. The Board was set up with a memorandum of understanding which outlined what its duties and responsibilities were and how they were to advise the Federal agencies operating in the drainage basin.

The CHAIRMAN. What became of that board finally?

Mr. ADAMS. For the duration the Board is, you might say, quiescent. Up to that time we worked with all agencies in the Rio Grande watershed endeavoring to coordinate and integrate their programs.

The CHAIRMAN. Very well.

Mr. STEWART. Mr. Chairman, this is a copy of the memorandum of understanding approved by the two Secretaries that Mr. Adams just referred to. I would like to submit it for the record.

The CHAIRMAN. It may go in the record.

(The statement is as follows:)

MEMORANDUM OF UNDERSTANDING BETWEEN THE DEPARTMENT OF AGRICULTURE AND THE DEPARTMENT OF THE INTERIOR FOR THE CREATION AND FUNCTIONING OF THE INTERDEPARTMENTAL RIO GRANDE BOARD

The drainage area of the upper Rio Grande River is one of the largest western watersheds and one of the oldest areas of settled human habitation in the United States. Approximately one-half of the surface area of this watershed is still in the possession of the United States. Through more than a century of intensive misuse and overuse of the basic resources of soil and water, the watershed has, because of overgrazing and the resulting accelerated erosion, suffered loss of its topsoil and is now in a critical condition. At the same time the pressure of the population upon the inequitably distributed basic resources has greatly increased. As a result of these factors, a very large proportion of the rural population and a smaller proportion of the urban population has become dependent upon the Federal Government for a part of its living through direct and work relief, and the programs of several Federal agencies have been made difficult of execution. These conditions, as set forth in the Report of the Interdepartmental Rio Grande Committee of October 1937, make necessary early remedial action through the coordination of the activities of the Federal agencies operating in the watershed in order that such agencies may be enabled effectively to carry out their respective programs.

In order to bring about this coordination and correlation of Federal activities and to make possible closer cooperation between the Federal agencies and the State and other public and private agencies, the Department of Agriculture and the Department of the Interior enter into the following understanding:

UNDERSTANDING

The Secretary of Agriculture and the Secretary of the Interior agree to designate representatives of various bureaus in their respective departments to form a committee to be known as the Interdepartmental Rio Grande Board. The Secretary of Agriculture agrees to designate as members of the Board a representative of the Forest Service, a representative of the Soil Conservation Service, a representative of the Bureau of Agricultural Economics, and a representative of the Farm Security Administration. The Secretary of the Interior agrees to designate as members of the Board a representative of the Office of Indian Affairs, a representative of the Division of Grazing, a representative of the Bureau of Reclamation, and a representative of the Department. The Secretary of Agriculture and the Secretary of the Interior will from time to time designate other members of their respective Departments to work with the Board in an advisory capacity.

The Chairman and the Vice Chairman of this Board shall be designated by the two Secretaries from the membership of the Board.

The Chairman, with the approval of the Board, shall be authorized to arrange with the appropriate member bureaus for detail of the full or part-time services of necessary technical and clerical assistants.

It is mutually agreed that during the life of the permanent board each member organization will contribute for the use of the permanent board personal services and other facilities as may be necessary to effectuate the purposes of this understanding.

It shall be the duty of the Board to recommend to the heads of the participating agencies appropriate policies and programs which will correlate and coordinate the activities of the Federal agencies operating in the watershed and to obtain the cooperation of other public agencies, corporations, and persons in making effective an approved long-term program of land use, social, and economic adjustments.

The Board shall have the following functions:

Through the heads of the Federal agencies represented on the Board to call for reports, data, statistical, or other pertinent information necessary for the proper performance of its function.

With the approval of the participating agencies to initiate and organize multiple-phase surveys of the watershed, to set up standards and establish unified procedure for these surveys, and to assist in the uniform interpretation of the results of investigations.

To formulate programs of land-use adjustments for the various subdrainages of the watershed, to recommend priorities of planning and of action for these subdrainages according to the critical nature of the problems.

To assist the several Federal agencies in carrying out those parts of the total watershed program within the scope of their respective fields.

To negotiate with and obtain the cooperation of State planning commissions, State and other public officials, and other public and private interests in bringing about land use, economic, and social adjustments.

To recommend, to the Secretaries of Agriculture and of the Interior, legislation for the facilitation of proper land use, economic, and social adjustments.

To recommend to the departments changes in the rules and regulations of the Federal agencies participating in land-use adjustments within the watershed.

To recommend to the Secretaries of Agriculture and Interior the name, salary, and duties of an executive officer to serve the Board on a full-time basis.

Through the heads of the participating agencies, to call for progress reports concerning those parts of the watershed and subdrainage programs undertaken by them.

The territory to be served by the Board shall be the watershed of the upper Rio Grande River in the States of New Mexico and Colorado. The Board may by agreement of the Secretaries extend the territory to the contiguous inland drainages and related contiguous areas.

This memorandum of understanding shall remain in force until terminated. It may be terminated in 90 days by either Secretary upon giving written notice.

The Interdepartmental Rio Grande Board shall be guided as to policy and objectives by recommendations Nos. 2, 3, and 4 of the Interdepartmental Rio Grande Committee.

MARCH 25, 1938.

HAROLD L. ICKES,
Secretary of the Interior.

MARCH 21, 1938.

HENRY A. WALLACE,
Secretary of Agriculture.

The CHAIRMAN. Perhaps if you have copies it might be well to submit the copies to the representatives of the organizations here.

Mr. STEWART. Subsequent to the actions of this Interdepartmental Board and the findings, certain of the purchased areas were, by Executive order, transferred to the jurisdiction of the Secretary of the Interior for administration by the Commissioner of Indian Affairs. More or less concurrently, similar Executive orders were promulgated transferring jurisdiction over a good deal of the area to the Secretary of Agriculture for administration for the benefit of non-Indians. Copies of those Executive orders are in the process of being made and, if it is agreeable, I think it would be helpful for the future historical record if they could be made a part of this committee record.

The CHAIRMAN. What is that?

Mr. STEWART. Copies of the Executive order signed by the President transferring the administrative jurisdiction to the respective Secretaries of the Interior and of Agriculture as to a good deal of this submarginal land purchase.

Senator CHAVEZ. The one that belonged to the non-Indians, to be used by the non-Indians, went to Agriculture and the one to be used by the Indians went to the Interior?

Mr. STEWART. That is right.

The CHAIRMAN. Those Executive orders may be inserted in the record. I think they belong in the record to make the story complete.

(The Executive orders are as follows:)

EXECUTIVE ORDER

TRANSFER OF JURISDICTION OVER CERTAIN LANDS FROM THE SECRETARY OF AGRICULTURE TO THE SECRETARY OF THE INTERIOR

NEW MEXICO

Whereas certain lands, together with the improvements thereon, largely contiguous or in close proximity to existing Indian Reservations, in the State of New Mexico, have been, or are in the process of being, acquired in connection with the projects hereinafter designated, under authority of Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and section 55 of Title I of the act of August 24, 1935 (49 Stat. 750, 781); and

Whereas it appears that the transfer of jurisdiction over such lands from the Secretary of Agriculture to the Secretary of the Interior for administrative purposes would be in the public interest; now, therefore, by virtue of and pursuant to the authority vested in me under the aforesaid National Industrial Recovery Act, the Emergency Relief Appropriation Act of 1935, and the act of August 24, 1935, it is hereby

Ordered, That jurisdiction over the hereinafter-described lands, together with the improvements thereon, acquired or in the process or acquisition by the United States in connection with the hereinafter designated projects, be, and it is hereby, transferred from the Secretary of Agriculture to the Secretary of the Interior; *Provided*, however, that the Secretary of Agriculture shall retain such jurisdiction over the lands now in process of acquisition by the United States as may be necessary to enable him to complete the purchase of such lands; and the Secretary of the Interior is hereby authorized (1) to administer, through the Commissioner of Indian Affairs, such lands for the uses for which they were, or are in the process of being acquired, and insofar as consistent with such uses, for the benefit of such Indians as he may designate, (2) in connection with the administration of such lands to exercise all powers and functions, insofar as they may relate to these lands, conferred upon the Secretary of Agriculture by Executive Order No. 7530 of December 31, 1936, and Executive Order No. 7557 of February 19, 1937, and (3) to prescribe such rules and regulations as may be necessary to carry out the purposes of this order:

Sia-Santa Ana Project, LI-NM-6

Sandoval County, New Mexico

T. 14 N., R. 1 E.: Secs. 1, 3, 11, 13, 15, 23, 25, 27, and 35.

T. 15 N., R. 1 E.; Sec. 1, lots 1 to 4, inclusive, and that part lying within the San Ysidro Land Grant; sec. 2, lots 1 and 2, and that part lying within the San Ysidro Land Grant; sec. 3, lots 1 to 4, inclusive, and that part lying within the San Ysidro Land Grant; secs. 4 and 5, those parts lying within the San Ysidro Land Grant; sec. 11, all; sec. 12, $N\frac{1}{2}NE\frac{1}{4}$, $SE\frac{1}{4}NE\frac{1}{4}$, and $N\frac{1}{2}NW\frac{1}{4}$; sec. 13, $NW\frac{1}{4}$, $SW\frac{1}{4}$, and $SE\frac{1}{4}$; secs. 15 and 23, all; sec. 24, $NE\frac{1}{4}$, $NW\frac{1}{4}$, $SW\frac{1}{4}$, and $N\frac{1}{2}SE\frac{1}{4}$; secs. 25, 27, and 35, all.

T. 16 N., R. 1 E.: Secs. 31 to 36, inclusive, those parts lying within the San Ysidro Land Grant.

T. 14 N., R. 2 E.: Sec. 3, lots 9 to 12, inclusive $S\frac{1}{2}SW\frac{1}{4}$, and $S\frac{1}{2}SE\frac{1}{4}$; sec. 5, lots 9 to 12, inclusive, $S\frac{1}{2}SW\frac{1}{4}$ and $S\frac{1}{2}SE\frac{1}{4}$; sec. 7, lots 1 to 4, inclusive, $NE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, and $SE\frac{1}{4}$; sec. 9, all; sec. 11, $W\frac{1}{2}NE\frac{1}{4}$; $NW\frac{1}{4}$, $SW\frac{1}{4}$, and $W\frac{1}{2}SE\frac{1}{4}$; secs. 15, 19, and 21, all; sec. 23, $W\frac{1}{2}NE\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$, and $W\frac{1}{2}SE\frac{1}{4}$; secs. 27, 29, 31, and 33, all; sec. 35, lots 2 to 4, inclusive, $W\frac{1}{2}NE\frac{1}{4}$, $NW\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}$, and $NW\frac{1}{4}SE\frac{1}{4}$.

T. 15 N., R. 2 E.; Secs. 1 and 2, those parts lying within the San Ysidro Land Grant; sec. 3, lots 1 to 4, inclusive, and that part lying within the San Ysidro Land Grant; sec. 4, that part lying within the San Ysidro Land Grant; sec. 5, lots 1 to 4, inclusive, and that part lying within the San Ysidro Land Grant; sec. 6, that part included in Claim No. 4163 F. C.-302, patented May 16, 1934, and that part lying within the San Ysidro Land Grant; sec. 7, lots 1 and 2, $SE\frac{1}{4}$, $NW\frac{1}{4}$, $W\frac{1}{2}SW\frac{1}{4}$, and that part included in Claim No. 4163 F. C.-302 patented May 16, 1934; sec. 9, lots 1 to 4, inclusive, $N\frac{1}{2}NE\frac{1}{4}$, and $N\frac{1}{2}NW\frac{1}{4}$; sec. 11, lots 2 to 4, inclusive, $NW\frac{1}{4}NE\frac{1}{4}$, and $N\frac{1}{2}NW\frac{1}{4}$; sec. 19, lots 1 to 4, inclusive, and $SW\frac{1}{4}$; sec. 31, lots 1 to 4, inclusive, $NW\frac{1}{4}$, and $SW\frac{1}{4}$.

T. 16 N., R. 2 E.: Secs. 31 to 36, inclusive, those parts lying within the San Ysidro Land Grant.

T. 15 N., R. 3 E.: Secs. 1 to 4, inclusive, those parts lying within the Ojo de Borrego Land Grant; secs. 5 and 6, those parts lying within the San Ysidro Land Grant; secs. 9 to 12, inclusive, those parts lying within Ojo de Borrego Land Grant.

T. 16 N., R. 3 E.: Secs. 13 to 16, inclusive, those parts lying within the Ojo de Borrego Land Grant; sec. 17, SW $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 18, SE $\frac{1}{4}$ SE $\frac{1}{4}$; sec. 19, NE $\frac{1}{4}$ NE $\frac{1}{4}$; sec. 20, NW $\frac{1}{4}$ NW $\frac{1}{4}$; sec. 21 to 28, inclusive, those parts lying within the Ojo de Borrego Land Grant; sec. 31, that part lying within the San Ysidro Land Grant; secs. 33 to 36, inclusive, those parts lying within the Ojo de Borrego Land Grant.

T. 15 N., R. 4 E.: Secs. 5 to 8, inclusive, those parts lying within the Ojo de Borrego Land Grant; sec. 29, NE $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 16 N., R. 4 E.: Secs. 8, 17 to 20, inclusive, and 29 to 32, inclusive, those parts lying within the Ojo de Borrego Land Grant.

Laguna Project, LI-NM7

Sandoval, Bernalillo, and Valencia Counties, New Mexico, New Mexico
Principal Meridian

T. 6 N., R. 1 W.: Sec. 7, lot 1.

T. 10 N., R. 1 W.: Secs. 5 and 7, all; sec. 9, lots 1 to 4 inclusive, NW $\frac{1}{4}$ and SW $\frac{1}{4}$; secs. 17 and 19, all; sec. 21, lots 1 to 4, inclusive, W $\frac{1}{2}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$; secs. 29 and 31, all; sec. 33, lots 1 to 5, inclusive, W $\frac{1}{2}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 11 N., R. 1 W.: Secs. 4 to 9, inclusive, 16 to 21, inclusive, and 28 to 30, inclusive, those parts lying within the Bernabe de Montano Land Grant.

T. 12 N., R. 1 W.: Secs. 4 to 9, inclusive, 16 to 21, inclusive, and 28 to 33, inclusive, those parts lying within the Bernabe de Montano Land Grant.

T. 13 N., R. 1 W.: Secs. 19 to 21, inclusive, and 28 to 33, inclusive, those parts lying within the Bernabe de Montano Land Grant.

T. 10 N., R. 2 W.: Secs. 1 and 3, all; sec. 4, lots 2 to 4, inclusive, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$; secs. 5, 7, 9, and 11, all; sec. 12, SW $\frac{1}{4}$; secs. 13 to 15, inclusive, and 17, all; sec. 19, lots 3 and 4, E $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$; secs. 21 to 23, inclusive, all; sec. 24, NE $\frac{1}{4}$ and NW $\frac{1}{4}$; secs. 25, 27, and 29, all; sec. 31, E $\frac{1}{2}$ NW $\frac{1}{4}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 32, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$; secs. 33 and 35, all.

T. 11 N., R. 2 W.: Secs. 1 and 2, those parts lying within the Bernabe de Montano Land Grant; sec. 3, lots 1 to 4, inclusive, and that part lying within the Bernabe de Montano Land Grant; secs. 5, 7, and 9, all; secs. 10 to 14 inclusive, those parts lying within the Bernabe de Montano Land Grant; sec. 15, lots 1 to 4, inclusive, and that part lying within the Bernabe de Montano Land Grant; sec. 17, all; sec. 18, lots 1 and 2, E $\frac{1}{2}$ NW $\frac{1}{4}$ and SE $\frac{1}{4}$; secs. 19 and 21, all; secs. 22 to 24, inclusive, those parts lying within the Bernabe de Montano Land Grant; sec. 25, lots 1 to 4, inclusive, SW $\frac{1}{4}$, SE $\frac{1}{4}$ and that part lying within the Bernabe de Montano Land Grant; sec. 26, that part lying within the Bernabe de Montano Land Grant; sec. 27, lots 1 to 5, inclusive, SW $\frac{1}{4}$, SE $\frac{1}{4}$, and that part lying within the Bernabe de Montano Land Grant; sec. 29, all; sec. 30, E $\frac{1}{2}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$; sec. 31, all; sec. 32, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$; secs. 33 and 35, all.

T. 12 N., R. 2 W.: Secs. 1 and 2, those parts lying within the Bernabe de Montano Land Grant; sec. 3, lots 1 to 4, inclusive, and that part lying within the Bernabe de Montano Land Grant; sec. 5, all; sec. 7, lots 1 to 5, inclusive, NE $\frac{1}{4}$, and SE $\frac{1}{4}$; sec. 9, all; secs. 10 to 14, inclusive, those parts lying within the Bernabe de Montano Land Grant; sec. 15, lots 1 to 4, inclusive, and that part lying within the Bernabe de Montano Land Grant; secs. 17, 19, and 21, all; secs. 22 to 26, inclusive, those parts lying within the Bernabe de Montano Land Grant; sec. 27, lots 1 to 4, inclusive, and that part lying within the Bernabe de Montano Land Grant; secs. 29, 31, and 33, all; secs. 34 to 36, inclusive, those parts lying within the Bernabe de Montano Land Grant.

T. 13 N., R. 2 W.: Sec. 21, lots 1 to 4, inclusive, S $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$; secs. 22 to 26, inclusive, those parts lying within the Bernabe de Montano Land Grant; sec. 27, lots 1 to 4, inclusive, and that part lying within the Bernabe de Montano Land Grant; sec. 29, lots 1 and 2, NE $\frac{1}{4}$ S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and SE $\frac{1}{4}$; sec. 31, lots 1 to 4, inclusive, E $\frac{1}{2}$ NE $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$; sec. 33, all; secs. 34 to

36, inclusive, those parts lying within the Bernabe de Montano Land Grant.

T. 9 N., R. 3 W.: Secs. 1, 3, 5, 7, and 9, all; sec. 11, lots 1 to 5, inclusive; sec. 15, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$; secs. 17, 19 and 21, all; sec. 23, lots 1 and 2; sec. 27, SW $\frac{1}{4}$ and SE $\frac{1}{4}$; sec. 29, 31 and 33, all; sec. 35, lots 1 and 2.

T. 10 N., R. 3 W.: Sec. 5, lot 1; sec. 9, lots 1 to 5, inclusive, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$; and SE $\frac{1}{4}$; sec. 15, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$; sec. 17, lots 1 to 5, inclusive, E $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$; secs. 19, 21, 27, 29, 31, and 33, all.

T. 11 N., R. 3 W.: Sec. 1, lots 1, 2, 5, 6, and 7, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$; sec. 3, lots 1 to 4, inclusive, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and SE $\frac{1}{4}$; sec. 5, lots 1, 3, and 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and SE $\frac{1}{4}$; sec. 7, lots 1 to 4, inclusive, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$; sec. 8, W $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$; sec. 9, all; sec. 10, W $\frac{1}{2}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 11, NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$; secs. 13, 15 and 17, all; sec. 18, NE $\frac{1}{4}$; sec. 19, lots 1 to 7, inclusive, N $\frac{1}{2}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$; secs. 21, 23, 25, and 27, all; sec. 29, lots 1 and 2, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 31, lots 1 and 2 and NE $\frac{1}{4}$ NE $\frac{1}{4}$; sec. 33, lots 1 to 4, inclusive, NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$; sec. 35, all.

T. 12 N., R. 3 W.: Sec. 7, lots 1 to 4, inclusive; sec. 9, lots 1 to 4, inclusive; sec. 11, lots 1 to 4, inclusive; sec. 13, lots 1 to 7, inclusive, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$; secs. 15, 17, and 21, all; sec. 25, lots 1 to 4, inclusive; sec. 27, all; sec. 29, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and SE $\frac{1}{4}$; sec. 33, all.

Acoma Project, LI-NM 8

Valencia County, New Mexico, New Mexico Principal Meridian

T. 6 N., R. 6 W.: Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

T. 7 N., R. 6 W.: Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33 and 35.

T. 6 N., R. 7 W.: Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17 to 21, inclusive, 23, 25, 27 to 31, inclusive, 33, and 35.

T. 6 N., R. 8 W.: Secs. 1, 3, 5, 7, and 9, all; sec. 10, NW $\frac{1}{4}$; secs. 11 to 13, inclusive, all; sec. 14, NW $\frac{1}{4}$ and SE $\frac{1}{4}$; secs. 15, and 17, all; sec. 18, NW $\frac{1}{4}$ and SW $\frac{1}{4}$; sec. 19, all; sec. 20, SE $\frac{1}{4}$; secs. 21 and 23, all; sec. 24, NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$; secs. 25, 27, and 29, all; sec. 30, SW $\frac{1}{4}$; secs. 31, 33, and 35, all.

T. 6 N., R. 9 W.: Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, and 25, all; sec. 26, SW $\frac{1}{4}$ and SE $\frac{1}{4}$; secs. 27, 29, 31, and 33, all; sec. 34, SE $\frac{1}{4}$; sec. 35, all.

T. 7 N., R. 9 W.: Secs. 1, 3, 5, and 7, all; sec. 8, NE $\frac{1}{4}$ SE $\frac{1}{4}$; secs. 9, 11, 13, 15, 17, 19, 21, and 23, all; sec. 24, E $\frac{1}{2}$ SW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$; secs. 25, 27, 29, 31, 33, and 35, all.

T. 8 N., R. 9 W.: Sec. 3, all; sec. 4, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$; sec. 5, all; sec. 6, lots 5 and 6, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$.

T. 8 N., R. 9 W.: Secs. 7 to 9, inclusive, all; sec. 11, lots 1 to 4, inclusive, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$; secs. 15 and 17, all; sec. 18, NE $\frac{1}{4}$ and SE $\frac{1}{4}$; secs. 19 and 21, all; sec. 23, lots 1 to 4, inclusive, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$; sec. 25, lots 1 to 4, inclusive, SW $\frac{1}{4}$, and SE $\frac{1}{4}$; secs. 27, 29, 31, 33, and 35, all.

T. 6 N., R. 10 W.: Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

T. 7 N., R. 10 W.: Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, and 35.

T. 8 N., R. 10 W.: Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, and 23, all; sec. 24, N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$; secs. 25, 27, 29, 31, 33, and 35, all.

T. 6 N., R. 11 W.: Secs. 1, 3, 5, 7, 9, 11, 13, 15, 17, 19, 21, 23, 26, 27, 29, 31, 33, and 35.

Jemez Project, LI-NM-9

SANDOVAL COUNTY, NEW MEXICO, NEW MEXICO PRINCIPAL MERIDIAN

Tps. 15, 16, 17, and 18 N., Rs. 1 E. and 1 W.: Those parts lying within the Ojo del Espiritu Santo Land Grant, as described in U. S. Survey No. 44.

Tps. 15, 16, and 17 N., R. 2 W.: Those parts lying within the Ojo del Espiritu Santo Land Grant as described in U. S. Survey No. 44.

Isleta Project, LI-NM 11

Bernalillo and Valencia Counties, New Mexico, New Mexico Principal Meridian

T. 7 N., R. 1 W.: Secs. 5 and 7, all; sec. 9, lots 1 to 4, inclusive, $W\frac{1}{2}NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$, and $S\frac{1}{2}SW\frac{1}{4}$; sec. 15, lot 1; sec. 17, lots 1 to 4, inclusive.

T. 8 N., R. 1 W.: Sec. 1, lots 1 to 8, inclusive, $S\frac{1}{2}NE\frac{1}{4}$, and $S\frac{1}{2}NW\frac{1}{4}$; sec. 3, lots 1 to 8, inclusive, $S\frac{1}{2}NE\frac{1}{4}$, and $S\frac{1}{2}NW\frac{1}{4}$; sec. 5, lots 1 to 6, inclusive; sec. 7, lot 1; sec. 31, lots 1 to 4, inclusive; sec. 33, lots 1 to 3, inclusive.

T. 7 N., R. 2 W.: Sec. 1, all; sec. 11, lot 1; sec. 13, lots 1 and 2, and $NE\frac{1}{4}NE\frac{1}{4}$.

T. 8 N., R. 1 E.: sec. 1, lots 1 to 4, inclusive, $NE\frac{1}{4}$, and $NW\frac{1}{4}$; sec. 3, lots 1 to 8, inclusive, $S\frac{1}{2}NE\frac{1}{4}$, and $S\frac{1}{2}NW\frac{1}{4}$; sec. 4, lots 1 to 4, inclusive, $S\frac{1}{2}NE\frac{1}{4}$, and $S\frac{1}{2}NW\frac{1}{4}$; sec. 5, lots 1 to 8, inclusive, $S\frac{1}{2}NE\frac{1}{4}$ and $S\frac{1}{2}NW\frac{1}{4}$; sec. 6, lots 1 and 2, $NE\frac{1}{4}$, and $E\frac{1}{2}NW\frac{1}{4}$.

T. 8 N., R. 2 E.: Sec. 5, lots 1 to 4, inclusive, $NE\frac{1}{4}$, and $NW\frac{1}{4}$.

T. 7 N., R. 3 E.: That part lying within the tract described in U. S. Land Office Record No. 067415, Santa Fe Series, and known as the "Peralta Tract of the Southern Part of the Lo de Padilla Grant."

T. 7 N., R. 4 E.: Sec. 6, $SE\frac{1}{4}$ and that part lying within the tract described in U. S. Land Office Record No. 067415, Santa Fe Series, and known as the "Peralta Tract of the Southern Part of Lo de Padilla Grant."

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, January 18, 1938.

(No. 7792)

(Copied from Federal Register, January 21, 1938, vol. 3, No. 15, pp. 161-163)

EXECUTIVE ORDER

TRANSFER OF JURISDICTION OVER CERTAIN LANDS FROM THE SECRETARY OF AGRICULTURE TO THE SECRETARY OF THE INTERIOR

NEW MEXICO

Whereas certain lands, together with the improvements thereon, largely contiguous or in close proximity to existing Indian reservations, in the State of New Mexico, have been, or are in process of being, acquired in connection with the projects hereinafter designated, under authority of title II of the National Industrial Recovery Act, approved June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act, approved April 8, 1935 (49 Stat. 115), and section 55 of title I of the act of August 24, 1935 (49 Stat. 750, 781); and

Whereas by Executive Order No. 7908, dated June 9, 1938, all the right, title and interest of the United States in such lands, acquired, or in process of acquisition, were transferred to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of title III of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 522, 525), and the related provisions of title IV thereof; and immediately upon acquisition of legal title to those lands now in process of acquisition, said order, under the terms thereof, will become applicable to all the additional right, title, and interest thereby acquired by the United States; and

Whereas it appears that the transfer of jurisdiction over such lands from the Secretary of Agriculture to the Secretary of the Interior for administrative purposes would be in the public interest:

Now, therefore, by virtue of and pursuant to the authority vested in me by section 32 (c), Title III, of the said Bankhead-Jones Farm Tenant Act, and upon recommendation of the Secretary of Agriculture, it is hereby ordered that jurisdiction over the hereinafter-described lands, together with the improvements thereon, acquired, or in the process of acquisition, by the United States in connection with the hereinafter-designated projects, be, and it is hereby, transferred from the Secretary of Agriculture to the Secretary of the Interior: *Provided, however*, That the Secretary of Agriculture shall retain such jurisdiction over the lands now in process of acquisition by the United States as may be necessary

to enable him to complete their acquisition; and the Secretary of the Interior is hereby authorized to administer such lands, through the Commissioner of Indian Affairs, for the benefit of such Indians as he may designate, under such conditions of use and administration as will best carry out the purposes of the land-conservation and land-utilization program for which such lands were acquired:

Zuni project, LI-NM-13

McKinley and Valencia Counties, New Mexico

New Mexico Principal Meridian

T. 8 N., R. 16 W.: Sec. 4, SW $\frac{1}{4}$; secs. 7, 9, 17, 19, and 21, all; sec. 28, NE $\frac{1}{4}$, SW $\frac{1}{4}$, and SE $\frac{1}{4}$; secs. 29, 31, and 33, all.

T. 9 N., R. 16 W.: Secs. 31 and 34.

T. 8 N., R. 17 W.: Secs. 1, 11, 23, 25, 27, 29, 31, 33, and 35.

T. 9 N., R. 17 W.: Secs. 25 and 35.

T. 8 N., R. 18 W.: Secs. 19, 21, 23, 25, 27, 29, 31, 33, and 35.

T. 8 N., R. 19 W.: Secs. 19, 25, 27, 29, 31, 33, and 35.

T. 10 N., R. 19 W.: Sec. 1, lots 1 to 6, inclusive; sec. 3, lot 1, NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$; secs. 5 and 7, all; sec. 9, lots 1 to 5, inclusive, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$; sec. 17, lots 1 to 3, inclusive, and NW $\frac{1}{4}$ NW $\frac{1}{4}$.

T. 11 N., R. 19 W.: Secs. 1, 9, 11, and 13, all; sec. 14, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$; secs. 15, 17, and 19, all; sec. 20, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$, SW $\frac{1}{4}$, and SE $\frac{1}{4}$; secs. 21 to 23, inclusive, 25 and 27, all; sec. 28, NW $\frac{1}{4}$, SW $\frac{1}{4}$, and SE $\frac{1}{4}$, and NE $\frac{1}{4}$; secs. 29 to 31, inclusive, 33, and 35, all.

T. 8 N., R. 20 W.: Sec. 13, lots 4 to 6, inclusive, and SE $\frac{1}{4}$ SE $\frac{1}{4}$; sec. 23, lots 5 to 8, inclusive, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$; sec. 25, all; sec. 27, lot 2, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, and SE $\frac{1}{4}$; sec. 29, lots 6 to 8, inclusive, and SE $\frac{1}{4}$ SE $\frac{1}{4}$; sec. 31, lots 8 to 15, inclusive, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$; secs. 33 and 35, all;

T. 10 N., R. 20 W.: Sec. 1, all; sec. 3, NE $\frac{1}{4}$, NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$; sec. 4, NW $\frac{1}{4}$ and SW $\frac{1}{4}$; secs. 5 to 9, inclusive, all; sec. 10, W $\frac{1}{2}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 11, all; sec. 13, lots 1 and 2, NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$; secs. 15 and 17 to 21, inclusive, all; sec. 22, lots 1 and 2, NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$; sec. 23, lots 1 to 6, inclusive, N $\frac{1}{2}$ NE $\frac{1}{4}$, and NW $\frac{1}{4}$; sec. 27, lots 1 to 4, inclusive; sec. 28, lots 1 to 4, inclusive, N $\frac{1}{2}$ NE $\frac{1}{4}$, and NW $\frac{1}{4}$; sec. 29, lots 1 and 2, NE $\frac{1}{4}$, NW $\frac{1}{4}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$; sec. 30, all; sec. 31, lots 1 to 8, inclusive, NW $\frac{1}{4}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$; sec. 14, NW $\frac{1}{4}$ and SW $\frac{1}{4}$.

T. 11 N., R. 20 W.: Secs. 25 and 35, all.

T. 9 N., R. 21 W.: Sec. 1, lots 1 and 2; sec. 3, lots 1 to 6, inclusive, NE $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 10 N., R. 21 W.: Sec. 1, all; sec. 3, lots 1 to 6, inclusive, S $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$; sec. 10, lots 1 to 4, inclusive, NE $\frac{1}{4}$, and SE $\frac{1}{4}$; secs. 11 to 14, inclusive, all; sec. 15, lots 1 to 4, inclusive, NE $\frac{1}{4}$, and SE $\frac{1}{4}$; sec. 22, lots 1 to 4, inclusive, NE $\frac{1}{4}$, and SE $\frac{1}{4}$; sec. 27, lots 1 to 4, inclusive, NE $\frac{1}{4}$, and SE $\frac{1}{4}$; secs. 23 and 26, inclusive, all; sec. 34, lots 1 to 4, inclusive, NE $\frac{1}{4}$, and SE $\frac{1}{4}$; sec. 35, all.

Gallup-Two Wells Project, LI-NM 18

McKinley County, New Mexico

New Mexico Principal Meridian

T. 13 N., R. 17 W.: Sec. 7, lots 1 to 4, inclusive, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 16, NE $\frac{1}{4}$ and SE $\frac{1}{4}$; sec. 18, lots 3 and 4, and E $\frac{1}{2}$ SW $\frac{1}{4}$; sec. 20, SW $\frac{1}{4}$; sec. 21, NE $\frac{1}{4}$ and SE $\frac{1}{4}$; sec. 22 S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$; sec. 23, SE $\frac{1}{4}$; sec. 25, all; sec. 27, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$; sec. 28, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$; sec. 30, lots 1 and 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$; sec. 32, NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$; sec. 33, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$; sec. 35, all.

T. 12 N., R. 18 W.: Sec. 2, all; sec. 3, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$; sec. 4, lots 1 to 4, inclusive, S $\frac{1}{2}$ NE $\frac{1}{4}$, and S $\frac{1}{2}$ NW $\frac{1}{4}$; sec. 5, all; sec. 6, lots

1 and 2, and $S\frac{1}{2}NE\frac{1}{4}$; sec. 7, all; sec. 8, $NE\frac{1}{4}$, $NW\frac{1}{4}$, $S\frac{1}{2}SW\frac{1}{4}$, and $W\frac{1}{2}SE\frac{1}{4}$; sec. 9, all; sec. 10, $NE\frac{1}{4}$, $NW\frac{1}{4}$, and $SW\frac{1}{4}$; sec. 18, lot 4 and $SE\frac{1}{4}SW\frac{1}{4}$; sec. 19, lots 1 and 2, $NE\frac{1}{4}$, and $E\frac{1}{2}NW\frac{1}{4}$; sec. 20, $W\frac{1}{2}NE\frac{1}{4}$; sec. 28, $SE\frac{1}{4}$; secs. 30 to 33, inclusive, all.

T. 13 N., R. 18 W.: Secs. 1, 3, and 5, all; sec. 6, lots 1 and 2, $S\frac{1}{2}NE\frac{1}{4}$, and $SE\frac{1}{4}$; secs. 7 and 9 to 11, inclusive, all; sec. 12, $SW\frac{1}{4}$; secs. 13, 15, 17, and 18, all; sec. 19, lots 3 and 4, and $E\frac{1}{2}SW\frac{1}{4}$; secs. 20 to 25, inclusive, all; sec. 26, $N\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}$, and $NW\frac{1}{4}SW\frac{1}{4}$; sec. 27, all; sec. 28, $NE\frac{1}{4}$ and $SE\frac{1}{4}$; secs. 29, 31, and 33, all; sec. 34, $SW\frac{1}{4}$ and $SE\frac{1}{4}$; sec. 35, $NW\frac{1}{4}$, $SW\frac{1}{4}$, and $SE\frac{1}{4}$.

T. 14 N., R. 18 W.: Sec. 8, $NE\frac{1}{4}$ and $NW\frac{1}{4}$.

T. 12 N., R. 19 W.: Sec. 1, lots 1 to 4, inclusive, $S\frac{1}{2}NE\frac{1}{4}$, and $S\frac{1}{2}NW\frac{1}{4}$; secs. 3 and 4, all; sec. 5, lots 1 and 2, $S\frac{1}{2}NE\frac{1}{4}$, $SW\frac{1}{4}$, and $SE\frac{1}{4}$; sec. 7, lots 1, 3, and 4, $NE\frac{1}{4}NE\frac{1}{4}$, $S\frac{1}{2}NE\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, and $SE\frac{1}{4}$; secs. 9 and 11, all; sec. 13, $NE\frac{1}{4}$, $NW\frac{1}{4}$, $N\frac{1}{2}SW\frac{1}{4}$, and $E\frac{1}{2}SE\frac{1}{4}$; sec. 16, $E\frac{1}{2}NE\frac{1}{4}$, $SW\frac{1}{4}$, and $SE\frac{1}{4}$; sec. 17, $NW\frac{1}{4}$, $SW\frac{1}{4}$, and $SE\frac{1}{4}$; sec. 19, all; sec. 21, $NW\frac{1}{4}$ and $SW\frac{1}{4}$; secs. 22, 23, 25, and 27, all; sec. 28, $NE\frac{1}{4}$ and $SE\frac{1}{4}$; secs. 29, 31, and 33, all; sec. 35, $N\frac{1}{2}NE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, $NW\frac{1}{4}$, $NW\frac{1}{4}SW\frac{1}{4}$, $S\frac{1}{2}SW\frac{1}{4}$, and $S\frac{1}{2}SE\frac{1}{4}$; sec. 36, all.

T. 13 N., R. 19 W.: Sec. 1, lots 1 and 2, $S\frac{1}{2}NE\frac{1}{4}$, $SW\frac{1}{4}$, and $SE\frac{1}{4}$; secs. 3, 5, and 7, all; sec. 9, $W\frac{1}{2}NE\frac{1}{4}$, $NW\frac{1}{4}$, $SW\frac{1}{4}$, and $W\frac{1}{2}SE\frac{1}{4}$; secs. 11, 13, and 15, all; sec. 19, lots 1 and 2, $NE\frac{1}{4}$, and $E\frac{1}{2}NW\frac{1}{4}$; secs. 21 and 23, all; sec. 24, $NE\frac{1}{4}$ and $SE\frac{1}{4}$; secs. 25 and 26, all; sec. 27, $NW\frac{1}{4}$ and $SW\frac{1}{4}$; secs. 28 and 29, all; sec. 30, lots 3 and 4, $E\frac{1}{2}SW\frac{1}{4}$ and $SE\frac{1}{4}$; sec. 31, lots 1 to 4, inclusive, $N\frac{1}{2}NE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, $E\frac{1}{2}NW\frac{1}{4}$, $E\frac{1}{2}SW\frac{1}{4}$, and $NW\frac{1}{4}SE\frac{1}{4}$; sec. 32, $NE\frac{1}{4}$, $NW\frac{1}{4}$, $NE\frac{1}{4}SW\frac{1}{4}$, and $SE\frac{1}{4}$; sec. 33, $NE\frac{1}{4}$, $NW\frac{1}{4}$, and $SW\frac{1}{4}$; sec. 34, all; sec. 35, $NE\frac{1}{4}$, $NW\frac{1}{4}$, and $SE\frac{1}{4}$; sec. 36, all.

T. 14 N., R. 19 W.: Sec. 14, $NW\frac{1}{4}$; sec. 26, $NE\frac{1}{4}$.

T. 12 N., R. 20 W.: Secs. 1 and 3, all; sec. 4, $SW\frac{1}{4}$ and $SE\frac{1}{4}$; sec. 5, all; sec. 6, lots 6 and 7, $E\frac{1}{2}SW\frac{1}{4}$ and $SE\frac{1}{4}$; secs. 9 to 11, inclusive, all; sec. 7, all; sec. 13, $N\frac{1}{2}NE\frac{1}{4}$, $SW\frac{1}{4}NE\frac{1}{4}$, $NW\frac{1}{4}$, and $SE\frac{1}{4}SE\frac{1}{4}$; sec. 15, $N\frac{1}{2}NE\frac{1}{4}$, $NW\frac{1}{4}$, $SW\frac{1}{4}$, and $S\frac{1}{2}SE\frac{1}{4}$; secs. 17, 19, and 21, all; sec. 23, $NW\frac{1}{4}NE\frac{1}{4}$, $N\frac{1}{2}NW\frac{1}{4}$, $SW\frac{1}{4}NW\frac{1}{4}$, $SW\frac{1}{4}$ and $SE\frac{1}{4}$; sec. 25, $SW\frac{1}{4}$ and $SE\frac{1}{4}$; secs. 27 and 35, all.

T. 13 N., R. 20 W.: Sec. 31, $NE\frac{1}{4}$ and $SE\frac{1}{4}$; sec. 33, all; sec. 34, $NE\frac{1}{4}$, $NW\frac{1}{4}$, and $SE\frac{1}{4}$; sec. 35, all.

T. 12 N., R. 21 W.: Sec. 12.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, September 16, 1938

(No. 7975)

(Copied from Federal Register, September 20, 1938, Vol. 3, No. 183, pp. 2252-2253)

EXECUTIVE ORDER

TRANSFER OF CERTAIN LANDS FROM THE SECRETARY OF AGRICULTURE TO SECRETARY OF THE INTERIOR

NEW MEXICO

Whereas certain lands, together with the improvements thereon, have been acquired by the United States in connection with the Cuba-Rio Puerco Project, LU-NM-38-22-1, in Valencia and Bernalillo Counties, New Mexico, under authority of Title III of the Bankhead-Jones Farm Tenant Act, approved July 22, 1937 (50 Stat. 522, 525); and

Whereas it appears that the transfer of jurisdiction over such lands from the Secretary of Agriculture to the Interior for administrative purposes would be in the public interest:

Now, therefore, by virtue of and pursuant to the authority vested in me by section 32 (c) of Title III of the Bankhead-Jones Farm Tenant Act, and upon recommendation of the Secretary of Agriculture, it is hereby ordered that jurisdiction over the hereinafter-described lands, together with the improvements thereon, acquired by the United States in connection with the Cuba-Rio Puerco Project, LU-NM-38-22-1, be, and it is hereby, transferred from the Secretary of Agricul-

ture to the Secretary of the Interior; and the Secretary of the Interior is hereby authorized to administer such lands through the Commissioner of Indian Affairs, for the exclusive use of the Pueblo Indians, under such conditions of use and administration as will best carry out the purposes of the land-conservation and land-utilization program for which such lands were acquired:

Valencia and Bernalillo Counties, New Mexico

New Mexico Principal Meridian

Tps. 7, 8, and 9 N., Rs. 1, 2, and 3 W., those parts lying within the Antonio Sedillo Grant as described by Plat and Survey approved by the Court of Private Land Claims July 15, 1901.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, February 28, 1941.

(No. 8696)

(F. R. Doc. 41-1538, filed, March 1, 1941, 11:26 a. m.)

(Copied from Federal Register, March 4, 1941, pp. 1229-1230)

The CHAIRMAN. If those who represent the various organizations have not copies of these instruments, I hope that those who have the instruments will do everything in their power to facilitate the making of copies to be turned over.

Mr. STEWART. That just about covers, Mr. Chairman, the Pueblo area in general terms. There are many details that will, no doubt, come up for discussion. If it is the pleasure of this group, I will move on to the district 7 area.

The CHAIRMAN. Are there any questions that anyone would care to address to the witness now with reference to his statements and the area mentioned up to this point?

Judge SETH. I think we would rather wait until he gets through, Senator.

The CHAIRMAN. Very well. You may proceed then, Mr. Stewart.

Mr. STEWART. In 1936, a subcommittee of the Senate Committee on Indian Affairs visited the Southwest and held hearings at Gallup, Farmington, Navajo Agency, and at Santa Fe. Senator Chavez participated at those hearings. Those hearings were held in connection with what is now called grazing district No. 7. At that time, some time previous to 1936, an attempt was made by the Indian Service to enlarge the Navajo boundaries of the Navajo Reservation, through extension of its boundary in toward the East, into New Mexico. Now, those hearings were very full and complete. Everyone that is interested in facts, and in a complete discussion of grazing district No. 7, as to its general background—it will be found in part 34 of those hearings. Rather than take the time of this committee, in going into that background, when it is already available, I would like to make of record the fact, as I have stated, that this part 34 of the Navajo boundary and Pueblo hearings in New Mexico, of this subcommittee—

Senator CHAVEZ. Since we had the hearings at Gallup and Window Rock and Farmington, no attempt has been made by the Indian Service to get legislative action to increase the Navajo Reservation. Is that correct?

Mr. STEWART. That is correct.

The CHAIRMAN. Was it prior to those hearings that a bill was presented to the Congress to increase the Navajo Reservation?

Mr. STEWART. Yes, sir.

The CHAIRMAN. That bill went through one House, did it not?

Mr. STEWART. I believe it did.

I would like to touch on that matter, without going too much in details, because it is important in the later discussion to take place on district 7. On July 8, 1931, the Secretary of the Interior withdrew, in aid of what was then proposed legislation to extend the boundaries of the reservation, withdrew virtually all of the public domain which is now within grazing district No. 7. Shortly thereafter, legislation was drafted, having for its purpose the enlargement of the reservation, not to the full extent, however, of the withdrawn areas. That legislation failed of enactment. Subsequent legislation likewise failed of enactment.

The CHAIRMAN. May I ask a question right there? I hope these questions do not disturb you?

Mr. STEWART. No, sir.

The CHAIRMAN. Before that legislation was drafted, were the users of the territory embraced within district 7, the withdrawn area, consulted?

Mr. STEWART. I'll answer this way, Senator, I personally held hearings, public hearings, at Gallup, at Farmington, and at Aztec. In general, at one time that proposed legislation was acceptable in general. As time passed, however, that acceptance, locally, of the proposed legislation largely disappeared. But at one time we did make a real attempt to acquaint the local people with what we were proposing; and I am sure we did acquaint them, and they were favorable to the proposition, in general. There were some people that did not approve of it; but, by and large, I would say that the people affected at one time did approve of that proposed legislation.

Senator CHAVEZ. Did you have any hearings along the Rio Puerco?

Mr. STEWART. No; we did not.

Now, then, during this interim, this proposed legislation, these lands were subject to the departmental temporary withdrawal. Temporary withdrawal was made, under authority contained in section 4 of the act of March 3, 1927, which allows the Secretary to make temporary withdrawal.

Senator CHAVEZ. Mr. Stewart, may I interrupt you right there? On the proposed extension of the reservation, the last bill that went before Congress, the area included in the proposal did not take in many of the allotments that the Indians have now outside of the proposed reservation?

Mr. STEWART. That was the problem area, Senator. The north part, up in San Juan County, was where the allotments were, and that were not taken out in the legislation.

Senator CHAVEZ. Not taken out in the legislation?

Mr. STEWART. Not taken out in the legislation.

Senator CHAVEZ. They still remained outside?

Mr. STEWART. That is right.

Senator CHAVEZ. Over 1,200 of those; were there not?

Mr. STEWART. I believe 800 in that San Juan area; 1,200 swinging down along the whole line.

Senator CHAVEZ. So, by the proposal you would take in something like two and one-half million acres, and still have about 1,200 allotments outside of the new extension?

Mr. STEWART. That's right.

The CHAIRMAN. These allotments, what was their character and nature?

Mr. STEWART. Congress authorized the allotting of Indians on the public domain under authority contained in section 4 of the act of June 24, 1887, and those allotments not merely adhered to the Navajo, but throughout the United States, in Indian country, where public domains did exist. Those allotments were trust allotments in that the title was held in trust for the individual Indian, not the tribe. In addition to these allotments, Congress also granted the Indians, by an act passed in 1875, a preference right to receive a homestead on the public domain if and when the particular individual met certain qualifications. Likewise, the homestead was held in trust for the Indian.

I'd like to pause, at this moment, and hang on here a map of district 7 showing the land status in that district, so that we will both better understand the problem, if I may.

The CHAIRMAN. Before you leave this map would you kindly indicate the territory on this map that is embraced within district 7?

Mr. STEWART. Roughly; yes, sir. District 7 roughly covers—this is the eastern boundary of the Navajo Reservation, this solid yellow block. That is the southern boundary in New Mexico. District 7 roughly covers an area following this general pattern [indicating]; then across over to the Arizona boundary line.

The CHAIRMAN. There is no color scheme by which district 7 is set out on this map?

Mr. STEWART. No; but I have a map showing district 7 in toto, with pattern.

Senator CHAVEZ. Will you please, before you proceed with your explanation, point out where Crown Point is?

Mr. STEWART. This is the Navajo administrative site, here.

Senator CHAVEZ. All right. Now, with reference to allotments and areas at Gallup and Window Rock, do you recall the testimony that in that area, in through there, there was something like 150 allotments, and only three Indians living on these allotments? Do you recall that testimony?

Mr. STEWART. I don't recall the testimony, Senator, but—

Senator CHAVEZ. Mr. Presley, didn't you make that statement in Gallup to that effect?

Mr. KELSEY PRESLEY. I don't remember whether I did, but the statement was made there at that time. I would like to ask Mr. Stewart at this time if these allotments were made, if the Indians asked for these allotments and homesteads, or did the Indian Department go out and allot them and tell them, "Here you are, take them." Isn't that the way it was carried out?

Mr. STEWART. The answer to that is, the Department did both ways. It was done in the early days.

Mr. PRESLEY. There are many Indians that have allotments to this day who don't know where their allotments are located; never lived on them; don't know where they are set up in the Grazing Service. When they go to check up and try to find out where the Indians' al-

lotments are, the Indians don't know where they are; they have never lived on them and don't know.

Senator CHAVEZ. That is correct, about the 115 allotments.

The CHAIRMAN. Now, this map you have just put up represents district No. 7?

Mr. STEWART. Yes.

The CHAIRMAN. Will you kindly explain the various colors and what they represent.

Mr. STEWART. This map represents, on a different scale, but more in detail and with more accuracy, that area I roughly indicated on the larger map a few minutes ago. Now, this map—I would like to make this statement as correct as we can make it. It is subject to errors of omission and of commission by the people making it, but it is reasonably correct as to land status.

There are within that—I might as well make a better picture of it—this line here [indicating] is the exterior line covered by this Secretary's withdrawal of June 8, 1941, which I mentioned a little while ago.

Senator CHAVEZ. Practically the description of the contents of the legislation that was introduced?

Mr. STEWART. With the exception of this, Senator Chavez, the boundary which starts here, this line, did not take in that San Juan County area; did not take in that railroad consolidated area; come up along here and come out and form a sort of a hook effect. The land status, the land tenure, in that district is very complicated, as you can see. There are State land grants, public domain, Indian allotments, and homesteads, citizen homesteads, as distinguished from the Indians, railroad land grants, privately owned, in terms of individual ownership other than Indian, and other Federal-owned land other than public domain. This red, in general, within the district indicates public domain.

The CHAIRMAN. All of the red?

Mr. STEWART. Yes, sir, inside the district lines.

The CHAIRMAN. Wherever it may appear?

Mr. STEWART. This yellow indicates Indian lands. By that, I mean lands the title to which is either in the Navajo Tribe or the individual allottee, plus some land relinquished by the Santa Fe Pacific Railroad Co., pursuant to an exchange item in an appropriation act passed by Congress in 1921.

The CHAIRMAN. Just at that point, may I interrogate, please? Will you explain how these released lands came about, and what was their status after having been released?

Mr. STEWART. I don't remember the terminology of that 1921 exchange item, but, in general, I do. It provided for the relinquishment and exchange by private owners, by the State, by Indian allottees of their land holdings within San Juan, Valencia, and McKinley Counties, N. Mex., whereby they could exchange base land which they had for unselected public domain within those counties for the purpose of effecting consolidation and the blocking out of their holdings. Substantially that is what is in that act.

The CHAIRMAN. Those lands that were released, then, what became of them?

Mr. STEWART. Those lands that were released by the Santa Fe Co. were conveyed directly by deed to the United States.

The CHAIRMAN. Did they become a part of the open public domain of the United States?

Mr. STEWART. That is a question that I cannot answer, but I think Secretary Chapman can indicate that it will be answered. Is that correct?

Secretary CHAPMAN. That is correct. An opinion is being drawn and worked on at this moment, Senator, on that. It has been under discussion for some time as to the legal status of that land.

Senator CHAVEZ. Does that mean that the Indian Bureau might claim it as being Indian lands instead of public domain?

Secretary CHAPMAN. It is for determination of the status.

Judge SETH. Isn't the Indian Service claiming it as Indian land, and so administering it?

Mr. STEWART. We have. That is, the Indian Service has claimed these lands as inuring to the exclusive benefit of the Navajo Indians.

Senator CHAVEZ. Did the legislation of 1921 provide that?

Mr. STEWART. No, sir.

Senator CHAVEZ. You just did it?

Mr. STEWART. That's right. Moral obligation somehow was felt to exist that these relinquished lands within this proposed Indian consolidated area should inure to the Navajo Tribe of Indians. Many of these—I won't say many, I would say approximately 134 Navajo allottees—gave up their land in the railroad consolidation area for lieu selection by the railroad company in return for, as they understand, the lieu selections within the so-called relinquished area or Indian consolidation area.

Senator CHAVEZ. If that was the intention of Congress in 1921, why did you lead the legislation in 1934 to extend the reservation? You did include that particular land?

Mr. STEWART. That's right.

Senator CHAVEZ. You didn't need the legislation if you were correct that the law of 1921 gave that to the Indians.

The CHAIRMAN. Gave what to the Indians?

Senator CHAVEZ. The released lands.

Mr. STEWART. No, Senator; the act of 1921 did not give the released lands to the Indians.

Senator CHAVEZ. Well, under what authority do you now claim it for the Indians? If it didn't, why do you want an opinion from the Solicitor?

Mr. STEWART. The spirit and intention leading up to the enactment of this legislation had been for the purpose. The act was and is faulty.

The CHAIRMAN. What?

Mr. STEWART. Faulty—doesn't qualify at all where that title should go.

The CHAIRMAN. As to these allotments that were relinquished by the Indians, were they allotments of the same character in the way of selection that you have depicted as to the allotments generally; that is, selected by the Indian or selected by someone for the Indian, allotments which the Indian didn't know anything about?

Mr. STEWART. Both ways, Senator.

The CHAIRMAN. Both applied. So you used the Indian allotment provisions regardless of whether the Indians selected it or not, as a basis for your position that the land inured when released by the railroad company to the Indian?

Mr. STEWART. I think there is merit in that observation, yes. I might also say that the reverse is true.

Now at the present time there are approximately 54 of those allottees, who gave up their allotments to the railroad company who refused, absolutely refused to go out and take lieu selections. Under the administrative authority which we do have, we can make those lieu selections for those people. If ever this problem is to be solved, we will have to make those lieu selections for them. It is arbitrary action to be sure, but it is holding up a planned use, a planned exchange program of grazing allotments within district 7. I think in this instance the means justify the end.

The CHAIRMAN. The committee will be interested in knowing how that plan is formulated and how far the Indian himself goes into the plan, whether it be a plan by the Department without Indian knowledge, or worked on by the Indians with their understanding and acquiescence. The committee would certainly be interested in knowing how it was worked out.

Mr. STEWART. I would be very glad to, wherever we take into consideration the arbitrary action, if it is necessary, of these several allotments that have not yet been satisfied as to lieu selection. Incidentally, I might mention that most of them are in the status of deceased allotments, where numerous heirs and their interests are fractionating their 160 acres until the ownership will be so small as to being almost unrecognizable. That, likewise, complicates the problem and indicates we will have to take arbitrary action.

The CHAIRMAN. You have made the statement there, on two occasions, that interests me. You say the Indians, in certain cases, 50 cases I think you said—

Mr. STEWART. Fifty-four, I believe it is.

The CHAIRMAN. The Indians have absolutely refused to approve the procedure. Now, why did they refuse?

Mr. STEWART. I frankly don't know.

The CHAIRMAN. Isn't it largely because they don't know where the land is?

Mr. STEWART. No, I don't think so. I think it goes, fundamentally deeper than that. This area here, contrary to general belief, is ancestrally Navajo area. It is their home.

Senator CHAVEZ. You could say that for the entire United States.

Mr. STEWART. No. The Navajo people drifted westward instead of eastward onto what is now this reservation. I am told by older leaders of the tribe that the historic night chant of the Navajo people originated right over in here. These people down in this area here that do not want to make lieu selections, this is their home. They don't care at all about making lieu selections up in here or somewhere else. That is their home and that is why they want to keep it where they are. I think, fundamentally, Senator, that is the answer. We found that to be true with the returned Navajo soldiers. Over 2,000 of them are now in the armed forces, and they invariably want to get home to their home country, Navajo country. They are not concerned with anything else except with getting home.

Senator CHAVEZ. Probably the idea is they don't want to go to the place you now want to send them to.

Mr. STEWART. Exactly. I agree with you; that is correct.

Now, this area in here is not within the district. This is the railroad consolidation area that took place pursuant to the 1921 act.

The CHAIRMAN. What is the general nature of the holdings of that land?

Mr. STEWART. It is so solidly owned by the railroad company and a couple of little spots of public domain in there, I don't suppose it would be justifiable to put it within the district.

The CHAIRMAN. I didn't catch that before. That is a railroad holding, largely?

Mr. STEWART. All except two or three spots of public domain in there.

The CHAIRMAN. That was the consolidation that was created. Is that right?

Mr. STEWART. With the railroad company, yes.

The CHAIRMAN. The thing that I notice, there are what I choose to term allotments. Is that correct, those black spots or those spots that are partially black?

Mr. STEWART. The black is privately owned land. This dull color is the State sections. There are a few Indian allotments left in there, but I think a couple of them were oil possibilities. That is why they were not taken out in the exchange program.

The population of this area, district 7; the Indian population, as disclosed by an especially good indication, the rationing system—none of them missed their ration books, although many of the census enumerators of the Government in times past have missed them—is somewhat over 12,000. It is 12,934. I believe that is the figure.

The CHAIRMAN. In where, what territory?

Mr. STEWART. District 7.

The CHAIRMAN. Very well.

Mr. STEWART. That is an average of five to the family.

Mr. CHAIRMAN. I haven't it clear in my mind. The reservation is off to the left?

Mr. STEWART. This is it here.

The CHAIRMAN. What is that green and white territory?

Mr. STEWART. That is national-forest area.

The CHAIRMAN. The white and green?

Mr. STEWART. No; we are only concerned with showing the boundaries of the district. This is outside of the district. We have nothing in there. This area here is the district boundary.

Senator CHAVEZ. What is that white, above the green, there?

Mr. STEWART. I don't know what that is. We have nothing in there. We are not concerned in there. This is the line, Senator, the boundary line.

Mr. FLOYD LEE. That happens to be my holdings—that one yellow spot to the right in township 5, right above the green. We control that.

Mr. STEWART. That is State land there. There is a little district down below, in district 7, too. I don't think anybody can see it. I think most of the people understand it.

I might mention this, too, is an area south of Gallup, called the Ramah area. It is in the grazing district. Over here, south of Albuquerque, and a little bit west, is called the Puertecito country, and Canyoncito is over here. From Albuquerque, down that far south, is the Socorro; west, over from Santa Magdalena, is this Puertecito area.

Judge SETH. How far is that away from the main district?

Mr. STEWART. I'd say a hundred miles from the nearest part. West of Albuquerque here going out on Highway 66, a little bit north, probably 19 or 20 miles, is the Canyoncito Navajo group. The administration of these two groups is under the United Pueblo Agency here in Albuquerque. It is much more convenient.

I would like to close my observations by giving the total figures of Indian land within the State. These are the official figures, not for land purchased under the Resettlement Administration or Soil Conservation Service but lands title to which is actually in the Indian.

Senator CHAVEZ. Beside the 12,000 Navajo that you say live within the area of district 7, how many non-Indians are making their living in there?

Mr. STEWART. I think it is 285. We have made the survey—285 are dependent on livestock.

Senator CHAVEZ. And, of course, there are others outside of the district that have their business in there, too. Isn't that correct? People that live at Gallup or Thoreau or over here on the Rio Grande?

Mr. STEWART. Business activities are interchangeable.

Mr. CHAIRMAN. Just a moment, please. I notice that the room is quite congested. I notice that some who came in late are unable to secure seating space. I am very much concerned about that because quite a number of them are of the Indian race, and some the Spanish-American race, and I don't want anybody to be crowded out here. I am wondering if, at the noon recess, it may be possible to secure larger quarters.

If it is, I hope that our investigator or someone will assist us in the securing of larger quarters. In other words, I don't want it ever said that anyone was not permitted to get in because it was too much of a crowd. I would like very much, if it is at all possible, to secure quarters capable of accommodating all who see fit to attend. I make that suggestion that those who are interested in this might give us a thought about what we can do.

Pardon the interruption, Mr. Stewart.

Mr. STEWART. It will be of interest to the committee and to the people present to know what the land, Indian land, ownership is in this area, in terms of acreage, and what it leases. The Navajo Tribe, using its own funds, leases 200,241.13 acres in this general area that we are talking about, largely from the railroad company and from the State. It pays a rental, out of tribal funds, of \$9,941.70 annual rental on those lands. The tribe has also purchased with its own funds a total of 187,382.16 acres; right in this heavy yellow-colored area; that is, but within district 7.

The CHAIRMAN. Pardon me; would you kindly repeat that statement.

Mr. STEWART. Yes, sir. The Navajo Tribe has purchased, through use of its own tribal funds, a total of 187,382.16 acres within grazing district 7, largely contiguous to the present eastern and southern boundaries of the reservation in New Mexico.

Senator CHAVEZ. What authority did you have for that?

Mr. STEWART. Originally, the act passed in 1928 which authorized the use of \$1,200,000 for tribal funds on reimbursable basis for the purchase of lands in Arizona or New Mexico.

Senator CHAVEZ. Is that authority still in existence?

Mr. STEWART. No; that has been nullified.

The CHAIRMAN. Now, when were these purchases made? Were they made at any particular period or throughout the years?

Mr. STEWART. They have been made through, I think, the heaviest amount was made around 1929, 1930, or thereabouts; 1928, '29, or '30, in New Mexico.

The CHAIRMAN. That is, purchases were made largely from the railroad and the State.

Mr. STEWART. Almost exclusively from the railroad company, and subsidiary company of the Frisco Co., called the New Mexico & Arizona Land Co.

Mr. Chairman, I now have a copy, a typed copy, of the Exchange Act of March 3, 1921, which I tried to outline from memory a few minutes ago. Would you care to have this inserted in the record?

The CHAIRMAN. You might read it and insert it in the record.

Mr. STEWART. The act reads as follows:

The Secretary of the Interior is hereby authorized, in his discretion, under rules and regulations to be prescribed by him, to accept reconveyances to the Government of privately owned and State school lands, and relinquishments of valid homestead entries or other filings, including Indian allotment selections, within any township of the public domain in San Juan, McKinley, and Valencia Counties, New Mexico, and to permit lieu selections by those surrendering their rights so that the holdings of any claimant within any township wherein such reconveyances or relinquishments are made may be consolidated and held in solid areas: *Provided*, that the title or claim of any person who refuses to reconvey to the Government shall not be hereby affected.

This is a typewritten copy of an item in the Appropriation Act of 1921, for the Interior Department, containing this legislative item.

The CHAIRMAN. Now, that was a separate act, or was it a rider on an appropriation bill?

Mr. STEWART. It was an item run into an Interior Department appropriation bill.

Senator CHAVEZ. And was it continued the following year?

Mr. STEWART. It was effective until the passage of the Taylor Grazing Act, which stopped the exchange process for public domain, as I understand it.

Senator CHAVEZ. It don't see how it would be effective the following year if it wasn't contained under the appropriation bill then.

Mr. STEWART. It is effective—that is a question of law procedure. I couldn't answer that, Senator.

That about concludes my general observations. I would like to give you the total acreage within the State of Indian lands.

The CHAIRMAN. Very well.

Mr. STEWART. The total acreage is 4,891,198 acres. These figures are taken from the statistical supplement to the Annual Report of the Commissioner of Indian Affairs for the fiscal year ending June 30, 1942.

Senator CHAVEZ. You are not totaling the reservations?

Mr. STEWART. Navajo, Jicarilla, Mescalero, and the Pueblos.

Senator CHAVEZ. How large is that Navajo Reservation as such?

Mr. STEWART. The Navajo here in New Mexico is approximately 2,592,222 acres. That is that big block there, plus the tribal purchases out here.

The CHAIRMAN. What is the total number of acres owned or controlled by the Indians, or the Indian Service for the Indians, in the State of Arizona, regardless of tribe or jurisdiction?

Mr. STEWART. I don't have that, but I can have it for you.

The CHAIRMAN. I meant, the State of New Mexico, not Arizona.

Mr. STEWART. This is the New Mexico acreage, just what I gave.

The CHAIRMAN. Four million plus?

Mr. STEWART. Four million eight hundred and ninety-one thousand, one hundred and ninety-eight.

The CHAIRMAN. That includes reservations and allotments, and everything else.

Senator CHAVEZ. What about the controlled acreages?

Mr. STEWART. That does not include the controlled acreage.

Senator CHAVEZ. Can you give us the controlled acreage?

The CHAIRMAN. Also in my question, I am trying to have you embrace all Indians, every tribe and all tribes.

Mr. STEWART. Within the State of New Mexico? That is the answer as to tribal property ownership.

The CHAIRMAN. Included with that are there any controlled lands, controlled by the Department for the benefit of the Indians?

Mr. STEWART. Well, sir, I would like a little time to work that statement up, I don't have it available.

The CHAIRMAN. I would like very much to have that. Very well.

Mr. STEWART. A general picture, more in detail than I have presented it as to the submarginal land program in the Rio Grande and of the Navajo problem as a whole, is in two documents which I have here which would be extremely helpful later on if they could be inserted in the record.

The CHAIRMAN. Are they voluminous?

Mr. STEWART. I will hand them to you. This is the Navajo, and here is the Pueblo.

The CHAIRMAN. They are quite extensive, and there are quite a number of graphs, I notice. Of course, we can't put those in our record. I think perhaps the purpose would be met, as nearly as we could, comprehensively, by having these become a part of the files of the committee because the graphs cannot be put into the record.

Secretary CHAPMAN. Senator, he says it would not hurt the report in any way by deleting the graphs entirely. If you could let the rest of the material go into the record, I think it would be most helpful as to the continuity of this picture.

The CHAIRMAN. That is a special request, that you ask this to become a part of the record? It will be inserted in the record, but I want it understood that the graphs cannot get in the record.

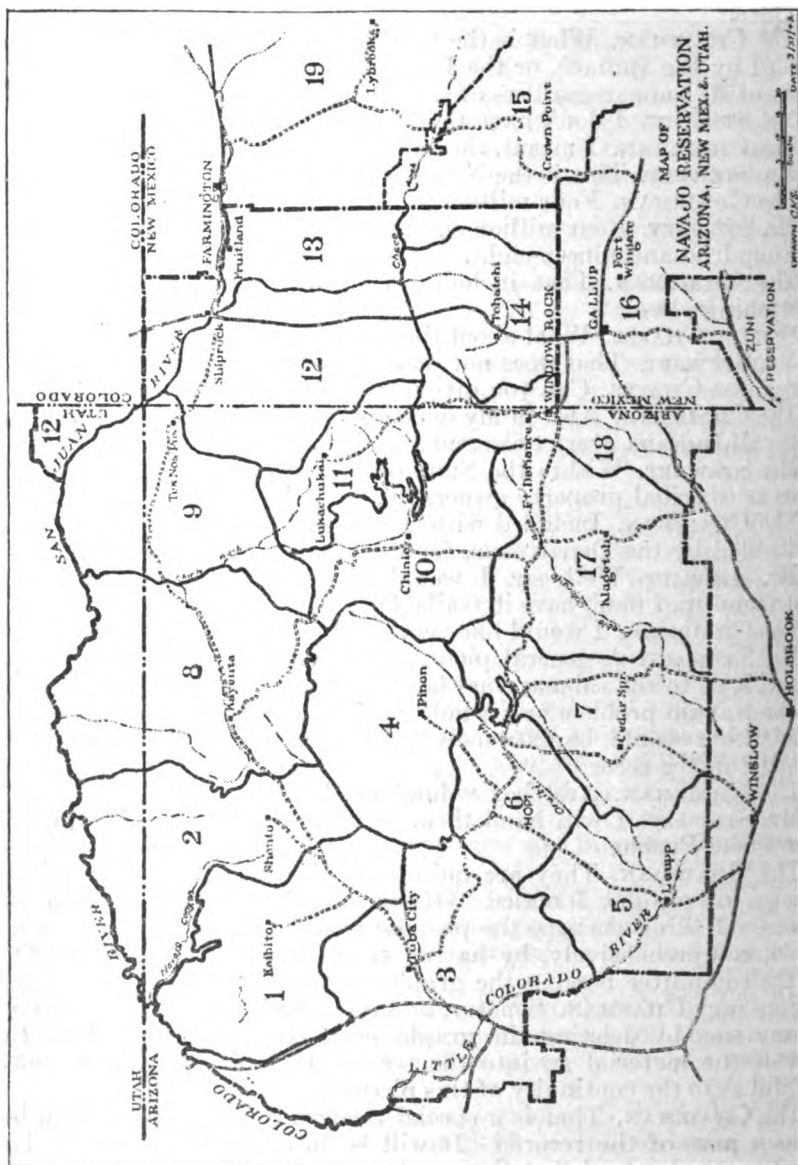
Secretary CHAPMAN. That is right.

The CHAIRMAN. But the instruments themselves will become a part of the files of the committee as well; and we can preserve the graphs so that the committee may have the benefit of these graphs, and have these instruments become available to other interested parties here.

(The following are the documents referred to:)

NAVAJOS AND THE LAND

Window Rock, Ariz., August 1943



THE NAVAJO PROBLEM BELONGS TO ALL THE PEOPLE

"Congress, as a whole, is responsible for the Indian policy and may not conscientiously shift responsibility to delegations from States in which the Indians in question live. Is not the Nation, as such, through its Representatives, responsible for the wards of the Nation? May I not truthfully say some Members of Congress represent constituencies or rather some

active, aggressive constituents who are enemies of the Indians and their welfare? They have responsive Representatives in Congress in such cases; but who represents the Indians? Without a vote, placed under Federal jurisdiction, he is not a part of the State 'constituency'; he is often fought by the constituency and its representatives. The Indian has no representation unless Congress as a whole espouses his cause. Too often, however, the Congress as a body relies implicitly upon the delegation from such States for information, guidance, and action, and such delegations are at times misinformed by interested constituents. I am stating the case as mildly as possible."

These words were uttered almost 30 years ago by one of the clearest thinkers and most able advocates of Navajo rights. He was the Rev. E. Anselm Weber, for many years director of St. Michael's Catholic Mission on the Navajo Reservation. His world and his life have become a legend.

If Father Weber were alive today he might add a significant amendment to his statement. He might have said that while the Indian farmer and herder is often without representation in our democracy he is not the only one in that position. In many areas the white man, and the Spanish American, are also controlled by forces on whom they have little influence.

THIS WAS AN ANCIENT NAVAJO HOMELAND

The Navajo land problem in its modern phase arises out of the events that took place in the 1860's when Congress passed the Homestead Act and the Senate in 1868 ratified a treaty with the Navajos who had been in captivity at Fort Sumner. Under the terms of that treaty the Navajos were given a reservation comprising 3,414,528 acres. The rest of the territory not comprised in the Indian and other reservations was open to entry by non-Indians under the Homestead Act and other public land laws.

The Navajo captives at Fort Sumner who were returned to their country in 1868, numbered about 9,000 souls. At least 5,000 others were not rounded up by Kit Carson and remained in their old locations. For these 14,000 people the treaty reservations of less than $3\frac{1}{2}$ million acres was entirely insufficient. This treaty reservation had never covered more than a minor fraction of the total area habitually and customarily used by the Navajos from time immemorial. When the Navajos returned from Fort Sumner, they returned to the areas in Arizona, Colorado, Utah, and New Mexico on which they had done their floodwater and dry farming and had ranged their livestock. The total area thus occupied by the Navajos covered five times the area of the treaty reservation.

This area outside of the treaty reservation used and occupied by the Navajos was public domain thrown open to homesteading on the assumption that it was "vacant and unoccupied" land owned by the Federal Government. All of the subsequent difficulties have arisen out of the erroneous assumption that, because the land was public domain, it was "vacant and unoccupied." In fact all the Navajo country was used and occupied by Navajos, Hopis, and a limited Spanish-American settlers. This population used the land to gain a livelihood. The livelihood was merely a subsistence living with practically no cash, but it was an ample living as indicated by the rapid increase of the Navajos and Spanish-American population.

The intrusion of non-Indian mining and especially of livestock interests immediately created problems and difficulties. Because it was assumed that the land was "vacant and unoccupied," white interests through the operation of the public land laws established legal claims to areas used for centuries by Navajos and Spanish-Americans. The interests of the Spanish-American settlers under the terms of the treaty of Guadalupe-Hidalgo were protected even to the extent of having the General Land Office send out its surveyors who informed the remote Spanish-American settlers of the danger that their land might be absorbed by the newcomers unless they filed claims under the public land laws to the area they occupied. Hundreds of these small Spanish-American squatters were thus protected in the ownership of their homesteads on the public lands by the initiative of the General Land Office.

Enlargements corrected some early errors, 1878-1907.

The Navajo Indians were partially protected likewise, but by a different procedure. Recognizing the total insufficiency of the original treaty reservation of less than $3\frac{1}{2}$ million acres, at the urgent request of Army officers including

General Scott and General McDonald, Indian Commissioners, missionaries, and others, the Navajo Reservation was enlarged by President Hayes through the Executive orders of October 29, 1878, and of January 6, 1880, to the extent of almost 2,000,000 acres; President Arthur enlarged the Navajo Reservation through the Executive order of May 17, 1884, by approximately 4,800,000 acres. It is significant that the villages inhabited by the 2,200 Hopi Indians were on the open public domain and open to entry under the public land laws until 1884 when President Arthur established the so-called Moqui Reservation.

Subsequently President Cleveland added about 40,000 acres to the reservation by the Executive order of April 24, 1886, and President McKinley on January 8, 1900, added the 425,171 acres of the so-called Leupp district in the southwestern corner of the reservation. President Theodore Roosevelt on November 14, 1901, added almost 1,600,000 to the western part of the reservation and on May 15, 1905, added approximately 67,000 north of the San Juan River in Utah.

On November 9, 1907, President Roosevelt heeded the urgent request of numerous friends of the Navajos, especially the plea of Father Weber of the St. Michaels Mission, and set aside approximately 1,200,000 acres in Apache County, Ariz., about 3,348,000 acres in New Mexico. The addition to the eastern part of the Navajo Reservation in New Mexico had been the original homeland of the Navajos, and more than a thousand Navajo families were occupying and using this area into which non-Indian livestock men were rapidly extending their operations by virtue of the public land laws. The action of President Roosevelt settled the worst Indian land problem in the Southwest. But the livestock operators of New Mexico and Colorado who were anxious to obtain the use of the area as a winter range for their sheep, brought enormous pressure to bear on the congressional Delegate from the Territory and on the White House.

Selfish interests forced a reduction, 1907-11.

They succeeded. Part of the area added to the reservation in New Mexico was restored to the public domain by the Executive order of December 30, 1928. President Taft's order of January 16, 1911, restored to entry the balance of the Navajo lands in New Mexico. The allotments made on the public domain to Navajo Indians were, of course, excepted from these orders throwing the lands back into the public domain. But the taking from the reservation of more than 3,000,000 acres did not satisfy the New Mexico stockmen. Agitation continued for the opening up of the entire Navajo and of other Indian reservations in New Mexico and Arizona after allotting the Indians at the rate of one-quarter section per capita. It was concerning this agitation that Father Weber, of St. Michaels Mission, wrote the statement dated July 25, 1914, heretofore quoted and repeated here in part:

"Congress, as a whole, is responsible for the Indian policy and may not conscientiously shift responsibility to delegations from States in which the Indians in question live. Is not the Nation, as such, through its Representatives, responsible for the wards of the Nation? The Indian has no representation unless Congress as a whole espouses his cause. Too often, however, the Congress as a body relies implicitly upon the delegation from such States for information, guidance, and action, and such delegations are at times misinformed by interested constituents."

Excerpt of an article by Mr. Roosevelt in the Outlook of October 18, 1913.

"Among those at the snake dance was Father Weber, of the Franciscans, who have done much good work on the Navajo Reservation. * * * Father Weber, like every competent judge I met, strongly protested against opening or cutting down the Navajo Reservation. I heartily agree with him. Such an act would be a cruel wrong and would benefit only a few wealthy cattle and sheep men. * * * It is a desert country. It cannot be utilized in small tracts, for in many parts the water is so scanty that hundreds, and in places even thousands, of acres must go to the support of any family. The Indians need it all; they are steadily improving as agriculturists and stock growers; few small settlers could come in even if the reservation were thrown open; the movement to open it, and to ruin the Indians, is merely in the interests of a few needy adventurers and of a few wealthy men who wish to increase their already large fortunes and who have much political influence."

By restoring these 3,000,000 acres of the eastern Navajo Reservation in New Mexico to the public domain the area was reopened to the non-Indian stockmen.

even though the area was fully occupied and stocked by Navajo sheep, goats, cattle, and horses. Another complicating factor was created by the holdings of the Santa Fe Railroad, which had received patent to all odd-numbered sections within the land-grant strip. The railroad lands were located in the area containing the heaviest concentration of Navajo Indian population. On many of these railroad sections Navajo families had made their homes, built their hogans and corrals, and run their sheep for many years. When this pattern was made more complicated by State selections, Indian allotments, and white homestead claims, the confusion reached its climax.

Confusion and disappointment caused by allotting and homesteading.

Numerous efforts were made in the period between 1911 and 1933 to find a remedy for the unsatisfactory conditions, especially those in New Mexico, in the area which had been taken from the reservation by President Taft. Of these actions the report of the Commissioner to the Navajos to the Commissioner of Indian Affairs, dated January 1, 1932, says: "These restorations to the public domain have caused more bitterness, confusion, and ill feeling than any other Executive act relating to Indian matters which we know of affecting this part of the Indian country * * * The area in New Mexico included in the 1907 order * * * was a country lying between the Navajo Reservation as then created on the west and the Jicarilla on the east, which for many years had been used almost exclusively for the Indians and was generally looked upon and almost universally considered to be Indian country.

"Neither on December 30, 1908, nor on January 16, 1911, when all this country in New Mexico, so dearly cherished by the Indians as their own, was taken away from them, was there any move at all to restore to entry the large extent of territory in Arizona included in these same orders * * * although Arizona, with almost exactly the same total area as New Mexico, even then had several times the acreage of Indian reservations as New Mexico had * * * as soon as they were restored large numbers of Indians and non-Indians rushed in there and a confusion which has ever since become worse and worse commenced. The Indians have continued taking allotments throughout the area ever since, and recently homesteads as well, in the hope of controlling the country entirely as they would have controlled it had the orders adding it to the reservation not been revoked, but as soon as it was restored the non-Indians came in, too. * * * This has resulted in an almost impossible situation—one which the Indian Office and other departments of the Government have been doing their best to cope with ever since the restoration orders of December 30, 1908, and January 16, 1911. * * *

"Such men as Father Weber and Gen. Hugh L. Scott interested themselves deeply in this question and put themselves on record in protests to the Government in relation to it. Father Weber, who was for years a dominant influence for good amongst the Navajos, probably knew more about them and their affairs than any white man ever has. He pleaded for the permanent addition of this country to the reservation and was very clear in his opinion that allotting would be an unsatisfactory expedient. No one knew better than he that a 160-acre allotment for an Indian family's livelihood in this desert country was a mere gesture. I understand that Father Weber went to Washington to see President Roosevelt about it, and that the order of 1907 followed this visit of his."

"So, too, with General Scott, whose extraordinary knowledge of Navajo and other Indian affairs is universally conceded. He, as the records show, was equally insistent with Father Weber that unless this country could be definitely and permanently set aside for the Navajos that most unfortunate consequences would surely follow."

Efforts to diminish chaos by consolidating lands

In the effort to bring about a simplification in the ownership pattern in the New Mexico area formerly part of the reservation, Congress in 1921 passed an act authorizing the exchange of privately owned and of State and school lands, of homestead entries and other filings, including Indian allotment selections in San Juan, McKinley, and Valencia Counties in New Mexico for lieu lands on the public domain, thus making possible the segregation and consolidation of private and Indian holdings within the area. This act was designed especially to facilitate the reconveying of the railroad grant land to the United States and the selection by the railroad of other public domain lands so as to consolidate its holdings in solid blocks. No exchanges were made under this act

until 1929. The report mentioned above states that "on October 29, 1931, the railroad filed in the land office at Santa Fe its list of selections No. 06548 under section 2 of the act of March 3, 1921, by which list of selections 134,283.27 acres would be relinquished by the railroad to the Government for the benefit of the Indians, and in exchange therefor 124,670.23 acres of exchange railroad lands have been reconveyed to the United States for the benefit of the Indians since the beginning of the exchange operations.

Exchanges of privately owned lands within the boundaries of Indian reservations for public lands outside of these boundaries were first authorized by a provision in the Indian Appropriation Act approved April 21, 1904, which contained the following language: "That any private land over which an Indian reservation has been extended by Executive order, may be exchanged at the discretion of the Secretary of the Interior and at the expense of the owner thereof and under such rules and regulations as may be prescribed by the Secretary of the Interior, for vacant, nonmineral, nontimbered, surveyed public lands of equal area and value situated in the same State or Territory." This paragraph dealt with the situation created by the enlargement of Indian reservations by Executive order which orders in many instances included private land within the extended boundaries. It is obvious from the wording and the purpose of this legislation that the base lands relinquished by the private owners were to be used for the benefit of the affected Indian tribes. This intention is confirmed by the passage of the act of March 4, 1913, which authorized a limited number of relinquishments of railroad grant lands to Indians occupying such lands and the granting of lieu lands to the railroad from the public domain in the same State. The same intention is shown in the departmental bill introduced in 1930, which authorized the relinquishment and reconveyance of privately owned lands in certain counties in Arizona for the benefit of the Navajo Indians. This bill provided that "any privately owned lands relinquished to the United States under this act shall be held in trust for the Navajo Tribe of Indians." This intention to use the relinquished land for the benefit of the Navajo Tribe was again affirmed in a departmental bill prepared in 1924, which bill among other provisions, extended the boundaries of the Navajo Reservation over a large part of the territory taken from the reservation by President Taft and provided that the exchange provisions of the act of April 21, 1904, should be applicable in this area. Under the 1904 act, of course, the relinquished lands were used for the benefit of the Indian tribes.

The Wilbur withdrawal of July 8, 1931.

As predicted by all authorities, the situation in this area became worse and worse and the objection on the part of the local interests to making additional allotments or public domain homestead selections for the Navajos grew louder. Under the Hoover administration Secretary of the Interior Wilbur and Commissioner of Indian Affairs Rhoads endeavored to bring about what they hoped would be a permanent solution of the problem by again adding the bulk of the area restored to the public domain in 1911, to the reservation by act of Congress. In 1924 a bill was drafted which would have added the bulk of the 1907 additions once more to the reservation, with a provision for the exchange of private lands within the new part of the reservation for public lands on the outside and carrying authority for an appropriation of \$200,000 to buy out private interests within the added area. However, objection from New Mexico prevented any action on this proposal. The allotting process was resumed by the Indian Office after this failure and by decision of the Department of the Interior on June 6, 1931, it was held that qualified Indians could, under the Homestead Act of 1884, take advantage of the enlarged Homestead Act of 1916 and obtain 640-acre grazing homesteads in trust. The Indians proceeded to take advantage of this decision to file homestead claims but at the same time white applicants for homesteads increased in number throughout this area. The resulting conflicts moved Secretary Wilbur on July 8, 1931, to withdraw temporarily from all forms of entry about 4,000,000 acres of which 390,000 acres were in Arizona. This withdrawal precipitated the negotiations which led to the introduction of the Arizona and New Mexico Navajo Reservation boundary extension bills in 1933.

Navajo boundary extension bills of 1934.

On June 6, 1934, the President approved the bill enlarging the boundaries of the Navajo Reservation in Arizona. This bill carried an authorization of \$481,879, reimbursable from tribal funds, for the purchase of certain privately owned lands within the enlarged reservation; it also authorized the exchange of

certain railroad grant lands for lieu lands on the public domain outside of the enlarged reservation. The Arizona boundary extension bill had the approval of all interested parties, including the commissioners of the affected counties, the railroad, the livestock associations, and the property owners. The legislation provided that the lands relinquished to the United States by certain private landowners within the addition to the reservation should be held in trust for the Navajo Indians. The legislation also provided that no further allotments of Indian homesteads should be made on the public domain within the three affected Arizona counties. The purchases and exchanges in Arizona have been completed and a constant source of friction and irritation has been eliminated as a result of the adoption of the boundary extension legislation.

The New Mexico Navajo boundary extension bill, like its twin, had the endorsement of all interests affected by it; the commissioners of the counties, the property owners, the livestock and financial interests had given their consent. The bill passed the Senate and was favorably reported by the House Indian Affairs Committee, but was not called up for action in the House prior to adjournment. In 1935 the Senate, with the support of Senator Cutting of New Mexico, passed a New Mexico Navajo boundary extension bill which was sent to the House for action, but after the death of Senator Cutting his successor caused the bill to be recalled from the House and recommitment to the Senate committee. Extensive hearings were held on this bill in Washington and in New Mexico during 1936, and additional hearings were held in 1937 and 1938, but no action was taken.

Establishment of grazing district No. 7.

During all of this period the application of the regulatory provisions of the Taylor Grazing Act resulted in constantly increasing unregulated use of the 3½ million acres in New Mexico temporarily withdrawn from entry in aid of the boundary extension legislation. Inasmuch as this area had been withdrawn prior to the Taylor Grazing Act withdrawals in October 1934, the Division of Grazing, predecessor of the Grazing Service, did not have the authority to administer the area. Hence the livestock squeezed out of the districts placed under administration tended to concentrate on the unregulated no man's land of the withdrawn area creating a serious overgrazing problem. Alarmed by the incursion of nomadic sheep from Colorado and remote parts of New Mexico and Utah into this withdrawn area, the resident and nonresident customary users requested that the area be placed under administration by the Grazing Service. In 1939 the Commissioner of Indian Affairs joined the Director of Grazing in a recommendation to the Secretary that the withdrawn area be designated as New Mexico grazing district No. 7 and that it be administered by the Grazing Service under special rules. The request of the users for the administration of this area by the Grazing Service was transmitted to the Commissioner of Indian Affairs and the Secretary by Mr. A. D. Ryan, then Deputy Director of the Grazing Service, who pointed out the crying need of the area for administration and regulated use in order to prevent irreparable erosion damage through overstocking and overgrazing.

The Commissioner of Indian Affairs agreed with the Director of Grazing that action to conserve the range within the withdrawn area was necessary. Inasmuch as the Navajo boundary extension legislation was stymied for the time being, the Commissioner and the Director agreed upon a procedure to be recommended to the Secretary for the establishment of district No. 7. The district, containing a gross of about 3½ million acres, contained only 1,034,000 acres of public domain and national-forest lands as against 1,194,000 acres owned and 168,000 acres leased by the Navajo Indians. The Navajo Indians owned and leased 38 percent of the gross area whereas non-Indian livestock operators owned 6 percent, owned and leased a total of 23 percent of the gross area. The Indian population in the withdrawn area was between thirteen and fourteen thousand; the non-Indian population was less than 300.

On July 11, 1939, the Commissioner of Indian Affairs, the Director of Grazing, and the Director of the Division of the Bureau of Investigations joined in a recommendation to the Secretary that he create the New Mexico grazing district No. 7 covering the withdrawn area by modifying the boundaries of New Mexico grazing district No. 2 and the departmental withdrawn order of July 8, 1931. They also recommended that some 235,000 acres relinquished by the Santa Fe Pacific Railroad Co. and reconveyed to the United States be withdrawn by the Secretary and assigned to the Commissioner of Indian Affairs for administration.

The 3 above-mentioned officials joined in the recommendation that the Federal range code be not applied in the new grazing district and that new rules for administration of this district be promulgated by the Secretary. The rules proposed by the 3 officials and approved by the Secretary September 1, 1939, provided for the appointment of a regional grazer to have charge of this important district with its huge human and livestock population and its complicated administrative problems. It should be pointed out that, whereas New Mexico district No. 7 has less than 3 percent of the gross area of land administered by the Grazing Service, it has 8 percent of the total number of licenses and permits issued by the Grazing Service. The rules stressed residence within the district and dependence upon the livestock operations for a livelihood rather than other factors as a prerequisite for the granting of grazing licenses. They provided for an advisory board on which 4 Navajos would represent the 1,496 Indians users and 4 others would be the representatives of the 57 non-Indian users. The approved rules also provided for the appointment of a range conservation committee to assist the regional grazer in the management of the district and in arranging for those technical services which the Grazing Service could not supply.

The administration of district 7 by the Grazing Service has so far caused no important complaints from the users, but this lack of friction is almost entirely due to the administrative necessity of confirming the status quo as it existed at the time of the creation of the district in 1939. Since that time it has been impossible to complete the range surveys and to establish the carrying capacities of the three subdistricts. Until such carrying capacities are established, it is not possible to determine to what extent the various districts are overstocked. It is expected that the range surveys will be completed in the fall of 1943 and that thereafter heavy reductions in the stocking and a redistribution of licenses will have to take place. Such actions will affect both Indian and non-Indian users, and it is entirely probable that the users affected by the redistribution of the grazing privileges will give voice to complaints and objections.

The rules under which the grazing district is being administered are temporary and are issued under the provisions of section 2 of the Taylor Grazing Act.

A discussion of the affairs of grazing district 7 is incomplete without a discussion of the affairs of the Navajo Reservation. Of all the Navajo Reservation problems none is more crucial than those of overpopulation and soil erosion.

Should the non-Indian users in district 7 seek to eliminate any substantial number of the more than 13,000 Indians in the district, the question arises, where can these Indians go? That they cannot be pushed over onto the reservation becomes exceedingly clear from the facts in the following pages. Where they can go, no one has yet effectively suggested.

NAVAJO LANDS ARE DEPLETED

Francis E. Leupp, former Commissioner of Indian Affairs, wrote in one of his reports almost a generation ago:

"The Navajos have learned that thrice blessed is he who has nothing, for from him can nothing be taken away. Denizens of a desert too forbidding to tempt white cupidity, they have escaped pillage because nobody believed the booty would be worth the trouble of robbing them.

"But in spite of the fact that thousands of acres of this reservation have not vegetation enough to founder a humming bird, the reservation as a whole is stocked one-third heavier than the rest of Arizona and New Mexico, resulting in overstocking and overgrazing of those portions of the reservation that are blessed with vegetation, yet the reservation is to be allotted because they want the surplus lands restored to the public domain so they can use them for grazing grounds."

A pastoral people.

The problem confronting the Indian Service in the Navajo area is the support of an overpopulation of Indians upon comparatively unproductive, deteriorated lands.

The Navajos first located in the southwest in what is now the northeastern portion of grazing district 7 and from that point spread west and south. In 1864 migration was halted by the United States Army and as previously stated the Navajos were rounded up, taken to Fort Sumner, N. Mex., and in 1868, were brought back to the Navajo country.

The 1868 treaty reservation of $3\frac{1}{2}$ million acres has been increased from time to time since until the present area of the reservation and outside allotments totals about 16,000,000 acres.

This growth was the result of intense pressure of population; from 1868 to the present the Navajo Tribe has increased from an estimated 10,000 to over 52,000 people (see Population Chart). Since the 1870 density of population in people per square mile has varied between 1.0 and 2.8 with a peak in 1890 (see Density Chart). Since 1890, however, density of population has steadily increased to the present figure of 2.1 persons per square mile. This is more than twice the density found in comparable adjacent white-populated rural areas.

The present rate of increase in Navajo population is 1,200 per year. The birth rate is 36 per thousand, the death rate is 12 per thousand, leaving a survival rate of 24 per thousand, one of the highest for any group in the United States, exceeded only by a group of Negroes in the Southeast.

The Navajos are a group divided from the surrounding areas. Boundaries and the limits of allotment areas are sharp, but more effective are the barriers of language and culture. Less than 3 percent of the adult Navajos speak or understand English and a still smaller percentage are able to read or write. Difficulty of communication and contact is one of the main problems of Indian administration.

The average income of the Navajos is extremely low. Total income amounted to only about \$82 for 1940, a year that might be considered normal (see Income Chart). Income derived directly or indirectly from agriculture totals about \$55, including \$36 from livestock, mostly sheep; \$12 from farming, principally corn and beans; and \$7 from rugs made from wool produced at home. Remaining income is derived from wages and miscellaneous sources, the most important of which are piñon nuts and jewelry.

Income is used almost altogether for current living expenses which total \$73.35. About two-thirds, or \$54, is traded or spent at trading posts, of which about \$13 is for clothing, \$37 for food, and \$4 for farm and household equipment. Almost \$20 worth of corn, beans, meat, etc., produced at home are used at home primarily for food. The remaining \$8.54 of income is used for unrecorded purchases other than at the trading post.

The Navajo country is spectacular.

Well known for picturesque scenery of rolling plains, deep canyons, mountains, highly colored sandstone cliffs and painted deserts, the Navajo lands are beautiful but largely unproductive.

The reservation boundary including both the Navajo and Hopi jurisdictions encloses an area of 23,574 square miles. An additional area of checkerboarded allotted lands lies to the south and east of the reservation within the State of New Mexico.

About 44 percent of the reservation drains into the San Juan River, about 49 percent into the Little Colorado River, and about 7 percent drains directly into the Colorado River. The Navajo occupies about 40 percent of the total drainage area of the San Juan and Little Colorado systems and about one-tenth of the Colorado River watershed.

The surface of the Navajo area includes four principal features: (1) flat, alluvial valleys; (2) broad rolling upland plains; (3) high rugged mesas; and (4) mountains. Most of the Navajo area lies between elevations of 5,000 and 7,000 feet.

There are three distinct climates prevailing within the Navajo: (1) The warm, arid, truly desert climate of the lower elevations occupying over half (55 percent) of the area; (2) the intermediate arid steppe climate of the middle elevations, occupying about one-third (37 percent) of the area; and (3) the cold, subhumid climate of mountainous areas occupying 8 percent of the total (see Climatic Chart).

None of these climates are conducive to high type of agricultural production except where irrigation water is available. Over half the area is unproductive desert with rainfall averaging 8 inches and occurring principally during July, August, and September. High temperatures during summer and subzero weather during winter, high winds, frequent sand storms, high evaporation rates, and frequent, long droughts are characteristic. The steppe climate is only slightly more productive, with average rainfall of slightly more than 12 inches but subject to much the same high winds, sand storms, evaporation, and long droughts. The high mountains may be termed "subhumid" and would be productive agricultural areas were it not for the extremely short growing season. Rainfall averages

22 inches and there is a period of winter snowfall as well as summer storms. The growing season averages about 90 days but frosts often occur during every month in the year.

Droughts are the principal factor limiting all kinds of agriculture. Practically every year there are two 3-month periods without precipitation—during April, May, and June in the spring, and October, November, and December in the fall. Then, in addition, there are frequent longer droughts. Records show that every 3 to 8 years during the past 50 years there have been periods of 20 to 25 months without measurable precipitation. Often these periods are broken by only 1 or 2 months with rainfall only to be followed by another protracted drought.

These droughts are definitely normal occurrences in the Southwest and are not unusual. They obviously have a limiting effect on range forage production, and livestock grazing, storage of water for irrigation, and flood and dry farming.

Soils reflect influences of the climates under which they have developed. Desert soils are high in salts, high in mineral plant foods, low in plant matter, highly erosive, subject to wind erosion, and in general extremely unstable. Steppe soils are similar but not quite so salty, high in mineral plant foods, slightly higher in plant matter, are subject to rapid water erosion but not affected so severely by wind erosion. The subhumid soils are nonalkaline, are highly fertile when of sufficient depth, and are comparatively more stable than desert and steppe soils.

Vegetation also reflects climate. Desert vegetation, principally grasses and browse plants, is sparse, grows very slowly, produces a small margin for grazing use, is easily injured by overgrazing, and requires long periods for recovery after depletion. Steppe vegetation is composed primarily of grasses, sagebrush, and piñon-juniper. It will ordinarily produce more forage than desert but has narrow carrying capacity limitations. The subhumid zone produces ponderosa pine timber, oak, and associated under-story grasses and shrubs. The area is summer range and with proper use yields good forage.

The productivity of Navajo lands varies widely (see Productivity Chart): 11.6 percent is complete waste, 30 percent will carry less than 1 sheep for each 50 acres, 21 percent will carry 1 sheep for each 25 to 50 acres, about 16.7 percent will carry 1 sheep for each 16.7 to 25 acres, and only about 20 percent will carry a sheep on less than 16 acres. Only 0.5 percent is cultivated land over half of which is dry and flood irrigated.

The soil is disappearing rapidly.

The factors of rapid increase in population, lagging expansion in land area and development of irrigation works, predominance of marginal and submarginal lands, uncontrolled and abusive land-use practices, have, during the short space of 75 years since Bosque Redondo, had a severe effect on the Navajo people and upon lands set aside for their subsistence.

Land destruction and economic depletion have proceeded together each complementing and speeding the other. It is highly probable that productivity of land has been reduced by at least 50 percent and the people who had risen to be fairly well-off livestock owners, have now sunk again into a poverty which is continuously becoming worse.

Accelerated erosion, silt production, and vegetative depletion are the direct physical results of overpopulation.

No one can deny that the Navajos have sinned against their lands, but they are not the only ones. An exploitive philosophy was behind settlement of the entire Southwest. To this extent the Navajo may be pardoned: whereas his objective was subsistence and only a meager security, the objective of the white man was (and still is) the realization of profit, the declaration of largest possible dividends on invested capital, some of it foreign.

But whatever the philosophy, the effect upon land has been disastrous. After 75 years we find (by surveys by qualified technicians) that erosion, the most dependable index of abuse, has proceeded until removal of soil by water has injured to greater or less degree every acre of productive land on the Navajo. Up to one-fourth of the top productive soil has been removed from 45 percent of the area (see erosion chart), and between one-fourth and three-fourths of the productive soil has been removed from 23 percent of the area. Areas affected by these two intensities of erosion have been seriously reduced in productivity. In addition, over 75 percent of the topsoil, and in many areas even some of the subsoil, has been removed from 10 percent of the area. This latter condition amounts to virtual destruction and the creation of man-made badlands. Remaining portions of the Navajo are naturally unproductive areas of rough, broken, stony country devoid of or very sparsely covered with vegetation.

Wind erosion is active on all lands that are susceptible, excluding clay soils, geologic areas, and wooded or timbered country. Both removal of soil and accumulation of blown soil material are classified as erosion. Wind erosion is particularly active where dry, sandy desert soils with sparse, short vegetation prevail. Of the susceptible area, approximately one-third has lost up to 25 percent of the productive soil or material has been deposited up to 6 inches deep; another third has lost between 25 and 75 percent of the topsoil, or material has been deposited 6 inches to 1 foot deep; and about one-third of the area has lost over three-fourths of the productive soil or is covered by deposits greater than 1 foot in depth.

Wind action sifts out fertile silts and clays and deposits principally sterile sands in dunes or hummocks; thus deposited material is not a true soil capable of full plant production.

A serious and disturbing characteristic of erosion on the Navajo which is known to technicians is the prevalence of an extremely high rate of current activity (see Erosion Acceleration Chart).

Erosion is at present proceeding at an extremely rapid rate on more than half (54 percent) of the Navajo area. Also erosion is proceeding at a less rapid but still alarming rate within 33 percent of the area, while on only 13 percent of the area (and this portion includes extensive bare rock areas) is erosion proceeding only at what may be termed a moderate rate.

Data reveal that at the time the surveys were made gullies were advancing rapidly through Navajo lands and were becoming wider and deeper where existing already, and that sheet and wind erosion was destroying topsoil and moving the constituent particles (no longer soil) continuously about. Except for whatever achievements in control that have been made during the last 8 years, these conditions still exist.

Another disturbing feature of such advanced and active erosion is that, in addition to destruction of the watershed, the soil materials removed become debris and are blown about or carried away by streams.

Tremendous quantities of silt originate on the Navajo and flow into Lake Meade. These quantities of silt can be estimated with a reasonable degree of accuracy. The results of calculations show that the Navajo is the most critical portion of the Virgin, San Juan, and Little Colorado drainages, which in turn constitute the most critical portion of the Colorado watershed.

The following figures are based on siltation studies carried on at the Navajo Conservation Experiment Station at Mexican Springs, N. Mex., investigations of silt content of floodwaters of many of the major streams of the Navajo by technicians of the Soil Conservation Service and Soil and Moisture Conservation Division of the Navajo Service, and run-off records kept by these agencies and the United States Geological Survey.

There are two recognized major types of silt movement; removal of silt from origin and its deposition on fans, in reservoirs, natural depressions, along channels within the reservation, and transportation of silt off the reservation into the Colorado River where it is carried into Lake Meade. It is estimated that 50 percent of the silt moved is deposited at least temporarily on the reservation and that 50 percent leaves the area and is carried into Boulder Dam.

Silt samples taken from streams over various sections of the Navajo indicate that run-off water from the various climatic zones in this area can be expected to carry silt in the following proportions: arid zone, 45 percent; semiarid, 25 percent, and subhumid, 10 percent (all percentages by volume). Silt samples have been reported on washes in the arid country running as high as 70 percent while the Mexican Springs area (semiarid) has recorded silt content up to 30 percent. The accompanying table (table I) shows a few of the silt samples taken by the Navajo Conservation Experiment Station, the Soil and Moisture Conservation Division of the Navajo Service, and the Soil Conservation Service.

The total silt produced in the arid zone is calculated at 45,855 acre-feet, or 99,861,000 tons; semiarid zone, 17,050 acre-feet, or 37,135,000 tons; and semi-humid zone, 2,040 acre-feet, or 4,444,000 tons. This means that a total of 64,945 acre-feet or 141,440,000 tons of silt is produced annually on the Navajo Reservation (see table II). Assuming that the silt actually transported off the reservation is 50 percent of that produced, the amount entering the Colorado River annually to be transported into Boulder Dam is 32,473 acre-feet, or 70,720,000 tons. It would take 1,414,400 railroad cars, or 18,860 trainloads of 75 cars each, to transport this silt.

The National Resources Board Report, drainage Basin Problems and Programs, 1936, states that 200,000,000 tons of silt are produced annually by the Colorado River watershed. Of this amount 75 percent, or 150,000,000 tons, is delivered by the Virgin, Little Colorado, and San Juan Rivers. These drainage systems on the other hand produce only 10 percent of the water delivered by the Colorado River. Thus the watershed areas of these three rivers is defined as the most critical of the Colorado River drainage.

The Navajo Reservation comprises 36.3 percent, or over one-third of this area, and is in turn the most critical portion of the critical area. The Navajo produces less than 25 percent of the water and approximately 50 percent of the silt delivered by the three watersheds. This means that the Navajo delivers 2.5 percent of the water (one-fortieth) while producing 37.5 percent (over one-third) of the silt which goes into Boulder Dam (see chart I).

It has been found that 80 percent of this silt originates from bank cutting, so that regardless of the accomplishments of proper land use, some revegetative and mechanical control measures will be necessary for relief.

Some idea may be obtained of the rate of soil destruction from the figures shown in table II. About 65,000 acre-feet of silt is moved on the reservation each year. If we assume topsoil to average 12 inches in depth, then the equivalent of 65,000 acres of land are being destroyed on the Navajo each year. From our erosion survey data it is calculated that one-tenth of the Navajo, or 1,630,000 acres, is already virtually destroyed. At the present rate (which is more rapid than at any time in history), it would require about 25 years to destroy this 16,000,000 acres. Also at the present rate we would expect the productive life of the Navajo area to last only 225 years longer.

However, as erosion advances, the rate of erosion increases. Erosion began to be accelerated on a wide scale in the decade following 1890, and has increased in activity since, continuously gaining momentum, and doubtless will continue to gain momentum in the future. Therefore, it is probable that the Navajo would not last as long as 225 years unless conservation measures are effectively applied and made permanent.

Naturally, with the loss of soil on which vegetation is produced, there is an accompanying loss in ability of the land to produce plant growth. This loss cannot be recovered without recovery of soil.

From records of past numbers of stock grazed, accounts of past condition of vegetation, and calculations of the amount of productive soil which has been lost, it is estimated that the carrying capacity of the Navajo area at present cannot be more than half the original capacity. Evidence from available accounts indicate that this deterioration took place most rapidly between 1880 and 1910. If this is true, the resources available for Navajo subsistence have been reduced even faster than trends in population show. The population chart shows the increase in Navajo population in relation to estimated productivity of land in sheep units carrying capacity. It is apparent from this chart that depression for the Navajos set in about 1910 and has been continuous ever since.

Also reflecting this trend is the record of estimated average sheep units carrying capacity available to Navajos for grazing. During the two decades from 1870 to 1890, the Navajos were almost five to six times as wealthy as from 1920 to 1940. With increase in population and supporting resources, the Navajos have become an extremely poverty-ridden group, and the process is still continuing.

Navajo average income only \$82 per capita.

In order to obtain some idea of how the population at present stands in relation to available resources, and where the future is leading, an analysis was made of average subsistence requirements and resources available from which to obtain subsistence. If, at best, the Navajos can only maintain their present level of income of about \$82 per capita annually, and also make conservation and sustained yield use of all lands, their present resources are far inadequate. They can depend upon livestock to continue to carry the equivalent of 14,540 persons (see chart) within the reservation without further depleting the range resource. This is only a little over one-third of the 38,000 Navajos inside the reservation. Present farm land and farm land that can be developed without expense of large irrigation projects can support the equivalent of an additional 11,260 people, not with any degree of security, however, because over half of the land thus available for farming is dry and flood-irrigated.

Of the present population within the reservation this would leave almost 13,000 who must depend on wages, relief, help from neighbors, or must be moved from the reservation or placed on large irrigation projects if and when developed.

This 13,000 overpopulation is increasing at the rate of 1,200 per year, and each year that an adequate solution is delayed, only intensifies the problem and makes ultimate solution more difficult.

The 13,000 Navajos who live outside the reservation are faced with a similar future.

The facts available indicate that the ultimate solution lies in the direction of extensive development and efficient use of irrigated land, stabilization of the livestock industry, introduction and expansion of industrial occupations, conservation operations to assist and speed up soil stabilization and reduce silt flow, increase in land area, special treatment of already critical areas, and education both of Indians, policy makers, and of the public to the problems and responsibilities.

TABLE I.—*Silt samples from Navajo Reservation*

Name of wash	Date	Location	Silt content		Remarks
			Volume	Weight	
Chinle.....	Aug. 4, 1936	7 miles above junction of San Juan.	Percent 47.1	Percent	Estimated flow, 4,000 cubic feet per second, taken by H. F. Johnson, Soil Conservation Service, Soil Section.
Beckasba Bita..	Aug. 1, 1936	At Tuba City, Kayenta road crossing.	6.7	-----	Estimated flow, 110 cubic feet per second—second flow of season.
Laguna.....	Aug. 18, 1936	Kayenta crossing.....	1.08	-----	Small flow 24 hours or more after flood crest.
Do.....	do.....	Diversion dam, Kayenta.	9.2	-----	Peak of flood.
Oraibi.....	-----	On Hopi Reservation...	44.1	-----	Sample taken by H. L. Thomas, Soil Conservation Service, Soil Section.
Do.....	Sept. 22, 1936	Hard Rock crossing proposed diversion.	33.4	82.1	Samples taken by J. P. Bewley, Soil Conservation Service, Soil Section.
Dinnebito.....	do.....	Diversion dam, Lower Dinnebito.	1.7	4.18	Sampled by Indian Irrigation Service.
Oraibi.....	do.....	In irrigation canal below diversion dam.	3.73	9.19	Do.
Polacca.....	July 27, 1937	At Polacca Bridge.....	6.90	15.78	Hopi Reservation.
Chinle.....	Aug. 20, 1937	At Lower Rock Point...	3.40	8.58	Sampled by Indian Irrigation Service.
Bito Hoochee...	Sept. 10, 1937	East of Indian Wells....	4.04	12.00	Flow 1½ feet deep, sampled by L. A. Hill, Soil Conservation Service, Soil Section.
Oraibi.....	-----	-----	41.8	65.2	Sampled by H. F. Johnson and E. A. Nicholson, Soil Conservation Service.
Dinnebito.....	-----	-----	7.0	16.4	Do.
Puerco.....	Apr. 1, 1938	¼ mile above Manulito.	14.0	36.0	Sampled by O. C. Adair and R. R. Wood, Soil Conservation Service.
Do.....	Aug. 3, 1938	-----	14.9	31.4	Sampled by Mr. Holmes, Soil Conservation Service.
Do.....	Aug. 4, 1938	-----	14.9	31.4	Do.

TABLE II.—*Silt produced on Navajo Reservation*

Zones	Area	Run-off	Silt	
	<i>Square miles</i>	<i>Acre-feet</i>	<i>Acre-feet</i>	<i>Tons</i>
Arid.....	13,066	101,900	45,855	99,861,000
Semi-arid.....	8,748	68,200	17,050	87,135,000
Semihumid.....	1,760	20,400	2,040	4,444,000
Total.....	23,574	190,500	64,945	141,440,000

CONCLUSION

This is what we are doing about it.

To meet the needs of the largest Indian tribe in the United States, growing at a rate three times as fast as the white population, to halt the ravages of overgrazing due to overpopulation, to prepare the Navajos for their eventual place in a white world, the Indian Service administers an area as great as all of New England except Maine, operating under difficulties undreamed of in other areas and made tremendously complex by difficulties of language, of terrain, and of ignorance—ignorance as much on the part of Indians as on the part of whites, who have an opportunity to know better.

The functions performed by the Indian Service are more multiform, more varied, and more complex than those performed by any other single governmental agency in the country—perhaps in the world. From the cradle to the grave, and far beyond the grave, Indian Service technicians, educators, and administrators handle a multiplicity of services unequalled elsewhere. Included in these functions are the services performed in white communities by all the local, county, State, and Federal agencies, township boards, county supervisors, city governments, boards of education, county farm agents, and all the intricate mechanisms of State governments. Besides all these there are duties and services, many of them difficult and arduous, which in other communities are performed by insurance companies, banks, and other private agencies.

Among the special wartime activities which indicate the range of Indian Service activities are the duties of rationing, selective service, war employment, scrap collection, and many other items for which the various war agencies look to the Indian Service.

In all the efforts of the Indian Service, during peace and war, there is the primary objective of fitting the Indian to take his place beside the white man, and to this end the Indian has been given preferential treatment in employment and has been advanced very rapidly in the direction of taking over his own affairs. At the time the last tabulation was made over half of the employees of the entire Indian Service were Indians.

In 1934 the Bureau of Indian Affairs recognized the detrimental effects of land destruction on Navajo society and economy and inaugurated a corrective program. Measures of correction and adjustment were directed at the basic causes of the deplorable conditions. A locally autonomous organization known as the Navajo service was formed, and given authority and facilities which, within the limits of funds, were required to meet the acute situation. The organization was built of Indian Service and cooperating bureau personnel and facilities.

A program and organization was formed to carry out the following functions:

1. Land and water use and conservation.
2. Livestock management and improvement.
3. Improvement and expansion of health, education, tribal representation, and other social phases of Navajo life.
4. Development of individual and tribal enterprises and responsibilities.
5. The administration of appropriated funds, property, other equipment, personnel, etc., necessary for the conduct of the whole Navajo program.

Accomplishments during the first 10 years of the adjustment program have been encouraging. In the face of a problem probably second to none in the United States, progress of an encouraging nature has been made in some phases of the work.

A range program has been developed which has reduced livestock on the reservation from a condition of almost 100 percent overstocking to approximately 13 percent overstocking. In 1931 Navajos, on and off the reservation, owned about 1,150,000 sheep units of livestock. In 1942 this figure had been reduced to 750,000 sheep units, only 583,569 of which were within the boundaries of the reservation.

At the same time, improvements in livestock breeding and management have advanced production. The average lamb crop has increased from 50 percent to 85 percent, weaning weights of lambs from 53 pounds to 60 pounds, and wool weights have increased from less than 4 pounds to 6 pounds. Unproductive classes of stock such as poor horses, wethers, old steers, and goats have been greatly reduced, making the proportion of productive ewes nearer what is required for a successful range livestock operation. Despite reductions in numbers of livestock over the last several years, total Navajo income from this source shows steady annual increase.

In connection with range management it has been necessary to provide a great many additional livestock watering sources. As of July 1, 1943, the Indian Service has constructed and is maintaining 283 permanent deep wells, 579 dug wells, and 1,198 reservoirs and charcos for the uses of Navajo stockmen. Large areas formerly waterless are now available for grazing use, but even yet in many areas additional water developments are needed, since many of the waters are now from 5 to 10 miles apart.

An Indian Service Irrigation Division was organized in 1897, but progress in irrigation development has been greatly accelerated in the last 10 years. At the present time on the Navajo Reservation 17,833 acres of irrigated land have been subjugated for Navajo farms. A total of 71,718 acres are possible of development under the present irrigation systems.

As a result of the irrigation developments 2,480 farms have been established which benefit approximately 13,640 Indians. Since farm development is one of the principal means by which additional land base may be established for the Navajos, this phase of the development work is being given a very important place in the program. In the future it will be pushed as rapidly as funds and facilities will permit.

Along with farm-land expansion an effort is being made to improve Navajo efficiency in land use. Through available education and extension facilities Navajo farmers are being taught improved methods of tillage, cultivation, harvesting, storage, and other farm practices. Additional farm crops are being introduced. These are principally food and vitamin-rich vegetable crops.

In 1942 the net agricultural income of Navajos was approximately \$3,821,936. Of this amount \$2,391,994 was cash sales and \$1,626,342 the conservative value placed on farm and livestock products consumed in the home.

In connection with all land-use activities the principles and practices of conservation and maintenance of land fertility are applied whenever and wherever possible. Range and farm practices are made basic measures of conservation. Pasture improvements, water spreading, and other appropriate measures are applied to range lands. Farm lands, irrigation systems, buildings and plants, stock tanks and reservoirs, and roads are protected from flood, erosion, and silting damage insofar as funds and facilities permit.

Together with and as an integral part of the land program, a human development program is being carried on. Education of Navajos toward competency for acceptable and constructive citizenship is of utmost importance. The problems of literacy, health, vocational training, and proper land-use are given real stress and consideration. For this purpose the Navajo Agency operates 8 boarding schools and 47 day schools. Attendance has generally been good, but even so only 30 percent of Navajo children of school age can be reached. Adult education, community and social work are receiving important attention.

Maintenance of the health of the Navajo people is of tremendous importance in the effort to improve economic and social conditions. On the Navajo Reservation 21 doctors working at 9 hospitals and sanatoriums are employed. The principle diseases encountered among the Navajos are dysentery, tuberculosis, trachoma, etc. Emphasis is being placed on services that can be rendered by Public Health nurses.

The Navajo people are essentially law abiding, and crime and misdemeanor among them is very low considering the total population. Despite this fact it is necessary that law and order be administered to correct the causes contributing to the breaking of laws.

Tribal enterprises operating for the benefit of Navajos on a fair competitive basis are encouraged. The Navajo tribe operates a sawmill which is devoting present production of lumber almost wholly for war construction work. Important livestock improvement efforts are being conducted by tribal enterprises. The tribe also operates a small flour mill for processing Indian-raised wheat. Individual industry in rug weaving, jewelry making, tanning, etc., is making important progress under direction of the Navajo Arts and Crafts Guild. Individual Navajos are financed for and encouraged in improved farm and livestock operations.

Records are kept of all vital statistics. Close cooperation is maintained with the United States Employment Service and the various States in the placement of labor—especially at present when there is such a tremendous effort for recruitment of Navajo labor for essential war work. The Navajo tribe has furnished 2,000 men and women in the armed forces and 9,000 men and women in work vital to agriculture and war industry.

In order that such a large and many-sided program may be carried on with any degree of efficiency it is necessary that competent personnel be employed in the various fields of work. It is also necessary to maintain an adequate service and facilitating organization. The organization now in existence includes budgetary, fiscal, legal, regulatory, warehousing, transportation, housing, construction, and personnel sections.

As of July 1, 1943, there were 1,200 employees on the Navajo Reservation. Of this number half were Indian. Three-fourths of all the employees on the reservation are performing educational and medical services.

In a statement such as the foregoing it is human to attempt to present the brightest side of the picture. Records and evidence will demonstrate the real progress that has been made in certain phases of the work, such as (1) adjustment of Navajo livestock to range carrying capacity, (2) improvement in production of livestock, (3) advancements in education and health programs. On the other hand, the record and evidence will show that much remains to be done in all phases of Navajo administration. A full Navajo cooperation and responsibility has yet to be reached. In many sections of the reservation there are local conditions of heavy overstocking, land wastage, and poverty existing. Despite the acute need for more farm land development, irrigated lands that are idle and nonproductive exist. The principal future effort should be, and will be, devoted to better management practices on range land, farm land and with livestock.

Isolated small areas of land on the Navajo Reservation are properly used and have demonstrated conclusively that the Navajos benefit by this practice. These small areas must be expanded. There is need to reach a larger proportion of the Navajo people with more and better health and educational facilities. Many other things could be mentioned as sorely needing work and attention.

JAMES M. STEWART,
General Superintendent, Navajo Agency.

FEDERAL LANDS ADMINISTERED BY UNITED PUEBLOS AGENCY, UNITED STATES INDIAN SERVICE

Albuquerque, August 14, 1943

I. PUEBLO INDIAN LAND IN NEW MEXICO

1. *The Spanish and Mexican Eras.*

The Pueblo Indians have lived in this country since about the time of Christ.¹ Prior to the Spanish invasion in 1540 no written records of land ownership were maintained. With the coming of the Spanish, however, non-Indian settlements were established, and the concept of land ownership and land titles suddenly assumed an importance which heretofore had been lacking.

The Spanish Crown, recognizing that land ownership must be clearly defined if the rights of individuals were to be protected,² made grants of specific areas to Indians³ and to non-Indians. Having established boundaries, the Crown then issued grants giving title to these lands. The Indian titles were vested in the Pueblos.⁴

In 1821 the Mexican Government assumed control of New Mexico. While in theory the Spanish laws which had been in force with reference to property were recognized,⁵ laxity on the part of local officials in enforcing these laws became responsible for much of the land passing out of the hands of the Pueblo Indians and into the hands of the non-Indian population. The effect of the Mexican regime, while of relatively brief duration, was further to complicate an already confused land situation, the correction of which was eventually to devolve upon our own Government.

¹ Early Pueblo Ruins in the Piedra District, Southwestern Colorado, by Frank H. H. Roberts, Jr. Washington: Government Printing Office, Smithsonian Institution, Bureau of American Ethnology, Bulletin 96, 1930, p. 12.

² A large section of *Recopilacion de las Leyes de los Reynos de las Indias* is devoted to laws and regulations regarding the Indians.

³ Many Mexicos, by Lesley Byrd Simpson. New York: G. P. Putnam's Sons, 1941, p. 98.

⁴ Handbook of Federal Indian Law, by Felix S. Cohen. Washington: United States Government Printing Office, 1942, p. 383.

⁵ Treaty of Cordova, August 24, 1821, and the Declaration of Independence, September 28, 1821.

2. The Early American Era.

When in 1850 New Mexico became a Territory of the United States, the Federal Government recognized the original Spanish grants, as well as the rights to property which had been established during both the Spanish and Mexican regimes. This recognition had been plainly stated in the Treaty of Guadalupe-Hidalgo in 1848. To administer those provisions in the treaty, Congress by the act of July 22, 1854, established the office of Surveyor General for the Territory of New Mexico.⁶ Section VIII of that law provided that the Surveyor General, under instructions given by the Secretary of the Interior, should investigate and make recommendations with a view to confirming all bona fide land claims within the Territory.

Having conducted his investigation, the Surveyor General recommended confirmation of titles to the pueblos; Congress confirmed the Pueblo grants on December 22, 1858;⁷ and on November 1, 1864, the General Land Office issued patents to the Indians.⁸ In these patents the Federal Government relinquished all rights and claims in Pueblo land grant areas with the exception of any valid adverse rights which might exist.

When these Federal patents were issued, no inquiry was made into the validity of adverse rights. Indeed, no attempt was made to find out if any such adverse rights existed and, if so, where and what they were. Thus the exceptions to these patents lacked definition and selectivity based on law and justice, and accordingly perpetuated all the illegal tenure and inequalities which had gradually entered into the land situation since the time of the original Spanish grants, and particularly during the Mexican regime.

It is therefore obvious that even after the patents were issued the Pueblo Indian land problem was far from being solved. Indeed, the situation was complicated by the Supreme Court of the United States. The Indian Intercourse Act of June 30, 1834,⁹ had included the Pueblo Indian within the definition of the Indian tribes with respect to whom unauthorized settlement of tribal lands constituted a Federal offense. However, in 1876¹⁰ the Supreme Court held that they were not Indian tribes within the meaning of this act. Thereupon, many non-Indians settled on Pueblo lands, relying upon this decision as well as upon a series of those of the Supreme Court of the Territory of New Mexico, as evidence that the Pueblo Indians had the power to dispose of their lands and that since there was no United States statute protecting Pueblo lands from settlement by non-Indians, non-Indians were at liberty to establish rights by adverse possession. In 1913, however the Supreme Court reversed itself,¹¹ ruling that Pueblo tribes were entitled to the same protection as other Indian tribes in the United States, thus invalidating all of the settlements of non-Indians on Pueblo lands, with or without grants or deeds from Pueblo tribes. It was between 1876 and 1913 that some 3,000 non-Indian families settled on Pueblo lands. It is easy to see how the reversal created consternation among the non-Indians who possessed land within the exterior boundaries of the Pueblo reservations, unsettling as it did the Indian titles and invalidating the claims of non-Indians who possessed land to which they believed they had title.

It became obvious that careful surveying by competent engineers should be made of the boundaries of all this land before any intelligent action could be taken to solve this complex problem. The old survey corners had been marked with stones, and in many instances the stone markers had been moved from their original positions. No surveys at all had been made of the lands claimed by non-Indians within the exterior boundaries of the Indian grants. The increasingly chaotic condition of the land ownership precipitated an investigation by the Sixty-seventh Congress which had become aware of the fact that the question involved approximately 3,000 non-Indian claimants within the exterior boundaries of Pueblo grants and affected some 12,000 persons in all.

As a first step toward ultimate adjudication, the Office of Indian Affairs in 1913 arranged for Mr. F. E. Joy of the United States General Land Office to survey the exterior boundaries of all the lands claimed by the Pueblos and the non-Indian private claims within the Pueblo tribal lands. Mr. Joy and his associates sur-

⁶ 10 Stat. 308.

⁷ Eighteenth Annual Report of the Bureau of American Ethnology to the Secretary of the Smithsonian Institution, 1896-7, J. W. Powell. Washington: Government Printing Office, 1899, pt. 2, pp. 920-922.

⁸ 11 Stat. 374.

⁹ 4 Stat. 729.

¹⁰ *U. S. v. Joseph* (94 U. S. 614).

¹¹ *U. S. v. Sandoval* (231 U. S. 28).

vayed the grants and marked the land into sections for the first time in the history of New Mexico.

3. *The Pueblo Lands Act.*

The first legislative effort to alleviate the situation was a bill presented by Senator Holm O. Bursum, of New Mexico. The Bursum bill was aired before two congressional committees in 1921 and was finally killed on the grounds that it failed to provide protection to the Indian and placed upon the Government the burden of disproving the right of private landholders—a complete reversal of the usual procedure in which the burden of proof rests with the claimant.²³ The Snyder bill, which was substantially the Bursum bill revised in an attempt to eliminate some of its most debatable features, likewise failed to pass. A third bill, known as the Jones-Leatherwood bill, was then offered as a counter proposal by adversaries of the Bursum bill, but this, too, failed to obtain the approval of Congress. The crying need for a solution of this vexing problem still remained, and on December 10, 1923, demands were made that a commission be appointed for the purpose of investigating the Pueblo land titles. This motion was approved by Congress on June 7, 1924, and became known as the Pueblo Lands Act.²⁴ The act provided for the creation of a Pueblo lands board. By this act the board was made responsible for investigating, determining, and reporting on the status of all land within the exterior boundaries of lands claimed by the Pueblo Indians. In passing on non-Indian claims, it was provided that all such claims should prove either (a) continuous, exclusive, and adverse possession under color of title since January 6, 1902, with taxes paid, or (b) continuous, exclusive, and adverse possession since March 16, 1889, with taxes paid, but without color of title. The act also provided that the Board should investigate and report on the value of those lands and on water rights adjudicated in non-Indian title. The act further provided that the United States should compensate Indians for their losses of land, water rights, and improvements in cases where their title was extinguished by reason of negligence on the part of the United States to protect such title by seasonable prosecution. With respect to non-Indian claimants, the Secretary of the Interior was required to report his recommendations to Congress concerning losses suffered by those who could not meet the requirements of the Pueblo lands board sufficiently to have the Indian title to their land extinguished, yet who initiated claims in good faith under a deed or grant from a Pueblo prior to January 6, 1912. Section 17 of the Pueblo Lands Act prevented further acquisition under the laws of New Mexico of interest in Pueblo Indian lands, and invalidated any interest subsequently acquired—whether lease, purchase, or claim—unless that interest be approved by the Secretary of the Interior.

Provision was made that, upon the filing of the Board's reports by pueblos, the Attorney General should file in the United States district court a suit to quiet title to the land described as being in Indian title in this report. Individual adverse claimants who were dissatisfied with the Board's rulings could appeal to the United States district court, and further to the United States circuit court of appeals.

The Board began its work in 1925, and conducted hearings at Santa Fe and in each of the individual pueblos. The Board passed individually on title to each of the private claims set forth by the Joy surveys, and any additional claims which had been omitted from those surveys which were made by the Public Survey Office during the period of the Board's deliberations.

The United States issued patents to the non-Indian claimants whose titles had been duly confirmed. In order to demonstrate clear title to holdings within the exterior boundaries of pueblo grant lands, non-Indians must now hold a patent issued by the United States subsequent to final adjudication by the Pueblo Lands Board and the United States district court, or a deed based upon such a patent. The result of these proceedings was that, for the first time since late in the seventeenth century, Pueblo Indians of New Mexico were free from land controversy.

4. *Compensation to Spanish-Americans and Indians for lost lands.*

Despite the success of the Pueblo Lands Act in quieting the title of both Indian and non-Indian landowners, it effected no restitution of those original

²³ Handbook of Federal Indian Law, Felix S. Cohen, Washington: U. S. Government Printing Office, 1942, p. 390.

²⁴ 43 Stat. 636, "An act to quiet title to lands within Pueblo Indian land grants, and for other purposes."

Royal Spanish land grants or of portions of the grants which the Indians had gradually lost during the course of the 400 years embracing successively the Spanish Era, the lax Mexican control, and the period of non-Indian depredations and legal uncertainty following the annexation of this region by the United States. In addition to the Spanish-American settlers who occupied land within the grants where the Indians lived, some Indians had lost entire grants of land. For example, the Jemez, Sia, and Santa Ana Indians believed in good faith that they had a valid claim to the Espiritu Santo Grant, a piece of land of approximately 382,849 acres.¹⁴ Some authorities hold the opinion that some of these claims have legal validity, so that it may be said that at the very least a moral obligation exists.

By an act of Congress on March 3, 1869, the Espiritu Santo land was granted to the heirs of Louis Maria Cabeza de Baca. The Indians were unaware that Congress had taken this action, and 1883 filed suit in the court of private land claims to secure confirmation of their title, which was denied on the basis that the Spanish title had been only a grazing permit. However, in the eighteenth century the Spanish Crown did not give grazing permits and, while the wording of the title was such that it would not measure up to a valid title for the twentieth century, it was similar to other titles of that time.

Besides the loss of this grant, the Acoma and Santo Domingo Indians both claim that their reservations were at one time much larger than they are now, that the descriptions of the boundary corners were vague and the present boundary corners are not those understood by the old people of the tribe.

Such instances of loss of land have their counterpart among other inhabitants of the State of New Mexico. Whereas approximately 7,000,000 acres of land in the form of town and individual grants had been available to the noncommercial population of the State around 1900, somewhat less than 2,000,000 acres was still available to them in 1938.¹⁵ Accordingly, the use of some 5,000,000 acres was lost by the noncommercial residents of the State over a period of less than 40 years.

What the Pueblo Lands Act did do was to recompense the Pueblos for losses of land within their village grant, by providing them with funds with which they might purchase lands to round out and supplement their greatly diminished grants. Such reimbursement moneys are called compensation funds.

These so-called compensation funds now in the United States Treasury represent the unexpended balances of moneys which have been on deposit to the credit of the individual pueblos. It is to be understood that non-Indians were reimbursed on the same basis as the Indians. The money paid to the Indians was deposited with the Treasury, while the Spanish-Americans received their money directly.

As can be readily imagined, with a population heavy in proportion to the productive areas of this semiarid State, new lands have not always been available for purchase by the Pueblos. In recognition of this fact, as well as of the increasing pressure of population and other factors discussed hereinafter, the Government has provided lands for Indian use known as Federal purchase areas. It is with these Federal purchase areas that the following pages deal.

II. LANDS IN THE JURISDICTION OF THE UNITED PUEBLOS AGENCY

1. *The United Pueblos jurisdiction.*

The jurisdiction of the United Pueblos Agency includes 19 Indian pueblos and 8 Navajo Indian settlements, comprising a total population of 14,884. The names of the pueblos are as follows: Acoma, Cochiti, Isleta, Jemez, Laguna, Nambe, Picuris, Pojoaque, Sandia, San Felipe, San Ildefonso, San Juan, Santa Ana, Santa Clara, Santo Domingo, Sia, Taos, Tesuque, Zuni.

It is the Pueblo Indians who have been the principal users of the Federal purchase areas assigned to the administration of the agency. Accordingly, the following pages will deal mainly with them.

The three Navajo Indian areas under the jurisdiction of the United Pueblos Agency are the Canoncito, the Puertocito, and the Ramah Navajo settlements.

In contrast to the Pueblo lands, none of the lands of these three Navajo areas

¹⁴ Pueblo Indian Land Grants, by Herbert O. Brayer, Albuquerque: University of New Mexico Press, 1939, p. 108.

¹⁵ Three Hundred Years of European Settlement in New Mexico—A Study in Two Populations, by Ernest E. Maes, Soil Conservation Service, Section of Human Surveys, 1939, typescript.

is irrigated, there being no available source of water for irrigation purposes. The farming that is done is dry farming.

In considering the land status of these Navajo bands, an important distinction between their situation and that of the Pueblo Indians should be borne in mind. Whereas the Pueblo Indians occupy patented lands and land grants which adjoin one another to form solid reservation areas, the Navajo Indians live on sections of land which are interspersed with sections of public domain and of land patented to or leased for the benefit of non-Indians. The checkerboard appearance of landholdings available to the Navajo Indians makes what little land they do own far less valuable and useful to them. This fact greatly complicates the problems of these peoples for whose welfare the United Pueblos Agency is responsible.

2. *The land-purchase program.*

The history of the "Federal purchase areas" dates back to January 1934 and involves four separate agencies—the Submarginal Lands Board, the Federal Surplus Relief Corporation, the Federal Emergency Relief Administration, and the Resettlement Administration. The Bankhead-Jones Act provided funds for the purchase of one area other than those purchased by these agencies.

The Submarginal Lands Board tentatively approved the purchase of 175,000 acres of land "on, or adjacent to the Pueblo Indian Reservations." In April 1934 the Commissioner of Indian Affairs was requested by the Federal Surplus Relief Corporation to restate the need of the Indian people for additional land, since the Director of that Corporation had agreed in principle to the purchase of land for Indian use of approximately 500,000 acres. The land was not to cost more than \$5 per acre. In a letter dated July 14, 1934, Mr. J. S. Lansill, Director, Land Program, Federal Emergency Relief Administration, notified the Commissioner that \$2,500,000 of the original grant of \$25,000,000 for submarginal land purchases had been reserved for Indian land purchase projects, such land to be used primarily for the benefit of the Indians under the jurisdiction of the Bureau of Indian Affairs, Department of the Interior.

The first lands acquired were actually purchased by the Federal Emergency Relief Administration. This agency was succeeded in 1935 by the Resettlement Administration, which carried out the remainder of the purchases. The titles to the lands purchased by both of those agencies were taken in the name of the United States.

3. *Lands transferred to Spanish-Americans.*

In 1936, after negotiations had been concluded and the purchase areas had been acquired for Indian use, there was considerable demand in New Mexico that some of the purchased lands should be allocated to non-Indian use. On February 20, 1936, the Commissioner of Indian Affairs made the following statement of policy with respect to the purchase areas at that time:

While * * * the express object of the Government in buying these lands was to meet the needs of the Pueblos, the Indian Service recognizes * * * the requirements of the native Spanish-American population are such that they, along with the Indians, must be given privileges on the ranges. * * *

In accordance with that policy, therefore, some of the Federal purchase areas acquired primarily for the Indians were designated for non-Indian use. The decisions as to which areas should be used by Indians and which by non-Indians were made by the Interdepartmental Rio Grande Board,¹⁶ consisting of one representative from each of the following Federal agencies: Grazing Service, Indian Service, General Land Office, and Bureau of Reclamation in the Department of the Interior, and Forest Service, Soil Conservation Service, Bureau of Agricultural Economics, and the Secretary's office in the Department of Agriculture.

The following purchase areas originally intended for Indian use were set aside in whole or in part for use by non-Indians and assigned to the Soil Conservation Service and Forest Service for administration:

Caja del Rio grant
La Majada grant
Ramon Vigil grant¹⁷
Gabaldon grant
Polvadera grant

Sebastian Martin grant¹⁸
South Half Lobato grant
San Jose grant
Espiritu Santo grant¹⁹

¹⁶ The Interdepartmental Rio Grande Board was formed in 1938 for the purpose of solving some of the problems of the Rio Grande watershed in accordance with an interdepartmental memorandum of understanding signed by the Secretary of Agriculture and the Secretary of the Interior on March 17 and March 24, respectively. This Board was an outgrowth of the Rio Grande Advisory Committee formed in 1936.

¹⁷ A part of the Ramon Vigil grant, consisting of 5,914 acres, was placed under Indian Service administration by Executive Order No. 8255, of September 18, 1939.

¹⁸ A part of each of these grants is used by Indians.

In its land administration the United Pueblos Agency has not been unmindful of the needs of the non-Indian elements of the population of surrounding areas, and has done whatever was possible to satisfy these needs without violating its responsibilities to the Indians and its obligations to the Government with reference to proper land use. One means of benefiting the non-Indians is through the execution of exchange of use agreements.

An exchange of use agreement may effect a consolidation of range lands mutually beneficial to Indian and non-Indian livestock operators. In all cases equitable exchanges agreeable to both the administration and non-Indian operators have been transacted.¹⁹

In some instances, consolidation of land being impracticable because of inconvenient water distribution, topography, and other physical features, permits have been issued for grazing of non-Indian livestock in common with that of Indians.

In addition to seasonal or year-long use permits, a demand arises for non-Indian herds to cross Indian-used land to reach seasonal ranges and shipping points. Permits are granted for this purpose, the fee charged being in accordance with existing Federal regulations.

4. Lands managed by the Indians of the United Pueblos Agency.

Eight purchase areas have been placed under the administration of the United Pueblos Agency of the Indian Service—one-half of the number of original grants purchased primarily for Indian use. These are shown on table No. 1, together with the date and authority upon which they were transferred to Indian Service administration and the status of the lands of which each area is composed.

The Indians not only have the use of the lands purchased for their benefit but also use lands of different status within the exterior boundaries of these eight areas—public domain, State land, privately owned land, Indian homesteads, Indian allotments, and land purchased with rehabilitation funds.

¹⁹ Canoncito Area: (1) John J. Alonzo and Levantanio Sarracino, (2) Herrera Brothers, (3) Benedicto Marquez and Vicente Vallejos, (4) Sam R. Angell, successor to Louis Hifeld Co., (5) L-Bar Cattle Co.

Acoma Purchase Area: (1) Jeff Coney.

Zia-Santa Ana Purchase Area and San Ysidro grant: (1) Frank Bond & Son, (2) Joe M. Garcia, (3) Sisto Martinez.

TABLE No. 1.—*Location, acreage, and method of acquisition of lands outside of the Indian reservations administered by the United Pueblos Agency*

[Indian reservations include lands acquired by the Indians under the original Spanish grants, Executive order, and congressional acts]

	Acoma purchase area, Valencia County	Antonio, Sedillo grant, Valencia and Bernalillo Counties	Montano, grant, Bernalillo and Sandoval Counties	Canoncito purchase area, Bernalillo and Valencia Counties	Isleta purchase area, Valencia and Bernalillo Counties	Zia-Santa Ana and San Ysidro grant, Sandoval County	Borrego grant, Sandoval County	Zuni north and south purchase areas, McKinley and Valencia Counties
Purchased by Resettlement Administration money; authority for Indian Service administration; Executive Order 7792, Jan. 18, 1938 (Zuni area, Executive Order 7975, Sept. 16, 1938)	<i>Acres</i> 130,959.24	<i>Acres</i> 86,249.09	<i>Acres</i> 44,070.66	<i>Acres</i> 62,449.64	<i>Acres</i> 17,492.71	<i>Acres</i> 30,413.60	<i>Acres</i> 16,079.80	<i>Acres</i> 58,031.52
Purchased by Bankhead-Jones Act money; authority for Indian Service administration, Executive Order 8696, Feb. 28, 1941								
Public domain transferred to the Indian Service by secretarial order	71,363.64			31,980.46	2,091.40	13,172.02 + 3,512.00		27,369.26
Public domain acquired by permits from Grazing Service				4,405.40	1,256.72	2,243.98		3,414.02 160.00
Leased by Indians from State	14,737.28							1,760.00
Indian homesteads; acquired under Homestead Act	753.85							
Indian allotments; acquired under Homestead Act; trust patents	2,956.55			9,821.44				
Purchased by Rehabilitation money	320.00			951.93				
Indian fee patented; acquired under Homestead Act				3,317.76				
Indian compensation fund purchases				1,746.70				
Total	221,090.56	86,249.09	44,070.66	114,673.33	20,810.83	49,342.20	16,079.80	90,734.80

¹ Used by Indians.

² Used jointly by Indians and non-Indians.

Of the above areas, the following are used jointly by Indians and non-Indians through means of permits and exchange of use agreements: Acoma, Canoncito, San Ysidro-Zia-Santa Ana, and Zuni.

During the past few years it has become increasingly necessary to protect the lands in the jurisdiction. This has been due to the enhanced value and appearance of such lands as a result of the installation of additional range facilities, scientific range management, and improved condition of both range and livestock. To the casual observer who might lack knowledge of the methods and objectives of the range management plan, including as it does rotational and seasonal use of lands, the improved appearance of these lands—particularly in contrast to some of the surrounding areas where good range management does not obtain—might give the false impression that the range was not being utilized to its maximum capacity. On the contrary, maximum use of the ranges has been made.

It is impossible to comply with the many requests for leases which come from Indians and non-Indians alike because there is not enough land to satisfy everyone who desires additional range.

Some Federal lands in the jurisdiction are administered by the Indian Service, others by the Grazing Service. The cost has been found to be less when they have been administered by the former. The reason for the difference in costs lies in the fact that in the case of Indian Service administration the Indians themselves assume the larger part of the burden of managing their own lands, while under the Taylor Grazing Act the administration plus the actual management of the public lands is done by the personnel or the Advisory Boards of the Grazing Service. The Indian Service assumes only an advisory and supervisory capacity with regard to public lands used by the Indians. The supervision is sufficient to see that the use of lands is in accordance with Range Management plans and the carrying capacity established by the Range Division of the United Pueblos Agency. One permit is issued to a pueblo as a whole, the pueblo officials determining the needs of the individuals and issuing permits accordingly.

The basis on which permits are issued differs as between the Grazing Service and the pueblo officials. The Grazing Service issues permits on the basis of land, water, and prior use, no consideration being given to the needs of the people, except for the free use clause which includes only domestic animals. The Indians, on the other hand, do not issue permits on this basis alone. Beside giving consideration to water, land, and prior use, they also consider the needs of the applicants.

Hand in hand with the assumption on the part of the Indian of the management of Federal purchase areas provided for his use, he also assumes the responsibility of maintaining the fences and water developments on them without cost to the Federal Government. A figure representing the dollar value of maintenance work performed by the Indians on previously existing installations would be difficult to determine. However, an inspection of these ranges show that improvements on purchase areas have been satisfactorily maintained to date, despite the unavailability of Federal funds for this purpose.

As an example of the unsuitability as applied to an indigenous population of the Federal range code in an unmodified state, let us take the 1,000 Navajos under the jurisdiction of the United Pueblos Agency. These Navajo Indians live in Canoncito, Puertocito, and Ramah. Since none of the lands belonging to these Indians are irrigated, they depend for their living upon the precarious method of dry farming and the more dependable return from their livestock operations. Since such operations are the only certain means of food and cash, range lands are of the utmost importance to the Navajo as well as to the Spanish-American operators. Their range lands fall within the Grazing Service district No. 7. They have some patented land and obtain permits on public domain. Special rules were made for district No. 7 modifying Federal range code of August 31, 1938, in order to provide for the needs of both Indians and non-Indians in the area. Had the Navajo Indians been forced to ask for permits under the unmodified Federal range code of August 31, 1938, they would have received few permits.

Although, as the records show, the Navajo Indians have been using the lands since the middle of the last century, they did not have extensive prior water

rights as defined by the Federal range code, which would have been necessary to put them in class I of regular licensees. Other cattle owners, who have used the land more recently and who had more money to develop water, do come under class I. Since the Navajo Indians keep little stock which would be classified as "domestic" under the range code, the Federal range code permits for free use would not have been possible.

Had these Navajo Indians, first settlers of the land they use, been compelled to ask for permits under the Federal range code, they would be turned out from the land used by their forefathers. Their patented lands on eroded acres, lacking irrigation and incapable of supporting life, would be useless. The Navajos would now be starving.

The Federal range code of district No. 7 is better for the Indians than the code used in other districts, but the most successful and least expensive manner of operating range is to let the Indians manage it themselves.

III. FEDERAL LAND ADMINISTRATION BY UNITED PUEBLOS AGENCY

1. *The Indian range lands.*

The physical condition of the Government-owned areas administered by the United Pueblos Agency of the Indian Service has greatly improved under the present system of use. There has been a marked return of the more palatable species of forage, and erosion has been greatly curtailed. The productivity of the land has increased through the inauguration of proper range management practices. This is shown by an increase of 3,862 sheep units year long in the carrying capacity of the grants since they have been used by the Indians. (See table No. 2.)

Range improvements have been made. (See table No. 3.) Some 273 miles of fencing have been put up; 5 springs developed; 10 stock tanks, 16 wells, 4 trails, 6 corrals, and about \$16,000 worth of erosion-control installations have been made. The Government purchase areas support approximately 40,143 sheep units year long. (See table No. 2. The Indians use 29,920 units. These have been of great value as demonstration areas. On the basis of 200 head of sheep constituting a subsistence herd, these grants will support 200 families, or about 1,000 people.

Simultaneously with the acquisition of these areas, an educational program was put into effect to teach the Indians proper range and livestock management.

TABLE No. 2.—*Comparative carrying capacities of purchase areas, in terms of sheep units, yearlong*

Area	Date of transfer to Indian Service	Carrying capacity when transferred	Carrying capacity July 1, 1943	Increase in carrying capacity between date of transfer to Indian Service and July 1, 1943
Acoma purchase area	1938	14,983	14,983	.....
Antonio Sedillo grant	1941	3,075	3,635	560
Montano grant	1938	1,803	2,500	697
Canoncito purchase area	1938	4,495	6,900	2,405
Isleta purchase area	1938	845	845	.....
Zia-Santa Ana and San Ysidro grant	1938	(1)	2,545	.....
Berrego grant	1938	800	1,000	200
Zuni north and south purchase area	1938	7,735	7,735	.....
Total .....	.....	33,736	40,143	6,407

¹ None established.

² Zia-Santa Ana and San Ysidro grant increase omitted, undeterminable.

TABLE NO. 3.—Improvements on purchase areas, United Pueblos Agency

Area	Fencing		Spring development		Stock tanks	
	Miles	Cost	Number	Cost	Number	Cost
Acoma purchase area.....	96	\$42,938.16	1	\$365.72	2	\$1,182.03
Sedillo grant.....	76	21,938.26	1	579.54	3	1,838.75
Montano grant.....	15	5,645.34				
Canoncito area.....	26	7,466.04	1	578.39	2	1,264.84
Isleta purchase area.....			1	604.37		
Zia-Santa Ana-San Ysidro grant.....	38	21,882.99	1	261.93	3	1,789.71
Borrogo grant.....						
Zuni purchase area.....	22	10,611.83				
Total.....	273	110,482.62	5	2,479.95	10	6,075.33

Area	Wells ¹		Trails		Corrals		Erosion control, ² cost	Total, cost
	Number	Cost	Number	Cost	Number	Cost		
Acoma purchase area.....	2	\$7,593.70	1	\$8,509.24	1	\$1,324.59		\$61,823.44
Sedillo grant.....	1	1,867.22			2	1,535.34	\$3,684.56	31,443.67
Montano grant.....	3	2,867.89			1	589.31		9,093.54
Canoncito area.....	2	1,194.68	3	3,583.68			3,345.87	17,433.50
Isleta purchase area.....	2	2,558.27			1	1,083.61	206.79	4,493.04
Zia-Santa Ana-San Ysidro grant.....	5	10,152.30					7,384.18	41,471.11
Borrogo grant.....	1	3,157.19						3,157.19
Zuni purchase area.....					1	796.41	1,359.02	12,797.26
Total.....	16	29,301.25	4	12,092.92	6	5,270.26	15,980.42	141,682.75

¹ Well costs include windmills, storage tanks, stock-watering facilities.² Erosion control includes earth, rock and brush diversion and spreader dams, furrows, seeding and planting, and fencing of areas for exclusion from range use and demonstration purposes.

An example of the results of this program is provided by what has been accomplished at Acoma and Laguna during the past 5 years. Whereas range stabilization has demanded a reduction in the total number of stock, nonetheless the total weight of meat and wool produced now equals or exceeds the production in past years. The results are as follows:

Results of reduction program, Laguna and Acoma

SHEEP

Percentage of lambs to herd:

1938.....	52
1942.....	62
Increase in percentage 1938-42.....	10

Weight of lambs:

1938.....	47
1942.....	57
Percent increase 1938-42.....	21

Weight of wool (pounds):

1938.....	142,073
1942.....	172,243
Percent increase 1938-42.....	21

CATTLE

Percentage of calves to herd:

1938.....	59
1942.....	79
Increase in percentage 1938-42.....	20

Weight of calves:

1938.....	264
1942.....	365
Percent increase 1938-42.....	38

The years 1938 and 1942 are comparable in that they were both average years so far as climatic conditions are concerned.

Moreover, a livestock improvement program has been integrated with the plan for grazing on Government purchase areas. In response to this program the Indians have almost entirely substituted registered bulls for grade bulls, and they have purchased a sufficient number of rams to mate with over half of the ewes. A cooperative plan of marketing wool and livestock has followed. Livestock and wool are pooled, classified, advertised and sold by auction to the highest bidder. Basically, the program has aimed at showing the Indians how to maintain and improve incomes from land resources.

The need for grazing land is so great that the maximum number of livestock that the ranges will support is now being maintained. Practically all livestock of low productivity—such as, surplus horses, aged steers and wethers—have been removed from the ranges. Only thrifty and profitable livestock are kept.

The pueblo ranges, exclusive of the Government purchase areas, are so closely dependent on the Government purchase areas that any loss of the latter will seriously jeopardize the former.

In July of 1942 a study was made by the interagency range survey committee of the forage conditions of the Antonio Sedillo grant. This committee consisted of representatives from the Agricultural Adjustment Administration regional and State offices, regional and State grazing service offices, regional Forest Service office, range development section of the General Land Office; Southwestern Forest and Range Experiment Station, Tuscon, Ariz.; regional Soil Conservation Service office, and regional Indian Service office. An excerpt from a letter dated July 23, 1942, from the chairman of this committee to the Superintendent of the United Pueblos Agency states:

"On July 17, at my request the interagency range survey committee proceeded to the Antonio Sedillo for the purpose of making a range use check on that grant. I am very much pleased to state that the result of this check, in spite of the fact that the range had been used 17 days more than intended, showed a slight underutilization, or proper use at this time * * * I wish to commend your range supervisor on the good work being done on this area."

In order to promote proper land use, to protect federally owned lands and to insure maximum benefits consistent with good land usage, the United Pueblos Agency has expended a total of \$181,682.75 on purchase areas during the time when these lands have been under its administration. Prior to this period, many of these lands were not used for grazing purposes because of the absence of water facilities, inaccessibility due to lack of trails or the degree to which erosion had impaired or isolated them. And, for this very reason, adjacent and more favorable lands were overgrazed to an extent which endangered their continued use by destroying the vegetative cover which protects them against the forces of erosion. During the time these lands have been under the administration of the United Pueblos Agency, such misuse has been corrected by bringing about a more even distribution of stock through the development of range improvements.

Efforts have likewise been made to promote equitable land use by giving all members of the tribes equal access to range facilities. The total carrying capacity of the range has at the same time been observed.

2. Increase in per capita income.

The steady increase in population among the Pueblos (see table No. 4), since it is not accompanied by a corresponding increase in available resources, has meant that the benefits of land development must constantly be spread among a greater number of persons. This in effect reduces the per capita rate of increase in income.

TABLE NO. 4.—Population served by United Pueblos Agency, 1932-42

Pueblo	Year 1932				Year 1942				Percent increase
	Family groups ¹	Male	Female	Total	Family groups	Male	Female	Total	
Acoma.....		554	519	1,073	216	667	655	1,322	23
Cochiti.....		156	139	295	86	181	165	346	17
Isleta.....		587	490	1,077	350	703	601	1,304	21
Jemez.....		346	295	641	165	402	365	767	19
Laguna.....		1,119	1,073	2,192	540	1,391	1,295	2,686	22
Nambe.....		60	69	129	34	67	77	144	11
Picuris.....		53	59	112	27	57	58	115	2
Pojoaque.....		4	3	7	5	13	12	25	257
Sandia.....		59	56	115	38	70	69	139	20
San Felipe.....		310	245	555	167	376	321	697	25
San Ildefonso.....		63	60	123	32	78	69	147	19
San Juan.....		275	255	530	154	342	340	702	32
Santa Ana.....		142	94	236	74	150	123	273	16
Santa Clara.....		192	190	382	122	265	263	528	38
Santo Domingo.....		497	365	862	209	576	441	1,017	18
Sia.....		104	79	183	49	130	105	235	28
Taos.....		373	351	723	209	417	413	830	15
Tesuque.....		61	59	120	26	79	68	147	22
Zuni.....		1,121	870	1,991	611	1,267	1,052	2,319	16
Total.....		6,075	5,271	11,346	3,114	7,231	6,512	13,743	21.1

Population all pueblos 1942..... 13,743
 Population all pueblos 1932..... 11,346

Population increase..... 2,397
 Percent increase 10-year period..... 21.1

Navajo areas	Family groups, 1942	Male, 1942	Female, 1942	Total, 1942
Canoncito ¹	90	179	172	351
Puertocito ¹	56	152	136	288
Ramah ¹	96	251	251	502

¹ Not available for 1932.

The total income from all sources for the Pueblo Indians in the jurisdiction has increased from \$767,977 in 1933 to \$1,514,682 in 1942, and the per capita income has increased from \$66 to \$110 (over 66 percent despite a population increase of 19 percent during a corresponding period).

Assuming the average family to consist of five members, the average family income, including wild products and produce raised and consumed, would amount to \$550 on the basis of a per capita income of \$110. This figure would appear to be far from excessive. It is, in fact, somewhat less than the per capita income from farm and livestock operations for the State of New Mexico, which stood at approximately \$140 for 1940 on the basis of farm income and population figures for that year.²⁰

3. Limitation imposed by lack of natural resources.

One of the factors limiting a rise in the income level of the Pueblo Indians is illustrated in table No. 5, which lists the amount of grazing and agricultural lands available to each pueblo. The average for agricultural land is but slightly more than 1½ acres per person. The grazing land acreages would, at first glance, appear to be substantial; but in New Mexico, because of its semiarid climate and large expanses of barren and rocky soil, from 60 to 80 acres are required to support one cow throughout the entire year—a fact which it is important to bear in mind when considering the land holdings and land needs of inhabitants of this area.

²⁰ The World Almanac, New York: New York World-Telegram, 1941, pp. 609, 502.

TABLE No. 5.—*Status and acreage of the grazing and agricultural lands under the jurisdiction of the United Pueblos Agency, Jan. 1, 1943*

	Pueblo grants and reservations		Federally owned		Leases	
	Grazing	Agricultural	Grazing	Agricultural	Grazing	Agricultural
Pueblos:						
Acoma.....	151,535	1,391	87,872		13,242	
Cochiti.....	21,542	630			640	
Isleta.....	183,201	3,465	17,406		1,257	
Jemez.....	40,643	1,345	1,077		33,778	
Laguna.....	242,348	1,588	196,000		1,720	
Nambe.....	18,401	288			726	
Picuris.....	14,607	176			1,600	
Pojoaque.....	16,809	35				
Sandia.....	20,325	1,878				
San Felipe.....	41,348	1,419	163	6		
San Ildefonso.....	15,707	274	5,914		4,189	
San Juan.....	11,314	899			8,371	
Santa Ana.....	17,128	885			2,604	
Santa Clara.....	44,049	547				
Santo Domingo.....	64,388	1,044				
Taos.....	43,195	2,369			30,000	
Tesuque.....	16,426	177				
Zia.....	14,488	312	37,979		42,042	
Zuni.....	324,308	2,533	67,186		4,054	
Navajo:						
Canoncito.....	10,926	299	54,418		2,085	
Puertocito.....	19,004	324				
Ramah.....	56,371	715	13,385		81,667	
Total.....	1,382,140	22,893	451,400	6	230,469	

	Grazing service		Total ¹		Per capita	
	Grazing	Agricultural	Grazing	Agricultural	Grazing	Agricultural
Pueblos:						
Acoma.....			252,649	1,391	191.1	1.08
Cochiti.....	3,088		25,270	630	73.03	1.82
Isleta.....	3,730		205,594	3,465	157.66	2.65
Jemez.....	4,590		80,863	1,345	105.42	1.75
Laguna.....			410,068	1,588	152.66	0.50
Nambe.....			19,121	288	132.7	2.0
Picuris.....			16,207	176	140.9	1.53
Pojoaque.....			10,809	35	432.36	1.4
Sandia.....			20,325	1,878	146.21	13.51
San Felipe.....	7,841		49,352	1,425	70.80	2.04
San Ildefonso.....			25,810	274	175.57	1.86
San Juan.....			19,685	899	28.04	1.28
Santa Ana.....	23,033		42,665	585	156.28	2.14
Santa Clara.....			44,049	517	83.42	1.05
Santo Domingo.....			64,388	1,044	63.31	1.61
Taos.....			73,195	2,369	88.18	2.85
Tesuque.....			16,426	177	111.70	1.2
Zia.....	15,701		10,216	312	468.9	1.32
Zuni.....			393,518	2,533	176.56	1.09
Navajo:						
Canoncito.....			68,029	299	193.80	1.55
Puertocito.....	14,737		33,741	321	117.20	1.12
Ramah.....	15,810		167,233	715	333.13	1.42
Total.....	88,530		2,151,237	22,899	144.5	1.53

¹ Barren and waste tribal, Federal, and leased lands not included.² Includes permit from Soil Conservation Service on Espiritu Santo grant (estimated at 34,553 acres).³ Permit from Forest Service.⁴ Grazing permit from Soil Conservation Service on Sebastian Martin grant.⁵ Includes permit from Soil Conservation Service on Espiritu Santo grant (estimated at 39,862 acres).⁶ Dry.⁷ Ramah-Navajo area: Includes barren and waste land.**4. Net gain to the Indians.**

The gains which have been made as a result of the purchase of lands for Indian use with Compensation and Resettlement Administration funds may be listed

under two heads: (1) improvement of the lands themselves and (2) betterment of the people who use them. Under the first may be included the conversion of poor, submarginal lands into productive, properly used, and ecologically improved areas through erosion control, construction of range facilities, and the introduction of range management plans. The second category includes a raising of the social and economic status of the people to whom these lands have been made available.

There is no standard yardstick by which to measure social gains. Such gains include among others the increase of self-respect deriving from an opportunity to earn a living. Economic gain, however, may be expressed in dollars. As has been stated, the per capita income from all sources of the Indians under the jurisdiction of the United Pueblos Agency has nearly doubled over a period of 9 years, rising from \$767,977 in 1933 to \$1,514,682 in 1942—a net gain of \$746,705. In the course of this gain, income from agriculture has doubled and income from stockraising has increased 140 percent. Divided by a figure representing the total Pueblo and Navajo population of the jurisdiction, this net gain amounts to an increase of \$50 in the annual income of each individual.

Secretary CHAPMAN. We have some copies of the graphs that I think would be helpful to the continuity.

The CHAIRMAN. You may proceed as you see fit.

Judge SETH. I want to make it clear, Senator, that the reports—none of the reports or graphs or anything have been submitted to anyone.

Secretary CHAPMAN. That is right.

The CHAIRMAN. Try to make them available to everyone as promptly as possible. These that the committee have here will be available to you for use at any time during the hearing. That is about as far as we are able to go.

Mr. STEWART. I might mention, Mr. Chairman, these graphs were completed at the last minute. We haven't had them ourselves very long. We do have copies of them that will be available to anybody that wants them, in miniature size.

The CHAIRMAN. These graphs you are about to display to the committee, are they also in these exhibits you have filed with the committee?

Mr. STEWART. Yes, sir; taken from it.

The first graph is entitled "Navajo area is twice as crowded as adjacent rural areas." This refers to the reservation, not district 7.

The reservation, in Arizona and New Mexico and Utah covers, is in the neighborhood of a little over 15,000,000 acres. A good deal of it unsurveyed; but it is reasonably estimated to cover a little over 15,000,000 acres.

The CHAIRMAN. In two States?

Mr. STEWART. Three States—Arizona, New Mexico, and Utah. Within the Navajo Reservation is another tribe of Indians.

The CHAIRMAN. What was that last statement again?

Mr. STEWART. There is another tribe of Indians, not within the Navajo Reservation but within the Navajo area, but still within the outer boundaries of the Navajo general reservation. That is the Hopi Tribe of Indians, living almost in the heart of the Navajo country. They total some 3,500 population. We have there a superintendent, with headquarters at Keam's Canyon, who has administrative jurisdiction of those particular Indians.

Altogether, this approximate 15,000,000 acres is not entirely usable by Navajos. I think it is important to bear that in mind.

This figure here, this column here, will probably cause wonder, that the persons per square mile in 1880 were 2.8, and suddenly, in 1890, it dropped, then gradually increased. That is explained by the fact that the area of the reservation in 1880 was at its lowest, in terms of acreage. Originally, the reservation was created by a treaty with the Navajo Tribe, approved in 1868 by the Senate. That treaty area totaled some three and a half million acres, a good deal, or almost half, of which was in New Mexico, and the other in Arizona. It straddled what is now the present Arizona-New Mexico State boundary line. By subsequent Executive orders and acts of Congress, that treaty area was probably the best land in that particular locality, and still is. It is a high, timbered plateau country; good timber on it, but, strangely, no reproduction. It gradually slopes down into fair grazing land. I mention that, because the subsequent additions to the reservation, by Congress and by Executive order, as they were progressively made, they became progressively poorer, until, on the west side, for miles and miles, the range over there is as bare as this floor. It is nothing but volcanic formation and cinder piles and lava beds.

The CHAIRMAN. Where does that land, that you have just mentioned, lie with reference to Albuquerque and Gallup?

Mr. STEWART. That land lies from Gallup—it would be approximately 200 miles east of Flagstaff, and 85 miles north from Flagstaff.

Senator CHAVEZ. Down there close to the Colorado River?

Mr. STEWART. Down close to the Colorado River.

The CHAIRMAN. I was trying to place it, in my mind, with reference to our trip from Arizona, and to Gallup, and to Albuquerque; to locate it as best I could in my mind.

Mr. STEWART. Well, there is a bad stretch north of Winslow; nothing but sand dunes, barren lands. That part of the reservation north of Winslow and the Loop Country, as we call it, is totally worthless, parts of it.

Senator CHAVEZ. That is in Arizona; but the particular one you had in mind was directly west of—I mean, east of—Boulder City, on the Arizona side, along the Colorado?

Mr. STEWART. It is on the east side of the Colorado; yes, sir.

The CHAIRMAN. Is that the territory embraced within a recreational area?

Mr. STEWART. No sir. The total population of the Navajo people, as I mentioned before, is 52,000 people. A little over 12,000 of that population is off the reservation, in New Mexico, in grazing district 7. The reservation population, of approximately 40,000 people, is on an area that, careful studies have disclosed, will not support in the live-stock business a population of over 35,000 people.

The CHAIRMAN. Thirty-five thousand you say?

Mr. STEWART. Yes, sir. We have an excess population on the reservation. The economic problem at the moment is well taken care of because of the enormous amount of war work off the reservation. We have over 9,300 Navajo Indians working in war industries, of one sort or another, off the reservation. Some are section hands, here along the Santa Fe, and some are working in the fields in California and the mines, and so on; and over 2,000 Navajos in the armed services. When the war is over, and these people come back from the war industries,

we are going to have a very serious economic problem on the reservation, extremely serious, and one, at the moment, that we do not see a solution for.

I am reminded of similar problems that existed—I would like to point out one particular instance where Indians were without a land base. There is a place in California, in the northern part, I am not sure of the name of the little town, but I will get that for the record. The Indians there were living on the town dump. I have seen that in many places. My apprehension, at times, is that some of these Navajo people without any means of a livelihood on the reservation will inevitably drift to the railroad towns along the Santa Fe.

Senator CHAVEZ. What is wrong with that?

Mr. STEWART. And live in shacks, on the city dumps.

Senator CHAVEZ. Well, I know some Navajos who are working for the Santa Fe, and doing mighty well.

Mr. STEWART. That is true. The Navajos can find work today. But, after the war, we have no assurance that will continue.

Senator CHAVEZ. Get down to population. You said there were 12,000 Navajos outside of the reservation in New Mexico. How many Navajos are within the reservation, in New Mexico?

Mr. STEWART. Close to 40,000.

Senator CHAVEZ. In New Mexico?

Mr. STEWART. I haven't broken that down.

Senator CHAVEZ. The major portion of the Navajos are in the Arizona side. Isn't that correct?

Mr. STEWART. I would say so; yes, sir.

The CHAIRMAN. You can get that for us during the noon recess. That is a matter that seems to stand in abeyance.

Mr. STEWART. Which is that?

The CHAIRMAN. The question by Senator Chavez.

Mr. STEWART. Yes; I'd like to get those figures for the Senator.

This chart here is on a reservation basis and not district 7. Thirty-seven percent of the entire Navajo reservation is semidesert.

The CHAIRMAN. What?

Mr. STEWART. Semidesert. The rainfall in that particular percentage averages 9 to 12 inches per year.

Senator CHAVEZ. We are still referring to the Arizona side.

Mr. STEWART. No; the New Mexico-Arizona-Utah reservation area. I am so accustomed to speaking in terms of a reservation area that I can't get my mind on the straight break-down.

Senator CHAVEZ. We happen to know the New Mexico end of the reservation, and that is not semidesert at all.

Mr. STEWART. Oh, yes.

Senator CHAVEZ. No.

Congressman ANDERSON. What are those rainfall figures?

Mr. STEWART. That percent of the reservation, 9 to 12 inches of rainfall. On the desert part, the barren wastes, it is 5 to 8 inches—55 percent. Up on the plateau, subhumid country, it is 13 to 20 inches, where we have our timber.

This is a chart indicating district 7 utilization. It represents Indian lands, number of livestock of the Indians, or Indian population, and the yellow represents the non-Indian. The Indian use

of the land in the district—the Indian controls 1,262,057 acres. The non-Indian controls 513,943 acres.

Senator CHAVEZ. Can you give us dates on that control?

Mr. STEWART. This is up to date.

Senator CHAVEZ. How long have you been controlling it, according to those figures, since the formation of district 7?

Mr. STEWART. I think that is—Harry says it is—all the way through.

The Indian population, in terms of those dependent on existing livestock licenses, that is, the total families, 7,480. The number of Indian licensees is 1,496. The average Navajo family of five would give you the figure of 7,480 as dependent on the 1,496 Navajo livestock operators.

The white non-Indian operators in the district total in number 285. The number of licenses in the district for non-Indians is a total of 57; for the Indians, 1,496. The average number of sheep, covering all licenses, there, are 794. The average size of the non-Indian herd is 794 sheep units, and the average for the Indian is 96. That is of the class A.

The class 2 licenses; the average Indian flock in that group is 310 for the Indian, and 1,080 for the non-Indian. These charts are reproduced in miniature, and are proposed for the record.

The Navajos make their living in this manner: 44 percent livestock operation, 14 percent farming, 30 percent wage economy, 9 percent through rug weaving, and 3 percent through miscellaneous jewelry, pinon nuts, and so on.

A good deal of the topsoil, the good soil of the reservation, has gone, through misuse. On the Navajo Reservation, up to one-fourth of the productive soil is gone.

The CHAIRMAN. Will you please dwell on that just a little? You say that is in the reservation?

Mr. STEWART. Yes, sir.

The CHAIRMAN. You say it is through misuse. How does that come about when the reservation was under the Department's regulations all of these years?

Mr. STEWART. In 1931 there were approximately 1,200,000 head of livestock on the reservation.

The CHAIRMAN. Would you say it was overgrazed?

Mr. STEWART. Yes, indeed, I am leading up to that.

The CHAIRMAN. You are speaking now of the reservation proper?

Mr. STEWART. Of the reservation; yes, sir. At the present time, through a process of reduction, a process of improvement, too, but a reduction program, the livestock on the reservation is in the neighborhood of 580,000; more than 100 percent reduction. In aid of that rehabilitation of the range, it has been necessary to carry forward that livestock reduction program. It certainly has not been popular with the Navajo people; it is still unpopular, and it never will be popular.

The CHAIRMAN. I must have misunderstood you there. Will you give me the figures as to what the livestock was in former years, and what it is now?

Mr. STEWART. Mr. Cooper, our range and livestock man, is probably better qualified to answer that than I am.

**STATEMENT OF JOHN M. COOPER, NAVAJO INDIAN AGENCY,
WINDOW ROCK, ARIZ.**

Mr. COOPER. Mr. Chairman, the figure quoted by Mr. Stewart a moment ago of approximately 1,250,000¹ head of livestock—

The CHAIRMAN. On the reservation?

Mr. COOPER. Included the reservation and outside of the reservation. That was Navajo-owned livestock. Now, the records were taken from the Bureau of Animal Industry Indian records in 1930 and 1931.

The CHAIRMAN. Let's get that down, 1,000,000 how many?

Mr. COOPER. Approximately 1,250,000.¹

The CHAIRMAN. You say that is on and off the reservation?

Mr. COOPER. On and off.

The CHAIRMAN. In the territory generally, then?

Mr. COOPER. Yes.

The CHAIRMAN. Now, you have reduced it to 580,000?

Mr. COOPER. The 580,000 figure includes only the reservation. In an attempt to reconcile that and get a reservation figure for 1930 and 1931, which was impossible to get with the record at that time, the figure has been arrived at—that is, approximate—that the reservation in those days was supporting approximately 800,000—the reservation alone. Now, that reduction in numbers of units that has taken place since that time would be from approximately 800,000 down to the 580,000.

The CHAIRMAN. In that, have you reduced on the reservation proper?

Mr. COOPER. To date the carrying capacity of the reservation is determined by reconnaissance surveys of the range forage. They indicate it will carry approximately 580,000 sheep units of livestock.

The CHAIRMAN. I am trying to get at how your reduction had been worked. Did you reduce it on the reservation?

Mr. COOPER. Yes, sir.

The CHAIRMAN. From about eight-hundred-odd thousand to 580,000?

Mr. COOPER. Yes, sir.

The CHAIRMAN. Did you reduce it on the outside range accordingly?

Mr. COOPER. Proportional reduction probably wouldn't be shown—maybe Mr. Naylor has the figures on it.

The CHAIRMAN. In other words, have you increased on the outside range while you have reduced on the reservation? What is the answer to that?

Mr. COOPER. Mr. Chairman, I would say to that that the reduction has been proportionately greater on the reservation because of the fact that administrative authorities had controlled the reservation lands and regulations could be put into effect on the reservation that did not apply off.

The CHAIRMAN. That is what I was trying for a moment ago when I asked Mr. Stewart why it was that the reservation had been so overgrazed while it was under regulation and control of the Department at all times in the years past. Why was it permitted to be so overgrazed? I don't know that you have any answer to it, but I see a condition. I don't know that it signifies anything in particular, except-

¹ Verified figures, furnished later by Mr. Cooper, gave the number of sheep units as 1,178,000, including what is now the Hopi Reservation. He stated that the present number, based on 1942 counts, is 750,000 sheep units.

ing that it signifies in years past you permitted the reservation to be overgrazed and then reached out for other lands outside the reservation, and you have continued that policy ever since.

At least, that is the way I am impressed by the whole thing. Now, I would like to have you disabuse my mind of that thought.

Judge SETH. Might I ask Mr. Cooper a question?

Haven't a lot of the stock been moved from the reservation to district 7?

Mr. COOPER. I would say that—I would like to be checked on this by people that might know more than I—while there has been some movement both ways, both in and out, there has been no intention, to my knowledge, no intentional movement of livestock from the reservation outside, unless it was an individual Indian.

Judge SETH. Don't the dipping records show a large increase in Navajo stock on district 7?

Mr. COOPER. If I might, for a few minutes, check the records for several years, perhaps we could give you the exact figures on that.

Senator CHAVEZ. I wish you would get them for us.

The CHAIRMAN. Very well, and please let us be reminded of that by someone.

Congressman ANDERSON. I want to ask Mr. Cooper this question: In this reduction from 800,000 on the reservation to 580,000 since 1930. how much of it happened in 1934 and '35 during the slaughtering program of the F. E. R. A.?

Mr. COOPER. If I remember correctly, the main part of the reduction has taken place since 1936. There was approximately 100,000 sheep units of goats, we moved in 1934 and '35 under the F. E. R. A. slaughtering program.

Congressman ANDERSON. Sheep units of goats? I don't understand that.

Mr. COOPER. One goat is the equivalent to one sheep in terms of sheep units.

Congressman ANDERSON. No sheep were slaughtered?

Mr. COOPER. The main emphasis on that F. E. R. A. program was on goats. Would you check with that statement, Mr. Stewart?

Mr. STEWART. Yes.

Mr. COOPER. The main emphasis was on goats.

Congressman ANDERSON. Were there no sheep slaughtered?

Mr. COOPER. I wouldn't be prepared to say there were no sheep slaughtered on that program, but the amount was relatively small. I don't know if there is anyone here who could answer that question.

Congressman ANDERSON. Could you put it in the record?

Mr. STEWART. Mr. Anderson, I believe that the material that the chairman and yourself are seeking is already in that report of the subcommittee of the Senate committee, and we can dig it out and submit it again to this committee for this record. I am quite sure it is in there, the whole history of this stock-reduction program was taken up at those hearings.

Congressman ANDERSON. Having been connected with this sheep slaughtering program from the F. E. R. A. side I was interested in that testimony.

Mr. STEWART. If it is agreeable to you, we will do that.

The CHAIRMAN. Very well.

(The data indicated were furnished the committee, as follows:)

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Albuquerque, N. Mex., September 10, 1943.

Memorandum to: Mr. Haskell, special investigator, McCarran committee.
Subject: Navajo Dipping and Federal Emergency Relief Administration Purchases of Sheep and Goats.

At Mr. Stewart's direction, the following figures are submitted for information of the committee:

Sheep and goat slaughter under Federal Emergency Relief Administration in 1934

Sheep purchased-----	50,000
Goats purchased-----	148,344
Total-----	198,344

These figures were included in the report of the 1936 hearings before the subcommittee of the Committee on Indian Affairs, United States Senate, part 34, Navajo Boundary and Pueblos in New Mexico, page 17806. Figures on the 1933 and 1935 reductions are also included in this report.

Dipping records of sheep and goats, 1930-36, inclusive

	1930	1931	1932	1933	1934	1935	1936
Sheep-----	574,821	631,427	575,913	544,726	502,619	548,579	459,285
Goats-----	186,768	196,945	173,585	164,999	147,427	92,222	73,600
Total-----	761,589	828,372	749,498	709,725	650,046	640,801	532,885

All figures represent Navajo ownership, both on and off the reservation plus the Hopi. Since figures used were taken from dipping records, and since many wats dipped both Navajo and Hopi stock, it has not been possible to separate the two in these early records.

Respectfully,

JOHN M. COOPER,
*Director, Range and Livestock Division,
Navajo Service, Bureau of Indian Affairs.*

Mr. STEWART. I would like to say, Senator McCarran, at the time of the reservation stock reduction program that Mr. Cooper mentioned, that was extended out into what is now district 7, to the Indians in there. They were forced to reduce their stock. I think that is an important point to make because it was a mistake. The Commissioner of Indian Affairs at Farmington, during those other hearings, publicly acknowledged that as being a mistake, to force those people who were off the reservation, those Navajo people competing with non-Indian livestock operators. He admitted that it had been an administrative mistake to force those Navajos to reduce their stock over in that area. Do you recall that, Senator Chavez?

Senator CHAVEZ. I don't recall that particular testimony, but I know the Indians didn't like it.

Mr. STEWART. Admittedly it was a bad administrative action.

The CHAIRMAN. Was that in 1936?

Mr. STEWART. I don't know, Senator. The hearings were held in 1936. The reduction was previous to that.

The CHAIRMAN. The reduction program was something along in 1935 or 1936?

Mr. STEWART. I think so; yes.

The CHAIRMAN. Very well, Mr. Stewart.

Mr. STEWART. I am going to call on Mr. Cooper to discuss these other charts because they relate to livestock, and I am not qualified to talk on livestock.

The CHAIRMAN. Before you proceed to that, you have concluded up to the present point your discussion. It is now approximately 12 o'clock.

(Off the record discussion.)

Mr. COOPER. A moment ago Mr. Stewart mentioned the fact that a great portion of the Navajo Reservation was arid, and some waste-lands. This particular chart here is based on range reconnaissance surveys that were made in 1935 and 1936 according to the same procedure that the Forest Service and other agencies used in range reconnaissance. That total reconnaissance indicated that, on 30 percent of the Navajo Reservation, from 50 to 250 acres were required to maintain a sheep yearlong. On 21 percent of the reservation, 25 to 50 acres were required to maintain a sheep yearlong. On slightly over 16 percent of the reservation, from 16.7 to 25 acres were required to maintain a sheep. On 11.4 percent of the area, from 12½ to 16.7 acres were required; and on 5.6 percent of the total reservation area, only 10 to 12½ acres were required. The largest carrying capacity is found on 2.7 percent of the reservation area, where it required less than 10 acres to maintain a sheep yearlong. Pardon me, on 1.1 percent of the reservation it has a slightly higher carrying capacity, 7.1 to 8.2 acres; and only one-half of 1 percent of the reservation is cultivated; and 11.6 percent of the reservation was true waste lands and had no carrying capacity whatever.

Now, this particular chart has been entitled "Stock improvements means increased Navajo living." By "stock improvements" we mean not only improvement in type of stock owned by the Navajos, but improvement in the management of that stock on the ranges. This red column, in all cases, refers to conditions in the Navajo sheep industry existing in 1930, '31, and '32. It is an average for the figures of that period.

The CHAIRMAN. Does the term "sheep" embrace goats?

Mr. COOPER. No; this is solely sheep, Senator McCarran, and this includes not only the reservation, but the Navajo ownership outside of the reservation. For instance ownership in the early period of sheep alone, both on and off the reservation, was 594,000 head. During the period 1933, 1934, and 1935, that ownership was reduced to 525,000 head. It was further reduced in 1936 and 1937 to 466,000 head. Now, the reduction continued, until in 1942, the Navajos on and off the reservation owned 433,204 head of sheep, according to the best counts, and this, by the way, is based on an accurate dipping count.

That same period in total numbers of lambs weaned, there was a high point in the thirties, 317,209. In the period 1933, '34, and '35, that was reduced considerably. However, in spite of the decrease in numbers of sheep, the number of lambs weaned has consistently increased until it reached a high point in 1942.

This next section refers to lamb weights. Pretty much the same thing shows here; that, despite the decrease in number, the total weight of all lambs marketed has increased until it reached a high point from 1940 to 1942.

The CHAIRMAN. Is that a proper picture of reservation results; in other words, is that on the reservation?

Mr. COOPER. On and off the reservation.

The CHAIRMAN. On and off?

Mr. COOPER. On and off.

The same thing shows here, with the total weight of wool.

Now, the thing that seems that this record of sheep production shows is, first, that during the period where numbers were reduced, it was nonproductive stock that was eliminated. That included wethers, old ewes, 4-, 5-, and 6-year-old steers, and horses that had ceased to be of value to the Navajos. In addition, by the elimination of what we might call surplus nonproductive stock, the feed that they had customarily been eating was made available for the production stock. In addition to that, was the fact that, for a good number of years, there has been a real effort, to both an individual effort on the part of the Indians, and as a program of the Indian Service, to provide better livestock for the Navajo Indians. I think that the increase in total production here reflects a combined effect of those three causes.

This particular chart tells the same story in a slightly different way. The number of ewes is shown by the dotted line, and the number of lambs by the solid line. Besides the fact that the trend was downward in the number of ewes over the year, the general trend of lamb production either maintained itself, or shortly increased, here during the period of 1941 and 1942.

The CHAIRMAN. Does that mean lamb production to market or lamb production to weaning?

Mr. COOPER. That means lamb production to weaning, Sir, because so many of the lambs produced are consumed by the Navajos.

The CHAIRMAN. Do they sell their lambs?

Mr. COOPER. For feeder purposes approximately an average over that period would indicate 200,000 head of feeder lambs here per year. Last year was a high point on feeder lambs, and, if I am not too far off, I believe the figure was 219,000 last year for feeder lambs. They go largely to the Colorado and the Kansas feed lots.

This merely illustrates the trend in lamb production, in percentages of mature used. In the year for 1930, based on the mature use, both on and off the reservation, there was about a 70 percent lamb crop. In 1932 is a low point, reflecting the terrible winter they have in this country, in 1931 and 1932. The low point was again in 1935, and possibly could be attributed to drought conditions. However, since that time the trend has been steadily upward, and, as a final statement, the reduction in mature use on the reservation since 1936 has been rather small. The reduction effort has been concentrated on horses, those nonproducing stock; and a great many cattle have been removed from the reservation since 1936.

The CHAIRMAN. Now, referring back to the period when there was a killing-off of the goats, was there an increased number of sheep following that?

Mr. COOPER. I would have to analyze some old records we have here before venturing an opinion on that. I don't believe that I would be able to answer that now.

The CHAIRMAN. Did they go to cattle or go to sheep from the goats?

Mr. COOPER. The trend is to sheep; and, in some instances and places,

where the range conditions are particularly suited to cattle production, this trend to get rid of cattle is disturbing, because, in many cases, it seems that the Navajo economy would be better off if he had more cattle and less sheep. However, they have a real love for sheep, and it is hard for them to sacrifice sheep.

The CHAIRMAN. Well, they went to sheep when the program was to kill off the goats. That is true, isn't it?

Mr. COOPER. I think that would probably be true. Instead of sacrificing their sheep, they sacrificed goats, if I remember correctly. At some of the hearings that were conducted before tribal delegates in 1933, '34, and '35, all of the emphasis was placed on the getting rid of surplus goats. I don't recall, offhand, the number on the reservation at that time; but it was a tremendous proportion. It might be interesting to note today that there are only slightly over 50,000 goats on the reservation today, as against those on the reservation—as against about 350,000 sheep, and slightly over 10,000 cattle, and in the neighborhood of 30,000 to 35,000 horses. That is, within the reservation boundaries.

Mr. LEE. Mr. Chairman, can I ask Mr. Cooper a question? I realize you weren't there at the time this happened, but the Secretary testified at the hearing before the Senate that it was a mistake to kill the goats at the time they killed the Indians' goats. When they did that they took away the only milk supply they had for the children; and afterward they admitted it was a very serious mistake. From my knowledge, I personally believe they did not transfer from goats to sheep but tried to build back their goats, so as to get food and milk from the goats.

Mr. COOPER. That might possibly be true, Mr. Lee. However, my statement was based on a fact, a trend today, on Navajo ownership permits that have been issued to these people. They feel their permits are important, and they are anxious to keep their permits full. Normally, the present trend is to sacrifice anything for sheep.

Senator CHAVEZ. What do they clip, Mr. Cooper? How much of a clip do they get from the Navajo sheep?

Mr. COOPER. That is shown here; the average for the last 2 or 3 years has been right at 6 pounds, Senator Chavez, and the total clip in 1942 was 2,616,000 pounds. One of the reasons, I believe, why the goats have, in some instances, been sacrificed is the fact that wool weaving, as well as wool for the market, assumed tremendously important proportions in Navajo life. Figures that would be applicable in about 1938 indicated that about 25 percent of all Navajo wool was retained and used for the weaving of blankets and rugs, on the reservation, and didn't go into commercial channels.

Mr. STEWART. Mr. Chairman, that concludes our general remarks.

The CHAIRMAN. Very well. Are there any questions?

Judge SETH. Might I ask Mr. Stewart some questions?

The CHAIRMAN. Very well, go ahead.

Judge SETH. Taking up this land area of 4,891,000 acres; just what does that include?

Mr. STEWART. That includes all tribal land holdings within the State.

Judge SETH. By that you mean reservations?

Mr. STEWART. Reservations; yes, sir.

Judge SETH. And lands purchased by the Indians?

Mr. STEWART. Purchased by the tribe.

Judge SETH. From tribal funds?

Mr. STEWART. That's right.

Judge SETH. That does not include those purchases by the Soil Conservation Service, and others, which are set apart for Indians?

Mr. STEWART. That is correct, it does not.

Judge SETH. It includes the technical reservations, plus land purchased from tribal funds?

Mr. STEWART. That is correct.

The CHAIRMAN. Does it include individual allotments?

Mr. STEWART. Not on the public domain.

Judge SETH. Are there individual allotments within the Navajo reservation?

Mr. STEWART. Not as a general rule. There were half a dozen or more made to some Hopi Indians, way over around Tuba City, in the west, many years ago.

Judge SETH. Those were allotments entirely outside the reservation?

Mr. STEWART. That is correct.

Judge SETH. How old does an Indian have to be to get an allotment?

Mr. STEWART. Of course, he can't get an allotment now. They passed the Taylor Grazing Act. My recollection of the law and regulations provided that an Indian who was the head of a family, living off the reservation, could select an allotment for himself and his minor children.

Judge SETH. In other words, the allotment privilege, no matter how it was exercised, extended to the Indians, from the old people down to the infants just born. Isn't that true?

The CHAIRMAN. Let me get that clear. He could select an allotment if he was the head of a family, for himself and the minor children. That is your answer?

Mr. STEWART. Yes, sir.

The CHAIRMAN. So he selects an allotment for himself and for each of the minor children.

Mr. STEWART. That is correct; yes.

Judge SETH. And for his wife?

Mr. STEWART. I am not clear on that point of the wife. That is why I omitted reference to it. I don't think he had a right to select for the wife; but I have the regulations, and we will dig it out.

Judge SETH. What I mean is, the homestead wasn't limited, like on the non-Indians, only one to the family. Isn't that right?

Mr. STEWART. That is correct.

Judge SETH. But the allotments could cover the 10 or 11 children?

Mr. STEWART. Yes, sir, if they were minor children.

The CHAIRMAN. For the record, please, how much land is in an allotment?

Mr. STEWART. 160 acres.

Judge SETH. And the Indians on the reservation receive allotments off the reservation?

Mr. STEWART. If they did they were certainly not entitled to them. I don't know.

Judge SETH. Aren't they, for that matter, migratory?

Mr. STEWART. I am told on reliable authority there hasn't been any large migration of Navajos off the reservation into this New Mexico area.

Judge SETH. Were these allotments suggested to the Indians, or did the Indians ask for them?

Mr. STEWART. Both.

Judge SETH. And, in the main, they were urged on them by the Indian officials. Isn't that true?

Mr. STEWART. That is right; yes.

Judge SETH. Urged it to go out in what is now district 7, and take an allotment?

Mr. STEWART. That is correct.

Judge SETH. Whether they asked for them or not?

Mr. STEWART. Yes.

Judge SETH. In a great many instances they never saw their allotments, did they?

Mr. STEWART. I couldn't answer that; but I imagine that is true, in some instances.

Judge SETH. And they didn't know where they were?

Mr. STEWART. Possibly.

Judge SETH. Did they have to put any improvements on these allotments?

Mr. STEWART. No.

Judge SETH. On homesteads they had to put up a hogan at least?

Mr. STEWART. Yes.

Judge SETH. And live there for some time?

Mr. STEWART. Yes.

Judge SETH. Outside of district 7, what is the proportion between Indian homesteads and Indian allotments?

Mr. STEWART. Oh, the number of allotments is preponderant. The number of Indian homesteads is comparatively small.

Judge SETH. There are 10 times the number of allotments as compared to homesteads; more than that?

Mr. STEWART. Yes.

Judge SETH. What did the Indians do with their allotments when they got them?

Mr. STEWART. Some lived on them. It might be better if one of our district supervisors, who lives out in the district in this area we are talking about, lives close with the Indians, could give us some observations as to just what has happened as to occupancy of these Indian allotments.

The CHAIRMAN. Let's see, there, now.

Mr. STEWART. I couldn't answer that, because I don't know.

The CHAIRMAN. You have been in charge of the Land Division, haven't you, Mr. Stewart?

Mr. STEWART. Yes, sir.

The CHAIRMAN. For how long?

Mr. STEWART. In charge of the Land Division beginning in 1933 until May 1942.

The CHAIRMAN. What were your duties?

Mr. STEWART. My duties were to handle and direct all land acquisition work; to handle and direct the administrative work, in connection with the preparation of cases for consideration of the Court of Claims,

to the Attorney General, pursuant to jurisdictional acts; administratively handling the leasing of Indian land for oil, gas, and metal-liferous mining; and matters of miscellaneous work relating to allotted Indian reservations, for problems would come up affecting tribal land allotments. That, in general, was the scope.

Judge SETH. Did the Indians have to sign, or mark some document requesting that selection of the allotment?

Mr. STEWART. Ordinarily, yes; if he did not, then the allotting agent would do the work for him.

Judge SETH. In other words, there were allotments made without the Indian signing anything?

Mr. STEWART. Oh, yes; not only on public domain but on Indian reservations where they were allotted.

Judge SETH. In district 7 that is true?

Mr. STEWART. That is true; yes, sir.

Judge SETH. Who selected the area that should be allotted; I mean, to any particular Indian?

Mr. STEWART. I think the fact is there were Indians living out there—it is indicated that that should be the area.

Judge SETH. But the individual—who selected it?

Mr. STEWART. Many times the Indian; many times the allotting agent himself.

Judge SETH. Most times it was the allotting agent?

Mr. STEWART. I couldn't answer that question.

Judge SETH. Now, about how much area was given up by the Santa Fe, in district 7, Mr. Stewart?

The CHAIRMAN. Would you kindly remove that other chart, there, while the interrogation is going on with reference to district 7? I think it probably would be better.

Mr. STEWART (indicating). In this particular exchange area here, I expect you mean?

Judge SETH. That is what I mean, all exchange in district 7.

Mr. STEWART. Under the 1921 act the railroad company relinquished 228,230.85 acres of land.

Judge SETH. And how big an area of allotments did the Indians give up in the select areas?

Mr. STEWART. Thirty-two thousand acres.

Judge SETH. In other words, there was about 190,000 acres of relinquished land over and above what the Indians gave up. Is that correct?

Mr. STEWART. That's right.

Judge SETH. And is that the area you are getting the opinion on, that the Indian Service has claimed?

Mr. STEWART. That is the area.

Judge SETH. Has that ever been turned over, in any manner, to the administration of the authorities of district 7?

Mr. STEWART. That is under the administration of the district authorities; but in the rules setting up the district, it is set up as Indian base, if that is the correct expression to use.

Judge SETH. You couldn't give a non-Indian permit on that land, could you, under your holdings?

Mr. STEWART. I don't know. Mr. Naylor could answer that.

Judge SETH. Has that ever been done?

Mr. NAYLOR. In a few cases; yes; we have.

Judge SETH. In the main it has been preserved entirely for the Indians?

Mr. NAYLOR. Oh, yes; and, when we have, it has been with the understanding that the individual white man had sufficient space to take care of his stock in every case.

The CHAIRMAN. When the Indians relinquished the allotments, at the time of the other relinquishment, how was the Indian relinquishment brought about?

Mr. STEWART. Through personal approach of an employee of the Indian Service.

The CHAIRMAN. And did the Indian sign the relinquishment, or was it, as in the other instance, signed by someone else for him?

Mr. STEWART. All these were required to be signed. According to law, could not sign away his vested right.

Mr. F. W. LaROUCHE. Could I ask a question?

The CHAIRMAN. What is your name for the record?

Mr. LaROUCHE. F. W. LaRouche.

The CHAIRMAN. What is your official position, if any?

Mr. LaROUCHE. I am a field representative of the Office of Indian Affairs. I have been studying this question.

The CHAIRMAN. To whom do you wish to propound the question?

Mr. LaROUCHE. Perhaps I had better say that I want to make a brief statement, which possibly might shed some light. It was in the matter of allotments, Senator McCarran, I think, in part; and I think the impression might be created that these allotments to the Indians was a bewildered sort of proposition. On the record it sounds that way.

The CHAIRMAN. Have you personal knowledge of that?

Mr. LaROUCHE. No; I have read this statement. I want to ask Mr. Stewart if it wasn't true that the Indian allotments were made after a large section of that part of the reservation had been withdrawn; and whether or not that was not a very poor substitute, administratively, for a situation that could not be relieved.

The CHAIRMAN. Just a minute. I want to get that straight.

Mr. LaROUCHE. I don't pretend to be an authority.

Senator CHAVEZ. The Indian allotment was started in New Mexico. The congressional delegation, years ago, objected to the Executive orders increasing the Navajo Reservation. So, in order to get away from what they could not do through legislation, they started the Indian-allotment business, during the period when Mr. Stacker was superintendent, over there at Crown Point.

Mr. STEWART. I would like to answer Mr. LaRouche, and comment on Senator Chavez' observations, if I may.

Senator, approximately 1908, what was proposed as an addition to the reservation a few years ago, this area in here, was reserved by Theodore Roosevelt, by Executive order, from all forms of disposal, pending allotting of Indians within the area. Allotments were made a few years later, after the withdrawal. The Executive order was canceled, and allotments were made after that cancelation, up to 1929. Now, does that answer the general question?

The CHAIRMAN. Yes; if there is any question.

Judge SETH. The same manner was followed in making those allotments. Has any been made since 1929?

Mr. STEWART. Not that I know of.

Judge SETH. But a lot of them were made in 1927, '28, and '29?

Mr. STEWART. There may have been some lieu selections, for those who gave up their allotments to the railroad company, since that time. I would consider those new allotments.

Judge SETH. The act preventing any extension of any Indian reservation, except by act of Congress, was enacted in 1918, was it not?

Mr. STEWART. That is correct.

Judge SETH. After that hearing, to which Senator Chavez referred, and ascertaining the general attitude at that time, this allotment campaign started. Isn't that a fact?

The CHAIRMAN. What is the answer?

Mr. STEWART. Allotments are not extensions of the reservations, but a granting of a right to an individual with a vested right.

Judge SETH. The question was, Didn't the allotment campaign start shortly after the asserting of the attitude Senator Chavez referred to? They couldn't get the act of Congress, and, therefore, you started the allotments. Isn't that true?

Mr. STEWART. Well, the allotment program, as I recollect it, was virtually emphasized around 1925, and deeded up and carried forward, until 1929.

Judge SETH. That is when 99 percent of the allotments were made?

Mr. STEWART. Pretty much the bulk of them.

Judge SETH. Now, are you prepared to testify concerning the organization of district 7, or is some other Indian Service—

Mr. STEWART. No; I certainly would not be qualified.

Judge SETH. When was it established?

Mr. J. H. LEECH, Grazing Service, Salt Lake City, Utah. We could answer that, Senator.

The CHAIRMAN. I think that will follow, unless you want the answer right now.

Judge SETH. All I want is a chance to examine somebody connected with the Indian Service.

The CHAIRMAN. Well, let someone from the Grazing Service answer the question.

Mr. LEECH. It was established on September 1, 1939.

Judge SETH. You participated in its formation, did you not, Mr. Stewart?

Mr. STEWART. No; I did not.

Judge SETH. Where were you at the time?

Mr. STEWART. In Washington and in the field, in and out, on work.

Judge SETH. Will there be someone that can tell us about the formation of it?

The CHAIRMAN. The Grazing Service will tell you. They were to follow Mr. Stewart.

Senator CHAVEZ. But, Mr. Stewart, in carrying out your duties as Chief of the Land Division of the Indian Bureau, you certainly had something to do with the formation of district 7.

Mr. STEWART. No; I was called into a conference, where it was being discussed, in Washington, by representatives of the Grazing Service, a representative of the Indian Office, and the Navajo superintendent, and had discussed with me, at that time, land status in the district.

As far as formulating any part of the rules, I had nothing to do with it.

Judge SETH. Do you know whether any public hearings were held out here, with respect to the formation?

Mr. STEWART. That I do not know.

Judge SETH. Do you know whether any hearing was held on the rules and regulations; or were they just handed out?

Mr. STEWART. I do not believe there were public hearings. I don't know; I don't believe there were.

Judge SETH. Mr. Stewart, coming to the population figures you have given, that figure of 12,934, that included all the men, women, and children in district 7. Your second figure, did that include Indians working in Gallup?

Mr. STEWART. I presume it did; yes.

Judge SETH. There are a couple of thousand, probably, down there, aren't there?

Mr. STEWART. Yes.

Judge SETH. And did it include—it included all those that you thought lived on the reservation, at some time or other, didn't it?

Mr. STEWART. No, no; all those that I thought lived on the reservation?

Judge SETH. You thought that was their real home, where they would come back to?

Mr. STEWART. I don't quite get that question.

Judge SETH. I mean, if a man was away working, did you count him as one of the inhabitants of this district?

Mr. STEWART. Oh, yes; yes.

Judge SETH. And the population of 285; is that all the non-Indian population there is in the district?

Mr. STEWART. No; if you want to include your urban population—

Judge SETH. Gallup is in the district, isn't it?

Mr. STEWART. Your urban people, your urban population do not depend upon the range,

Judge SETH. The people that are living in little places like Thoreau, were they included?

Mr. STEWART. Not at all, two-hundred-odd people are those dependent primarily in operation of livestock.

Judge SETH. Might not people living in Gallup be dependent on livestock?

Mr. STEWART. Through the medium of exchange.

Judge SETH. The sheep growers or cattle growers live in Gallup.

Mr. STEWART. Oh, I understand; yes, of course.

Judge SETH. Don't the great bulk of them live in these little towns?

Mr. STEWART. The bulk of the urban population, no.

Judge SETH. You mean a lot of people using the range live in the town and are not counted?

Mr. STEWART. Some of them, but just a few.

Judge SETH. Half of them?

Mr. STEWART. Well—

Judge SETH. Some of them live in Albuquerque that have sheep or cattle out there, don't they?

Mr. STEWART. Yes.

Judge SETH. You included all the Indians working in the towns?

Mr. STEWART. In and out.

Judge SETH. But you did not include any non-Indian population except those actually out there in the sticks?

Mr. STEWART. That is right.

Judge SETH. Do you mean, by talking about this 187,000 acres purchased by the Indians on a reimbursement basis—I may have misunderstood you, but what did you mean by that?

Mr. STEWART. Well, the act, which is defunct now, authorized an appropriation of so much money, gratuity funds of the Federal Treasury which would be reimbursed to the Treasury from tribal funds.

Judge SETH. In other words, the Government loaned the money to be reimbursed, from oil royalties, and things of that kind?

Mr. STEWART. Yes.

The CHAIRMAN. And that money was to be devoted to the purchase of additional lands?

Mr. STEWART. That is correct.

Judge SETH. Those furnishing the money by which they are buying land at this time?

Mr. STEWART. Well, where are the purchases being made?

Judge SETH. Are there any? You should know.

Mr. STEWART. Well, as far as the Navajo service is concerned, there aren't any purchases being made. But as to the Navajo group at Ramah, which is under the jurisdiction of the Pueblo Agency, that is another matter, and that is the point I believe you have in mind. Therefore, the representatives of the Pueblo Agency are here and should speak on that point.

Judge SETH. This fund, has the Government been reimbursed? Did they have sufficient money from the tribal fund to pay for this land, this 180,000 acres? Has that been paid for or do they still owe the Government for it?

Mr. STEWART. I assume that it has. I don't know.

Judge SETH. Now, you wouldn't be in a position to know why this little area down here at the bottom, a hundred miles from any other portion of this district 7, was included in it, would you?

Mr. STEWART. Yes, I would.

Judge SETH. Why?

Mr. STEWART. For the simple reason it was subject to the July 8, 1931, withdrawal.

Judge SETH. In other words, district 7 was supposed to coincide with that 1931 withdrawal?

Mr. STEWART. To a certain extent, where it was desirable to not include some of the withdrawal area in district 7, but to include it in already existing districts, that was done.

Judge SETH. Why wasn't it put in district 2 or some place?

Mr. STEWART. I have no idea.

Judge SETH. Are there some Indians down there?

Mr. STEWART. Oh, yes.

Judge SETH. You have a board in district 7, don't you, the regular board? How can they administer that area a hundred miles away from—and it is probably 250 miles from Gallup by ordinary travel route, isn't it?

Mr. STEWART. Yes; I should say it was.

Judge SETH. How can they administer it?

Mr. STEWART. Harry, how can they?

Mr. NAYLOR. I don't know.

Mr. STEWART. I don't see how they can.

Judge SETH. Why was it put in the district?

Mr. STEWART. That is something I don't know.

Judge SETH. There are other grazing districts besides 7.

Senator CHAVEZ. There is a grazing district right around that area.

Judge SETH. District 2 surrounds it, doesn't it, Mr. Stewart?

Mr. STEWART. I do not know.

The CHAIRMAN. Was that territory, last referred to by the interrogatory, included in the proposed legislation that failed in passage?

Mr. STEWART. Yes.

The CHAIRMAN. Was all of the territory depicted on the map now before you included in the legislation that failed in passage?

Mr. STEWART. All except north of this black line, excluding this area in here.

The CHAIRMAN. And that was railroad?

Mr. STEWART. Yes; everything within this outer black line, excluding the railroad land, clear on through here; everything in this black line area, that black line area, and that lower black line area.

Senator CHAVEZ. This area is contained on district 7 now, and you would have obtained it if the legislation had been approved by Congress?

Mr. STEWART. That is correct.

Senator CHAVEZ. So you got it anyway.

The CHAIRMAN. Your campaign for allotments was largely centered in the area embraced within the bill which failed of passage?

Mr. STEWART. That is correct.

The CHAIRMAN. And the campaign for setting up allotments started shortly after the bill failed of passage?

Mr. STEWART. No, sir; the campaign took place before that time, before the bill was introduced, Senator. The impetus of this whole campaign of making allotments took place between the years 1925 and 1929. The bill was introduced subsequent to that time.

Judge SETH. But the withdrawal was there?

Mr. STEWART. The withdrawal was made in 1931; based on that withdrawal the legislation was drafted.

Judge SETH. Wasn't the withdrawal made in 1908?

Mr. STEWART. The first withdrawal, under Theodore Roosevelt.

Judge SETH. But all that land, the time the allotments were made, was withdrawn from disposal under the public land laws generally, wasn't it?

Mr. STEWART. No, sir. Any land prior to the passage of the Taylor Grazing Act that was public domain did not have to be withdrawn for allotment purposes. It was available, undisposed of public domain, unreserved. It was subject to allotment to a qualified Indian, whether he be Navajo, Laguna, Apache, or what not.

The CHAIRMAN. Did the allotment campaign, so-called, take on its activity after the Executive order of Theodore Roosevelt, which was a temporary withdrawal?

Mr. STEWART. After its cancelation, yes.

The CHAIRMAN. After its cancelation?

Mr. STEWART. That's right.

The CHAIRMAN. It did not take form as a campaign during the time the Executive order was in existence?

Mr. STEWART. Yes, indeed it did, but the record indicates that the cancelation of that withdrawal was because it was believed that the oil structures in the so-called Hospah structure, as we know it today, the oil structure, and therefore the order should be canceled and the structure, so to speak, be developed under the public-land laws. But there was a campaign of allotments made during the short life of the withdrawal, Senator.

The CHAIRMAN. And that continued after the cancelation?

Mr. STEWART. That is correct.

The CHAIRMAN. And that is a campaign that was directed, wasn't it?

Mr. STEWART. Certainly.

Judge SETH. Now, when was that Executive order canceled or withdrawn?

Mr. STEWART. I would have to guess, and I would rather not do that. I could get that information. It was about a few years after it was created.

Judge SETH. Now, you are unable to give us any figures on the increase of Indian sheep in district 7 in the past few years, are you not?

Mr. STEWART. I would not know.

Judge SETH. And who would know?

Mr. STEWART. I think, jointly, Mr. Cooper and Mr. Naylor would know.

Judge SETH. Didn't the Government advance money to the Indians with which to purchase sheep at some stage of the relief campaign?

Mr. STEWART. I don't know whether there was any money. There was sheep put out to them on the reimbursement basis.

Judge SETH. About how many, do you know?

Mr. STEWART. I believe a total not to exceed 10,000.

Mr. COOPER. 9,380.

Mr. STEWART. 9,380.

Judge SETH. Was that at a time when you were trying to exterminate the goats?

Mr. STEWART. That was subsequent to that time, I believe; and it was to help rectify that administrative mistake, making those people to reduce living off the reservation.

Judge SETH. Do you know whether that nine-thousand-some-odd head went on district 7?

Mr. STEWART. I believe it did.

The CHAIRMAN. One question there, Judge, if you please, before it passes out of my memory.

You were asked the question, Mr. Stewart, as to whether the money that was advanced for the purchase of land, 180,000 acres, or thereabouts, had been repaid to the Government. I did not catch your answer.

Mr. STEWART. My answer was, Senator, that I didn't know.

The CHAIRMAN. Does anyone here have a record who could enlighten the committee on that?

Mr. STEWART. I might mention, Senator, that took place quite some time ago, and the only source of that information, I believe, would be the General Accounting Office in Washington. I don't know as the Indian Office would have it.

The CHAIRMAN. It would look as though the Indian Office should have it. Is there anyone here in the Indian Office who has information on that subject? The investigator will be advised to run that matter down for the record.

(The following information on this matter was received from the Indian Service:)

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Chicago 54, Ill., November 3, 1943.

Mr. E. S. HASKELL,

*Special Investigator, United States Senate Public Lands Committee,
Care of Nevada Reporting Service, Reno, Nev.*

DEAR MR. HASKELL: Reference is made to a letter of September 27 from J. M. Stewart, general superintendent of the Navajo service, relating to certain information desired by the McCarran committee, pertaining to the purchase of land for the Navajo Indians. We also have a copy of your letter of October 15, to Mr. Stewart, advising that what the committee wanted to know was, "How much, if any, of the \$1,200,000 advanced for the purchase of approximately 180,000 acres has been repaid to the Government?"

The appropriation item contained in the Second Deficiency Act of fiscal year 1923, approved May 29, 1928 (45 Stat. 899,900), reads as follows:

"* * * Purchase of land for Navajo Indians: For purchase of additional land and water rights for the use and benefit of Indians of the Navajo Tribe (at a total cost not to exceed \$1,200,000, which is hereby authorized), title to which shall be taken in the name of the United States in trust for the Navajo Tribe, fiscal years 1928 and 1929, \$200,000, payable from funds on deposit in the Treasury of the United States to the credit of the Navajo Tribe: *Provided*, That in purchasing such lands title may be taken, in the discretion of the Secretary of the Interior, for the surface only. * * *

Under this authorization a total of \$675,000 was appropriated, of which \$532,077.85 was expended. All of this \$532,077.85 was tribal money. The amount reimbursable to the Treasury is \$100,000, which was appropriated by the act of February 14, 1931 (46 Stat. 1122), under an item reading in part as follows:

"For purchase of additional land and water rights for the use and benefit of Indians of the Navajo Tribe as authorized to be acquired by the act of May 29, 1928 (45 Stat., p. 899), \$100,000, reimbursable * * *."

All of this particular appropriation was expended. No part of it has been repaid as yet.

Sincerely yours,

WALTER V. WOFHILKE,
Assistant to the Commissioner.

Judge SETH. I have one question for the gentleman back there. When were those sheep purchased, what year?

Mr. COOPER. They were purchased in the years 1936, 1937, and 1938.

Mr. STEWART. I would like to give you the date of the cancelation order. President Taft, by order of January 16, 1911, restored to equity the balance of these Roosevelt withdrawals.

Judge SETH. The boundaries of district 7 look sort of irregular. Is there any basis for the lines, other than the fact that the land was originally included in that withdrawn area?

Mr. STEWART. No; that is all the reason I know.

Judge SETH. And do you know any reason why it wasn't put in the surrounding districts?

Mr. STEWART. Only in general terms, that the problem here was a special problem.

Judge SETH. Wasn't it, in fact, that the Indian Service desired to retain control of the district?

Mr. STEWART. No.

Judge SETH. Was the district set up with the regular board of advisers, do you know?

Mr. STEWART. Yes.

Judge SETH. And superimposed on that is another board. Do you know of whom they consist?

Mr. STEWART. That is a range conservation committee.

Judge SETH. They consist entirely of Indian Service and Soil Conservation Soil officials, do they not?

Mr. STEWART. No; originally they were composed of Indian Service representatives, Soil Conservation Service representatives, Division of Investigation, General Land Office. Since the original composition of that board, due to the war and other causes, we have been without a board. Just recently, it has been recreated, you might say; until there is merely the Indian Service, the Grazing Service, and the General Land Office, represented on that board.

Judge SETH: That board, that super board, was composed entirely of Government representatives, was it not?

Mr. STEWART. I believe so; yes.

Judge SETH. And by the rules, given express authority to override recommendations of the advisory board?

Mr. STEWART. Let's take a look at the rules.

Judge SETH. Can you produce those?

The CHAIRMAN. Mr. Leech, have you those rules?

Mr. LEECH. Yes, sir; we have them, Senator. Director Rutledge will discuss those, when he goes on for the Grazing Service.

The CHAIRMAN. Do you care for them now?

Judge SETH. I just want to be sure to get them in the record.

Turn to these graphs that you prepared here, Mr. Stewart. As I understand it, all these charts except one, relates to Navajo conditions generally. Is that correct?

Mr. STEWART. Which one is that, that doesn't relate to Navajos?

Judge SETH. This one.

Mr. STEWART. That relates to Navajo conditions.

Judge SETH. But this is limited to district 7, and all the others relate to Navajo conditions generally. Isn't that true?

Mr. STEWART. That is a fair statement; yes.

Judge SETH. You have a number of permits; is that on there somewhere?

Mr. STEWART. Yes; licenses.

Judge SETH. That number is 1496?

Mr. STEWART. That's right.

Judge SETH. Aren't a large number of those licenses for one or two head of horses, or something like that?

Mr. STEWART. I don't think so.

Judge SETH. Well, the average is 96. Is that right?

Mr. STEWART. I can't answer that. Mr. Naylor is the grazier out there.

The CHAIRMAN. What is your answer, Mr. Naylor?

Mr. NAYLOR. The answer is on the chart; 96, I believe.

Judge SETH. But that includes all Indian permits, large and small, doesn't it?

Mr. NAYLOR. That is right.

Judge SETH. And are the cattle and sheep figured on the usual 5-point basis?

Mr. NAYLOR. That is what I understand.

Judge SETH. And have you anywhere a statement of the number of Indian permits that would be less than 25 head out of a total; could that be ascertained?

Mr. NAYLOR. I think so. I don't have it, but I believe we can ascertain it.

Judge SETH. What I am driving at is to ascertain, if possible, whether in that total number of permits there are not a large number of very small permittees.

Senator CHAVEZ. What did you answer?

Mr. STEWART. We will look up that information. We want it to go in accurately.

Judge SETH. Isn't it a fact, Mr. Stewart, that permits are issued to Indians on somewhat a similar basis as the allotments; that is, to the minor children?

Mr. STEWART. That I don't know. I have nothing to do with the administration of the business. Mr. Naylor is the grazier.

Judge SETH. You don't know whether that is true or not?

Mr. STEWART. I do not know.

Judge SETH. Do you know whether permits are issued to Indians who have never been in the sheep business?

Mr. STEWART. No, I couldn't answer that question.

Judge SETH. You don't know whether they are induced to take a permit along the same lines as the allotments or not?

Mr. STEWART. We are not encouraging that; never advocated that. My understanding is that a certain year—you might say the focal point after which the owner had to have stock in the district in order to get a license—I believe that year was 1937 or '38.

The CHAIRMAN. Then the rule for the base period that applies in other districts does not apply in this district. Is that true?

Mr. STEWART. I don't know.

Mr. LEECH. That is correct, Senator.

The CHAIRMAN. That is correct.

Judge SETH. Are there special rules as to their qualifications throughout this district?

Mr. LEECH. I believe when Director Rutledge discusses the regulations, he will answer all those questions.

Judge SETH. Do different rules apply to Indians and non-Indians?

The CHAIRMAN. I would like to have that answered now.

Mr. R. H. RUTLEDGE (director of grazing, Salt Lake City, Utah). He is asking a man here who doesn't know anything about these things. I'll try to tell him, when the time comes, how to get this in an orderly way.

Senator CHAVEZ. If Mr. Rutledge can answer it now I'd like to have the answer now at this point of the record.

Mr. RUTLEDGE. I would like to cover this as it should come up. It is difficult to get the whole picture by picking out questions—

Senator CHAVEZ. This is not a hard question to answer, about whether there are different rules for the non-Indians.

Mr. RUTLEDGE. There are no different rules. The same rules apply to the non-Indians that apply to the Indians.

Judge SETH. Mr. Stewart, I would like to go back, with the committee's permission, to the general testimony with which you opened

as to these—we will need the big map, I think the one behind this one.

The CHAIRMAN. It is now 5 minutes of the hour. We will take a recess until 2 o'clock.

(Recess until 2 p. m.)

AFTERNOON SESSION

The CHAIRMAN. You may proceed, Judge.

Judge SETH. Senator, may I request that this opinion, referred to this morning, that is being gotten, with respect to the Santa Fe Railroad lands that have been relinquished, be made a part of this record?

The CHAIRMAN. Yes; the opinion is not available now, I understand.

Mr. L. O. GRAHAM. No.

The CHAIRMAN. About how soon will it be?

Secretary CHAPMAN. Senator, that probably won't be available for at least another 10 days.

The CHAIRMAN. It will go in the record whenever it is available.¹

Secretary CHAPMAN. Yes, sir.

The CHAIRMAN. Before you proceed, we have got to have a little more quiet here. It is a little difficult for us to hear.

Now, to those who were not here this morning, it is the desire of the committee that each one register by signing a card and giving his post office address and his official position, if any, or his business. All who have not signed cards will please sign them as they are being passed out. That is the only way we have of recording the attendance here; and to those who are not registered at the meeting, we will be unable to afford copies of the testimony when it is printed. These records are transcribed and printed. Those who come here and are interested, and register, will receive a printed copy of the proceedings.

You may proceed, Judge.

Judge SETH. Mr. Stewart, south of Gallup, and outside this district, a so-called resettlement purchase, Two Wells—that is a resettlement purchase?

Mr. STEWART. It is within the district. It was one of the submarginal land projects.

Judge SETH. Will you indicate approximately where it is, on the map? Is it about 6 to 8 miles south of Gallup?

Mr. STEWART. I would say so.

Judge SETH. About how big an area was that, Mr. Stewart?

Mr. STEWART. The total acreage purchased in the so-called Gallup-Two Wells submarginal project, 65,986.44 acres.

Judge SETH. And there is another one down here, Ramah; farther south. Is that true?

Mr. STEWART. That is called, I think, the Zuni project.

Judge SETH. That is smaller, is it not?

Mr. STEWART. Smaller, yes.

Judge SETH. What funds were used in that purchase?

Mr. STEWART. I believe the same source of funds, the Emergency Relief money.

¹ At the hearing before the subcommittee in Denver, Colo., on November 15, 1943, the Assistant Secretary of the Interior was interrogated by the chairman with respect to the solicitor's opinion in question. Assistant Solicitor L. O. Graham replied to the chairman that no opinion had yet been rendered nor was it known when one would be forthcoming. He stated that: "It is still a matter of study."

Judge SETH. No Indian funds used?

Mr. STEWART. I don't recollect any, I am not sure.

Judge SETH. It was purchased like these land grants were purchased?

Mr. STEWART. That is right.

Judge SETH. Was it turned over to the Indian Service for administration, or to the grazing district?

Mr. STEWART. The Gallup-Two Wells, as such, I believe, was turned over to the Indian Service for administration.

Judge SETH. And the other?

Mr. STEWART. The Zuni, too.

Judge SETH. They were like the railroad lands; the Indian Service reserved control of them for Indian use, exclusively. Is that true?

Mr. STEWART. Well, they weren't like the railroad lands, but the net effect of the administrative, yes, is the same.

Judge SETH. Now, Mr. Stewart, could you give me an idea of how much money has been spent on the Navajo Reservation in the way of development of water and improvements for the range since this relief—so-called relief—program started?

Mr. STEWART. Not at the moment, but I can get it.

Judge SETH. It runs into the millions, does it not?

Mr. STEWART. Yes.

Judge SETH. And is the improvement in condition of sheep and weight of lambs, as shown by your data, due to that, in your opinion?

Mr. STEWART. Partially.

Judge SETH. How much range has been developed, would you say, by this expenditure?

Mr. STEWART. I don't quite understand your point. How much has been developed—

Judge SETH. How much has it been improved?

Mr. STEWART. I would say the entire range has been improved by this program of conservation of the range, and the livestock and the livestock reduction program, and the livestock improvement program, all integrated.

Judge SETH. Are there areas in district 7 that the Soil Conservation Service have closed to grazing?

Mr. STEWART. I couldn't answer that question; I don't know.

Judge SETH. How much was spent on the improvements at Window Rock?

Mr. STEWART. Do you mean the structural improvement?

Judge SETH. Yes sir.

Mr. STEWART. The original construction of the Government agency at Window Rock involved a total of \$1,030,968.22. Since that was completed, additional construction has taken place, totaling approximately—I don't have the exact figures, but these are approximate—\$53,135.57; a total of \$1,084,121.79.

Judge SETH. Was an airport constructed there?

Mr. STEWART. There was an airport constructed there.

Judge SETH. Is that included in that total?

Mr. STEWART. No; that was at Window Rock, about a mile distant from Window Rock.

The CHAIRMAN. The Government put in the airport?

Mr. STEWART. Yes; the Government did put in the airport. I can give you the cost of that, if you wish. There is a small hangar there,

\$456.50, and there is a large hangar there, which included the combining of the small hangar, costing \$1,937.88—a total of \$2,394.38 for the work.

The CHAIRMAN. For the airport itself?

Mr. STEWART. Yes, sir.

The CHAIRMAN. And the landing area?

Mr. STEWART. For the hangar and the clearing of the sagebrush. The cost of that was not very severe. It was wiping out the sagebrush with a scraper.

Judge SETH. Do you think that was all spent on the airport, or anything connected with it?

Mr. STEWART. I am sure of it.

Judge SETH. Were there any other expenditures near Window Rock that you did not include in your other total?

Mr. STEWART. Not that I know of.

Judge SETH. Now, what funds were used to construct the buildings at Window Rock?

Mr. STEWART. Public Works Administration.

Judge SETH. They came from Soil Conservation funds used—

Mr. STEWART. Not that I know of.

Judge SETH. They all came from the same source?

Mr. STEWART. P. W. A.

Judge SETH. And you think \$1,300,000 is the total cost?

Mr. STEWART. Yes.

Judge SETH. How could that money have been used to better advantage in improving range conditions?

Mr. STEWART. Well, that money couldn't have been used to better advantage administratively, if that is what you are pointing at. More money could have been used to advantage to improve range conditions.

Judge SETH. This money came from the same appropriation that was used in the improving of range conditions, didn't it?

Mr. STEWART. I don't think so; P. W. A.

Judge SETH. How many employees are there on the Navajo Reservation and on this district 7, that are paid by the Indian Service?

Mr. STEWART. The total number of employees on the Navajo jurisdiction, which includes the reservation and the outlying districts in district 7, total 1,569. Now, of that total, 523 are what I'd term "administrative," in terms of participating in the administrative activities on the over-all work. Of that total, and what I term "human-relations personnel," in that they give a service to the Indians, as removed from administration, in terms of health and education, doctors, nurses, teachers and assistants, 1,046 are in that category. Now, of the total employed, the number of Indian employees in the administrative group is 385, and in the human-relations-personnel group is 658. Of the grand total of 1,569, 541 are intermittent, not regular employees, but irregular from time to time. I might go on further and say that the ratio of the administrative personnel to the Navajo population is approximately one to a hundred.

The CHAIRMAN. That is on the reservation?

Mr. STEWART. Including off reservation, too, Senator.

The CHAIRMAN. Off reservation, as you put it, applying to district 7?

Mr. STEWART. That is correct, this applies to both.

The CHAIRMAN. Do you include in that those who are employed by the Grazing Service, or any other service?

Mr. STEWART. Include in that the services of personnel that is being utilized by the Grazing Service.

The CHAIRMAN. They are paid by the Indian Service?

Mr. STEWART. That is right.

The CHAIRMAN. In addition to that, there are some who are employed by the Grazing Service?

Mr. STEWART. That is correct.

The CHAIRMAN. How many?

Mr. NAYLOR. Thirty regular personnel, administrative work.

The CHAIRMAN. How many of the number of the 1,500 are Indians?

Mr. STEWART. One thousand and forty-three; and 921 of that number are Navajo Indians.

Judge SETH. Now, I believe you said, for administrative purposes alone, there is one employee to every hundred Indians?

Mr. STEWART. Approximately.

Judge SETH. Men, women, and children?

Mr. STEWART. Approximately.

Judge SETH. In other words, 1 administrative employee to about every 15 families?

Mr. STEWART. Every 20 families.

Judge SETH. And the total number of employees is about 1 to 35 Indians, is it not?

Mr. STEWART. That would be about right; yes.

Judge SETH. That would be one to every seven families?

Mr. STEWART. Yes.

Judge SETH. A year or two ago wasn't the number considerably larger, Mr. Stewart?

Mr. STEWART. That is true, because there was a large Civilian Conservation program going forward on the reservation, with the consequent employment of Indians in connection with that, working under white supervision.

Judge SETH. But the Indian Service was not paying them; they were paid from other funds, were they not?

Mr. STEWART. That's right.

Judge SETH. A large number, a year or two ago, of people actually paid from Indian Service funds, were there not?

Mr. STEWART. Not a great deal more; no. There were some.

Judge SETH. Mr. Stewart, when one of these allottees dies, his allotment, I believe you said, goes to his heirs, does it not?

Mr. STEWART. In accordance with the law of distribution, in the particular State wherein the allotment is located.

Judge SETH. If one of the minor children dies, his allotment would go to his parents, wouldn't it?

Mr. STEWART. In accordance with the State law, whichever it may be.

Judge SETH. And this may end in a man having several allotments, at different places?

Mr. STEWART. Yes.

Judge SETH. In making these allotments for the Indians, was it the policy to take only a quarter section out of each of the even-numbered sections that didn't belong to the railroad?

Mr. STEWART. No; the policy was, as far as practicable, to allot in solid tracts.

Judge SETH. Under a great many allotments, through that area, were only a quarter section of a section allotted?

Mr. STEWART. I wouldn't say preponderantly so, no.

Judge SETH. A great many of them; isn't that the case?

Mr. STEWART. Yes.

The CHAIRMAN. I don't quite understand that, Judge.

Judge SETH. Well, every section two, for instance, the railroad, has the odd-numbered sections; instead of allotting the whole section two to an Indian, they allot, for instance, the northeast quarter, and then jump over to section four and allot that, instead of allotting the whole section. Then you have a condition with the Indian where, instead of 160 acres, he controls 640—if there was any control.

You don't think that was done, Mr. Stewart?

Mr. STEWART. No; that was not the policy. My recollection was they were told to allot in continuous tracts, so far as practicable.

The CHAIRMAN. Give me that again, please.

Mr. STEWART. Allotting agents were told to allot a family group in as contiguous a group of tracts as possible, a full section vacant, take care of the head of a family and three children.

The CHAIRMAN. A full section?

Mr. STEWART. Yes.

The CHAIRMAN. So the head of a family and three children would take 640 acres.

Mr. STEWART. Correct.

Judge SETH. Mr. Stewart, was any investigation ever made by the Indian Service to determine whether any of these allotments were illegal?

Mr. STEWART. I think the procedure that was necessarily followed, in connection with public-domain allotments, might be interesting. Allotting agents were sent out by the Indian Office to locate Indian applicants on such lands as they might select, or as the allotting agent might select. Those, in turn, had to clear, through the then register of the local General Land Office for clear listing as to conflict, and as to whether or not they had been made in accordance with the law, as to whether the lands were mineral or not. They were, in turn, checked, subsequently, by the Geological Survey. Preliminary to the approval of the allotment application by the Secretary of the Interior, all public-domain allotments, in turn, had to clear through the adjudicating section of the General Land Office in Washington itself, to see that they had met with the requirements of the law and the regulations for their approval.

Now, to answer specifically your question, I do not know of any investigation of the Indian Bureau, or any other bureau, as to the validity of those allotments.

Judge SETH. Now, the Indian living on the reservation proper was not entitled to an allotment. Is that right?

Mr. STEWART. He was not.

Judge SETH. Any investigation made to check up on that end of it?

Mr. STEWART. Well, the sort of review which I just outlined would disclose whether or not he was a reservation Indian or an off-reservation Indian.

Judge SETH. Now, would the Geological Survey know that?

Mr. STEWART. They were only concerned with whether the lands were mineral in character.

Judge SETH. How would the General Land Office know it?

Mr. STEWART. They had field agents.

Judge SETH. Did they send them out there?

Mr. STEWART. I assume they did.

Judge SETH. The Indian Service knew actually, didn't it?

Mr. STEWART. What?

Judge SETH. Where these Indians lived.

Mr. STEWART. Definitely.

Judge SETH. There never was any check made as to the validity of these allotments, in that respect?

Mr. STEWART. Well, the certificate of an allotting agent, given under oath; and he would certify this or that Indian was not a reservation resident.

Judge SETH. Now, Mr. Stewart, I would like to go, briefly, back to this opening part of your testimony. You stated, I believe, that there was a total of 851,339 acres purchased under this program started by this Rio Grande Valley board. Is that right?

Mr. STEWART. Well, that is true, as to the Rio Grande Valley-Pueblo group, not including, as you mentioned, the Gallup-Two Wells, and the small Zuñi project.

Judge SETH. You don't mean, by any means, that the total purchase of lands made in the State by the various governmental agencies—

Mr. STEWART. No; I only mean that was the total that was purchased in Indian demonstration projects; not by other agencies of the Government.

Judge SETH. Do you know whether or not it included the Ojo del Espiritu Santo grant?

Mr. STEWART. Yes.

Judge SETH. And the Ignacio Chavez grant?

Mr. STEWART. I'm not sure.

Judge SETH. The Bernabe Montano grant?

Mr. STEWART. Yes.

Judge SETH. The Lobato grant?

Mr. STEWART. The south half of the Lobato.

Judge SETH. Not the north half?

Mr. STEWART. That's right.

Judge SETH. And the grant up there beyond the Lobato?

Mr. STEWART. The La Madera?

Judge SETH. That's right.

Mr. STEWART. It was in the total program.

Judge SETH. The land purchases, under that program, were probably nearer a million and a half than the 851,000 you referred to, were they not?

Mr. STEWART. No; I don't know that I have the data. That was collected here at the agency, which I read from this morning.

Judge SETH. There was some which the Indians had nothing to do with, weren't there?

Mr. STEWART. Aren't we getting confused? The total acreage purchased by the Resettlement Administration, for simplicity, included what we termed Indian demonstration projects, which was the figure I gave you this morning.

Judge SETH. You don't attempt to include areas not in the Indian demonstration projects?

Mr. STEWART. That's right.

Judge SETH. Of that, the Indians chose four-hundred-and-thirty-four-thousand-and-some-odd acres?

Mr. STEWART. That's right.

Judge SETH. That does not include the area south of Gallup?

Senator CHAVEZ. Gallup, Twin Lakes?

Mr. STEWART. No; I omitted those two this morning, I omitted to refer to them, through an oversight.

Judge SETH. It doesn't include the area they are using, that the Santa Fe has relinquished?

Mr. STEWART. No.

Senator CHAVEZ. And the Mills project, up near Harding County?

Mr. STEWART. No.

Judge SETH. Does it include that area up around Taos Junction, Serbiena?

Mr. STEWART. I don't think so.

Judge SETH. Does it include the grants down here at Socorro, at Bosque del Apache, the fish and game?

Senator CHAVEZ. The Biological Survey?

Mr. STEWART. No; these are purely Indian projects.

Judge SETH. Now, that board; first there was a committee appointed, and that committee recommended the appointment of a board of eight. Is that what you testified?

Mr. STEWART. You're getting into something I don't know anything about. Mr. Adams would have to answer, on either the board or the committee.

Judge SETH. Was there any representative on that board, other than employees of the various governmental agencies involved?

Mr. STEWART. Subject to correction by Mr. Adams, my reply would be "No."

Judge SETH. Might I ask Mr. Adams to answer, Senator?

The CHAIRMAN. Very well.

Judge SETH. Is Mr. Adams present?

The CHAIRMAN. Will you come forward, Mr. Adams, please?

Judge SETH. You are the same Mr. Adams that testified here this morning, briefly?

STATEMENT OF JOHN A. ADAMS, UNITED STATES FOREST SERVICE, ALBUQUERQUE, N. MEX.

Mr. ADAMS. That is correct.

Judge SETH. Now, Mr. Adams, what was the principal duty of this Rio Grande Interdepartmental Board?

Mr. ADAMS. It might be well to start from the time the committee was set up; don't confuse the committee and the board.

The committee was a fact-finding organization to analyze, gather, and project the economic and social, as well as the resource conditions, in the upper Rio Grande Valley, and make certain recommendations to the Secretary.

Judge SETH. Then the board derived from that, did it not?

Mr. ADAMS. Yes; that's correct. The recommendation of the committee; they thought that, in view of the critical conditions in the

valley, that is, the upper Rio Grande, the area from the north boundary of the State to the Elephant Butte Reservoir, that a permanent board should be appointed, in order to point up and coordinate the program of the various Federal agencies operating in the watershed.

Judge SETH. Was there any representation on that board, other than employees of the various governmental agencies?

Mr. ADAMS. No.

Judge SETH. Didn't that board undertake to adopt policies applicable to non-Indians as well as Indians, in the area?

Mr. ADAMS. Absolutely; there was no line drawn at all.

Judge SETH. In other word, it was to cover the entire population?

Mr. ADAMS. That is correct, the rural population.

Judge SETH. Was any representation of the people to be affected on the board, at all?

Mr. ADAMS. Yes. The proposal, as outlined to the Secretary, contained in the recommendations of the committee, indicated that State, county and other public agencies and people would be consulted.

Judge SETH. They were not given a membership on the board or committee.

Mr. ADAMS. That is correct.

Judge SETH. In other words, these two departments, through their employees, were undertaking to determine the fate and living conditions of a large part of the population of this State. Is that true?

Mr. ADAMS. I wouldn't say exactly that. I would say they were taking the facts, as they found them from the investigations of the various agencies, correlating them, and pointing out possible courses of action to the Federal agencies. We had only advisory and recommendatory powers.

Judge SETH. Well, the people who were to be affected were not the governmental agencies, were they?

Mr. ADAMS. That's correct, no.

Judge SETH. And the people, whether Indians, Spanish-Americans, or Americans, were not represented on the board at all?

Mr. ADAMS. That is correct.

Judge SETH. Didn't this stem from that committee; this so-called subsistence proposition, Mr. Adams?

Mr. ADAMS. I don't believe I understand you.

Judge SETH. Well, I mean the proposition of cutting down the big commercial outfits, and dividing them up among the small ones. Didn't that originate in that committee?

Mr. ADAMS. I wouldn't say so, no. I might give you a little background on that, if I might, on that point.

Judge SETH. Yes.

Mr. ADAMS. At the time the committee was proposed, by Secretary Wallace and Secretary of the Interior Ickes, the thought was, according to the information they had on hand, that a large proportion of the natural resources were not, at the present, time used for the benefit of the rural, noncommercial operators; and that, accordingly, with the large Federal relief rolls we had to contend with, it was felt that if more of the basic resources could be made available to the small rural people, that, in turn, it was felt that, with a redistribution of the basic resources, that the livelihood of these rural people could be raised, and, in turn, the relief load, which was very heavy, on Federal Government, State, and county, could be alleviated.

Judge SETH. How was the status of these people to be raised, Mr. Adams?

Mr. ADAMS. By allowing them more of the natural range resources; by giving them more irrigated land.

Judge SETH. How could they be given more natural range resources without taking it away from existing users?

Mr. ADAMS. Of course, that cannot be done. We do know that, originally, the Spanish-Americans had these large grants, as you know all over this State; that, one by one, these grants have gone into commercial ownership.

Judge SETH. Now, they have gone into the Government ownership.

Mr. ADAMS. And now the Government has acquired them. It was felt that, with the acquisition of some of the now water logged land in the Rio Grande Conservation District, some of that land would be made available to them.

Judge SETH. Well, you felt that the Forest Service had control of the National Forests grazing, is that correct?

Mr. ADAMS. Yes.

Judge SETH. And the Grazing Service was in control of the public land grazing?

Mr. ADAMS. They did, in part, at that time.

Judge SETH. And the Soil Conservation Service, or some other service, was to buy up these grants. Is that right?

Mr. ADAMS. These grants were purchased prior to the board or the committee.

Judge SETH. They were already purchased?

Mr. ADAMS. That is correct.

Judge SETH. And the idea was that these three departments having control of the public lands, the forest, and these recently acquired lands, would dictate the use of the private land in the neighborhood. Isn't that true?

Mr. ADAMS. No; I wouldn't say so. We were concerned with Federally-owned lands, not privately-owned lands.

Judge SETH. The federally-owned lands controlled the situation, didn't they?

Mr. ADAMS. I wouldn't say so.

Judge SETH. All summer grazing was on the forest, wasn't it?

Mr. ADAMS. Except for the larger grants; a good many large grants that have—

Judge SETH. Between the Forest Service and the grants, all summer range was under that board's control?

Mr. ADAMS. I wouldn't say under the board's control, because they have only an advisory power.

Judge SETH. Well, under control of the agencies represented on the board?

Mr. ADAMS. That is probably correct, yes.

Judge SETH. Wasn't it a deliberate plan, through that board, to dictate the use of all the lands in this area involved?

Mr. ADAMS. No; I wouldn't say that. I would say this, rather, that the board, through its membership from the various Federal land and administration agencies, would endeavor to project a program which would mutually benefit, to a large extent, our low-income group.

Judge SETH. And how about the so-called commercial range users: what was to happen to them?

Mr. ADAMS. Well, I might go back a little bit in history, or else just plain human nature. We know that the Spanish-American and the Indian are strictly nonacquisitive, and we know that the Anglo is acquisitive. Accordingly, it was felt that the Anglo could take care of himself.

Judge SETH. In other words, it was your intention to split up the big outfits and give them to the little fellow?

Mr. ADAMS. No.

Judge SETH. Hasn't that been the deliberate policy of the Forest Service, in these northern forests?

Mr. ADAMS. I would say not, no.

Judge SETH. You know that a lot of the land is in private ownership, and its value depended on the summer use of these ranges on the grants and in the forests. Isn't that right?

Mr. ADAMS. That is correct, yes.

Judge SETH. And didn't this committee intend, through that control, to dictate to the whole country as to what usage should be made?

Mr. ADAMS. No; I wouldn't say so, for the simple reason that—take our national forests, for instance, that abut, or are contiguous to, the watershed or part of those ranges. Those are fully stocked. A large proportion of the users are small users. That set-up was not to be disturbed. It was felt that the Forest Service had gone as far as possible in distributing the grazing privileges.

Judge SETH. What did this board propose as the number of sheep a man could graze?

Mr. ADAMS. The board, as such, discussed various sized economic units, and above—I don't know that you can say that any set figure was ever arrived at, because there was such a variety of opinion.

Judge SETH. About what was arrived at, Mr. Adams.

Mr. ADAMS. Well, for instance, take the sheep and goats as a unit, they figured what I would call class A, or I guess the Grazing Service calls class 1, up to 300 head.

Judge SETH. That was considered a sort of economic unit?

Mr. ADAMS. No; that was considered a part of their economic set-up. Remember that the rural people here, taking Spanish-Americans and Indians, 50 percent of their livelihood comes from agriculture. Only 14 percent comes from livestock. The rest of it comes from wage and relief.

Judge SETH. Where did you get that figure, only 14 percent from livestock?

Mr. ADAMS. That was taken from some 10,000 individual schedules, from Indians and Spanish-Americans and Anglos.

Judge SETH. Apart from relief, what percentage would that have been?

Mr. ADAMS. Apart from relief?

Judge SETH. Yes.

Mr. ADAMS. Let me look at my figures here. About 86 percent.

Judge SETH. Then, apart from the relief set-up, they were deriving about half their livelihood, more than half, from livestock. Is that right?

Mr. ADAMS. No; 50 percent from agriculture, 14 percent from livestock.

Judge SETH. Where does that 86 percent come in?

Mr. ADAMS. And the rest is wage. Then that left 14 percent for relief.

Judge SETH. Now, cattle, I suppose, would be figured on the basis of 60 head.

Mr. ADAMS. Well, at that time we were figuring on a conservation rate of four sheep to one cow.

Judge SETH. And is that the limit that was proposed to be imposed on this upper Rio Grande area?

Mr. ADAMS. No, that is what we would say was the lower limit. The upper limit on cattle was 150 head, and the sheep limit was 800 head.

Judge SETH. Was that figured on a basis of that amount or, rather, was it attempted to be figured out on the theory of giving the man enough cattle, or sheep with what he had, to give him an existence; is that what you figured?

Mr. ADAMS. That is correct.

Judge SETH. And was the idea to bring everybody down to that?

Mr. ADAMS. Oh, no; oh, no.

Judge SETH. Did you know Mr. Shevky on that board?

Mr. ADAMS. Yes.

Judge SETH. Whom did he represent?

Mr. ADAMS. Soil Conservation Service.

Judge SETH. Where is he now?

Mr. ADAMS. I would not know.

Judge SETH. He was a Communist, wasn't he?

Mr. ADAMS. I believe that is what the F. B. I. says.

Judge SETH. He was not a citizen of the United States, was he?

Mr. ADAMS. That is correct.

Judge SETH. No one knows where he is at the present time?

Mr. ADAMS. I don't know.

Judge SETH. He was there representing all this land acquisition we have been discussing?

Mr. ADAMS. No.

Judge SETH. He was representing the Soil Conservation Service?

Mr. ADAMS. He was supposed to be an economist.

The CHAIRMAN. A what?

Mr. ADAMS. An economist; but he had nothing to do with the acquisition program.

Judge SETH. By whom was he employed?

Mr. ADAMS. Mr. Calkins.

Judge SETH. Is that board still functioning?

Mr. ADAMS. The board at the present time, as I would say, is in a state of suspended animation.

Judge SETH. That is all, Mr. Adams.

That's all we have. We have no further questions of Mr. Stewart.

The CHAIRMAN. Does anyone else care to interrogate either Mr. Stewart or Mr. Adams? Are there any questions from those in the audience?

Is there any other witness you care to present, Mr. Secretary?

Secretary CHAPMAN. I thought you wanted something on the grazing districts.

The CHAIRMAN. I thought maybe you had something else.

Now, Mr. Rutledge, you may proceed.

**STATEMENT OF R. H. RUTLEDGE, DIRECTOR OF THE UNITED STATES
GRAZING SERVICE, SALT LAKE CITY, UTAH**

Mr. RUTLEDGE. I will try to make a brief statement. My name is R. H. Rutledge. I am Director of the Grazing Service in the Interior Department. I took that job late in 1938, and one of the first trips that I made to the West from Washington was to New Mexico. That was probably in March or April of 1939, and I made a trip over this district 7, going north across it and then back south again. I noted the condition of the range very carefully and contacted the other agencies in New Mexico who were dealing with similar problems.

Mr. Chairman, as we approach this, we are approaching not only district 7 but we are approaching, as was indicated here in the last questioning of the last witness, an immense problem on human relations and human lives. I found—these figures are rough—36,000 Indians scattered around here in the State of New Mexico, and 71,000 Spanish-Americans in this general vicinity along here who might have an interest in the range possibly. I found the Forest Service, the Soil Conservation Service, the Indian Service, and, to some extent, the Grazing Service, involved in these big questions of conservation of the natural resources of the range and in the question of how certain groups of people that I have mentioned were going to make a living. We cannot dodge that question here.

The area that is now district 7 was within the inside boundaries, so to speak, of old district 2 of New Mexico. If I get my numbers wrong, some of these boys will correct me.

The CHAIRMAN. District 2 of what?

Mr. RUTLEDGE. The Grazing Service in New Mexico.

I will present a little map here which shows district 2 as embracing that entire country. That can be submitted, if you want it.

Senator CHAVEZ. Was that prepared at the time that district 7 was included in district 2?

Mr. RUTLEDGE. While district 7 was within district 2, within the exterior boundaries. It was very evident to me on that trip and in my discussion with other men, that some action was necessary to bring more order and more system in the range management of that territory.

The piece that is now called district 7, of about 3,000,000 acres of land more or less, was under withdrawal pending establishment of the Indian reservation, the withdrawal we have been talking about. But it was a hole in the doughnut, right in the middle of district 2, and after it was in there, the Grazing Service found they had no authority to administer lands standing under that kind of withdrawal.

The CHAIRMAN. About what year was that?

Mr. RUTLEDGE. Well, this was determined before I took hold. I'll have to start with 1939. The area, now district 7, under that withdrawal was a no-man's land, and as other parts of the State were put under the administration of the Grazing Service, the unqualified operators, both Indian and white, were heading into district 7 because that was a no-man's country and under no administration. As a result, conditions were bad.

Well, I took what I had learned back to Washington, and there was a lot of discussion with the Indian Service and the Grazing Service,

and we decided by discussion which was largely with Mr. Woehlke, of the Indian Service, and Jim Stewart may have been in on some of the conferences and other men were in on the other conferences—we decided that we had better put that under administration. I think the Secretary was also in on those considerations. The only way to put it under administration was to lift the withdrawal which I have mentioned and create a grazing district.

To me the thing was just a job to do. I had no particular interest in this, that, or the other. But here was a piece of land that needed care and I was, in effect, asked to do it and I was willing to undertake it. I'll admit that I had in the back of my head this thing which I had never seen tried out, the probability of handling Indians and non-Indians on the same area under similar regulations, or the same regulations.

I don't know too much about the Indian question, although I have lived among them all my life. I don't know much about it, but I was willing to undertake to put—to place a large group of Indians and a group of whites together and see if I could work the thing out and have them live happily.

The district was formed by proclamation of the Secretary, or order of the Secretary. No special meetings were held because the legal State meetings had been held and then local State meetings to put up the grazing district. This was just a piece inside of a grazing district. It might have been better to have held meetings and go through that procedure, but it looked like action was necessary. In considering it, I felt, and the Indian Service men felt, that different rules were necessary on that particular piece of ground from those in effect on the ordinary grazing district. That is not a new idea, nor is it a novel idea. I have special rules, different rules in various districts in order to fit the various conditions which we find. I could mention one in Colorado which has a lower limit below which no livestock man will be reduced of 30 head or 35 head. The one we just finished discussing in Washington, in the State of Utah, is another peculiar piece of ground with a peculiar set of circumstances, and we had to adapt ourselves to what we found and what we had to do. So this is no novel or new departure.

Some question has been raised about the placing of these isolated units down at the bottom of the map in district 7. You start fundamentally there with the fact that those were covered by the withdrawal that has been discussed and the limits of district 7 were just made to coincide, in general with that withdrawal. Now, that is not an unusual departure. We have many grazing districts that are in two, three, or four units because of topography or certain conditions. Another reason that we felt we needed different rules or a set of reasons are some of those that have been brought out this morning. That map that you see there is absolutely a nightmare as to land ownership and status. Any one group of men can't any more straighten it out than I can, in any reasonable time. That is a great big job there, a lot of it is legal, trying to determine which lands belong to the Indians and why, and which lands belong to the whites and why, and all of those things you have discussed here this morning. You didn't get anywhere on it.

This is all a maze of legal and administrative land juggling. In addition, the Indians had, as I got it this morning, 300,000 acres of purchased land in there, and they had 150,000 acres of leased land in there, and they had these undetermined allotments in there. You just couldn't get it all straightened out and proceed as we do with a normal non-Indian settlement where the land status is all a matter of record in the Land Office, and you can go and find out who owns which piece of land.

Another thing which puzzled me in this was the indefiniteness of the Indians. They were scattered throughout there. And I don't think anybody knew who had run there 5 or 10 years before, or could have found out. So we set up the special rules. The departure from the regular rules, the departure is not very great. Instead of using a 5-year priority period, we just said those who ran in 1938. That is as far as we dared go back with our limited force to try to find out anything about it. We straightened up on distance from the area, and we said that people who own land within or contiguous to the district land who ran in 1938 would be considered for permits.

The CHAIRMAN. Was the base period in the territory surrounding this district 7 the same as other districts?

Mr. RUTLEDGE. The same as it is everywhere else. On the old district, the 5 years before June 28, 1934, I think was applicable on that district.

Another thing that got in there—that is, it didn't get in there, but which I think is misinterpreted—we said in starting out to issue temporary licenses or permits or whatever they are called, that we would first issue the full number that would run in 1938 of those people that had 150 sheep or less, then the second class—call it the A class, which goes over that and worked on that basis. Another thing which worked into that and a thing to which there has been some objections, was that in those rules we provided for a conservation committee of 3 or 4 men—I think it has varied. On that committee we had a member of the Soil Conservation Service, a member of the Indian Service, I believe a member of the Reclamation Service at some time—probably that is no longer in. We also had a member of the Grazing Service, and I think a member of the Forest Service has acted and is today, all acting in an advisory capacity.

Judge SETH. There was a Division of Investigation, wasn't there?

Mr. RUTLEDGE. Division of Investigation, in addition to the others.

Now, the reason I felt we should have that advisory committee, is that, as I told you, and as has been brought out here, all these other agencies were working on this big, complicated problem. We were making range surveys. The Soil Conservation would make one and then we would make one and somebody else would make one, and they would make studies of various kinds. The purpose of that conservation committee is to correlate those things, and avoid duplication of work, and assure a similar approach to similar problems. That was in the first write-up of the rules.

Some things occurred which we didn't like, and on a certain date that was modified. That is the way it stands now.

The rules and regulations read as follows:

The range conservation committee is authorized to assist the regional grazier in the administration of the district, to establish proper cooperative relations with other interested Federal agencies, to review the recommendations of the

district advisers, and to perform such other duties relating to the management of the district as the Secretary of the Interior may direct.

Now, those men are purely and simply advisory and helpers to the grazier in charge in doing his job. In relation to the Forest Service and all these other people—I have mentioned the Forest Service a time or two in this. I think it is the fact that some Forest Service lands are still in the district. I hope the Forest Service men will correct me if I am wrong. As this land stands today within district 7, there are privately controlled non-Indian lands, 925,000 acres. The Indian-controlled lands, 1,275,000 acres; Federal range, that is, the Grazing Service range, 962,000 acres; national forest lands, 18,000 acres, national monument lands, 21,000 acres. Then inside national forests—and this gets into some of these grants, and I am not going to try to untangle it—there appears to be another 16,000 acres administered by the Forest Service and the Indian Service, and I think these other areas I mentioned here as being in the national forests are actually administered by the Forest Service, along with the Indian Service or somebody else.

We are all working together on it, anyway. Now, we were a complicated family trying to do a dirty job of family washing, and we needed somebody we could go to as a board to keep us together if we got to fighting as we do sometimes.

Now, I think that is my statement, Mr. Chairman.

The CHAIRMAN. This advisory board was an advisory board superior in its powers; is that right?

Mr. RUTLEDGE. Superior in its powers to whom?

The CHAIRMAN. Superior—I don't mean the advisory board, I mean this conservation committee.

Mr. RUTLEDGE. No; it is not superior to anybody; it's just a group of advisers. I go to them and ask them about this and that and the regional grazier when he wants to—

The CHAIRMAN. How are they set up?

Mr. RUTLEDGE. Kind of getting together loosely; Mr. Woehlke or somebody in the Indian Service asks who I want on the board and puts up his candidate, asks the Soil Conservation Service who they want on the board, and we all go around and agree that there are three or four men available here. They are just appointed that way. I don't think they have a secretarial appointment.

The CHAIRMAN. Does the advisory board ever make findings on the problems submitted to them?

Mr. RUTLEDGE. The advisory boards?

The CHAIRMAN. I mean this conservation committee.

Mr. RUTLEDGE. No; to my knowledge they have never taken it upon themselves to dictate or direct what should be done, or to make any decision which would in any way embarrass the administrative force. We have gotten together and said something like this: "We will make the range reconnaissance of this certain piece of land in a grazing district." The Soil Conservation will make a similar range reconnaissance on adjoining land and maybe the Forest Service will make one on theirs, and we throw it together and have a solid block. That is the kind of problem we have tried to handle.

The CHAIRMAN. I am at a loss to see the functions that they perform over and above what the advisory board performs or could perform.

Mr. RUTLEDGE. Did not what I say, then, register? The advisory board is in no position to issue instructions or work up a range survey program; the advisory board is on the Grazing Service land. They don't extend into the Forest Service land or the Soil Conservation Service land. But when we have a joint body like that we have to have contact with those certain individuals or authorities in other agencies and this just puts a little local decentralized group out here who can take those things and do them without our having to do them in Washington or some other place.

The CHAIRMAN. You may inquire.

Judge SETH. Are you through, Senator?

Senator CHAVEZ. Before you proceed, Mr. Seth, I would like to question Mr. Rutledge.

Mr. Rutledge, I was very much interested in your statement with reference to the interest taken by the interdepartmental committee in the economic situation or condition of people affected in either district 7 or along the valley. Can you make a short statement to the committee with reference to the situation of the people affected by district 7 along the Rio Puerco?

Mr. RUTLEDGE. I am afraid that I am not closely familiar with it. Senator; not familiar enough to do it.

Senator CHAVEZ. The people from Rio Puerco, do they take advantage of district 7? They are trying to get some grazing areas.

Mr. RUTLEDGE. Mr. Naylor might have some applications from people over there, but district 7 is too far to affect it very much.

Senator CHAVEZ. Thank you.

Mr. LEE. I would like to correct that statement. District 7 is on the watershed of the Rio Puerco and joins the people who live in the Casa Salazar district.

Senator CHAVEZ. Well, we can proceed after you get through.

Mr. RUTLEDGE. I will try to answer your question this way, Senator. That I think the same kind of interest exists on the part of the small Spanish-Americans along there that exists on the other side for the Indians. We have a question of how many people are going to—

Senator CHAVEZ. It seems around here that the Indians are doing all the eating, and the people on the Rio Puerco aren't getting anything.

Judge SETH. Mr. Rutledge, is there any objection to putting a copy of the regulations applying to district 7 into the record?

Mr. RUTLEDGE. I would be very glad to. I have a copy here. Would you like a copy?

Judge SETH. I don't know whether mine is old or new.

(The document referred to is as follows:)

RULES FOR THE ADMINISTRATION OF NEW MEXICO GRAZING DISTRICT AND UNDER THE ACT OF JUNE 28, 1934 (48 STAT. 1269), AS AMENDED BY THE ACT OF JUNE 26, 1936 (49 STAT. 1976), AND THE ACT OF JULY 14, 1939 (PUBLIC, NO. 173, SEVENTY-SIXTH CONGRESS)

SEC. 1. *Basic Policy and Plan of Administration.*

Par. a. New Mexico Grazing District 7 will be administered to conserve and protect the Federally owned and Federally controlled lands, to promote the proper use of privately owned or controlled lands and waters and to provide for the orderly use and occupancy of the Federally owned lands within the district by those dependent upon them.

Par. b. No grazing on Federally owned or controlled lands in the district will be permitted without a license. Temporary licenses will be issued by the regional

grazier to applicants who qualify for grazing privileges. Such licenses will be revocable for the violation of any of the terms thereof.

SEC. 2. Regional Grazier, District Advisory Board and Range Conservation Committee.

Par. a. Authority for Establishment of District Advisory Board; Number of Members; Qualification; Functions.—The district will be administered by a regional grazier. Pursuant to the act approved July 14, 1939 (Public, No. 173, 76th Congress), there shall be a district advisory board consisting of local stockmen and a wildlife representative. The wildlife representative will be appointed by the Secretary of the Interior. The names of the district advisers shall be recommended to the Secretary of the Interior through an election conducted in the manner hereinafter provided.

Par. b. Functions and Duties of District Advisers.—The district advisers shall advise or make recommendations on the following matters:

(1) Applications for grazing licenses or permits, provided no district adviser shall participate in any advice or recommendation concerning licenses or permits in which he is directly or indirectly interested.

(2) The carrying capacity of the range and seasons of use.

(3) Rules for the administration of the district and modification of the boundaries thereof.

(4) Any other matters affecting the administration of the Taylor Grazing Act within the district concerning which the Secretary of the Interior may request the opinion of the advisers.

Par. c. Organization and Meetings of District Advisers.—The district advisory board shall meet at district headquarters within 30 days after the appointment of a majority of its members. It shall organize by electing from its membership a chairman and a secretary. Additional meetings shall be held at the call of the regional grazier.

Par. d. Range Conservation Committee: Members; Organization; Duties and Functions.—The range conservation committee is authorized to assist the regional grazier in the administration of the district, to establish proper cooperative relations with other interested Federal agencies, to review the recommendations of the district advisers and to perform such other duties relating to the management of the district as the Secretary of the Interior may direct. It shall consist of a representative of the Indian Service, nominated by the Commissioner of Indian Affairs, a representative of the Division of Grazing, nominated by the Director of Grazing, a representative of the Division of Investigations, nominated by the Director of that division, and a representative of the Soil Conservation Service, Department of Agriculture, proposed by the chief of that service. The members of the range conservation committee after appointment by the Secretary of the Interior shall meet at district headquarters at least once a month and as often as business may require at the call of the chairman who shall be the representative of the Indian Office.

The duties of the range conservation committee shall be—

(1) To arrange for cooperative range, economic, conservation, agronomic, engineering, and other surveys necessary for the proper and effective use and administration of the federally owned and controlled lands in the district and to formulate range management and conservation plans based on these surveys.

(2) To formulate and negotiate cooperative field agreements between the interested Federal agencies for the making of such surveys and for the execution of the conservation and range management plans authorized in the preceding paragraph.

(3) To review the recommendations of the district advisory board concerning applications for grazing licenses and permits prior to action by the regional grazier on such applications.

(4) To review the recommendations of the district advisory board on modifications of the rules and of the district boundaries and to present its findings of fact and advice concerning those matters to the Director of Grazing or the Secretary of the Interior.

(5) To interpret the economic and dependency surveys and to recommend to the Secretary of the Interior such protective, maximum and other limits as will facilitate the conservative use of Federally owned and controlled lands by the largest number of qualified users.

SEC. 3. Qualifications of Applicants; Water facilities; Representation of Users.—Temporary grazing privileges on the Federally owned lands within the district will be restricted to applicants who own livestock which made substantial

grazing use of the Federally owned land within the district during the year immediately preceding January 1, 1939, and who also own, lawfully lease or validly occupy land within or contiguous to the district, or who own or lawfully control water facilities within the district, provided such ownership or control of land or water was established or initiated on or before January 1, 1939. Water developments made by or for Navajo Indians on Federally owned or controlled lands shall be considered Navajo-owned water facilities. The Commissioner of Indian Affairs or his duly authorized representative may represent individual Navajos or groups of Navajo Indians in all district matters. Indian homestead and allotment selections shall be considered as the completion of rights initiated prior to January 1, 1939.

SEC. 4. Issuance of Licenses.—Temporary licenses will be issued by the regional grazier on recommendation of the district advisory board and, with the advice of the range conservation committee, to qualified applicants in the following order:

Class 1. For livestock not in excess of 150 sheep, or the equivalent thereof, owned by a qualified applicant residing within or contiguous to the district who is entirely or preponderantly dependent on this livestock for his livelihood: one horse, one cow, or five goats to be considered the equivalent of five sheep.

Class 2. For livestock in excess of 150 sheep, or the equivalent thereof, owned by a resident qualified applicant who is primarily dependent on the Federally owned and controlled range within the district for the operation of his livestock enterprise and who is primarily dependent on this livestock for his livelihood. No applicant in this class shall be given a temporary license for livestock in excess of the maximum number he owned and grazed within the district during the year 1938.

Class 3. For the livestock of all other qualified applicants dependent on Federally owned range within the district in the conduct of their livestock operations. The regional grazier, with the advice of the range conservation committee, shall make such temporary allocations of grazing privileges on the remaining Federally owned range as will enable the largest number of qualified applicants to conduct their livestock operations in accordance with the proper use of the range.

SEC. 5. Cooperative Surveys.—With the assistance of the range conservation committee and the cooperation of other Federal agencies the regional grazier will undertake range conservation, economic and such other surveys as may be necessary to determine the proper division of the district into administrative units, the carrying capacity of each unit, proper seasons of use, the economic position and relation dependency of users, the service value of water facilities for each unit, and all other information necessary for the proper administration of the district and for the formulation of additional rules to be recommended to the Secretary of the Interior for promulgation.

SEC. 6. Procedure in Applications; Hearings and Appeals.

Par. a. Consideration of Application; Recommendations; Service of Notice.—An application for a grazing license or permit will first be considered by the advisory board, which will classify the application and transmit its recommendations to the range conservation committee. If the regional grazier finds that the recommendations of the district advisory board and of the range conservation committee are proper, he will so notify the applicant by ordinary mail. If the recommendations are to any extent adverse, notice thereof will be served on the applicant by the regional grazier or his representative or by registered letter sent to the address given by the applicant in his application. Such notice will name a place and date not less than ten days thereafter, when protests against the recommendations will be heard.

Par. b. Place and Date for Hearing before Examiner on Appeal; Notice.—Upon the filing of the appeal and specifications of error, the regional grazier will notify the Director of the Division of Grazing, who will designate an examiner. The examiner will name a place within or near the district at which a hearing will be held. Any party or parties who would be directly affected by the decision in the appeal may file a request for permission to be heard in the appeal and shall be known and designated as an intervener. The examiner will then advise the regional grazier of the date of hearing, which will be not less than ten days after the date of the filing of the appeal, and the regional grazier thereupon will notify the applicant and all intervenors then of record of the time and place of hearing, which will be held by one of such representatives of the Division of Grazing as may have been designated by the Director to conduct hearings.

Such representative, however, shall be one other than the regional grazier from whose decision the appeal is taken. For the purpose of the hearing, such representative of the Division of Grazing shall be known and designated as an examiner.

Par. c. Authority of Examiner.—The examiner is vested with general authority to conduct the hearing in an orderly and judicial manner, including authority to subpoena witnesses and to administer oaths, to call and question witnesses and to make findings of fact and a decision.

Par. d. Conduct of Hearing Before Examiner.—The appellant, the regional grazier, and recognized interveners will stipulate as far as possible all material facts and the issue or issues involved. The examiner will state any other issues on which he may wish to have evidence presented and issues which clearly appear to be unnecessary to a proper disposition of the case will be excluded, provided that the party asserting such an issue may state briefly for the record the substance of the proof which otherwise would be offered in support of the issue. The regional grazier, or his representative, will then state the grounds of the decision from which the appeal has been taken, together with such explanation as may be deemed necessary, and may call and examine witnesses on the issues involved. Upon the conclusion of this testimony the appellant shall present his case, following which recognized interveners may present evidence if such a presentation appears to the examiner to be necessary for a proper disposition of the matters in controversy. All oral testimony shall be under oath, and witnesses will be subject to cross-examination by any party. The examiner will himself question any witness whenever it appears necessary. Documentary evidence will be received by the examiner and made a part of the record, if pertinent to any issue, or may be entered by stipulation. Objections to evidence will be ruled upon by the examiner and exceptions duly noted, and such exceptions will be considered upon an appeal from the decision of the examiner. In noting an exception to a ruling sustaining an objection to the admission of evidence, the party affected may insert in the record, as a tender of proof, a summary written statement of the substance of the excluded evidence. The examiner will summarily stop examination and exclude testimony which is obviously irrelevant and immaterial.

Par. e. Witness Fees.—Under the subpoena issued a witness will be entitled to a witness fee of \$1.50 per day, plus \$0.05 per mile for miles actually traveled from his home to the place of hearing and return. Witnesses who attend hearings so far removed from their residences as to prohibit return thereto from day to day are allowed a per diem of \$3.00 for expenses of subsistence for each day of actual attendance and for each day necessarily occupied in traveling to attend hearings and return home. The allowances for witness fees, mileage, and subsistence are prescribed by the act of April 26, 1926 (44 Stat. 323), as modified and amended by the Economy Act of June 30, 1932 (47 Stat. 413), and the act of May 15, 1936 (49 Stat. 1331). Under the act of January 31, 1903 (32 Stat. 790), providing for issuance of the subpoena, a witness cannot be compelled to appear outside of his own county, and if he does so appear, can claim mileage in but one county, this is, the county of his residence. Claims for witness fees and mileage will be presented on Form No. 1-327, properly certified by the regional grazier and submitted in the usual way for payment.

Par. f. Findings of Fact and Decision by Examiner; Notice; Submittal to the Director of Grazing.—Within ten days following the conclusion of the hearing the examiner will make findings of fact and render a decision. A copy of the decision shall be sent by registered mail to the applicant and all interveners. The decision shall not prejudice the right of any party affected to be furnished with a copy of the transcript of testimony, as provided in the next paragraph. If the examiner so desires, he may submit his decision to the Director of Grazing for consideration prior to its promulgation. Upon approval by the Director such decision shall constitute the decision of the Division of Grazing.

Par. g. Notice of Appeal; Furnishing Copies of Record.—Within ten days after the receipt of a decision of the examiner any party desiring to appeal to the Director of Grazing shall file a written appeal and may request a copy of the transcript of testimony. Copies of the transcript will be furnished to the appellant and to the interveners, at a charge of 5 cents per folio, except that upon sufficient showing to the examiner, supported by an affidavit, that an appellant or intervener is financially unable to pay such fee, a copy will be furnished him without charge. Notice of appeal and request for a copy of the transcript shall be filed in the office of the Chief Examiner, Division of Grazing, Department of the Interior, Salt Lake City, Utah.

Par. h. Decision in Effect Pending Appeal.—Pending an appeal to the examiner and his decision thereon, the decision of the regional grazier shall be in full force and effect. Pending an appeal to the Director and determination thereof, the decision of the examiner shall be in full force and effect. Pending an appeal from the Director to the Secretary of the Interior and determination thereof, the decision of the Director shall be in full force and effect. Any action taken by the regional grazier pursuant to the examiner's or Director's decision shall be subject to modification or revocation by the Secretary upon an appeal from the decision of the Director.

Par. i. Appeals to the Secretary of the Interior.—An appeal from the decision of the Director of Grazing to the Secretary of the Interior shall be filed, together with any brief desired in support thereof, within thirty days after date of receipt of the Director's decision, in the office of the Chief Examiner, Division of Grazing, Department of the Interior, Salt Lake City, Utah. The appeal in other respects shall be made in accordance with the Rules of Practice of the Department of the Interior in effect at the time such appeal is taken.

Sec. 7. Until further notice no fees for grazing will be charged.

Sec. 8. General Rules of the Range.

Par. a. Acts Prohibited.—The following acts are prohibited on the federally owned lands in this district:

(1) Grazing livestock upon or driving livestock across such lands, including stock driveways, without an appropriate license or permit.

(2) Grazing livestock upon or driving livestock across such lands, including stock driveways, in violation of the terms of a license or a permit, either by exceeding the number of livestock permitted, or by allowing livestock to be on such lands in an area or at a time different from that designated, or in any other manner.

(3) Allowing livestock to drift and to graze on such lands, including stock driveways, without a license or permit.

(4) Construction or maintaining any kind of improvements, structures, fences, or enclosures on such lands, including stock driveways, without authority of law or a permit.

(5) Destroying, molesting, disturbing, or injuring property used or acquired for use by the United States in the administration of the district, including stock driveways, or improvements constructed or maintained under section 4 of the act.

(6) Cutting or removing vegetative cover, brush, woodland growth or timber for any purpose, except as authorized by law.

Par. b. Rules of Fair Range Practice.—The following rules of fair range practice shall be complied with by all licensees and permittees;

(1) The provisions of statutory law of the State of New Mexico with reference to the numbered kind of bulls permitted, the branding of livestock, and sanitary requirements, are hereby incorporated as a part of these rules.

(2) A crossing permittee shall follow the route prescribed in the crossing permit at an average rate of not less than five miles per day for sheep or goats, and ten miles per day for cattle or horses.

Sec. 9. Procedure for Enforcement of Rules and Regulations.

Par. a. Service of Notice; Report of Violations.—Whenever it appears that there has been any willful violation of any provision of the act or of these rules, the regional grazier shall cause the alleged violator to be served with written notice, which shall set forth the act or acts constituting such violation and in which reference shall be made to the provision or provisions of the act or of these rules alleged to have been violated. Such notice may be served in person or by registered mail and the affidavit of the person making personal service or the registry receipt shall be preserved. Any violation of the act or of these rules shall be reported immediately to the Division of Investigations, Department of the Interior.

Par. b. Unlawful Grazing on Federally Owned Lands; Removal of Livestock; Impoundment; Liability.—Whenever the charge consists of unlawfully grazing livestock on the Federally owned or controlled lands in the district, the notice served on the alleged violator will order him to remove the livestock or to cause them to be removed immediately or within such reasonable time as may be specified. If the alleged violator fails to comply with the notice the regional grazier shall forthwith issue a written order addressed to any grazier or other person designated by him, directing such person to remove the livestock from the area in which they are unlawfully grazing. Proper care will be exercised in such removal, which will be accomplished in the following manner:

(1) If the owner of the livestock has a license or permit which is then effective in any area, the number of livestock for which such license or permit has been issued will be removed to such area. Any livestock not covered by the license or permit will be removed either to land controlled by the licensee or permittee or will be impounded, in the manner hereinafter provided.

(2) If the owner of the livestock has no license or permit, then in effect but controls land within or near the district, the livestock will be removed to such land.

(3) If in emergency the foregoing procedure is impossible or impracticable, or if resort by the United States to the particular local statutory procedure for the exercise of its right as a proprietor is impracticable, ineffective, or will entail delay, or if for any reason whatever the adequate protection of its property requires that the livestock be removed immediately from the Federally owned or controlled lands in the district, the regional grazier may order that the livestock be impounded. Written notice of the impoundment will be given to the owner or any other interested person, if known. Such notice will assert a lien in favor of the United States for a certain amount of damages incurred and the reasonable expense of driving, handling, and feeding from the time of impoundment. Such notice shall be given also by posting in at least three conspicuous public places within the county in which the livestock were found unlawfully grazing. Upon payment of the amounts claimed the lien will be released and the livestock delivered to the owner or other person showing a right to their possession. In the event that payment of such amounts to discharge the lien is not made, then it shall be foreclosed in accordance with the law of the State of New Mexico.

Neither the removal of livestock from unlawful grazing nor the foreclosure of a lien by the United States will relieve the alleged violator of civil liability for damages, except to the extent that its claim may have been satisfied through a foreclosure, and in neither case will the alleged violator be relieved of criminal prosecution.

Par. c. Amicable Settlement of Civil Cases.—Any offer of settlement for damage to Federally owned lands in the district or to other property of the United States resulting from an alleged violation of any provision of the Act or to these rules shall be transmitted by the regional grazier, with his recommendation, to the Department for consideration. An offer of settlement will not constitute satisfaction of civil liability for the damage involved until finally accepted by the United States and will in no event relieve the violator of criminal prosecution.

Par. d. Disciplinary Action for Violations.—The regional grazier is authorized to reduce or revoke a grazing license or crossing permit or to deny renewal thereof for a clearly established violation of the terms or conditions of the license or permit or for a violation of any of the provisions of these rules. Before any license or permit is reduced or revoked, or removal thereof denied, because of such a violation, however, the regional grazier shall cause the licensee or permittee to be served with a written notice which shall set forth the act or acts constituting the violation and the amount of damage resulting therefrom. Such notice also shall refer to the terms or conditions of the license or permit or to the provision or provisions of these rules alleged to have been violated. The notice shall cite the licensee or permittee to appear before an examiner of the Division of Grazing at a designated time and place to show cause why his license or permit should not be reduced or revoked and satisfaction of damages made. The notice may be served in person or by registered mail and the affidavit of the person making personal service or the registry receipt shall be preserved.

The hearing before the examiner upon the order to show cause will be conducted in so far as practicable in the same manner as other hearings before an examiner. The licensee or permittee may appear in his own behalf or by counsel. The evidence shall be confined to the commission of the acts charged and the amount of damage due the United States. If upon the hearing of the order to show cause the violation with which the licensee or permittee is charged is established to the satisfaction of the examiner, he will make a finding of the amount of damages, in writing, and will direct the regional grazier to reduce or revoke the license or the permit, as the facts may warrant, provided that if the licensee or permittee makes an offer of settlement which appears reasonable and satisfactory to the examiner, he will, except in cases of flagrant or repeated violations, withhold such direction and will order the regional grazier to transmit such offer of settlement to the Department for consideration.

Upon the failure of the person served in the notice to appear at the time and place designated in the notice, and in the absence of a good and sufficient show-

ing to the examiner of the reason for his failure to appear, the examiner may direct the regional grazer to reduce or revoke the license or permit, as the violations charged in the notice and the amount of damages alleged may warrant.

No license or permit shall be issued or renewed until payment of any amounts found by the examiner to be due the United States as damages under this section has been offered, and until payment of any amounts due as grazing fees has been made.

The decision of the examiner on any matters in this section shall be final unless an appeal is taken within ten days to the Director of Grazing, whose decision likewise shall be final unless an appeal is taken within 30 days to the Secretary of the Interior. Pending an appeal and final determination thereof the decision of the examiner or of the Director of Grazing, as the case may be, shall remain in full force and effect. Appeals to either the Director of Grazing or the Secretary of the Interior shall be filed in the office of the Chief Examiner, Division of Grazing, Department of the Interior, Salt Lake City, Utah.

Sec. 10. Construction and Maintenance of Improvements on the Federally Owned Lands in the District.

Par. a. Statutory Authorization.—Section 4 of the act provides:

"Fences, wells, reservoirs, and other improvements necessary to the care and management of the permitted livestock may be constructed on the public lands within such grazing districts under permit issued by the authority of the Secretary, or under such cooperative arrangement as the Secretary may approve. Permittees shall be required by the Secretary of the Interior to comply with the provisions of law of the State within which the grazing district is located with respect to the cost and maintenance of partition fences. No permit shall be issued which shall entitle the permittee to the use of such improvements constructed and owned by a prior occupant until the applicant has paid to such prior occupant the reasonable value of such improvements to be determined under rules and regulations of the Secretary of the Interior. The decision of the Secretary in such cases is to be final and conclusive."

Par. b. Applicants for Permits and Cooperative Agreements; Qualifications.—An applicant for a permit or for a cooperative agreement or an arrangement to construct and maintain improvements of the character described in section 4 of the act, or to use and maintain improvements of such character constructed and owned by a prior occupant, on the federally owned lands, if an individual, must be a citizen of the United States or must have declared his intention to become such. If an association, its members must possess like qualifications.

Par. c. Applications; Form and Contents; Filing.—Applications for such permits, cooperative agreements or arrangements shall set forth the location of such improvements by legal subdivision of the public land survey, the necessity, use, cost, and description of such improvements, item by item, shall designate the time and manner of their construction, the period of use, the method of operation, protection, repair, removal, or other disposition, and shall include any other pertinent information. If an application concerns the use and maintenance of improvements constructed and owned by a prior occupant under permit issued by the authority of the Secretary, it shall include also an itemized showing of their reasonable value at the time of filing the application and either evidence that the applicant has paid this amount to the prior occupant and has obtained title to the improvements free of all encumbrances or a clear and concise explanation of the reasons for a lack of such agreement between the applicant and the prior occupant. When necessary properly to explain the improvements and matters connected therewith, the application shall be accompanied by a sketch of the improvements and specifications and a map showing their location in the grazing district. All applications shall be made on forms provided by the Division of Grazing, with such modifications as may be necessary, and shall be filed in triplicate with the regional grazer, who will submit them to the range conservation committee for consideration and recommendation.

Par. d. Applications for Construction of Improvements; Consideration; Appeals.—When an application concerning the construction of improvements is filed, the regional grazer will, after the recommendation of the range conservation committee, act on the application and such action shall be final unless the applicant appeals to the Director of Grazing within 15 days following receipt of notice. The decision of the Director of Grazing on such application shall be final unless the applicant appeals to the Secretary of the Interior within 30 days. In the latter event, the decision of the Secretary shall be final.

Par. e. Applications for Use of Improvements Owned by Prior Occupant; Procedure Upon Failure to Agree.—An application to use and maintain im-

improvements constructed and owned by a prior occupant, under permit issued by the authority of the Secretary, if accompanied by the evidence of ownership provided for in paragraph c of this section, shall be considered in the same manner as an application for the construction of improvements. Upon the filing of such an application showing that the applicant and the prior occupant have not agreed on the value of the improvements, the regional grazier will immediately, at the applicant's expense, cause the prior occupant to be served either personally or by registered mail with a notice of the filing of the application and any accompanying papers and an order to show cause within 30 days why the improvements should not be determined to be of the value alleged by the applicant. Upon such a showing or, if the prior occupant applies within 30 days from the date of service for a hearing, in the light of such evidence as the applicant and the prior occupant may desire to present in such hearing, the regional grazier will determine the present reasonable value of the improvements. Such determination shall be final unless an appeal is taken within 15 days to the Director of Grazing, whose decision in the matter likewise shall be final unless an appeal is taken within 30 days to the Secretary of the Interior. In the latter event, the decision of the Secretary shall be final. Upon the failure of the prior occupant to show cause or to apply within 30 days for a hearing, the reasonable value of the improvements will be determined by the regional grazier, provided that in the event of such default by the prior occupant the value determined shall not be less than the amount alleged by the applicant in his application and the decision of the regional grazier in such cases shall be final. In any case when a decision has become final, payment by the applicant to the prior occupant of the amount determined and a showing that the improvements are free of all encumbrances shall be a condition precedent to favorable action on the application.

Par. f. Approval of Application.—Upon the approval of an application concerning the construction or use and maintenance of any improvements on the federally owned lands in the district by the issuance of a permit or the approval of a cooperative agreement or other arrangement, the applicant may construct the improvements or use the improvements constructed and owned by the prior occupant, as the case may be.

SEC. 11. District Advisory Board; Elections; Appointment; Removal.

Par. a. The establishment of an advisory board of local stockmen is authorized by the Act approved July 14, 1939 (Public No. 173, 76th Congress). For New Mexico Grazing District 7 the number of district advisers will be fixed by the regional grazier on recommendation of the range conservation committee, but shall be not less than six nor more than 12. On recommendation of the range conservation committee the regional grazier may establish voting precincts corresponding to the number of district advisers to be elected. All district advisers shall be elected in the manner hereinafter provided, and they shall be electors qualified to vote at the election. A candidate for adviser shall qualify in the precinct in the same manner as in the district.

Par. b. Elections—Time and Place of Holding; Notice.—An election of district advisers will be held within 90 days after the publication in the Federal Register of the order establishing the district, and annually thereafter. The regional grazier will designate a voting place within each precinct. Notice of the time and place or places of holding an election will be given by publication in one newspaper of general circulation in the district, by posting in the office of the regional grazier and in the office of each district grazier and by such posting in such other public places as may be necessary to give the matter proper publicity. No election, however, shall be held to be invalid by reason of failure to give any of the foregoing notices unless it shall be made to appear that there was a failure to give substantial notice.

Par. c. Elections—Qualifications of Electors.—At the first election after the establishment of this district only qualified applicants for grazing licenses or permits in this district shall be eligible to vote. The regional grazier, with the assistance of the range conservation committee, shall compile a list of qualified applicants for each precinct and post such list at the precinct voting place on the day of the election. At any subsequent election only licensees or permittees shall be entitled to vote. A minor may vote if otherwise qualified, provided that upon request by his natural or legal guardian his ballot may be cast by the guardian in the name of the minor. The judges at any election will be furnished by the representative of the Division of Grazing in charge with a list of all electors entitled to vote in the precinct and district. No one whose name does not appear on such list shall be allowed to vote, provided that any one

claiming to have been wrongfully omitted from the list may have his name placed thereon upon submitting two qualified electors' sworn statements of facts qualifying him as an elector. Only one vote may be cast by the holder or holders of any one grazing license or permit, or by a qualified elector.

Par. d. Nominations; Methods of Voting.—Within 45 days from the publication of these rules in the Federal Register the regional grazer and the range conservation committee will recommend to the Secretary of the Interior amendments to these rules prescribing the method of and procedure for the nomination of candidates and the election of district advisers.

Par. e. Appointment by Secretary of the Interior; Oath and Term of Office; Removal; Vacancies.—No person elected as a district adviser may assume office until he has been appointed by the Secretary of the Interior and has taken an oath of office. Persons appointed as district advisers following the first election after the organization of a grazing district shall be divided into three classes by lot by the regional grazer. Those in class 1 shall hold office for one year, those in class 2 for two years and those in class 3 for three years, and until their successors are elected and have qualified. Thereafter at each election the class whose term has expired shall be recommended by election for a term of three years. The Secretary of the Interior may remove any district adviser from office for failure to discharge his duties or for the good of the service. Upon a vacancy occurring in the office of a district adviser by reason of resignation, removal or otherwise, the range conservation committee will recommend to the Secretary of the Interior the name of a person to fill the vacancy and such recommendation, together with that of the regional grazer, shall be transmitted by him to the Secretary for consideration. A person appointed by the Secretary to fill a vacancy shall hold office until the next regular election, when a successor shall be elected to serve for the remainder of the unexpired term, if any, of the member causing the vacancy.

Par. f. Meetings; Organization.—The district advisory board shall meet at any time and place within the district designated by the regional grazer or his authorized representative. At the first meeting of the board after an election, it shall organize by electing one of its members as chairman and such other officers from its membership as it may deem necessary. Meetings of the district advisory board shall be open to the public except that, with the approval of the representative of the Division of Grazing present, it may meet in executive session in considering applications for licenses or permits or any other business.

SEC. 12. Penal Provision.—By section 2 of the Taylor Grazing Act any willful violation of the provisions of the act or of the rules thereunder, after actual notice thereof, is punishable by a fine of not more than \$500.

SEC. 13. Amendments; Emergency.—The above rules are temporary and are subject to amendment or revocation by the Secretary of the Interior at any time. They are promulgated without reference to the district advisory board because of the existence of an emergency due to the misuse of the range within the district.

(Signed) R. H. RUTLEDGE,
Director of Grazing.

I concur:

(Signed) JOHN HORRICK,
(Acting) Commissioner of Indian Affairs.

I concur:

(Signed) D. H. ROSTER, Jr.,
(Acting) Director, Division of Investigations.

Approved: September 1, 1939.

(Sgd.) HAROLD L. ICKES,
Secretary of the Interior.

AMENDMENT OF SECTION 11, PARAGRAPHS C AND D OF THE RULES FOR THE ADMINISTRATION OF NEW MEXICO GRAZING DISTRICT NO. 7 UNDER THE ACT OF JUNE 28, 1934 (48 STAT. 1269), AS AMENDED BY THE ACT OF JUNE 26, 1936 (49 STAT. 1976), AND THE ACT OF JULY 14, 1939 (PUB. NO. 173, 76TH CONG.)

Pursuant to the provisions of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and the act of July 14, 1939 (Pub. No. 173, 76th Cong.), paragraphs c and d of section 11 of the Rules for the Administration of New Mexico Grazing District No. 7, approved September 1, 1939, are amended to read as follows:

"SECTION 11, Par. c. Elections; Qualifications of Electors.—At the first election after the establishment of this district, the electors will be those range users who, within two years prior to the establishment of this district, were regularly accustomed to using the Federally owned and controlled lands within said district for the grazing of their livestock. The regional grazer, with the assistance of the range conservation committee, shall compile a list of such range users for each precinct and post such list at the precinct voting place on the day of the election. At any subsequent election only licensees or permittees shall be entitled to vote. A minor may vote if otherwise qualified, provided that, upon request by his natural or legal guardian, his ballot may be cast by the guardian in the name of the minor. The judges at any election will be furnished by the representative of the Grazing Service in charge with a list of known electors entitled to vote in the precinct and district. No one whose names does not appear on such list shall be allowed to vote, provided that any one claiming to have been wrongfully omitted from the list may have his name placed thereon by the judges of election with the approval of the regional grazer or his representative. At the first election only one vote may be cast by the holder or holders of any one grazing license or permit, or by a qualified elector.

"SECTION 11, Par. d. Nominations; Indian and non-Indian Advisers; Methods of Voting.—From each of the voting precincts established by the regional grazer two (2) advisers shall be elected, one adviser to be elected by and to represent the Indian range users of the precinct, and the other adviser to be elected by and to represent the non-Indian range users of the precinct. The representative of the Grazing Service in charge of the election will choose two (2) Indian range users and two (2) non-Indian range users to act as election judges. The Indian and non-Indian electors present will hold separate caucuses and each will place in nomination not to exceed three (3) candidates to represent their group. Voting shall be by ballots cast personally by qualified electors and proxies will not be recognized. All voting shall be by colored ballots, each candidate being represented by a separate color. The ballots for Indian candidates shall be deposited in a ballot box separate from the ballot box for the deposit of ballots for non-Indian candidates. No elector shall receive a ballot until he has registered by signing or making his mark opposite his name on the list of persons entitled to vote. Before receiving his ballot, any elector may be challenged by any other elector qualified to vote in the district and thereupon the judges, or any of them, may require the elector challenged to answer such questions concerning his qualifications as a voter as may be deemed necessary. Upon his failure or refusal to answer such questions satisfactorily, he shall not be permitted to register or receive a ballot. Each candidate may designate any qualified elector to remain within the polling places during the casting and counting of votes and the declaration of the results thereof, and such person may act as a challenger. Before any elector shall be permitted to deposit his ballot in the ballot box, the judges shall write "voted" opposite his signature on the registration list. Polling places shall remain open on the day of the election from 2:00 p. m. to 5:00 p. m., or until those present at 5:00 p. m. shall have voted. Upon the closing of the polls the judges shall open the ballot boxes and count the votes. In case of a tie vote, a choice by lot shall be made by the judges in the presence of the tie candidates or of at least one representative designated by each such candidate for such purpose. As soon as the ballots have been counted, the judge shall make out a certificate of return under their hands stating the number of votes cast, and, in both words and figures, the number of votes received by each candidate. The certificate, together with the ballots and the registration list of voters, shall be enclosed and sealed and forthwith delivered to the representative of the Grazing Service in charge of the election."

(Sgd.) R. H. RUTLEDGE,
Director of Grazing.

I concur:

(Sgd.) WILLIAM ZIMMERMAN, Jr.,
Asst. Commissioner of Indian Affairs.

I concur:

(Sgd.) B. B. SMITH,
Director, Division of Investigation.

Approved:

Secretary of the Interior.

AMENDMENT OF SECTION 2, PARAGRAPH d. OF RULES FOR THE ADMINISTRATION OF NEW MEXICO GRAZING DISTRICT 7 UNDER THE ACT OF JUNE 28, 1934 (48 STAT. 1269), AS AMENDED BY THE ACT OF JUNE 26, 1936 (49 STAT. 1976), AND THE ACT OF JULY 14, 1939 (PUB., NO. 173-76TH CONGRESS), APPROVED SEPTEMBER 1, 1939

Pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and the act of July 14, 1939 (Pub., No. 173, 76th Cong.), the first paragraph of section 2, paragraph d, of the Rules for the Administration of New Mexico Grazing District No. 7, approved September 1, 1939, is amended to read as follows:

"Range Conservation Committee; Members; Organization; Duties and Functions.—The range conservation committee is authorized to assist the regional grazer in the administration of the district, to establish proper cooperative relations with other interested Federal agencies, to review the recommendations of the district advisers and to perform such other duties relating to the management of the district as the Secretary of the Interior may direct. It shall consist of a representative of the Indian Service, nominated by the Commissioner of Indian Affairs; a representative of the Grazing Service, nominated by the Director of Grazing; a representative of the Division of Investigations, nominated by the Director of that Division, and a representative of the Soil Conservation Service, Department of Agriculture, proposed by the Chief of that Service. The members of the range conservation committee after appointment by the Secretary of the Interior shall meet at the district headquarters when called in the discretion of the chairman after consultation with the regional grazer."

(Sgd.) JULIAN TERRETT,
Acting Director of Grazing.

July 17, 1940.

I concur:

(Sgd.) JOHN COLLIER,
Commissioner of Indian Affairs.

I concur:

(Sgd.) R. B. SMITH,
Director, Division of Investigations.

July 22, 1940.

Approved: July 24, 1940.

(Sgd.) W. C. MENDENHALL,
Acting Under Secretary.

AMENDMENT OF SECTION 2, PARAGRAPH D, OF THE RULES FOR THE ADMINISTRATION OF NEW MEXICO GRAZING DISTRICT NO. 7 UNDER THE ACT OF JUNE 28, 1934 (48 STAT. 1269), AS AMENDED BY THE ACT OF JUNE 26, 1936 (49 STAT. 1979), AND THE ACT OF JULY 14, 1939 (PUB. NO. 173, 76TH CONG.)

Pursuant to the provisions of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), and the act of July 14, 1939 (Pub. No. 173, 76th Cong.), paragraph d of section 2 of the Rules for the Administration of New Mexico Grazing District No. 7, approved on September 1, 1939 (4 F. R. 3965), is amended to read as follows:

SECTION 2, PAR. d. Range Conservation Committee: Members; organization; duties and functions.—The range conservation committee is authorized to assist the regional grazer in the administration of the district, to establish proper cooperative relations with other interested Federal agencies, to review the recommendations of the district advisers and to perform such other duties relating to the management of the district as the Secretary of the Interior may direct. It shall consist of a representative of the Office of Indian Affairs, nominated by the Commissioner of Indian Affairs; a representative of the General Land Office, nominated by the Commissioner; and a representative of the Grazing Service, nominated by the Director of Grazing. The members of the range conservation committee after appointment by the Secretary of the Interior shall meet at district headquarters at least once a month and as often as business may require at the call of the chairman, who shall be the representative of the Office of Indian Affairs.

The duties of the range conservation committee shall be:

(1) To arrange for cooperative range, economic, conservation, agronomic, engineering, and other surveys necessary for the proper and effective use and admin-

istration of the Federally owned and controlled lands in the district and to formulate range management and conservation plans based on these surveys.

(2) To formulate and negotiate cooperative field agreements between the interested Federal agencies for the making of such surveys and for the execution of the conservation and range-management plans authorized in the preceding paragraph.

(3) To review the recommendations of the district advisory board concerning applications for grazing licenses and permits prior to action by the regional grazer on such applications.

(4) To review the recommendation of the district advisory board on modifications of the rules and of the district boundaries and to present its findings of fact and advice concerning these matters to the Director of Grazing or the Secretary of the Interior.

(5) To Interpret the economic and dependency surveys and to recommend to the Secretary of the Interior such protective, maximum, and other limits as will facilitate the conservative use of Federally owned and controlled lands by the largest number of qualified users.

(Sgd.) ARCHIE D. RYAN,
Acting Director of Grazing.

January 19, 1943.

I concur:

JOHN COLLIER,
Commissioner of Indian Affairs.

January 20, 1943.

FRED W. JOHNSON,
Commissioner, General Land Office.

January 30, 1943.

Approved: February 10, 1943.

ABE FORTAS,
Under Secretary.

Mr. RUTLEDGE. Senator Chavez, unless he wants to question me right now, I would like to make a little statement concerning the questions that were asked Johnny Adams.

The fundamental Grazing Service policy is to try to stabilize the livestock business as we find it, and there is no distribution policy in effect.

The CHAIRMAN. Pardon me, Mr. Rutledge, we will pause here for a 10-minute recess.

(Recess until 4:10 p. m.)

The CHAIRMAN. The meeting will come to order. Mr. Rutledge, you may proceed.

Mr. RUTLEDGE. A while ago when I told you about the unqualified people who were running on district 7, I intended to add that, when the area was put under administration, about 55,000 head of livestock were eliminated belonging to unqualified people. About half of them were unqualified whites, and about half of them were unqualified Indians, so we got rid of that much stock on there.

Could I complete the statement I was trying to make when you took a recess?

The CHAIRMAN. Certainly, Mr. Rutledge.

Mr. RUTLEDGE. The Grazing Service is trying to stabilize the livestock business as we find it, and we have no distribution or redistribution policy or procedure. In a meeting of this kind, and in the points that come up, I am always glad to get the discussion on these various phases because we have to meet these situations of the smaller owners who do not have what they think they should have. I think we might as well face the question squarely, and discuss it or argue it or battle it out any way that we need to.

The CHAIRMAN. You may interrogate, Mr. Seth.

Judge SETH. This 55,000 head of stock that was put off, how many people were involved in that, do you figure?

Mr. RUTLEDGE. Well, I have a complete list of the people, with the number that were put off.

Judge SETH. Who determined they were not qualified?

Mr. RUTLEDGE. The regional grazier, Mr. Naylor, with the advisory board.

Judge SETH. Did the Advisory Board pass on these cases; are you sure of it?

Mr. RUTLEDGE. I couldn't say they passed on all of them.

Judge SETH. Did they pass on any of them?

Mr. RUTLEDGE. They had their meetings and did what was necessary—I'll have to let them——

Judge SETH. Do you know whether they were put off without a hearing or not?

Mr. RUTLEDGE. No; I don't know.

Judge SETH. When was this district created, Mr. Rutledge? I have forgotten.

Mr. RUTLEDGE. September 1, 1939, was the first regulations that were put out. I don't know what the date of the order is.

Judge SETH. And you stated it was established without any public hearing in the State.

Mr. RUTLEDGE. On this specific area, that's right.

Judge SETH. And without notice to anyone?

Mr. RUTLEDGE. Well, I'm not going to let you put words in my mouth. I told you this whole thing was established as Grazing District 2, by proper hearings in the State, and proper local hearings.

Judge SETH. But in this new district, that was separated from the old district 2, without even the board of district 2 knowing it; isn't that a fact?

Mr. RUTLEDGE. That's right.

Judge SETH. And these rules and regulations—was any hearing held in respect to them?

Mr. RUTLEDGE. No, sir.

Judge SETH. Now, Mr. Rutledge, in this copy you furnished me it states, with reference to this range conservation committee, consisting of representatives of the Interior Department:

The duties of the range conservation committee shall be—

And then drop down to (3)—

to review the recommendations of the district advisory board concerning applications for grazing licenses and permits prior to action by the regional grazier on such applications.

(4) To review the recommendations of the district advisory board on modifications of the rules and of the district boundaries and to present its findings of facts and advice concerning these matters to the Director of Grazing or the Secretary of the Interior.

That gives them an absolute power of review of the actions of the regular advisory board, does it not?

Mr. RUTLEDGE. Well, it depends on the technical interpretation you are putting on the word "review."

Judge SETH. Well, it means, after the regular advisory board acts, this super board can review their action. Isn't that the plain language of that regulation?

Mr. RUTLEDGE. They can review it, yes; but in the actual working out, I don't think they have ever made any suggestions.

Judge SETH. Isn't it a fact that, on their recommendations, actions of the advisory board have been overruled and ignored?

Mr. RUTLEDGE. Not to my knowledge.

Judge SETH. You haven't been out here all the time, have you?

Mr. RUTLEDGE. No, I haven't.

May I ask you a question? Is that a fact?

Judge SETH. So I am informed; yes, sir.

Mr. RUTLEDGE. All right.

Judge SETH. We will put on a witness who will cover that.

Now, when we come over here to "issuance of licenses" it says:

Temporary licenses will be issued by the regional grazer on recommendation of the district advisory board and, with the advice of the range conservation committee, to qualified applicants in the following order:

Class 1: For livestock not in excess of 150 sheep, or the equivalent thereof, owned by a qualified applicant residing within or contiguous to the district who is entirely or preponderantly dependent on this livestock for his livelihood; one horse, one cow, or five goats to be considered the equivalent of five sheep.

That means that the owners of 150 sheep or less were given the preference; isn't that the fact?

Mr. RUTLEDGE. In the first approach to it; yes.

Judge SETH. And didn't that mean necessarily, in view of the fact that that gave a preference to Indians?

Mr. RUTLEDGE. Are you asking me the question?

Judge SETH. Yes, sir.

Mr. RUTLEDGE. I don't know whether it did or not.

Judge SETH. You stated this morning that the rules applied alike to both Indians and non-Indians.

Mr. RUTLEDGE. Yes, sir.

Judge SETH. Didn't that regulation itself put in these grazing regulations give a preference to the owner of 150 sheep or less? Didn't that necessarily give a preference to large numbers of Indians holding allotments?

Mr. RUTLEDGE. Well, it would give the person with 150 sheep or less the first right on the range; that is right.

Judge SETH. Weren't they 99 out of 100 Indians?

Mr. RUTLEDGE. I don't know.

Judge SETH. Tell me this: Are permits given to these minor children of allottees, the Indians, who have gotten allotments? Were they given grazing permits?

STATEMENT OF H. W. NAYLOR, REGIONAL GRAZIER, DISTRICT 7, UNITED STATES GRAZING SERVICE, GALLUP, N. MEX.

Mr. NAYLOR. Just to the heads of the families, as far as we could judge by the application.

Judge SETH. Isn't it a fact that minor Indians have allotments in that area?

Mr. NAYLOR. Yes; they have allotments.

Judge SETH. I mean, permits.

Mr. NAYLOR. Not that I know of; there may be some.

The CHAIRMAN. Well, Mr. Naylor, you are the grazier in charge of district 7, are you not?

Mr. NAYLOR. Yes.

The CHAIRMAN. Would there be any permit in there that you wouldn't know about?

Mr. NAYLOR. No.

The CHAIRMAN. Well, you say, "Not that I know of." You also say, "There may be some."

Mr. NAYLOR. If the application comes in and doesn't state he was a minor, he might have made application and said he owned so many sheep or so many cattle, and he might have been a minor, as far as the records were concerned; but we don't know that they would come in that way.

Senator CHAVEZ. Wouldn't you check whether or not they were minors?

Mr. NAYLOR. I wouldn't know how to check them.

Senator CHAVEZ. You just take the form.

Mr. NAYLOR. Just the application.

Judge SETH. The application has no place to state the age, does it?

Mr. NAYLOR. No.

Judge SETH. How do they sign them?

Mr. NAYLOR. Sometimes with their names, and sometimes with a check mark and their fingerprint. That is usually the custom.

Judge SETH. There is usually nothing on the face of the applications to disclose whether they are 2 years old or 200, is there?

Mr. NAYLOR. No.

The CHAIRMAN. How would you know, Mr. Naylor, under that system—I'm a little at a loss to know how you would determine whether they were eligible to a permit or not.

Mr. NAYLOR. The answers to the questions in the application.

The CHAIRMAN. You take the application at face value, do you?

Mr. NAYLOR. Ordinarily, yes.

Senator CHAVEZ. Do you do that with the whites, too?

Mr. NAYLOR. Yes.

Mr. RUTLEDGE. Do you ask the whites how old they are?

Mr. NAYLOR. No.

Senator CHAVEZ. You generally see them, though, do you not? When Kelsey Pressley or Mr. Berryhill goes down to make their application, you know who they are, don't you?

Mr. NAYLOR. With so many Indians, and the district supervisors taking the applications—they are acquainted with the Indians. Of course, I depend on their judgment, whether they are of the right age or the head of the family.

The CHAIRMAN. "District supervisors," that is, the Indian Service employees?

Mr. NAYLOR. That is right.

Judge SETH. Is this district divided up into areas with Indian employees in charge of it; is that what you mean?

Mr. NAYLOR. Yes.

Judge SETH. And the members of the regular advisory board certainly are familiar with the non-Indians who make applications there, are they not?

Mr. NAYLOR. I think so.

Judge SETH. They know who they are, and their ages, and everything?

Mr. NAYLOR. Yes.

Judge SETH. Mr. Rutledge, you make a remark, in connection with the establishment of this district, about the trouble arising from the indefiniteness of the Indians. What did you mean by that?

Mr. RUTLEDGE. Well, I think I mean just what you are talking about with Mr. Naylor. As I understand it, it is rather difficult to get a complete list of the Indians, and all those Indian names, and to get out there, with the limited force we have, and know all about each one.

Judge SETH. You knew that these allotments are being made on the basis of grazing permits in that district, are they not?

Mr. RUTLEDGE. I think they are.

Judge SETH. Did you know this indefiniteness arises because the Indian possibly doesn't know where his allotment was?

Mr. RUTLEDGE. No; I have no reference to that at all. I have reference to the fact that a lot of these allotments—maybe I'm using the wrong term—aren't settled yet. They haven't received title, in what we would say in our language. There is a lot of that land in an indefinite status.

Judge SETH. Is any of this railroad land; I mean, land that the Santa Fe has relinquished and that the Indian Service has taken charge of: is that being used as a basis for grazing permits?

Mr. NAYLOR. To a certain extent; yes.

Judge SETH. This opinion, then, that is forthcoming might set up a good deal of that; is that right?

Mr. NAYLOR. It could.

Senator CHAVEZ. Who did you ask the opinion of—the Solicitor of the Department?

Mr. NAYLOR. No; that is my own opinion.

Senator CHAVEZ. Someone testified this morning that they had requested an opinion from someone.

Assistant Secretary CHAPMAN. Request from the Indian Office in Chicago, to the Solicitor's office for an opinion on that.

Judge SETH. Isn't it a fact, Mr. Rutledge, in many instances an Indian is given a permit, his wife is given a permit, and several members of his family are given permits?

Mr. RUTLEDGE. I don't know whether it is or not.

Judge SETH. Who checked up on the ownership of the sheep, during the year 1939, I believe you said.

Mr. RUTLEDGE. 1938. Mr. Naylor and his assistants.

The CHAIRMAN. Perhaps Mr. Naylor could answer the question just before the last.

Mr. NAYLOR. What was the question?

The CHAIRMAN. Judge, do you care to ask the question?

Judge SETH. Isn't it true, in many instances, that the head of the family and the wife and the minor children are each given permits?

Mr. NAYLOR. I couldn't say that it is. We, the grazing advisory board and myself, pass on them the best we can with the information we can get; and I think that is true with the district supervisors, when they take applications. They get all the information they can, but

you must remember that there is a very small percentage of those people who speak the language. It has to be done through an interpreter, and I expect it's pretty hard to do.

Judge SETH. Mr. Rutledge, aren't conditions in the Cabezón area, formerly district 2, in some ways similar to this district 7?

Mr. RUTLEDGE. You've got me confused with your Spanish names.

Judge SETH. Immediately east of the Río Puerco area.

Mr. RUTLEDGE. What is your question now?

Judge SETH. Aren't the complications there comparable with those on this district 7?

Mr. RUTLEDGE. There are complications in the Río Puerco, if that is the term you used—I can't pronounce these names.

Judge SETH. And that is handled by district 1, with special rules applicable to the area; is it not?

Mr. RUTLEDGE. District 1 of the Grazing Service?

Judge SETH. Yes.

Mr. RUTLEDGE. I think district 1 of the Grazing Service is all handled under the regular code rules.

Judge SETH. That area is at least in district 1; is it not? Isn't that true?

Mr. LITER E. SPENCE (regional grazer, Grazing Service, New Mexico). That's handled under the Grazing Service rules.

Judge SETH. Aren't there other districts in the United States where there are complications along these lines?

Mr. RUTLEDGE. All kinds of complications.

Judge SETH. Where was this separated from the regular district 2 at that time and set up in a special district?

Mr. RUTLEDGE. Do you want me to go over all that I said before?

Judge SETH. I'm asking you a point-blank question: Was it an attempt to evade the congressional edict that no additions to Indian reservations should be made except through an act of Congress?

Mr. RUTLEDGE. No evasion involved to me. I was asked to handle the job.

Judge SETH. Who asked you?

Mr. RUTLEDGE. The Indian Service.

Judge SETH. The Indian Service?

Mr. RUTLEDGE. Yes.

Judge SETH. And you are the author of these regulations, or at least approved them?

Mr. RUTLEDGE. Yes; my name is on them.

Judge SETH. Didn't you think they were giving the advantage to the Indians?

Mr. RUTLEDGE. I don't think so.

Judge SETH. There were no small owners in there, non-Indian, that would get within that 150 preference?

Mr. RUTLEDGE. Well, I can't answer that.

Mr. NAYLOR. Yes, there were 16, I believe, non-Indians in '42 that had grazing licenses under the 150.

Judge SETH. How many Indians?

Mr. NAYLOR. 1,295.

Judge SETH. That's just about a hundred to one.

The CHAIRMAN. Were there at the time of setting up of district 7, or just prior thereto, users on that domain who had much more than 150 head, who were eliminated by the rule of 150 head?

Mr. NAYLOR. No, none that was eliminated, that had a legitimate right in there, that had lower than that.

The CHAIRMAN. You seem to dwell on the word "legitimate." Were there users of that domain that became district 7 who were eliminated because they had more than 150 head?

Mr. NAYLOR. No; none for that reason.

The CHAIRMAN. Were they reduced to 150 head?

Mr. NAYLOR. No.

The CHAIRMAN. So I take it from that there were none eliminated, at all because none grazing in there had more than 150 head. Is that correct?

Mr. NAYLOR. That is right.

Senator CHAVEZ. Where did the 55,000 head eliminated come from?

Mr. NAYLOR. There was an estimate of numbers using prior to putting it under administration—I wouldn't vouch for those figures being exactly correct. They are merely what I could find out from inquiry, and those that the advisory board and myself had to turn down because they didn't qualify for a license.

The CHAIRMAN. What was the percentage of elimination between the races?

Mr. NAYLOR. Well, there were 97 Indian operators, as we have it here, and 43 non-Indian operators.

The CHAIRMAN. Eliminated?

Mr. NAYLOR. Yes.

The CHAIRMAN. Did those 97 and 43, respectively, own or control the 55,000 that were eliminated?

Mr. NAYLOR. As far as we know.

The CHAIRMAN. Then they must have been larger in their herds than the 150.

Mr. NAYLOR. Most of them were large herds that had come in from the outside after the other grazing districts were created.

Senator CHAVEZ. Out of the 55,000 that were eliminated, how many belonged to whites and how many to Indians?

Mr. NAYLOR. The number of stock, do you mean?

Senator CHAVEZ. Yes.

Mr. NAYLOR. I believe we have it here. This is the Indian operators, 369 cattle, 469 horses, 22,262 sheep and 1,417 goats; and the non-Indian operators, 43 of those. They represented 3,724 cattle, 194 horses, 26,965 sheep, and 58 goats.

Mr. LEECH. Mr. Chairman, we have available a list of those names and the numbers and a comment as to why they were rejected or eliminated. We would be very glad to file that with the committee.

The CHAIRMAN. I think that should be filed. Is it too voluminous to go into the record? If it is, we will put it on file with the committee.

Mr. LEECH. It is five pages.

The CHAIRMAN. Is that a tabulation? I think it could stay on file with the committee, and we could put it in the record later if it is required. It will be available for anyone who wishes to use it.

The tabulation is as follows:

Number of stock removed from Chaco District (7)

Name	Allotment	Stock withdrawn				Reason for withdrawal	Date
		Cattle	Horses	Sheep	Goats		
Alexander, D. L.	Star Lake	85	5	0	0	No public domain available	Dec. 3, 1941
Antonio, Jose, 10015	do	0	0	15	0	Outside of district	July 30, 1940
Chavez, Julian	do	0	5	100	0	do	Do.
Pinto, Apache, 9388	do	0	3	100	0	Sold out	July 19, 1940
Platero, Jake, 9241	do	0	12	50	5	Outside of district	July 19, 1941
Salazar, Jesus	do	0	3	16	0	Sold out	July 19, 1940
Sandoval, Sam, 9381	do	0	4	205	0	Outside of district	July 30, 1940
Sobio, Juan, 9129	do	30	14	600	200	do	Do.
Toledo, James, 9342	do	0	0	13	2	No stock	July 19, 1940
Toledo, Joaquin, 9362	do	0	0	40	0	do	Do.
Verito, Martin, 9493	do	0	2	70	32	do	Sept. 10, 1941
Willoit, Dan, 9484	do	0	7	10	0	do	Do.
Yazzie, Kee, 9344	do	0	2	75	0	do	Do.
Kirk, L. H.	Lake Valley	0	2	500	0	Runs with L. A. Kirk	July 19, 1941
Kirk, L. A.	do	450	25	0	0	do	Feb. 28, 1942
Ercitty, Elizabeth, 10741	do	0	10	400	0	Outside of district	July 30, 1940
Ercitty, Jose, 10740	do	0	6	400	10	do	Do.
Ercitty, Nelson, 10570	do	0	3	40	0	Sold out	May 3, 1941
Antonio, Willie, 27515	Bisti	0	7	116	3	Belongs on reservation	Dec. 30, 1941
Bitse, Zeh Nez Le Chee, 32904	do	0	8	125	10	do	July 30, 1940
Gleason, Don, 27021	do	0	6	90	0	do	Dec. 21, 1941
Willie, Tom, 27019	do	0	6	100	6	do	Dec. 20, 1941
Bowman, Robert, 9520	Becenti	4	5	120	9	do	do
Burham, Floyd	do	1,200	0	0	0	Sold out	July 30, 1940
Largo, Willie's Mother, 12986	do	50	10	600	20	No base property	May 5, 1941
Mariano, Clem, 10331	do	0	0	11	9	Sold out	July 30, 1940
Perry, Andy, 12805	do	0	20	150	25	No base property	July 30, 1940
Perry, Jim	do	21	0	0	0	Belongs on reservation	Dec. 8, 1940
Platero, Joe, 10280	do	0	2	0	2	Outside of district	do
Willeto, Frank, 8880	do	0	17	300	30	Belongs on reservation	July 30, 1940
Willie, George, 9040X	do	0	0	3	0	No stock	May 1, 1941
Castillo, Emilio, 8384	White Horse	0	6	100	4	Outside of district	Dec. 3, 1941
Thompson, Sam, 10287	do	1	5	25	3	do	July 19, 1940
Beaxy, Charley Redugi, 26661	Tsaya	0	12	700	100	Nonuse	May 22, 1941
Begay, Gleason, 26594	do	0	0	175	12	Belongs on reservation	May 23, 1941
Benally, Red Horse, 26657	do	0	5	800	100	do	May 22, 1941
Long, John, 8937	do	00	0	0	0	Nonuse	Do.
Siles, Woodrow	do	14	4	0	0	Sold out	July 22, 1940
Tosile, Ateity, 26608	do	30	25	600	48	No range available	July 30, 1941
Yellow Cow, 26981	do	18	10	140	10	Belongs on reservation	July 30, 1940
Platero, Eva, 10283	Little Water	0	5	7	14	Moved out of district	Dec. 31, 1941

Castillo, Martin, 6446	Pueblo Pintado	0	2	88	15	No stock	May 1, 1941
Castillo, Peter	do	0	2	75	0	do	Do.
Wingate area:							
Day, Joseph	Two Wells	60	5	0	0	No range available	Nov. 10, 1941
Duncan, Billy, 15251	Pinchdale	0	4	202	100	Belongs on reservation	July 30, 1940
Edison, Tom, 7367	do	0	1	0	0	Sold out	May 2, 1941
Johnson, Mabel, Mrs., 7541	do	0	3	5	0	do	Do.
Louis, Tom, 10786	do	50	10	600	200	Belongs on reservation	July 30, 1940
McPhail, L. W.	Church Rock	25	6	20	20	Didn't use range in 1938	Do.
Bab, Bos Nip, 7062	do	0	0	6	3	No stock	Jan. 3, 1942
Crawford, Jennie	do	0	0	0	5	Belongs on reservation	June 12, 1941
Bisli, Nez Sessie, 59923	Smith Lake	0	5	30	15	Outside of district	Sept. 22, 1941
Gaddy, Mathew, 5844	Mannello	20	4	800	10	Moved out of district	Dec. 17, 1941
Lee, Hesteen Kaine, 59508	do	14	4	60	4	Nonuse of range	May 22, 1941
Smith, Charlie, 63825	do	0	4	200	10	On reservation	June 19, 1941
White, Mrs. Jack	do	0	3	120	4	Belongs on reservation	June 13, 1941
Hillman, Willis, 63829	Tsaya Tah	0	0	18	13	No stock	Feb. 23, 1942
Hunch, Jim, 64041	do	0	0	8	0	Moved out of district	Jan. 2, 1942
Mute, Carl, 46044	do	0	5	300	0	No range rights	June 13, 1941
Purdy, Mrs. John, 63993	do	0	2	20	9	Outside of district	Do.
Tso, Hesteen, 62196	do	0	2	317	20	Belongs on reservation	Dec. 22, 1941
Garcia, Sigfredo	Church Rock	10	4	160	10	No base property	June 3, 1941
Nez, Willie, 7532	do	0	4	30	2	Belongs on reservation	May 2, 1941
Padilla, Anna J., 12006	do	0	0	4	2	No stock	Jan. 3, 1942
Babe, Glana	Wingate	0	0	102	0	No information	Oct. 8, 1941
King, Buck, 7537	do	0	2	80	12	Sold out	May 2, 1941
Smith, Fred, 7532	do	0	0	5	5	No stock	Dec. 17, 1941
Swartz, Frank, 7471	do	0	0	35	0	do	Do.
Begay, Ben, 8017A	do	0	3	5	12	do	Do.
Brown, George Sam, 62306	Mariano Lake	0	0	5	30	do	Do.
Touchline, David, 6391	Pinchaven	0	0	9	30	do	Do.
Wood, Hos Ka Ba Des	do	0	0	0	20	do	Do.
Yath, E. Nale, 63660	do	0	0	50	0	do	Do.
San Juan area:							
Armijo, Juan, 11870	Counseor	0	5	125	15	Outside of district	July 30, 1940
Beval, Clyde, 1159A	do	0	12	200	23	Belongs on reservation	Do.
Beval, Jim, 11926	do	0	10	50	7	do	Do.
Chavez, Dick Scott, 9528	do	0	5	125	15	Outside of district	July 19, 1940
Sala, Juan, Sr., 9768	do	0	3	47	3	Sold out	July 30, 1940
Trujillo, Knotten	do	0	10	60	46	No base property	Do.
Blue Eyes	Gallegos	9	4	140	5	Belongs on reservation	Do.
Francisco's Wife	do	0	6	48	12	do	Do.
Gallegos Sheep Co	do	725	0	0	0	No land or water in district	Do.
Lawton, Raymond	do	0	10	300	10	Belongs on reservation	May 23, 1941
Morison, Johnnie	do	0	2	47	2	do	May 23, 1941
Smith, John, 28879	do	0	11	115	26	do	July 30, 1940
Edwin, J. M.	Jaquez	108	6	0	20	Outside of district	Do.
Russell, W. C.	Martinez	160	0	0	0	No base property	Do.
Pena, Rafael	do	10	3	80	0	do	Do.

Number of stock removed from Chaco District (7)—Continued

Name	Allotment	Stock withdrawn				Reason for withdrawal	Date
		Cattle	Horses	Sheep	Goats		
San Juan area—Continued.							
Long & Heather	Largo	0	0	4,650	0	Nonuse in 1933.	Oct. 4, 1940
Munoz, Daniel	Brimhall	0	0	700	0	Outside of district.	July 30, 1941
Begay, Denet Teal, 26360	Carson	0	10	57	0	Belongs on reservation.	
Carson, O. J.	do.	1	10	3,800	0		
Sullivan, Frank	do.	0	0	375	0	Outside of district.	Do.
Whiterock, Charley, 13926	Burnham	0	10	150	20	No base property.	July 30, 1940
Ches, Joe, 11192	Thomas	0	3	25	0	Sold out.	June 23, 1940
Red Mule	Red Mule	0	6	434	5	No range available.	
Puertecito area:							
Sandoval, John	Marlin	0	4	10	5	Outside of district.	July 30, 1940
Apachito, Billy	Puertecito	0	15	2	2	Grazes on forest.	May 22, 1941
Apachito, Ernesto	do.	0	2	0	0	No range available.	May 23, 1941
Baca, Arshila	do.	0	2	30	0		Do.
Herrero, Ignacio	do.	0	5	18	0	do.	Do.
Jake, Adriano	do.	0	11	10	0	do.	Do.
Serit, Eugene	do.	0	1	0	0	do.	Do.
Ramah area:							
Bond, Edgar	Ramah	25	6	90	6	do.	Do.
Crockett, Walter	do.	0	0	1,000	0	Outside of district.	July 30, 1940
Diaz, Solomon	do.	0	0	500	0	No base property.	Oct. 8, 1940
Ginger Snop	do.	0	0	28	0	Belongs on reservation.	
Hual, Henry	do.	0	0	100	0	do.	Do.
Kenzitce, Joseph	do.	0	0	428	0	do.	Do.
Leate, Jerry	do.	37	3	68	0	No range available.	Do.
Mangum, K. H.	do.	0	0	0	0	do.	Do.
Marlin, Dan, 13641	do.	0	0	0	0	do.	Do.
Mower, J. D.	do.	55	12	0	0	Outside of district.	July 28, 1941
Natan, Abran, 13681	do.	0	0	0	0	No range available.	June 23, 1940
Pino, Sam, 13710	do.	0	2	160	0	Outside of district.	July 23, 1941
Shaw, J. P.	do.	0	12	0	50	No range available.	May 23, 1941
Shaw, J. P.	do.	24	2	0	0	do.	Do.
Individuals:							
Barnard, Bruce M.	Farmington	0	0	600	0		
Brimhall, W. L.	do.	0	0	500	0		
Burns, T. D.	do.	0	0	1,000	0		
Copplinger, J. A.	do.	0	0	1,200	0		
Dodge, Chas.	Farmington	0	0	10,000	0		
Dominguez, Joe B.	do.	10	9	200	0		
Elkins, Tom	Bloomfield	343	75	0	0		
Gonzales, Rass	Prewitt	100	6	0	0		
Graham, John and Jack	Farmington						

	Aztec	0	900	0
Hartman, D. R. and J. S.	0	0	0
Jaquez, Onofre	0	500	0
Jaquez, Tom	0	200	0
Durango, Colo.	0	0	0
Aztec	91	0	0
Joey, E. P.	0	0	0
Martinez, Andres A.	0	1, 200	12
Coyote	0	0	0
Munoz, Refugio	0	100	0
Blanco	360	0	0
Manum, Joe	0	0	0
Pacheco, Manuel	0	400	0
Sargent, Ed	0	5, 000	0
Westbrook, I. K.	300	0	0
Crownpoint	0	0	0
Aztec	0	0	0
Woods, Frank	524	0	0
Bird, Ernest R.	150	0	No range available
McCoy, Claude B.	0	600	0
Farmington	0	0	Outside of district
Montoya, Elias	160	0	do.
Williamson, L. M.	15	0	0
Ramah	0	0	0

Summary showing total number of Indian and non-Indian stock eliminated from Chaco district (7)

		Numbers of stock eliminated				Total stock unit yearling
		Cattle	Horses	Sheep	Goats	
Indian operators.....	97	360	469	22,262	1,417	27,900
Non-Indian operators.....	43	3,724	194	26,965	58	46,613
Total.....	140	4,083	663	49,227	1,475	74,482

Judge SETH. Where did that stock go, Mr. Naylor?

Mr. NAYLOR. I'm not prepared to say.

Judge SETH. Where did the Indian stock go? Does anyone here know?

The CHAIRMAN. Can the Indian Service answer that?

Mr. STEWART. I am unable to answer that, Mr. Chairman.

Judge SETH. Do you know a man named "Arviso"? An Indian?

Mr. NAYLOR. Yes.

Judge SETH. He was eliminated, wasn't he?

Mr. NAYLOR. I couldn't tell you off hand what action was taken in his case.

The CHAIRMAN. Well, there is your list. Can you consult your list?

Mr. LEECH. The name does not appear on this tabulation, Senator.

Judge SETH. Didn't he have about 500 head pushed off onto district 1?

Mr. NAYLOR. Not that I know of.

Mr. LEE. Mr. Chairman, I think Mr. Naylor knows the case. The Arviso boys from Tohachi, which you put off the reservation, they went into then district 7. You put them out of district 7 and now they are in district 1. I think he knows the case all right.

Congressman ANDERSON. Of what value is the list you are going to file with the committee if the Arviso case isn't on it? You say you have a list of those eliminated in the district. That name isn't on the list.

Mr. NAYLOR. This came up after the creation of district 7. It is a more recent case.

Congressman ANDERSON. What is the list?

Mr. NAYLOR. It was made out in 1940.

Congressman ANDERSON. Well, is the list a true list of those people who have been eliminated from the district, or isn't it?

Mr. NAYLOR. It's the best we could get at that time.

Congressman ANDERSON. Well, is anything except an accurate list any good?

Mr. NAYLOR. That is your question.

Mr. LEECH. I believe, Mr. Congressman, since this list has been had, other cases have come up resulting in rejections or eliminations, and would have to be tabulated and added to this list.

Senator CHAVEZ. What good does it do to eliminate out of the reservation onto district 7, and then to district 1? You are giving someone else over there a right to 500 sheep at the same time you are putting them out.

Mr. LEECH. I agree with you.

Judge SETH. Five hundred cattle, it was.

Mr. LEECH. I agree with you, Senator, there wouldn't be any.

Judge SETH. The regulations, Mr. Rutledge, provided that the water improvements on Navajo lands should be considered a compliance by the Indians.

Mr. RUTLEDGE. Right.

Judge SETH. That is your regulation, section 3.

Senator CHAVEZ. He said "right."

Mr. RUTLEDGE. That is how I answered you.

Judge SETH. That privilege was not extended to non-Indian users; was it?

Mr. RUTLEDGE. I don't think so.

Judge SETH. Even if they could get onto one of these grants that adjoin there, the water developments made by the Government on one of those grants would not help any; would it?

Mr. RUTLEDGE. Maybe not.

Judge SETH. And incomplete homesteads and allotments selections were considered as completion of rights, so far as Indians were concerned; were they not? Was that privilege extended to the non-Indians?

Mr. RUTLEDGE. An incompleated non-Indian homestead is, always.

Judge SETH. They have no allotments, of course.

Mr. RUTLEDGE. What is that?

Judge SETH. The non-Indians had no allotments.

Mr. RUTLEDGE. No; I suppose not; but a white may have an incompleated homestead in any grazing district, and that is considered base property. The principle is in there.

Judge SETH. But are permits issued to Indians now by reason of acquisition of sheep?

Mr. RUTLEDGE. I don't know. Mr. Naylor will have to answer that.

Mr. NAYLOR. No; unless it is in class 1. In some instances, up until 1934, we allowed a small increase to class 1's. That was before we were sure of our carrying capacity, or had not as much information as we do now.

Judge SETH. Well, they have been allowed at the present time; up to the present time these Indians with less than 150 have been allowed permits?

Mr. NAYLOR. Yes.

Judge SETH. These people that went off, went off because of the area taken up by the 150 or less owners; isn't that a fact?

Mr. NAYLOR. Well, it was the stock that was already there; yes.

Judge SETH. The big ones had to go because the little ones could go up to 150?

Mr. NAYLOR. No; not altogether. I wouldn't say that was true, because all class 2 men who had base property and past use showed they had been running the range in the area; they were considered by the grazing advisory board and applied for licenses.

Judge SETH. But the great bulk of the range from which you eliminated these 55,000 head was taken up by these 150 head class A or class 1 permittees; were they not?

Mr. NAYLOR. Yes; the large percent of it, I would say.

Judge SETH. And 95 percent of those were Indians?

Mr. NAYLOR. Yes; that is right.

Judge SETH. That is all.

Mr. **RUTLEDGE**. Senator, I would like to ask him a question.

Judge **SETH**. Yes, sir.

Mr. **RUTLEDGE**. Just to be sure there is no misunderstanding, did you intimate that we were allowing the Indians below 150 head **all** to come up to 150 head?

Judge **SETH**. Yes, sir; that is what I understand you are doing.

Mr. **RUTLEDGE**. Well, I can't read it in these regulations.

Judge **SETH**. That may be, but that is our understanding of exactly what is being done.

Mr. **RUTLEDGE**. What you are getting is grocery-store talk, talked by a lot of people, and it doesn't stand, it is just argument.

Judge **SETH**. Well, we have members of the advisory board quoted to that effect. Mr. Rutledge, have you been granting, increasing, those fellows to 150 head?

STATEMENT OF KELSEY PRESLEY, CHAIRMAN OF ADVISORY BOARD, GRAZING DISTRICT NO. 7, GALLUP, N. MEX.

Mr. **KELSEY PRESLEY**. I am chairman of the advisory board in district 7. In almost every instance, we have done that and we have done it because the conservation committee came back and told us that that was what they meant for us to do. Now, I will say this: That since Mr. Stewart has taken over as chairman of the conservation committee—we have never met with him but one time, and that was discussed at that time, and I don't recall just what we did do about it. Several things were brought up. Mr. Stewart took them under advisement and just what the final outcome was, I don't know. If the committee has ever met more than that one time, I don't know when it was.

Mr. **RUTLEDGE**. I have a very expressive letter on that question, addressed to Mr. Naylor some time ago. It has been 6 months or a year ago.

Mr. **NAYLOR**. That letter was presented to the grazing advisory board members.

The **CHAIRMAN**. What was the tenor of that letter?

Mr. **RUTLEDGE**. Saying that the regulations did not guarantee a man under 150 a right to come up to 150.

The **CHAIRMAN**. Now, we have—I am just expressing the vision that I have from listening here today—we have yourself as the head of the Grazing Service. We have Mr. Naylor in charge of this grazing district No. 7. We have the advisory board over district No. 7, connected with Mr. Naylor, and we have the conservation board. Now, Mr. Presley said that the conservation board stated to the advisory board that that was the policy, those who were running less than 150 to come up to 150 when, as, and if they could, as I gather the expression.

Mr. **PRESLEY**. That is right.

The **CHAIRMAN**. That is the story as it reaches my comprehension.

Mr. **PRESLEY**. I will state further, if you will go to look over those applications you will find a great number of them that have been allowed that, and it will show on the applications. Because they were under 150, they were allowed to increase, and some of those have bought those sheep off of those people that were reducing their herds on the reservation.

The CHAIRMAN. Right at that point, Mr. Presley, who controls the management of district No. 7? Is it the advisory board, is it the conservation board, or is it the local grazier?

Mr. PRESLEY. That is what I would like to find out.

The CHAIRMAN. Well, you are chairman of the board.

Mr. PRESLEY. When we passed on these applications we have always done the very best we could to give everyone what we thought were their just rights; and then the conservation board came back and said that all these people under 150 head would be allowed to build up to 150. So, when we got that order we went ahead and did just that.

The CHAIRMAN. I take it from that, if that be a general custom, I think it is a proper assumption to take from that that the conservation board was the master mind of the situation, is that it?

Mr. PRESLEY. That is exactly the way I take it, too.

The CHAIRMAN. All right. We can go on from there.

Mr. PRESLEY. Mr. Stewart has taken over as chairman of that board. I haven't heard much of his policies; I don't know just what he will do. I will say another thing, that these range supervisors, under the agreement with the Grazing Service and the Indian Service, they are supposed to devote 75 percent of their time to Grazing Service matters. I don't believe from what observations I have made that they ever devoted 25 percent of their time, and whenever one of them wants to quit or take a vacation he doesn't say anything to the regional grazier or the advisory board or anybody else. He just takes off, and you never know whether he's on the job or whether he isn't on the job.

Senator CHAVEZ. Now, let's get that straight, Kelsey; Mr. Stewart is superintendent of the Navajo Indian Reservation.

Mr. PRESLEY. That's right.

Senator CHAVEZ. He is also chairman of the conservation board.

Mr. PRESLEY. He was the last time I heard of the board.

Senator CHAVEZ. And these supervisors that go around supposedly administering the district, are also employees of the Indian Bureau; is that right?

Mr. PRESLEY. That is right.

The CHAIRMAN. I am trying to discover, Mr. Rutledge, just where you fit in the premises.

Mr. RUTLEDGE. I am sitting in the saddle. I think that when an advisory board admits a thing like that they are admitting something. We had better get together on it.

Did you give them a copy of my letter?

Mr. NAYLOR. I did.

Mr. RUTLEDGE. Have you got orders on that conservation committee, written orders? I am trying to find out what has been going on there.

Congressman ANDERSON. Who told you to raise it; what person?

Mr. PRESLEY. That came from Mr. Fryer.

I'll say that Mr. Stewart has not met with us only one time, I say, a year.

Mr. STEWART. May I make a statement, please, on a couple of these points?

The CHAIRMAN. Yes, indeed.

Mr. STEWART. The committee on conservation is the authority that is created pursuant to these rules. At the time of my assuming this

chairmanship a year ago, the committee as such had largely disintegrated because of the war conditions. As Kelsey says, we met once, and the subject matters that we discussed were not, in my opinion, subject to a ruling by the conservation committee. They are policies that reach far beyond, as I saw it, the authority of this committee. They reach into a decision by Washington, rather than by this local committee. Consequently, they were referred to Washington, and, as Mr. Rutledge indicated, he got an adverse report as to whether or not all of the class 1 operators, the 150 or less operators, should be built up to 150.

Now, then, I believe he said he had not heard of what policy I have. I have no policy. The committee will have the policy. As to the passing upon applications that have already been passed upon by the advisory board, I have gone to Mr. Naylor and told him that now that several years have elapsed wherein the chaotic situation has been somewhat remedied, that to me as a member of that board and as chairman of that committee, rather, it is utter nonsense for that committee to examine into and pass upon these applications for licenses.

The CHAIRMAN. You are referring now to the conservation committee?

Mr. STEWART. That's right.

Now, in my opinion, the conservation committee should be concerned only with the large over-all welfare of the area and of the people, the matters of stock water development, matters of tribal benefits, matters of post-war range improvements. I think that is our field, and not the field—it is not our field to infringe upon the present activities of the local advisory board.

The CHAIRMAN. Thank you, Mr. Stewart. That, if I am not mistaken, is a statement of policy, isn't it?

Mr. STEWART. It is my opinion, sir.

The CHAIRMAN. Yes; that, however, I gather has come in since you assumed the chairmanship of that board and also the superintendency of the reservation.

Mr. STEWART. Officially we want that reaffirmed in Washington.

The CHAIRMAN. What reaffirmed?

Mr. STEWART. That statement I have just made.

The CHAIRMAN. In other words, it is your preliminary policy.

Mr. STEWART. Correct.

The CHAIRMAN. Has that policy been addressed to the chief grazier, Mr. Rutledge?

Mr. STEWART. No, sir; we have just got a committee organized. As I mentioned before, it had disintegrated, and we have streamlined the committee to this extent: Instead of more than three or four members, we just have three, Mr. Naylor, myself, and a representative of the General Land Office, to compose that committee. Mr. Adams is in an advisory consulting capacity, not in an executive capacity, or with a right of vote.

The CHAIRMAN. Mr. Stewart, I want you to clear this for me, please. How does the General Land Office come into the picture?

Mr. STEWART. They have a range conservationist on their staff in Santa Fe, and he can give us valuable technical information in an advisory capacity.

It is my plan to submit this modification of the present rules, insofar as the committee is concerned, to Mr. Rutledge, with the recommenda-

tion that he submit it to Washington, to the Washington office, for approval.

Now, then, to get on to the supervisors. We have three in district 7 in certain areas—to avoid confusion I will not refer to them as districts, because we are all confused on them as districts—but there are three located strategically within district 7. They are on the Indian Service pay roll. They have an enormous Indian population to administer. They have Red Cross activities that pass through them, the dependency and benefits, and matters of general administration of law and order. All those things are partly associated with them. In addition to that, as Kelsey mentioned, when they take leave, they do not leave unauthorized. I want to make that very clear. These supervisors must and do get approval of any proposed leave from the job through the Navajo Agency, which in turn consults with Mr. Naylor as to whether it is agreeable with him.

Mr. PRESLEY. According to this agreement, those supervisors are supposed to devote 75 percent of their time to the Grazing Service. Now, I should think, under that agreement, if they were going to take as much as 60 days' leave, which some of them have done, that the regional grazer should be advised of such facts. It has not been done in some cases.

Mr. STEWART. I would like to say that since I have assumed this job out there that I have limited annual leave to 3 weeks for any one person except in emergencies.

Now, then, as to the 75 percent contribution of time, I would like to go a little bit further and say that dual personnel control in every line of endeavor is unsuccessful. The Indian Service and the Grazing Service cannot have successful, and maintain and operate, personnel that is subject to the direction of one or the other. In my humble opinion, the Grazing Service should have personnel over in that district sufficient to handle all grazing matters, and the Indian Service should have personnel in that district to handle Indian matters. Since the war our clerks are interpreters and our range riders and Indian assistants have been lost to us. We have very few of the district supervisors who have clerks. I don't know of any of them in the district who have a regular interpreter. So you see, we are up against a shortage of personnel and a shortage of funds. It would be our wish, if we could, to supply the district with a hundred percent service.

Mr. RUTLEDGE. Mr. Chairman, this is just one of these cases of hard times. You heard Mr. Naylor say he had three people, including himself, trying to handle that district, trying to get what help we can from the Indian Service, and they have kindly offered to do all they can. I know how Naylor has been after me all this time for more help of his own, and the truth is, that the money is not forthcoming.

Senator CHAVEZ. You would agree with Mr. Stewart, if it were possible and you had the personnel, all the supervisors should be under your control instead of the Indian Service?

Mr. PRESLEY. Mr. Chairman, that is the point I started to bring out. I am not an orator like Mr. Stewart; I bring it out in my rough way of talking. That is one of the points. I'm not condemning the range riders and supervisors. They are just as fine fellows as you could meet anywhere. But they cannot work for two departments and do what they should do. And another thing that is a great draw-back, at times

we will go out on the range and spend several days maybe, with Indians and non-Indians, getting together on the use of that particular range, and get everybody agreed as to what we will do and satisfaction among the users of that particular part of the range, and then go back into the office. By that time the Indian Department has changed supervisors; maybe they have fired him or he has quit or something else. We get a new man and he comes out and it takes him about a year to get acquainted with the country, to get out away from the highway and get back without getting lost. By that time we have to go over the whole thing again. In almost every district we have there has been from four to five different supervisors since the time this district was set up. Isn't that right, Mr. Stewart?

Mr. STEWART. That is right. That is explained by the fact that they are underpaid. You can't keep good men unless you pay for good services.

Mr. W. A. BERRYHILL. One point I want to bring out, I own and control 21,000 acres of land. I have not been able to find out from these authorities what my carrying capacity is. Mr. Naylor himself accepted my carrying capacity at 15 head; another man set it at 8. I have been there for 25 years, and I don't know what it is.

Mr. RUTLEDGE. I don't want to leave the Si Fryer matter stand as it is. I understand these gentlemen to say Si Fryer told them to bring everybody up to 150 head.

Mr. PRESLEY. That is right.

Mr. RUTLEDGE. How long ago was that?

Mr. PRESLEY. When we had our meeting last year; when we were passing on the applications, I believe it was for 1942.

Mr. RUTLEDGE. Mr. Fryer has been off the job for about a year, hasn't he?

Mr. STEWART. Sixteen months.

Mr. PRESLEY. It might have been.

Mr. RUTLEDGE. I understood about that situation, that a board would take action on that kind of basis, and nobody can read that regulation—

Congressman ANDERSON. Could Mr. Stewart deny or confirm what was said a moment ago as to the fact that the people were allowed to build their herds up to 150, and they bought sheep that were being disposed of from the Navajo Reservation in the reduction program?

Mr. STEWART. The first part of your question, Mr. Congressman, I cannot answer, but Mr. Naylor could. The second part, as to the movement of sheep off the reservation, Mr. John Cooper would be in a position to answer that.

Congressman ANDERSON. It is the tying of the two things together that is important. If you are reducing in one range and building up in another you are not accomplishing very much.

Mr. STEWART. I didn't understand that.

Congressman ANDERSON. Well, he says—

Mr. PRESLEY. I would like to state further for the record some of the reports of the dipping and counts this year. They show that the Indians have increased as much as a hundred percent; and I positively know that a good many sheep and cattle have come off the reservation. I can take you out and show you the herds right now, if you want to go over there and see them.

Congressman ANDERSON. Could we have Mr. Cooper's comments?

The CHAIRMAN. All right, Mr. Cooper.

Mr. JOHN COOPER. Well, Mr. Chairman—

Mr. PRESLEY. Before Mr. Cooper answers I would like to make a statement to the effect that every non-Indian in district 7 does not want to deprive the Indians of anything that is legally theirs. But we do want to keep what we think belongs to us and in any instance where an Indian is a legitimate stock raiser and user of the public range, we want him to have exactly what is coming to him, just the same as we want what is coming to us. We are not trying to take anything from the Indian anywhere that rightfully belongs to him. I have been in that one place 25 years, and I have never had an argument with an Indian over the range around the district. I try to keep off what they claim is theirs and they try to keep off mine, but I have had a good many arguments with some Indian officials that come out from Washington or some other place and don't know anything about the circumstances.

Mr. RUTLEDGE. Well, Mr. Presley, I think that you have been overly liberal with the Indians, if you have been raising them up to 150 head.

Congressman ANDERSON. How about it, Mr. Cooper?

**STATEMENT OF JOHN M. COOPER, NAVAJO AGENCY,
WINDOW ROCK, ARIZ.**

Mr. COOPER. Mr. Chairman, may I go back a little way and try to answer Mr. Lee's question this morning? That leads up to this specific question about the movement of livestock off the reservation onto district 7?

The CHAIRMAN. Yes; that is all right. I would like to have this 150 businesses straightened out as to whether or not there has been a movement off the reservation to augment these herds that were under 150 when the permit was allowed. Will you answer that first, please?

Mr. COOPER. I would like to state in that connection that I am responsible and directed by the superintendent to take care of range and livestock matters on the reservation, and Mr. Naylor or some other person in the Grazing Service would have to answer that last question, because I do not have that information.

The CHAIRMAN. Don't you know, in your capacity as manager, under the statement you have made whether or not there has been a reduction of herds in the reservation and whether or not there has been a movement off of the reservation to some point outside?

Mr. COOPER. I suspect there has been considerable movement off the reservation.

The CHAIRMAN. You're not going to put that on a suspicion. You can't tell this committee that you, in your official capacity—I think you know. You might as well be frank and candid with us.

Mr. COOPER. I am frank, Mr. Chairman. I have no specific knowledge of cases. I would like to have the Grazing Service answer for specific cases off the reservation, if I might.

Judge SETH. Would they know where the stock came from?

Mr. COOPER. Would you, Mr. Naylor?

Mr. NAYLOR. No; I have no absolute proof.

The CHAIRMAN. Get these two ends together. You know there has been an augmenting of herds outside in district 7.

Mr. NAYLOR. I think so, but I have no absolute proof.

The CHAIRMAN. Now, you don't know whether there has been a reduction of herds on the inside of the reservation, is that it?

Mr. COOPER. There has been reduction on the inside of the reservation; yes, sir.

The CHAIRMAN. Well, all right.

I do say this: I do want to impress that this committee comes in here, and sits day and night, with the idea of getting at facts. We believe that you gentlemen who are in the service, in various departments, have the facts; and to say, "I suspect" or "I guess" or "I don't know," is not fair to this committee. That is about all I have to say on that. That's about all I have to say on the subject. I think fairness should prevail. If you look for fairness from others I think this matter should be cleared up, for Mr. Rutledge's advantage, if for no other purpose; and I think it ought to be cleared up for this committee. You may proceed.

Congressman ANDERSON. Mr. Stewart said you would be able to answer that question. How did he get off of it? Why did you expect that, Mr. Stewart?

Mr. COOPER. I would like to state, in the district in question, it is district 14 of the Navajo Reservation, immediately adjacent, is it not, to district 7? That is what you had reference to, is it not, Mr. Presley?

Mr. PRESLEY. Well, I had reference to the stock coming off the reservation. I don't know what district on the reservation they come from.

Mr. COOPER. That is district 14, immediately adjacent to the Crown Point area.

Mr. PRESLEY. That is where most of them come from.

Mr. COOPER. In that district they are operating under what we call special permits, in addition to regular permits, and that allows those people to retain on the reservation all of their livestock that they had ownership of in 1937.

Mr. PRESLEY. Whenever you go through, I'll answer you.

Mr. COOPER. That is up to 350 sheep units of livestock. In 1930 we were dependent on the Bureau of Animal Industry dipping records for stock numbers in the so-called Crown Point, or Eastern, area, which roughly coincides with grazing district No. 7, with the exception that it does not include the Puertecito and Canyoncito areas. At that time there were dipped 113,808 sheep and goats in the Crown Point area. That is according to the Bureau of Animal Industry records.

Now, those records do not include additional cattle and horses that might have been owned by those people. Skipping to 1934, there were 92,009 sheep and goats recorded in that Crown Point area. Now, the Grazing Division, Mr. Naylor's office, may have figures showing ownership prior to 1941. The first complete record that we have since 1934 is in 1941, after this area was administered by the Grazing Division. I believe these figures were furnished by Mr. Naylor's office. That showed there were 93,574 sheep and goats on district 7, exclusive of the Canyoncito and Puertecito areas.

Now, I would like to ask the chairman, if I may be privileged, to say that, because of that extremely small over-all increase since 1934, that was my reason for making the statement that I did not know a specific instance of large movements, which I don't. Maybe I should, but I don't, Mr. Chairman.

The CHAIRMAN. Very well.

Mr. PRESLEY. Now, the permits he is speaking of, along the reservation line, where they are permitted to run on the reservation part of the time and off the reservation part of the time, that is not the ones I am talking about at all. We investigated those cases pretty thoroughly and they are all right. What I am talking about are the sheep and cattle that come off of the reservation. In most instances the people are running them without even showing on their permit. A lot of them do show on their permit the increase; but a lot of them are not shown at all. The flocks are out there, and there is nothing done about it.

The CHAIRMAN. All right. I think we might go back now.

Very well, Judge Seth, you may proceed, or, if Mr. Rutledge has any further statement, he may make it.

Judge SETH. We have nothing further of Mr. Rutledge, but I would like to ask Mr. Stewart: Did I understand you to say that you recommend the elimination of these review features of this conservation board of district 7?

Mr. STEWART. On the applications.

Judge SETH. How about the rules and regulations?

Mr. STEWART. That is policy, and I think we should have something to say about that.

Judge SETH. I believe this is the committee's copy. I think it is highly important, Senator, to get in your proceedings the rules and regulations.

Mr. RUTLEDGE. I would like to say, on this point, that I would be glad to approve the move, and trim that conservation committee right down to what they can do, or I am going to trim them clear out. I'm not so hot for it.

The CHAIRMAN. Are there any questions? Is there anyone who would care to propound a question to Mr. Rutledge?

Mr. ADAMS. I want to make clear that while I have been appointed an advisory member of this committee, I have never had any opportunity for meeting with them or taking any action. I wanted to have the record on that.

Mr. RUTLEDGE. I think you all see the problem these men are facing, with Naylor with three people and three part-time Indian supervisors; and when you think of the size of that country—

The CHAIRMAN. How many Indian supervisors did you have last year, Mr. Naylor?

Mr. NAYLOR. Three, and four part of the time.

Mr. RUTLEDGE. And the difficulty, even with the names of those Indian applicants—the confusion—the thing is an almost impossible job, that we are trying to put up to these boys, to get a detailed record of what every Indian is doing from one year to another. We will try, but it is a big job.

The CHAIRMAN. Are there any further questions?

Senator CHAVEZ. I would like to have Mr. Hovey, Mr. Chairman. He comes from district 7.

Mr. BERRYHILL. I want to know who has the right to set carrying capacity on my individual land. They tell me I can't have a permit, and I want to know who's authority I go by. I have nothing to say in the matter, myself; but first one fellow comes along and sets it at 15

head, and then Carr comes along and tells me I can't carry but 8 head. I want to know those authorities for that.

Congressman ANDERSON. Who told you?

Mr. BERRYHILL. The Grazing Department, Mr. Naylor, is the first man that classified it. Then the Department wrote me a letter and told me to set it at 8 head. Originally it was set at 15 head, and they said my permit would be issued according to 8 head. My land has been fenced for many years, protected. Yet I am set up on the same basis—

Mr. RUTLEDGE. I can answer, as far as I am concerned. His job is to set that carrying capacity with you members of the board.

Mr. NAYLOR. May I answer that question? We now have a range examiner that is working in that part of the country, and we hope within the next 2 or 3 months to have the carrying capacity of the entire district, and Mr. Berryhill's will be in that.

Mr. PRESLEY. Mr. Chairman, one other thing I would like to bring out here, to show why district 7 is not operating any better than it is, and that is the fact that the Secretary of the Interior issued an order withdrawing all of the so-called railroad exchange for the sole benefit of the Indians.

Now, I suppose you all know what that exchange land is. If you don't, there is an example I can give you. For instance, if the railroad company owned section 1, in a certain township, and they wanted to give that up, or relinquish it back to the Government, and take a lieu selection in another township, and they selected, we will say, section 4, which is a public-domain section, so far as any of us can determine, the law would determine that section that was given up as a public-domain section. Then, suppose that the railroad company gave up section 3 over here in this same township, and took section 6 over in another township, which was an Indian allotment. The Indian, of course, would have to relinquish that allotment before the railroad company could collect it, and then that Indian would be entitled to a lieu selection in some other township, and I believe that Mr. Stewart stated this morning that the Indians gave up something like 23,400 acres of land, of allotments, and took lieu selections in other townships, or was supposed to take lieu selections. Then the railroad company relinquished something like two-hundred-some-odd thousand.

If the Indians selected all of their allotments, which they have done, with the exception of about 10 sections, the Indians are still gaining, under this order, approximately 200,000 acres of land for grazing purposes. But that still doesn't help the administration of the district, because, for an illustration, one particular Indian—and there is quite a number of others in the same category—has lived on a section of land that was owned by the railroad company. No one objected to him living there for a great many years. He developed water on that section; the only permanent water in that district. Now, that Indian gave up an allotment he didn't want, some miles south of this section he was living on, and wanted to select this railroad section he had developed water on, as his lieu allotment. Since the railroad company had relinquished it back to the Government, under this withdrawal order of the Secretary of the Interior, this Indian cannot be allowed that section of land, because it is withdrawn from any form of settlement pending legislation of some kind. That is one case. There are

a number of others just like that. In a few instances it affects non-Indians the same as it does Indians. I contend that the district will never properly function as long as an order of that kind exists. Then we have the land south of Gallup, known as the Two Wells, resettlement or submarginal, that was discussed here this morning. As I understand that, that land was purchased with Resettlement money, and later turned over to the Indian Department for administration. Some of that land, the department that purchased it paid as much as \$8,000 or better for a quarter section. Some of it had good improvements in the way of houses, corrals, barns, and fences. Most all of that is destroyed now, or damaged in a good many ways.

Then the Department, under their agreement, turned this land over to the Grazing Service for administration. There are a good many small farmers and stock raisers, quite a number of people down there that have homesteads equal to an Indian allotment, with three, four, or five head of cows, who have made application to the Grazing Service for permits on the open public domain, and some on this Resettlement land. But those applications, in most every instance, have been turned down, because the resettlement land was turned over for the sole use of the Indians, in lots of instances. This land is located where the Indians can't use it; they have no water. They can't give it to the non-Indians, on account of its being held exclusively for the Indians. I think that something should be done to at least preserve the improvements and such like on this land. I think they gave something like \$309,000 or better for this land, and as grazing land it would be worth about \$2 an acre; so there is going to be a terrible loss there, to someone, somewhere, if these places are not taken care of.

Now, a good deal of this land is good farming land. People having farms right along by the side of it are making good money farming. I don't know the exact figures, but some of the men that I talked to last week told me that this past spring when planting time came they tried to get possession of some of those farms that were fenced, and had been ploughed up, and it was good for farming. They made applications to the Grazing Service for permits to farm those pieces of land, and the Grazing Service couldn't do anything, only refer them back to the Indian Department. And the Indian Department, so I have been told, agreed to lease some of this farm land to these farmers for 10 cents an acre, and the farmers agreed to pay that. Before any contracts were signed, or anything, the Indian Department, or whoever had charge of it, came back and said, instead of 10 cents an acre, "we want 25 percent of everything you raise on it;" and it went on, back and forth, all summer. Consequently, there are many acres of good farming land that are laying idle all summer out there. Something should be done about that, to relieve those farmers down there, non-Indians as well as Indians, in a lot of those cases.

CONGRESSMAN ANDERSON. Senator, at any time, was this land that he speaks of, this Resettlement land that had been turned over exclusively, has it been determined that the money appropriated was exclusively for Indians, or was it for both Indians and whites?

THE CHAIRMAN. Well, I don't recall anything in the appropriation, nor in the movement, that directed that the land should be turned over to anyone. I thought it remained under the Soil Conservation con-

trol. But it would appear, from statements made here, that the Secretary of the Interior had issued an order directing that the land taken over by the Soil Conservation, or any submarginal land activity, should be held for the Indians.

Governor DEMPSEY. Most of that land was not Soil Conservation purchased. It was purchased under Resettlement; Rural Rehabilitation; 800,000 acres got into the hands of the Indian Service and they split it some way.

Congressman ANDERSON. Is there any specific provision in the law, money appropriated to purchase this land, and saying it was to be used only for Indians?

Governor DEMPSEY. No sir.

Congressman ANDERSON. How does it get that way?

Mr. STEWART. That was an administrative decision.

Congressman ANDERSON. Of whom?

Mr. STEWART. Of the President, by issuance of an Executive order: administrative decision made through the office of the Resettlement Administration, Department of Agriculture, and the Secretary of the Interior's office. The money, as you say, was not earmarked for Indian acquisition. The determination that these should be Indian projects was an administrative policy determination, by the agency charged with the expenditure of the funds.

Commenting on what Mr. Presley says, a good deal of what he says is true. The latter part is especially true, unfortunately. The matter of listing those bean lands—that is about all they are good for down there—

Mr. PRESLEY. Well, it is mostly corn and beans.

Mr. STEWART. It was agreed to lease them at a nominal figure, 10 cents per acre. Then, for some reason, this part of the crop raised was thrown in as a consideration. When I learned of that, I stopped it. It was an unfortunate thing, and what he says is correct. The land should—when the land is not used or needed by the Indians—it should be leased, in my opinion.

The CHAIRMAN. Where did that one-fourth of the crop raised, where did that come from?

Mr. STEWART. That came out of the Navajo Agency.

The CHAIRMAN. During your administration?

Mr. STEWART. Yes, sir.

The CHAIRMAN. Was it your orders?

Mr. STEWART. No, sir.

The CHAIRMAN. Whose order was it?

Mr. STEWART. My assistant's.

The CHAIRMAN. Who was your assistant?

Mr. STEWART. Mr. Trent.

The CHAIRMAN. Is he here?

Mr. STEWART. No, sir; he is over at the Agency.

The CHAIRMAN. Did you know of the order when it was issued?

Mr. STEWART. No; not until I got back. I was in conference at Phoenix at that time.

Mr. PRESLEY. Mr. Chairman, there is another thing that would help the administration of district 7. There is quite a good many school sections or land scattered among the Indians that belong to the State of New Mexico that are completely surrounded by Indians, but are

non-Indian. If that land happens to be vacant, they can lease that section and move in there, and then cause the Indians a great deal of trouble by grazing over the line or something to that effect. If those sections were exchanged for other sections, around where the non-Indians are located, that would simplify these things quite a bit. But so far every proposed exchange that I know of has been blocked by the Indian Department.

The law provides that you can make these exchanges; but you have to have the approval of the Grazing Service and the Indian Department, and, I don't know, quite a lot of other departments. For illustration, I went to the State land office and told them that if they would give up three sections, over in this Indian land, and take three sections laying between some of my land, south of my ranch, that I would lease that land, and they would be taking it out from where the Indians are. Those three sections that I proposed for exchange are three sections that I have used continuously for 25 years, and no one else has grazed on them. The regional grazier, Mr. Naylor, agreed to that, and Mr. Fryer agreed to it, but not in writing. He just told us in a meeting out there it should be done, and thought it would be all right. After I got the O. K. of these different departments, I went to Santa Fe and talked with the land office, and they made application for this exchange. Then someone from the Indian Department wrote a letter to the effect that if I was allowed that land that it would move Indians out of the country and that there is no place for them to go and such like. There has never been an Indian on those three sections. There is quite a lot of the exchanges like that that could be made that would simplify matters considerably.

The CHAIRMAN. Who wrote that letter?

Mr. PRESLEY. Well, I believe Mr. Brophy wrote that letter. If he is here, you might find out. He is with the Indian Department.

Senator CHAVEZ. Can you tell us how much State land is within district 7?

Mr. PRESLEY. No; maybe Mr. Naylor can.

Judge SETH. Mr. Wood is here. He might have it.

STATEMENT OF CLAUDE E. WOOD, GRAZING AND TIMBER DEPARTMENT, STATE LAND OFFICE, SANTA FE, N. MEX.

Mr. CLAUDE WOOD (State land office, Santa Fe, N. Mex.). Something like 350,000 acres.

The CHAIRMAN. Will you state your name for the record?

Mr. WOOD. Claude Wood, of the State land office. That is just an approximate number.

Senator CHAVEZ. Well, you could exchange some of this land for land along the Rio Puerco. Some of those poor people up there could get along too.

Mr. WOOD. May I make a statement here in regard to this particular exchange? I went to Gallup and talked to Mr. Presley and Mr. Naylor. We worked this out with the idea in mind of making several exchanges, so as to correct the land pattern, consolidate State lands, so that we would have no difficulty in leasing them and helping the situation in general. After we had worked the situation out, we made our application through the Land Office. About a year later

we received a letter from the Commissioner of the Land Office, in Washington, to the effect that our application had been rejected. He gave us several reasons. One was that we would be depriving some of the Indians of the land that they hold under allotments, by making this selection. We have affidavits in our records to show that Mr. Presley has used that land continuously, and developed water on part of it, since 1922, and there have been no Indians on the land.

They also listed as one of their reasons for rejecting our application the fact that there was a withdrawal, made in 1931, I believe, in aid of certain legislation, which prohibited us from selecting this land, because it was covered by a withdrawal.

I would like to say that they objected to the base lands that we were using, on the ground that they were too far away from the land we were selecting. However, under such exchange as the Taylor Grazing Act, they select or exchange lands, rather, as long as they are in the same district.

Senator CHAVEZ. Now, Mr. Wood, I am going to ask you a question. Isn't it a fact that the State land office of the State of New Mexico has a lot of difficulty in leasing the State lands when they are surrounded by Indian allotments?

Mr. WOOD. We did have quite some difficulty, for a while, Senator Chavez, I believe about 1937. Up until then we had practically all of our land in that area vacant, and received no revenue from it.

Senator CHAVEZ. But, as long as you would not lease, the surrounding neighbors use it free of charge?

Mr. WOOD. Used it free of charge. We took the matter up with the Indian Service, and now most of that land is leased. However, I have a recent letter where they wish to drop certain sections. I haven't had time yet to go into the matter to see where they are located, or to see what the condition is surrounding those sections; but the State is at a decided disadvantage in handling this land, because we have sections 2, 16, 32, and 36, rural, in townships, isolated sections. It is our desire to make exchange, but the only one we ever got through is one that the Indian Service wanted through. That was to their own advantage.

Congressman ANDERSON. I wonder if Mr. Havell, of the General Land Office, would like to comment on that statement.

**STATEMENT OF THOMAS C. HAVELL, GENERAL LAND OFFICE,
WASHINGTON, D. C.**

Mr. HAVELL. No, Congressman, excepting that section 8 of the Taylor Grazing Act—

Congressman ANDERSON. I'm speaking of that part seeking to deprive the Indian of his allotment.

Mr. HAVELL. I'm not familiar with that case at all. I would say under section 8 of the Taylor Grazing Act there is a provision that no State shall select public lands in a grazing district, in furtherance of any exchange, unless the lands offered by the State, in exchange, lie within such grazing district. That has been pointed out. Now, the selected lands, lying in a reasonably compact body, must be so located as not to interfere with the administration or value of the remaining lands.

Senator CHAVEZ. How are they going to interfere, when they are within the district? All of these lands are within district 7.

Mr. HAVELL. That is a matter which the Grazing Service has to consider, as to whether or not to interfere there. There may be a location that would interfere with the blocking out of the range that would be in strategic position that would not be advisable, from a grazing standpoint, to have the lands pass out of the Federal ownership.

Mr. WOOD. May I say, in handling these applications for exchange, that before we file an application with the Land Office we go to the Grazing Service, or any other agency involved, if we know of the agency that is involved, and work the application out with them, and have an agreement as to the location of the lands to be selected, and its base land, before we file our application. The Grazing Service has passed on this application and approved it. We have a letter in our files to show that. I can furnish the committee that letter, if they would like a copy of it.

Mr. HAVELL. I might say, Mr. Chairman, more recently there has been an administrative order that provides for a preliminary consideration of the State exchange. The preliminary consideration is given by the representative of the Grazing Service and a representative of the General Land Office, so that these difficulties that have been experienced in the past could be obviated; because there would be a getting together, in a preliminary way, of the three agencies that would be interested in working out the exchange.

Senator CHAVEZ. Mr. Lee, I would like to ask you a question. Do you know the acute situation, as far as grazing lands along the Rio Puerco?

STATEMENT OF FLOYD W. LEE, PRESIDENT, NEW MEXICO WOOL GROWERS' ASSOCIATION, SAN MATEO, N. MEX.

Mr. LEE. Yes; I think I do.

Senator CHAVEZ. That is east of district 7. If some of these exchanges could be brought about, so lands could be obtained along that area, to relieve the situation—

Mr. LEE. I think some relief could be had for the condition that exists there.

Senator CHAVEZ. I would like to have you explain to the committee something about the grazing situation directly adjoining district 7.

Mr. LEE. This grazing district is one of a complicated picture, the same as in district 7. We have the Indian Pueblos, a few Navajos, our own native settlements, that have been there for hundreds of years. We have also, inside the forest lands—in fact we have 17 different governmental agencies who own lands inside of grazing district No. 1, and manage it.

The CHAIRMAN. Seventeen?

Mr. LEE. Seventeen different governmental agencies within that district.

The CHAIRMAN. Enumerate them.

Mr. LEE. The Indian Service, both the Pueblo and the Navajo Service. We have the State land office. We have the Taylor Grazing Service. We have the Farm Security Administration, the Federal Power Site Administration. We have the War Department, and the Soil Conservation Service, which is broken up into about three dif-

ferent heads, which they have purchased in different ways. We have the General Land Office, the Forest Service, the Apache Indian Reservation. I can name and give them to you—I can name 17 different governmental agencies. Offhand, it is a little difficult to remember them even, in these times. In that particular area, in the upper Rio Puerco, we have several small settlements of people, Cabezon, Guadalupe, San Luis, Cuba, La Ventana, in fact there are 7 small districts. The Government, through its purchase agencies, has purchased the lands surrounding that particular area. They do it a great deal like the Germans do a blitzkrieg; they get on one side and then on the other and they squeeze out those that are in between.

On the Cabezon, on the upper Rio Puerco district, they purchased the Espiritu Santo Grant and gave that partly to the Indians. After much squabbling and work on the part of the people who live in that district, they were finally given some permits. Those permits were in that particular area. The fence of the Espiritu Santo Grant runs in the town of Cabezon. There is a five-wire fence, with posts 15 feet apart, and two stakes between each post, right along the edge of the town. It took the grazing off of that land completely, and allowed those people's cattle to die there. We finally protested, and opened the gates, and they moved their cattle in there. The land was not being used, and the grass was that high. Well, they called out the United States Marshal and put those people out, and then put them under several different agencies, such as the Forest agency. I believe they furnished trucks to haul feed to those cattle. At the time I was there I counted 50 head of dead cattle, from the site where I was standing. The relief had come too late; most of the cattle had then starved to death.

We have incidents now, right in our particular area, as to its congestion. As I stated this morning, the Arviso boys, who are Navajo Indians, are very prosperous boys. They built their herds up, at Tohachi, on the Indian reservation, and were shoved out of the reservation into district 7, and tried to get along there and lease whatever land they could, because they had been put out of their own home. Now their cattle are down in district 1, right in this congested area, where a man with 11 children made an application to put one milk cow on that Espiritu Santo Grant, and he was refused.

The area, in that particular area, it was necessary to move the largest operators in there, which were Frank Bond & Co. We had to move them out completely, to make room for the native people who are there. That has been consumed entirely by the free-use people.

The CHAIRMAN. What agency has control there?

Mr. LEE. As I say, in that particular area you have the Soil Conservation Service, which believes in practically no grazing. You have the Taylor Grazing Service, which believes—and I may state to the committee a rule of thumb in New Mexico, and it will prove out through the grazing of practically every grazing board in the State; it is proved by our State agricultural college—a rule of thumb is that the carrying capacity of a range is in exact relation to the rainfall. If you have 1 inch of rainfall per section, the carrying capacity of that land is one head per section. If your rainfall is 10 inches, your carrying capacity is 10 animal units. We figure 5 sheep to 1 cow, as a unit. That is the customary rate. Four to one is what Mr. Adams said

they used in the upper Rio Grande. Most practical livestock men use 7 to 1, because a sheep takes about 7 times as much weight, or sheep walking on the ground are one-seventh of the weight of a cow walking on the ground. However, 5 is the accepted number. We figure that, in that particular country, your rainfall is 12 inches and the carrying capacity is about 12 head per section. If you will refer to General Kearney's report—he was a topographical engineer—when he came into New Mexico in 1846, and you refer also to the botanical expedition that came into New Mexico in 1848, pretty near a hundred years ago, you will find that condition is almost exactly today as it was when General Kearney came in a hundred years ago. Those are the reports of the War Department. The Rio Puerco was the same. Lieutenant Herbert tried to cross the Rio Puerco, over here, and he had to go up as high as the Rio Salado because the banks were so high; then he had to cross down through the Sebayeta area and down into Laguna.

I'd like to state, Mr. Chairman, that this grazing district has a great many small holders in it. That is tremendous use, and there has never been an appeal from the decision of that board to reach the Secretary. I can go into it in further detail, but the hour is late and, if that answers the Senator's question, we'll have a later witness to show what the utilization of those lands have been.

Senator CHAVEZ. I wanted you to explain to the committee, as you have, how acute the situation is in that particular area. These towns have been practically surrounded by fences, and there is nowhere to go.

What do you think about the exchange of State lands for Federal lands, with reference to this particular area,

Mr. LEE. That would assist; but the main trouble in that area is the different Government agencies who are unwilling to cooperate. We have one man, Jacobo Herrera, a "partida" contractor—you might say share cropper, but we don't like the term, because it is not the same—in which our board took it up with Congressman Anderson, to go in, and he will know the facts of the case. He had sheep on shares from Frank Bond & Co., and when the grazing board moved Frank Bond & Co. out of the area, naturally he had to reduce his flock. This man had built his herd up to approximately 500 head. When they were moved out of the area he took his share of the sheep and kept them. That man has two sons in the United States Army, one in Sicily today, and the other, I think, is in England. He can correct me on that if I am wrong. His sheep are now divided; the Forest Service permits him 250 head on the forest, and the other 250 are up there by the Jicarilla Apache Reservation. His boys have gone to war, and he can't put the two bands of sheep together; and on the summer range on the western slope of that forest there hasn't been any livestock in a good many years. We contend that if that land is worth anything, it is worth it in time of war, now, to produce—and have those people, not to try a social program on it, when those boys are over at the war.

We have another man there, Epifanio Gutierrez, who also has two sons in the war. They divided his sheep up. I may be a little wrong on my figures, but the witnesses will correct them when I am wrong. I think he has his sheep in two different bands, one of 300 and the other of 300, and he is unable to herd them.

Jacobo Herrera has 4 herders to herd 500 sheep. You can figure how long a man can stay in the business and hire 4 herders to herd 500

sheep, just because two Government agencies will not put their heads together and solve the problem. It certainly is not what those two boys are fighting for in Sicily, to come home and find the family gone, and their people gone. I am very doubtful about that. That is the way I feel about that area.

The CHAIRMAN. Is there anything further, Judge Seth?

Judge SETH. Not right now.

Senator CHAVEZ. Mr. Hovey, would you like to make a little statement?

**STATEMENT OF BERNARDINO PERRY HOVEY,
BERNALILLO, N. MEX.**

Mr. HOVEY. Mr. Chairman and members of this committee I come from a place where people are called the forgotten people of the United States of America. We have lived there for years and years. It began with my grandfather who was born in 1825. He died in 1887, and he left four children, without a day of schooling.

I, for one, didn't have the opportunity to learn anything. Most of the school I have today—I had 24 months of school, and that has been all the school, and I am proud of it, too.

We made our living, my folks did, for years and years, until this administration came along, buying all the land surrounding Cabezon area, Espiritu Santo grant, for the purpose of the Indian use; bought it somewhere in 1935 and there was no stock in there until we broke into it. I was called before the United States attorney, Mr. Ribert, to explain on that. They had already written warning to everyone who had put their cattle in that grant.

Before going into the grant, I called all and every agency that I thought had anything to say or to do with this grant. But finally, on January 7, the day of 1938, we drove our cattle in there and they brought me over here, and finally there was a release by money granted to those people to buy feed with. The Forest Service and the Indian Service helped us through the Rio Grande board at that time. Then, later on, two or three agencies went along on the west side of the Puerco, put up the line of what they called the proposed boundary line for the Navajo Indian Reservation; just a strip of land there between 6 and 9 miles wide and 30 miles long, for better than a thousand families. The majority of those are Spanish-American people, but good citizens, I do believe, and I am proud to say it because they have got our boys in the armed forces. I, at one time, happened to be a soldier. That was in 1918.

I would like to show to the committee that the Grazing Service have tried time and again to help and assist this people. Here is a man, he is here in this room, that was born and he is 58 years of age. He has no right to graze one cow after the first of the year, except as domestic-use animals.

Dear friends and members of this committee, if that is not true, I would like to get all and everyone to go with me and prove it over the land whereof I am talking. I ask for you to excuse the mistakes I made in talking.

Senator CHAVEZ. What do you think of the exchange of State land for some land along the area that you speak of? Would that help the situation any?

Mr. HOVEY. If that is privately controlled land that is to come, as I believe it will come, it will help in increasing the capacity of the lands there. The Grazing Service, to which I am a member of the advisory board of district No. 1, called the San Jacinto district—the capacity there we have figured 10 head per section. Inside of the Espiritu grant, a patch of land composed of 113,000 acres, a little over two cows in this section can graze.

The CHAIRMAN. Who fixes that?

Mr. HOVEY. One man, I believe, I understand.

The CHAIRMAN. Who?

Mr. HOVEY. The Soil Conservation Service. Who he may be, I don't know.

Judge SETH. Mr. Hovey, the Espiritu Santo grant was used by your people before the Government bought it, was it not?

Mr. HOVEY. As far as I know. My mother was born in the middle of this spot. We had a grant in 1874. At that time my mother said they were grazing it.

Judge SETH. While the Bonds owned it, they allowed the people to use it?

Mr. HOVEY. Yes.

Judge SETH. And they paid a small rent?

Mr. HOVEY. Some; some paid some to go on the grant.

Judge SETH. And in the Ignacio Chavez grant, west of that area?

Mr. HOVEY. The same way. Narciso Francis has had the lease for years and years, and the people up in Casa Salazar used it to run their stock there; some trespass, some permits.

Judge SETH. These various villages you speak of, Cabezon and La Jara, are up and down the Rio Puerco Valley, are they not?

Mr. HOVEY. Yes.

Judge SETH. And the Espiritu Santo grant is bounded on the west by—

Mr. HOVEY. On the east by the Rio Puerco.

Judge SETH. The east or the west?

Mr. HOVEY. On the east of the Rio Grande.

Senator CHAVEZ. He means the grant is east of the Rio Puerco.

Judge SETH. Then the west boundary is the Rio Puerco, is it not?

Mr. HOVEY. Yes, sir.

Judge SETH. That is the land all around some of these towns you have been speaking of?

Mr. HOVEY. Yes.

Judge SETH. As I understand it, the Soil Conservation Service has fenced up both grants, right there?

Mr. HOVEY. Yes, sir.

Judge SETH. With a picket fence, almost?

Mr. HOVEY. Yes, sir.

Judge SETH. And they won't let you on there with a higher rate than about two and one-half cows to the section?

Mr. HOVEY. More or less; yes, sir.

Judge SETH. That is about 275 acres to the cow?

Mr. HOVEY. I'm afraid that is correct, maybe.

Judge SETH. And the grass, you people in the villages can see right over the fence, the grass that high. Is that correct?

Mr. HOVEY. Correct.

Judge SETH. You have quit using it since they took it over?

Mr. HOVEY. We have used it since 1938 that we broke in. I called every agency, as I said awhile ago, and I was turned down. Finally people got together and opened the gates and called at that time a fellow by the name of Ted Spar, who was in charge of the grant. He gave me a list of names to whom I should call, and I had a conference with them. There were nine. They went on down to the gates—nevertheless we turned our cattle in there.

Judge SETH. Who determines who is to go on that grant to graze, Mr. Hovey?

Mr. HOVEY. To begin with, as far as I understand, it was bought by the Indians for Indian use.

Judge SETH. You wouldn't know that?

Mr. HOVEY. I would not.

Judge SETH. Wasn't it bought with Soil Conservation money, or relief money?

Mr. HOVEY. Well, I don't know, Judge. I think that was explained out there.

Judge SETH. Anybody that gets on it; what I am driving at, to whom does he make application?

Mr. HOVEY. Well, we make an application with Mr. R. L. Strong.

Judge SETH. Where is he?

Mr. HOVEY. In the audience, here, in the hall.

Judge SETH. Are his headquarters here in Albuquerque?

Mr. HOVEY. Yes, sir.

Judge SETH. And is there any appeal from his decision, that you know of?

Mr. HOVEY. Not that I know of.

Judge SETH. Is any hearing held on the rights of the parties to graze on it?

Mr. HOVEY. If there is any I haven't heard.

Judge SETH. Mr. Strong, as far as you know, has the final say in the matter; is that right?

Mr. HOVEY. That is what I understand.

Judge SETH. How about the Ignacio Chavez grant?

Mr. HOVEY. The same way.

Senator CHAVEZ. Is anyone using the Ignacio Chavez grant now?

Mr. HOVEY. Yes, sir; there are some people from Guadaloupe and Casa Salazar.

Senator CHAVEZ. And they're allowed 2½ per acre or per section?

Mr. HOVEY. Two and a half animals per section. That is what we have been able to figure.

Judge SETH. Those grants are the same?

Mr. HOVEY. And the upper Cuba, the Soil Conservation Service bought quite a number of sections out there, and they are in just as bad shape as the Cabezon and the Guadaloupe and the Casa Salazar people are.

Judge SETH. That purchase is up west of Cuba; public lands homesteaded, and later bought by the Soil Conservation Service?

Mr. HOVEY. Well, it was homesteaded, and they sold out to the Soil Conservation.

Judge SETH. That is operated on practically the same basis?

Mr. HOVEY. The same way.

Judge SETH. And they make application to Mr. Strong?

Mr. HOVEY. Yes.

Judge SETH. And they don't get it, usually?

Mr. HOVEY. Well, sometimes, and sometimes we don't.

Judge SETH. And is there any review division that you know of, any right to appeal from Mr. Strong's decision?

Mr. HOVEY. They wouldn't pay us any attention. If we go to Mr.—I think it is Mr. Naylor, the head man of the Soil Conservation Service—

Senator CHAVEZ. He's speaking of J. V. Taylor.

Mr. HOVEY. I think so. He refers us back to Mr. Strong.

Mr. WOOD. May I ask Mr. Hovey a question?

The CHAIRMAN. Very well.

Mr. WOOD. Mr. Hovey, supposing these land grants over there, not being used and properly serviced, were released to you people by the State, if the State owned them. Do you think that would help any?

Mr. HOVEY. Yes, I think it will.

Judge SETH. Mr. Hovey, to your knowledge, wasn't that country—didn't it support a considerable number of sheep in the earlier days?

Mr. HOVEY. Yes, sir.

Judge SETH. Can you give us an idea of the numbers that used to run in there?

Mr. HOVEY. At one time Juan Dominguez used to run about 8,000 head of sheep. That was at San Luis, 4 miles from Cabezon. The foreman, head of the family, had from 150 to 500 head of sheep in that community. Then coming down to Cabezon, R. F. Heller—I think most of you fellows knew him—he used to run about 4,000 head of sheep and about 500 head of cattle. Some of the people had cattle from Heller on shares, making a living out that way, and the rest of the people there had 40 or 50 or a 100 head of cattle.

Judge SETH. Now, Mr. Lee spoke of an area in there, between these grants, of 9 to 12 miles wide. Is that principally Taylor grazing land?

Mr. HOVEY. That is it.

Judge SETH. I believe you stated you are on that board?

Mr. HOVEY. Yes, sir.

Judge SETH. Now, that area of Taylor land is in there, you stated, and is entirely used up by people entitled to free use; is that the situation?

Mr. HOVEY. It is the situation.

Judge SETH. When they moved Bonds out of that area, was the railroad land relinquished?

Mr. HOVEY. Yes, sir; there was an exchange made.

Judge SETH. Is that being administered by the Taylor Grazing Act people?

Mr. HOVEY. Yes, sir.

Judge SETH. That is the land they gave up?

Mr. HOVEY. Yes, sir.

Judge SETH. That is not like it is on district 7, not held for Indians or anybody?

Mr. HOVEY. No, sir.

Judge SETH. The people of Cabezon use it?

Mr. HOVEY. Yes, sir.

Judge SETH. It is used up by the free use?

Mr. HOVEY. And there is one Indian, if I am right, by the name of Arviso, that was mentioned here a while ago. He bought some rights in there, and we gave him a permit, according to what he had there.

Judge SETH. How many does he get?

Mr. HOVEY. I don't remember; I can't recall.

Judge SETH. It is a small permit, is it?

Mr. HOVEY. Yes; he is a Navajo Indian.

Judge SETH. The area between the two grants there, along the Rio Puerco, the public land, free use takes it all; is that right?

Mr. HOVEY. The biggest part; yes.

Judge SETH. When you get up further north, around Cuba, this area they purchased is west of the Puerco; is it west of Cuba?

Mr. HOVEY. West of Cuba; yes, sir.

Judge SETH. Is there much Taylor grazing land up there?

Mr. HOVEY. Not very much.

Judge SETH. Is that used up by free use?

Mr. HOVEY. Well, what there is, the biggest part; yes, sir. But the Grazing Service and the Soil Conservation made a deal to handle it, because the Soil Conservation has more land there than what there is public domain. So the Soil Conservation is handling that small piece in the upper end there.

Judge SETH. They are small pieces, with more land surrounding them?

Mr. HOVEY. That is right.

Judge SETH. Well, is there any Taylor Grazing Act land open there through which these people, the Cabazon, La Jara, and Cuba people, would get any relief?

Mr. HOVEY. Yes; there is; for the La Jara and Cuba people; more or less about 8 townships of land that is only used by the Jicarilla Apache Reservation.

Judge SETH. That is not subject to the Taylor Grazing Act? What I mean, has your board any public lands which these people along the Rio Puerco could get relief?

Mr. HOVEY. No, sir; everything is taken up.

Judge SETH. These 8 townships you refer to are part of the Jicarilla Apache Reservation?

Mr. HOVEY. Yes, sir.

Judge SETH. They were made shortly before Congress stopped the extension?

Mr. HOVEY. I couldn't say.

Judge SETH. It was formerly leased to you people?

Mr. HOVEY. Yes.

Judge SETH. Leased recently?

Mr. HOVEY. No, sir. Since they passed that order in 1934 they have leased it to no one.

Senator CHAVEZ. There are just two classes of land that you can't lease, Indian land and national parks.

Judge SETH. You are familiar with conditions along the Jicarilla Apache Reservation?

Mr. HOVEY. I rode to Farmington on the bus.

Judge SETH. Do you know anything about whether the Apaches own sheep on Jicarilla Apache?

Mr. HOVEY. I have been in that land the past two winters trying to buy some cattle, in the fall and sometimes in the spring, and there is not a hoof belonging to the Apache Indians.

Judge SETH. In those eight townships?

Mr. HOVEY. In those eight townships.

Mr. RUTLEDGE. Could I ask the gentleman a question? I was unable to follow you through on these different pieces of land.

Are you getting along pretty well with the Grazing Service?

Mr. HOVEY. Yes, sir. I personally haven't got a thing to say, and we haven't had a protest going up as far as I know. They iron those troubles out with the people the best they can, and it seems that we can get along with them.

The CHAIRMAN. Is Mr. Furman in the room? Will you come forward, please? Are you the gentleman that has charge of this land that is under discussion? Will you please come forward so that the reporter can hear your answers?

Mr. HOVEY. Another thing, Mr. Chairman, there are some people living north of the Rio Grande, across the river from Rio Puerco, in a little village that is called Cile, that have used that land for years and years, in which I have some patents or deeds in my pocket. There is a patch of land right west of this little village that the Indians put an application for, that public domain there, because they have a section of State land right on the middle of that area; and there are some people here that will testify that they haven't used that since they acquired the permit.

The CHAIRMAN. That is, the Indian Service hasn't used it?

Mr. HOVEY. That is right; until this spring. These people came up to me and talked to me about this certain piece of land, and I took it up with Mr. Dismuke, from the Indian Service department. He said, "No; we have got it fenced, and we are going to use it." So I said, "Have you used it in the past?" He said, "No; but we are going to use it in the future. We are going to put up a bunch of sheep to lamb."

So I told the boys that they couldn't do a thing, they were going to use it. Some of the boys said, "If they do go in there they will go out in 10 days," and I suppose they are pretty good guessers. They went in there and stayed 8 or 10 days, and then out they go; bing! Those people like to get a permit on that certain piece of land, for their domestic-use animals, milk cows, and a couple of horses to graze on that land, right on the village; oh, I would say about a mile or half a mile between what the Grazing Service has held as right-of-way, if I am not mistaken.

The CHAIRMAN. Are there any further questions? Is that all your statement, Mr. Hovey?

Mr. HOVEY. Yes, sir. Thank you.

The CHAIRMAN. We are going to take a recess until 8 o'clock this evening. The meeting stands at recess until 8 o'clock this evening. (Recess until 8:30 p. m.)

EVENING SESSION

The CHAIRMAN. Judge Seth, did you care to proceed?

Judge SETH. Senator, the Soil Conservation man took the stand just as we recessed. I wonder if it wouldn't be advisable to finish up

with district 7 before hearing what the Soil Conservation has to say.

The CHAIRMAN. I understood you were ready to proceed with district 7. I didn't understand what the Soil Conservation has to do with district 7. I called the Soil Conservation representative, of my own initiative, to meet the statements that were being made then on the stand. It might be more orderly—my investigator says it is more orderly to proceed with district 7.

Judge SETH. We would like to have the Soil Conservation man testify all right, but, unless it relates to district 7, I wish we could get that out of our systems.

The CHAIRMAN. That is what I thought. I think perhaps it would not relate entirely to district 7. Perhaps we had better proceed unless you insist on some other order.

Judge SETH. Has the Indian or Grazing Service anything further they want to put on, on district 7?

The CHAIRMAN. I would like to ask a question or two of someone in the Indian Service.

Testimony was given here this morning, I think by Mr. Stewart, about an incident whereby orders of somebody in the Indian Service there was an extermination of the goats. When did that take place?

Mr. STEWART. Mr. Chairman, I believe someone else made that statement. I wonder if Mr. Cooper did?

The CHAIRMAN. Someone made the statement. I think it was you, Mr. Stewart, who said it was admitted that it was a grave mistake.

Mr. STEWART. Oh, yes, yes; it was not confined to goats largely, but over in district 7, way back when the Navajo stock-reduction program was inaugurated, I believe in 1934, the reduction program was extended to those Indians off the reservation in district 7. That extension of the reduction program was an administrative mistake. That is correct; that is what I said.

The CHAIRMAN. Who brought it about?

Mr. STEWART. The Indian Office.

The CHAIRMAN. Whose orders?

Mr. STEWART. The Commissioner of Indian Affairs.

The CHAIRMAN. And what was the result?

Mr. STEWART. It imposed a hardship on those Navajo Indians in district 7.

The CHAIRMAN. Not only imposed a hardship, but it imposed a high percentage of infant mortality, didn't it?

Mr. STEWART. Not to my knowledge. I don't think so.

The CHAIRMAN. I have been so advised.

Mr. STEWART. I think that is such a serious statement that perhaps the evidence should be brought forward, Mr. Chairman, but I do not think it has a foundation of facts.

The CHAIRMAN. The goats were the only source of milk for the Indians; isn't that so?

Mr. STEWART. To some extent. Many Indians do not have milk goats.

The CHAIRMAN. And the goats are also a source of certain cheese that the Indians make?

Mr. STEWART. Not to my knowledge.

The CHAIRMAN. Not to your knowledge?

Mr. STEWART. No, sir.

The CHAIRMAN. Very well. My understanding was that it was done against the protest, the serious protest, of the Indians, and that it was later admitted to be a serious mistake.

Mr. STEWART. That is true, but I think the hardship was economic rather than health.

The CHAIRMAN. It was also financial, wasn't it?

Mr. STEWART. Yes, sir.

The CHAIRMAN. Very well. That is all I have to inquire about on that.

Now, Judge, I think you are going to have to proceed.

Judge SETH. Is the Government through? If so, I will put on some witnesses.

The CHAIRMAN. I take it that the Government is through.

Assistant Secretary CHAPMAN. We might want a chance to discuss it as it goes along, to answer some questions.

The CHAIRMAN. That is all right, certainly.

STATEMENT OF KELSEY PRESLEY, GALLUP, N. MEX.

Mr. PRESLEY. My name is Kelsey Presley, Gallup, N. Mex.

Judge SETH. Mr. Presley has already made some statements here, and I don't intend to cover that same ground.

The CHAIRMAN. Very well.

Judge SETH. You are the chairman of the advisory board of district 7. Is that correct?

Mr. PRESLEY. That is correct.

Judge SETH. How long have you held that place?

Mr. PRESLEY. Ever since the creation of the district.

Judge SETH. You were on the board of district 2-A, I believe it was, that was the predecessor of what is now district 7?

Mr. PRESLEY. Yes, sir; I was elected as a member of the advisory board of district 2-A when the district was first created.

Judge SETH. You have been on the advisory board of that district, or district 7, ever since?

Mr. PRESLEY. I was on the board of 2-A until 1 day I received a letter stating that district 7 had been created, and I was no longer in 2-A; and that there would be an election held to elect advisory board members for district 7. At that election I was elected to the district 7 board.

Judge SETH. Did you know anything about the creation of district 7 until you got that letter?

Mr. PRESLEY. I did not; no, sir.

Judge SETH. You have owned a ranch in that district for 25 years, haven't you?

Mr. PRESLEY. A little more than 25 years.

Judge SETH. And you were a member of the then existing district, a member of the board?

Mr. PRESLEY. Of 2-A; yes, sir.

Judge SETH. And the matter was never discussed with you at all?

Mr. PRESLEY. It never was.

Judge SETH. Were these regulations ever discussed with you, or handed to you?

Mr. PRESLEY. They were handed to me, as already printed, and said that was the regulations for rules that were set up for the district.

Judge SETH. And no discussion was had with you as a member of the board.

Mr. PRESLEY. No, none whatever.

Judge SETH. Mr. Chairman, there has been a lot of discussion of increasing the Indians up to 150 head.

Mr. PRESLEY, have you got the letter or other things by which you were directed to do that?

Mr. PRESLEY. That letter was written by Mr. Woehlke, and is in the minutes of the conservation committee for August 8, 1941.

Judge SETH. Have you gotten that information by telephone. since this afternoon?

Mr. PRESLEY. Since this afternoon, yes.

Judge SETH. Who is Mr. Woehlke?

Mr. PRESLEY. The assistant, I believe, to the Indian Commissioner.

Judge SETH. Was he a member of that Rio Grande interdepartmental board?

Mr. PRESLEY. I don't know whether he was a member—you mean the conservation board of that district?

Judge SETH. No, I mean this Rio Grande board.

Mr. PRESLEY. I don't know anything about that.

Judge SETH. Was he a member of the conservation board?

Mr. PRESLEY. I wouldn't say whether he was or not, but he seemed to be the one, the boss. He signed this letter, and we followed his instructions..

The CHAIRMAN. What is his official position with the Department, please?

Mr. STEWART. Mr. Woehlke is assistant to the Commissioner of Indian Affairs.

Judge SETH. He signed that letter as secretary of the conservation board?

Mr. PRESLEY. Well, the letter is signed. I don't know whether he signed it or not, but his name is signed to it.

Judge SETH. Can you give us some specific instances of the effects of that goat extermination?

Mr. PRESLEY. Well, I hadn't given it much thought, but since the argument came up here, in the last few minutes, I recall that one particular Indian that lived over west of my ranch came over and said he had a sick baby, and they had killed off all their goats, and they didn't have any milk. I furnished milk for the family, free of charge, for 5 or 6 months to keep that baby alive. There was also another Indian there that had tuberculosis, and he lived almost entirely on goat's milk, and I furnished him milk for about a year and a half, until he finally died from TB, free of charge.

Judge SETH. Had he had goats?

Mr. PRESLEY. He does have now; the one that had the baby. A lot of those Indians have gone back to raising goats again. There is a lot of goats in that country.

Judge SETH. This area south of Gallup, the Two Wells resettlement area, does the grazing board administer that at all?

Mr. PRESLEY. Under the agreement with the Indian department, they are supposed to.

Judge SETH. But do you?

Mr. PRESLEY. Well, we haven't yet.

Judge SETH. Now, what do you know about the increase of stock in grazing district 7, in the past year of two?

Mr. PRESLEY. Well, I know that they have increased it quite a lot. I know of several instances where the Indians have either purchased, or taken, sheep and cattle on shares, that came off of the reservation. Whether that is on record or not, I wouldn't say. But I can show anyone the herds that wants to come out there and look them over.

Judge SETH. Have you ever talked with the Indians about it?

Mr. PRESLEY. Quite a number of them.

Judge SETH. Did they tell you that?

Mr. PRESLEY. They have told me that, because it works a hardship on the Indians that are legitimate users of that particular part of the range. When the other Indian increases his herd, why he naturally has to graze off of some of his neighbors, and that is why they have complained of those things.

Judge SETH. Do you believe that increase, by moving sheep from the reservation proper, has been quite extensive?

Mr. PRESLEY. I really believe it has; and I believe, if the Department would check into it, they would find there has been considerably more of it than any of us even guessed.

Judge SETH. Now, you made a statement this morning. Is there any further statement you care to make about district 7?

Mr. PRESLEY. Well, I believe that I have covered almost everything. I think one of the most important things is this withdrawal order prohibiting the use of that railroad exchange. That not only works a hardship on the non-Indians, but also on the Indians themselves. I have discussed that quite a bit with Mr. Stewart, and he said he had sent it in to Washington, or taken it under advisement, or something. I never did hear any more about it.

Judge SETH. They're simply holding the land that the Santa Fe surrendered.

Mr. PRESLEY. That is right. Something was brought out here this afternoon; something over 200,000 acres which should be in the public domain.

Judge SETH. You hold you ranch how, Mr. Presley?

Mr. PRESLEY. Well, I have some deeded land, and some land leased from the State; the State land, and a small permit under the Taylor Grazing Act.

Judge SETH. Have they threatened to cancel your permit?

Mr. PRESLEY. I had a letter last year stating that I must have my stock off of the public range by October 31. But later they seemed to overlook that, and there never was anything more said about it.

Judge SETH. What reason did they give, Mr. Presley?

Mr. PRESLEY. I don't recall what the reason was.

Judge SETH. You didn't move them, anyhow?

Mr. PRESLEY. No, I couldn't.

Judge SETH. How big a permit have you on the district?

Mr. PRESLEY. I think for about 150 head, or something like that.

Judge SETH. Of cattle?

Mr. PRESLEY. Cattle, yes, sir. But I have cut my cattle from—I used to run about 400 head there, and sheep in addition to that. Now for the cut down; it's cut down to about one-third, and I am trying to get along.

Judge SETH. I believe that is all we want to ask.

Mr. STEWART. Mr. Chairman, may I ask the witness some questions?

The CHAIRMAN. Certainly.

Mr. STEWART. Mr. Presley, at the time of this episode of the Navajo dying from tuberculosis, from the alleged shortage of milk, and the other case, did you report that situation to the Indian agent, at that time, at Crown Point?

Mr. PRESLEY. I didn't report that particular case, I don't believe; but I had another Indian there that had appendicitis, and I took him over to Crown Point, and the doctor there—I forget who was in charge—said he couldn't do anything for him. He didn't know just what was wrong with him, and after he was there 3 or 4 days he finally decided on an appendicitis operation. But it was too late, and he died the next day; so I figured it wouldn't be any use to report the other case.

Mr. STEWART. In regard to the observation that stock has been moved off of the reservation into district 7, if the advisory board passes upon an application, relative to an Indian obtaining a license and the number of stock that Indian is to run, then does it make any difference where that stock comes from?

Mr. PRESLEY. Yes; it makes a difference. The Indian is like anyone else, he is supposed to have been in the stock business, and be a legitimate user of the public range. I don't believe, though, that most of this increase will show until next year, when the applications are made again.

Mr. STEWART. My point is that the board passes upon each case, and sees, in effect, that this Navajo Indian is entitled to run so many head of stock, upon his application; and that is based upon consideration of his rights to run that number of stock. Therefore, what does it matter where that stock comes from?

Mr. PRESLEY. Well, as long as he doesn't go over what he should be allowed, considering his base land and water, why, it doesn't matter. But then if he is given a permit for, we will say, 150 sheep, and he is running 300, it makes a big difference.

Mr. STEWART. That is it.

Mr. PRESLEY. That is what I think has happened.

Mr. STEWART. That is the problem of the advisory board, is it not?

Mr. PRESLEY. Well, I don't know. It is a problem of whoever counts the sheep or cattle, whether it is the advisory board, or the range rider, or the range supervisor, or whoever that is. It is their problem.

Mr. STEWART. Thank you.

Mr. PRESLEY. As I said, I don't believe that increase will show up, much, until next year's licenses come in.

Mr. RUTLEDGE. I would like to ask some questions.

The CHAIRMAN. All right, Mr. Rutledge.

Mr. RUTLEDGE. You say this letter from Mr. Woehlke instructs you to increase Indian sheepmen up to 150 head?

Mr. PRESLEY. That was the way I got it. The letter is in the minutes. If you produce the minutes we can get the exact words.

Mr. RUTLEDGE. I should like to have a copy of that letter filed with the committee. If not, I would like to have it filed with me.

The CHAIRMAN. Well, we'll have it filed with the committee and with you, also. I want it in the record.

(The letter referred to was submitted the following day by Mr. Rutledge, and appears on page 3279 of the record.)

Mr. RUTLEDGE. Could you help us out by naming some of these Indians who have brought sheep from the reservation and placed them on district 7?

Mr. PRESLEY. The Indians from the reservation don't bring the sheep out and run them themselves. They bring them out and turn them over to some other Indian to run, and I don't know that I can recall the names of any of them offhand, but I can show you where the sheep and cattle are running. I know where the herds are.

Mr. RUTLEDGE. How large is your ranch, your range that you are on?

Mr. PRESLEY. Well, it was cut down. Now it isn't very large. I used to range over about a township and a half, and now I am cut down to about a half a township.

Mr. RUTLEDGE. How much Taylor Grazing Act land is in your range?

Mr. PRESLEY. Well, that is hard to determine. As I say, I used to use about 25 or 30 sections, but the way our permits call now, it is just run in a community allotment. It doesn't set aside any amount for any certain person in there; so you can't tell what you have got, 1 section or 10 sections, or what.

The CHAIRMAN. Are the minutes here, Mr. Naylor?

Mr. NAYLOR. I believe I have them. I was just looking for it.

Mr. PRESLEY. Well, under this exchange law that was passed in 1921, I believe, allowing the exchange of privately owned land and Indian allotments, to consolidate—some to consolidate the railroad land and some to consolidate the Indian holdings, but it all amounts to the same—why the railroad land was given up, or deeded back to the United States Government, or relinquished, or whatever you want to call it—some 200 and—how many thousand?

Mr. STEWART. Two hundred thousand.

Mr. PRESLEY. Well, it was about 240,000 acres; but of that amount the Indians gave up, according to Mr. Stewart's figures a while ago, 23,400 acres of Indian allotments. Therefore, they were entitled to take that many acres, in lieu of what they had given up. That leaves 200,000 acres of so-called railroad exchange that should be in the public domain, according to the way everyone has interpreted the law that I have heard discuss it. Under the Executive order of the Secretary of the Interior, that 200,000 acres is set aside for the sole benefit of the Navajo Indians, to be used in determining their base, or number of stock that they run. We contend that that 200,000 acres is public domain, and should be administered solely by the Grazing Service. When that is done it will simplify matters considerably.

The CHAIRMAN. That is the question that I understand is up for interpretation.

Assistant Secretary CHAPMAN. That is right.,

Mr. PRESLEY. I am going to—I heard Mr. Collier, himself, discuss that, at one of the senatorial hearings, and the way he put it, as I recall, was that in Arizona they passed an exchange law, and in that law it stated that all land relinquished back to the Government would be held for the sole use of the Navajo Indians, pending legislation in

regard to enlargement of the reservation. But in New Mexico the law did not state that this land should be held for the benefit of the Indians.

Now, you will find that, if you have a record of the congressional hearing that was held in 1930, at Crown Point, I believe. Mr. Collier, himself before he became Commissioner of Indian Affairs, goes into that quite a bit and describes the whole thing. He didn't think that; he thought our Senators kind of put something over on the Indian Department there, because they didn't write into the law that that should be held for the Indians; and, as I stated earlier this morning, that is one of the handicaps in working out this land exchange, because under that withdrawal order we can't even allow an Indian to select one of those sections as a lieu allotment for one that he has given up. In many instances, the Indians themselves have lived on these odd sections that the railroad relinquished back to the Government, and have been living on them for many years, have developed water on them, and are entitled to them. But under that ruling they can't have it.

Does that explain it, Mr. Rutledge?

Mr. RUTLEDGE. Yes, sir. I don't know whether I understand it. I will have to get the case.

Mr. PRESLEY. Well, I have studied this law, and been on all the senatorial hearings, and read everything I could find on it, and I have formed my own opinion, and that is it. I have talked to a lot of lawyers that should know what they are talking about, and that is their interpretation of it; and I can't see it any other way.

The CHAIRMAN. All right.

Is there anything further? If not, that is all.

Judge SETH. Let me ask one question. We haven't brought out the matter of grazing fees charged for grazing on district 7. Are there any grazing fees charged on district 7?

Mr. PRESLEY. No, sir; none whatever.

Judge SETH. The trouble is supposed to take the place of the fees.

The CHAIRMAN. The what?

Judge SETH. The trouble is supposed to take the place of the fees.

Mr. PRESLEY. Another thing I would like to state here, while we are talking about district 7, every year—if I am wrong on this Mr. Naylor or Mr. Rutledge can correct me—for the past 4 years there has been a certain amount of money set aside for range improvement to be spent in the district. So far, unless it is right recently, there never has been a dollar of that money spent where a non-Indian could get any benefit of it. Every bit of it is spent for the sole benefit of the Indians.

Senator CHAVEZ. If they don't collect any fees you can't have any money.

Mr. PRESLEY. That money is set aside from some other appropriation. Maybe Mr. Naylor can state where it comes from. I know they have got the money and are doing the work.

Senator CHAVEZ. The law specifically points out how the money is going to be distributed. McKinley County is entitled to the money; 50 percent of it goes to the county in which the land is located.

Mr. NAYLOR. That isn't the kind of money. This is soil and moisture money. We set up a camp near Crown Point and made water developments.

Senator CHAVEZ. According to the law, you are supposed to charge a fee for the public land.

Mr. NAYLOR. Not according to the rules of district 7.

Senator CHAVEZ. I don't know anything about the rules. The law provides that out of the \$1, 50 cents is to the State in which the county is located, 25 cents to the general fund, and 25 cents is to the land.

Mr. NAYLOR. No fee is charged.

Senator CHAVEZ. Why not, when the law says there should be?

Mr. NAYLOR. The rule says there should be no charge made until further notice.

Senator CHAVEZ. The rule is contrary to the law, because the law specifically says you have to pay. You don't run the white man anything for nothing in districts 1, 2, and 3, do you?

Mr. NAYLOR. Not that I know of.

Mr. PRESLEY. Anyway, this money is being spent for improvements. I don't know where it comes from, but none of it goes where the white man can get any benefit out of it.

The CHAIRMAN. Is there anything further?

Mr. RUTLEDGE. I don't like to let this stand as it is. In any new district we don't charge for the first year.

Senator CHAVEZ. When was this district organized?

Mr. RUTLEDGE. More than a year ago.

Then I want to make clear, I don't like the witnesses dodging that money question. Mr. Naylor has said specifically that money is for soil and moisture.

Mr. PRESLEY. That is what we want to know, what fund it comes from. We don't know. The people in district 7 don't know. We know it is being spent, and we would like to know. That is why we are bringing it out now. If it is legitimate, all right, fine and dandy; if it isn't we want it divided around like it should be.

Mr. RUTLEDGE. That is soil and moisture conservation money, Mr. Presley, appropriated for that purpose, with no reference to your grazing fees at all.

The CHAIRMAN. But it is being appropriated on a grazing district, for the improvement of the district, as I understand it.

Mr. RUTLEDGE. Yes, sir.

The CHAIRMAN. Well, he states it is being used, but it isn't being used where it will do any good for the non-Indian users.

Mr. PRESLEY. What I would like to see, and everyone else, is kind of divide it equally, at least partly. Maybe I am wrong, maybe it is appropriated especially for the Indians.

Mr. NAYLOR. I believe, Senator, if you will allow me, I can explain. At the present time, after we had developed the water we could reach from that camp, which is, as Mr. Presley says, mostly in the Indian territory—

Mr. PRESLEY. All of it.

Mr. NAYLOR. Yes, it is all. But it is either on exchange land, or something of that kind; but for the last several months we have moved the camp, and are working in the north end, up there where there is public domain, that is shown by that map of district 7.

Assistant Secretary CHAPMAN. Mr. Naylor, what agency is administering the disposition of that money?

Mr. NAYLOR. The Grazing Service.

Assistant Secretary CHAPMAN. Do you know anything about the background of the rules that permit the Indians to have the land free, without paying any fees for it? Do you know anything about that, Mr. Rutledge? Why was that?

Mr. RUTLEDGE. Unless we just decided we wouldn't charge them, I think the law says the Secretary may charge—

Senator CHAVEZ. I think the law says the Secretary shall charge.

Assistant Secretary CHAPMAN. That applies to both white and Indians, does it not?

Mr. RUTLEDGE. No.

Assistant Secretary CHAPMAN. In that district?

Mr. RUTLEDGE. Well, ask him. Are you paying a grazing fee?

Mr. PRESLEY. No, it applies to white and Indians alike.

The CHAIRMAN. No one is paying any grazing fees in that district. That is the way the record stands now. Neither whites nor Indians or anyone else.

Senator CHAVEZ. And the counties affected, what counties are affected? San Juan, McKinley, Valencia, and part of Sandoval.

Mr. PRESLEY. I don't know whether district 7 goes into Sandoval at all, or not.

Senator CHAVEZ. And the State loses whatever share they would have gotten if they had charged a fee?

Mr. PRESLEY. That's right.

Mr. RUTLEDGE. Mr. Chairman, I have always felt that a collection of fees is not the primary object of the Grazing Service, and that we should not collect fees until we are able to deliver something for it.

The CHAIRMAN. That is true. I have always contended for that.

Mr. RUTLEDGE. The first time I ever heard of anybody kicking about not paying fees.

Judge SETH. May I ask one question that I overlooked? Mr. Presley, do you know anything about the policy of the Navajo administration on the reservation, with reference to predatory animals and the effect on lands outside?

Mr. PRESLEY. No, sir; I don't know anything about that at all.

The CHAIRMAN. That brings up a subject on which several people have made inquiries today, as to whether the subject would be considered by this committee.

There are those who are interested in the subject of wildlife, and I have stated we would take that subject up the last day of the hearing, which we believe will be Thursday.

Mr. LEECH. Mr. Chairman, in connection with the fee question in district 7, some of the background of that, in drafting the regulations, was due to the uncertainty of the State use of quite a bit of the land, and the unknown carrying capacity, and the studies that were to be made to determine those carrying capacities. I think that is one of the main reasons that we do not charge for the district.

The CHAIRMAN. Under the existing history, it stands like this, as I view the record made here this afternoon: That while allotments are made, or rather permits are issued, for 150 or under, some of those who are holding those permits are running larger numbers than the permits contemplate; so that, if fees are charged at all, I am wondering upon what basis fees would be charged. It looks to me like it is a district that has—if it has any regulation at all, it has not showed up here in the record yet.

To be very frank with you—

Mr. LEECH. I think we should have more people to work on it, on these trespass cases, Senator.

The CHAIRMAN. Well, I might say in that regard, that the Grazing Service started out with a very small number of employees. It has been doubling and redoubling every year. The appropriation has been made one year after another, almost doubled every year. So, if you haven't enough, I don't know whose fault it is.

You may proceed.

Judge SETH. I believe that is all we have.

Mr. Berryhill, would you like to make a statement?

STATEMENT OF W. A. BERRYHILL, PREWITT, N. MEX.

Mr. BERRYHILL. In regard to the prairie dog program, killing prairie dogs, the Indian Department refused to cooperate in exterminating in certain townships where they held half the land; didn't reach any agreement. The dogs wasn't killed, like in this township we killed them; but over here they didn't kill them; they just come back, that's all. Now, I don't know who was the daddy of that, but that's what happened.

Senator CHAVEZ. Didn't that happen to the coyotes, too?

Mr. BERRYHILL. I don't know as to whether the coyotes run on the Indian territory or not.

Judge SETH. Mr. Lee, I think, is familiar with that coyote situation.

Mr. FLOYD LEE. The Indian Service does not permit the Biological Survey trappers and hunters to go on the reservation and trap coyotes.

Senator CHAVEZ. In other words, there is an artificial line, and on one side—

Mr. LEE. The coyote don't know the artificial line. He comes over to our side.

STATEMENT OF EDWARD SARGENT, CHAMA, N. MEX.

Judge SETH. Mr. Sargent, would you please make a statement? Will you please state your name for the record, and then go ahead and tell us what you know?

Mr. SARGENT. My name is Edward Sargent.

The CHAIRMAN. Where do you live?

Mr. SARGENT. Chama, N. Mex., in the northern part.

The CHAIRMAN. What is your line of business?

Mr. SARGENT. Livestock business.

The CHAIRMAN. What class of livestock, cattle or sheep?

Mr. SARGENT. Sheep and cattle, also.

The CHAIRMAN. Are you a permittee on district 7?

Mr. SARGENT. No, sir.

Judge SETH. He has his ranch right in the middle, surrounded by the district, but not a part of it. That is the situation.

Mr. SARGENT. That is right; I run on land that belongs to the Santa Fe railroad.

The CHAIRMAN. Within the district?

Mr. SARGENT. Yes, sir.

Judge SETH. Tell us what you know about sheep being brought in by Indians from the main reservation, Mr. Sargent.

Mr. SARGENT. Why, in the last 5 years, in the north end of the district, that is, from the Pueblo all up toward the Divide, there has been several bands of sheep come in off the reservation and delivered to Indians that did not have sheep prior to that time.

Judge SETH. What do you mean by several bands?

Mr. SARGENT. I would say several Indians; small bands of two and three hundred head. I believe 2 years ago there was 800 head brought in there and distributed among the Indians. I got that from Mr. Jim Councilman.

The CHAIRMAN. Some agency brought in the sheep and distributed them among the Indians?

Mr. SARGENT. Yes, sir.

The CHAIRMAN. Can someone give us some light on that? Mr. Stewart?

Mr. STEWART. Yes, sir.

The CHAIRMAN. What is the story on that?

Mr. STEWART. Mr. Chairman, we have no record of sheep being brought in there since 1938.

The CHAIRMAN. When were the sheep brought in, to your knowledge?

Mr. SARGENT. It may have been prior to 1938. I thought it was '38 or '39. I know one Indian at the pueblo, Sam Claw, who got 150 sheep. I especially know that.

Mr. STEWART. There was some sheep issued to Navajo Indians over in that area prior to the creation of district 7, formally.

Mr. SARGENT. No; this was after the creation of district 7.

Mr. STEWART. It was created in 1939, as I understand. Is that correct?

Mr. RUTLEDGE. Yes.

Mr. STEWART. It is my understanding these were so-called "reimbursable sheep," issued by the Indian Service to some Indians over in that district, up to 1938; but we have no record of any issued afterward.

The CHAIRMAN. Is there anything else? Are there any questions?

Mr. RUTLEDGE. This witness positively said these sheep were brought in before 1939, Mr. Chairman.

Mr. SARGENT. I may have been mistaken about that. I know positively Sam Claw got some sheep.

The CHAIRMAN. You don't know when?

Mr. SARGENT. I can't remember. Sam Claw—I think Mr. Naylor knows about it, maybe.

The CHAIRMAN. Mr. Naylor, do you know anything about this?

Mr. STEWART. Mr. Hunter is here, the district supervisor in that area for the Indian Service. He can explain that transaction probably better than I can.

Mr. CLYDE HUNTER, Nageezi, N. Mex.: These sheep Sam Claw got in 1941 were sheep that were repossessed, that is, reimbursable sheep, repossessed from the other Indians, and reissued to him. They were not added to the district; just taken from other Indians, who were gradually declining and not taking care of the stock; and, to protect the interest in the sheep, they were repossessed and reissued to Sam Claw.

The CHAIRMAN. Let's understand that. Sheep have been running in the district, but have been run by other Indians?

Mr. HUNTER. Yes, sir.

The CHAIRMAN. The other Indians were either not taking care of them properly, or not paying up as they should?

Mr. HUNTER. Yes, sir.

The CHAIRMAN. Therefore, the sheep were repossessed and turned over to this—what was the name, Sam Claw?

Mr. HUNTER. Sam Claw; yes, sir.

Senator CHAVEZ. Do you know of any other instances where sheep were transferred that way, Mr. Sargent?

Mr. HUNTER. Yes, sir; there was the case of Clarence Sol. There were about five or six cases in 1931 where that happened.

Senator CHAVEZ. 1941?

Mr. HUNTER. 1941; yes, sir.

The CHAIRMAN. That did not add to the number of sheep on the district?

Mr. HUNTER. No, sir; it couldn't.

Mr. HOVEY. Do you know anything about sheep involved between Jose Mestas, a Navajo Indian at Cabezon, and a man by the name of Graham, from that same place, a merchant?

Mr. HUNTER. I am not familiar with that case. The district doesn't go below the San Juan County line.

Mr. SARGENT. Where did the sheep come from, originally?

Mr. HUNTER. Originally—reimbursable sheep, put in 1936, 1937, and 1938.

Mr. SARGENT. Well, where did these originate?

Mr. HUNTER. In 1936 they were taken from the reservation. After that I am not sure where they got them.

The CHAIRMAN. Now, is it true that there was a program of distributing sheep by the Department, or Government, to Indians on the district, on district 7?

Mr. STEWART. Yes; that's correct.

The CHAIRMAN. Was that while it was district 2-A, or after it became district 7?

Mr. STEWART. I don't know when it was district 2. When was it district 2?

Mr. LEE. It was in district 2 from March 27, 1935, to September 1, 1939.

The CHAIRMAN. All right. Now, let's have the date of this time when reimbursable sheep were distributed to the Indians running on his district, at least this territory that is now within the district.

Mr. STEWART. Up to 1938; yes, sir.

The CHAIRMAN. Where were those sheep secured, when they were distributed?

Mr. STEWART. Well, Mr. Hunter indicated some of them came from the reservation, and some did not, from some outside source. Of course, at the time this—what is now district 7, although it was within the exterior line of district 2, district 2, insofar as what is now district 7, was not operable, because of the outstanding July 8, 1931, withdrawal of the public-domain land within the area.

The CHAIRMAN. In other words, district 2 having been withdrawn, you were not running stock in there?

Mr. STEWART. That part of it.

The CHAIRMAN. Is that right?

Mr. STEWART. Well, district 2, insofar as it lay outside of the July 3, 1931, withdrawal, we were not running stock in there. But we were issuing stock within this withdrawal area, which was within the exterior line of district 2. But district 2 could not operate over that area.

The CHAIRMAN. "Within the withdrawn area" is nearly comparable with district 7?

Mr. STEWART. That is right.

The CHAIRMAN. So sheep were taken out of the reservation—

Mr. STEWART. Some were, yes.

The CHAIRMAN. Do you know of any other places from whence they were taken? Does anyone know of any other place from whence sheep were taken, other than the reservation? Surely the man who had charge of the economy and the stock set-up for the reservation would know whether sheep were distributed from any other source than the reservation.

Mr. STEWART. I might say in regard to that point that Mr. Cooper came with me, in this particular work, a year ago this month.

The CHAIRMAN. Who was there before him?

Mr. STEWART. I do not know who was in charge.

Mr. COOPER. I think this goes back to Mr. Holman.

Mr. STEWART. He is not here?

Mr. COOPER. No, sir.

The CHAIRMAN. The way the record stands now is that the sheep were taken out of the reservation and put out on district 7. That was less on the reservation, undoubtedly, and an increase on district 7, undoubtedly. That is the way the record stands now, unless you can improve it.

Judge SETH. That is all, Mr. Sargent.

Mr. BOND, do you want to make a statement?

The CHAIRMAN. State your name and place of residence, and business.

STATEMENT OF E. A. BOND, RAMAH, N. MEX.

Mr. BOND. My name is E. A. Bond, Ramah, N. Mex.

The CHAIRMAN. Your business is stock raising?

Mr. BOND. I run cattle, and a little Indian trading post.

The CHAIRMAN. Where do you run your cattle?

Mr. BOND. South of Ramah, on district 7.

The CHAIRMAN. Very well, Judge.

Judge SETH. Go ahead and make your statement, Mr. Bond.

Mr. BOND. Well, in the first place, when district No. 7 was created, it was created with Mr. Milstead—I don't know what his initials are, other than "Milstead"—he was put in as supervisor of the Indians on the Ramah area, and we tried, through his being supervisor, to get blocked up. But we was unable to do it, because he wasn't in there too long; and then, after he was transferred some place else, they put in S. M. McGee. He was there a short time, and then the same thing come up, trying to block up that country for the white people and Indians. And he was transferred, and Mr. Holliday was put in as supervisor, or over the Ramah area; and he didn't remain there long enough to work out an exchange. He was transferred, and E. Z. Vogt was put in as the supervisor for the area, and I think—

The CHAIRMAN. Can I bring that thing a little closer to you there—

Mr. BOND. And Mr. Vogt, together with Mr. Petersen—I think Mr. Petersen came out and spent somewhere in the neighborhood of a week trying to make some exchange. I think they did agree upon an exchange with Crawford and Manning, and that was all; and through his efforts, that is, Mr. Petersen, they were unable to do anything about it. Mr. Vogt passed away and now we have got Mr. Bob McNew. He is—I don't know whether it is supervisor, or stockman, or range rider, or what his official title is, but he's out there now, and he has made up an exchange with all the white settlers in that district. We all signed those papers, and what has become of them, why, nobody knows.

The CHAIRMAN. What was in the papers, in general terms?

Mr. BOND. Exchanging some of the lands that we had leased for some of the lands the Indian Service had leased. That would block us up, together, so we wouldn't be running over Indian lands.

We have the lower end of—well, it is in Valencia County—we have one township down there that was exchanged, like some of this other land that has been mentioned here today. I don't know whether it was New Mexico or Arizona, or whether it was the Santa Fe Railroad Co., made an exchange, on one township, with some of these landowners. So then we have three places, I believe, in that area that is now in the Zuni Reservation, that was bought with this resettlement money, like a lot of other things we have been talking about here this afternoon, and also this morning.

As far as the white people and the Indian people getting along, I think they have got along fine. I was born in Ramah, 53 years old, and I have slept in Indian hogans, and the Indians have slept in my house, and we have got along fine. The only trouble we have is these officials who are sent out to represent the Indian Office. They're the ones that create the trouble, not the Indians, and not us.

The CHAIRMAN. What is that, now?

Mr. BOND. It is the officials that are sent out by the Indian Service that cause the troubles, not the Indians or the white settlers.

Judge SETH. How long has that land-exchange business of yours been pending?

Mr. BOND. Somewhere in the neighborhood of 4 years.

Judge SETH. Four years?

Senator CHAVEZ. Well, they're about to tire you out.

Mr. BOND. At least there have been five agents, or supervisors, that have been in, since this exchange was brought up, to try to make some exchange. It may not have been 4 years, but it is quite a while.

Judge SETH. That is all.

The CHAIRMAN. Are there any questions?

Mr. LEECH. May I ask a question?

The CHAIRMAN. Yes.

Mr. LEECH. This exchange that you speak of, was that just an exchange of use of certain lands that would be worked out, or was it an exchange of title to property?

Mr. BOND. The one that we have been trying to exchange with the Indian Service?

Mr. LEECH. Yes.

Mr. BOND. Just uses.

Mr. LEECH. Just an exchange of use?

Mr. BOND. Yes.

Mr. LEECH. Mr. Naylor, can you tell us anything about that?

Mr. NAYLOR. Not very much, only we have tried to get some exchange to block the Indians and non-Indians in the Ramah country. I understand there have been a good many applications signed, but they have never come to my office, so I couldn't tell you anything about it.

Mr. LEECH. This is an exchange of use for forage. Could you tell us why you had all those changes in personnel in that unit?

Mr. NAYLOR. No; I couldn't tell you.

Mr. STEWART. Mr. Chairman, I would like to answer Mr. Leech's question as to changes in personnel. That is a real problem, and has been now for the past 2 years, at least, and before that.

The wages or salary paid these employees are not very high, and since the war they are leaving us very frequently to take employment at war industries at higher wages.

Senator CHAVEZ. What do the supervisors get?

Mr. STEWART. It all depends; some were getting from \$1,800 a year, to \$2,600, depending on the responsibility, the area served, the number of people, and the property involved, and so on.

Senator CHAVEZ. Are these classified under civil-service regulations?

Mr. STEWART. Yes, sir.

Senator CHAVEZ. Where do you get personnel, generally?

Mr. STEWART. Through the Civil Service Commission.

Senator CHAVEZ. Do they have to belong to some locality?

Mr. STEWART. They have to have certification through the Civil Service office, usually, at Denver, I believe, or San Francisco, depending on what side of the reservation we are involved.

Senator CHAVEZ. Is that a good system? Can the Civil Service know what kind of personnel you need down there?

Mr. STEWART. I believe they have some way or alternative of selecting by background, qualifications, and training.

Senator CHAVEZ. Do they ever see any of the range land before they get out there to supervise the administration of the work?

Mr. STEWART. Perhaps some do not; I grant that.

The CHAIRMAN. Very well.

Judge SETH. I think that is all we care to present on district 7.

The CHAIRMAN. Are there any questions?

Mr. BERRYHILL. Didn't you tell me that the stockmen advised you to exchange water use with the Indian Department, where you had water you could use? I mean, you had water where they could use it, and they had water where you could use it? Didn't they advise you that could not be done?

Mr. BOND. Exchanging of water?

Mr. BERRYHILL. Yes; exchanging your water for their water, that is, where their water was situated in your range?

Mr. BOND. I don't remember making that statement, but I will say this, that we have asked for the right to water in certain tanks on the public domain, but we haven't been able to get it.

The CHAIRMAN. What was the last part of your answer?

Mr. BOND. We have asked to get a permit to water in a certain tank that is built on the public domain. That has not been granted.

Mr. BERRYHILL. Did you offer to let them water at your water for that exchange right?

Mr. BOND. No; I have offered to let them water at my place.

Mr. BERRYHILL. Maybe it was your son I talked to, instead of you. I had in mind it was you, but that information was brought to me.

Mr. LEECH. I would like to know from the witness if he made this application to Mr. Naylor, or to whom he did make it. That is, for the use of this tank on the public domain.

Mr. BOND. I made it to Mr. Naylor in person.

Mr. LEECH. Can you tell us anything about that?

Mr. NAYLOR. No; I don't remember any application.

Mr. BOND. It was not in writing, but in person.

Mr. NAYLOR. It might have been. I don't remember.

The CHAIRMAN. How long ago was that?

Mr. BOND. About a year ago.

The CHAIRMAN. All right. Are there any further questions?

Mr. LEECH. We will have Mr. Naylor look into that immediately, Senator.

Judge SETH. We have nothing further on district 7, Senator.

The CHAIRMAN. Very well; that is all on district 7.

Senator CHAVEZ. What about Mr. Branson?

The CHAIRMAN. Is there anyone in the audience who cares to discuss matters pertaining to district No. 7? Is there anyone in the audience interested who cares to present any statement with reference to district No. 7?

Mr. STEWART. Mr. Chairman, there is a group of Navajo Indians in town, and I understand they want to be heard through a spokesman. That spokesman, however, is not here. Would it be permissible to have him heard tomorrow when he gets here?

The CHAIRMAN. All right.

Mr. Branson, I promised you that you could be heard, and I want to keep my promise now.

STATEMENT OF J. F. BRANSON, THOREAU, N. MEX.

Mr. BRANSON. One question that came up that Mr. Naylor, Mr. Stewart, and the secretary couldn't answer, and the question was asked by Mr. Leech.

The CHAIRMAN. Just one?

Mr. BRANSON. Yes; and I wish to answer, for the reason they couldn't answer because it was none of their business.

The CHAIRMAN. Take your time and make your statement, Mr. Branson.

Mr. BRANSON. Well, Mr. Lee asked—sprung the question of—well it seems he was charging the Department here of permitting livestock to be moved off of the Indian reservation, through grazing district No. 7, without any authority and in violation of the laws, rules, and regulations governing the Taylor Grazing Act.

I could give you one case of it. There was a certain Indian trader first before I do that, I'll have to give some other explanations.

I have a little ranch in 14 north, 13 west, and it consists mainly of four homesteads that was patented. Three of them were patented 51 years ago, at a time when the Indians were supposed to be on the reservation. It was fully 16 years before any Indian allotments

were made off of the Navajo Reservation. That is the history that I have of it. On one of these homesteads a Navajo Indian had built his home—on one of my homesteads on which I was paying the taxes, and have paid it for years.

The CHAIRMAN. Is it a patented homestead?

Mr. BRANSON. A patented homestead, patented under the homestead laws.

Now, you might ask me why that Indian happened to be on that homestead, and the only answer I have to give you is this, because it was the best place he could find to go, according to his idea, and according to my idea. It suited me fine.

There was an Indian trader, living on the Indian reservation, came to me, and he said, "Branson, I want a place; some place where I can hold my livestock for a few weeks until I can ship." Now, this Indian trader had purchased Indian livestock; livestock that was raised by the Indians on the Navajo Reservation. We agreed on the price, and he wrote me his check, and I told him what I could do. I took him over to the Indian—first I took him out on the range and I showed him a good place to hold his sheep, out about a couple of miles from the water, and then I took him over to the Indian house. I told the Indian what we were doing. Now, I says, I suggested to him that he move his sheep and hold his sheep on some land that is owned by the United States Government that they hold in trust for the Navajo Indians.

He followed my suggestion; the trader went ahead and followed, he acted a gentleman about it; and the Indian acted a gentleman. He shipped his sheep, and went back on the reservation and did some more trading. The next year he did the same thing.

Now, as far as I am concerned, I was doing my duty as an American citizen. Those Indians knew more about their business than Secretary Ickes down in Washington, or John Collier either, and I think as much as Mr. Stewart knows about it. Those Navajo Indians have lived in this country for centuries, and we got along with them fine until they started a "new deal" on us—I will call it that—here a few years ago, when they undertook to put us in a reservation, taking—well we couldn't afford to go inside the reservation with the Indian Office down in Washington trying to run it for us. That is the way it started, about 10 years ago, when they decided to make an Indian reservation out of the land south of the present reservation and east of it.

About 13 years ago the Department—after the Navajo Indians struck oil upon the reservation, and were beginning to bring in some wells—there was a meeting in Gallup of representatives from Washington asking the livestock men of McKinley County to assist them in using that money to buy some lands for the Indians, and some water rights. There was 10 livestock men signed that petition. That was about 14 or 15 years ago. They took about—I think it carried a million dollars for them to buy lands with. They bought the lands; and in 1932 they bought all of the railroad lands that did not touch every section between the reservation and the Santa Fe Railroad, except the sections of land that the Santa Fe Railroad runs through.

Now, the land—understand that I am speaking of that they bought—it was owned at that time by the New Mexico-Arizona Land Co. The New Mexico-Arizona Land Co. has purchased this land from the Santa Fe-Pacific Railroad, and resold it. Now, if there is

any question, as far as I am concerned, I did my duty as an American citizen. The Navajo Indians, this Navajo Indian who acted a gentleman about it, and so did the trader. Now, I am telling you this for your information, for the reason that these gentlemen couldn't answer the question because it was a piece of business that did not concern them.

The CHAIRMAN. All right, sir, thank you very much.

Mr. BRANSON. If there is any questions, Mr. Lee or anyone else wants to ask me about that particular case, or Mr. Stewart?

The CHAIRMAN. All right, thank you.

Mr. BRANSON. I am quite sure that Mr. Naylor here could give you some further information on it, if you want to ask him.

The CHAIRMAN. I think so, too.

Mr. PRESLEY. Mr. Chairman, there is one other thing that I would like to bring out that I haven't mentioned.

Last week we had a meeting in Gallup of the Northwest New Mexico Hereford Breeders Association, which is an association of stockmen of that district, and all of these things that were brought out here by myself and Mr. Berryhill were discussed at that meeting. The members of that association elected Mr. Berryhill and myself to come down here and act as spokesmen for them, because most of them don't have the gasoline or the tires to come. What I have said here, this evening, concerns everyone in the district. I am not just speaking on my own account.

Mr. BERRYHILL. I would like to answer that, that I have also been a member of the land committee in that district.

The CHAIRMAN. All right, is there anything further?

Is Mrs. Henderson here? Mrs. Henderson, if you wish to come forward, I understand that you have to go away and that you want to be heard today. Is Miss Henderson with you?

Very well, perhaps one of you can testify for both. Miss Henderson, do you care to testify? You may take your time and tell us the story you want to tell.

Mrs. HENDERSON. Well, we have had difficulty in finding out how they allot the land.

The CHAIRMAN. First of all, what is your name?

Mrs. HENDERSON. Mrs. V. M. Henderson and Miss Volney Henderson.

The CHAIRMAN. Where do you live?

Mrs. HENDERSON. At Datil, N. Mex.

The CHAIRMAN. You are in the stock business?

Mrs. HENDERSON. Yes, a little bit.

The CHAIRMAN. Very well, go on and tell us your story.

JOINT STATEMENT OF MRS. V. M. HENDERSON AND MISS VOLNEY HENDERSON, DATIL, N. MEX.

Mrs. HENDERSON. We have really had a lot of trouble with learning from the Grazing Department just what is an allotment between our neighbors and ourselves, and they don't stick to any one rule. When you get one worked out, they'll have another, and you work that out with them and you can't use that, they'll have another one, and it all goes back to the other. We have never been able to know how they allotted land.

The CHAIRMAN. How many rules have you known about?

Miss HENDERSON. Four or five, or more.

Mrs. HENDERSON. When one won't fit us they get another worked out, and if you can't use that logically, they use another one.

The CHAIRMAN. What seems to have been the question you wanted answered?

Mrs. HENDERSON. We would like to know the method, principle, and basis on which they allot the land between the neighbors.

The CHAIRMAN. Who did you talk to?

Miss HENDERSON. We have talked to quite a number of the officials of the Grazing Service in regard to this.

The CHAIRMAN. Did you ever talk to Mr. Naylor or Mr. Pierson?

Miss HENDERSON. We talked to Mr. Naylor and Mr. Pierson, Mr. Rutledge at one time, Mr. Cavanaugh, Mr. Kerr, quite a number of times, and Mr. Leech and Mr. Pierson.

The CHAIRMAN. Did you talk to Mr. Leech?

Mrs. HENDERSON. There has been so much competition we haven't been able to understand it. No one would say what we wanted to know. We thought we might ask the regional grazier and maybe he could make you understand it better than he can make me understand it.

The CHAIRMAN. Is the regional grazier here?

Mrs. HENDERSON. I think he is.

The CHAIRMAN. Will you kindly explain to the lady; give her an answer?

Mrs. HENDERSON. Can I ask him a question?

The CHAIRMAN. Yes.

Your name is what, sir?

Mr. LITER SPENCE, regional grazier. I am Liter Spence, the regional grazier in that area.

The CHAIRMAN. Now you may ask Mr. Spence what you want.

Mrs. HENDERSON. In our region there is not much land involved, or public domain. There are four wells there, and all this land that we grazed on before the law went into effect was filed-on land. I think there is two or three sections, maybe two forties or something, there that was public domain, and all the other sections was filed-on land, under control of the filers, and we were all what you would call trespassers, were not prevented in use of this land.

Then, after the law went into effect, one by one, at different dates, these sections reverted back to public domain. Now, I want you to clarify, if you will, just by what method you divide between those four wells.

The CHAIRMAN. I suppose you want to know how you get a right to graze livestock on the public domain under the Taylor Grazing Act?

Mrs. HENDERSON. Yes.

Miss HENDERSON. Let us know the circumstances.

Mr. SPENCE. May I go back a little further in this case? An original application for grazing privileges was made by Mrs. Henderson for 75 head, and that was granted. Since then it has varied from about 113 head, I think is the present number, and they have consistently run about 78 to 80 head, with nonuse for the difference.

Miss HENDERSON. May I ask a question? What do you mean by 113?

Mr. SPENCE. That is the number that the advisory board recommended and the Grazing Service concurred in.

Miss HENDERSON. May I explain that?

The advisory board has set up in our region that 15 head of cattle could be grazed on a section. That is impossible. Recently, in 1942, the member of the range department, I presume, came out, Mr. Adair, and checked our range. He declared that those five and a quarter sections of land would graze 52 head of cattle, if we did not feed them, and 70 head if we did feed.

Mr. SPENCE. The point that I wanted to make is that their numbers that were running during the priority period have been satisfied.

Now, I would like to have this understood, Mr. Chairman, there have been two or three regional graziers that have preceded me on this, and as Miss Henderson and Mrs. Henderson have indicated, there have been many that have been on this case. At their request last year, in the spring, I went out and reviewed their case with them. I indicated to them that I could not find anything in the record, which I had to use, since the case has been pending since 1937, that would warrant me modifying any action that had been taken; and I have recommended that they follow the regular procedure and carry it through an appeal. It has not been their wish to take it to appeal for reasons which they feel are good and sufficient.

The CHAIRMAN. Let me get it clear. They made application for 75 head in the first instance?

Mr. SPENCE. Yes, sir.

The CHAIRMAN. That was granted?

Mr. SPENCE. Yes, sir.

The CHAIRMAN. Is that an all-year permit?

Mr. SPENCE. All-year.

The CHAIRMAN. Then did they apply for a greater number?

Mr. SPENCE. Yes.

The CHAIRMAN. Was that granted?

Mr. SPENCE. Two short of the numbers applied for.

The CHAIRMAN. What did they apply for, if you recall?

Mr. SPENCE. One hundred and twenty-five head.

The CHAIRMAN. And they were granted 113?

Miss HENDERSON. That is where the situation comes in again. Mr. Spence, I realize, hasn't been here and doesn't know as much about the case as those that have preceded him. I am very familiar with it, and so are my parents, and there have been discrepancies and inconsistencies and contradictions in the case that make it impossible for you to arrive at anything definite.

Now, the number of cattle asked for was the number of cattle run before the Taylor Grazing Act went into effect, but this is land—note that was in there at the time that it was under homestead filings, not what you call public domain or Federal range. It was under homestead filings. It returned after the act, practically all of it. Maybe there might be as many as two, three, or four forties not filed on, but all of the rest of it was filed-on land; and when it returned, up until the time this region was set up in 1937, we ran a total of 125 head of cattle, as a maximum, you understand; all the time, but that was the maximum number. When I talked to Mr. Cavanaugh, at one time, he asked me how many cattle we had run at that time, and I told him a total of 125 head of cattle, at one time or another. He

has said I should always put in application for that number, for the land that I am asking for in regard to our water right, and so that is why we always asked for 125 head of cattle.

You understand, when the region was set up they asked how many cattle were run on the land before the Taylor Grazing Act went into effect.

What we are trying to arrive at, there are many factors and factors that the Grazing Service bring up. At first they told us one rule worked, and we worked it out on that basis; and then they said No, it wasn't that rule. Then I worked it out on the next rule they gave me and no, that wouldn't do. Then it has gone down to four different rules, and all of them are different, each time. Each time I have worked it out to our benefit, and it has been wrong; that is, we feel that we haven't been properly helped, haven't been given enough Federal range.

Mrs. HENDERSON. They haven't given us enough land, they've given us more cattle, which shortens the land.

Miss HENDERSON. You understand 15 head of cattle would give us less Federal range, but that region will not carry 15 head of cattle. The Grazing Service——

The CHAIRMAN. What you want is an extension of the range. Is that it?

Miss HENDERSON. If we are entitled to it, from what they have told us. The rules, as I explained, as they were explained to us—from what we understand, we feel that we have not been given a proper amount of Federal range in that. What we want to arrive at, anyone from the Grazing Service will tell us exactly how they go about allotting land on these four prior wells of about nine sections of land in one little spot.

The CHAIRMAN. The water is the base there?

Mr. SPENCE. Yes, sir.

The CHAIRMAN. They have water?

Mr. SPENCE. They have water.

The CHAIRMAN. To carry them as base property for 125 head?

Mr. SPENCE. Yes.

Miss HENDERSON. Yes.

Mr. SPENCE. One hundred and thirteen is what the board has given them.

The CHAIRMAN. Would you be satisfied if you got what you applied for, 125?

Miss HENDERSON. That is what we are entitled to; it is not a matter of satisfaction. We're trying to find out what is justifiable in this case, what is right, and what is not right, and——

The CHAIRMAN. Well, the number that you ran there before the Taylor Grazing Act came into effect; what number did you run there?

Miss HENDERSON. Sixty head of cattle.

The CHAIRMAN. Then you have had at times, 125 cattle?

Mrs. HENDERSON. That was land they had nothing to do with.

Miss HENDERSON. They have told us the number of cattle grazed before the act, and the number of cattle that was grazed after the act, would be a different thing, because the lands are not the same, so they have explained to us. The land in there—the 5-year period preceding the act was based for the number of cattle that you could run in that

5-year period; but it was not public domain. It has nothing to do with—

Mrs. HENDERSON. It had nothing to do with what came back before the law.

Miss HENDERSON. What we are trying to arrive at is just exactly how would this land be allotted under those conditions? There are four prior wells. They were wells in here before the act; but the land is land that all reverted to the Federal range after the act.

Mrs. HENDERSON. None of them are entitled to the use of it because the Government had nothing to do with the land until after the law went into effect.

The CHAIRMAN. My understanding is that there was some homestead filing in there. Is that correct?

Mr. SPENCE. That is correct.

The CHAIRMAN. That reverted to the open public domain after the act went into effect. Is that correct?

Mr. SPENCE. That is correct.

The CHAIRMAN. And they ran their cattle on the homesteads prior to the act?

Miss HENDERSON. Yes.

Mr. SPENCE. Well, there is a question there of whether or not some of their neighbors may have had a verbal understanding with the applicant for the homestead to run his stock on there, even though others may have run on there. There is a point on that.

Mrs. HENDERSON. Well, they have nothing—this was controlled land that the Government didn't have anything to do with when it was returned. Whatever verbal or anything else had been agreed on, it ended.

The CHAIRMAN. That was all out?

Mrs. HENDERSON. All out.

The CHAIRMAN. That is right, whatever agreement was had as to the homestead, that died with the homestead.

Mrs. HENDERSON. Yes; when it reverted.

Miss HENDERSON. Well, that wouldn't affect the situation there; it is strictly a matter of location and water, and distance from that water. How is that land allotted on that situation?

The CHAIRMAN. Well, I don't believe I can answer you right now.

Mr. SPENCE. Mr. Chairman, my own position in this is, as I have expressed it, there have been—I don't know how many, a dozen or more men that have been on that case. I expressed myself a minute ago. I couldn't find anything that would justify a change in the action, and I think that, to say to them, the thing to do would be to carry to an appeal and straighten that out. That would clear it all up, if there is something to be straightened out.

Senator CHAVEZ. How many of your decisions are reversed when they go up on appeals, generally?

Mr. SPENCE. I haven't had any, Senator.

Mrs. HENDERSON. I think there is enough people to adjudicate that and save us the burden and expense of a hearing. Now, the burden and expense—

The CHAIRMAN. Where is your dissatisfaction, Mrs. Henderson? You applied for 125, and you got 113. The difference between 113 and 125; is that what you are dissatisfied with?

Mrs. HENDERSON. We're not allowed enough land; they have given you more cattle, so you don't have to have as much land to feed your—

Miss HENDERSON. Now, this 113, there is another point in that. At the time of the set-up, in 1937, we owned only two sections of patented land, and we were given three and a quarter sections and 20 acres, to be exact, in the allotment. That makes five and a quarter sections and 20 acres. That is all that is concerned. Since then we have purchased two more patented sections, and added to this two patented sections—that could have nothing to do whatever with the original set-up; so it comes back to five and a quarter sections of land, 15 head to the section. You see, on their records, they corrected it recently, and it is 109 that is given now.

Senator CHAVEZ. Let's see if I understand you, Mrs. Henderson. They allowed you 113 head of cattle, but did not give you enough range to take care of that?

Miss HENDERSON. One hundred and thirteen is not the amount they allowed. They corrected that to 109, which was an incorrect statement on their part.

Senator CHAVEZ. Still, that is the problem that faces you. They allowed you so many head of cattle, but did not allow you sufficient land, according to your views, to take care of 109 head of cattle?

Miss HENDERSON. That is, the 125, if they go by the total number. Of course, you understand, we realize in this region that the amount of Federal range is so small that the 4 neighbors would not be able to be satisfied by their full amount, but in a proportionate order.

Mrs. HENDERSON. That is what we want to see. What is the proposal?

Miss HENDERSON. What we want to arrive at is the rule. We have been told by the Grazing Service and the advisory board members there is a 3-mile distance in there; our water is entitled to reach out 3 miles over the land.

The CHAIRMAN. How about that?

Mr. SPENCE. That is one of those guides we use when it can be applied. But in the case of congestion, and heavy competition for a small amount of range, any one rule or combination of rules—

Miss HENDERSON. I hate to contradict Mr. Spence, but it has been applied in that region by our neighbors and in our own case. That is on a section of land—

The CHAIRMAN. Is that true, that you apply one rule to the neighbors, and a different one to them?

Mr. SPENCE. I think not in spirit, Senator. By that I mean that we cannot apply any hard and fast rule anywhere. Certainly there are times when we can't, and times when we can. We have worked these things out, and this congested area has been worked out by an agreement, which is in effect, and which there is a controversy over.

The CHAIRMAN. An agreement between the parties using the range?

Mr. SPENCE. Yes, sir.

Mrs. HENDERSON. I want to get this advice before they go into this other than he would like to bring up.

The CHAIRMAN. What is that?

Miss HENDERSON. This signing up, the land agreements he has reference to.

The CHAIRMAN. You want to get this straightened out first?

Miss HENDERSON. Because this will bring out certain things that have gone on that are not right in the situation, entirely. For instance, now, at the beginning in 1937 we received a notice from the advisory board and the Grazing Service that stated we had been placed in class 2, as a class 2 application, and had been denied Federal range because of insufficient range; and that the other waters would get the first choice of the land. We contested this, and won out; and in public the advisory board and Grazing Service have thrashed this out a number of times, and have voted openly that we had the priority.

The CHAIRMAN. For how many?

Miss HENDERSON. Priority for 60 head. If they were holding just a matter of priority; that is, that the water was developed before the act went into effect; that is what we have reference to, a well priority. Then, in secret, they do something different, and declare that we don't have a priority.

Mrs. HENDERSON. We don't know what it is.

Miss HENDERSON. We cannot fight that situation. They say it is on hearsay; and yet they won't produce any evidence of hearsay. As I understand hearsay, you can't condemn anybody; anyway, that is not evidence. You ask them what hearsay is, and you can't get them to say what hearsay is.

The CHAIRMAN. My understanding is that you have a record here, made by your advisory board.

Mr. SPENCE. Their water is recognized as prior water at present.

The CHAIRMAN. Publicly and privately, and every other way?

Miss HENDERSON. Mother talked with Mr. Spence and Mr. Painter, one day of last week, I guess, and Mr. Spence and Mr. Painter, or Mr. Painter, I believe it was, the one doing the talking, said they did not believe—is that correct—Mr. Painter did not believe that we had prior water, and that is why they were holding back on the land.

The CHAIRMAN. You say now that you have a priority?

Miss HENDERSON. This is the way it seems to be done; in public they will vote you a priority, and then they'll go back and bring out this "nigger in the wood pile," or whatever it is, and take it way from you. Then you thrash it out—

The CHAIRMAN. Mr. Spence has said here in public, and on the record, that you have a priority.

Miss HENDERSON. All right, if we have a priority; now, if that is definitely established, it has been established by Mr. Carpenter and Mr. Cavanaugh.

Mrs. HENDERSON. We have got that, so we don't have to trouble any more.

Miss HENDERSON. Then we want to know how the land is to be divided among these four wells, among the applicants.

Mrs. HENDERSON. On equality.

The CHAIRMAN. Well, we got one part of it answered, can you answer the other?

Senator CHAVEZ. Are the wells alike?

Miss HENDERSON. Yes.

Senator CHAVEZ. Do they all have priority?

Miss HENDERSON. Yes.

Mr. SPENCE. There has been a question, Mr. Chairman, from the very beginning, as I gather from the record, that there was some

question in some, or possibly all, of the waters having been prior. But the advisory board and the Grazing Service have decided that they had prior water, and have had their privileges accordingly. But there is doubt expressed in the record, as I found it, that there was some question, at the time, over not only theirs, but others.

THE CHAIRMAN. Now, I think maybe we can settle it. We have settled it. They have the priority.

Mr. SPENCE. That is correct.

THE CHAIRMAN. It seems to me the rest of it ought to be worked out. Aren't you satisfied now with your priority declared publicly?

Mrs. HENDERSON. How are they going to divide it? Nothing to keep it from dividing with us any more than dividing with others. They are evading it, and they don't divide with us. There is congestion and conflict, there is nothing, just like all the rest. What they do is draw a circle three miles, and overlap a part of that with our neighbor. You put a cross line; that is what they told us. I talked to Mr. Gozie, and he says they denied that, but he says that is the way it was set up when he was in there, but they are not giving it to us. They don't give it to us.

THE CHAIRMAN. You have a permit for 109 head, don't you?

Miss HENDERSON. We have a permit for 109 head, but I can't run 109 head of cattle on $7\frac{1}{4}$ sections of land. That is where the difficulty comes in. They are declaring 15 head of cattle to the section, and it won't run that many. That makes it appear that you have received the number of cattle you should have to fulfill your demands, do you see, but really you have not. Now, may I ask one question—

Senator CHAVEZ. How many head of cattle can you run on it?

Miss HENDERSON. According to Mr. Adair, of the Grazing Service Department, 52 head of cattle on the $5\frac{1}{4}$ sections of land; 70 head if we feed.

Senator CHAVEZ. So you have rights to graze 109, but the land allotted will only take care of 52 under one condition, and if you feed them, so many more?

Miss HENDERSON. Seventy head.

Senator CHAVEZ. That is your trouble.

THE CHAIRMAN. You want more land?

Mrs. HENDERSON. Well, they are not—there is a whole lot to it that has to be straightened out first, before they might mix it up again.

THE CHAIRMAN. Is there any more land to be had?

Mrs. HENDERSON. But our neighbor, with no more land than we have, is not entitled to any more than we have.

Miss HENDERSON. We feel our contesting neighbors have received more land, according to what we understand, than they should have. In other words, our well would not have drawn this water, would have drawn this land, if properly carried out under the 3-mile rules.

Mrs. HENDERSON. In our area, how far can you reach out to divide the land?

THE CHAIRMAN. How do your neighbors compare, in numbers, to yours?

Mrs. HENDERSON. Well, I don't know exactly what you mean.

Miss HENDERSON. The number of cattle; is that what you mean?

Mrs. HENDERSON. Oh, our neighbors, Mr. Sellers, he has got 150 or 200 head, and has bought more land. We have too; but what we used was the 3-mile limit, with all our neighbors established. They

denied that; I told him today they denied it. Now he says yes; he says that is the way it was established in that area, each one could extend 3 miles. Then, when they overlap they draw the line between, and this one gets this side, and this one gets that. But we didn't get it that way.

The CHAIRMAN. Didn't you get your 3 miles?

MISS HENDERSON. Not in that way; no.

Mrs. HENDERSON. We didn't get it like they measured it. Our neighbors testified the same thing. That is the way they was measured. That is the way it was done for them.

The CHAIRMAN. Can you give us any more light on this?

Mr. SPENCE. No, sir; because the details of those early adjudications are not in the record. That is all I have to go by, Mr. Chairman.

Mrs. HENDERSON. All of our neighbors, that is the way some of them had to fight to get that, after it was used that way; and then they wouldn't give it to them. They had to go in and fight it.

The CHAIRMAN. You don't feel like taking an appeal?

Mrs. HENDERSON. I'll tell you why not. We tried it, and it involved a great deal of expense and work, and then we don't know. We went to see Mr. Fred Wilson. Well, in the beginning we thought that we could wrangle it out with them, and get them to do the thing right. We went to see one of the land men, who said they resent lawyers, and for us to try to wrangle it out with them, so we tried for a long time. Finally we went to Mr. Wilson, and he says, "I will investigate it thoroughly." So, for a month, for months, he talked to Mr. Leech, and different ones, you know; and so, at the end, he said this, he said: "It would cost you \$500 to take your case. It would take me 4 or 5 days to examine witnesses," and we would have to pay for the witnesses. But, he said: "I won't take your case, because you have antagonized the board, and there is no chance for you to win." He said: "I don't say you are not in the right, but there would be no use, because you would stand no chance."

The CHAIRMAN. I don't see anything, so far, that indicates you have antagonized anyone. It seems to me Mr. Spence is unusually frank about it. It looks as though he has made quite a study of it. He may not have been able to decide the way you want to decide it.

Mrs. HENDERSON. He hasn't been here very long. He doesn't know too much about it; he hasn't been here very long.

The CHAIRMAN. The trouble is, we have to deal with him. He is on the job now.

Mrs. HENDERSON. He has a lot to learn about our case, yet.

The CHAIRMAN. Yes, he has; I guess that's right.

Mrs. HENDERSON. I'll tell you one thing; now, then, the trouble is this, it is not like civil court; it is a big job to prove anything. You can't hardly prove it when you bring it up and show it. They won't believe it, and it would be hard to prove; but they allotted land to our neighbors who water, and he didn't even own the water. We found that out 5 months afterward and took it up with them, and they didn't know what to say right then. After they saw him they fixed it up and he is running in common with a man, and I can prove he couldn't run in common. The other man didn't have a head of cattle and the land and everything, and the water; and there was no running in common. Nothing shows that they were running in common. That man still has that half section of land, and they won't do anything about it.

When you have a case like that, you have got to get a lot of witnesses, and it is a long ways. It isn't like a civil court. If you fight it in a civil court, why the wrongdoers generally have to pay the cost of the witnesses, and all like that.

The CHAIRMAN. Sometimes.

Mrs. HENDERSON. If you put it in, but here you've got to bear all the burden; and the board, they allot land there, but they know you have got to fight it. They give it to Jim or to Seth and they know you have got to fight it, and 9 times out of 10 you won't. You will drop it, because it is a burden to have to hire a lawyer or like that. Some of them go through with it, but if they win—but the board don't have to, they can do any wrong they want to, and so can the regional grazier, and the Government pays all their expenses. But the little contestant has to pay this all; and even if he takes it through a fight, he has to pay it all. So a lot of them quit and lose.

Miss HENDERSON. Whenever they set a matter, it has to go that way, regardless of whether it is right or wrong. Several board members we spoke to told us it is true. You might prove that it isn't right, or that it is, but it has to go that way regardless. I can name those two officials we spoke to from the Advisory Board, Mr. Birmingham and Mr. Wooster. It makes no difference, if they set a thing it is just set. You can bring up all the proof in the world, positive proof, and if they want it to go that way, it goes that way, regardless of what proof you bring in. It seems that our word is never accepted. Our opponents come in and make a statement and it goes that way.

Mrs. HENDERSON. I've been trying to get the regional grazier to examine in the code or the cases; it says it is the duty of the regional grazier, when there is a complaint put in, to investigate and determine the facts. Which one is telling the truth.

The CHAIRMAN. Well, he says that he has. He says he has investigated, and he has determined the facts, because he has not records before him that caused him to change the decision.

Mrs. HENDERSON. Well, I told him this, I says, at the time of the allotment of section No. 9, it is land rated to a spring, and half of No. 9 allotted to it; that the owner of the spring was not the one the land was allotted to. I says, "Now, I don't ask you to believe me, but you can look at it on the record." I also told him this morning I could prove to him there was no running in common, or nothing, to justify this allotment; but it stays just that way. Then he says get up from these fields and appeal. I says, "I don't want to hire a lawyer. I don't want to get up without a lawyer, because they will fix you so you can't go anywhere anyhow."

Miss HENDERSON. I don't like to disagree with Mr. Spence, but he has not investigated the entire matter. He looked over and investigated a water out there, but we claim a separate water. That is all it amounts to.

Mrs. HENDERSON. A man has bought this spring, and come back, and they are letting him keep it. At the time of the allotment, the other fellow was the one to get it. The other fellow didn't own it. I have been trying to get him to adjudicate that, rather than my having to go into it here, as I tell him, at too much expense.

The CHAIRMAN. I understand he has adjudicated it, within his ability and within the scope—

Mrs. HENDERSON. Why is he letting that man keep that land?

The CHAIRMAN. I don't know that I can answer you. But the law gives you every protection. In other words, you can formulate an appeal. You don't need a lawyer. You have got a bright daughter, there, who could formulate an appeal in an hour or so, as far as the appeal is concerned. It is not a formal proceeding.

Mrs. HENDERSON. This man—is this just? At the time of the allotment the man who the land was allotted to didn't own the water.

The CHAIRMAN. They have found the contrary, probably.

Mrs. HENDERSON. No; he is the owner of that water now, but at the time of the allotment he wasn't.

The CHAIRMAN. How did he get it now?

Mrs. HENDERSON. He bought it; but then I say, that ours was ours at the time of the allotment, not afterward.

Miss HENDERSON. This is the situation in regard to that one particular matter: At the time of the allotment there was section 9 reverted to Federal range. Our water was the only full-time water that came within distance of this, that would be entitled to have it.

Mr. RUTLEDGE. Mr. Chairman, I don't want to interrupt. One of these ladies was in Washington to talk to me about this.

Mrs. HENDERSON. I wish he would wait until we get through here.

Mr. RUTLEDGE. I sent Mr. Cavanaugh from Washington, as fair a man as I've ever been acquainted with. He went on the ground, and he did not change the decision. Mr. Leech has been on the ground in the case a number of times, and has investigated it very carefully. I suppose the other regional grazier before Mr. Spence has tried, and Mr. Spence has now tried, and I see no way that these ladies can be satisfied, except for them to file an appeal, which as you say, doesn't need a lawyer, and will not cost them a great deal. Let's get the thing settled.

Miss HENDERSON. Mr. Cavanaugh had already been on the ground, Mr. Rutledge, when we saw you. You gave us about 10 minutes of your precious time, and you were not in the least concerned, or interested, in any way, whatsoever, with our case. You walked over and turned it over to somebody else. We were there with the idea of trying to get it from you. He had been on the ground before that, but you did not send him afterward.

Mr. RUTLEDGE. I don't see—

Mrs. HENDERSON. You are not interested in the little fellow, anyway, I'll tell you that.

The CHAIRMAN. Let me tell you something. I made an announcement this morning, and I have violated the rule that we set up in this committee a long time ago, in this case, as I have in some other cases. It would be utterly impossible for this committee to hear individual cases. What is more, we haven't the power, nor the right, to review and sit as a court of last resort, in an individual case. We have heard individual cases where the individual cases develop a policy.

You have here, in this case, clearly and distinctly an individual case. It applies to you specifically, and to no one else. Now, the law comes in and protects you. In other words, you have the right to appeal, and as far as \$500 or \$5, or anything else, you don't have to pay anything, scarcely, for an appeal. You can make up the appeal in an hour, and present it. It will be heard and determined, and then you

have gone to the end. If this committee were to say tonight that the decision made by your board should be reversed, the board could thumb its nose at us, because we have no jurisdiction to change that decision.

Miss HENDERSON. We realize that. What we were trying to do was to get some questions answered.

Another question I would like to ask in regard to this, and that is, if Viejo Spring, a part-time water, comes within reach of the land, but in part-time water, admitted part-time, by the Grazing Service. Later they declared that it could have land without a backing water. That backing water also comes within the same distance of the land as the spring, which is the only one that can rate the land. Now, what I mean, Mr. Seller's well is over 3 miles from section 9. Our well takes in practically all of section 9. He could not apply, did not apply, or, if he did, he was turned down on his home well, because section 9 was beyond the 3-mile limit. Then he fixed up this little spring, which will not water one cow a year, and we can prove it, and we protested it at the time of the allotment. But it was accepted as a full-time water, and they stated to us it was close to the water and it would rate half a section of No. 9.

Senator CHAVEZ. Why don't you set out all those facts and make the appeal?

Mrs. HENDERSON. Who to?

Senator CHAVEZ. To the one that the law says you should appeal to.

Mrs. HENDERSON. We know the board is not going to—

Mr. SPENCE. Make the appeal to the Grazing Service.

Mrs. HENDERSON. They're not going to do anything for you. If there were somewhere else—we done tried them.

Mr. SPENCE. Mrs. Henderson filed her appeal to the regional grazier, and it was forwarded to the director's office to schedule the hearing. The hearings officer holds the appeal apart from the regional office.

The CHAIRMAN. What was the answer to it?

Mr. SPENCE. Mr. Chairman, I am not in a position to discuss an isolated detail in there.

Miss HENDERSON. That is what we do, try to get a clarification and understanding. We go to see them and the next time they won't answer you, as it has been. We are seriously trying to find out about this water, water which cannot rate as beyond the 3-mile limit, the spring, which is a part-time water, and they have declared we cannot get the land, but then they say that the spring and the water that back it must be within the 3-mile limit.

The CHAIRMAN. My answer is still—

Mr. SPENCE. Senator, you cannot isolate any one point and make a statement, nor can you remember all the details of a case that are involved.

The CHAIRMAN. If we were to hear this all night we couldn't decide it. I don't know what we would do, because we haven't any power to decide it.

Mrs. HENDERSON. It just isn't right. The board and the graziers are not doing right, and I could prove it if I could get somebody to prove it. What is the use of trying to prove it to them? When you appeal, just like the hearing, they put it in No. 2, so what is the use of a hearing? What is the use of having a hearing, under them?

The CHAIRMAN. You have an individual investigator come out on the ground to examine facts with reference to your appeal. If he took the appeal—

Mrs. HENDERSON. Where would he come from?

The CHAIRMAN. I don't know who it would be. I have no way of knowing.

Mrs. HENDERSON. Well, if I can get it in any way; only through that method, that is a solid block. It's a solid block from Mr. Rutledge on down. It is a solid block; he backs the board, no matter whether they are wrong or right, and they back him.

The CHAIRMAN. You have lost faith in humanity.

Mrs. HENDERSON. I've lost faith in this. I've had experience enough to know there is no use.

The CHAIRMAN. I wish I had the power to decide it, but we have not.

Mrs. HENDERSON. It's too bad there is nothing to relieve being wronged while the board upon the Grazing Service—the little fellow is being taken advantage of by the board and the Grazing Service, and there isn't an investigation that would help that kind of an investigation out.

Senator CHAVEZ. If you make that appeal, there will be an investigation.

Mrs. HENDERSON. I want to appeal it to somebody that wouldn't treat me wrong. There is no use appealing anything to the grazier, no use appealing to—

Senator CHAVEZ. Under the law, that is the only place you can appeal to, Mrs. Henderson.

Mrs. HENDERSON. Well, there ought to be some relief to it on the outside.

Miss HENDERSON. I understand, what this committee is for is to find out how the Grazing Service and advisory boards are handling the grazing matters. Is that correct?

The CHAIRMAN. Yes; that is right.

Miss HENDERSON. In our experience, we have found that the advisory board members do not treat you with just the nicest attitude always. For instance, when my father went to see Mr. Gozie, before he knew anything about this matter, how to get the land or anything, he wanted to talk to him, and he was greeted by, "How do you know you are going to get any land?" On another occasion he went to August Seiss and spoke to him, and he said, "Go see some of the other boys." Recently, at a meeting at which the Grazing Service requested we come, Mother, in her effort to try to find out what the rules are, and whether they are justifiable, asked—

Mrs. HENDERSON. He is not in our district. I thought he might be interested and would tell me. He says, "Factors." I said, "How do you divide this land?" He said, "On factors." I said, "What are factors?" He said, "Hills and gullies and fences." And I said, "How do you mean?" He says, "What are you trying to do, trying to put me on the spot?" Well, would you know anything about that?

Miss HENDERSON. It seems that if the advisory board and the Grazing Service were held more responsible in what they do, they wouldn't be so quick to just hand a piece of land over to somebody because they want him to have it.

The CHAIRMAN. The advisory board is held responsible.

Miss HENDERSON. Well, ours doesn't seem to be. We have gone to them time and time again.

The CHAIRMAN. They are held responsible by those who elect them in the respective districts.

Mrs. HENDERSON. They elect themselves. Now, people haven't got time to go there and vote and get themselves put up, and then to vote on it.

Mr. SPENCE. Mr. Chairman, perhaps we can say to Mrs. Henderson that the Secretary can overrule the Director, or any of the rest of the staff. That is the ultimate end of an appeal, if she wishes to carry it that far.

Miss HENDERSON. But he goes by what you all have to say, doesn't he?

Mrs. HENDERSON. I believe the Grazier examines these things, and the burden of the hearing is put on us, and he can adjudicate.

The CHAIRMAN. Well, there is a fellow by the name of Ickes that doesn't go as anybody says.

Lady, I am sorry, this committee has no power to change the rule that is set down in the way of adjudication of your rights. If we had the power I scarcely see how we could sit here and adjudicate a condition out in the field.

Mrs. HENDERSON. Well, that is it; if you will come out in the field we'll show you what it is. We'll show you that we have been treated wrong, and any other people will show you the same thing. But when we show them, if we show this Grazing Department and the Board that is wrong—suppose I tell you a man don't own some land here, and you have given him, you have rated some land and given it to him, and I tell you that he doesn't own it, and you don't even go to see, and you don't change. Now, what are you going to do with that condition? It ought to be relieved some way, because a lot of little fellows, like me, finally drop it. We held on longer than some of them. There was a whole lot of them treated just like we were. We got some friends over there, and they took some land from him, he said, but he saw it was going to make it cost him more than it was worth. This board has got nothing to lose, and, Mr. Spence, they are all paid, of course. The Government pays; the Government and us have to pay.

The CHAIRMAN. How far is this place from here?

Miss HENDERSON. One hundred and fifty miles.

The CHAIRMAN. Are you going that way, Mr. Rutledge?

Mr. RUTLEDGE. No, sir.

Mrs. HENDERSON. I would show you on the ground. That is what I say, you come up and tell them, and they don't want to believe it, because it doesn't fix it like they want it, and they don't want to change it. You just show them, but they don't want to be convinced, and you can't do anything with them.

The CHAIRMAN. Well, that settles it.

Mrs. HENDERSON. Is the Government going to allow people in office, that way, to treat the little fellow like that?

The CHAIRMAN. No; the Government—the law has fixed a way for you to get full justification in every particular.

Mrs. HENDERSON. I'd be afraid for it to go through their hands. That is the truth; I know I would.

The CHAIRMAN. The law provides a way for you to go clear to the Secretary of the Interior.

Miss HENDERSON. If you go by a hearing, it takes a good attorney to bring out the points.

The CHAIRMAN. It doesn't take a good attorney, nor a bad attorney; it doesn't take anyone. All you have to do is present your appeal in the most simple form of statement, and there will be an investigator go out there, and there will be a record made of the whole proceedings, all the facts in the case that you want to present, just as it is here. You can take it clear through to the Secretary of the Interior.

Mrs. HENDERSON. Where does he come from, this investigator?

The CHAIRMAN. Where does he come from?

Mrs. HENDERSON. Yes.

The CHAIRMAN. It is not a question of where he comes from; it's a question of where he goes to.

I think we have given all the time we can possibly give to you. I wish I could give you more. I wish I could decide for you. The machinery is set up, however, and this committee has no power whatever on the premises.

Miss HENDERSON. I thought this would show you how the lands were being administered under the board's system. There seems that there ought to be somebody who would represent the little man.

Mrs. HENDERSON. The little fellow is getting cheated.

The CHAIRMAN. Perhaps they are, but don't you see that it is a single case. Isn't that plain to you?

Miss HENDERSON. There are lots of others in our neighborhood that are small ranchers and would have gone on with their cases but it was too expensive and there was no one on the board to represent them, to help them out, and there is no representation for them at all in any way.

Mr. RUTLEDGE. Could I ask a question?

The CHAIRMAN. Oh, yes.

Mr. RUTLEDGE. One of your neighbors has 150 head of cattle?

Miss HENDERSON. He probably has more than that. He bought a lot of land.

Mr. RUTLEDGE. What is the other neighbor?

Miss HENDERSON. Mr. Cloud.

Mr. RUTLEDGE. What does he have?

Miss HENDERSON. He claimed to have 100 head of cattle. About 60 was what he was supposed to have.

Mr. RUTLEDGE. What were the others? You named about four, I believe.

Miss HENDERSON. Mr. Sellers claimed 100. I don't know what Mr. Sanchez claimed, but he must have at least 300.

Mr. RUTLEDGE. There are three in there of very much the same size.

Miss HENDERSON. But the truth of it is Mr. Sellers ran about 35 head of cattle, Mr. Cloud 60 head, and we ran 60 head. Mr. Sanchez ran in the neighborhood, I expect, of 300 head.

The CHAIRMAN. I am sorry, but we can't give you any more time.

Mrs. HENDERSON. Well, the way I look at it, it is a solid block from way up there down to here, and nothing can be done about it. That is the reason I am not going to vote for Mr. Roosevelt.

The CHAIRMAN. I am sorry, madam, I tried to find a way out for you.

Mrs. HENDERSON. Well, you have to go through the enemy line.

The CHAIRMAN. You don't have to get through the enemy line.

Mrs. HENDERSON. If we did go up with the appeal, we would have to get witnesses and the like.

The CHAIRMAN. Well, why don't you try?

Mrs. HENDERSON. I have done tried every angle in the world; like a friend of mine, I have tried every angle. Anyhow I don't think that it's any use.

Senator CHAVEZ. There are more poor people than rich people. You can vote them out.

Mrs. HENDERSON. We're not able to vote. The poor people can't make these trips, go over there to vote. It costs to vote for them.

Senator CHAVEZ. Mrs. Henderson, I think the advice of the chairman is good. You try to make that appeal.

Mrs. HENDERSON. I don't want to have to go to the board.

The CHAIRMAN. You don't have to go to the board. It has passed the board—

Mrs. HENDERSON. Nor to the Grazing Department?

Mr. LEECH. We can assure you it won't cost any money. The record doesn't cost a thing.

Mrs. HENDERSON. The board members ought to be penalized in some way so they would be very careful how they treat these little fellows. Not all the board members are honest. I don't know whether there is any that are honest or not. I don't think so.

The CHAIRMAN. Is there anything more to come up this evening?

Mr. STEWART. Mr. Chairman, I have been thinking about what Mr. Presley said concerning that Navajo taken to the Crown Point hospital, and, through perhaps the wrong diagnosis, he was later operated on for appendicitis and died. If he would give me the name of that Navajo, I would like to look into the hospital records and have your permission to write to the investigator with the record as to what I find.

The CHAIRMAN. Well, it's all right if you want to. I was at a loss to know what its pertinency was to the whole situation.

Mr. STEWART. I would like to look into that particular case, if I could get the name of that individual.

The CHAIRMAN. It's all right. I don't think it is germane to the hearings, at all.

Now, we have reached a sag in our proceedings here. Is there anything more to come up right now on this district 7 matter?

Mr. NAYLOR. There was a request for the letter from Mr. Woehlke.

Judge SETH. I thought Mr. Naylor had the minutes.

Mr. LEECH. Mr. Naylor tells me he looked through the minutes he had with him and didn't find it. Do you have it, Mr. Dixon? That is the letter of August 8, 1941, from Mr. Woehlke.

The CHAIRMAN. Telling them to increase the small allotments up to 150. That is what Mr. Presley, who testified, said. The letter was to go into the record. Now, if the letter exists, let's have it, and if it doesn't exist, let's find out.

We are about to take a recess until tomorrow morning. We will have to proceed along a little faster than we did this evening.

The committee stands at recess until 9:30 tomorrow morning.

(Recess until 9:30 a. m., Wednesday, September 8, 1943.)

ADMINISTRATION AND USE OF PUBLIC LANDS

WEDNESDAY, SEPTEMBER 8, 1943

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE,
ON PUBLIC LANDS AND SURVEYS,
Albuquerque, N. Mex.

The CHAIRMAN. The meeting will come to order.

Are there any matters further to be presented on district 7?

Mr. LEE. I have a list of the 17 Government agencies that I would like to file with the committee.

(The list is as follows:)

Grazing Service.
Forest Experimental Range.
Federal Power and Light.
Soil Conservation Service.
Bureau of Reclamation.
War Department.
Farm Security Administration.
Indian Service.
Agricultural Adjustment Administration.

Resettlement Administration.
General Land Office.
Fish and Wildlife Service.
National Park Service.
State Game and Fish Commission.
State Park.
National Monument.
State Land Office.

Mr. STEWART. Mr. Chairman, there are some Navajo people here from different parts of district 7 and, if it is agreeable, they would like to be heard after lunch.

The CHAIRMAN. Very well.

Is Mr. L. B. Moore here? Mr. Moore, will you come forward, please?

Mr. Moore, we understand from the report made to our committee by our investigator, that you have an individual case, and what you want is an independent investigator, is that correct?

Mr. MOORE. That is correct.

The CHAIRMAN. Who is the grazier in that area?

Mr. SPENCE. I am, Senator.

The CHAIRMAN. Have you come into this case?

Mr. SPENCE. I have reviewed the case, but I am not fully familiar with the details.

The CHAIRMAN. Well, this is another individual case and it is impossible for this committee to take up these individual cases with you, where they request an outside investigator and want a hearing. It does impress the chairman of the committee that such might be made available and that it would probably go a long ways toward ironing out some of these impressions that individuals have as to the local officials.

I have no desire to inject myself into the modus operandi for these cases, but it does seem to me that you could cut across lines, get away

from heartache. When they call or ask for an individual investigator, I think it would save you and the committee and everybody else a lot of trouble. That is only a suggestion I have. I don't know whether it is a good one in this case, in view of the fact that the local grazier is not familiar with the case.

Mr. LEECH. Mr. Chairman, we will be very glad to make such an investigation from the office of the Director, and also collaborate with somebody from Secretary Chapman's office in this case.

The CHAIRMAN. It seems to me that answers the question.

I want to be frank with you, last night the record made here, and the scene presented has not rested very well on the chairman. I don't like to leave the matter in that condition, and I wonder if they couldn't have a similar arrangement with reference to the Henderson case.

Mr. LEECH. I talked with them last evening, Senator, and told them I would be glad to go thoroughly into the case again and have it thoroughly investigated. Mr. Hamblin met with them this morning to further talk the matter over, but we will give it the proper attention.

The CHAIRMAN. May I suggest, and I hope the suggestion will be taken in the spirit in which it is intended, if they were to know the record and what the facts are and the reasons for the determination, perhaps that would iron out some of the suspicions and one thing and another that arise.

Pardon my suggestion; I don't think it is in place. It is simply a thought. I think that will fix everything up for you, Mr. Moore.

Mr. MOORE. Yes.

The CHAIRMAN. The gentleman in charge of the Grazing Service will arrange the date and arrange everything for you. That relieves my mind of a lot of worry pertaining to the Henderson case that was on here last night.

Is Mr. Arthur Bibo here? I understand that he has a counsel in this case.

Mr. WILLIAM T. O'SULLIVAN. Not his counsel, Mr. Chairman, I am acting rather as his ears. He is deaf.

The CHAIRMAN. Will you state your name, please?

Mr. O'SULLIVAN. William T. O'Sullivan of Albuquerque.

The CHAIRMAN. You may aid him in any way that you see fit.

STATEMENT OF ARTHUR BIBO, CUBERO, N. MEX.

Mr. BIBO. I came here to deal with an issue regarding Taylor Grazing District No. 2.

The CHAIRMAN. Is the grazier here?

Mr. LEECH. Yes, sir.

Mr. BIBO. Mainly it concerns the so-called South Acoma purchase area, originally in the district but now is out.

My name is Arthur Bibo; I am 44 years old. I was born down here in New Mexico, and I operate a ranch at Cubero, 60 miles west of here. The home ranch is there. I have operated there and lived there for the past 32 years.

In bringing up this issue I have to more or less explain to you what I have in mind, that you may clearly understand that I am not trying to bring this issue before you, any personal grievances I have against the Office of Indian Affairs, or the Indian Service. I did not

come here to antagonize any governmental agency or officials or employees.

I have had the opportunity to place before the Undersecretary of the Interior a request asking for the transfer of jurisdiction from the Office of Indian Affairs back to the Department of Taylor Grazing certain areas of this 11-township area, which the Office of Indian Affairs prefers to refer to as the South Acoma purchase area. This is my first appearance, first opportunity to make a public utterance. I have not been in public mainly because I don't hear well. There is no objection in my coming, but I haven't been able to hear a word of your statements made yesterday, which would have helped me greatly. But I did understand you rather recently had, Mr. Chairman, a letter that was sent in here, mailed to Senator Hatch, because you felt that someone was trying to intimidate your appearance here, or your committee.

I would like to know if I quoted that properly? The reason I bring that up is this, I want you to understand my statements have to be limited here, and I want to make this report as short as I possibly can. I, too, can state that you are fortunate.

For the past 2 or 3 or 4 years it has been the policy of the Office of Indian Affairs, or the Indian Service, or other Government officials, to try to intimidate me by things they have written, things they have said, and things they have done, by their actions. I may not be quite as brave as you are, in order to make a statement, but at the same time I felt possibly I am too dumb to be intimidated. I have not been frightened one bit by their attitude, and I am coming here to present this case. I realize that I have to show to you and your committee, and you will look it over eventually, the proper respect, and I have to show these Government employees, or officials, the respect that is due them.

I had in mind coming here and telling you in the only words I have, whether hard and ugly or not, just the issue, because it isn't merely a transfer of jurisdiction. As far as the management is concerned of this area, it has reached a broader scope than that. In other words, I feel that no departmental order will ever settle this issue, and there is a very sorry circumstance has come up there which has made it very disagreeable for non-Indian settlers in that particular area, and though I mentioned some of the facts that happened there to bring forth this issue, I want you to understand that if I blame them it pertains to the Indian Service's attitude toward me. I am only mentioning them insofar as they pertain to the issue at large; as far as they affect all the non-Indian settlers. If I am allowed to express it properly, I think you will see there is a broader issue involved and that some definite solution of this situation has to be arrived at. I feel that it will be up to you and to your committee to solve that situation, for it is as broad an issue as you have dealt with, yesterday with the No. 7 district.

I could not hear one word of the testimony, either for or against.

Now, as I review this issue, I first tried to see if there was some law passed by Congress which gave this Indian Service, or the Office of Indian Affairs, the right to acquire additional lands and add them to reservations in our particular locality. As was shown on those maps, all the yellow areas added onto the Navajos, the particular area being Acoma Pueblo and Laguna Pueblo.

I am no lawyer, I have had very little experience in looking it up. I had to get someone to get the information for me. I have a little information here with reference to the two codes. I would like to read those to you and then proceed to tell you what I have to say about this issue.

The CHAIRMAN. May we have the district designated on the map. Mr. Leech?

Mr. STEWART. This gives a very good picture of the area that the gentleman referred to [indicating]; this shaded area is the so-called 11 townships. This is the Acoma Reservation; and this dark-shaded is the so-called 11-township area this gentleman refers to.

Mr. O'SULLIVAN. At this point, Mr. Chairman, we have a colored photograph made and supplied by the Soil Conservation Service, known as the land status map of New Mexico, and brought up to date as of February 1941. Since then considerable additions, I understand, have been made to Indian lands. This shows very definitely that the land referred to by Mr. Stewart south of the Acoma Pueblo, which is on the large map shown in brown as compared to the yellow of the pueblo here on the S. C. S.'s map, is also shown in yellow, indicating that it is all Indian land. I ask that that be received into evidence for filing with the committee.

The CHAIRMAN. Let's have a little explanation here. The pueblo lands are in yellow on the big map and here on this map?

Mr. O'SULLIVAN. Solid yellow.

The CHAIRMAN. Where are the lands in question here on this map?

Mr. O'SULLIVAN. That is the cross-barred yellow, immediately south of the reservation itself.

The CHAIRMAN. Then there is a small cross-barred square just above the pueblo. Is that a part of it?

Mr. O'SULLIVAN. Anything in yellow there, Mr. Chairman, is Indian land.

The CHAIRMAN. There is a cross-bar yellow and the solid yellow?

Mr. O'SULLIVAN. That is the original reservation. The cross-barred yellow is acquired land for addition to the reservation, in fact, but not in name.

The CHAIRMAN. Now, where is the land in question, depicted on the big map?

Mr. O'SULLIVAN. Immediately south of the solid yellow on the big map.

The CHAIRMAN. How is it depicted here?

Mr. O'SULLIVAN. In cross-barred yellow immediately south.

Mr. BIBO. The codes that I refer to, Mr. Chairman, United States Code, title 43, section 150, public land laws, enacted on June 30, 1919. It reads as follows:

No public lands of the United States shall be withdrawn by Executive order, proclamation, or otherwise, for use as an Indian reservation, except by an act of Congress.

The other code I refer to is United States Code, title 25, section 211, the Indian land laws, enacted May 25, 1918:

No Indian reservation can be created, nor shall any addition be made to one heretofore created within the limits of the State of New Mexico and Arizona, except by an act of Congress.

So far as referring to these two codes, or acts, I tried to figure out how it came about that the Office of Indian Affairs for these Pueblos

have acquired all this additional land surrounding this reservation, if there has been no legislation passed repealing those two codes. I am not as familiar with those issues as you are. It brought to my mind, trying to figure out, then, possibly, that there was some part of the 1934 Indian law that in some way, something in those laws, possibly, nullified those two acts.

The CHAIRMAN. Mr. Havell, do you care to answer that?

Mr. HAVELL. No, Mr. Chairman, I am not familiar with that phase of the law. That is Indian law, not public-land law.

Mr. STEWART. I would like to make a comment on the Acoma 11-township area. It is one of those so-called submarginal project areas. Lands purchased by the submarginal land program were turned over to the administration of the Indian Service, by one of the several Executive orders which I mentioned yesterday, and which I am to furnish the committee for the record.¹

Interspersed among these checkerboard railroad lands, and others that were purchased, was, and still is, public domain.

This gentleman here quoted certain acts of Congress which contained prohibitory language as to the addition of public domain and others to Indian reservations within the State of New Mexico and the State of Arizona. The public domain within these 11 townships was administratively turned over to the Commissioner of Indian Affairs for administration under authority of section 4 of the act of March 3, 1927. The statute reference to that, I believe is 44 Statutes, page 1347. That section 4 provides that in effect—this is subject to correction after reading of the statute—that no further additions or changes in the boundaries of existing reservations heretofore made by treaty, Executive order, proclamation, shall be made except with the consent of Congress, provided, however, that this prohibition shall not apply to temporary withdrawals by the Secretary of the Interior.

Now, then, these public-domain lands within these 11 townships were withdrawn pursuant to that authority, pending legislation proposed to add a portion of the 11-township area permanently to the Acoma Reservation.

The CHAIRMAN. Was any act offered to Congress carrying out the proposal?

Mr. STEWART. No, sir.

The CHAIRMAN. There never has been one offered to Congress?

Mr. STEWART. That is correct.

The CHAIRMAN. And the only act that has been offered to Congress bearing on lands within the State of New Mexico was rejected by Congress, and that had to do with the lands in what is now known as district 7?

Mr. STEWART. The Navajo proposed extension; that is correct.

Senator CHAVEZ. There was another act submitted by the Indian Service to Congress, in addition to the Pueblo, the Red River district at Taos County, that never became a law either.

Mr. STEWART. That is correct.

The CHAIRMAN. Mr. O'Sullivan.

Mr. O'SULLIVAN. I would like to ask Mr. Stewart if he could give us some idea as to the extent of the temporary power to withdraw. I understand that that power was exercised 5 or 6 years ago for the sole

¹ Copies of the Executive orders are inserted earlier in this record.

purpose of protecting the land pending the enactment of legislation which has never been enacted. How long is "temporary"?

The CHAIRMAN. That reminds me of the incident of the two colored fellows after the World War who were working at Brest, in France, and one said, "I am getting tired of this. I want to go home. I only went into this thing for the duration of the war, and the war am over, and I want to go home." The other fellow said, "Yes, the war am over, all right, but that there duration, that am still going on!"

Mr. STEWART. I think the chairman has really given the answer to the question.

Senator CHAVEZ. Now, Mr. Stewart, in your position, or the position of the Service, I should say, at the moment, is that until you do get legislation the purchase made south of the Acoma Pueblo withdrawal is only of a temporary nature?

Mr. STEWART. Yes, sir.

The CHAIRMAN. Well, now, let's go back a little into Mr. Stewart's explanation. These lands in brown, you call them by a certain name?

Mr. STEWART. The 11 townships.

The CHAIRMAN. The 11 townships; so, for convenience, we may designate it as the 11-township withdrawal. Now, they were purchased under the submarginal-land program?

Mr. STEWART. Yes, sir.

The CHAIRMAN. Will you cite the statute, please, that provides that lands acquired under the submarginal program were to pass to Indian jurisdiction, or were to be held aside for the use of the Indians, or were to be turned over to the Indians, or anything to that effect?

Mr. STEWART. I submitted for the record yesterday the authority of the submarginal-land program to set up Indian demonstration projects, and cited in one of these exhibits the authority of the President to designate the use for which such lands could be designated. It is in that authority which was conferred on the President to so designate. Mr. Chairman. It is in the record there somewhere.

The CHAIRMAN. Yes; I recall that. You read into that statute, then, the power of the President to designate these lands as Indian project lands?

Mr. STEWART. Yes, sir.

The CHAIRMAN. Notwithstanding the fact that you have specific statutes that prohibit the extension of reservations?

Mr. STEWART. Yes, sir.

Senator CHAVEZ. And that those statutes refer to Executive orders?

Mr. STEWART. That is correct. Of course, those statutes have for their base the utilization of public domain additions. These were purchased by the United States. There is a line of differentiation there.

The CHAIRMAN. Very well.

Now, it is probably impossible for the witness to have heard the colloquy, so he will be without that information as he proceeds with his discussion. That is regrettable, because I would like to have him understand what we are talking about, but I don't know any other way to get it to him.

Mr. BIBO. Mr. Chairman, in proceeding, if I should repeat some issue mentioned now, you will have to stop me. I couldn't hear one word of it.

I would like to put up a map here, drawn up by the Soil Conservation Service Office, copy of photographs taken of that area, drawn to scale. I can better explain the issue. The issue insofar as it pertains to my operations and the other Indian settlers in that territory—

Mr. O'SULLIVAN. That is the so-called South Acoma Purchase Area management prepared by the Soil Conservation Service.

The CHAIRMAN. What is that designation?

Mr. O'SULLIVAN. The new Indian name they have given the 11-township area, the Indian name, "South Acoma Purchase Area." The reservation is here [indicating], and these are the 11 townships.

Mr. BIBO. In other words, to explain this issue, I have to explain it on this map. This is the 11-township area referred to. Now, the Indian Service prefers to call it the South Acoma Purchase Area. These two townships here are south of the original Acoma grant set aside by Executive order for this Acoma Pueblo, prior to the purchase of railroad land with Resettlement money, included in these 11 townships.

The CHAIRMAN. When were those two townships set aside?

Mr. BIBO. I think it was in 1932, or thereabouts. These two townships were set aside by Executive order.

The CHAIRMAN. That was before the purchase?

Mr. BIBO. Before the purchase of this area. That was to relieve the congested condition that was in the pueblo. It did not solve the situation; so in the purchase of this land here, this additional area was acquired. As I understand it, a study was made, a survey was made of it, in order to see how much of it could be acquired for Indian use, taking into consideration patented lands owned by the settlers, and the locations that were there, non-Indians.

The CHAIRMAN. How were those two townships set aside, by Executive order?

Mr. STEWART. Right in here those were set aside by an Executive order, considerably earlier than 1932, quite a lot earlier.

The CHAIRMAN. How do you reconcile that with the statute prohibiting the making of Executive orders?

Mr. STEWART. I believe they were set aside prior to that statute. We will get the record on that.

The CHAIRMAN. What do you know about this, Mr. O'Sullivan?

Mr. O'SULLIVAN. We have not been able to find from the record what the dates were of the Executive orders.

Mr. BIBO. When the Government took over this land, took over the management of it and created the Rio Grande Interdepartmental Committee, that committee was organized to handle this particular area, when it was put under the jurisdiction of the Grazing Service in district 2. Am I correct there?

The CHAIRMAN. State that again.

Mr. BIBO. When this Rio Grande Interdepartmental Board was created to manage the 11-township area, that was at the particular time that area was put under the jurisdiction of the Taylor grazing office. In other words, it was in Taylor Grazing District No. 2. Am I right there? That the management was under the interdepartmental committee?

Mr. LEECH. Yes; I believe that it was eliminated from the grazing district, grazing district 2.

Mr. O'SULLIVAN. Not eliminated from district 2, until December 23, 1938. Prior to that it was part of grazing district 2, but managed by the interdepartmental committee.

Mr. JOHN ADAMS. Mr. Chairman, might I make a statement? At the time the various Indian purchases were made in the Rio Grande watershed, the final disposition of the various purchase areas was placed before the committee, who made recommendations to the two Secretaries.

The CHAIRMAN. What committee?

Mr. ADAMS. The Rio Grande committee.

Mr. CHAIRMAN. Now, you say at the time that the Indian purchases were made—

Mr. ADAMS. That is correct.

The CHAIRMAN. Was that, with reference to the area we are now discussing, Indian or submarginal?

Mr. ADAMS. Properly speaking, that was a submarginal purchase.

The CHAIRMAN. You call it an Indian purchase, it was really purchased for the Indians, but it was called submarginal, is that right?

Mr. ADAMS. As I recall, the original recommendations were for the rehabilitation and aid of the Indians.

Now, in 1937 the Rio Grande committee made certain recommendations, and as it refers to this particular area, 11 townships, I might read the recommendations:

That the authority of the Office of Indian Affairs to maintain, administer, and develop the projects and grants listed in section 1 of these recommendations, except the so-called Sacred Area of the Ramon Vigil, and except the Isleta purchased lands, be delegated, by agreement between the two agencies concerned, to the Soil Conservation Service of the Department of Agriculture during the period of rehabilitation, until the Indian Service is in a position to take over the administration and development of these areas with its own personnel and funds.

The administration of these areas shall have for its purpose the conservation of soil, water, forage, and timber resources for the benefit of the Indians entitled to use them.

I would like to place a copy of these recommendations with the committee.

(The matter referred to is as follows:)

OCTOBER 27, 1937.

INTERDEPARTMENTAL RIO GRANDE COMMITTEE—RECOMMENDATIONS FOR TRANSFER OF JURISDICTION, ALLOCATIONS OF USE-RIGHTS AND ADMINISTRATION OF RESETTLEMENT ADMINISTRATION'S INDIAN LAND-PURCHASE PROJECTS IN NEW MEXICO

The report and the recommendations of the Interdepartmental Rio Grande Committee propose a unified Federal land-use adjustment program for the upper Rio Grande watershed. The proposed program is based on the necessity of providing conservative management for the entire watershed in order to protect and restore the basic resources of soil and water, and of making accessible to the noncommercial rural population a larger share of all productive resources.

In the subjoined recommendations the Committee is applying the principles underlying its report to the allocation of jurisdiction and administration of certain grazing areas in the watershed recently acquired by the United States. An effort has been made so to dispose of the jurisdiction and administration of these grazing areas that such disposition will fit into the pattern of the land-use program outlined in the Committee's report.

The areas in question were Indian land-purchase projects undertaken by authority of and with funds provided by the National Industrial Recovery Act and the Emergency Relief Appropriation Act of 1935 for the "prevention of

the misuse of land by erosion or other causes and a restoration of land productivity," and the "rehabilitation of Indian population by acquisition of lands to enable them to make appropriate and constructively planned use of combined land areas in units suited to their needs." These projects were taken over and in large part completed by the Resettlement Administration. Upon the transfer of the Resettlement Administration to the Department of Agriculture jurisdiction over these projects became vested in the Secretary of Agriculture who later delegated his authority to the Farm Security Administration.

The insistent local demand for the allocation of these grazing lands to non-Indian residents arose out of the extreme shortage of range available to the livestock of the rural noncommercial population of the upper Rio Grande basin, a shortage fully rescribed in the Committee's report. The Pueblo Indians form part of this undersupplied noncommercial rural population. The erosion-control and Indian rehabilitation program resulted in placing, in round numbers, 750,000 acres of depleted and eroding grazing land under option. Of this amount, the purchase of 701,100 acres was completed September 30, 1937.

In the allocation of temporary use-rights to these depleted grazing areas, the Commissioner of Indian Affairs agreed with the Soil Conservation Service and the Resettlement Administration that, in addition to the urgent requirement of controlling soil erosion and rehabilitating Indian economy, the pressing needs of the non-Indian subsistence population should be given consideration pending the execution of a broad watershed-control and range-readjustment program. Such a broad program is recommended in the report of this Committee.

Negotiations between the interested Federal and State agencies culminated early in 1936 in the following allocations of temporary use rights:

For exclusive Indian use: Bernabe Montano grant, Borrego grant, Espiritu Santo grant, and Isleta purchases.

For exclusive non-Indian use: South half of Lobato grant and San José grant.

For partial Indian use, surplus grazing capacity to non-Indians: Sebastian Martin grant, Caja del Rio grant, Ramon Vigil grant, and La Majada grant.

Unassigned in original allocation agreement: Sia-Santa Ana purchase project exclusive of the Borrego grant, Laguna purchase project exclusive of the Montano grant, Acoma purchase project, and Polvadera grant.

By agreement between the Indian Service, the Soil Conservation Service, and the Resettlement Administration, the Soil Conservation Service undertook the physical rehabilitation, with the assistance of the Indian emergency conservation work organization, and the administration of the following purchase projects during the rehabilitation period: Bernabe Montana grant, Borrego grant, Espiritu Santo grant, south half of the Lobato grant, Sebastian Martin grant, Ramon Vigil grant, Caja del Rio grant, and La Majada grant.

These grants are at present administered by the Soil Conservation Service. This Service has developed management plans for these areas and has allocated use rights to the adjacent non-Indian population on the basis of demonstrated need and to certain pueblos in accordance with the agreement previously mentioned.

No conservation or administrative work has been done on either the San Jose or the San Ysidro grants. The purchase of the Polvadera grant has not been completed as of this date. The Sia-Santa Ana, the Laguna, and the Acoma purchase projects contain within their exterior boundaries considerable bodies of public domain withdrawn either for Indian-use adjustments or under the applicable provisions of the Taylor Grazing Act; they also contain tracts of State and of privately owned patented land. On the Laguna and Acoma purchase projects the Interdepartmental Rio Grande Committee in May and June of this year made certain temporary allocations of grazing privileges while the Indian Service and later, the Farm Security Administration administered parts of these areas, but as yet no effort has been made to place these areas under actual conservative management.

Administration of the Gabaldon grant was delegated by the Resettlement Administration to the Forest Service under an agreement between the Indian Service and the Resettlement Administration dated January 19, 1937.

RECOMMENDATIONS

The committee finds that the allocation of temporary grazing privileges under the agreement of May 1936 between the Indian Service, the Resettlement Administration, and the Soil Conservation Service and the introduction of con-

servative management have on the whole, been in furtherance of the purposes of these projects as these purposes are quoted above.

The committee therefore recommends that in the main the original allocations of use rights be confirmed by the following actions:

1. That the Secretary of Agriculture recommend to the President that the jurisdiction of the Bernabe Montano, the Borrego, the Espiritu Santo, and the San Ysidro grants, the Isleta purchased lands, and the so-called sacred area within the Ramon Vigil grant be vested by Executive order in the Secretary of the Interior for the Office of Indian Affairs.

2. That the jurisdiction of the Caja del Rio, of La Majada, Ramon Vigil, south half of Lobato, the Sebastian Martin, and of the San Jose grant remain with the Secretary of Agriculture pending action by the proposed upper Rio Grande Board on the final assignment of jurisdiction and use.

3. That the authority of the Office of Indian Affairs to maintain, administer, and develop the projects and grants listed in section 1 of these recommendations except the so-called sacred area of the Ramon Vigil and except the Isleta purchased lands, be delegated, by agreement between the two agencies concerned, to the Soil Conservation Service of the Department of Agriculture during the period of rehabilitation until the Indian Service is in a position to take over the administration and development of these areas with its own personnel and funds. The administration of these areas shall have for its purpose the conservation of soil, water, forage, and timber resources for the benefit of the Indians entitled to use them.

4. That the present authority of the Farm Security Administration to maintain, administer, and develop the projects and grants described in section 2 of these recommendations, and of the Polvadera grant when its purchase is completed, be transferred to the Soil Conservation Service for the benefit of the subsistence population adjacent to these areas, pending final allocation of jurisdiction and use on recommendation of the upper Rio Grande Board proposed in the report of this Committee. Pending such final allocation the existing Indian use of these grants shall be maintained.

5. That the Secretary of Agriculture recommend to the President the transfer of jurisdiction of the lands acquired by the United States in the Laguna, the Acoma, and the Sia-Santa Ana projects to the Secretary of the Interior for the Office of Indian Affairs for the use and benefit of Indians and of the resident non-Indian subsistence population; that the Secretary of the Interior transfer jurisdiction of the public domain in the projects to the Office of Indian Affairs for the benefit and use of Indians and of the resident non-Indian subsistence population; that the Department of Agriculture and the Department of the Interior, through their appropriate bureaus, simplify the still complex ownership pattern in these projects by consolidating feasible areas through the purchase or exchange of the remaining non-Federal lands for the use of Pueblo Indians and of the Canonicito group of Navajos, the disposition of the remaining parts of the projects containing unconsolidated areas of mixed use and ownership status to be made on recommendation of the proposed Rio Grande board.

6. That the authority of the Office of Indian Affairs to maintain, administer, and develop the projects and grants listed in section 5 of these recommendations be delegated to the Soil Conservation Service of the Department of Agriculture during the period of rehabilitation until the Indian Service is in a position to take over the administration and development of these areas with its own personnel and funds. The administration of these areas shall have for its purpose the conservation of soil, water, forage, and woodland resources for the benefit of the subsistence population entitled to use them.

7. That the Office of Indian Affairs agree to relinquish, upon recommendation of the proposed upper Rio Grande Board, grazing use on the Espiritu Santo grant permitted to the livestock of the Laguna Indians, which grazing use may thereafter be allocated to resident non-Indians who have agreed to the conservative management of the private, leased, or other lands used by them in their noncommercial livestock operations; this transfer of Laguna grazing use on the Espiritu Santo grant to be contingent on the provision of additional range with equivalent grazing capacity for the Laguna livestock closer to the Laguna Reservation. The lands acquired under the existing purchase program for the benefit of the Lagunas and Acomas shall not be used to provide the equivalent grazing capacity mentioned in the preceding sentence.

II

In applying the principles underlying its report to the allocation of jurisdiction and use rights of the Indian purchase areas in the Rio Grande watershed, the Committee emphasizes the necessity of transforming programs of land acquisition for the specialized requirements of various Federal agencies into an integrated Federal-State program designed to bring about conservative management of the watershed as a whole and economic readjustments for the benefit of the entire rural subsistence population.

Realizing the vital necessity of launching such an integrated Federal-State program, the Office of Indian Affairs has agreed to a waiver of its claim to the jurisdiction and use of certain parts of the Indian purchase areas. This waiver on the part of the Office of Indian Affairs is contingent upon the approval and vigorous prosecution of the recommended Federal-State land-use adjustment program.

In addition to the Indian purchase program other Federal agencies have recently acquired land for special purposes within the watershed. The Committee recommends that the multiple uses of such recently acquired areas be given due consideration and that these areas also be considered available for the purposes of the broader watershed adjustment program. One of these recently acquired areas, the Taos land-use adjustment project of the Resettlement Administration, should be given early consideration by the proposed Rio Grande Board concerning its administration and use.

The proposed Board should also give early consideration to the delineation of a purchase program of such scale that it can be undertaken immediately by the Bureau of Agricultural Economics in the Department of Agriculture under title III of the Bankhead-Jones Farm Tenant Act and which will be designed to place in Federal ownership those areas most critical from the standpoint of erosion damage, and which are not now being used exclusively by the subsistence populations, but are greatly needed by them. The Committee believes that the purchase of certain non-Federal lands west and north of the Espiritu Santo grant and in Cuba Valley are of primary significance from these points of view and should be given first priority in a projected purchase program.

There are throughout the critical areas of the watershed scattered an isolated portions of the public domain outside of any existing grazing district and without management or control of any kind. In the aggregate these scattered tracts constitute a considerable acreage of great importance to the rural subsistence population in the maintenance of its domestic livestock. In its report the committee recommends the creation of one or more grazing districts under the provisions of the Taylor Grazing Act by the Secretary of the Interior, with special rules and regulations governing their administration and use. The preservation, protection, and proper use of this scattered public domain within the framework of the proposed Federal-State watershed program requires joint action by Federal agencies in two departments.

III

For the guidance of the Federal agencies concerned with the task of the management of lands within the upper Rio Grande watershed and the guidance of the proposed Upper Rio Grande Board, the committee submits the following considerations:

A. Future reconsideration of the distribution of range privileges within the upper Rio Grande area should go hand in hand with the development of a unified program of range management, which, beginning with the most critical areas of use, will ultimately embrace the whole watershed.

B. The present condition of range resources and the conditions surrounding the use of those resources point to the necessity of drastic reduction in the numbers of livestock dependent on the range lands within this area.

C. A complicating feature of this situation is the large concentration of domestic livestock within many critical areas of use. Since the major function of this livestock is to supply the indispensable services of transportation, farm power and food, minimum grazing requirements of domestic stock must be satisfied by any means consistent with the conservative use of all lands within any given area.

D. Pending the bringing about of the conditions which would make reductions in the total number of livestock possible, no expansion in the livestock ownership of any income group can be encouraged.

Based on these considerations the committee further recommends the following broad principles of procedure for the guidance of the proposed Upper Rio Grande Board:

1. That for each area of population concentration the grazing requirements of which are to be considered, an area of management should be delineated.

2. That surveys designed to determine the total livelihood of each subsistence family be the source of basic data for determining grazing requirements of the subsistence population.

3. That the use of all federally owned or controlled lands within each area of management be examined in order to ascertain their availability to the subsistence population and to determine the conditions requisite for making such availability possible.

4. That subsistence families in each area of management be given a relative ranking on the basis of need, all subsistence families being subject to the same principle of classification without reference to ethnic grouping and that the subsistence family be the unit of allocation of use of grazing lands.

5. That minimum and maximum levels of livelihood be set up as guides for the allocation of grazing privileges among the subsistence families; that these upper and lower limits be established with due regard to the levels of livelihood actually obtaining among the subsistence population rather than with regard to levels related to the commercial economies of other areas and populations.

The Interdepartmental Rio Grande Committee:

JOHN A. ADAMS, *Forest Service.*

M. M. KELSO, *Farm Security Administration.*

A. D. RYAN, *Division of Grazing.*

ESHEEF SHEVKY, *Soil Conservation Service.*

WALTER V. WOHLKE, *Chairman, Indian Service.*

The CHAIRMAN. Very well.

Mr. ADAMS. I would also like to insert at this time a copy of the outlining of the functions and purposes of the Interdepartmental Rio Grande Board, if I may, because I think it would give you a better understanding.

(The matter referred to is as follows:)

SEPTEMBER 7, 1943.

STATEMENT FOR THE SENATE PUBLIC LANDS SUBCOMMITTEE

The Interdepartmental Rio Grande Board was created by joint action of the Secretary of Agriculture and the Secretary of the Interior in March 1938. It is composed of representatives of the Bureau of Agricultural Economics, the Soil Conservation Service, the Farm Security Administration, and the Forest Service, of the Department of Agriculture; the Indian Service, the Grazing Service, the General Land Office, and the Bureau of Reclamation, of the Department of the Interior. The Board also includes representatives of the office of the two Secretaries.

REPORT OF THE INTERDEPARTMENTAL RIO GRANDE COMMITTEE

Prior to the creation of the Board the two Secretaries created the Interdepartmental Rio Grande Committee and charged that committee with two major tasks: (1) A study and evaluation of the possibility of bringing about proper land use in the Rio Grande watershed, and (2) the development of ways and means of enlarging the agricultural opportunities of the rural population of the area.

The Committee spent a little less than a year collecting the necessary data and making analyses designed to illuminate the specific nature of the problems in the area. It reported back to the two Secretaries concerning the problems in the Rio Grande watershed and its dependent population in the following terms:

"The drainage area of the upper Rio Grande, reaching from Fort Quitman in Texas to the sources of the river in central Colorado, is one of the major western watersheds. It is also one of the oldest areas of settled human habitation in the United States. In a large part of this watershed the aboriginal

Indian population has practiced irrigated agriculture for at least a thousand years. Three hundred years ago the influx of Spanish-American colonists from Mexico began. A century ago Anglo-American settlers began to join the resident native population."

COMPETITION—OVERUSE—ERODED RANGE AND BOTTOM LANDS

The Committee report described the resulting redistribution of the land resources as the newcomers acquired great herds of livestock whose use of the range extended to areas never before employed by the stock of the native population as well as to range already occupied to capacity by them. The resulting overuse and misuse of the grazing lands throughout the watershed has depleted the productive vegetative covering and has accelerated erosion, a process which has in turn diminished the quantity and reduced the productivity of the area's basic resource, the fertile irrigated bottom lands along the water courses. Again the Committee reports " * * * that part of the watershed lying within the State of New Mexico from the upper end of Elephant Butte Reservoir to the boundary of the State of Colorado has reached a critical stage, both in the spectacular destruction of its soil resources through erosion, and in the precarious economic condition of the native rural population, which in this area numbers more than 90,000."

"The basic support of the native rural population is derived from irrigated agricultural land. The second most important source of income prior to the depression was the sale of surplus seasonal labor outside of the watershed. The income derived from livestock, while indispensable, was of secondary importance. The use of the grazing resources of the watershed opened to the native rural population has been drastically diminished by the control over the bulk of this resource by commercial livestock interests. The range area remaining available to the native village population has been seriously depleted, in several instances practically destroyed, by long continued overuse, and this overuse has been accentuated during the past year by the application of conservation measures on other parts of the grazing area."

"The inventory of the grazing resources made by the Committee indicates that, with the exception of the national forests, the range, both public and private is, in its totality, severely depleted, with progressive damage by erosion, and is now overstocked to an extent which necessitates a drastic reduction in the number of livestock if the range is to be saved and the damage to the irrigated agricultural lands is to be maintained."

The Committee indicated that any feasible and practicable redistribution of grazing privileges for the benefit of small subsistence users on the Federal ranges based on accepted methods of transferring use rights would offer a solution for only a minor portion of the total problems.

"The only large scale opportunity for broadening the base of irrigated farm land lies in the middle Rio Grande conservancy district, a quasi municipal district, organized in 1925, to protect the cities, towns and utilities of the district against flood damage and to reclaim some 70,000 waterlogged or dry acres through the construction of drainage and storage works."

IMMEDIATE CONDITIONS WHICH LED TO THE ESTABLISHMENT OF THE INTERDEPARTMENTAL RIO GRANDE BOARD

Physical conditions.

Some idea of the social and economic conditions which caused the two Secretaries to request that the Rio Grande watershed be given such thorough study and the reasons which compelled the investigating committee to make such seemingly drastic recommendations may be gained in the following statement from the committee's report on Present Conditions:

"The condition of the native rural population of the upper Rio Grande watershed entered the acute phase calling for Federal relief soon after the full force of the depression made itself felt. Long before this, the condition of almost half of the watershed's range and woodland had entered the critical phase of actual destruction of land, with another third approaching this stage."

"The bed of the Rio Grande is, in general, filling, and filling at different rates at different locations. From numerous profiles measured, it appears that from the Angostura Diversion Works to the San Antonio highway bridge, the mean rate of filling over the last 3 years is something like three-tenths of a foot per year. If one-fourth of a foot a year is the quantity of silt deposited per annum,

and if the average width of the channel is arbitrarily set at 660 feet for a distance of 124 miles, the deposition would be 2,480 acre-feet of silt or 4,001,000 cubic yards.

"The effect of this watershed destruction became vividly obvious in the San Marcial area during the flash floods of May and June 1937. During preceding floods, especially during those of 1912 and 1929, the dropping of the Rio Grande's excessive silt and sand load had destroyed hundreds of acres of irrigated land cultivated since 1681. In 1910 the San Marcial district had 1,650 inhabitants in July 1937, after the last destructive floods, less than 300 remained, and they were nearly all on relief."

Economic conditions.

"The precarious economic condition of the rural population throughout the area is revealed by an examination of its basic livelihood during the year 1936."

"Out of a total livelihood equivalent to \$10,000,000, approximately \$5,000,000 was derived from cultivated land in the area of primary concern. Wages and other cash income accounted for approximately \$2,000,000. An estimated income of \$1,500,000 was derived from sheep, cattle, and goats numbering approximately 150,000 in terms of cattle units grazed yearlong on the range."

"Livelihood obtained from these 3 sources equaled \$8,500,000. This amount divided among the 15,000 Spanish-American and Pueblo Indian families in the rural area equals an average livelihood of \$560 for each family. Thus the relief income of \$1,300,000 exclusive of rehabilitation loans received by the population during the year 1936 has served only to bring the average livelihood to the low level represented by \$650. The meagerness of this livelihood is made the more evident when it is considered that income is unevenly distributed in the villages and the pueblos as elsewhere. One-third of all families in these communities have incomes of less than \$300, relief included; two-thirds of the families do not reach an average income \$600, relief included. The conditions created by the meagerness of livelihood and the uneven distribution of that livelihood are alleviated only by the availability of fuel and of adequate shelter at practically no cash cost and by those elements of stability and security inherent in the social and economic organization of village and pueblo."

"As matters now stand, none of the four basic factors entering into the total livelihood of this population can suffer a reduction without grave hardships resulting from such a change. Yet a study of employment opportunities available to the native rural population indicates that only a total income of approximately \$1,300,000 may be expected from this source during the coming term of years.

"The income of \$1,500,000 derived from livestock represents an indispensable minimum. Yet the domestic livestock and flocks of sheep and goats and herds of cattle on which this income rests is continuing to be restricted in the area of greatest depletion and destructive use within the watershed.

THE FEDERAL INTEREST

"The Federal Government controls one-half of the land in the upper Rio Grande watershed. It is directly responsible for the welfare of an Indian population of 9,000. It has supplied, through the Reconstruction Finance Corporation and through the Indian Service, more than \$7,000,000 for the construction of the drainage, levee, and storage system of the middle Rio Grande conservancy district. It has financed the Elephant Butte irrigation system through the Reclamation Service, the still outstanding Federal investment in this enterprise amounting to approximately \$10,100,000. The Federal Government has contributed the bulk of the cost of the primary highway system in the watershed. In the 2 years of 1935 and 1936 it has contributed \$3,600,000 for the relief expenditures in prospect. It is a fact that the present economy of the watershed rests predominantly on a foundation of Federal financing and contributions. It is also a fact that the manner in which the resources of the watershed are now used and distributed is endangering the huge Federal investment and will make a continuous drain on the Federal Treasury inevitable unless drastic remedial action is taken."

ORGANIZATION, COMPOSITION, RESPONSIBILITIES, AND PURPOSE OF THE BOARD

In order to carry out their recommendations, the committee suggested the creation of the Interdepartmental Rio Grande Board to function as a continuous

planning and coordinating body. By assignment of existing personnel from the member agencies, a staff of an executive officer, an assistant, one clerk and one stenographer was created in January 1939. Through these few individuals who carry out and extend the work of the agencies from which they are assigned, there has been established a cooperative undertaking which provides a channel for carrying out the recommendations of the Board. From time to time the agencies may send representatives to work with this staff in the development of a particular program in a particular area peculiar to that agency's interests.

This Board is vested with advisory powers only. It is directed to develop ways and means of attaining the objectives laid down by the two secretaries and to advise the secretaries and heads of member agencies as to the application of such methods within the framework of the activity of existing agencies in the area.

AREAS OF PRIORITY FOR BOARD ATTENTION

The Board singled out two critical areas for immediate attention—the Cuba-Rio Puerco area and the middle Rio Grande conservancy district.

Cuba-Rio Puerco area.

The Cuba-Rio Puerco area includes the drainage basin of the Rio Puerco from a point a few miles below the junction of the Arroyo Chico and the Puerco to its headwaters. This area lies primarily in Sandoval and McKinley Counties. It is an extremely critical area from the point of view of the condition of the land resources and the condition of the resident population.

Through the land-utilization program of the Soil Conservation Service, a program of submarginal land purchase has been inaugurated and is nearing completion. When this program is complete, it will be possible to place the entire area under unified land management and to make available to the resident population much-needed additional range resources. A portion of the area is now in a grazing district under management of the Grazing Service, but adequate administration will require the collaboration of the Soil Conservation Service, the Forest Service, and the Indian Service, as well as the Grazing Service in a unified scheme of administration through which the aims of all may be realized.

All but one of a number of irrigation diversion dams on the main stream of the Puerco have failed through the rapid deterioration of the watershed lands and the consequent cutting of the main channel of the Puerco. The Department of Agriculture, under its flood-control program, is now making surveys of the area with a view to developing plans for flood and sediment control. Flood flows which cause sediment damage originate in the headwaters of the Rio Puerco. As a part of this program, it is contemplated that several silt-retention dams can be built which will raise the stream bed to its former level. These dams will be doubly beneficial inasmuch as they will control flood damage to the Rio Grande by removing silt, will improve irrigation water for the Socorro Valley and will make possible the cultivation of now abandoned farms in the Puerco where water rights still exist.

Middle Rio Grande Conservancy District.

The other area in which the board concentrated its initial efforts was the middle Rio Grande conservancy district. When the Interdepartmental Rio Grande Committee—that is, the predecessor of the Rio Grande Board—made its report to the two Secretaries recommending a program for the watershed, it stressed the need of adjustment in the affairs of the district as one of the most urgent problems of the entire area. The committee also observed that the district offered the only large-scale opportunity for enlarging the irrigated land resource.

Accordingly, the Board organized, through several of its member agencies, a land classification survey of the lands in the district, a survey of the economic condition of the land users, and a study of the aggradation of the main channel of the Rio Grande.

The findings of the several surveys now in progress will yield data concerning the amount of additional land that is susceptible of cultivation and some idea of the capacity of all lands in the district to bear assessments. The material is to be made available to various interested Federal and local agencies and is specifically designed to facilitate the development and execution of a comprehensive rehabilitation plan for the entire district.

In the Middle Rio Grande Conservancy District expected benefits have not accrued as planned. A considerable amount of land under the conservancy plan was to be drained and made fit for cultivation, but still has a water table higher

than that which will permit successful farming operations. At the present time, approximately 30 percent of the lands have a depth to water table of less than 4 feet during some time of the year.

In the payment of O. and M. charges, State and county taxes, and assessments on principal and interest, fully 70 percent of the agricultural lands in the district are delinquent and have been for several years. About half of the lands now bearing charges are not subjugated. These constitute some of the problems of adjustment that beset the district.

The broad outlines of a rehabilitation plan have been drafted by the Reconstruction Finance Corporation and the Middle Rio Grande Conservancy District Board. This plan is designed to postpone conservancy assessments and thus give relief to present land users on undeveloped land which is not susceptible of cultivation but which now carries construction assessments. It is also designed to bring other undeveloped lands into productive use. The Reconstruction Finance Corporation has made some \$585,000 available for the execution of this plan. The removal of nonproductive land from tax assessment will reduce many cash charges now levied on individual operators. However, it remains to be seen whether the farmers have the capacity to pay the present charges even on productive lands. It is still more questionable whether they can pay off their delinquent assessments and at the same time carry current assessments on these lands. So far, wholesale dispossession of the resident population has been forestalled. The need for further adjustments is apparent.

In its report to the two secretaries, the Rio Grande Committee suggested the colonization of newly developed cultivated lands within the district by noncommercial farmers from critical areas elsewhere in the watershed. This suggestion was predicated on the assumption that considerable new acreage could be developed within the district. Preliminary information from surveys now in progress indicates only a relatively small additional acreage can be successfully developed. Inasmuch as the economic condition of the present users of the district is precarious owing to inadequate size of holdings, such new acreage as can be developed will undoubtedly be devoted to present users whose holdings are too small.

OTHER BOARD ACTIVITIES

Among other activities of the Board are these:

(1) Sponsorship and supervision of a land use capability survey in the so-called Fence Lake area in Valencia, Catron, and McKinley Counties.

(2) Constant liaison with county and community planning committees to receive land use planning recommendations and develop programs of action in response to these recommendations wherever practicable.

(3) Cooperation with Taos County project—sponsored by University of New Mexico.

(4) Collaboration with New Mexico tax assessment survey in the development of information from which the relative productivity of agricultural and grazing lands for taxation purposes, can be determined.

Incidentally, the Board, through its member agencies, is cooperating with the State government to obtain greater security of tenure for native people threatened with loss of their agricultural and grazing resources through foreclosure and sale of tax titles. The State government has been quite cooperative in this respect, and in several areas adjustments are being made which will result in securing for the local people permanent title to agricultural and grazing lands on an equitable basis of taxation with improved facilities for subsistence.

SUMMARY OF BOARD FUNCTIONS

In brief, the Interdepartmental Rio Grande Board is a cooperative undertaking of the Department of the Interior and the Department of Agriculture designed to facilitate coordination of Federal programs. Its existence proceeds from the assumption that unity of purpose and economy of effort can best be achieved by the development of an advisory mechanism within the framework of existing agencies. Its effectiveness lies in its persuasive powers and in its capacity to visualize the problems and the remedial measures of the area from a unified point of view. It has no administrative functions, but rather acts as a clearing house for the participating Federal agencies which detail to it such personnel as may be needed.

JOHN A. ADAMS,
Secretary, Interdepartmental Rio Grande Board.

Mr. O'SULLIVAN. Mr. Adams, there was testimony of the creation of the conservation committees, which were to have authority to advise various agencies, but which were apparently to have no actual responsibility. Was this Interdepartmental Board, which you mention, one of those irresponsible committees, who only advised?

Mr. ADAMS. By "irresponsible," what do you mean?

Mr. O'SULLIVAN. One of these committees without responsibility. Is that what it was?

Mr. ADAMS. I always object to that. The Rio Grande Board made a careful study of the situation in the Rio Grande watershed. They developed that data, from which they made certain recommendations to be used by the Federal agencies operating in the watershed.

The CHAIRMAN. What were you responsible for?

Mr. ADAMS. Responsible for the integration and coordination of the Federal program in the watershed.

The CHAIRMAN. And you carried that responsibility out?

Mr. ADAMS. Yes, sir; I believe we did.

The CHAIRMAN. What was the result?

Mr. ADAMS. The result, to cover it actually, what was actually accomplished was the division of the various land purchase areas among the Spanish-Americans and Indians, and also the Anglos. That included some 800,000 acres of which the economic and social problem was very complex.

Further, through the recommendations of the Interdepartmental Board, they secured for the Rio Grande Conservancy District \$500,000 for the relief of the people in this district. We further instituted and followed up the purchase program in the Rio Puerco area, in order to make available, to those Spanish-Americans particularly, land in order to enlarge their economic base. I think we can consider that as a fair statement of the outstanding record of the Board.

Mr. O'SULLIVAN. Mr. Chairman, the chairman of that committee was Walter V. Woehlke, of the Indian Service.

Mr. ADAMS. That is correct.

Mr. O'SULLIVAN. Have you, perhaps, in that list of recommendations which you mention, any of the recommendations filed with the Rio Grande office of the Soil Conservation Service on November 22, 1938? I am giving the date, because I have not the original, but the recommendations in substance were as follows:

That the United States Indian Service undertake to obtain jurisdiction and administrative control of the public domain in this area, by February 15, 1939.

Did you recommend that?

Mr. ADAMS. What area are you talking about?

Mr. O'SULLIVAN. The Acoma purchase project.

Mr. ADAMS. Without consulting the files of the Board, I cannot tell you exactly, but I would be very glad to get that letter.

Mr. O'SULLIVAN. I am referring to a recommendation signed by Walter V. Woehlke and Hugh G. Calkins, vice chairman, filed in the Rio Grande office of the Soil Conservation Service on November 22, 1938.

The CHAIRMAN. Again, will you give us that language, just a sentence or so?

Mr. O'SULLIVAN. It was recommended by the Rio Grande Board, with respect to the Acoma purchase project, that the United States

Indian Service undertake to obtain jurisdiction and administrative control of the public domain in this area by February 15, 1939.

Next, it is recommended that M. Major, one of the lessees, or holders there, be forced—I believe I am quoting the language of the recommendation—be forced to turn over State lands, or be sued for trespassing.

Also, that the United States Indian Service exchange State lands in township 6 N., 7 west, now pending in the General Land Office, and pay off Seis and Wilson in township 6 N., 7 west, and finally that the Inter-Rio Grande Board create a management area in that portion not feasible for Indian use; that unified management projects should be based on the purchase of the interests of the large non-resident commercial operators using the area, plus the purchase of the holdings of those homesteads who, in the judgment of the Board, will be unable to establish an economic unit and are desirous of selling out.

Mr. ADAMS. Will you re-read one sentence there in which you state that the Board will do what?

Mr. O'SULLIVAN. The Board will set up a management—

It is recommended that the Rio Grande Interdepartmental Board create a management area in that portion of the south Acoma purchase project which is not feasible for Indian use.

Mr. ADAMS. I might make one observation there. The Board did not, has not ever had the authority to set up. It might recommend to the Soil Conservation Service, but, I think, in order to clarify this particular issue, I will get that letter and have it before you this afternoon.

Mr. O'SULLIVAN. That is the point I intended to make at the beginning, this Interdepartmental Board, then, had authority only to recommend and to advise; no authority whatever to execute or to manage, with responsibility?

Mr. ADAMS. That is correct. No, the administrative authority rests with the administrative bureaus operating in the watershed.

The CHAIRMAN. Very well, now the witness wants to proceed.

Mr. BIBO. I presume Mr. Adams explained to you what the creation of the Board was for. I would like to tell you what they did out there.

The CHAIRMAN. He tried to.

Mr. BIBO. Then, I will try to explain to you what they did out there.

This map will clearly show you the Soil Conservation's careful survey, utilization survey, the carrying capacity of all the sections, and how the area was to be blocked out. Now, this dark portion, here, shows a natural barrier, a steep bluff which makes this upper country, units 3 and 4 on Seboyeta and Putney Mesa, a practical single unit, which the Soil Conservation surveys showed could be used as a summer range for the Acoma pueblo.

This lower country, down here on the west, units 5 and 6, of which unit 6 is absolute waste land, a lava flow, shows where the majority of the non-Indian settlers were located. Most of it is privately owned lands; it was when the Government purchased that land.

I was operating with a Mexican boy by the name of Ted Armijo from the Putney Mesa, and we leased from the New Mexico-Arizona

Land Co., at the time they were preparing to make this transfer or sale to the Government. We had three school sections leased, and we were using the public domain in the same manner everyone was using it at that particular time.

As the Government took over the management of this area, under the Rio Grande Departmental Board, I naturally had to approach them as to how they would honor us in that country. I took the situation up before I made my application, and I must explain to you one incident that happened. This happened the year prior to their management of the area; that was 1936. My lease expired in 1935. Was it 1938 when they took over management of that area, or 1937?

Mr. COOPER. 1937.

Mr. BFO. Oh; then in 1936 I asked Mr. Cabeen of the New Mexico-Arizona Land Co., when I went to renew my leases in the area which I had from them, whether he would renew these leases on the basis that he knew some future sale was pending with the Government. I have a letter here that I can show you for evidence, if you would care to have it, that he said it was a policy of that company to renew the leases of a party prior to transferring them to anyone else, everything else being equal. I have a letter requesting me to make applications for the use of those sections; but, at the same time, he had some additional sections on top that he would like to lease to me, too, if I was interested in them.

I found out I couldn't very well handle these, because someone else had leases on the school sections. So I refused the additional ones, and went into the office to renew my leases on the five and a fraction sections I had from them. They gave me to understand he had given two sections I had under lease from him to another party for his last year's use, prior to the Government taking over the use of the lands.

In other words, he didn't live up to the statement of his letter. So, instead of leasing the other three and a half sections that were left to me, I decided to operate the last year there with my partner, on the school section only, that we had leased, because we had water; and we would wait to see how the Government would handle the proposition.

Mr. Cabeen, with good business judgment, wanted to get the lease out of that area for the last year; so he gave another operator an opportunity to lease those particular sections for the last year. Then he came up with the proposition where the Board had to handle it. I went into the Board and asked them if they were going to honor Mr. Armijo and myself, as long as we had prior use of that area; or whether they would consider that other operator also, because he had leases from the New Mexico-Arizona Land Co. for the last year.

They said, "No, it is the policy of the Government to issue leases to those who had prior use of the range." This other party was in just 1 year, 1936.

The CHAIRMAN. Who were you talking to?

Mr. BFO. I was talking to Mr. Ralph Charles, representing the Resettlement organization, in his capacity with that Board; and I understood, he told me if I made an application that he would not pass on it, that the Board would have to pass on it. You understand that the Board was the Indian Service, Resettlement, Forest Service, Taylor Grazing Service, and Soil Conservation Service. There were five departments on that Board. So I said, should this other lessee make application for a lease, come in there with me, because he operated the

sheep, I would not contest his lease, but would have to share the region with him. But I preferred to share it alone, because Armijo and myself operated cattle, and there was only a little country to work in, a small area approximately 16 sections, including all the land, public domain, Grazing Service land.

Mr. Charles took the matter up, when I made my application, with the Board, and I told them if I had to share it with this other lessee I would; but I would prefer to use it alone; but I would leave it up to the judgment of the Board. They sent me an application, which I filled out, and gave me a lease for 55 head of cattle, 25 head of horses. In other words, we reduced our operations, to comply with the Government handling this area. I sent them a check, and they received it, and accepted it.

A few days later, this party understood that I had leased the land, and he contested my right to operate in that country with this man Armijo. He gave this Rio Grande board certain information that caused Mr. Adams to write me a letter, for that Board, stating that they had additional information before them which showed that I did not, Armijo and I did not, have continuous use of that range; and if we could not show cause, within 10 days, that our stock must be taken off of Government range. So I had to appear before the Rio Grande Board and state this issue again, to all of them. I explained to them, and I explained it to their satisfaction. I did have prior use. They brought other issues up which were strictly personal. They were brought up and showed that my contact with certain Mexican boys down there whose character, as far as handling was concerned, were such that I was not deserving of a lease in this area. I think I proved to them otherwise; and they wrote me back a letter stating that I was entitled—stating the fact that I was entitled to continue to operate there with Armijo. Then they added this weak statement—but at the same time they felt that this other operator should get some consideration, and they let him up on top of me, up in there in a smaller area, with a herd of sheep, 500 head, for 2 months. That was their principle of handling the situation.

When I found that out I thought there was only one thing to do. I was approached by Mr. Dismuke—Mr. Chairman, if I should mention any names here, I want you to feel that I have no personal antagonism, but I am trying to explain the issue.

THE CHAIRMAN. All right.

Mr. BIBO. Dismuke, and other employees of the Indian Service and the Soil Conservation Service gave me to understand it was the policy of this Board to eventually block out all this top country, so it could be used for Indian use alone; and they would appreciate it if I would consider relinquishing what I had in that area. When the issue of the lease came up, and I saw the manner in which they were handling it, I thought it the wisest policy to leave that country. I made only one statement, and that was to Dr. Aberle, originally. The minute they could, they sent a Government appraiser out there to appraise the improvements we had on the State school section. That is all we wanted; to relinquish our holdings in that area; and they did, and our improvements on these three school sections were appraised at \$1,000, \$500 to Armijo and \$500 to me. The rest of that area which

we are accustomed to using, we relinquished, free of charge, feeling we were cooperating with this program.

When that issue was brought up before me, I was given to understand, definitely, that this congested area down here in unit 5, privately owned land, was a problem. They felt they could not solve that problem, non-Indian use on this area, on the basis they felt they would leave this area alone. I turned over what I had on the north end, after those other settlers had sold out, to give them an opportunity to completely block out this area.

Mr. Chairman, I want you to understand that, after I signed all the papers necessary to make this relinquishment of the three school sections, all I was getting out of it, I found out I was paid off with funds not appropriated for that purpose. In other words, the man that paid me off told me funds were appropriated for another purpose, but were used to pay me off.

Mr. O'SULLIVAN. For what other purpose were the funds to be used?

Mr. BIBO. Well, I'll tell you just what they told me.

The CHAIRMAN. Who was the man?

Mr. BIBO. Dr. Aberle's assistant was the one that approached me on this issue, Joseph Barnett. He told me they were funds appropriated for the building of privies in the Zuni Pueblo, that fund. They used that money to pay me off.

That brought up the issue which I wanted to bring before you today. We were given to understand that units 5 and 6 would be left in non-Indian use. But it was not meant to be so. I find that out now, although I lived up to their methods of best solving the situation to handle it for these Indians. I would like to leave here as a record, a memorandum of the survey which mentions all of these rights. You may take my statement, or you can get a copy of the original, out of the files of the Soil Conservation Service Office.

Mr. O'SULLIVAN. In particular, Mr. Chairman, we would like to read into the record so much of it as relates to what seems to confirm the general arrangement in that area. That unit 5, which is the lower valley [indicating], beneath the natural barrier, beneath the brush piles, beneath the fences which the Indian Service built along the mesa edge, was to be for non-Indian use. This is a recommendation signed by H. J. Helm, acting chief of range management, and countersigned by Dewey Dismuke, the chief agricultural aide of the Soil Conservation Service, now an Indian Service employee, and approved by E. R. Smith, district manager of the Soil Conservation Service, dated March 22, 1938:

Due to the concentration of livestock owned by non-Indians in this area—
referring to the Valley—

there is not sufficient range available for even local needs, and it is doubtful if there would be any possibility of acquiring more than a few of the privately owned holdings above referred to if such would be desirable.

Furthermore, it would be extremely difficult to drive livestock from the above-mentioned mesas to the area below, because of the rough nature of the lower country and the nearly impassable rim of the mesa.

Further, it is doubted if the Indians would accept such a plan, because of the great distance from their pueblos.

This is a copy of the entire letter, which we offer for filing.

(The letter is as follows:)

RIO GRANDE DISTRICT,
Albuquerque, N. Mex., March 22, 1938.

MEMORANDUM

To: Rio Grande Files.

From: H. J. Helm and Dewey Dismuke.

Subject: Acoma purchase area use (South Acoma and Laguna).

On Friday, March 18, the undersigned, accompanied by Mr. E. R. Smith, made an inspection trip over the Acoma purchase project, LI-NM-8, generally termed the South Acoma and Laguna purchase area or the 11-township area, for the purpose of determining, if possible, what land could be used to the best advantage by Indian livestock, giving consideration to non-Indian holdings within the area. For range management purposes the area has been subdivided into six units (see accompanying map) on natural boundaries for the most part, the only exception being the south boundary of the Walter Marmon tract which follows section lines.

The following information from the status and grazing map is substantiated by the field inspection:

The northwest corner and part of the entire west side lies in the lava bed country. (See map, subunit No. 6.) This comprises 30,329 acres or 12.2 percent of the entire area and is absolutely worthless from the standpoint of livestock use or of any other use, for that matter.

The area adjacent to the lava beds on the east and below the Black-Putney-Cebolleta mesa rim (see map, subunit No. 5) is traversed by the Grants-Tres Lagunas Road along which there are a number of homesteads and other privately owned tracts, the southern portion being used by Juan Iriart's livestock. Due to the concentration of livestock owned by non-Indians in this area, there is not sufficient range available for even local needs, and it is doubtful if there would be any possibility of acquiring more than a few of the privately owned holdings above referred to if such would be desirable. Furthermore, it would be extremely difficult to drive livestock from the above-mentioned mesas to the area below (i. e. west) because of the rough nature of the lower country and the nearly impassable rim of the mesa. Further, it is doubted if the Indians would accept such a plan because of the great distance from their pueblos. Also, he it noted, subunit No. 4 is primarily summer range, and subunit No. 5 is winter range. It is necessary for the Indians to return to the reservation lands for shipping, and a plan making it possible for use of the reservation lands as winter range appears to be the most feasible. Subunit No. 5 covers 60,350 acres, with a carrying capacity of 672 cattle yearlong or 24.2 percent of the total area of the purchase and 20 percent of the carrying capacity.

If the foregoing argument carries weight it would seem to exclude both subunits No. 5 and No. 6 or 36.4 percent of the total area and 20 percent of the carrying capacity from consideration for Indian use.

On the east side the Walter Marmon allotment of 20 sections covers 12,770 acres with a carrying capacity of 220 cattle yearlong or 5.0 percent of the total area and 6.5 percent of the carrying capacity. (Walter Marmon is a Laguna Indian who runs stock outside the reservation.) Under present conditions of use this subunit is not available to any additional Indian livestock. So far as is known there has been no plan proposed or other suggestion made than to allow Mr. Marmon to use subunit No. 1 individually. (Marmon owns several tracts of deeded land and holds State leases on other tracts upon which water has been developed.)

Due south of the Marmon tract is subunit No. 2 covering 35,684 acres with a carrying capacity of 381 cattle yearlong or 14.3 percent of the total area and 11.3 percent of the total carrying capacity. This subunit is used exclusively by Seis and Wilson livestock and is only one portion of the entire Seis and Wilson ranch holdings which extend to the east and south of the withdrawal boundary. The area mentioned is below the rim of a large mesa to the west. The Seis and Wilson range formerly extended west 6 miles to the west range line of T. 6 N., R. 7 W. It is understood that an agreement has been reached between the interdepartmental committee and Seis and Wilson whereby the latter will give up the use of their lands on the mesa, providing they are not molested or encroached upon on their lands below the mesa within the withdrawal area. (See map, subunit No. 2.)

Thus, on the east side there is 19.4 percent of the total area and 17.8 percent of the total carrying capacity that will be impossible to be used by Indian livestock (communal) until such time as other arrangements are made.

Totaling those areas on both east and west sides that are not available for Indian use, there are 139,133 acres, or 55.8 percent of the total surface acreage with a carrying capacity of 1,273 cattle yearlong or 37.8 percent of the total carrying capacity.

Subunits No. 3 and No. 4 on the top of the various mesas, which more or less run together, constitute the area which furnishes practicable use for Indian livestock. These total 110,420 acres or 44.3 percent of the total acreage with a carrying capacity of 2,099 cattle yearlong or 62.2 percent of the total carrying capacity. In this area there are still a few tracts used by non-Indians, principally the Blas Romero, Arthur Bibo, Sidney Gottlieb, and two individual Acoma Indians (Bautisto Rey and Lorenzo Vallo). Plans have been developed and options secured on some of these holdings, and it is recommended that immediate steps be taken to clear the entire situation. The Malcolm Major lands in the south portion of subunits No. 3 and No. 4 have been optioned, and it is expected that this transaction will be cleared within a short time. Assuming the above-mentioned exceptions can be purchased or otherwise made available for Indian use, it is reasonable to assume that the two subunits, No. 3 and No. 4, with a carrying capacity of 10,500 sheep yearlong, will be available for Indian use, wholly or in part, this coming season (1938). Since it is desirable to afford as much protection as possible to the Acoma and Laguna lands, by making available subunits No. 3 and No. 4 for summer use, livestock in sufficient numbers could be removed from reservations proper to make possible substantial relief to the reservation lands. It is recommended that the use be divided equally between the Acoma and Laguna Indians; that is, 5,250 sheep each on a yearlong basis. Any seasonal fraction may be adjusted accordingly.

The bulk of the range recommended for Indian use has serious infestation of pinque, and it is very doubtful if it would be possible to stock to the full capacity with sheep which are not accustomed to this range without severe loss resulting. The practical use, insofar as sheep are concerned, appears to be for a 4-month summer period beginning about July 1. Summer use seems to be practicable for either class of livestock; however, cattle could be admitted at a later date when the range is sufficiently fenced and watered for a 6-month grazing period. Extreme caution is recommended if complete stocking or seasonal use, other than that above mentioned, is contemplated, because of the poison hazard due to the pinque.

Immediate steps should be taken to fence the boundary, beginning at the northeast corner of T. 7 N., R. 6 W., thence south two townships, west six townships, thence north one township, thence east to the Malpais rim, beginning again at the Malpais rim on the northeast corner of T. 8 N., R. 10 W., thence east to the Acoma boundary.

It is pointed out again that concerted action should obtain in the matter of expediting clearing of inside holdings within subunits No. 3 and No. 4, since these two subunits present very few obstacles and the only immediate relief for the Acoma and Laguna Reservations. These two subunits are reasonably usable by the Acoma and Laguna Indians insofar as water is concerned, provided the alienated holdings are secured and provision is made for driveway for Laguna livestock to cross from the reservation onto their allotment on this purchase area.

H. J. HELM,
Acting Chief of Range Management.
DEWEY DISMUKE,
Chief Agricultural Aide.

Approved:

E. R. SMITH,
District Manager.

The CHAIRMAN. Very well, you may proceed.

Mr. BIBO. Mr. Chairman, in understanding that locality you must realize that units Nos. 3 and 4, which we have just relinquished, that is left to the total use of these Indians; it constitutes 62 percent of the carrying capacity of the total township area; while this area down below the bluff, which is units 5 and 6, including the lava bed, which has

no carrying capacity at all, is only 20 percent of the carrying capacity of the entire area.

In other words, we have relinquished; we feel we have cooperated with them to give them the use of the largest area possible. And the one that is the most distant and contains the most patented land—because there are approximately 10,000 acres of patented land in this area today—is to be left for our use, non-Indian use. But they did not intend originally to carry out that program. I can prove it to you by telegram that Mr. Calkins sent to E. R. Smith, head of the Soil Conservation Service office here.

It reads as follows:

E. R. SMITH,

*United States Soil Conservation,
Albuquerque, N. Mex.*

Letter from group of people, presumably in 11 township area, to Chavez, says Soil Conservation Service men approached them regarding purchase of lands, also agreements for work. Assume report not well founded, however, believe we should be cautious to avoid suggestion of land purchases. Will send copy of letter.

CALKINS.

In other words, here they have sent men out into the area to block the area off. They give me to understand they would be left alone after I give up the area.

The CHAIRMAN. Let me catch that, and see if I can see what you mean. I don't like to put the wrong interpretation on your language. What you want the committee to understand, by the reading of that telegram, if I catch it right, is that at the very time that they were telling you and others that this valley land under the rim was to be held for non-Indian use, they were, as you construe that telegram, making arrangements to make acquisition in that territory for Indian use. Is that what you want the committee to understand?

Mr. O'SULLIVAN. I believe it is, Mr. Chairman.

Senator CHAVEZ. May I say, Senator McCarran, my office received many letters from people telling me of being approached for the purchase of land within the lower valley there.

Mr. O'SULLIVAN. He has here the reply, or a copy of it, by Mr. E. R. Smith to Mr. Calkins, dated February 1, the day after the arrival of the telegram just read, which confirms the fact that not only were they purchasing land in the lower valley, but they were being very cautious and devious and circuitous about it.

The CHAIRMAN. Who was Mr. Calkins?

Mr. O'SULLIVAN. At that time he was with the Soil Conservation Service in Washington.

The letter reads as follows:

ALBUQUERQUE, N. MEX., February 1, 1939.

Mr. HUGH G. CALKINS,

Care of Col. Samuel Goodacre, Soil Conservation Service,

Washington, D. C.

DEAR HUGH: Reference is made to your telegram of January 31, 1939, copy of which is enclosed, together with copy of memo concerning the administration of the Acoma purchase area, signed by Mr. Wochlke and yourself. The memo in question should, I believe, explain why, after all, the report from Chavez is actually well founded.

In reconstructing the history of the memo, I discovered that on the day on which it was prepared I happened to be called away, and asked Herb Stewart and Dewey Dismuke to represent me. Accordingly, when the memo arrived

from your office I routed copies of it to both Harley Helm and Bernie Bell, asking that they confer with Dewey Dismuke and Stewart prior to taking action indicated in paragraph 5.

Mr. O'SULLIVAN. That was the last paragraph that I questioned Mr. Adams about.

I am assured by Dewey Dismuke that the greatest care was observed in making the contacts which were made, and our activity was represented by bringing earlier records to date.

Mr. O'SULLIVAN (continuing). We construed that by implying that the persons approached were given to understand, not that a prospective purchase was in view, but that they were attempting to bring previous ownership to date.

You realize Symington of the Indian Land Division had already, many months before, made contacts with all of the residents of the 11 T. A. and we had, in the early days of our acquaintance with it made additional contacts and, of course, following the lead of the memo, we made still more contacts. As a matter of fact, I feel that I can assure you our approach in every case to a resident of the 11 T. A. has been as discreet as it could possibly be. Whatever harm has been done, is done, for this particular activity stopped about 3 weeks ago. The quality of the information that was obtained by our range man working with a representative of the Conservation Economics Section is good, it seems to me, and should furnish the Rio Grande International Board with what it wants to know.

It may be that this district has been out of order in the activity which has been pursued, and in any case, it looks as though I am to blame. On the other hand, in urging the proper sections into action, I saw to it that they consulted the district representative at the original meeting so that the proper background could be supplied. I do hope that no great embarrassment will have been caused the Service or yourself in this matter.

(Signed) E. R. SMITH.

As we see that, it clearly indicates, I believe, a subrosa project to purchase individual holdings.

Senator CHAVEZ. Contrary to information given Mr. Bibb and other landholders at the time?

Mr. O'SULLIVAN. Yes, Senator.

The **CHAIRMAN.** Very well, you may proceed, Mr. Bibb.

Mr. Bibb. Mr. Chairman, when that situation arose all these underhanded deals were going through to acquire this lower country. I was out of the picture, I was eliminated, and I left this country; but at the same time, I have been familiar for years with the holdings of this lower country, which I understood was to be left to non-Indian use. It so happened that in what is known as the Seboyeta Canyon, right in here in unit 5, there are certain privately owned holdings which controlled the use of that area.

In the matter of land pattern, under our existing laws, the party that owned that land passed away, and the heirs that inherited this land have told me they would lease me this area, when I approached them for its use. There were two school sections in that country that an operator in the southern portion of this area had, but had no use for, because under his operations, after this transfer of jurisdiction on the 23d day of December 1938, which transferred the management over to the Office of Indian Affairs—I presume that was done so they could further approach these men, and block out that area in better fashion. I decided I would try to relocate, after being out of the game 2 or 3 years, and use this country, which I was under the impression was for non-Indian use.

It was then that I found out this transfer of jurisdiction was made. I was under the impression that it would be impossible for them to reach some agreeable understanding with the Indian Service, because their very object in transferring showed me that they had no intention of honoring non-Indian settlers down below.

In other words, I sized it up, at the moment that the Rio Grande Interdepartmental Board was a big force. In other words, the Office of Indian Affairs has the management of the area, all the time, obtained by a cooperation of Walter Woehlke and between him and Hugh Calkins, who held the post at the head of the Soil Conservation Service, which is supposed to be with the Department of Agriculture. In other words, they worked hand in hand, as these letters show, to help block out that area.

I had an issue to bring up in order to operate there. I went to a person, who I felt was best posted to advise me as to the proper thing to do, before I leased these lands which these people offered me; and I can tell you frankly that there was very poor management at that area. As I approached that country to use it, there was only one operator in there, and he was living on part of this privately owned land, which I was to lease. He had no lease; and still the United States Indian Service had granted him a permit for 80 head of cattle, and then reduced that to 42, in order to permit him to operate in that area, and keep this larger operator out, who originally had used the country. They set a line, which is supposed to be the dividing line between these operations. When I found out I could lease this area, there was only one way to go about it. I wrote to the Department of Interior, the Office of the Under Secretary of the Interior. Our present Governor Dempsey was the Under-Secretary at the time. I asked for this transfer.

Mr. O SULLIVAN. He means he asked for a retransfer of jurisdiction over units 5 and 6, which are adjoining Grazing District 2, from the Indian Service, where it now was, back to the Grazing Service, so it could be administered properly under the provisions of the Taylor Grazing Act.

Mr. BINO. I received a reply from the Under Secretary of the Interior, and I could tell by the contents of the letter that he could not have written that letter. In other words, possibly the pressure of business caused him to refer that to some other Under Secretary. There are certain points brought out in this letter from Under Secretary Dempsey, if you would care to have it read. I would prefer to have my attorney read it for you.

Mr. O'SULLIVAN. I would like to read one point. This makes it clear that the transfer of jurisdiction from the Indian Service back to the Grazing Service, and the reunification of units 5 and 6 with Grazing District No. 2, was not feasible, according to the letter, because the Indian Service objected to the transfer. In other words, it didn't seem to be a question of right, wrong, propriety, or anything else. It was the whim or the will of the Indian Service alone which guided the decision.

Mr. STEWART. Mr. Chairman, could we have the full letter read?

The CHAIRMAN. Yes; I don't see why not.

Mr. O'SULLIVAN. [reading].

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, April 2, 1942.

Mr. ARTHUR BIBO,
Los Cerritos Ranch, Cubero, N. Mex.

MY DEAR MR. BIBO: Your letter of February 16 proposed the transfer of jurisdiction from the Office of Indian Affairs to the Grazing Service over an area of grazing lands now under the administration of the United Pueblos Agency in New Mexico. The townships or fractional parts of townships referred to in the proposal are: T. 6 N., Rs. 10 and 11 W.; T. 7 N., Rs. 9 and 10 W.; T. 8 N., Rs. 9 and 10 W., New Mexico principal meridian.

The transfer of jurisdiction, if consummated, would place these lands, by modification of present boundaries, within New Mexico grazing districts Nos. 1 and 2.

The regional grazer at Albuquerque, N. Mex., has investigated this proposal and has discussed the matter with the administrative officials of the United Pueblos Agency, and that agency has objected to the transfer for the reasons that a portion of the area according to its records is used by the Indians for farming purposes and the north sector is used by the Indians for seasonal grazing. It was also brought out in the discussion that the south sector at the present time is used exclusively by a non-Indian, John Iriart. Also this area is planned for future Indian use, and the only reason it has not been used by the Indians is that it has been overgrazed in the past.

In view of the objections raised to the proposed transfer, it is not believed advisable at this time to take action toward transferring jurisdiction over the land.

Sincerely yours,

JOHN J. DEMPSEY, *Under Secretary.*

Mr. Bibo was advised that that letter prepared by and written for Mr. Dempsey by Walter V. Woehlke of the Indian Service.

Senator CHAVEZ. But, it was signed by Mr. Dempsey?

Mr. O'SULLIVAN. Yes.

Mr. BIBO. It didn't take me long to make up my mind who I thought could have written that letter. From the experience that I had in the area, the people that were interested in it, I made up my mind that Walter Woehlke wrote the letter. I would like to ask the Indian Service Officer here, those who know, whether I am right. I don't want to be quoting anybody wrong.

Senator CHAVEZ. Well, I don't know, but I know Walter Woehlke is a sharp man. He might have written it.

Mr. STEWART. I couldn't answer that.

Senator CHAVEZ. They wouldn't have that information.

Mr. BIBO. When Mr. Dempsey resigned as Under Secretary of the Interior, as you know, to become Governor here in this State, Mr. Abe Fortas was the next Under Secretary. So, instead of taking the matter up at the same point, I decided, by being advised properly, that I should take the issue up with our Honorable Congressman, Clinton Anderson, which I did; and Mr. Anderson in turn took this issue up with Abe Fortas.

I have a copy of a letter from Abe Fortas to Mr. Anderson, which clearly explains the attitude of the Office of Indian Affairs, and not the Under Secretary of Interior. I take it that Walter Woehlke also wrote this letter.

Mr. O'SULLIVAN. I believe there can be no question about that. I have seen a copy of that letter forwarded to the Grazing Service

for inclusion in their files and that copy bears in the lower left hand corner, the initials "WVW".

Mr. STEWART. Can't we hear those letters?

Senator CHAVEZ. The explanation of why we can't agree with them—

Mr. O'SULLIVAN. They accuse Mr. Bibb and others of being what they please to call large commercial nonresident operators. This land cannot be transferred, because it is to be utilized for additional grazing areas.

They say that in the bulk of this area, in which the Office of Indian Affairs control the ex-railroad lands and the public domain turned over to the Commissioner of Indian Affairs for administration, the private interests, including those of Malcolm S. Major and Seis & Wilson were bought out, and confirming the recommendation of the interdepartmental committee, as brought out here today during the testimony of Mr. Adams. They say that the purchase operation could not be completed for lack of funds within the area described by Mr. Bibb.

Secretary CHAPMAN. May I suggest; if Secretary Fortas' letter is to be quoted, we would like to have it read in full?

The CHAIRMAN. Very well, I think that is only fair.

Mr. O'SULLIVAN. The letter is dated July 29, 1942, and it reads as follows:

UNITED STATES DEPARTMENT OF THE INTERIOR,
Washington, July 29, 1942.

HON. CLINTON P. ANDERSON,
House of Representatives.

MY DEAR MR. ANDERSON: On July 14 you sent me a copy of a letter addressed by Mr. Arthur Bibb, of Cubero, N. Mex., dated May 29, 1942, to the then Under Secretary of the Department of the Interior. You state that Mr. Bibb has not had a reply to his letter in which he suggests the transfer of jurisdiction of certain lands in Valencia County, N. Mex., from the office of Indian Affairs to the Grazing Service of the Department of the Interior. Under Secretary Dempsey replied to the initial proposal of Mr. Bibb in this same matter, advising Mr. Bibb that such a transfer to jurisdiction of the lands in question was not advisable. Subsequent to this decision, Mr. Bibb discussed the matter with Under Secretary Dempsey in Santa Fe and thereafter wrote the letter of May 29, which Under Secretary Dempsey failed to answer prior to his resignation. However, on his last day in office Under Secretary Dempsey consulted the Commissioner of Indian Affairs and was advised that the attitude of the Office of Indian Affairs in this proposal to transfer jurisdiction was unchanged.

In his letter of May 29, Mr. Bibb suggests that certain parts of the Indian Office Acoma land-purchase project, designated as LI-NM-8 of the land program's submarginal purchase project, be transferred from the Commissioner of Indian Affairs to the Grazing Service for administration. He refers especially to all of T. 6 N., R. 11 W., T. 8 N., R. 10 W., and portions of T. 6 N., R. 10 W., 7 N., R. 10 W., and 8 N., R. 9 W. This area adjoins the southwest corner of the Acoma Indian Reservation. It constitutes part of the withdrawal from all forms of entry of some 32 townships for the purpose of aiding in important land-use adjustments between Indian and non-Indian users. Within this withdrawn area the Indian Service in cooperation with the land program and later its successor, the Resettlement Administration, bought 150,687 acres from the New Mexico and Arizona Land Co., this railroad land being acquired for Indian use. The board of directors of the New Mexico and Arizona Land Co., at a meeting held October 3, 1934, passed a resolution saying: "From negotiations with the Land Division of the Bureau of Indian Affairs, it appeared likely that the Government would be willing to purchase for 1.50 per acre the surface rights to 150,687.14 acres in this company's Valencia tract, in connection with the submarginal land-acquisition program of the Government, the said land to be utilized for additional grazing areas for the Laguna and Acoma Indian Reservations which adjoin the Valencia tract."

In the 6 townships mentioned by Mr. Bibo, there are 67,328 acres of this railroad land bought for the use of the Acoma Indians. There are also less than 50,000 acres of public domain withdrawn from entry and turned over to the Commissioner of Indian Affairs for administration. In addition there are less than 8,000 acres of fee-patented land owned by non-Indians.

It was the intention of the Interior Department to acquire not only the 150,000 acres of railroad land but also all of the fee-patented lands in this purchase project area and to induce the State to exchange its school sections for other sections of public domain outside of the purchase project area. In addition to the 150,000 acres of railroad land the Department through the land program and later the Resettlement Administration purchased the patented lands, the improvements on the public domain, and the leases of State lands of 13 individual owners, but lack of funds prevented the Department from completing the purchase of the remaining private lands and interests in part of the project area. There are approximately 15 private owners remaining in the project area and more than half of these owners have repeatedly petitioned the Department and the New Mexico congressional delegation to provide funds with which to acquire their interests. These petitioners have all been the smaller livestock operators, principally homesteaders who took up their claims 10 and 12 years ago.

In addition to these resident homesteaders, there are operating in this area the nonresident large operators who signed the Bibo letter of May 29. The 20 homesteaders in this purchase-project area were constantly in conflict over range rights and water with the large nonresident operators, principally Juan Iriart and the Mirabel estate. These larger commercial operators, including Mr. Bibo, had preempted the grazing rights on the public domain in this area and had most of the railroad land and the State lands under lease, leaving the homesteaders without any range rights except on their own homestead lands.

In the bulk of the area in which the Office of Indian Affairs controlled the ex-railroad lands and the public domain turned over to the Commissioner of Indian Affairs for administration, the private interests, including those of Malcolm S. Major, and Seis and Wilson were bought out. But the purchase operation could not be completed for lack of funds. Within the area described by Mr. Bibo there remain to this day the several large nonresident operators who endorsed Mr. Bibo, and some 8 or 10 homesteaders. The large operators, principally Jean Iriart and the Mirabel estate, are using the ex-railroad lands and the public domain within the area withdrawn for Indian use, but they have been compelled under the regulations of the Indian Service to desist from overgrazing, to make proper seasonal use of the public lands assigned to them, and their grazing operations in the area have been reduced in order to make available to the homesteaders a sufficient amount of range on the public domain lands to enable these small operators to make a subsistence living. If the Federal Range Code were applied to this area and if the advisory board of which Mr. Floyd W. Lee is the chairman were given the right to allocate grazing privileges in this purchase project area, it is extremely doubtful whether any of the homesteaders could qualify for more than a few head of domestic free-use stock.

Mr. LEE. May I correct that statement right there, that it would not come under any board. And I would like to announce that the press has announced that Italy has surrendered. [Applause.]

Mr. O'SULLIVAN (reading) :

It is the intention of the Department to complete the acquisition of patented lands and to complete the exchanges with the State in the Acoma purchase project area as soon as funds are available. In the meantime, the best interests of the larger number of people resident within the area will be served by continued administration of the area by the Commissioner of Indian Affairs.

It may interest you to know that there are just being completed arrangements to transfer administration of approximately 15 townships lying to the east and to the west of the Acoma purchase area from the Commissioner of Indian Affairs to the Director of the Grazing Service. Within this area about to be transferred administratively to the Grazing Service, no purchases of railroad land were made by the Indian Office or the Resettlement Administration.

An additional copy of this letter is enclosed for your convenience.

Sincerely yours,

ABE FORTAS, *Under Secretary.*

Rather than attempt to comment upon any of the statements made in the letter of Mr. Fortas, which we still say was prepared for him by Mr. Woehlke, we wish to offer at this point Congressman Anderson's masterly reply to this letter:

AUGUST 20, 1942.

HON. ABE FORTAS,

*Under Secretary of the Interior,
Interior Building, Washington, D. C.*

DEAR MR. FORTAS: I have received your letter of July 29, 1942, in answer to copy of a letter which I sent you written by Mr. Arthur Bibb, of Cubero, N. Mex. to the former Under Secretary of the Department of the Interior. This has to do with the proposed transfer of jurisdiction of certain lands in Valencia County, N. Mex., from the jurisdiction of the Office of Indian Affairs to the Grazing Service.

Since my return to New Mexico I have had an opportunity to discuss with local people the matters contained in your letter of July 29, 1942, which indicated there might be some basis for your checking the source of the information on which your letter is based. Although your letter states that a lack of funds was the principal reason for not completing the land acquisition program, I am informed that certain individuals in this area did not desire and still do not desire to sell their lands to the Federal Government. It would appear therefore, that there is a strong possibility of a certain amount of this area remaining in private ownership, and in view of the present attitude of the Congress opposing the removal of privately controlled lands from the tax rolls, there appears to be little or no possibility of rectifying this situation even though funds were provided for further acquisition.

In the fourth paragraph of your letter you refer to a conflict of interests between large and small ranchers. Upon checking into this situation it has come to my attention that this conflict pertains principally to the original purchase project rather than the area proposed for transfer. I would also like to point out in the fourth paragraph of your letter your reference to the fact that more than one-half of the remaining 15 private land owners in the area have repeatedly petitioned the New Mexico congressional delegation to acquire their interests. I, personally, have no knowledge of such a petition having been filed. At least, it did not reach me.

Further in reference to the fourth paragraph of your letter if I am correct in my interpretation of your reference to "benefitting the resident operator," it would appear that a person not having residence in this somewhat limited scope of country would, according to Indian Service policies, not be entitled to any grazing privileges. I am quite familiar with ranch and livestock practices here in New Mexico, and know that it is common practice in a ranching country for the ranchers not to maintain actual residence on a ranch since they prefer the advantage to be had in living in a near-by town for the purpose of being near schools and other conveniences for the family. To limit the grazing rights to an applicant who happens to make his residence within the boundaries of this area seems to me somewhat discriminatory.

Might I suggest that you make inquiry of the Taylor grazing people as to resulting effects of application of the Federal Range Code to this country?

From my observation over the State of New Mexico, I am inclined to believe that administration under the Taylor Grazing Act is meeting with general approval of the stockmen. I believe your indirect accusation that justice would not prevail if the advisory board of which Mr. Floyd W. Lee is chairman, were given the right to allocate grazing privileges in these cases, is hardly justifiable. I have known Floyd Lee personally for many years and consider him an outstanding and reliable citizen and feel that there would be no discrimination against small operators by virtue of his serving in an advisory capacity to the Grazing Service. It is my understanding that the advisory board is only vested with power to make recommendations to Grazing Service officials.

Also, I find that the greater portion of the area would fall within New Mexico grazing district No. 2, and the advisory board chairman of this district is likewise a personal acquaintance of mine, Mr. August Seis, in whom I have the utmost confidence. Mr. Seis has been in business in Isleta for many years and has a real and sympathetic understanding of Indian problems. I, therefore, have reason to believe that that portion of the area which would come under the

jurisdiction of Mr. Seis' board would be judiciously handled with respect to the allotting of grazing rights.

The Acoma Indians being the principal beneficiaries of an 11-township purchase program should now have sufficient range lands that this relatively small acreage could, without any detrimental effects to the Indians, go to people proposing this transfer.

That the greatest good to the greatest number will come only under Indian Service jurisdiction might be questioned in view of the fact that the Indian Service grazing permits, according to my understanding, are issued annually at the discretion of the superintendent, with no assurance that the holder of the permit can expect that continued use which is necessary in a successful business enterprise; whereas, under the Taylor Grazing Act, there is the principle of stability of livestock enterprises by virtue of the issuance of permits covering a 10 year period.

While the area involved is relatively insignificant, the entire matter seems to involve a principle which, I believe, should be the subject of serious consideration by the Indian Department, and that is the propriety of the Commissioner of Indian Affairs undertaking the administration of lands primarily suitable for non-Indian grazing when within the same Department there has been established by law (the Taylor Grazing Act) an agency to handle and regulate public land for grazing.

You will understand that I am not trying to be critical of the Administration of either the Indian Service or the Grazing Service. I like them both, but as a person who has lived rather close to the land utilization problems of New Mexico, I thought you might be interested in having my appraisal of this situation, which is quite different from that in your letter. I would be very much interested in having your comments on the points I have raised.

With best personal regards, I am,

Sincerely yours,

(Signed) CLINTON P. ANDERSON.

The CHAIRMAN. All right.

Mr. BIBO. Now, when I made these leases in this area, sent in my request for this transfer, nothing was done about it. I had to face the issue; the Office of Indian Affairs, or the Pueblo Agency here, had administration of this area. So I thought the proper thing to do was approach them and ask them for a lease pending the settlement of this issue which was before the Under Secretary of Interior, and nothing was done about it.

When I approached those Indian officers here in town they give me to understand that they would consider it, and a day or two after I made the application—I filled it out in full and showed them the area I wanted to use, the approximate number of stock I wanted to run on there. Mr. Ted Formhals, representing Dr. Aberle, came out to my ranch and stopped in my brother's store, tore off a piece of wrapping paper and on it wrote, "Tell Artie we can't even consider his application." That is the kind of business administration I had to contend with in order to get a lease.

Then the next issue came up to me as to whether I had a right to get in the canyon and use it or not, according to the Taylor grazing law. I figured the natural pattern, the natural set-up, that all of the public domain and the land purchased by the Government for the Indians is dependent on this particular privately owned land for the existence of livestock in that canyon, and as long as I had that privately owned land and the school sections leased, I went on there for the past 2 years. I still haven't been able to pay rental to the Government on it, because my application has not been considered. And it has brought forth the same issue that those people to the south of me have. They have a lease with the Indian Service on a year-to-year basis. Their

land pattern is the same, all of the permanent water developed in that area is on privately owned land. If this transfer doesn't go through the Government still can't use the land, because there is no water. The Government land is dependent on privately owned holdings.

I am asking for transfer of jurisdiction for those of us who still continue to use it. I was asking something within reason. At the same time, I want you to understand this top area—whether the Indian Service resents my making this statement or not, or the cattlemen resent it—I want to see the Acoma Indians retain every bit of that upper area. There is only one section in there that interferes with this. I own it. If this transfer goes through, so those of us can continue to operate down there, I will give the Government of the United States, for the Acoma Indians, that section I have, and whatever rights it has, under the Taylor grazing, to the surrounding sections, for an area in lieu down below the bluff.

I came here not to take any land away from the Indians. I came here to ask for a transfer in jurisdiction from the Office of Indian Affairs to the Taylor Grazing Administration of this area. That will not solve the situation. It takes something greater than that; some sort of legislation to settle this issue. We may as well face that issue the way it presents itself here today.

I feel that all of this privately owned land, down below here, if it is the will of the people, through our Representatives in Congress, that the Indians should have it; may as well go about it in a proper judicial fashion, condemn our land and force us out of it. We will get out, and they can have it all; and it all can be yellow, instead of the top area. But if we have a right to continue, I think we have to leave it up to your judgment how it best can be handled so that the proper legislation goes through to take the Resettlement land out of the hands of the Office of Indian Affairs, so that all this lower country, in units 5 and 6, will be left to the jurisdiction of the Taylor Grazing Service.

Mr. O'SULLIVAN. Mr. Bibb is attempting to impress the committee with the fact that, even though there should be entered a departmental order, transferring jurisdiction of this area, units 5 and 6, back to the Grazing Service, yet the Indian Service would still control, for the benefit and use of the Indians, the odd-numbered railroad sections in here, which have been bought with Resettlement funds, and turned over to the Indian Service for the Indians. A mere departmental order, transferring jurisdiction back to the Taylor Grazing Administration, would still result in conflict of the Grazing Service and the Indian Service on the subject of administration.

Senator CHAVEZ. According to the law quoted this morning, the purchases were made for the United States Government, and there is some conflict and difference of opinion as to whether or not authority was vested in someone to transfer those purchases for the particular Indian use.

Mr. STEWART. Mr. Chairman, may I interrupt for a moment?

This proposal which Mr. Bibb has made is new, and has considerable merit, the proposal of turning over, as I understand, the lands below the Rim.

Mr. O'SULLIVAN. Turning over the Indian lands to the Grazing Service.

Mr. STEWART. I think we should investigate it, and view it with favor.

Mr. O'SULLIVAN. Well, that proposal has been on record, with the Department, since 1939.

Senator CHAVEZ. I think that is perfectly all right, for the Indian Service to say that. If it is going to be carried out, to stick, there will have to be legislation.

Mr. STEWART. Well, I believe the same authority that turned over the Resettlement Administration lands to the Indian Service is sufficient to turn over that to the Grazing Service.

Senator CHAVEZ. Well, I wouldn't trust them.

Mr. STEWART. I don't want to interrupt the continuity of Mr. Bibo's presentation.

Mr. O'SULLIVAN. He is finished, except, as I anticipated he would do, but didn't, to conclude with the statement that, under our free democratic system of government, the only way the people can take privately owned land away from other people is by judicial condemnation. If that is what the people of the United States want, let the Congress say that is their intent, and let us have judicial condemnation, and a brave and fearless facing of the issue. That means we'll have to drive out non-Indians from the land we turn over to the Indians. But let us cease going about it with underhanded purchase methods, from one Department, and transfer to another Department, with funds that come from God knows where.

Mr. LEE. Mr. Chairman, Mr. Bibo is deaf. Congressman Anderson showed me a letter last week that he had written to Mr. Fortas who had agreed to make an investigation of that land. He said he would be in this territory. That was pretty near 6 months ago. Congressman Anderson wired his office here just 10 days ago, and asked what had happened to that personal investigation on Mr. Bibo's problem. They haven't done a single thing about it for him.

Because he is deaf, I am just asking that, because Congressman Anderson is not here, right now, to tell what he has done. He insisted on an investigation, and got a promise of it, and it never came about.

Secretary CHAPMAN. Mr. Chairman, that investigation is now under way.

Mr. LEE. Well, that investigation must have started today. Congressman Anderson didn't know of it yet.

Secretary CHAPMAN. Congressman Anderson doesn't know about it.

Senator CHAVEZ. Who is making the investigation?

Secretary CHAPMAN. I don't know which one——

Senator CHAVEZ. What bureau?

Secretary CHAPMAN. Not the Indian Bureau.

Senator CHAVEZ. Is it an independent investigator?

Secretary CHAPMAN. Entirely so.

The CHAIRMAN. I am afraid we are breaking in here. I want Mr. Bibo to conclude his statement. I think that would be a little more orderly.

Mr. BIBO. I have finished it.

Mr. STEWART. To clear the record, reference was made to Mr. Ralph Charles as being a member of the Advisory Board. My understanding of the implication was that, perhaps, he was a representative of the Federal Government, or agency, on that Board.

Senator CHAVEZ. I think I understood the testimony to be that Mr. Charles represents some member of the Board.

Mr. STEWART. I thought he represented the State Land Bank Board on this. I wanted to get that clear. He was not a Federal representative.

Mr. ADAMS. Might I make a correction there? Mr. Charles, at that time, was an employee of the Resettlement Administration. He had no connection with the Board.

Mr. STEWART. Mr. Barnett, who is referred to as having made statements concerning—conflicting statements as to sources of funds and their uses, is now in the armed service. We can get a statement from him, if it is desirable for the record.

(The two following letters written by Joseph Y. Barnett are inserted in the record at the special request of Assistant Secretary Chapman. The letter from Arthur Bibb is added to complete the record:)

MONTFORD POINT CAMP, CAMP LEJEUNE,
New River, N. C., October 3, 1943.

HON. OSCAR L. CHAPMAN,
Assistant Secretary, Department of the Interior,
Washington, D. C.

MY DEAR SECRETARY: I understand that at a meeting of a subcommittee of the Senate Committee on Public Lands and Surveys, held in Albuquerque, N. Mex. September 7, 8, and 9, 1943, Mr. Arthur Bibb, Cubero, N. Mex., made a statement that may require a reply.

Mr. Bibb is reported to have said that I told him that the payment he received from the Indian Service for improvements on certain lands came from funds not authorized for that purpose.

I should be grateful if you informed the subcommittee that I recall negotiating with Mr. Bibb for the purchase of his improvements, but that I did not make such a statement to him.

Sincerely yours,

JOSEPH Y. BARNETT,
First Lieutenant, United States Marine Corps Reserve.

MONTFORD POINT CAMP, CAMP LEJEUNE,
New River, N. C., October 3, 1943.

MR. ARTHUR BIBB,
Cubero, N. Mex.

DEAR MR. BIBB: A friend of mine has sent me word that at a recent meeting of a Senate subcommittee in Albuquerque you made the statement that at one time I had told you that the money you received for the improvements on State-owned lands you relinquished to the Indian Service came from funds not authorized for that purpose. I assume the improvements referred to were those I negotiated for when I worked for United Pueblos Agency.

It is possible that you have been misquoted; in that case, a note from you will settle the incident. On the other hand, if you did make such a statement, I will appreciate your sending a correction to the subcommittee and advising me accordingly.

I did not nor could I have made such a statement. If the money you received had not been authorized for that purpose, it would have been impossible for me or anyone else to have arranged for the purchase. Not only would I not have undertaken to deal with you, but Indian Service officials superior to me both in the field and in Washington could not have approved the transaction.

Since you must realize this, it is difficult for me to understand why you should have made such an inaccurate remark.

I am now standing by for orders to a new station. This circumstance compels me to send the enclosed note to the Department of the Interior before you have had a chance to reply to this letter. I hope, however, that you will understand the necessity for immediate action and for what may seem to be my poor manners, and that on your part you will do everything you can to correct the record.

Sincerely yours,

JOSEPH Y. BARNETT,
First Lieutenant, United States Marine Corps Reserve.

LOS CERRITOS RANCH,
Cubero, N. Mex., October 15, 1943.

Senator McCARRAN,

United States Senate, Washington, D. C.

DEAR SENATOR McCARRAN: Herewith am mailing copies of two letters I just received from Joseph Y. Barnett, who was the party I mentioned at the recent Senate subcommittee hearing in Albuquerque, N. Mex., that had informed me that funds used in paying me for improvements on certain State lands by the Indian Service came from funds not authorized for that purpose.

His letter to me is self-explanatory. I wish you to know that not only do I not intend answering his letter, but that I can make the same statement I made before your committee under oath if need be.

I assume that the friend he refers to is possibly Dr. S. D. Aberle, superintendent of the United Pueblos Agency in Albuquerque, N. Mex. To me, one of two things is very apparent; either he has been asked to request me to retract my statement to save the prestige of the Indian Service, or he has been intimidated in some way; the latter seems most probable.

I am mailing Mr. Haskell copies of these letters and will also mail him a copy of the statements I am signing before the investigators sent out in the field by the Assistant Secretary of the Interior, Mr. Oscar Chapman, as soon as I have them which will probably be in a day or so.

Very truly yours,

ARTHUR BIBO.

Mr. STEWART. Now, then, as to the two letters from Under Secretary Fortas and Under Secretary Dempsey, regardless of who prepared them, they are statements of policy of the Department, the Indian Service notwithstanding. Under Secretary Fortas' letter, which was so detailed, is actually the policy that the Indian Service would have to follow until it is changed. And, according to Mr. Bibo's proposal—I would think that when this investigation is completed and I have talk with representatives here of the Pueblo Agency—there is considerable merit in that proposal. It lends itself to fair and favorable action.

The CHAIRMAN. Very well. Are there any other statements on this matter?

Judge Seth, do you wish to proceed?

Judge SETH. Yes; I think the Soil Conservation representative was about to testify.

The CHAIRMAN. Let's proceed as rapidly as we can, gentlemen, the time is rather short at best.

You have heard the statements made here yesterday and today, and the committee would be very glad to have you make any explanation or statements that you see fit, bearing on the general subject.

You are the representative of the Soil Conservation Service, is that correct?

Mr. ALAN F. FURMAN. Yes, Mr. Chairman.

The CHAIRMAN. Who is the head of that Department, locally.

Mr. FURMAN. Mr. Luker is the regional conservator. He is in the room. I have been designated as spokesman for the Service at these hearings.

The CHAIRMAN. The designation will be recognized, and you may proceed.

**STATEMENT OF ALAN F. FURMAN, SOIL CONSERVATION SERVICE
ALBUQUERQUE, N. MEX.**

Mr. FURMAN. My name is Alan F. Furman. I am in charge of the federally owned land administered by the Soil Conservation Service in region 6, which takes in New Mexico, Arizona, Utah, and Colorado.

The CHAIRMAN. How long have you been engaged in this line of work, Mr. Furman?

Mr. FURMAN. I have been engaged in the management of federally owned land for about 6 years.

The CHAIRMAN. In what departments, or under what conditions?

Mr. FURMAN. I was in the Washington office for 3 or 4 years.

The CHAIRMAN. What department?

Mr. FURMAN. Beginning with the Federal Land Bank, and subsequently with the Resettlement Administration, the Bureau of Agricultural Economics, and finally with the Soil Conservation Service. Previous to that I was in the H. O. L. C. I have been in the West about 12 years.

The CHAIRMAN. Prior to that you lived in the East?

Mr. FURMAN. I have lived in New England and Florida, the Middle West, Nebraska, Texas, and I am very familiar with the belt known as the Great Plains, having worked and covered all of that area from Montana south to the Mexican border.

I heard the statements made yesterday by Mr. Lee and Mr. Hovey with reference to the area which the Soil Conservation Service designates as the Cuba-Rio Puerco land utilization project. We have pinned to the large map up here for your consideration the project area which was designated by the Secretary of Agriculture in 1938 in accordance with discussions of the watershed problem in that area in which the much talked of Interdepartmental Rio Grande Board had a part.

A very intensive survey of the so-called Middle Rio Grande Valley showed that the Cuba-Rio Puerco, or the Rio Puerco itself, was the largest contributor of silt on the entire middle valley, was the largest contributor of silt to the Elephant Butte Reservoir, that the watershed on the Puerco at that particular point is a permanent critical area; and all of the agencies concerned who had to do with the land policy in the Middle Valley agreed that something had to be done about that area.

Now, I want to go back just a minute and deal with the land purchases.

The CHAIRMAN. Let me interrogate there. You made the statement that something had to be done. To meet what condition?

Mr. FURMAN. To meet a very serious erosion condition, Senator. The Cuba-Rio Puerco is the largest contributor of silt in the entire Rio Grande drainage, resulting in raising the river bed about 5 feet at a great many points, flooding irrigated lands, and destroying the efficiency of the Elephant Butte Reservoir, and contributing to adjusting the economy in this Rio Grande area.

The only land in the Cuba-Rio Puerto project which has to do with these older purchases made by the predecessors of the Resettlement Administration, which was the old Land Program, spoken of here as

the Espiritu Santo grant, is shown in yellow on the southeast corner of the map. It contains 113,141 acres. It was purchased by the Land Program—previously referred to and otherwise known as the Land Policy Section of the triple A, in about 1935—and was designated not long afterward for administration by the Indian Service.

However, in 1938 and 1939 this critical condition, of which I spoke a few minutes ago, began to be recognized, and it was decided that this entire area shown on this map should be designated as a project area, to be placed under the jurisdiction of the Secretary of Agriculture. A purchase program was initiated there and funds provided under title 3 of the Bankhead-Jones Act, and to this amount was added the Espiritu Santo grant, which was transferred from the Indian Service by Executive order.

I have had a number of Executive orders here. As I said, the Espiritu Santo grant was transferred to the Department of Agriculture by Executive Order 8697, giving the administration of that grant to the Secretary of Agriculture. That rounded out the government of the lands under the jurisdiction of the Department of Agriculture, and the total amount, including this Espiritu Santo grant, is 264,254 acres.

The CHAIRMAN. Why is this called a grant? Is it one of the grants that came with the Territory when we acquired it?

Mr. FURMAN. Previous to 1846 it was a grant, one of the old grants which, I presume, may have been granted by Spain.

The CHAIRMAN. And it was granted recognition under the terms of the treaty?

Mr. FURMAN. Yes.

The land administered by our Service, as you know, is located in about three blocks, the Chavez grant, the Espiritu Santo grant, and some of the other lands, purchased with title 3 of the Bankhead-Jones Act, in the northern part. The Bankhead-Jones Act, title 3, provides for the purchase of submarginal land, and submarginal areas were selected in which land should be purchased.

It has been the policy of the Department, and of the Soil Conservation Service, to build up many inadequate operating units by the addition of grazing privileges on lands so acquired.

The CHAIRMAN. I don't know whether this is a proper place to ask this question, but I have tried for a long time to have someone tell me in understandable terms what is submarginal land?

Mr. FURMAN. Land which, under an average expenditure, will not yield an average return. You spend a dollar an acre on marginal land and it will give you a reasonable profit, theoretically. If you spend a dollar an acre on submarginal land it will return you 85 cents, in words of one syllable.

The condition that existed in the Cuba-Rio Puerco project, however, was concerned not only with the land itself but, in addition, the populace. It was very much overcrowded; too few acres; too few blades of grass per family; and that condition, added to the fact that the area was being seriously overused, made, as you see, a serious total over-all situation.

Well, as I was saying a moment ago, it has been the policy of this Service to build up inadequate units by the addition of grazing privi-

leges on acquired lands. We have followed this policy on the Cuba-Rio Puerco project, and, I believe, if my memory serves me correctly, that the average permit, the average size of the permits which we are issuing in that area is for about 12 head, or animal units, of livestock. There are 3 or 4 permits that run 40, 50, or 60 head each; but the average is about 12 head.

The CHAIRMAN. To what unit of land is this 12-head permit?

Mr. FURMAN. An average of 12 animal units to the permittee per family.

Now, I am going to take up I might add, in passing, that it is also the policy of the Service that permittees should pay for what they get a fair economic rate. We have not been permitting free use in the Cuba-Rio Puerco area. There are perhaps a few miscellaneous portions which we have not been able to locate; but, in general, free use is not permitted in the Rio-Puerco area, or anywhere else in the United States under the land-utilization projects.

The CHAIRMAN. What are the fees, as a rule?

Mr. FURMAN. The fees have quite a range. Referring to the map on which the red areas are located—the red areas over in the northern part of the State—we have a fee of 28 or 30 cents per animal unit month that we have figured through careful investigation of the fair economic value of the grass.

Senator CHAVEZ. Is that around the Mills project?

Mr. FURMAN. Yes; Senator, that is right. In the grants-land project, which is up near the Española-Santa Fe area, our fee is now 12 cents per animal unit month. We consider not only the value of the range, the economic value of the range to a stockman, but what other agencies and other landowners are charged. We also have taken into consideration the ability of the permittee to pay in that particular area. The fees in the Cuba-Rio Puerco project are 5 cents per A. U. M., the lowest fees in the State or region. A great deal of land is interspersed with Grazing Service land in that project, or other parts; and we believed that it was sound interdepartmental policy to charge the same fees, to avoid confusion among the permittees, particularly under our range improvement, until it has been completed on this project; until we can actually show that the grass is worth more to the stockmen.

Now, I want to take up the question of the carrying capacity, known as the rate of stocking, of this project. The Soil Conservation Service is sincerely interested in the welfare of these subsistent populations within the boundaries of that project. It is our intent that they should have the use of every blade of grass which can be made available for their use. It is needed. There are about 84,000 subsistent families in that valley, depending on grass. I believe the figure is 108,000—I would like to correct myself—depending on this graze, and with the small quantity of grass they can be given today, permits for 150 head. The records show there are still 13,000 dependent families who have no grass whatever, and are forced off the land, and are dependent upon odd jobs. It would be our aim, if we could, to see every one of these families get some grazing land to use. Unfortunately, it is absolutely impossible for us to provide graze enough for those in the Cuba-Rio Puerco area itself, let alone any other areas in the valley. I make that statement to show our intent in this matter.

Senator CHAVEZ. May I interrupt you, please? I believe that I understand fully the statements that you are making, and I want to thank you for being able to acquaint the committee with the conditions as they are; and I do not mind saying publicly what I say privately, that the Soil Conservation Service and the Farm Security Administration are two of the agencies of the Federal Government that have really taken a little interest for the fellow who needs help.

Mr. FURMAN. Thank you, sir.

In attempting to distribute grazing privileges on federally owned land administered by the Soil Conservation Service on this project we have thought that the soundest position to take was that lands must be used soundly, in accordance with their ability to produce, and down through generations. We see that if these lands are continued, if the use is continued as it has been used in the past, that diminishing returns will result. The topsoil will go down the Rio Grande, and there will be nothing left for future generations.

Therefore, following out the policy of this Service, we have made careful, intensive, range surveys of the area, and have determined to the best of our ability, through scientific determination, just what those lands will carry so that the vigor of the forage will be restored and will be maintained, and so that they will be able to support future generations, and will not be wasted by the present generations.

In doing this, our findings, after these surveys were made, were disappointing to this Service, as well as to the users of the land. The carrying capacities were shown to be surprisingly low, less there than we had hoped. We were able to permit less use than we had hoped. However, we have stuck to our firm belief that that was the best long-time policy, and we have gone down the line and maintained the carrying capacity that we sincerely thought was best.

The CHAIRMAN. Let me ask you this, please, this same principle, to some extent, that is, the conservation of the open public domain and its preservation and upbuilding for future generations is a part, and is, indeed, the spirit of the Grazing Service. It is likewise the spirit of the Forest Service.

Now, where do you differ from those two Services?

Mr. FURMAN. I might go back a bit and say that the Forest Service has been recognized for a good many years as having had the first land in New Mexico on the watershed where grazing was adequately controlled. I might say the land in the Cuba-Rio Puerco project, in the north end, the scattered tracts, are lands interspersed with the Grazing Service, which has approximately the same rate of stocking as the Soil Conservation Service land. The Soil Conservation Service, I believe, made the range surveys on the Federal range originally, and made the information available to the Grazing Service. Is that right?

Mr. J. L. LANTOW. Yes; that is right.

The CHAIRMAN. Does the Soil Conservation act as an assistant to, or an adviser to, the Grazing Service or the Forest Service?

Mr. FURMAN. I hesitate to speak for the Grazing Service. But I think we may go so far as to say that we have made available to the Grazing Service some of our range studies. If any member of the Grazing Service has a contrary opinion, I wish he would please state so.

The CHAIRMAN. What I am really getting at is this: I am trying to distinguish the necessity for the functions of your Department, as distinguished from the functions of the Grazing Service and the Forest Service. In other words, is it an overlapping service? Do you carry on the same line of study and work, or do you do a separate and distinct work?

Mr. FURMAN. I think that can be answered as follows: The Soil Conservation Service has the lands administered by the Soil Conservation Service throughout the United States, as well as those in this discussion. Those lands are located in problem areas, where low-income subsistence groups have been located; where the operating units have been so small that they have been forced into incorrect land use; where delinquent taxes have become a real problem; where the population has been impoverished through dust storms, through improper use of land, and other reasons of related nature.

In other words, we are working in submarginal problem areas, where the majority of the operators have been in the low income group. Does that answer your question? That is our field.

The CHAIRMAN. Well, it does distinguish your field, in a way.

Mr. FURMAN. I would like to make it clear. If you wish me to go further into the matter, I will try to.

The CHAIRMAN. No, no, that is all right.

Mr. FURMAN. Going back to your preceding question, I think that, perhaps, the Soil Conservation Service is a little more zealous in watching local seasonable conditions, and a little more ready to initiate cuts in the rate of stocking, than some of the other bureaus.

Now, we think, we believe sincerely, that we are doing that for the benefit of the land and the people, who are using it over a long-time basis.

Now, I want to call, at this time, with your permission, on Mr. Lantow, who is the Chief of our Range Division, in our regional office, for any remarks that he wishes to make, perhaps of a more general nature, in connection with the establishment of the carrying capacities, or perhaps to philosophize a little on the safe use of vegetation.

Senator CHAVEZ. Mr. Furman, before you proceed with the other gentleman, could you give the committee a little information as to the land purchases along the Rio Puerco, the Ojo de Espiritu Santo? We had testimony as to the uses to be allowed to the permittees on the Ojo de Espiritu, and they seem to feel that they could graze more animal units in that area than what they have been permitted.

Mr. FURMAN. Senator, I was about to lead up to that, through another witness that I have here.

Senator CHAVEZ. No; that is all right. If someone else is going to give us that information, it is all right.

Mr. FURMAN. We have, of course, the actual figures, by sections and photographs, to establish our points. Is it all right for Mr. Lantow to take over for a few minutes?

The CHAIRMAN. Certainly.

STATEMENT OF J. L. LANTOW, RANGE DIVISION, SOIL CONSERVATION SERVICE, ALBUQUERQUE, N. MEX.

Mr. LANTOW. I think Mr. Furman has covered pretty well the policy that we have tried to follow. I might say, in starting, with our carrying capacity, it has been through surveys, using the surveys that have been best established by other agencies before we came into the field.

The CHAIRMAN. What do you mean by "surveys" in that respect?

Mr. LANTOW. Taking the amount of vegetation, the kind of vegetation on the ground, and trying to balance it up into carrying capacity. After that is started, observation is made of the range, yearly, to see in what condition it is, and seeing whether or not it is being handled to meet the objects that were set out originally to obtain. There has not been any intention of holding a carrying capacity that looks like it is out of line. For instance, if it is under-used it should be raised, if it is over-used, it should be lowered, if you are trying to meet the objectives. While it has not been in all cases followed up to now—having the personnel go over an area—it is our desire as quickly as we can have men available qualified to check up on such use.

The CHAIRMAN. Let me ask you a general question there. If a range shows, or a territory shows, soil erosion, and the streams running off carry a high percentage of silt, as has been mentioned here, what, in the judgment of your Department, is best; to eliminate grazing entirely, and thus to let the territory grow up completely, or to allow a reasonable degree of grazing?

Would it not be better to eliminate grazing entirely, and thus to prevent erosion that comes from the action of grazing?

Mr. LANTOW. Grazing lands can be used, Senator, without detriment. There are very few places, probably, where they need to be totally excluded. It might be necessary in watersheds above the towns. I have in mind, from your questions—I believe it is Globe, Ariz., where the condition became so critical that the people themselves felt it was justifiable, and asked to adjust it above the watershed from which came the water supply of the town.

Ordinarily the range can be used, if not over-used. We have tried to use as the guide, the vegetation, in condition to give maximum protection. When it is lowered, it is detrimental, both to the consumer—

The CHAIRMAN. Is it detrimental to completely eliminate grazing?

Mr. LANTOW. I am trying to get your question. I don't know as grazing is necessary, but I wouldn't call it detrimental. You can keep the vigor up—there are some things, such as the graze not being used beyond the proper degree. Grazing is probably helpful to certain vegetation.

The CHAIRMAN. I am trying to visualize what the full extent of your doctrine or theory is. In other words, to fully vegetate a district would it be best to eliminate all sources of the destruction of the vegetation?

Mr. LANTOW. Well, destruction would probably be right. If you used it to that degree to which it does not penalize the production of

vegetation, use it to that extent, and you would probably get the greatest production of your plants and, generally, handle the erosion problem at the same time. I think that was borne out by most of the stockmen in stocking their range.

The CHAIRMAN. You don't believe that the entire elimination of grazing is the best method?

Mr. LANTOW. I wouldn't call it necessary.

The CHAIRMAN. I am saying the best method?

Mr. LANTOW. No; I wouldn't say it was.

Senator CHAVEZ. That is making out the point that a certain degree of the use of the vegetation would help; for instance, berries, if you pick the berries you are liable to have some more. If you pick the plants—

Mr. LANTOW. Mr. Chairman, I think we all agree that something should not be overused. The stickler always come in, where is that degree? So far, nobody has ever been able to design a measurement that will take the place of judgment, experience, probably, and training; and there is that question that will always probably prevail. It prevails among many of us, but we do try to use the best information we have from agricultural colleges and experiments carried on by the Government agencies that are impartial, and many of the things they use, such as the frequency problem of any vegetation that is grazed, and also the closeness with which it is grazed.

There is one thing that is important in the Southwest, and that is the water problem which is generally the limiting factor in production. We have evaporation, in the ranges, from 60 to 85 inches. When we only get 8 inches, and still can produce grass, it is quite a feat. One of the reasons we can do it, is that we leave enough cover on the land, and do not eat it all off. You have better penetration of the water into the soil, and that will help produce that grass, and also help prevent evaporation, to be wasted into the air. Those things, I think, are scientifically sound, and have been proven. That is the reason we add a little more grass than probably they think is necessary. Probably they think it is going to waste. Actually, we come down to the scientific point, and it is not a wastage, it is actually a help in production. I think that has been observed generally through the stockmen.

I believe that I have no more general remarks to make, unless you would like to ask me something.

Senator CHAVEZ. Have you jurisdiction over the land purchases that have been made in New Mexico?

Mr. LANTOW. No, sir; I have been—I don't know whether the word is "consultant," but it is advisory on how to manage, and we are called upon to cite the degree of use of the vegetation.

Senator CHAVEZ. Are you acquainted with the land purchases in New Mexico, along the Rio Puerco area?

Mr. LANTOW. Acquainted? Yes.

Senator CHAVEZ. Are you acquainted with the Espiritu?

Mr. LANTOW. Yes.

Senator CHAVEZ. Have you studied that?

Mr. LANTOW. Yes.

Senator CHAVEZ. You are making improvements?

Mr. LANTOW. Absolutely. I would like to mention that the cover of the vegetation, in some of these places, would probably have a

good stand of grass—the grasses of some of these might have changed as to the composition they have had in other years. You do not always get the growth of what you expect. It is not what covers the ground, it is the heat. That is the value to use. I do know, on the Espiritu there have been changes in vegetation, as to the amount and the type of vegetation; and, since it has been taken out, it is in remarkably good shape, although there is not as much grass there, as I have stated.

Senator CHAVEZ. You have heard the testimony of Mr. Hovey to the effect that the grass was rather high?

Mr. LANTOW. It will be brought up, probably, by Mr. Strong. He is better acquainted there than I, because of my working over four States.

Senator CHAVEZ. Can you tell the committee now the number of land grants that were purchased, and are now under the control of the Soil Conservation Service in the State?

Mr. LANTOW. I would have to refer that to Mr. Furman.

Senator CHAVEZ. We would like to get that in this particular part of the record. Can you tell us, Mr. Furman?

Mr. FURMAN. Yes, indeed. In addition to the Espiritu Santo grant, and the Ignacio Chavez grant, which are a part of the Rio-Puerco project, we also administer a project known as the Northern New Mexico grant, lands composed of the Caja Del Rio, la Majada, the south half of the Labato-Polvadera, and the Sebastian Martin.

Senator CHAVEZ. What about the Ramon Vigil?

Mr. FURMAN. That was transferred to the United States Forest Service.

Senator CHAVEZ. What about the Mills project?

Mr. FURMAN. That is under the administration of the Soil Conservation Service, about 74,000 acres. It is not a grant, however, you understand.

Senator CHAVEZ. But I am including all of the land, including the grants. What about the Palvadera?

Mr. FURMAN. I have named that as being part of the New Mexico grant lands.

Senator CHAVEZ. What about Taos Junction?

Mr. FURMAN. That has been transferred to the Forest Service. I have a list here of the lands.

Senator CHAVEZ. I think they gave that to me.

Mr. FURMAN. There is also the land in Union County, N. Mex., as we said before, 56,000 acres of land of which the top soil was blown out of there in the dust-bowl period; and a very small area down in Eddy County, the southeast corner of the State.

For the record, if it is the place to insert it at this time, the Service is administering 657,152 acres in New Mexico.

Judge SETH. Is that the total administered by your Service?

Mr. FURMAN. That is the total in——

Judge SETH. That includes the grants and all other tracts purchased?

Mr. FURMAN. That is right.

The CHAIRMAN. Are there any questions from anyone here?

Mr. CHAVEZ. Mr. Seth, would you care to ask some questions?

Judge SETH. I would like to wait until they all get through.

Mr. LANTOW. I might say, Senator, that we do have some pictures taken at many places at distances from water, and intervals of—I have forgotten the exact intervals—that show the height of the grass in April; and we have also taken some of the parts of the range that could not be watered.

Senator CHAVEZ. Are those recent photographs?

Mr. LANTOW. Before the rains started in this last April. I suggested some time ago that they be taken, and they will be available to you probably later.

The CHAIRMAN. Are the amounts of rainfall quite uniform in this section, year after year, or have there been years in which the rainfall has been greater, and others in which it was less?

Mr. LANTOW. That is right, Senator; there is quite a variation.

The CHAIRMAN. Regardless of how well you may preserve the surface, or attempt to produce cover, still, after all, you have to depend on the rainfall, largely, do you not?

Mr. LANTOW. You cannot handle the rainfall, but you can handle the degree of use, which is the factor you have at hand.

The CHAIRMAN. In other words, if it didn't rain for a period of years your whole effort would be largely lost, wouldn't it?

Mr. LANTOW. It should not be, if you don't go ahead and penalize the vegetation to add to what will be done by the climatic conditions.

The CHAIRMAN. On the other hand, if it did rain sufficiently to produce vegetation, with your climatic condition here, your efforts of soil conservation would not be necessarily so great?

Mr. LANTOW. We find that the heavier grazed areas, the better production areas, they have this problem of not enough feed, as well as down in the lower bracket of rainfall. We have tried, in the fall of the year, in this year-long grazing area, to advise and help stimulate the holding of enough grass at that time, by the reduction, if necessary, to see that we can well carry over the winter and into the summer. So, if you are not caught in such bad shape, and that has been done, I believe there is no other way in the Southwest to handle that. Your best bet is to bet on the grass you have, instead of what you think you are going to get.

Mr. FURMAN. In this respect, I would like to answer Mr. Hovey later on, when he asked me questions, if he intends to—he can correct me if I am wrong—but I repeat that I suspect part of his remarks, and perhaps a part of Mr. Lee's remarks, may have been induced, partially at least, through the fact that the Soil Conservation Service did cut, and otherwise reduce the rate of stocking on the Espiritu Santo grant last fall, about November 1942.

The reason as to why that cut was made will be given you, together with supporting evidence, by Mr. Strong and by Mr. Swanson, both of whom are familiar with all the details. But I want to say at this time, in opening up this matter, that it was given very serious consideration by the Soil Conservation Service.

We had a meeting which was attended by everyone concerned. We realized what it would mean, and we realized there would be repercussions of a character that we could not foresee. We realized that people would resent it, and realized it would probably be brought to the attention of the McCarran investigating committee. We realized that it would be the subject of congressional correspondence, and I

say to you, in spite of all of that, we thought it was the thing to do, in accordance with our honest conviction, and we did it.

I am going to ask Mr. Strong if he will elaborate on this matter, and any other matters. He is the district conservationist.

The CHAIRMAN. Will you give your name and official position for the record?

STATEMENT OF R. L. STRONG, DISTRICT CONSERVATIONIST, SOIL CONSERVATION SERVICE

Mr. STRONG. My name is R. L. Strong, district conservationist for the Soil Conservation Service, located in Albuquerque, N. Mex., and I am directly in charge, under the supervision of the State office and the regional office, and have the responsibility of the administration of the Cuba-Rio Puerco land-use project, along with other duties as a district conservationist, which pertains to some additional districts in that area.

The CHAIRMAN. How long have you been so engaged?

Mr. STRONG. Since the fall of—I entered the service of the Soil Conservation Service in 1935.

The CHAIRMAN. Prior to that what was your business?

Mr. STRONG. The county agricultural agent, employed by the State of New Mexico, since 1917.

Senator CHAVEZ. From what section of the State, Mr. Strong?

Mr. STRONG. I started services in the adjoining county of Torrance, in the Estancia Valley; served there approximately 2 years. Then I went back to the ranching game with my brother, and got caught in the depression in 1921, and eliminated from that game. I have never been able to accumulate sufficient funds to get back in.

In 1922 I went to Harding County, N. Mex., where we have both ranching and farming operations, and served there for 6½ years. After that I transferred to Raton, N. Mex., since it offered a better opportunity for schooling, and a better salary; and from there to Colfax County, N. Mex., which, I think, has no superior in livestock production in the State of New Mexico, in regards to counties. I served there for 7 years; and at that time I transferred to the Soil Conservation Service; and I have been here in Albuquerque.

Are there any further questions?

The CHAIRMAN. That is all. You may proceed.

Mr. STRONG. When the Ojo de Espiritu Santo grant was under the administration of the Indian Service, it was this area in which I was doing planning work, and I was responsible for assisting in making the plans of improvements, and the management of the Ojo Espiritu Santo grant, under the direction of the district manager, Mr. E. R. Smith. After the purchase program came into effect in 1939 I still was in charge of the planning for that area, as well as the additional lands that were purchased; and in 1941 was director of the management of that. I was made what was called then the project manager for the Cuba-Rio Puerco land-utilization project in 1941. Since that time I have had the responsibility of the field work of the Cuba-Rio Puerco project.

Like our friend, Mr. Rutledge, who sat here yesterday, I was given a job, and I did my very best to do that job as thoroughly and as prac-

tically as I possibly could. My interests were with the whole people. I have done everything I possibly could to assist them in working out their problems. I have cooperated to the full extent with the Grazing Service, and have attended practically every one of their board meetings, where grazing matters were discussed. We have worked harmoniously, throughout the last 3 or 4 years, in making our permits correlate with theirs, so that the users of that area would get the fullest and the benefit would go to those people who were entitled to it. We have never had any difficulty whatever with the Grazing Service in making those decisions.

Over most of the area marked in yellow there the Soil Conservation Service has issued the permits. We have an agreement with the Grazing Service, whereby the isolated tracts, in this southern portion of what we originally called unit A of the Cuba-Rio Puerco project is administered by the Grazing Service, because they have the bulk of the land in that area.

Then, in this northern area, we have considerable land, and there we work together with the Grazing Service in this northern area here. They have used the carrying capacity, as established by the Soil Conservation Service, in issuing their permits. The Soil Conservation Service has tried to act as a buffer, and give to the people the additional grazing needed for their livestock.

In this area, of course, we have the grazing in the two largest grants here, under the direct supervision of the Soil Conservation Service.

The CHAIRMAN. Now, are those two yellow districts, depicted in yellow there; are they in a grazing district?

Mr. STRONG. All of this area is in the San Ysidro Grazing District. I think it is No. 1, or surrounded by that, and the Grazing Service, as I said, have considerable land holdings within the boundaries of the original project.

The CHAIRMAN. So you have an established grazing district, established in accordance with law, managed by the Grazing Service, and at the same time managed by the Soil Conservation Service?

Mr. STRONG. The Soil Conservation Service is administering the lands which they have purchased, and which is under the program, as has been stated by Mr. Furman.

The CHAIRMAN. Well, I say, you have the two agencies administering in that district, the Grazing Service and the Soil Conservation Service?

Mr. STRONG. True, true. We have Soil Conservation Service; it has direct responsibility in rehabilitating those lands which have been purchased by the Soil Conservation Service; and, as Mr. Furman has expressed it, we probably have a little closer supervision, and a little more intense supervision, of those areas than is possible by the Grazing Service.

The CHAIRMAN. Isn't it the function of the Grazing Service to rehabilitate lands that are being overgrazed?

Mr. STRONG. They are doing that satisfactorily, in a large percentage of cases, and Mr. Rutledge so expressed that yesterday.

The CHAIRMAN. You may proceed.

Mr. LEECH. I just wanted to have the record clear on the two large areas in yellow. They are not part of the grazing district.

The CHAIRMAN. Well, I put that direct question to the witness a moment ago, and I got the answer that they were in a grazing district.

Mr. STRONG. I said they were surrounded by a grazing district.

The CHAIRMAN. Very well, I misunderstood you. They are within the boundaries of a grazing district?

Mr. STRONG. Within the boundaries of a grazing district.

The CHAIRMAN. Administered solely by the Soil Conservation Service?

Mr. STRONG. Yes, sir.

The CHAIRMAN. But these other lands, interspersed, up in the upper part of the map, the white parts are administered by the Soil Conservation Service in a district that is also administered by the Grazing Service?

Mr. STRONG. Yes, sir.

The CHAIRMAN. I have just this one comment to make, and I make it now, that you may shoot at it as you like.

We are going to take a recess pretty soon.

After 11 years' service on the Appropriation Committee of the United States Senate, I am convinced of one thing, that the day is going to come when an overlapping of services, each pulling upon the Federal Treasury, and all pulling upon the taxpayers of this country; the overlapping is going to have to be merged into one agency that will do the work, and do it efficiently. [Applause.]

I don't say this for any applause. It is a very serious question.

I can see the problems here. They are intricate, and they are multiple. They are many. But there is an overlapping of administration, and overlapping of authority, and an overlapping of responsibility, and everyone of them, probably, is pointed at the same ultimate, worthy end. But the taxpayers of the United States are paying the burden of all of them. It has got to come to an administration that is much more economical than what we are going through. Something has to be done. I don't think that requires that you defend your position. You are set up under the law. I don't know that there is any great responsibility; it is one responsibility somewhere that must be answered, and answered emphatically. Those who serve now are serving legitimately.

Mr. FURMAN. May I say a word on that point?

The CHAIRMAN. Yes, sir.

Mr. FURMAN. It is largely a repetition of what I said before. We don't think that the Soil Conservation Service should administer Federal lands in the majority of locations in the United States. We do have a very well prepared survey, made in 1936, showing that there were a definite number of problem areas in the country, where circumstances have caused the break-down of the entire economic system, speaking of agricultural economics. It was in those places that these projects were established, and it was for the reason that those places existed that the Bankhead-Jones Act was passed, I believe.

The CHAIRMAN. We are now about to take a recess for the noon hour. The committee will recess until 2 o'clock.

(Recess was taken until 2 p. m.)

AFTERNOON SESSION

The CHAIRMAN. The meeting will come to order. You may proceed.

Mr. FURMAN. I am going to ask Mr. Strong to continue with a discussion of exactly how rates of stocking are determined on the Cuba-

Rio Puerco project, and to ask him to present to the committee the actual figures showing the rates of stocking on the project. I only want to say one sentence before turning the microphone over to Mr. Strong, and that is that Mr. Lantow has called my attention to the fact that many of you may have gotten the impression that the Soil Conservation Service activities are confined solely to the handling of submarginal land or federally owned land. Of course, that is by no means so. The administration of Federal land formed a very small portion of the activities of the Soil Conservation Service. This Service cooperates with, and establishes carrying capacities in, a great many areas in New Mexico, including privately owned land, and in some instances, other federally owned lands. I wanted to insert that for the record.

Mr. Strong, will you go ahead and tell us, please, how you arrived at the carrying capacities on the Cuba-Rio Puerco project, bearing in mind what was said yesterday in that respect?

Mr. STRONG. Mr. Senator and friends, in establishing the carrying capacity for the lands purchased by the Government the following factors were taken into consideration, as has been explained by Mr. Lantow: The type of forage, the amount of forage on the land, and from that was deduced the amount of stock that could be carried on a particular piece of land. I want to state, this is not building in any way, as has been brought out here, because of the fact that earlier checks are made of the use that is being made of the graze in this particular area, and from that the rate of stock for each subsequent year is established.

Yesterday the intimation was made here that on the Ojo Espiritu Santo grant the carrying capacity established by the Soil Conservation Service, or stocking rate, was two animal units per section. Never has it been stocked anywhere that low. The 1942 stocking rate was 5.7 animal units. Now, a large portion of that range was a little better than 6 animal units, even though that particular area was poorly watered, and we realized that there was grass there that would not be used. There are portions of that grant that are of a very low carrying capacity, and the figure set for the carrying capacity on those is 2.9 animal units per section. That comprises, of the 114,000 acres on the grant, 47,000 acres, a little over one-third of the total amount.

The CHAIRMAN. I don't quite understand you. Just a moment ago you stated that the estimate of two and a fraction animal units per section was not true, that it was never less than 6.

Mr. STRONG. I said 5.7 was the stocking rate a year ago, and portions of that grant, I said, were around 6 animal units.

The CHAIRMAN. Then you don't contradict the statement of the witness yesterday?

Mr. STRONG. When he said the total stocked rate of 6 animal units! Well, it's 5.7.

The CHAIRMAN. My recollection of his testimony is there was part of that that ran as low as two and a fraction. That is my recollection. I could be in error, too.

Mr. STRONG. And he stated that the Chavez was stocked at the same rate.

Senator CHAVEZ. There are some portions of the Ojo Espiritu Santo that are rated at 2.9; that is, 47,000 acres?

Mr. STRONG. Forty-seven thousand acres.

Also, the statement was made that the Ignacio Chavez grant—the stocking rate on that is exactly 7 animal units per section, as a total; and on the scattered land in the north and western portion of that area the sections vary. The average up there is somewhere around 10. Some of those sections have a carrying capacity of as much as 14 and 15 animal units per section.

This is determined through a range survey, and based on the Soil Conservation Service survey. It has a certain amount of grass to allot to livestock people or growers in that particular area. In the fall of 1940 we took our first applications for grazing, and the applications totaled far more than the number of stock that we could accommodate on the land that the Soil Conservation Service had charge of. It had been determined, through establishing a set of rules and regulations, that residents of that area who had been former users of those lands would be given a permit for the number of stock that they ran during the base period of 1938, '39, and '40.

Senator CHAVEZ. Right there, did the Jemez Indians ever use the Ojo Espiritu Santo Grant, prior to the time that the Government purchased it?

Mr. STRONG. I cannot answer that, Senator.

Mr. LEE. I think I can answer that.

Mr. HOVEY. I have worked in that grant since 1910. My house is about a hundred feet from the Puerco, and the Rio Puerco is the boundary line of the west side of the grant. There never was an Indian allowed to graze in that grant.

Senator CHAVEZ. Now, in order to clear the record, you decided on a policy that in some particular instances you could let the prior users—you could let the land involved be used by the prior users. Is that correct?

Mr. STRONG. Yes.

Senator CHAVEZ. You yourself do not know whether or not the Indians of Jemez ever used this particular grant?

Mr. STRONG. Senator Chavez, I had no choice in the matter.

Senator CHAVEZ. Well, I'm trying to get the record straight, here, following your testimony. As far as you know, or anyone else knows, the Jemez Indians had not used the Ojo Espiritu Santo Grant prior to the purchase by the Federal Government?

Mr. STRONG. That is right.

Senator CHAVEZ. They are using it now, though?

Mr. STRONG. Yes, sir. I wanted to qualify, prior to the exchange that was made by the Ojo Espiritu Santo Grant and the Antonio Sedillo Grant, by Executive order, the stocking of 400 animal units was reserved for the use of the Indian Pueblos of Jemez and Zia.

Senator CHAVEZ. Prior to the granting, or the purchasing, of the Antonio Sedillo Grant they were in there?

Mr. STRONG. That is right.

Senator CHAVEZ. How far is it from the northern or the western boundary land from the Pueblo to the boundary line of the Jemez Pueblo?

Mr. STRONG. Adjoining the Espiritu Santo on the east, the Pueblo is some 10 or 12 miles to the south, part of their land coming up to within 5 or 6 miles of the southeast corner of the Espiritu Santo Grant.

Senator CHAVEZ. You stated that you could not help it. Why couldn't you help it?

Mr. STRONG. Because the Executive order set aside 400 animal units for use of those Pueblo people.

The CHAIRMAN. An Executive order from where?

Mr. STRONG. From Washington.

The CHAIRMAN. An Executive order?

Mr. FURMAN. I think Mr. Strong means it was a Secretarial agreement, between the Secretary of the Interior and the Secretary of Agriculture, dated 1939. I could produce a copy of that for the record, before the committee leaves the city, I believe, if they so wish.

The CHAIRMAN. All right.

Senator CHAVEZ. They decided if this agreement as to how the land should be used, irrespective of the fact that you have a policy that prior users could use that purchased land?

Mr. STRONG. Not irrespective; that was turned over to us, and we established the use of the lands that were turned over to us. This was returned to us with that reservation, Senator Chavez.

Senator CHAVEZ. Yes; but prior to that?

Mr. STRONG. We had not established the rules and regulations until after this transfer was made back.

Senator CHAVEZ. The transfer was made 2 or 3 years after you purchased the Ojo Espiritu Santo Grant?

Mr. STRONG. I don't know the date, but it was made in 1941.

Senator CHAVEZ. Then is when you purchased the Antonio Sedillo?

Mr. STRONG. It was a couple of years before that, it was in 1939, but that is when the exchange was made.

Senator CHAVEZ. All right, you may proceed.

Mr. STRONG. I had reached the point where we had stated that the carrying capacity, and the amount of grass this Soil Conservation Service had to issue permits on, was for a certain number of animals, and that our applications far exceeded that number, and using the base period that was established, we issued permits to the individuals in that area covering the entire amount of grass that we had available; after which a hearing was called at the Ojo Espiritu Santo grant, in one of the buildings of the former C. C. C. camp there, to listen to protests, at which time an effort was made to adjudicate any errors that might have been made.

Mr. HOVEY. Mr. Strong, who were called to those protest meetings there?

Mr. STRONG. We had something like—I don't remember, but somewhere over half the permittees in that area were present at that meeting. Everybody was there; everybody was given the information, and circulars were sent out telling them they had this opportunity for making their protests, at the time that the number of stock they were to be issued a permit for was given to them. Those circulars were sent out stating the number of stock, and telling them to come to the protest meeting.

Mr. HOVEY. Some of them did come?

Mr. STRONG. A large percentage. I don't know the exact number. I can go back to my diary and verify the number.

The CHAIRMAN. All right.

Mr. STRONG. That is about all we have to say in that respect. We have done the very best we could, in taking care of those people who made application for grazing permits and who may have been prior users on the area.

In the fall of 1941 our range utilization survey showed that we could increase the stocking on that grant a slight amount. That fall we allowed a number of the smaller users in that area to retain their heifer calves, in order to replace some of the old cows that they have in their herds. In the summer of 1942 we had an extreme drought in that area, and none of the stock tanks on the grant caught any water, on which we were dependent for the proper grazing of a large portion of that grant. When the time came to issue our permits, in October, which are effective on November 1, I asked that a careful check be made of the number of stock that could be carried through the winter months on that grant. Our range supervisor made a survey, and came in with the recommendation that the livestock on that grant would need to be cut 200 animal units. I protested it, knowing that I was going to have a repercussion, and I protested, against my better judgment; but I wanted to be sure that it was right. As a result of that, the several officials of the regional office went with us to make a recheck, or to check up on the figures that were being given us, so as to be sure we were right. Mr. Lantow and Mr. Furman have explained how that is done. The cut was made, and I think the results have substantiated the wisdom of that cut.

This spring, for the first time, we had cattle dying on the grant, because they were poor. The starvation was not so much from the lack of feed as it was from the lack of proper water. When the hot weather came on, the permanent waters that were available in that area were unsuitable for the use of livestock. As a result we had livestock dying, and the cattle were poorer this spring than they have been any time since they were placed on the grant.

Mr. HOVEY. Was there any way to prevent the starvation of cattle on the Puerco, getting water dams into the Puerco, as the people that used that land before you used to do?

Mr. STRONG. We realize that is one method. At the present time, we are limited on our work crew that we are able to employ with the funds. We have been doing that very thing.

Mr. HOVEY. Isn't it true, that 6 miles from the west boundary there is grass as old as 5 years that has gathered?

Mr. STRONG. Not as old as 5 years.

The **CHAIRMAN.** Well, then, 4½ years.

Mr. STRONG. Probably when the stock tanks in that area, that served that area only, dried up, in 1941; therefore, it was largely the 1942 growth that was left.

Mr. HOVEY. Isn't it true, there is a spring by the name of Ojo de Tio Pula that a cow can swim in? We requested you to open that water hole up.

Mr. STRONG. That has been used, Mr. Hovey, since 1942; early in 1942; continuous use; and the stock was in there during all of this past winter.

Mr. HOVEY. We didn't have no rain whatever this winter; no snow whatever. Didn't you offer a permit to Jesus Montoya? Jesus

Maria Montoya was offered a permit within the grant, on lands at this spring, through this drought. There is no grass growing in that country in the wintertime, although Mr. Strong just stated that a few cattle starved to death on account of not so much the grass, but the water; and Jose Agapito Garcia was offered the land within the grant—

Senator CHAVEZ. There within the area?

Mr. HOVEY. Jesus Maria Montoya is right there to produce the evidence.

Mr. STRONG. That was to be brought out in my discussion.

The CHAIRMAN. All right.

Mr. STRONG. What Mr. Hovey has testified is true. I have just stated that this range survey, made last fall, took into consideration the water that was available for use of livestock on that grant, which they could reach. I admitted we had some grass that had not been used; that had grown during the 1942 growing season. We realized that this grass was there. This spring we had pressure brought upon us, by the sheepmen mentioned by Mr. Hovey, in addition to the two that he mentioned who run this sheep, together with Mr. Transito Mirabal of San Luis, who has his own band of sheep and those of his brother, Benito Mirabal. It was offered to him, also, on the condition that they haul the water to water these sheep out into the area where the grass was. There was some of the best grass I ever saw for lambing purposes on that grant. It had not had a hoof of cattle on it for over a year.

The CHAIRMAN. Right there, will you pause, please?

(Off-the-record discussion.)

Mr. STRONG. The New Mexico cattlemen here know very well that there are many, many areas in New Mexico that have extremely good graze on them because of the distance it lies from water, and therefore is unusable by livestock.

Mr. HOVEY. Could I correct some of his own statements there, if it is possible, before this committee?

The CHAIRMAN. That is a little bit out of order. Time is a great element with us here. Perhaps it would be saving time if it was corrected as you go along, and contradictions entered as you go along. Ordinarily that is a very poor way of doing it. Do you prefer to go without interruption, Mr. Strong?

Mr. STRONG. I don't care, it is immaterial to me, Senator.

The CHAIRMAN. I think, perhaps, if you ask the question, or make a correction, after the conclusion of his statement, we may save time.

Mr. STRONG. I stated we offered this to these individuals, and offered them the water tanks in which to haul their water, and the water tanks in which to store the water in the field. What more could we do? The grass was there. We are not denying that. But it was not available for the stock that was on the Ojo Espiritu Santo grant last year. The cattle in particular, unless water was hauled to them. The permittees could have done the same thing, had they been willing to have that done.

I think that ends the statement on the reduction, and, so far as I know, it explains pretty well the principle that we used in the stocking of our grants. We have expended the money, as fast as it has been made available to us, for the development of waters on the land that

we have purchased. We have done everything possible that we can, in that respect. It is impracticable to drill wells in the Ojo Espiritu Santo grant. Geologists have told us that the water that we could secure, after drilling to great depth, is not suitable for the use of livestock, because of the minerals that it contains. In fact, a well that was drilled across from Mr. Hovey's house, on the grant there, but we have been unable to make use of that area because we can hardly get the livestock to stay there. A few of them will stay during the winter months. Last year the herd was moved over there two or three different times, and all but about 25 or 30 of the stock there left and went back to the springs, where the area was seriously overgrazed.

The CHAIRMAN. You may inquire now.

Mr. HOVEY. With your permission, I would like to go over to this big map and show the committee and the people our story. Although I cannot handle the story on a high plane, I will do my best to protect the Spanish Mexicans. Most of the American people call us Mexicans, but we are proud to be one of them, because my mother came from Spanish descent.

Here is the Ojo Espiritu Santo grant [indicating]. Here comes the Rio Puerco. Right about here, where I live, there is people right in along the Puerco here, and here is a divide that we call La Ceja, for 2 or 3 miles to the top, and to the first lake, we would say, 4 miles, Myote Lake, that dry lake. That lake is dry. The grass this winter was that high [indicating]. You might call it from 2 to 2½ feet.

The CHAIRMAN. How high was that?

Mr. HOVEY. From 2 to 2½ feet. And there is plenty of water along the Puerco; the people can testify to that effect; plenty of water and grass on the Puerco to come down and run the stock on there. We have done that from year to year, outside of the springs down below.

He said about the carrying capacity of the grant. I would like to ask this, the number of acreage, and the number of livestock that we people gather and put in corrals, where the range riders counted head by head, one by one; not in figures or on papers, what cattle goes out of the corral is what counts, not what the people say, I suppose. I might be wrong.

Mr. STRONG. Well, Mr. Hovey, the cattle stocking of the Ojo Espiritu Santo Grant in 1942 was 1,010 head. We have issued permits for 1,032, but several of those individuals went in there and took out a cow for milking, or for selling, as the necessity arose, with the result that the average figure for the year, the final figure, was 1,010 head on 113,141 acres, or an average of 5.7 animal units per section.

Mr. HOVEY (indicating). This is the highway that the gentlemen from this highway east, I don't know how many cattle there is that belongs to the Indians, but there is a fence somewhere around here, more or less, I couldn't say exactly, where the San Luis people has a permit on here for 65 head. I invite anyone to go out there and see if he could find 10 head in that little patch, going by the road, or over the top of the hills and down below where the Cabezon and the Guadalupe people and San Ysidro people have. We gathered them last July and we only counted 376 head going out of the gate of the corral.

The CHAIRMAN. How many?

Mr. HOVEY. It was 365 or 367—I don't remember exactly, but it was not quite 400. We brought every batch down below, including

the Guadalupe and the Casa Salazar and others—had some sheep in this rough part of this land up here. How many there were, I couldn't say, but we have run them from one end to the other.

Senator CHAVEZ. The point you are trying to make is that there are not many cattle there?

Mr. HOVEY. That is right; that the land can carry——

Senator CHAVEZ. Do you mean to state to the committee there are not as many head of cattle there as the Soil Conservation Service say there are?

Mr. HOVEY. Absolutely; haven't been able to count them from the corral because we worked—the Cabezón people go to the corral to see how many cattle they find there, they come in for gathering, and there might be some; I couldn't swear to that; but we haven't seen them.

Senator CHAVEZ. What methods do you have, Mr. Strong, in order to determine the number of animals within a certain area?

Mr. STRONG. We are rather fortunate in having, Senator Chavez, employed on that grant a range administrator, or range rider, by the name of Cass Goodner, who makes it his duty to check the livestock grazing the lands of the Soil Conservation Service, not only on the Espíritu Santo Grant, but over the entire L. U. project, with the assistance of one range rider.

In 1942 the Soil Conservation Service constructed corrals for the purpose of working and assisting these people in working their stock on the grant. There are some 50 or 60 permittees, and it is a large task to sort the cattle and to brand them and to prepare them for sale, so we constructed these corrals there, and that was the method that was used this year in checking the number of stock on the grant.

Senator CHAVEZ. Do you keep track of the branded calves?

Mr. STRONG. No; nothing under 6 months of age is counted. That is, the older stock that are the permitted ones.

Senator CHAVEZ. That way do you obtain the figures, 1,010?

Mr. STRONG. 1,010 were the figures of the stocking for 1942; yes, sir. As I stated a while ago, we made a reduction of 200 head last year, because of the scarcity of grass, particularly in the area that could be used by livestock.

Mr. HOVEY. The Soil Conservation Bureau went ahead and bought this Montoya Grant, a small piece of land some of the people are farming. We have been trying to acquire these, or something, for a long period of time, say, 4 or 5 years, something like that; haven't been able to. Nevertheless we are using it for farming.

Now we come down here on the Ignacio Chavez Grant. I think somebody here can tell us how many head of cattle there is. I'm not sure but there are something like forty-seven or forty-nine thousand acres.

Mr. STRONG. Forty-five thousand and nine hundred and something.

Mr. HOVEY. Right close to what I have in mind, anyhow, and he told some of the boys that were here night before last, and also Mr. Haskell, that the ranger told the boys to drive the cattle to the top of the mountain, what they call the Mesa Chivato. But it is 65, if I am not mistaken, down below to the top of the mountain, and over here, I couldn't say how many cattle there are, or whether they have any permits at all.

Besides that, there are some people from San Mateo who have this place; these places just bounding through the Ignacio Chavez Grant.

It seems to me they are not citizens, because they are not allowed to go into that grant, to which we have used that grant for years and years, on leases and permits from the fellow that had leased from the grant for many years, Serefina Jaramillo, that is his name, that is one of the fellows, Anastacio Marquez, Benedicto Marquez, Mario Lazaro, over there. Those people are right close to that place, without any permits whatever, hardly, just a small patch of land with their little herd of cattle; permit on top of the forest, don't know what kind of—

Senator CHAVEZ. Mr. Strong, in keeping with your policy of allowing people who had used the purchased property prior to the purchase, why aren't these boys adjoining that grant—why aren't they given a chance to get a permit for a few head of cattle?

Mr. STRONG. Because of the establishment of the boundaries by the two Secretaries, the Secretary of Agriculture and the Secretary of Interior, on all of the projects that we have to administer—I will ask Mr. Furman to correct me if I make a misstatement here—they have established the rule of insofar as the people within the boundaries of an area needed the grass, it was given to them, up to certain limits. Then, if there was a surplus of grass in that area, it was distributed among those that were adjacent to the boundaries of the project as set up, and any livestock that would be permitted in those areas outside would necessitate the reduction of an equal number of stock from the permits of those on the inside.

Senator CHAVEZ. Where are the permittees now on the Ignacio Chavez Grant?

Mr. STRONG. They are residents of Casa Salazar, Guadalupe, and sheepmen from the vicinity of Cabezon and San Luis.

Senator CHAVEZ. Those are all outside the grant?

Mr. STRONG. They live outside of the grant, but within the project as set up.

Senator CHAVEZ. So, irrespective of how far the user of the land might be, if he is within the project, as set up by Washington, he is allowed to get permits; but the man who lives right across an artificial line, and had used the line prior to that for a hundred years, he can't have it?

Mr. STRONG. The information that we have did not show that these individuals, during the base period, had this under permit. It was mostly in trespass there; used to be; but that is not the basis on which it was established. As I said, it was the boundaries that were made there.

Senator CHAVEZ. Personally, I think the Secretary of the Interior and the Secretary of Agriculture are certainly wrong.

Mr. STRONG. May I ask Mr. Furman to amplify on that statement?

Mr. FURMAN. I don't blame Senator Chavez for making the statement that it looks like an injustice. However, if land resources within a given area, established by a Secretary of the Department, are insufficient to meet the needs of the people within the area, it just boils down to a question of taking it away from the people inside the area to give it to the people outside.

Senator CHAVEZ. But, according to the testimony of Mr. Strong, people from Cabezon and Casa Salazar use it. They are certainly not within the grant.

Mr. FURMAN. No, there is no one within the grant, Senator. The people using it are living on adjoining properties, not too far away;

all inside of the project area. As I say, it is an arbitrary situation, wherein, if we give privileges on the grant to those living outside the project, and south of the grant, those privileges must be taken away from others who are living inside of the grant and who need them. We'll say, just as badly as those outside.

The CHAIRMAN. Do you wish to ask a question, sir?

STATEMENT OF MIKE MICHAEL, SAN MATEO, N. MEX.

Mr. MIKE MICHAEL (San Mateo, N. Mex.) I am talking for these men. We made the protest to the effect, at the time the Soil Conservation Service was taken over—the grant—that we had to have a permit on this grant. We were permittees; we had a lease from Narcisso Francis. I had a permit for 150 head; Mr. Sarafino Jaramillo, that I know, had another permit. I don't remember the amount. I presented the permits to Mr. Stewart, there at the office, and also to Mr. Strong, and receipts to the effect of the permit, and they state we never had a permit, were in trespass. I fenced the south side of that grant, about 7 miles. The grant was not even fenced. Our homesteads are right there, adjoining the grant. We have been over at the office several times trying to get a permit, and we have been unsuccessful.

Senator CHAVEZ. Who did you have a permit from, prior to the purchase?

Mr. MICHAEL. Narcisso Francis.

Senator CHAVEZ. Who is he? How well do you know him?

Mr. MICHAEL. He was a stockman for many years, and had a lease on this grant prior to the purchase by the Soil Conservation. He ran about 20,000 head of sheep; went out of the business several years ago.

Senator CHAVEZ. Who did he have the lease from?

Mr. MICHAEL. I don't know; from some company I don't know, in Canada or England or some place. I don't know.

Senator CHAVEZ. Anyway, you leased it from the lessee?

Mr. MICHAEL. Yes.

Senator CHAVEZ. How many years prior to the time of the purchase did you have a lease within the grant?

Mr. MICHAEL. I don't remember. I think it is 4 or 5 years.

Senator CHAVEZ. How long have you lived around this Ignacio country?

Mr. MICHAEL. Twenty-six years.

Senator CHAVEZ. You knew the people in the surrounding villages; you know the boys?

Mr. MICHAEL. Yes, sir; Mr. Marques was using that grant previous to when I have.

Senator CHAVEZ. And their fathers have been using that grant?

Mr. MICHAEL. Absolutely.

Senator CHAVEZ. Is Mr. Francis related to you?

Mr. MICHAEL. Yes.

Mr. LEE. Here is Mr. Jaramillo, whom we have mentioned.

The CHAIRMAN. All right, Mr. Jaramillo, have you any statement to make?

**STATEMENT OF SERAFIN JARAMILLO, AS INTERPRETED BY
SENATOR CHAVEZ**

Mr. JARAMILLO. I used that grant for 25 years prior to the time of purchase.

Senator CHAVEZ. When were you born?

Mr. JARAMILLO. I am 60 years of age; I was born in Seboyeta.

Senator CHAVEZ. Is Seboyeta within the immediate vicinity of the land grant?

Mr. JARAMILLO. I have had a ranch within a mile of the western boundary of the Chavez Land grant for 25 years prior to the purchase of the land grant; prior to its purchase by the Federal Government.

Senator CHAVEZ. Have you a permit from Narcisso Francis to use that?

Mr. JARAMILLO. Yes.

Senator CHAVEZ. For how many years?

Mr. JARAMILLO. I have paid Narcisso Francis, on the lease, for 20 years prior to the purchase.

Mr. FURMAN. May I say a word more on this matter? The Soil Conservation Service appreciates the fact that there are a great many deserving small ranchers in that area who definitely need more land. We sympathize with their predicament; and we wish to make the abstract statement that we believe that the two or three gentlemen who have just testified have brought out the fact that more land resources are needed in that area for subsistence operators.

Senator CHAVEZ. May I ask you a question at that point? What do you think, generally, without stating the policy of the Soil Conservation Service, but from your observation of the needs of the people in this area that we are talking about; what would you think of an exchange of State lands for some other land within that area, so those poor people could get a tract of land to live on?

Mr. FURMAN. From a purely abstract standpoint, I think it would be a very meritorious move to accomplish such a transfer or exchange.

Senator CHAVEZ. Humanity itself would be awarded; don't you think so, Mr. Furman?

Mr. FURMAN. I think the intensive and extensive survey made in the middle valley of the Rio Grande would bear out that opinion, without question.

Senator, this subject being discussed from an academic standpoint makes it look as though we certainly were doing a rank injustice to Mr. Hovey's compadres here. But you realize, when it comes down to the actual distribution of use and privileges, that the people inside the project have an average of 12 head, now, per man; and if we include these others, by saying we will recognize an adjustment area south of the project, we will reduce existing permittees down to 6 head, and no one is benefited.

Senator CHAVEZ. That is why I am asking your opinion as to acquiring more land, by exchange of State lands that are within district 7, and getting some land along the area, so everyone might have at least 2 cows.

Mr. FURMAN. Perhaps someone will think of that in connection with post-war programs.

Congressman FERNANDEZ. Mr. Furman, the established policy was to permit the former users of that land to continue using it. Was it ever called to the attention of the two Secretaries of the Department of the Interior and Department of Agriculture that the setting of this line would violate that policy? Has that been called to their attention?

Mr. FURMAN. Yes, it has. We took that up. The case was presented about a year ago, wasn't it, Mr. Strong?

Mr. STRONG. Two years ago.

Mr. FURMAN. And it was called to the attention of our Washington representatives; the last time, 3 or 4 months ago, I think in April 1943.

Congressman FERNANDEZ. What do you mean by the Washington representatives?

Mr. FURMAN. The representatives of our Washington office of the Soil Conservation Service.

Let me read you the policy on this, if you will. It is not exactly as you may be thinking of it.

Senator CHAVEZ. The way we understood it, you stated it.

Mr. LEE. Mr. Chairman, may I ask if that grant was placed on the same carrying capacity as the land adjoining it, in private ownership, under the Taylor grazing law, in which one Federal agency has set the carrying capacity, which is 10 head per section? What would those two grants carry? How many livestock would they carry? Would it not accommodate all the people living in the area for the surplus they are so badly in need of? May I ask that question? Couldn't that be helped by changing the carrying capacity to what another agency has agreed on?

Mr. STRONG. We do not know the number of sections in each grant. We will have to take a little while to figure that. I can give you that in a short while.

Mr. LEE. Have you got somebody that can figure it, or do you want me to help you? What I meant, I don't know whether you have any assistants there with those papers.

Mr. STRONG. Mr. Chairman, confirming the statements made by Mr. Michael and Mr. Jaramillo, the information that they gave us, I, as the district conservationist, submitted to the State office. Then it was submitted to the regional office and the regional office submitted that to Washington.

Senator CHAVEZ. What recommendations did you make?

Mr. STRONG. I stated the facts that I had there, and showed that, if we permitted it, these individuals would of necessity reduce the stock on the inside of the area. Not only in that immediate area in question, but all around the project area, we have the same thing. If these two or three individuals there it might not be serious, but if it were extended all the way around, then it would make the reduction extremely serious, because there are other users in that area.

Congressman FERNANDEZ. If the people, all the way around, were using it before, it would be perfectly proper, would it not, in accordance with your policy, as I understand it?

Mr. STRONG. They were coming in from distant areas, Mr. Fernandez.

Congressman FERNANDEZ. Well, if they used it before and were contiguous to it; is that the situation? That is the way I understand it.

Mr. STRONG. I appreciate the fact they were users of it and if it be the will of the people that the reduction be made to cover those individuals, it will have to be done.

Senator CHAVEZ. Here is the idea; you have a certain policy; these people have been using the area all around and it only takes care of so many head of cattle. Why should one particular fellow get 12 head and the other be allowed to starve? I know you haven't as much land as you would like to give them; but I feel sure of that.

Mr. LEE. You testified that there were 1,000 head on that grant in round numbers, and the carrying capacity was 5 to a section on the outside. It is figured by other Government agencies that the carrying capacity is 10; so if you go up to that, it would be 2,000 on the grant; and it would take care of these people in the congested area on the one grant without counting the Ignacio Chavez Grant.

Mr. HOVEY. That is what the people on the area are asking.

Mr. STRONG. Mr. Lee, I believe sincerely that if the carrying capacity of the Espiritu Santo Grant were raised to 10 units, that we could completely finish wrecking an area that was in terrible condition at the time it was taken over by the Soil Conservation Service.

Mr. LEE. Mr. Strong, may I say that I know there is no one in the Service more sincere in their beliefs than you are, and no one tries harder to accomplish it. The only difference is that the people on their side are of a different judgment from what you people on that side have. But to boil it down to a simple proposition, grass is exactly, as most of these people can understand it, like your lawn in your front yard. If you mow it, it spreads and you have a beautiful lawn. If you don't mow your lawn it all grows too high, and the roots are way up high, and the first drought or freeze that comes, your lawn goes to pieces. The only people that have a good lawn are the people who intelligently mow it and keep it in shape. Now, that applies to the ranch business. I don't hold myself up as an example, but I am the neighbor of these people; we are considerably over 10, and we are still able to function.

Now, the problem is whether your judgment is correct or whether our judgment is correct. I don't think the gentlemen here are doubting the sincerity in any way that you have, Mr. Strong. You have worked with them, and you speak the language, and you know them. It is a question of opinion here that we are arguing about.

Mr. STRONG. That is a difference in opinion that we have, Mr. Lee. I have helped to run a very good ranch myself, and I have a brother that is a rancher on a ranch on which we were raised. I was over there in 1938, after they had gone through the 4 years of serious drought, and there were sections upon sections of that area on which there was not a living spear of palatable grass. When I was there in thirty-eight, I wouldn't have known the area had not been raised there and knew every hill and every foot of it. We had a pasture there that we reserved for winter use. Naturally that allowed the grass to make a growth during the growing season and thereby established a good root system. My brother, 2 years prior to 1938, had grazed that little pasture, which was reserved for winter pasture, rather heavily, because the grass had disappeared, and completely, on the other side.

Senator CHAVEZ. We know the devastating effect of overgrazing, but here you allow those people to have 5½ cows per section, or what-

ever it is Mr. Lee testified. He testified that he had joined the area, in the immediate neighborhood, and they are using 10; the Grazing Service is allowing 10.

Couldn't it be that they know a little something about their grazing business? There is an example right here, without going into a discussion of the devastating effects of the grazing.

Mr. STRONG. The Grazing Service people varied in checking the survey that we made. We have here a memorandum from them approving them only in a portion of the area in question. They asked me that the requirements be reduced from 12 forage acres to 10, which increased it one-sixth on a portion of that land. In fact they are using most of the figures that we have established; but I have expressed it to this committee that we have here an area that has many, many thousands of acres in it that are very poor range, extremely poor. There are shales, steep hillsides, they are extremely gullied, they are eroded to where it is impractical to use them. Therefore, the carrying capacity on the Espiritu Santo grant is, in my opinion, about as it should be this year. May I say, I cannot state for certain, but I think we will restore the cut that was made on that grant, because of the fact that the stock watering tanks, which they have developed there, are full of water, and the area that was ungrazed last year will be fully grazed this year. How much that increase will be, will be determined through a check, and it will probably be at this time we will have increased substantially the per-section capacity.

Senator CHAVEZ. In the meantime, what is going to happen to the people west of the Ignacio Chavez Grant?

Mr. STRONG. In the meanwhile, what is going to happen to them? The permits will be issued in the fall of this year. Until something has changed the rules, I cannot consider them.

Congressman FERNANDEZ. On that question, I think the committee ought to have the reply of the two Secretaries, when the matter was called to their attention.

The CHAIRMAN. Is that available?

Mr. FURMAN. No; we haven't any reply, Mr. Fernandez.

The CHAIRMAN. It has been stated that the two Secretaries fixed the boundary, and fixed the regulations. How did they do it, by correspondence?

Mr. FURMAN. Perhaps I misunderstood the question.

Congressman FERNANDEZ. No; I think you understand the question. I asked you if you had called it to the attention of the two Secretaries, the fact that the establishment of that line and the strict rules violated the policy, and you said that it had been called to their attention. I want to know what they did about it.

Mr. FURMAN. Why, I said before, that I called it to the attention of our Washington office, that there were prior users of that grant who were not getting use privileges at that time, because they are not operating inside of the project area; and the answer was, as we stated in part before, that, in some projects, land resources are sufficient to satisfy the needs of people operating within the project and to satisfy the needs of people in adjacent areas, in which cases people in adjacent areas are receiving grazing permits. In this case the land resources within the project are not sufficient to satisfy the needs of the people within the project. Therefore, how can we expect to give resources

to people outside the project? Even in spite of the fact that they were—

Senator CHAVEZ. Well, I will ask you the question, irrespective of that idea, what is going to happen to the people that are outside of the artificial line that was made by someone in Washington?

Mr. FURMAN. The only reply I could make, at this moment, is that the only way in which they could be given privileges by the Soil Conservation Service would be by a pro rata reduction in the permits of permittees operating inside the project. I do not think that is justified.

Senator CHAVEZ. Why don't you suggest to the powers that be in Washington to increase that project, to enlarge it?

Mr. FURMAN. That, Senator, was suggested up until 2 years ago, several times, but during the last 2 years the land purchase program has practically ceased to exist, as authorized under title 3 of the Bankhead-Jones Act. Absolutely no acquisition money was appropriated this year.

Senator CHAVEZ. But there are some State lands, and also Federal lands, within the area, within a short distance of the area. Isn't that correct?

Mr. FURMAN. I am not—

Senator CHAVEZ. Isn't there Taylor grazing land within a short distance of that area?

Mr. FURMAN. There is Federal land within and all around the area, both grazing district No. 7 and grazing district No. 1, under jurisdiction of the Grazing Service.

Congressman FERNANDEZ. Wouldn't your policy be carried out by permitting those who had priority, prior use, the use of the land, with a pro rata reduction to all, instead of cutting these outside and leaving those inside with a higher percentage?

Mr. FURMAN. That could be done.

Mr. LEE. All live outside; none of them are inside.

Mr. FURMAN. However, you see, Mr. Fernandez, that our existing permittees, we stated, were getting 12 head each, now; and to reduce them substantially would certainly leave them in a comparatively hopeless position. Would we be very far ahead in doing so?

Senator CHAVEZ. So, there is only one other method, to increase the carrying capacity—

Mr. LEE. Can I ask the Forest Service, that joins that particular Ignacio Chavez Grant, what they figure their carrying capacity is?

Mr. WOODHEAD. Mr. Chairman, I can't answer that question as to the Mount Taylor area, but I can give you an idea. We employ whatever value it may be with the whole Santa Fe forest.

Mr. LEE. This is the Mount Taylor forest.

Mr. WOODHEAD. I don't have that figure.

Mr. LEE. Mr. Adams could give it. He has been supervisor of that forest for many years. We want the rate of the carrying capacity on the north end of the forest, on the Mount Taylor.

Mr. ADAMS. I couldn't say; I wouldn't want to venture a statement on that.

Mr. LEE. Could you get us the record of what it is?

Mr. ADAMS. Yes.

Mr. LEE. I can tell you what it is—

Mr. FRED ARTHUR (U. S. Forest Service). I can tell you what it is. I have given considerable attention to it.

Mr. O'SULLIVAN. This 1,010 animal units, permitted on the Ojo Espiritu Santo Grant, includes the 200 units allotted, by agreement, between the two secretaries for the Jemez Indians. Is that correct?

Mr. STRONG. Yes sir; and 200 animal units allowed to the area permittees.

Mr. O'SULLIVAN. And the total is 1,010?

Mr. STRONG. Yes, sir.

Mr. O'SULLIVAN. It has been stated here this afternoon that prior to the acquisition of the Ojo Espiritu Santo Grant, by the Soil Conservation Service and Department of Interior, no Jemez Indians were using that grant.

Mr. STRONG. To my knowledge, that is true.

Mr. O'SULLIVAN. Can you explain why the two secretaries, in their solicitude for the Indians, deprived the adjoining non-Indians of 400 head for that area?

Mr. STRONG. I couldn't discuss that. That is a set-up in Washington. As I have said, I had no choice in the matter.

May I add to the record here—

STATEMENT OF LEE S. EVANS, MARQUEZ, N. MEX.

I join this grant on the south, and I am like Floyd Lee, in that we could run more stuff on it than they are allowing on their grant. He and I keep up the Production Credit, of the Farm Credit Administration, it all being Federal, such as paying interest on taxes. If we didn't carry more cattle than they carry on that, they would take our outfit away from us tomorrow. That county cannot carry very much of a burden, and why can't that area carry more stuff than it has?

Mr. STRONG. I agree with Mr. Lee. I don't know what his carrying capacity is, but on that mountain, where we adjoined them, our carrying capacity is established by our range survey as 18 head of cattle per section yearlong. Those are our figures.

Mr. LEE. But they are not on there.

Mr. STRONG. Mr. Lee, we have not been able to make use of it because of the lack of water. I finished developing the Ojo de los Indios Spring, on the line up there, in cooperation with the Forest Service, so I get the overflow in the hope of making use of a part of that. We built three large stock tanks there and developed another spring under the rim in another canyon there at tremendous expense, because of the fact that we had to build trails in there to do that, in the hope of making use of that. That will be taken into consideration as soon as we can make use of it, to put those stock up there; but they have had to come right out because of the lack of water.

Judge SETH. Mr. Strong, is there any procedure in your Department for appeals from your local decisions; or are your decisions out there final?

Mr. STRONG. Yes, sir; we have a set-up in our regulations. The decision is made in the issuing office, which happens to be mine at the present time, to the regional office and from there to the Washington office, to the Secretary of Agriculture and up to the President.

Judge SETH. Does that appeal involve both the carrying capacity and the land?

Mr. STRONG. Anything in that respect.

Judge SETH. It also takes into consideration the need of the applicants, does it?

Mr. STRONG. Yes, sir. If he is not satisfied with his permit as issued to him he may make that appeal the same as—I think almost in conformance with the Grazing Service method.

Senator CHAVEZ. Has any local decision been reversed by the Washington authorities?

Mr. STRONG. We only had one case appealed all the way to Washington, and it was not reversed; it was substantiated.

Senator CHAVEZ. It was sustained.

The CHAIRMAN. All right.

Mr. FURMAN. This invitation is hereby extended to the committee, and those interested, to visit the Espiritu Santo grant in person, to view the characteristics of the land, as compared to adjoining land, and the present condition of the grants.

The CHAIRMAN. How is the moonlight out there? If we can see it by moonlight, maybe we'll get a chance to go.

Mr. FURMAN. We would like to have you come up and see the character of this poorer range that we are talking about.

The CHAIRMAN. We would like very much to do that. Our investigator went over it some time ago.

Mr. HOVEY. Now, I am going to bring the matter that most of the people might not believe, but it is so. I am going to bring the matter of a man that lives at Guadaloupe, is located about here [indicating], more or less; I couldn't say exactly, but it is inside the grant. The whole town of Guadaloupe is in that portion of the land there.

The CHAIRMAN. Inside the grant?

Mr. HOVEY. Yes, sir; got title from the court by possession.

Judge SETH. That is in the Ignacio Chavez?

Mr. HOVEY. Yes, sir; this man is the father of 10 or 11 children; a pretty good producer, all right. I made an observation to Mr. Strong, might say a different story, but he himself went up to Santa Fe, and Judge Seth will verify my statement. He was denied 1 milk cow—with 11 children, 2 or 3 horses. He was allowed the 3 horses. Yes; I was told by Mr. Griego, a fellow member of the advisory board, district No. 1, that Ricardo Tafoya told him he would have to take his horses out of the permit. Is that right? And also he ranges his horses inside of that grant, domestic-use animals.

That will conclude my poor speech and my poor English. I am run out.

Mr. STRONG. I recognized the case in question, when Mr. Lee mentioned it yesterday, about one man not being given a permit for a cow. Mr. Ricardo Tafoya's application was made for three horses, and no cow was ever mentioned in the application. After we had made our reduction, in 1943, Mr. Tafoya came and made a verbal application to allow him to be given a permit for his cow. Having refused a large number of individuals that made application for one and two additional animals, or new permits, that year, we were forced, through total policy, to deny Mr. Tafoya his permit. His permit for three horses was issued. If he has been given instructions to remove his horses, it is through some trespass case or something that he is doing that is violating the rules in the area. I do not know of that at the present time.

The CHAIRMAN. That is one place where red tape runs riot, isn't it, when a man is deprived the right; a man with a family is deprived of the right to have one milk cow adjacent to his home? If that isn't fraying the red tape, then I don't know what it is.

Mr. STRONG. I will say this, and Mr. Goodner, the range supervisor, can verify it, Mr. Goodner told Mr. Tafoya, on the side, that he would not require him to remove his cow if it were placed on there.

Senator CHAVEZ. That was extremely tolerant of him. Why should it be done on the side? Why shouldn't a little common sense be used?

Mr. STRONG. Senator Chavez, I don't know the exact number; we reduced a large number of small permittees on there, and refused to accept new applications from numerous individuals for one or two animals.

Senator CHAVEZ. That is what is going to ruin the country; too much Washington and rules, instead of common sense and humanity.

Mr. STRONG. If he had been taken, I would have had to do it in any number of other cases.

Senator CHAVEZ. It is possible you made the same mistake as the Indian Bureau, when they took the goats away from the Navajo Indians.

Mr. STRONG. He happens to be working for the Soil Conservation Service, at the present time. I doubt very much that he has been required to remove his horses from the grant.

Mr. HOVEY. Mr. Chairman, I don't think that the Soil Conservation Service need to know anything about this milk cow, because that is bought with money loaned by the Farm Security, in order to give a chance to start this little children.

Senator CHAVEZ. In other words, one agency of the Federal Government advances the money to some poor man, so he can go buy a cow and feed his children, and the other agency of the Government says, "You can't graze that cow."

Mr. HOVEY. That is exactly what happens. Another thing, before he gets away, there is a man in there, Juan Romero, presented a letter here from the Division of Grazing. After the first of the year he will not have a permit with the Grazing Division, because there is no land available; and after the first he has got to sell. He was born there 58 years ago, and his father lived there, oh, 50 years, and we feel that the carrying capacity of those Soil Conservation lands are not lands intended for such.

The CHAIRMAN. Very well, you may proceed.

Mr. STRONG. Substantiating the condition of the Ojo Espiritu Santo grant in and adjacent to the waters we had available for the livestock last year, we have drawn up a map showing the areas of low-carrying capacity, where the waters were located; and a number of pictures that were taken in April 1943, when there yet remained 2 or 3 months before we could expect the new grass to be available for livestock, substantiating the statements that I have made. That, I would like to present to the committee, not to go into the record, but for their files.

The CHAIRMAN. Very well, thank you very much.

(The documents and photographs referred to were received and placed on file with the committee.)

Mr. STRONG. We have nothing further to add, unless someone wants to ask questions.

STATEMENT OF JESUS MARIA MONTOYA, CUBA, N. MEX.

Mr. MONTOYA. My name—I don't talk very good English, but I will tell you in Spanish, if you will permit me, and I will ask Senator Chavez to talk for me.

(As interpreted by Senator Chavez.)

He told you here, awhile ago, that he gave me a permit to graze. Plenty of water; yes. You see, the gas was rationed, we do not have much opportunity to carry that water 4 miles, without the road; and the water that they offered to us was alkali water, no good at all. I know it. I have been there along with my sheep for 25 or 30 years, and when I told him I could not water, I could water my sheep in the Rio Puerco. He could give me a place to get down, and come back by the same way. He told me I couldn't do it; if I didn't like that water, and like that range, I could go some other place for my sheep.

Mr. Hovey here is the guy that gave me the place. I don't get along very good; I don't have much water or much feed.

Senator CHAVEZ. How many are you running

Mr. MONTOYA. Me and my partner are running 1,000.

Senator CHAVEZ. The water, you say the Soil Conservation gave you, was how far from your place?

Mr. MONTOYA. Four miles from the place.

Senator CHAVEZ. Is there a road from your place?

Mr. MONTOYA. No.

Senator CHAVEZ. How would you take the water up there?

Mr. MONTOYA. Well, I have to build the road, if the way he told me; I could build it and water up there.

Senator CHAVEZ. Have you a truck?

Mr. MONTOYA. I got a truck, a good truck.

Senator CHAVEZ. Did you have gasoline?

Mr. MONTOYA. No, sir. Enough gas to come down to Albuquerque. I don't make my trip very well. Sometime it is tough when I am working and there is another—

Senator CHAVEZ. You say they won't let you use the Rio Puerco to water your sheep?

Mr. MONTOYA. No.

Senator CHAVEZ. Why?

Mr. MONTOYA. I don't know why.

Senator CHAVEZ. Was it adjoining your land?

Mr. MONTOYA. No, sir; that is, the place he offered me. I don't have water on my place, and the answer of Mr. Strong was that if I don't like that place I could find another range. That is what he told me, all the time that we ask him, and that is the way he answered me. Have a place over there, joining the Navajo; I have four sections there. Indians go over there and see I graze there all summer; that is, Indians will graze one part of my permit, there, and I have to stay in my own allotment. And if Mr. Strong or somebody else don't believe it, he can go and see it. We have no road up there.

That is all, I guess, thank you.

The CHAIRMAN. Are there any questions?

Mr. STRONG. I want to modify, in the main. Mr. Montoya has stated the facts, except that we did offer him the opportunity of

getting water from the spring on Ojo Espiritu Santo, where it was in pipes, and hose is available for filling the tanks. It is on a graded road, all the way from the spring to the place where he was to be placed.

Mr. MONTONA. No; he offered me that spring, and afterward Mr. Hovey offered me his spring.

Mr. STRONG. He wanted to know the closest place to get in there. This well is across from Mr. Hovey's, 3 or 4 miles from the area. The permittee declined, because he said the water was not suitable there. Then he was later offered the use of the Ojo de los Indios Spring, that was mentioned, with Mr. Garcia, his partner, and, in an interview I had with him, prior to discussing the matter with Mr. Montona—

Mr. MONTONA. Those people, you see, from San Luis and Cabezón, they have big communities there, and that community allows just one cow or one horse, and don't allow nobody to graze in there, just outside. I have a place over there at Arroyo Chio, and I thought I might get a chance to get in there; but I couldn't.

The CHAIRMAN. Well, I think we have covered the subject.

Senator CHAVEZ. I know that situation.

Judge SETH. I have some questions I would like to ask, if there are any more of these people out there from the Cabezón area. I would like to have a chance to question them.

Senator CHAVEZ. I believe they know the situation. We all realize that the situation is extremely acute; but about all we can find out about it—

Mr. STRONG. I think something might throw a light on this subject. There are 7 communities, as was mentioned yesterday, that are using that L. U. area there, the towns of Casa Salazar, Guadalupe, Cabezón, San Luis, La Ventana, Cuba, La Jara, and San Ysidro. In those communities we have 572 family groups, of which 444 groups own 3,648 cattle, 23,364 sheep, 2,466 goats, and 714 horses. That was in 1938.

Senator CHAVEZ. Can you give us the total population of the family groups?

Mr. STRONG. The total population in there, 2,722. That is the population living within the boundaries of that Cuba-Rio Puerco L. U. project, exclusive of 56 Navajo Indian family groups that were found in there, by a survey.

Mr. HOVEY. Mr. Strong, was that in 1938?

Mr. STRONG. Yes, sir.

Mr. HOVEY. How many have gone, on account of they are broke, and have lost everything they had, some in California, some in Arizona, and some in Colorado?

Mr. STRONG. I might say that is a—

Mr. HOVEY. I have three first cousins in California, a brother-in-law and a brother just about to go away, because they can't get a permit, in order to stay and make a living.

Mr. STRONG. I appreciate the trouble that they are having; and a number of them have had to leave. I doubt if, when the average is somewhere around 12—the permits we have, have a large number for only 4 or 5. Of necessity, they cannot make a living there. We do not

have the grass to give them, to increase them, so they can get a unit on which they can make a living.

The CHAIRMAN. All right, are there any questions?

Judge SETH. There is no place in the record—does it show, all in one place, the total of these various land acquisitions in New Mexico? I got this from Mr. Haskell, it was furnished me by Mr. Haskell, and I think that Mr. Furman will state that the totals represented here, of 1,300,102 acres, are substantially correct. Is that right?

The CHAIRMAN. Our investigator advises the chairman that the instrument was compiled by the Soil Conservation Service, at his request.

Mr. FURMAN. About a year ago, Mr. Haskell?

Mr. HASKELL. Yes, sir.

Mr. FURMAN. I notice that the Cuba-Rio Puerco project figure, here, is not as we figure it, because the Antonio Sedillo grant is not shown as on the Rio Puerco project, whereas, you know, that grant was exchanged with the Department of the Interior for this Espiritu Santo grant. So, the total shown here of 235,000 acres for the Puerco project, should be 264,000; and the Antonio Sedillo grant should be shown separately. I also notice these figures are close too, but do not agree with the figures. These are accepted operational acreages.

The CHAIRMAN. I understand those discrepancies are explained in the footnote.

Mr. FURMAN. They are substantially correct, but do not agree with the deeds, exactly.

Judge SETH. The total acquisition of land, which the Soil Conservation Service and its predecessors had, totals 1,300,102, and cost \$3,021,000. Is that substantially correct?

Mr. FURMAN. Not including the Antonio Sedillo grant.

Mr. Chairman, I would like to submit for the record, our tabulation of acreages, and project designations, of lands administered by this Service in New Mexico.

Judge SETH. May we submit this for the record?

The CHAIRMAN. It will go in the record.

(The tabulation is as follows:)

Table showing project number, project name, tracts, acreage, and dollars cost of land covered by accepted option and present administering agency

Project No.	Project name	Under accepted option		Administering agency	Remarks
		Tracts	Acres			Dollars
ARIZONA					
AZ-LU-21	San Simon	226	47,971	Soil Conservation Service	
COLORADO					
CO-LU-21	Fountain Creek	39	11,613	Forest Service	Transferred by Administrative order Nov. 16, 1937.
CO-LU-31	Brigsdale	285	81,969	Soil Conservation Service	
CO-LU-41	South Otero County	451	160,170	do	
CO-LU-21	Northeast Colorado	426	118,875	do	
CO-LU-22	Southeast Colorado	796	253,976	do	
CO-LU-23	Great Divide	98	37,532	do	
		2,095	664,135	1,993,951	
NEW MEXICO					
NM-LU-21	Taos	170	75,773	Forest Service	Transferred by Administrative order Nov. 10, 1937.
NM-LU-31	Crater	90	54,964	Grazing Service	Transferred by Executive order Nov. 19, 1937.
NM-LU-41	Hope	84	13,609	Soil Conservation Service	
NM-LU-51	Mills	189	74,648	do	
NM-LU-21	Union County	184	58,021	do	(*)
NM-LU-22	Cuba-Rio Puerto	204	235,520	do	
NM-LU-23	Running Water Draw	7	3,120	do	
NM-LU-24	San Simon	1	680	do	
NM-LU-25	Northern New Mexico grant land	12	229,927	do	See Indian projects summary.
NM-LU-26	Central Curry	5	2,103	do	
	Subtotal, L. U. projects	946	748,365	1,662,416	
LI-NM-61	Zia-Santa Ana	10	46,522	Office of Indian Affairs	See Federal Register, Jan. 21, 1938.
LI-NM-71	Laguna	8	106,432	do	Do.
LI-NM-81	Acoma	15	130,963	do	Do.
LI-NM-91	Jemez	2	117,141	do	Do.
LI-NM-101	Northern New Mexico grant lands	(*)		Soil Conservation Service	Combined with LI-NM-12 to create NM-LU-26.
LI-NM-111	Isleta	3	18,350	Office of Indian Affairs	See Federal Register, Jan. 21, 1938.
LI-NM-121	Northern New Mexico grant lands	(*)		Soil Conservation Service	See note above.

LI-NM-13 ¹ LI-NM-18 ¹	Zuni..... Gallup-Two Wells.....	14 63	66,311 66,018	146,011 313,311	Office of Indian Affairs..... do.....	See Federal Register, Jan. 21, 1938. Do.
	Subtotal, New Mexico Indian projects.....	115	551,737	1,359,349		
	Grand total, New Mexico.....	1,061	1,300,102	3,021,765		
UTAH						
UT-LU-2 ¹	Widtsoe.....	186	27,158	70,721	Forest Service.....	Transferred by administrative order, Aug. 15, 1938.
UT-LU-3 ¹	Central Utah.....	110	42,293	80,516	Soil Conservation Service.....	
	Total, Utah.....	296	69,451	151,237		

¹ Projects financed by funds provided from Federal Emergency Relief Administration-Resettlement Administration appropriations.

² Projects financed by both title III of Bankhead-Jones Act and Federal Emergency Relief Administration appropriations.

³ An exchange of administration between the Office of Indian Affairs and the Soil Conservation Service has been perfected whereby the administration of the Espiritu Santo Grant purchased under project LI-NM-9 is transferred to the Soil Conservation Service in exchange for the Antonio Sedillo Grant acquired as site I of the Cuba-Rio Puerto Project NM-LU-22. The acreage of the Antonio Sedillo Grant is 86,204 and the Espiritu Santo is 113,141. Indian use on the Espiritu Santo to compensate for the difference in acreage between grants has been allowed.

⁴ See NM-LU-2.

Lands now under administration of Soil Conservation Service—Region VI, July 30, 1943

Project	Acres	Acres feet
New Mexico:		
NM-4	13, 077	(13, 077)
NM-5	74, 611	(67, 133)
NM-25	241, 339	(241, 339)
NM-21	58, 021	
NM-22	264, 205	(113, 141)
NM-23	3, 120	
NM-24	680	
NM-26	2, 099	
Subtotal	657, 152	
Colorado:		
CO-21	200, 974	(82, 099)
CO-4	160, 170	(160, 170)
CO-22	253, 656	
CO-23	37, 536	
Subtotal	652, 336	
Utah: UT-3	39, 472	
Arizona: AZ-21	46, 293	
Subtotals:		
NM		657, 152
CO		652, 336
UT		39, 472
AZ		46, 293
Grand total		1, 395, 253

Mr. FURMAN. Also, in order to establish the facts that the Cuba-Rio Puerco situation is acute—the population pressure on land resources I am talking about is acute—I want to submit this tabulation, for the record, which shows the number of permittees on these projects, and showing that, of the permits assigned on the Cuba-Rio Puerco, nearly all of the permittees fall in the from 1 to 50 animal unit group, showing each of their permits as very small. I would also like to add this one sentence, that there seems to be a matter for scientific determination as to what the exact carrying capacity of the lands up there may be, from year to year. There are differences of opinion. Different qualified persons might come out with some other figures; and there are those, I presume, who would raise the carrying capacity considerably, if they had the opportunity to do so. However, I still want to point out that it is my firm conviction that if the carrying capacity of that particular grant, of 113,000 acres, were raised considerably, that the raise would still prove to be a drop in the bucket, as compared to the needs of the population in that area.

(The tabulation is as follows:)

Summary of Grazing Permits Issued on LU Projects in Arizona, Colorado, New Mexico and Utah—Permits

Project	1-50	51-100	101-200	201-300	Over 300	Total	Acres in project	Animal units permitted
Arizona: San Simon.....	46	-----	-----	-----	-----	46	45,030	444
Colorado:								
Southern Otero.....	13	6	8	1	4	32	159,080	3,254
Northeastern Colorado.....	63	36	17	10	1	127	197,194	7,548
Great Divide.....	29	6	1	1	1	38	31,802	2,128
Southeastern Colorado.....	63	12	3	-----	-----	78	139,000	2,733
Colorado total.....	168	60	29	12	6	275	527,976	15,663
New Mexico:								
Mills.....	18	11	1	-----	-----	30	73,750	1,378
Union County.....	68	-----	-----	-----	-----	68	44,784	1,269
Hope.....	21	-----	-----	-----	-----	21	12,580	212
Northern New Mexico grant lands.....	170	-----	-----	-----	-----	170	237,902	1,754
Cuba-Rio Puerco.....	108	17	12	-----	-----	127	266,790	3,493
New Mexico total.....	385	28	3	-----	-----	416	635,806	8,106
Utah: Central Utah.....	49	4	1	-----	5	59	88,382	5,060
Region 6 total.....	648	92	33	12	11	796	1,297,194	29,273

¹ Zia Indians, 1; Jemez Indians, 1.

Senator CHAVEZ. The only difficulty is in establishing figures, and so forth, you cannot raise any cows. Mr. Lee raises cows there, Evans raises cows, and the rest of these folks, they have sheep. Shouldn't that be taken into consideration? The man who actually plants the grain, shouldn't he be taken into consideration, his experience, to determine the capacity?

Mr. FURMAN. Yes; but to make out a point in a little different manner, I don't see how the raising of the carrying capacity of that, even to quite an extent, would solve our problem up there. It would help, but it would be a drop in the bucket. That would be the extent of it.

Judge SETH. Mr. Furman, this figure of 1,300,000 acres does not include the lands, the railroad sections, that were testified about yesterday, purchased for the Indians by tribal funds. They are not on here at all, are they?

Mr. FURMAN. That list is the same one you submitted a moment ago?

Judge SETH. Yes.

Mr. FURMAN. According to the best of my knowledge and belief, it does not include lands purchased with Indian tribal funds.

Judge SETH. Mr. Stewart testified yesterday there were some 190,000-odd acres purchased with Navajo tribal funds. That would raise the total to one million and a half, of privately owned land purchased by the United States, or the Indians with their own money.

Mr. FURMAN. Apparently.

Judge SETH. That map up there, showing the areas administered by the Soil Conservation Service, up in the extreme northeast corner, near the Oklahoma Panhandle, what does that represent?

Mr. FURMAN. That is known as the Union County land utilization project.

Judge SETH. Does that contain approximately 58,000 acres?

Mr. FURMAN. It does.

Judge SETH. What do you do with it?

Mr. FURMAN. It is under permit to stockmen.

Judge SETH. And the land south, mainly in Harding and partly in Colfax, and Mora; is that what is known as the Mills project?

Mr. FURMAN. It is.

Judge SETH. This contains about 74,648 acres?

Mr. FURMAN. That is correct.

Judge SETH. Now, is that used by local stockmen?

Mr. FURMAN. It is.

Judge SETH. Now, Mr. Furman, do you have a system, up there, whereby if a man leases any of that Mills project he has to submit to the jurisdiction of the Soil Conservation Service as to that portion of the ranch that is entirely outside the project?

Mr. FURMAN. Our rules and regulations, or our criterion, provide that a limit shall be set upon the agricultural operations of the permittee with the project, or agricultural operations which form a part of his project operations; but not in connection with operations which are entirely separate from his project operations.

Judge SETH. Does "agricultural operations" include cattle?

Mr. FURMAN. Agricultural operations does or does not include cattle.

Judge SETH. If a man, then, leased four sections on that Mills project, and his ranch of 50-odd other sections outside adjoined it, he would have to submit to your estimated carrying capacity on his entire ranch. Is that true?

Mr. FURMAN. Well, let's see now. I want to be meticulous on this point. You say, if an operator had a large ranch outside of our project—

Judge SETH. Adjoining it.

Mr. FURMAN. And he leased base property within our project boundaries and received a permit, your assumption is—

Judge SETH. Yes.

Mr. FURMAN. Would we control carrying capacity on his land outside of the project?

Judge SETH. That's right.

Mr. FURMAN. Well, Judge, the answer to that is this: if the operator had a large ranch outside of the project I would not grant him a permit because he would exceed our project limit.

Judge SETH. Well, say it was a small one.

Mr. FURMAN. The land outside the project, comparatively small operation, was used; what is going to be used is a part of the operation inside the project, if it is close enough to be used, and we would establish, and require, that he conform to a reasonable use of his land.

Judge SETH. If your estimate of the carrying capacity on the Mills project was 10 or 12 per section, and outside they were regularly carrying 20 and 22, you would still insist on his complying to your 10 or 12. Is that right?

Mr. FURMAN. I am going to refer that question to the Range Division. That is a technical problem which I would like to consult our Range Division on. Is Mr. Dickens here?

STATEMENT OF J. S. DICKENS, DISTRICT CONSERVATIONIST, MILLS PROJECT

Mr. DICKENS. My name is J. S. Dickens. I am district conservationist on the Mills project.

Senator CHAVEZ. When was that classification made by the Civil Service? How old are you?

Mr. DICKENS. Thirty-four years old.

Senator CHAVEZ. Where did you get your training?

Mr. DICKENS. I have attended school, for the past 10 years, in New Mexico, and I have been for the past 8 years in the Soil Conservation Service.

Senator CHAVEZ. Have you been connected with the Soil Conservation Service in New Mexico?

Mr. DICKENS. Yes, sir.

Mr. FURMAN. Would you mind restating your question, Judge Seth?

Judge SETH. The question is this, on that Mills project, if a man got a permit for the use of part of the land on the project, and had an adjoining ranch outside, would you compel him to submit, on his own land, to your estimate of the carrying capacity?

Mr. DICKENS. That is right.

Judge SETH. You would do that?

Mr. DICKENS. Yes, sir.

Judge SETH. If the carrying capacity regularly outside was 22, and inside from 10 to 12, you would force him to reduce his whole ranch to your 10 or 12 per head?

Mr. DICKENS. If his ranch showed it would only carry 10 or 12 head, he would be asked to reduce to that figure; yes, sir; if our range survey showed it.

Judge SETH. Does that same rule apply to the Union County proposition up there, too?

Mr. FURMAN. Why, yes; the Union project, and all the projects, are under the same general policy. Mr. Decker should be here in the audience. Perhaps he could answer from the floor whether that is being applied on his project the same as in Mr. Dickens'. I will make the statement that it is supposed to be, if it isn't.

Judge SETH. Well, that's all I want. That is a regular rule.

Do you know what you paid for that land up there in the Mill project? Your figures are correct here, I imagine, of \$297,000; about \$4 an acre?

Mr. FURMAN. I believe I may have that information here.

Judge SETH. In that list you furnished the investigator of the committee; it is right there.

Mr. FURMAN. If that is in the list furnished to Mr. Haskell last year, that was prepared by our office, not by my office, and it is substantially correct.

Judge SETH. How was that land acquired?

Mr. FURMAN. Through regularly established procedure, which is quite voluminous and detailed and complex, I assure you. First the land is appraised, and then it is optioned.

Judge SETH. Do you remember the MacDaniel tract up there?

Mr. FURMAN. I do not, I'm afraid. Mr. Dickens would not, either, because he has only been there a year or less.

Judge SETH. Do you know anything about going in and outbidding the adjoining property owners that wanted the land?

Mr. FURMAN. I never heard of such a thing.

Judge SETH. Well, take the Espiritu Santo grant of 113,000 acres; do you know what was paid for that?

Mr. FURMAN. I do not, because it is included in this tabulation with the L. U., and—

Judge SETH. It's probably \$2.50 an acre, wasn't it?

Mr. FURMAN. May I ask whether any Soil Conservation employee here in this audience knows approximately what was paid for it?

Mr. STRONG. It was \$2.50 an acre.

Mr. FURMAN. \$2.50 an acre, Mr. Strong says.

Judge SETH. Have you any record showing how much money has been spent on it since you got it?

Mr. FURMAN. We could compile a record, Judge, showing approximately how much has been spent since we assumed jurisdiction of the area.

Judge SETH. Who had control of it before you did, the Indian Service?

Mr. FURMAN. It was transferred to the Soil Conservation Service from the Indian Service, by Executive order, in 1941.

Judge SETH. Was the Indian Service spending much money on it, prior to that time?

Mr. FURMAN. I have absolutely no knowledge of that.

Judge SETH. Have you any idea how much you have spent, in the last 2 years on it?

Mr. FURMAN. I could give you a wild estimate on that.

Mr. STRONG. I cannot give it to you, but I surmise it is something under \$4,000.

Judge SETH. Altogether?

Mr. STRONG. In the last 2 years that we have spent; yes, sir.

Judge SETH. Who built the fence and did all that work?

Mr. STRONG. That was done by the Indian Service; and I might qualify here that there were two C. C. C. camps on that area, Soil Conservation camps, in the early days of the program.

Judge SETH. And your \$4,000 relates to your own departmental funds?

Mr. STRONG. Yes, sir.

Judge SETH. That does not include salaries or wages of the people, that is only for permanent improvements?

Mr. STRONG. Yes, sir.

Judge SETH. There has been a good deal of travel, back and forth, between Albuquerque and the grant, hasn't there?

Mr. STRONG. Yes, sir.

Judge SETH. Now, the improvements you say were all made by the Indian Service?

Mr. STRONG. Not all. In the last 2 years there have been minor improvements put in. There were two wells, and we developed two or three springs.

Judge SETH. How about the Indians? What money did they spend?

Mr. STRONG. That was the C. C. C. camp money; that was through the work program established by the Government several years ago.

Judge SETH. That ran into thousands of dollars, didn't it?

Mr. STRONG. Probably; yes.

Judge SETH. Would you say as much as a half million dollars has been spent on it since you got it?

Mr. STRONG. I cannot say, but I wouldn't be surprised if you aren't somewhere near the figure.

Judge SETH. It's probably greater than that, isn't it?

Mr. STRONG. No greater; I wouldn't say that.

Judge SETH. Now, about the Ignacio Chavez grant; how much has been spent on that?

Mr. STRONG. Well, sir, we only spent—probably these figures are rough—about \$1,700 or \$1,800.

Judge SETH. That is your appropriation. Did they have a C. C. C. camp down there?

Mr. STRONG. No, sir; that is the total we put in.

Judge SETH. Did the Indians ever have that?

Mr. STRONG. No, sir.

Judge SETH. What was the cost of the corral you built on the Espiritu Santo?

Mr. STRONG. I am not sure, but I think it runs somewhere around \$600. I could get those figures for you absolutely, if you require them.

Judge SETH. How many employees are on the Espiritu Santo grant?

Mr. STRONG. Are you referring to a labor crew or administrative personnel?

Judge SETH. Both.

Mr. STRONG. The administrative personnel for the Espiritu Santo Grant is one individual and myself, the two of us. I am part time. I have that and all the other activities that I have.

Judge SETH. You say those, then, are the ones that devote their whole time out there?

Mr. STRONG. Mr. Gardner is the only one that devotes his whole time to the Espiritu Santo Grant, administrative personnel. We

have small labor crews that vary anywhere from 8 to 12 or 15 men in doing the development work which we have done out there.

Judge SETH. And that does not include the people who have made these range surveys in the past, at all, does it?

Mr. STRONG. No, sir.

Judge SETH. They were quite extensive?

Mr. STRONG. In recent years we have only been—probably the rangemen were put in a week or so at a time on there.

Judge SETH. In earlier years, who had control of it, when these surveys were made down there?

Mr. STRONG. The Soil Conservation Service made the original surveys.

Judge SETH. How long ago was that?

Mr. STRONG. I don't know, it was a long time before I came in.

Judge SETH. You have no record of that?

Your estimates of carrying capacity are almost irreconcilable. lower than the other governmental agencies on adjoining land. Isn't that a fact?

Mr. STRONG. No, sir.

Judge SETH. Isn't that true?

Mr. STRONG. If you take blocks of land as a whole, yes; but there are certain sections where our carrying capacities are greater than those established by the Grazing Service.

Judge SETH. Well, you take Espiritu Santo grant as a whole, your estimate on that is much less than the adjoining public and forest land?

Mr. STRONG. I do not know what the Forest Service land-carrying capacity is. That is a higher elevation, where the rainfall is greater, and it may have a higher capacity.

Judge SETH. But it is less than the Grazing Service?

Mr. STRONG. Yes; the biggest portion of their land. They do have certain allotments, I know, in there, on which they have an established grazing capacity of eight head.

The CHAIRMAN. That is all, Judge?

Judge SETH. That is all for this witness.

Mr. FURMAN. I have a very brief summary I would like to make, Mr. Chairman.

The CHAIRMAN. All right.

Mr. FURMAN. I have here a little book of only 118 small pages entitled "Man and Resources in the Middle Rio Grande Valley."

It was written by three people; the leading name is Allen G. Harper, who was formerly executive officer of the much discussed Interdepartmental Rio Grande Board, written, I believe, after his incumbency on the Board. It is a very fine description of the problems in the middle Rio Grande watershed. It describes the extent of the different races, racial groups, and their demands upon their resources, and it gives you a very clear inside into why these situations, such as the Rio Puerco project, do exist and are very real. I'm going to personally make a copy of this book available to the committee. I haven't an extra copy of it and this is the departmental copy, but I'm going to send

Mr. Haskell a copy; and may I make an appeal that the committee make a particular effort to read this book as very illuminating and very fine material?

That is all I have to say.

Mr. LEE. If you want to go to Russia, just read that book. He even went as far as to take moving pictures, out there, and he came up to my ranch and took a big moving picture of a sign "No Trespass"; and the Soil Conservation Service is spreading that all over South America, and all over this country, to show that people are prohibited from entering, and showing that we are destroying free enterprise. They also did it with the name "Fernandez Co." and also did it with the Frank Bond interests. I think it is well that you read that book and see what is going on, when the Government of the United States comes out and takes moving pictures of people showing them destroying other people. I think it's time something is done about it.

Mr. FURMAN. I have no such intent in asking the committee to read his book. I think it speaks for itself.

Mr. LEE. Wasn't it written partly by a Soil Conservation Service employee, Mr. Furman?

Mr. FURMAN. The material in this book is gathered from every survey, I think, that has been made on this valley since the Government started to work here, by all bureaus. I notice this bibliography of the description of the material includes surveys from all bureaus, and quite impartially. I have no purpose in introducing the thought of any political movement or anything of that kind to this group. I think this is an instructive book and I recommend it solely on that basis. It gives you an inside in the problems of this valley, and that is my sole purpose in mentioning it.

Judge SETH. Mr. Furman, your office also handles the operations of the Soil Conservation Service on privately owned lands, does it not?

Mr. FURMAN. My office does not; no, sir, Judge. It is the Soil Conservation Service as a whole, the Soil Conservation Service broad program does.

Judge SETH. Are you familiar with their operations in New Mexico?

Mr. FURMAN. To a limited extent.

Judge SETH. They set up these local soil-conservation districts?

Mr. FURMAN. Of course the people vote in the district and the Soil Conservation Service only cooperates in respect to technical cooperation and advisory capacity.

Judge SETH. For instance, such equipment and work as is done on these districts?

Mr. FURMAN. Only in part. The Soil Conservation Service has had, and does have, a limited amount of heavy equipment. I will illustrate by saying our equipment consists of draglines, which groups, small groups, of course, are unable to purchase by themselves.

Judge SETH. Have you any idea of how much money is spent annually in that branch of the work in New Mexico?

Mr. FURMAN. I'm going to have to—no; I can't answer that, but there are any Soil Conservation Service personnel here in this room who would want to answer that question?

**STATEMENT OF C. LUKER, REGIONAL CONSERVATOR, SOIL
CONSERVATION SERVICE, ALBUQUERQUE, N. MEX.**

Mr. C. LUKER, Soil Conservation Service, Albuquerque, N. Mex. Very limited amounts of equipment are bought for the simple reason that available supplies of equipment have not been on the market for purchase.

Judge SETH. How much money is spent annually in the State would you say, for salaries and other work of that kind.

Mr. LUKER. On a regional basis is the only way I can quote it. I would have to get the figures for you by States, if you want that for the record.

Judge SETH. New Mexico is all I am interested in.

Mr. LUKER. It would run something like \$350,000.

Judge SETH. That would be the total; wouldn't it run over a million dollars?

The CHAIRMAN. How much of that is in equipment now on the land?

Mr. LUKER. That amount of money?

The CHAIRMAN. Yes.

Mr. LUKER. The amount of money that I mentioned, then, is exclusive of equipment. There are no funds set aside for equipment purchases this year. All the equipment that we have is old equipment.

The CHAIRMAN. How much have you expended on equipment for this State since you came into operation here in New Mexico?

Mr. LUKER. I would have to run that down. I couldn't answer that question without a tabulation of the figures on it.

The CHAIRMAN. Well, have you had charge of that work for the State?

Mr. LUKER. Well, I have had charge of a portion of the work in this State for a number of years, but not all of it is for a great length of time.

The CHAIRMAN. Have you an inventory of your equipment and its cost or value?

Mr. LUKER. Yes, sir; we have that.

The CHAIRMAN. Where is it?

Mr. LUKER. In the regional office.

The CHAIRMAN. Here in Albuquerque?

Mr. LUKER. Here in Albuquerque.

The CHAIRMAN. I think it would be well if we had it.

Judge SETH. Couldn't you include the expenditures during the past 3 or 4 years?

The CHAIRMAN. Give us a break-down of the expenditures during the past 3 or 4 years.

Mr. LUKER. All expenditures of this State, for what period?

Judge SETH. The last 3 or 4 years, including administrative expenses, and what portions are administrative.

The CHAIRMAN. That will call for a break-down. Is there anything else?

(The following statement was furnished the committee by Mr. Luker:)

Statement covering estimated direct expenditures by the Soil Conservation Service in New Mexico for the years 1941 to 1944, inclusive

941:

Expenditures:

Public, 46 funds in area offices.....	¹ \$122, 000
Public, 46 funds in unit offices.....	430, 000
Total public, 46 funds.....	552, 000
Expenditures, land utilization funds (management \$43,000; development \$20,000).....	63, 000
<hr/>	
Above funds largely expended on—	
Rio Grande watershed project.....acres..	18, 000, 000
8 soil conservation districts.....do.....	9, 467, 805
7 land utilization projects.....do.....	626, 438

942:

Expenditures:

Public, 46 funds in area offices.....	¹ 120, 000
Public, 46 funds in unit offices.....	545, 000
Total public, 46 funds.....	665, 000
Expenditures, land-utilization funds (management \$36,000; development \$29,300).....	65, 300
<hr/>	
Above funds largely expended on—	
Rio Grande watershed project.....acres..	18, 000, 000
19 soil-conservation districts.....do.....	19, 302, 613
8 land-utilization projects.....do.....	655, 404

943:

Expenditures:

Public, 46 funds in State office.....	² 38, 000
Public, 46 funds in unit offices.....	597, 000
Total public, 46 funds.....	635, 000
Expenditures land-utilization funds (management \$26,300; development \$39,700).....	66, 000
<hr/>	
Above funds largely expended on—	
Rio Grande watershed project.....acres..	18, 000, 000
33 soil-conservation districts.....do.....	26, 603, 142
8 land-utilization projects.....do.....	655, 404

944:

Expenditures:

Public, 46 funds in State office.....	² 30, 500
Public, 46 funds in unit offices.....	477, 500
Total, Public, 46 funds.....	508, 000
Proposed expenditures of land-utilization funds (management \$25,800; development \$35,900).....	61, 700
<hr/>	
Above funds to be largely expended on—	
Rio Grande watershed project.....acres..	18, 000, 000
39 soil-conservation districts.....do.....	30, 218, 517
8 land-utilization projects.....do.....	655, 404

¹ 70 percent of area office expenditures may be classed as administrative and 30 percent as technical.

² State office expenditures may all be classed as administrative.

Prior to the reorganization, which took place on July 1, 1942, operations in New Mexico were supervised by two regions, one headquartered in Amarillo and one headquartered in Albuquerque. The type of organization for both regions consisted of area offices, which ministered unit offices embracing soil-conservation districts, demonstration projects, Civilian Conservation Corps camps, and land-utilization projects. Information on expenditures for the eastern tier of counties in New Mexico, which came under the Amarillo office, is not available in this office and it has been necessary to estimate these figures. Following the reorganization, administration in New Mexico was

handled out of the State instead of the area offices, and the entire State was placed under the new region headquarters in Albuquerque.

The above statement represents our best estimate of direct expenditures by the Soil Conservation Service in New Mexico during the period 1941 to 1942 inclusive.

CYRIL LUKER, *Regional Conservator*.

Judge SETH. Senator, please, we would like to put Mr. A. D. Brownfield on to make a statement.

The CHAIRMAN. Before you do that we will take a recess for 1 minutes.

(Recess until 3:50 p. m.)

The CHAIRMAN. All right, Judge, proceed with your witness.

Judge SETH. Very well, Mr. Brownfield.

Judge SETH. Will you please state your name?

Mr. BROWNFIELD. A. D. Brownfield, occupation is ranching.

Judge SETH. Where do you live?

Mr. BROWNFIELD. I live on my ranch near Deming, N. Mex.

The CHAIRMAN. Before you break into that, Judge, I apologize, but Mr. Rutledge brought to my attention that he has now from the files of the Department the letter that was in question here yesterday, presumably coming from Washington, with reference to the enlargement of the herds from small numbers to 150. Mr. Rutledge, you may present that letter, and such other documents as belong with it, and any explanation that you see fit to make.

Judge SETH. The letter testified about was from the Interdepartmental Board.

The CHAIRMAN. No; from Mr. Woehlke.

STATEMENT OF R. H. RUTLEDGE, DIRECTOR OF GRAZING, GRAZING SERVICE, SALT LAKE CITY, UTAH

Mr. RUTLEDGE. Mr. Chairman, I will make this very short and submit these documents to you.

On August 18, 1941, Mr. Woehlke wrote to Mr. Fryer, who was then superintendent of the Navajo Reservation at Winter Rock. I will not read all the letter, but this is what Mr. Woehlke said in effect to Mr. Fryer:

Won't you take up with the Range Conservation Committee the question of amending the rules that the very small, noncommercial operators be given a chance to expand their livestock holdings to the 150-sheep-unit limit.

And that is the question—that somebody take it up with the board. The advisory board apparently acted on that. There are two resolutions here; one is the advisory board on the 14th of August 1942. That was a year later, and in that, they disapproved the suggestion of Mr. Woehlke. Rather confusingly, on August 18, 1941, the advisory board met and said they had read the letter from Woehlke and would consider it, and said they would go at it. It was agreed that the rules for district 7 needed clarification and possibly some amendments. As to Mr. Woehlke's statement that class 1 applicants be allowed to increase up to the 150-head limit, this matter was discussed on June 16, during the last meeting, and a policy was adopted to allow class 1 to increase up to 150-sheep-unit limit, when the range was available. That resolution, the board approved Mr. Woehlke's suggestion.

Then the other resolution is the 14th day of August 1942, and the board turned down Mr. Woehlke's suggestion.

My part in this was that it just came to my attention in August of 1942 and on August 15 I wired Mr. Naylor as follows:

Chaco rules mean simply that at the time the original licenses were issued anyone otherwise qualified but qualifying for 150 head or less should receive permit for his full number. Nothing in the rules to justify any theory that everyone should be allowed to build up to 150 head. Last line on page 1 of your letter of August 5 indicates clearly that Woehlke also recognizes that only by a revision of the rules could the right be given to all to build up to 150 head.

I don't know whether anybody has increased to 150 head under this or not, but it clarifies the point that Woehlke raised the question, and the board has taken the position on it; but I don't know what action they took, and I want to call your attention to the fact that my wire stepped on it hard.

The CHAIRMAN. Those files can go in the record.

(The letter, minutes, and resolutions submitted are as follows:)

ALBUQUERQUE, N. MEX., August 18, 1941.

Mr. E. R. FRYER,

*Chairman, Range Conservation Committee,
New Mexico Grazing District No. 7,*

Window Rock, Ariz.

DEAR MR. FRYER: The grazing rules for district No. 7, as promulgated by the Secretary, were in skeleton form and temporary. They were intentionally broad and general in their terms so as to give the widest possible latitude in the initial application of these rules to the administrative officers. The rules were to be amplified when the amendment and amplifications could be based on the facts produced by these surveys.

I believe that enough facts have been accumulated by this time to make feasible and necessary certain amplifications and amendments to the existing rules, and I believe that the Range Conservation Committee might well start at an early date to recommend such changes to the Director of the Grazing Service and the Secretary.

Mr. Ryan will remember that, when the present rules were in the making, there was embodied in them the principle that the principal recipients of grazing privileges on the public domain should be the small, resident, noncommercial livestock operator. That principle was stated in the preamble to the rules and was embodied in the rules themselves. It seems to me that the time has come when more direct and specific application of this principle in district No. 7 is necessary. Won't you take up with the Range Conservation Committee the question of so amending the rules that the very small, noncommercial operators be given a chance to expand their livestock holdings to the 150-sheep unit limit and that this desirable expansion of the very small herds be made possible by a reduction in the grazing privileges extended to the owners of commercial operations whenever the needs of the range make such reduction in the commercial herds necessary? In other words, it seems to be most desirable at the present time to give these small, noncommercial owners a chance to enlarge and that the additional grazing privileges on public lands which they might require for this expansion should be taken from the commercial operators if such taking is necessary in the interest of conservation.

Sincerely yours,

WALTER V. WOELKE,
Assistant to the Commissioner.

MINUTES OF THE CHACO DISTRICT (SEVEN) ADVISORY BOARD MEETING

The meeting of the Chaco District (No. 7) Advisory Board convened at 9 a. m. on August 18, 1941, at the regional grazier's office at Gallup, N. Mex., with the following board members present: Tom Elkins, Glen Swire, Clarence Tso, and Keith Begay.

As Kelsey Presley, chairman, could not be present it was agreed that Glen Swire should act as chairman.

All grazing applications received since the last meeting were reviewed and our recommendations were made to the regional grazier.

A letter from Mr. Walter Woehlke, assistant to the commissioner, was read and considered.

It was agreed that the rules for district No. 7 needed clarification and possibly some amendments.

As Mr. Woehlke's statement that class 1 applicants should be allowed to increase up to the 150-head limit—this matter was discussed on June 16 during the last meeting and a policy adopted to allow class 1 to increase up to the 150-sheep units limit when range was available or when our information was so limited we were uncertain of the number being grazed and of the actual carrying capacity of the range.

Glen Swire, Clarence Tso, Keith Begay, and Chairman Presley met with the Range Conservation Committee on August 20 and certain recommendations were made that met with the approval of the board.

Meeting adjourned on August 20 at 4:30 p. m.

TOM ELKINS,

Secretary of the Chaco District (No. 7) Advisory Board.

RESOLUTION No. 3

To whom it may concern:

Whereas the district advisory board of New Mexico Chaco District No. 7 have carefully read the rules of the Grazing Service of said district; that in said rules we find no place where it is compulsory to increase the number of class 1 licensee up to 150 sheep units unless the priority of use of this applicant was equal to that number during his 1938 priority of use. But said board during their former meetings have considered the smaller operator in cases where he has owned less than the 150 sheep units and there was sufficient room in the area where he lived to graze more, they have allowed him to increase. This has been done during the grazing season of 1940 and 1941, because of the lack of definite information as to actual ownership.

We believe that the actual ownership of numbers of livestock in 1938 would fully stock the range of this district; therefore be it

Resolved, That New Mexico Chaco Grazing District No. 7 go on record as recommending the freezing of licenses to the actual 1938 ownership except in such areas where there is additional room a class 1 licensee may increase his number only to the carrying capacity of the range, but not to the detriment of the class 2 licensee; further be it

Resolved, That a copy of this resolution be sent to superintendent of the Navajo Reservation and the Director of Grazing.

Dated this 14th day of August 1942.

KELSEY PRESLEY.

TOM ELKINS.

GLEN SWIRE.

Judge SETH. Mr. Brownfield, have you held in the past, or do you hold now, any official position with the cattle association?

STATEMENT OF A. D. BROWNFIELD, FIRST VICE PRESIDENT, AMERICAN NATIONAL LIVESTOCK ASSOCIATION, DEMING, N. MEX.

Mr. BROWNFIELD. I am first vice president of the American National Livestock Association, headquartered in Denver, Colo.

Judge SETH. Were you president of the State association?

Mr. BROWNFIELD. Past president of the New Mexico Cattle Growers Association.

Judge SETH. Are you on any board of the national association at this time, or the local association?

Mr. BROWNFIELD. I am chairman of the legislative committee of the national association.

Judge SETH. You have a statement to make, and I wish you would go ahead and make it, with the Senator's approval, and without my questioning you.

Mr. BROWNFIELD. Gentlemen and members of the committee, I am prepared to comment briefly on all of the bills that you have on your program.

The CHAIRMAN. Very well, you may proceed.

Mr. BROWNFIELD. Before beginning on the bills, I might deviate at some length on this soil-conservation matter that immediately preceded me coming before you. Speaking primarily for the users of the land and the taxpayers, we take the view that conservation, the principle of conservation of our land is very, very sound. At this particular time the expense involved we consider does not justify the continuing of the practice. We feel that you gentlemen of this committee should guard very carefully the appropriations that should come to you, or that would permit the continuance of extravagance or any kind of expense on lands that could otherwise be dispensed with.

As to the general policy of the Soil Conservation Service purchasing lands, or any other agency of the Federal Government purchasing lands, we strenuously object. First, because it interferes with the tax base. Second, because in making such purchases in classifying the land as submarginal in order to make the purchase, it is more or less arbitrary within the minds of you who administer and manage this agency.

I have in mind a small area down in the southwestern part of New Mexico which was bought, as we are informed, and classified as submarginal. The ranch unit—our ranch unit is dependent upon this area and were kept in business primarily because of this tract of land, because the surrounding and immediately adjacent land, according to our interpretation as users of the land, were by far more submarginal than the tract of land purchased. In other words, it was almost in the center of the drainage area, a submarginal tract of land, and our objection to the policy of the Soil Conservation Service is that there apparently is an arbitrary ruling by the administrators as to what constitutes submarginal land.

I desire also to point out, gentlemen, that by an act of Congress, I think the Soil Conservation and the Domestic Allotment Act, the Secretary of Agriculture was given the authority to invade the legislatures of the many States, if I may be permitted to use the word, and have certain legislation passed that would thereby permit soil-conservation districts to be set up in any State that might pass such legislation. In one respect it decentralizes control, in that the administrators, some of them, are duly elected from the users of the soil and the owners in the districts of the lands that may be in the district, yet the Secretary of Agriculture holds the dominating hand. He has on that board a representative, and if any help is secured at all it comes through appropriations guided by the Secretary of Agriculture. His powers are more or less unlimited by this board that is subject at all times to the Secretary of Agriculture or his representatives.

These bills have passed in many, many of our States, in more than three-fourths of them, I presume. There are some in the midst of us who can give you the exact number of States in which this legislation has passed. The main point which I wish to point out to the committee is the fact that by congressional legislation you have permitted a creature to be set up that you might term a "grand-

child." It has grown and grown and it has been known to become more powerful, gentlemen, than the Congress that created it, or more powerful than its own "granddaddy."

These so-termed elected representatives of our soil-conservation districts may, if they choose to exercise the power and their influence, get other owners of land to vote nonuse regulations, and make it so severe it would put out many ranch owners, or put out many operators of farm land.

That, gentlemen, we consider un-American, and we feel that Congress should right it. The agency created thereby is superimposing itself upon all types of lands, so much so that it can dominate the manner in which the land is handled or managed by any other Federal agency or any State agency or any private owner.

We feel, gentlemen of the committee, that you should very carefully compare these expenses involved in the management by all agencies of the various Federal lands while they are handling and managing. An economic reform in many instances is needed, but a complete social and economic reform that could and would, according to some of the ideas that permeated down to this land management and land planning scheme, that would level off the institution of private ownership down to where we would all be on an equal basis. That must be condemned and fought by we who enjoy the freedom of self-enterprise.

Back to the critical areas that have been described in our State, namely, up in the northwestern part in the Indian agencies, in the special district No. 7, it is our opinion that the only way to correct that situation is for you gentlemen of the committee to lend your influence and efforts toward getting a fair and equitable exchange between the General Land Office, the State land office, and other agencies involved, that block up or take out of those areas the State lands and get them so placed that the economics of those critical areas could be aided. The Soil Conservation Service, as well as many other agencies, has bought many thousands of acres, many millions of acres, not only in our State but in many other States, and we desire to point out to you that, as we understand the situation, the Soil Conservation, however much good it has done—we are not condemning it, we are for it. But we think it should devote its time and effort to soil-conservation methods and needs when there is sufficient money for the Congress to appropriate; and that the grazing management should be removed into the hands of an agency that is handling Federal land under a law that has been dictated to and passed by Congress, namely, the Grazing Service. We think that you would right many wrongs. We feel absolutely sure that you would aid in stabilizing our industry, and in stabilizing individual ranch units that are much needed.

Now, as to these other proposed bills, I will name them by their numbers, as I come to them.

S. 31: This bill would give the advisory boards of the Grazing Service a controlling voice in any change proposed in the fee payable for grazing livestock. Since the boards are elected by the qualified users of the range and, after elected and accepted or appointed by the Secretary of the Interior, who has the authority to administer the Taylor grazing lands, their recommendations in such matters can be

of inestimable value to the economy of the livestock industry and the proper adjudication by the Secretary in all matters pertaining to grazing. This principle of participation by local residents in the management of Federal grazing land is a sound policy, and one that should be encouraged and expanded, and we think this bill should be passed.

The CHAIRMAN. I might say, in that connection, with that bill that the history of the Taylor Grazing Act reflects that the Taylor Grazing Act was never set up as a revenue measure. It was set up as an economic measure for the purpose of stabilizing the stock-raising industry, and a better economic use of the open public range. Where it is necessary to charge fees for the use of the open public range, those who use it are more interested in the range and its welfare and condition than anyone else; and it appeared to the author of that bill that the advisory board, which constitutes the representatives of the licensed users would be in a commendable position to know what charge was a proper economic charge for the use of the range. That is what gave rise to the introduction of that bill.

Mr. BROWNFIELD. S. 1152: This is a bill to provide for the conservation of wildlife on the public lands and reservations of the United States. With apologies to our very efficient and very able, esteemed chairman of this committee, may we say that New Mexico as a very cooperative fish and game commission and game warden provided for and created by the act of the State Legislature which has controlled the wildlife in our State for years. This bill would place the control in an agency of the Federal Government having jurisdiction of said land, and we see no reason to change the present set-up.

Further, the land status in New Mexico is such that one holding a license to hunt would have no way of knowing where Government lands, private, or State lands were. In other words, to keep within the law, much confusion would be the result. Our conclusion is that it would not serve the best interests of the citizens of New Mexico.

The CHAIRMAN. I hope that you may be here tomorrow, because we have designated tomorrow as the time at which certain interested parties would have an opportunity to discuss 1152, as a group.

Mr. BROWNFIELD. S. 1139, relating to placer-mining claims where deposits of phosphate, sodium, potassium, oil, oil shale, or gas, are on the public domain. As we understand this bill, it is more or less of a clean-up bill for understanding placer-mining claims for deposits of phosphate, sodium, potassium, oil, oil shale, and gas on public lands. Notice of extension of such claims must be filed within 6 months and if not the claim becomes null and void.

We see no reason to oppose this bill and perhaps its passage will not be objected to. In other words, much good might come out of the passage of the bill.

The CHAIRMAN. Let me say that in Arizona that bill was discussed somewhat at length, and it was discussed, not only from the standpoint of its legislative position, but also from the standpoint of abuses that had grown into the stock-raising industry by the stock-raising industry itself, to use their own expression, whereby in the midst of a district set up under the Taylor Grazing Act, certain stock grazers would acquire or otherwise gain access to mining claims,

placer-mining claims or lode-mining claims, as the case might be, and would set up a stock-raising industry in itself independent of the jurisdiction of the Taylor Grazing Act, and independent of the economy of the particular district. It was discussed quite at length and when you receive a copy of the hearings conducted in Arizona at Fredonia and at Phoenix, I think you will find a very interesting discussion along that line. It is a problem that the western public-range States will have to deal with sooner or later.

MR. BROWNFIELD. For the sake of brevity, I haven't injected the discussions of these bills or attempted to leave it open for those who might be interested to enter into the discussion.

S. 978, related to certain lands released to the United States by carriers, the railroads, pursuant to section 321 of the Transportation Act of 1940. Any objection to this bill, in our opinion, could only be on the grounds that the withdrawal of said lands from the tax rolls may materially affect the tax structure. New Mexico, we are informed, has around 40,179 acres of such lands not within the exterior boundary areas of any reservation. Its passage, no doubt, would aid the State and the State school fund more than at present. Such lands located within the exterior boundaries of any withdrawal or reservation could be expected to be administered by the agency administering other Federal lands within that area. So, we think that no harm is likely to happen to the economy of the ranch units using such lands.

H. R. 2197: This is a bill to provide for the acquisition of lands for grazing purposes. We are informed this bill has been reported with amendments, and these amendments are not known to us. However, we enter a formal objection to the bill because by such purchase, taxable land is thereby removed from the tax roll. If this purchase was on the recommendation of the advisory board of the district in which the board was elected, then perhaps the citizens could feel that if it became a law, the loss of the land from the tax roll might possibly be made up from some other sources.

There is need for a Federal law covering grazing in the national forests. This law specifically provides for local economy in each national forest, similar to boards now functioning under the Taylor Grazing Act; and among other things, should provide that the administrator could not take range from one permittee and give it to someone else, or some other permittee. There is a revision of the old Johnson bill known as S. 1030, which, I believe, our honorable Senator McCarran has had quite a bit to do with. This revision, perhaps, came out of his office. We hope that it did. This bill practically covers the present policies announced by the Forest Service. We think if this bill could be introduced and passed that it would provide the proper safety of forest permittees. It does not weaken the authority of the Forest Service in the conservation program. This bill allows for reforestation, recreation, wildlife conservation, mining, public watershed protection, public water storage, flood control, and any and all recognized and necessary controls. It provides for local advisory boards and takes from the administrator of the forest the right to deny any permittee who has complied with the regulations promulgated by the Secretary, and who owns commensurate property or other facilities the renewal of his permit or to

reduce the number permitted except for certain stated reasons. This right of renewal, if the Forest Service used it for grazing, puts stability in the industry, and the permittees should be legally protected on the whole system of distribution. Until Congress authorizes it, there is nothing to keep the forest officials from putting into effect another policy of distribution.

There can be no objection to the forest officials reducing the number of permitted livestock on that given area for proper protection to the land. But to reduce this number, once the correct carrying capacity has been determined, because a permittee sells out or dies or otherwise disposes of his commensurate right property or livestock, should be discontinued. So long as this policy exists there can be no harmony or genuine cooperation in the use of the forest, and the ranch set-up cannot enjoy the proper financial backing in times of distress.

There is a proposed substitute for this Johnson bill, S. 1030, by the Forest Service. Copies of both of these bills are offered for the record. I have them in my hands.

If this substitute bill should pass, we would get legalized the status of an advisory board system and some advantages such as counsel on the modification of the term, the denial of a renewal of, or a reduction in, a grazing permit, or the establishment, or modification of, an individual or community allotment, and on the issuance of regulations or instructions relating to the use of National Forest grazing lands, seasons of use, grazing capacity of such lands, and other matters pertaining to grazing, all of which is incorporated in the bill we seek to have passed, known as S. 1030. The old policy of distribution, which has so long kept the industry suspended to a possible change in policy, and which has kept out stability, would not be eliminated.

The Johnson bill, S. 1030, offers this protection to the livestock industry, and is sought by most users who are not afraid to express themselves. By again comparing this to the Taylor Grazing Act set-up, may I say it has become to be considered by the ranch users as a land protection and a land use statute, not one to protect the livestock. This has done more to stabilize the livestock industry than any act passed by Congress, to our knowledge.

The act operates in this way: For the man who is in need of financing, the land is allotted, and he has exclusive control to fence and develop and handle as suits his convenience, so long as he keeps within the determined carrying capacity, by the Grazing Service. He can even mortgage his private holdings that carries the right to graze the land within that allotment. So fixed has that become, not as a permanent injunctive right granted to us by the Congress, nor specifically denied, yet, in actual practice, the very fact that you are free to use your land as you use your own, and the transfer is not from individual to individual and not on your livestock, but it is tied to your commensurate right property, and thereby transferred by sale and deed of conveyance on your private land, or transferred through mortgage or otherwise, it has increased the financing of that ranch unit. So much so that the users of the forest land now recognize that fact to an extent that they are seeking similar legislation.

I believe, gentlemen of the committee, Mr. Mollin, the executive secretary of the American National Livestock Association, is with us, and that association is in a position to speak, through him, for more

than a hundred affiliated State organizations, as well as thousands of users of the forest. If it is permissible, I should like to ask that he make a few remarks.

The CHAIRMAN. Are there any questions?

Mr. RUTLEDGE. Senator McCarran, are we going to take time to discuss those various bills now? It doesn't seem to me we can.

The CHAIRMAN. They have been discussed in times past. For instance, that much talked of bill with reference to stabilization of the forest, Mr. Kneipp made a lengthy statement on it, and has made a statement at other times on it, and made a recent statement in our Arizona hearing. I think other statements have been made. I think you made a statement yourself, bearing on most of these bills, at times past. I doubt very much, unless you desire to make a statement now, whether or not the time would be well spent; but you may if you wish.

Mr. RUTLEDGE. May I ask Mr. Brownfield a question or two?

He raised a question in my mind, which had not occurred to me, and which I would like to have clarified a little.

These Soil Conservation districts are prevalent throughout the West, throughout the 10 States in which the Grazing Service operates. I understood Mr. Brownfield to say, through the establishment of these districts, the Forest Service—maybe he did not name them, but I applied it to ourselves, that the Grazing Service might, or could, or possibly would lose control of the range through the operation of the Soil Conservation district. I thought he intimated that the Forest Service might, also, but I am asking only for the Grazing Service. If he could elaborate on that, or tell me what he has in mind there, I will appreciate it. How can they take jurisdiction away from the Grazing Service?

Mr. BROWNFIELD. Whether I did or did not, I meant to say that it was quite possible; for those locally created Soil Conservation districts can set up and cover most of the States of the United States, to dominate all types of land, whether controlled by the Grazing Service, the Forest Service, or any other agency, State or Federal.

Mr. RUTLEDGE. Would you care to tell me how they could get hold of the Grazing Service land, or dominate it?

Mr. BROWNFIELD. As I understand, just now there is a working agreement, I have been told there is such in existence, between the Soil Conservation set-ups and these Federal agencies such as the Forest and Grazing Service. The point I wish to register here is that, if the Secretary of Agriculture, through the board that controls, wishes to take over the management of all of those lands, it can be done by voting land use regulations, by the individual land owners, and thus they will take over and control by law all agency controlled lands. That is all subject to the way that I know it, but we fear it here in New Mexico, because that seems to be a tendency, to reform our ideology of government by land planning and managing.

Mr. RUTLEDGE. You have answered my question.

Senator CHAVEZ. May I ask the gentleman a question?

The CHAIRMAN. Certainly.

Senator CHAVEZ. Do I understand, Mr. Brownfield, that, just because such an act as the Taylor grazing bill was enacted by the Congress that the Federal Government should not take into consideration, or be interested in, other parts of the population that might be affected by land use?

Mr. BROWNFIELD. I am afraid you misunderstood me. I mean to say, Senator, that the very fact that the Congress has given us—

Senator CHAVEZ. Don't say "us."

Mr. BROWNFIELD. Gave the users of the land at the time the law was passed, who were found in the livestock business, the right to use those lands. As it has been interpreted, it was passed to set up anyone in the livestock business, to protect those in the business at the time the law was passed.

Senator CHAVEZ. You heard the testimony that there are hundreds of poverty-stricken people in the State of New Mexico. Is it your idea that, because the grazing law was passed, those people should not have been taken into consideration, and should have been protected by the grazing law, and were not?

Mr. BROWNFIELD. Not at all. What I am saying now is we need it, the assistance of Congress, now; and the support of the United States, and their efforts to help work out a plan that will protect those people. My suggestion was that we remove the State lands that are now within district 7, or within the agency and within the forest, and the land which surrounds those boards, that they may lease the land direct from the State, or that they may turn—

Senator CHAVEZ. I think I may be in agreement. I evidently wasn't here at the time you made the statement. I am sorry.

Mr. BROWNFIELD. We may go further, we may turn over to an agency that is under the control—that has been set up by Congress—these lands that have been purchased by other agencies, that have denied the right of use to those people, so that proper allotments can be worked out to protect them.

Mr. KNEIPP. Mr. Chairman, in response to Mr. Brownfield's statement and Senator Chavez' query, I would like to ask Mr. Brownfield whether it is not true that S. 1030 would prevent any administrative agency of the United States from reducing the permits of the large permittees on an occupied range in order that a small permittee might be increased in numbers, or new permittees admitted?

Mr. BROWNFIELD. We are not thinking in terms of the individual. We are thinking in terms of the proper use of the land.

Mr. KNEIPP. I just asked you a question.

Mr. BROWNFIELD. I am not thinking in terms of the maximum upper limit or the extreme lower limit. We are trying to get legislation that will force the administrators of the forests to recognize permits based upon commensurate property solely; and that when your Service determined the carrying capacity that carrying capacity be left flexible. In times of drought you may reduce it, but not reduce it on one ranch but on the whole forest area, not necessarily that a man be reduced because he happens to hold a permit and happens to die or sells out.

Mr. KNEIPP. I don't think that is responsive. I asked you a specific question. Would not S. 1030, or the new bill now being circulated in mimeographed form and called the stock growers bill, specifically prevent a Federal administrator from reducing the permit of one permittee in order to adjust the range for a small permittee or to admit a new permittee?

Mr. BROWNFIELD. After that specific permittee has complied with the rules and regulations laid down and prescribed by your Chief Forester, or the Secretary, then it would prevent—

Mr. KNEIPP. In other words, the bill says no permittee who has observed the rules of the Department of Agriculture shall have his permit reduced, except for certain prescribed reasons, which do not include the provision of range to the small permittee or a new permittee.

Mr. BROWNFIELD. Don't forget, the regulations and reasons are left to the discretion of the Secretary. Once he prescribes them, and the permittees are left up to them, they are fixed to the property, not the individual and the livestock.

Mr. KNEIPP. This bill says that the Secretary of Agriculture, for instance, shall not reduce the permit of any man who has complied with the regulations governing the use and occupancy of the land for grazing purposes, except for three, I think, specified reasons; and none of those reasons include any provision whatever for the grant of an increase to a small permittee, or the grant of a new permit to a qualified applicant. Isn't that true?

Mr. BROWNFIELD. Exactly what we are trying to get down, recognition of the commensurate property, not the individual.

Senator CHAVEZ. Do you mean the commensurate property would have preference, even as against the human needs and desires of the people?

Mr. BROWNFIELD. He might not own real estate, he may have had prior use.

Senator CHAVEZ. In other words, your water well would have more interest than the mother of three children?

Mr. BROWNFIELD. The users of that water well unmistakably would get the prior use.

Senator CHAVEZ. I just wanted to understand it.

Mr. BROWNFIELD. That is what brings on the stability, Senator.

Senator CHAVEZ. We want to stabilize, not starve them to death. You won't give them anything to graze.

Mr. BROWNFIELD. I disagree with you. We are trying to help them.

Senator CHAVEZ. Well, we both want to help them, but probably the methods differ.

The CHAIRMAN. Mr. Mollin, as secretary of the American National Livestock Association, you may make such statement as you see fit.

STATEMENT OF F. E. MOLLIN, EXECUTIVE SECRETARY, AMERICAN NATIONAL LIVESTOCK ASSOCIATION, DENVER, COLO.

Mr. MOLLIN. My name is F. E. Mollin, of Denver. I would like to ask if the gentleman who interrogated Mr. Brownfield is a member of the Forest Service?

The CHAIRMAN. That is Mr. Kneipp of the Forest Service.

Mr. KNEIPP. Yes; I thought you were well acquainted with me.

Mr. MOLLIN. The reason I asked, the bill carries out the present policy of the Forest Service, and I wondered if you were not in sympathy with that policy.

Mr. KNEIPP. The bill carries out a policy established in response to certain conditions and certain representations, which has been in effect for a number of years, specifically, I think, since about 1936. That is true. The objection to the bill is in making it a permanent and inflexible rule.

The stockmen have asked that Congress enunciate a policy. In drafting the bill, they have not proposed a bill which constitutes a policy, but a bill which constitutes a rule of law. The bill in which the Forest Service has participated, is a bill which pronounces a policy, but makes it possible for the agencies of the Government to adapt that policy to whatever new conditions might subsequently arise.

Mr. MOLLIN. Mr. Chairman, I have attended livestock meetings, I think, in every State in the West since this matter has been at issue. The great majority of the growers have approved the Johnson bill. Resolutions approving it have been adopted, I think, by every State cattle and sheep growers association in the west.

Senator CHAVEZ. What about the unorganized groups, that represent men head of cattle. What do they say about it?

Mr. MOLLIN. I don't know, Senator, but I do think you have to approach the problem a good deal as you did in the Taylor bill. There isn't enough forest land, or any other kind of land, to go around. You have to get stability in some fashion. The only way to do it is to establish a rule of law based on the commensurate property holdings. That will work this problem out.

Now, the Forest Service had to abandon the policy of distribution, which they had carried on for a great many years, because it was unworkable. They admitted themselves it was unworkable. Now, the crux of this whole matter, Senator, is, who is going to determine the policy of operating the forest lands, is it the Forest Service that is going to determine the policy, or is Congress going to determine the policy? Now, this bill does lay down, temporarily, a policy.

Senator CHAVEZ. I would call it a proposed policy, for the moment anyway.

Mr. MOLLIN. We don't want a new Secretary of Agriculture, tomorrow morning to say, "I am going to change that policy, upset the livestock industry, and start again on a policy of distribution." Mr. Granger, one of Mr. Kneipp's associates, in the meeting at Gunnison, Colo., made the statement that he thought they ought to have that right of distribution, that they might need to invoke it again at any time. He didn't specify any time. That is the attitude of the Forest Service; they want to make the policy. I say they should administer the policy, and Congress should make the policy.

Senator CHAVEZ. It wouldn't make it a policy, to apply to one particular group, because they happen to be organized. You should make it a policy everyone connected with the industry can enjoy. I think that is the duty of Congress.

Mr. MOLLIN. The Forest Service has been in operation for almost 40 years, has been considering rights of the applicants all this time, issued new permits, and the records show that trying to set up these little fellows in business does not make them successful livestock operators.

Senator CHAVEZ. It is not a question of success you are thinking about, unless it is the success in the matter of dollars and cents and income and taxes. I am thinking of the successful feeding of people, such as we have heard about; those are the boys without neckties that haven't got a place to—

Mr. MOLLIN. They have had the hearty cooperation of the Forest Service for almost 40 years, in working out this policy. The Forest

Service finally had to abandon it because it wouldn't work. They found it wouldn't work or else they wouldn't have abandoned that policy. No one forced them to abandon it. Now they want the right to go back and do the other thing again; and this bill seeks to prevent that.

I'll say further, I have sat in meetings where officials of the Forest Service have used every effort in their disposal to defeat the enactment of every resolution against this bill. I have sat in an advisory meeting where the Forest Service member was secretary of the board. I was asked to discuss this bill, which I did. This representative of the Forest Service vigorously opposed me. There were two or three other members of the Forest Service in the room. A motion was made to endorse the bill, and without even a second to that motion. Later the chairman of the general resolutions committee came to me and asked if I would like to have a resolution introduced in the committee. I said, "No, I don't want to participate here in this organization." After I had gone back to the convention, the resolutions committee took upon itself to pass such a resolution, and it was passed without a dissenting voice on the floor of the convention. The next morning the gentleman who happened to be sitting beside me at the advisory board meeting, came up to me and said, "I'm sure glad you passed that resolution. I didn't dare get up in the presence of Forest officials and second the motion to endorse the bill."

I say, if you will pass that bill with its second object of giving the advisory boards legal status, they'll feel more independent, and you'll get better results in the operation of the districts than you do now when the advisory boards feel under obligation to the Forest Service officials.

Senator CHAVEZ. I happen to know many of the members of the boards here in New Mexico.

Mr. MOLLIN. Forest Service advisory boards?

Senator CHAVEZ. Forest advisory boards and the Taylor grazing boards. I am giving you, for what it is worth, the bulk of the complaints I have heard from the small herders, the fellow that has a few. He is unable to go to election of these advisory boards. He is not complaining about it, because that is the way it is done; but he is unable to ride 40 miles to go to the election district and vote. As a general rule, the little fellow is not represented. Is that correct?

Mr. MOLLIN. All types of men are represented in the meetings. I attend general State conventions. Small herders and small operators are there, just as the larger operators. Of course you understand. Senator, the 15 years I have been the secretary for the American National there has been a big shift, there are many less big operators; the industry is being whittled up and made into smaller units. There has been a great shift in the way we get our support, which used to be largely from the big operators, and it is now largely from the smaller operators. We have just a handful of big, old-time operators left to pay substantial sums of money. I don't think it is correct to say that the small operator doesn't have a voice as to the workings of the State organizations, and as to the workings of the advisory boards. I don't know. But I do know there are an increasingly small number of the big operators on the Taylor grazing advisory boards. If you pass this forest bill, I think the Forest Service advisory boards will

take a more independent view than they have now, and will function more.

Now, Mr. Chairman, I would like to say a word about a subject you touched upon when you questioned one of the witnesses as to the effect of nonuse, or limited used, which was best. I think that is an important subject; and I think, when the committee gets down to cases to determine what you are going to do about all these overlapping agencies, you will have to give more attention to that problem of how many experts do we need to determine the carrying capacity of all these ranges out here.

I agree entirely with what Mr. Lee said about this use of lands. If you clip the grass you insure its spread and growth, and when you leave it idle you do just the opposite.

Some 10 years ago the Forest Service was responsible for the issuance of a book that was commonly known as the Green Book, and more officially as Senate Document 199. That book set the pace for all the exaggerated statements about all the grazing that has been made ever since. I made quite a detailed study of the situation, to prepare something in the nature of an answer to some of the charges in that book. That answer was contained in a booklet entitled "If and When It Rains." I published 20,000 copies of it, and distributed it all over the country. I found some very interesting things, as a result of correspondence and personal contact with men all over the West and who have been out here a lifetime, and knew more about, and have forgotten more about, conditions here in the West than some of these boys, with the best of intentions, who are just out of college, will ever know.

For instance, on the great western plains area, it was the use of those lands that developed the range. The natural dominant growth, that runs for thousands of acres, was bunch grass, and the use of that land transformed it to a short-grass country. I went to an old timer down in Midland, Tex. He was there in about 1882, and he told me that when he came to that country it was bunch grass and dirt, and now it is a solid turf country, as many of you stockmen know who have been there. We have the mesquite and the buffalo grass and the grama grass now, in place of the bunch grass that dominated that area down in the north of Texas, which is perhaps one of the finest cattle countries in the world. The old timers will tell you that the type of grass in that country, and the grazing, is much better than it was when they went there in the early 1880's.

Up in Oklahoma they have a great many preserves on the Wichita National Forest. They have a herd of buffalo there, and on the south slope of that area, a few years ago, when I was there, the short grasses still prevailed where the buffalo range most of the time and graze. You get back away from that area where they stay most of the time, and you find a good deal of it has gone back to bunch grass. I had another illustration of the grazing in North Dakota recently. They had a serious drouth there, that started in 1933, and they had to practically remove their herds from the forest. Two men who were cousins operate side by side in that area. One is well to do and the other is not well to do. When the drouth was over the man with plenty of money immediately restocked the range to full capacity, and the other man has slowly restocked the range out of his own products, offspring from the herd. He told me himself this summer that his

cousin, who had restocked his range, had a fine, solid range now, with the best grass in that country, while his range, understocked for years, is full of weeds and other kind of grass, not nearly as good feed, and it has not the carrying capacity of the good range.

I have been on the Federal experiment station in Montana. They have some fenced plots. When I was there a few years ago they had these plots fenced out for years, and the manager of the station told me that he admitted that the grass in those fenced areas, that had nothing on it for years, was no better, if it was as good, as the land outside of those fenced plots which had been moderately grazed. In 1934, when we had this serious drought, I recall that some expert from Washington came out here in the West, and you remember all the talk about the Dust Bowl and the pictures they took of that land down in southeastern Colorado. Well, that land has been there from time immemorial, and that was the land they photographed. You have probably heard of the skull they moved around as a prop to help out in the pictures. That expert went into Wyoming and took an ordinary magnifying glass and examined some of the range areas in there, and pronounced 75 percent of that grass dead beyond recovery. The next year it rained in those same areas, and they were cutting hay in the valleys of that pasture, with cattle grazing in the pasture.

All this talk about overgrazing, everybody overgrazing all the time, makes me tired. They overdo it to death; and it's just a wonder, in my mind, that the grass does as well as it does, with so many damn experts around.

I think that this committee has a great responsibility. The livestock industry is looking to it to do away with a lot of those overlapping agencies who are arbitrary and secret in their dealings. But more than that, I think, out of these hearings ought to come something that they have never had in this country, and that is a public-land policy, a policy that will prevent this buying of land all over the country by a dozen different governmental agencies. Nobody knows what is going on. No single agency, or single person knows the extent of the alarming enormity of it. When you get the officials together, to see what is going on in these Western States, you uncover some startling things. I do know, if you come out with a public-land policy, recommendations for legislation that will put it into effect. • that you will get the support of the entire western livestock industry. I thank you.

The CHAIRMAN. Very well; thank you.

Is there anyone else who cares to be heard at this time?

(The following is inserted at this point by request of the New Mexico Cattle Growers Association:)

Mr. CHAIRMAN: Regarding this proposed forest bill which was familiar to us in the past as the Johnson bill, or S. 1030, we are confronted with the situation of the Forest Service opposing the enactment into legislation of that part of the bill which would recognize commensurate property and prior use as the basis for allocating grazing permits on the national forests.

Instead, they contend that the bill must make provision for, to use their own wording, "an equitable distribution of the grazing privilege among those found by the Secretary of Agriculture to be most in need of the privilege."

In my humble opinion this would be liable to a wide interpretation and might inevitably lead to a distribution policy or a policy of limiting grazing permits to a subsistence basis which would nullify the purpose of the proposed bill, namely, stability of that part of the livestock business which was in any way dependent of the use of grazing in the national forests.

The Forest Service conducted an economic survey several years ago, and since that time cuts for distribution have been practically discontinued and forest officials have told us they have no intention of going back to a policy of distribution, yet they do not want to be deprived legally of that privilege should they or their successors desire to do so.

If a man owed me a sum of money and I asked him to sign a note and he refused but stated he intended to pay me, certainly no one could blame me for wondering if he was acting in good faith. Further, if I had the note and my creditors knew I had it, that certainly would be an asset in my operations, and thus tend toward stability.

The primary objectives of the act under which the forests were set up were the conservation of timber and the protection of watersheds. Nothing in the act itself gave anyone the authority to say who should be entitled to grazing privileges. The ranges were already occupied by livestock and permits were granted by the Forest Service on the basis of prior use and commensurate property.

The Congress has definitely expressed its ideas about distribution of grazing on the Federal lands in the Taylor Act and tied in the use of grazing in the grazing districts with prior use and the ownership of commensurate property. We do not see how they could be consistent if they refused to do the same for the forest permittees, especially in those areas which are primarily grazing lands, have no commercial timber and under the enabling act could only be justified as forest areas for the protection of watersheds which, certainly is also a function of the Grazing Service as established by the Taylor Act.

That is about all I have to say. You will remember the other night a lady asked Senator McCarran where Secretary Ickes came from. The Senator replied that he did not know where he came from or where he was going. The livestock producers using grazing lands on the national forests do not know who will be the next Secretary of Agriculture, or where he is going, but we would like to stay where we are, under a legal status and not under rules and regulations coming out of Washington.

GEORGE A. GODFREY,
*Chairman, Forest Committee,
New Mexico Cattle Growers Association.*

RESOLUTION No. 4—STABILITY ON NATIONAL FORESTS

Whereas stability of use is vitally important to livestock operators holding grazing permits on national forests; and

Whereas a policy of cuts for distribution on subsistence permits have proved economically unsound and, we feel, contrary to the American way and the spirit of free enterprise: Therefore be it

Resolved, That we petition the Congress of the United States to enact legislation giving legal status to forest advisory boards and limiting the issuance of grazing permits to those who have prior use and commensurate property and that cuts in grazing permits be discontinued except for purposes of conservation or to care for domestic livestock of owners of contiguous ranch property.

Attest: This is a true copy of resolution No. 4 adopted unanimously by the New Mexico Cattle Growers Association in executive board meeting, Albuquerque, N. Mex., September 27, 1943.

HORACE H. HENING, *Secretary.*

STATEMENT OF RUPERT F. ASPLUND, DIRECTOR, TAXPAYERS ASSOCIATION OF NEW MEXICO

Mr. ASPLUND. My name is Rupert F. Asplund, and I am the director of the Taxpayers Association of New Mexico. I may also state that I am a member of the public domain policies committee of the United States Chamber of Commerce, and, Mr. Chairman, if you haven't seen this publication of the chamber, you probably will have them before you at some time in the hearing. May I add this to your library?

The CHAIRMAN. I would be very glad to have it, I assure you. Thank you.

Mr. ASPLUND. I understand that there has been acquired by the Federal Government something between a million and a million and a half acres of land that has, heretofore, been on the tax rolls of the State. Our tax rate in New Mexico is fairly uniform, at about $2\frac{1}{2}$ percent, so you can figure that for every million acres, or for every million dollars taken off the tax roll, we lose \$25,000, depending on the assessable value of that land which may, in my judgment, vary from \$1 to \$2 an acre.

While this does not affect the State at large, the withdrawals from the tax rolls in certain counties are a very serious matter. We will refer to Harding County, which has a total valuation of \$3,200,000. The withdrawal of \$125,000 from the tax rolls of that county is a very serious matter. In the case of Sandoval County, which has great withdrawals, and losses, from the tax rolls, it will affect their local budget to a substantial degree.

Now, it has been said that the purchase of these lands has resulted in the payment of a large amount of delinquent taxes. That is true. However, that does not necessarily mean that those taxes would have been lost to the State or to the local county, because we have a self-operating delinquent tax law, which, in the course of 2 years, places those lands, on which taxes are delinquent, vested in the State, and they would soon return to the tax roll, under such conditions. Now, it is true, I might say, that even in the case of the large amount of public lands now in some of these counties, that has resulted in perhaps only 20 or 25 percent of the lands remaining in private hands. We do get a compensation in the grant for Federal roads. But that concession does not affect in any way or help the finances of the local communities.

I have said that a million dollars' worth of land taken off the tax rolls would result in the total loss of \$25,000. Of course, I suppose that for every million acres of grazing land, or million dollars' worth of grazing land, there possibly is as much as a million dollars' worth of improvements, cattle purchases on those lands, and there would be a resulting loss to the State and to our school revenues in the loss that would accrue from excise taxes. The amount, of course, has to be more or less estimated, but I am showing at the present time, I am attempting to show, the ways in which the withdrawal of the acquisition, the withdrawal from the tax rolls, would result in loss to the State in taxes.

There is another feature about the withdrawal of lands, without compensation for taxes and losses. As an illustration, in Harding County there has been \$125,000, perhaps, of taxable property—there are those from Harding County who can give more accurate figures for the loss of \$125,000 or \$150,000 in taxable property, which has been taken out from under the security of the bonds of that county, and from the security of the school districts affected. The same would be true in other counties.

Mr. Chairman, I have just attempted to give you some idea about where the loss to the State and the local subdivisions would come.

The CHAIRMAN. Are there any questions? Thank you very much.

Judge SETH. Mr. Chairman, I have one gentleman here; could I put him on before you adjourn?

The CHAIRMAN. Very well.

STATEMENT OF F. N. SISNEROS, HERNANDEZ, N. MEX.

The CHAIRMAN. You may state your name and residence.

Mr. SISNEROS. F. N. Sisneros, Hernandez, N. Mex.

Judge SETH. You live at Hernandez?

Mr. SISNEROS. Yes.

Judge SETH. You have been in the stock business all your life?

Mr. SISNEROS. Yes, sir; since I was a little kid.

Judge SETH. Where is your summer range, Mr. Sisneros?

Mr. SISNEROS. My summer range is on the Carson National Forest.

Judge SETH. Is that up north of Santa Fe?

Mr. SISNEROS. Yes; the Carson Forest.

Judge SETH. And your winter range, where is that?

Mr. SISNEROS. Winter range is east of the Sebastian Martin grant.

Judge SETH. In getting from your summer range to your winter range, do you have to cross lands under the control of the Soil Conservation Service?

Mr. SISNEROS. Yes, sir; I do. I have to cross the Sebastian Martin grant and on State land for about three quarters of—south half of the Lobato grant and the north half of the Lobato grant.

Judge SETH. What do they charge you for crossing?

Mr. SISNEROS. In crossing it is 2 cents a head per cow, or half a cent per head sheep per day and, in addition to that, if I happen not to get over the land in the same day and have to stay overnight, I have to pay the fee for a full-day period the next day.

Judge SETH. Is that over the Lobato grant?

Mr. SISNEROS. Well, that is the Sebastian Martin, it doesn't apply that way because it is only three quarters of a mile across it.

Judge SETH. On the Sebastian Martin grant from the highway to Santa Fe and Taos to your summer range, what is the distance across?

Mr. SISNEROS. On the Sebastian Martin range?

Judge SETH. Yes.

Mr. SISNEROS. Three quarters to a mile.

Judge SETH. When you cross over that with your sheep do you cross a road?

Mr. SISNEROS. Yes, it is an old road that we have used there for years and years to go up to the hills; not always that, but it makes more hard and difficult for me on that operation is that my cattle stay on the winter range, and they generally get around to finding a gate down, either on the grant fence or in the Indian grant fence, and they get into it down on the grant, and they are thrown out into the road. When I get there, I find that cow or cows, and I am disrupted from the rangers in that vicinity, that I have to get a permit to cross that cow. I have to go up to the headquarters, which is, from that crossing, about 7 miles, and I have to get over there and get a permit. If it is a cow, I have to pay 2 cents a head for it, and go to the post office, after I get my permit, and get a money order for that cow.

The CHAIRMAN. For what?

Mr. SISNEROS. For that cow. If I have to drive the cow across that stretch of land, I have to go and get a permit, and the permit is issued—I have to go to the post office and get a money order for 2 cents per head, or one head if it is only that much.

The CHAIRMAN. Can you get a money order for 2 cents?

Mr. SISNEROS. I generally, to avoid that I would much rather hire a truck, around at the neighbors, and put the cow on the truck and cross the three quarters of a mile that way, than ride up and get a permit for that.

Judge SETH. They won't take the cash, will they?

Mr. SISNEROS. No, they won't take cash. The men have beer—they are pretty good friends of mine, and they certainly can take cash. They say it has to be a money order on the United States Treasury for that purpose.

Judge SETH. If one of your cows gets out, you have to put it back, you have to buy a money order for the 2 cents and send it to them?

Mr. SISNEROS. That's right. I'd much rather get one of the neighbors to get his truck, if I don't happen to have mine, and put it on the truck, and get it across that stretch of land.

Judge SETH. They don't charge you if you have got it on a truck?

Mr. SISNEROS. Don't charge for getting across on that road in a truck or wagon.

Judge SETH. But that stretch of three quarters of a mile, when you take your sheep in there, you have to pay a half a cent?

Mr. SISNEROS. I have to pay the half cent per head in driving across, and don't let them scatter or stay there.

Judge SETH. You have to keep them moving?

Mr. SISNEROS. I have to keep them moving, for my permit.

Judge SETH. You have to get a money order for those, too?

Mr. SISNEROS. Yes, I have to get a permit, and after the permit is issued, then I have to go and get a money order.

Judge SETH. Does it use up lots of gasoline looking up the ranger and going to the post office?

Mr. SISNEROS. I generally, in order to get across that stretch of land, I have to drive from my house to that headquarters, and it is around 17 miles round trip, before I start moving my sheep. But in a lot of cases I have to move my sheep all of a sudden, and I have to go up to the headquarters, and the ranger is not there. Although I am grateful to some of these rangers that have been there, they have let me proceed when I don't find them; but I find it pretty risky for them to allow me for that, because if I forget and I get caught crossing without a permit, I would be penalized for it.

Judge SETH. You pay Taylor grazing fees on your winter range, do you not?

Mr. SISNEROS. Yes; I do.

Judge SETH. And forest fees on parts of your summer range?

Mr. SISNEROS. No, sir; I don't pay forest fees on summer range, because it is my own private land over there.

One question I would like to mention a little bit, I owned two homesteads there, 160 acres each one, and I have tried my best for every way possible to get a permit, even though I run on one of my places, 560 head vacancy right around my places, but they don't allow it to me. This year, fortunately, I happened to make a deal with a rancher over there, and exchanged my cattle permit, 5 cattle permit, for a summer permit for my sheep. But it happened it was thrown into a spot where there is a lot of poison weed, and within 24 hours I lost 72 head.

Judge SETH. Then you are paying grazing fees on your winter range, and you have to pay them to the Grazing Service?

Mr. SISNEROS. Yes, sir; I pay them to the Grazing Service.

Judge SETH. Then you have to pay the Soil Conservation Service to get from the main highway, three quarters of a mile, to it?

Mr. SISNEROS. Yes, sir; I have to pay; and going out to the summer range, it is pretty hard to put little lambs on the road; but I generally go at the south side of the Lobato grant, because I either put them on the highway or get a 2-day permit, because I can't make it in a day without traveling like on the highway. If I get to stay inside, and don't get over the same night, I have to pay for another day, which I never get any use of it. Or I have to put them on the highway and get them across. I have to travel those little lambs for about 9 miles before I can get any place to spread out, and then I get out on a privately owned land. Mr. Greenlee owns out there, and is a manager there, and he is very cooperative with the livestock management. I asked him for a permit and he said, "Go and get in there and stay there tonight or the next day, if you want to." It doesn't hurt much to get across with a little bunch of sheep; never charged me anything.

Then I get to the north half of the Lobato ranch, and in order to get the sheep on the highway, is a fee administered by the Soil Conservation Service; now is turning over to the F. S. A. Before I close, I would like to mention that several times coming off the mountain I like to put them on the highway, so I would not have to pay a half cent per head, because I wouldn't get in any use of them. I tried the manager over there and he wouldn't let me put them on the highway without paying a bunch of cattle, 26 head of cattle I own—he wouldn't let me put them on the highway without paying fees. He said one or two head might get off the highway and trample on the grant land, and he makes me get a permit for it.

Now, that has been fenced, and since it has been fenced, it is all right, I can put them on the highway now.

Judge SETH. Is there anything further, Mr. Sisneros?

Mr. SISNEROS. That is all I have to state now.

The CHAIRMAN. Are there any questions? Very well sir, thank you.

We are doomed for another night session. I can see plainly that, in order to cover the matters that have been presented to the investigator of the committee, it is going to be necessary to hold a night session, so we will now recess until 8 o'clock, and reconvene at 8 o'clock this evening.

(Recess was taken until 8 p. m.)

EVENING SESSION

The CHAIRMAN. The meeting will come to order.

We were to hear the people who have matters to present to the committee with reference to the acquisition by military agencies of public land and private range in the State. Those who care to be heard on that subject may come forward.

Judge SETH. Mr. A. B. Cox would like to be heard first on a proposed new bombing range in southern New Mexico.

The CHAIRMAN. Are any of the officers here who have to do with the acquisition of the bombing range?

Judge SETH. Captain Snyder is over here, Mr. Chairman.

The CHAIRMAN. Is there anyone else, Captain?

Captain SNYDER. No, sir.

Judge SETH. I was mistaken in calling it a bombing range. It's a gunnery range.

The CHAIRMAN. Well, it makes no difference, it is an acquisition of ground for military activity.

Judge SETH. Will you please state your name?

STATEMENT OF A. B. COX, OTERO COUNTY, N. MEX.

Mr. Cox. My name is A. B. Cox, and I live at Otero, N. Mex.

Judge SETH. What is your business?

Mr. Cox. Cattle raising.

Judge SETH. How long have you been in it?

Mr. Cox. Born and reared on a cattle ranch in New Mexico.

Judge SETH. How long have you lived in that country?

Mr. Cox. All my life.

Judge SETH. Now, will you tell the Senator about this proposed new bombing range, its size, and the effect it would have on grazing conditions in your country?

Mr. Cox. On the 15th of July past, or about that date, some Army men, a Maj. Gerald Hart, of Dallas, principally, came to my home in Otero County and said that he had been sent by the Army to feel some of us boys out and determine whether or not we would cooperate with the Army on an aerial gunnery, an air-to-air operation. Major Hart said that he would come back the following day, if I would get some other neighbors to come in and hear his request. The following day nine of us interested in the area sat with Major Hart and one civilian engineer, Mr. John Praker, I believe, also from Dallas. Major Hart principally wanted to know whether or not we ranchers could go along with the Army on a co-use basis. The first day he was there, catching me unawares, I had to state that I had never thought of the proposition, and did not try to answer him anything on the first day.

He came back the following day and met with nine of us ranch neighbors affected, and we all felt very positive that we could not operate successfully on a co-use basis.

The CHAIRMAN. What did he mean by the full-use basis?

Mr. Cox. A co-use basis.

The CHAIRMAN. What did he mean by that?

Mr. Cox. That the Army Air Force use the air on an air-to-air basis; that they would tow targets and shoot at these targets from the air; that they would have practically—that the Army would have practically no land use, other than a few officers to see that our property, livestock, and property were not abused.

The CHAIRMAN. All right, then what happened?

Mr. Cox. We told Major Hart that we were very positive that we could not operate successfully on those terms. We are in an arid territory with no live waters, and by live waters I mean no springs nor streams of any description, in the 30-by-60-mile area. Our watering is done mostly by deep wells, or earthen tanks, built by the allottees in the area. Our water has always been, in our area, one of our hardest propositions and one of our biggest worries.

We visited for some 3 hours, and Major Hart went on, and we have never had anything definite on it since. But we had quite a number

of—Major Hart naturally asked why we could not operate on a co-use basis, and we have a number of reasons why we feel very positive that a co-use basis would not work successfully.

The CHAIRMAN. Have you heard anything more from it, since Major Hart's last visit?

Mr. Cox. Yes, sir; two different ones of us have had telephone calls, telegrams, and some letters from different departments of the Army. Some of the letters and telegrams we have in our possession; but the Army, none of the Army men, have been back to our range or our homes since that day.

Mr. LEE. Mr. Chairman, may I ask the witness a question?

The CHAIRMAN. Certainly, Mr. Lee.

Mr. LEE. Isn't that co-use that you stay on the ranch 2 days, and then they use it the rest of the week? You work Saturday and Sunday, say, or holidays, and stay off the ranch completely, and leave your wells and stock alone, for the 5 days.

Mr. Cox. That's right; yes, sir, Mr. Lee. The Army proposes to use it, they suggested, 5 days per week, and we be allowed to come in 2 days, possibly Saturday and Sunday. That was their suggestion, and we were to do up our work for the week.

Judge SETH. Is that practical, in your opinion, Mr. Cox?

Mr. Cox. As I told Major Hart, if he could teach us boys from southern New Mexico to operate on a 2-day week, instead of a 7-day week, he would be doing us a great favor; but I felt very positive that it could not be done.

Judge SETH. Why?

Mr. Cox. Our watering proposition, primarily, is our big worry. Our wells are deep, and through the summer months, or through the hot months, we generally pump day and night, 24 hours per day, 7 days per week, through the hot months. Generally, the entire summer and late spring or early fall, we do that.

Judge SETH. And how do you pump?

Mr. Cox. We usually—through those months, the wind is slow, or there is practically no wind, and we run engines, gasoline engines with pumps, pumping anywhere from 300 to 1,200 feet.

Judge SETH. And what would be the effect if anything went wrong during that 5-day period?

Mr. Cox. If anything went wrong early in the 5-day period, and we were away, it would mean the loss of many livestock. Occasionally some of the better wells carry from 300 to 500 cattle, or that equivalent in sheep, through the entire summer months.

Judge SETH. Where is this area located, Mr. Cox, this 30 by 60 miles?

Mr. Cox. This area is in southeast Otero County of this State, just north of the New Mexico-Texas State line.

Judge SETH. Is any of it in Texas?

Mr. Cox. None of it is in Texas.

Judge SETH. What is the south line of the proposed area?

Mr. Cox. The Texas-New Mexico boundary.

Judge SETH. Is the land in Texas any different than that in New Mexico?

Mr. Cox. The land immediately adjoining in Texas, part of it is similar, and part of it is, I am sure, inferior to ours.

Judge SETH. How many ranch operations would be affected by their bombing range?

Mr. Cox. Some 38 ranch allotments. By allotments, I mean allotments designated by the Federal Grazing Service.

Judge SETH. How many livestock?

Mr. Cox. Approximately 50,000 livestock would be affected.

The CHAIRMAN. Cattle or sheep?

Mr. Cox. A mixture of cattle and sheep, principally cattle.

Judge SETH. And you talked about the deep wells. What do you mean by deep wells.

Mr. Cox. The deepest well in the area, I believe, is 1,160 feet, and they range from that depth down to possibly 300; 250 to 300 feet for the shallower wells.

Judge SETH. What does it cost to drill and equip a well that deep down, in that country?

Mr. Cox. For the 1,160-foot well, I would say the cost would be, for the drilling and complete equipment and ready to water livestock, it would run in the neighborhood of \$12,000, and possibly more.

Judge SETH. Mr. Cox, if you had to move off, or these men had to move off and give up their headquarters, how far away is the nearest place they could live?

Mr. Cox. The nearest towns of any size to any of us will average 70 miles from the area.

Judge SETH. That would mean, then, a trip of 70 miles each way, every week, to look after the cattle?

Mr. Cox. That's right; yes, sir; the families moving in to El Paso, which is 70 miles from headquarters; Alamogordo, which is 70 miles from my headquarters; or Carlsbad, which is 65 miles from the nearest headquarters affected.

Judge SETH. Does this area lie immediately north of the Texas border, west of the El Paso and Southwestern Railway?

Mr. Cox. East.

Judge SETH. East of the El Paso-Southwestern Railway, and west of the Guadalupe Mountains?

Mr. Cox. Not quite to the top of the mountains, not quite to the top.

Judge SETH. What is the effect of bullets, spent and otherwise, on the cattle grazing on the range?

Mr. Cox. We can only feel that the 50-caliber bullets that, we understand, they are to use—we can only feel that those bullets are bound to kill livestock.

Judge SETH. Do you use steel tanks for storage of water down in that country?

Mr. Cox. Yes, sir, generally; or I believe all the time we use the steel rim tanks for the reserve water.

Judge SETH. What effect would those 50-caliber bullets have on those, if they were to hit them?

Mr. Cox. Well, it wouldn't absolutely ruin the tanks for future use. It would take the water out of them for the time they could be repaired.

Judge SETH. Now, have you any information with respect to the Alamogordo bombing range? Where is that located?

Mr. Cox. The Alamogordo bombing range is west of us. The nearest boundary is some 15 or 20 miles west of the nearest boundary of the proposed new aerial gunnery range.

Judge SETH. That contains about a million and a half acres, does it not?

Mr. Cox. I believe something of that size. I am sure it is something near that size; yes, sir.

Judge SETH. What is your information as to whether that is completely used, or not, at the present time?

Mr. Cox. The best information we can get from the citizens of Alamogordo and the surrounding territory, some ranchers with whom we have talked, it seems that that bombing range is not being used nearly to capacity. Now, that is only a guess, with some of us, or thoughts of the citizens that live in or near Alamogordo.

The CHAIRMAN. These letters that you received from the Army, from what officer did they come, from what headquarters?

Mr. Cox. These letters are from different officers, Army officers in Washington, D. C. Mr. Frank Bryant, who is at the table, has those letters. One is from a General Smith, and Mr. Bryant has those letters. If you would like to have some of them, he has the letters with him.

Judge SETH. Is it your opinion, Mr. Cox, that the cattle business can be operated under the conditions you stated, with any degree of success?

Mr. Cox. In our dry territory, we are very positive that it could not be done with any success.

Senator CHAVEZ. I am extremely sorry, Mr. Cox, but I was delayed unavoidably, and I did not hear the first part of your statement. Did you state to the committee the number of stock that would be affected?

Mr. Cox. Yes, sir.

Senator CHAVEZ. Will you please state it again?

Mr. Cox. The number would be some 50,000 head of livestock. That would include, I believe, livestock, cattle and sheep and goats, but no horses. There are quite a number of horses in there, but I did not use those numbers. Most of us yet haven't started eating horses.

Senator CHAVEZ. And the goats that you refer to are fleece goats and Angoras, are they not?

Mr. Cox. Generally Angora goats.

Judge SETH. Will you state for Senator Chavez's benefit the number of ranches that might be affected?

Mr. Cox. According to Federal Grazing Service figures, there are some 38 ranches affected. It is a 30- by 60-mile area, 1,800 sections.

The CHAIRMAN. I would like to see some of those letters.

Was your statement in detail, to those who called on you; and your correspondence with others, similar to the statement you have just made for the committee?

STATEMENT OF FRANK BRYANT, EL PASO, TEX.

Mr. FRANK BRYANT (El Paso, Tex.). There is a telegram we fixed up there and sent to a number of people, and had Senator Chavez send it out.

Senator CHAVEZ. Yes; I got that.

The CHAIRMAN. Without taking time to read the telegram, have you gone into detail as to the nature, and manner of conducting live-stock business on this particular range, such as you have here? Have you detailed that it is necessary to have a continuous pumping, and the nature of the work that you utilize in watering your cattle, and so forth?

Mr. COX. With Major Hart; yes, sir.

Mr. BRYANT. And also with Colonel Neyland. I think I have that letter from Colonel Neyland.

(The telegram and letter referred to are as follows:)

EL PASO, TEX., July 28, 1943.

The Honorable MARVIN JONES,

War Food Production Board, Agricultural Department,

Washington, D. C.:

My attention has been called to fact that Land Procurement Division, War Department, Dallas office, has forwarded to Washington plans for new aircraft gunnery range 30 miles north by 60 miles east from New Mexico-Texas line in Otero County, N. Mex. Large delegation of citizens from area affected met with me in El Paso today. They will all be put out of business, which affects the grazing of 40,000 head of livestock. Will interfere greatly with food production, besides creating tremendous hardship in a material way. War Department has already taken over antiaircraft range from El Paso to Alamogordo and bombing range north of Alamogordo, which covers an area totaling approximately 5,000 square miles. This very large area, if properly apportioned in its use should be sufficient for all of the three Air Corps units. The many ranchers affected want to cooperate in the war effort and feel that in producing cattle, which are so essential now, they are doing their utmost, but would protest the plan of taking over their land at this time. What is needed is better coordination and efficiency by the different divisions of the War Department in the utilization of the lands already in their possession and which would not interfere further in food-producing lands. The matter is serious from the food-production stand point. The loss of the homes of the many ranchers is bad enough but the loss of food is worse. Will appreciate your contacting proper Air Corps authorities for a reinvestigation of the whole matter before making final determination. Answer Albuquerque office.

DENNIS CHAVEZ,
United States Senator.

July 28, 1943.

DEAR MR. PETTY: Will you see that the same wire as attached hereto goes to all of the following—as well as the Honorable Marvin Jones? Many thanks:

Gen. George Marshall, Chief of Staff, War Department, Washington, D. C.;

Lt. Gen. Henry H. Arnold, Chief of Air Corps, War Department, Washington, D. C.;

Gen. Reibold, Chief of Army Engineers, War Department, Washington, D. C.;

Col. John J. O'Brien, Chief, Real Estate Branch, Corps of Engineers, Washington, D. C.

FLORENCE FOSKETT.

WAR DEPARTMENT,
OFFICE OF THE DIVISION ENGINEER,
SOUTHWESTERN DIVISION,
Dallas, Tex., August 4, 1943.

Mr. FRANK R. BRYANT,

Manager, Walbridge Ranch Co., El Paso, Tex.

DEAR SIR: Your letter of July 31, 1943, outlining your objections to the establishment of the proposed aerial gunnery range in southeastern New Mexico and the difficulty of utilizing the range jointly for grazing purposes, has been received and is appreciated.

Your position and views in this matter have been given careful consideration. The question of establishment of the range is now before higher authority and to date, this office has no information relative to a decision having been reached.

You may be assured that all factors involved will be given due consideration in reaching a decision.

Very truly yours,

R. R. NEYLAND,
*Colonel, Corps of Engineers,
Division Engineer.*

SENATOR CHAVEZ. May I say, Mr. Chairman, in response to this wire sent out of El Paso, Tex., after representations made to me by the people affected in Otero County, in El Paso, Tex., around the 14th of July a group of 25 or 30 of them came to see me. After that I addressed the original telegram to Mr. Marvin Jones of the Food Production Board, and copies of the same telegram were addressed to Gen. George Marshall, to General Arnold, to the Army engineers, and to Mr. O'Brien. The answer from General Arnold was prepared by General Smith who happened to be, at the moment, in charge of the particular affair. The text of the answer was that the matter would be gone into carefully by the different agencies of the Government affected by any final determination before it was made. Later on I received a letter verifying the telegram from General Smith, which was submitted to Mr. Goddard, I believe. Was he the gentleman who represented you folks up here at El Paso?

Mr. BRYANT. That was Mr. McGregor.

Senator CHAVEZ. Well, I don't know whether you have a copy of that letter which I sent to Mr. McGregor.

Mr. BRYANT. I think not. I am not sure whether I have that letter or not, but in that letter he referred to the fact that this had been acceptable to at least 60 percent of the operators in the territory, and we were never contacted. I never saw an engineer, and there were only 9 members out of these 38 ranchers that were affected, who were represented at that preliminary conference with Major Hart and his engineers.

The CHAIRMAN. Someone paid 60 percent of those in the territory were ready to cooperate?

Mr. BRYANT. Yes; Mr. Smith, in his letter, said 60 percent were ready to cooperate.

The CHAIRMAN. That is Smith of what department?

Senator CHAVEZ. Either General Arnold's or General Marshall's, I am not positive which one.

Mr. BRYANT. And McGregor replied to that letter, and called his attention to the fact that there were only 9 out of 38 members that were there, and none of them thought that it was a feasible idea.

(The letters referred to are as follows:)

AUGUST 7, 1943.

HON. DENNIS CHAVEZ,
Albuquerque, N. Mex.

DEAR SENATOR CHAVEZ: This is in further reply to your telegram of July 28 concerning the acquisition of land in Otero County, N. Mex., for an aircraft gunnery range.

As you were advised by telegram on July 30, your request for the reinvestigation of the matter was placed before the War Department authorities responsible for the final decision.

I have just been advised by the Army Air Forces that that branch has recently completed an investigation of an area in southern New Mexico, part of which lies in Otero County, and I understand that appraisals of this area also have been completed by the Office of the Chief of Engineers. This area is under consideration for use by the Army Air Forces as an air-to-air gunnery range for the training of personnel stationed at El Paso and Pyote, Tex., and at Clovis, N. Mex.

There is no question that if this area were taken from its present grazing use a serious reduction in livestock would result. However, even if it is ultimately approved for acquisition the Air Forces state that it has been determined through a very detailed investigation, and through a meeting attended by over sixty percent of the cattlemen concerned, that the gunnery activities can be carried on over the area without the removal of a single head of livestock. Air Forces experience on other ranches has demonstrated that the danger to cattle on a range used for air-to-air gunnery is insignificant. Consequently the present policy of the Army Air Forces requires that the cattle be permitted to remain on the land, and that the commanding officer of an installation concerned make definite arrangements with the cattlemen through coordination with the Department of Interior for an occasional cessation of firing to permit personnel to enter the area and give whatever care is necessary to the cattle.

It has been emphasized to me that the need for the immediate acquisition of this range is very great, but assurances also have been given me that the cattlemen will be put out of business and no reduction in food production will be caused.

While it is essential that residents be moved from the land, the Corps of Engineers state that a generous allowance can be made to the residents at an unusually small cost to the United States, which indicates that a dislocation of homesteads is extremely small for an area of this size.

I am indeed sorry not to be able to reply more favorably but trust the foregoing will clarify the factors involved and serve as an adequate response to your inquiry.

Sincerely yours,

EDWARD W. SMITH,
Brigadier General, General Staff Corps,
Deputy Chief, Legislative and Liaison Division.

AUGUST 25, 1943.

Hon. DENNIS CHAVEZ,
Albuquerque, N. Mex.

DEAR SENATOR CHAVEZ: We are in receipt of a copy of the letter you mailed to the El Paso Chamber of Commerce, addressed to yourself, from Brig. Gen. Edward W. Smith, Deputy Chief, Legislative and Liaison Division, dated August 7, 1943, relative to your telegram, sent from here, protesting the acquisition of additional cattle range land, by the Army, in Otero County.

We want to take exception and call your attention to some very grave misstatements made in that letter. The General states, in paragraph 4 of his letter, "that the Army Air Forces have determined through a very detailed investigation and through a meeting attended by over 60 percent of the cattlemen concerned, that the gunnery activities can be carried on over the area without the removal of a single head of livestock."

Now, first, the only meeting ever called by any branch of the Army known to us, relative to the acquisition of our ranches, was a group of nine ranches from the affected area, who met with Colonel Hart from the Army Procurement, Dallas office, Division at A. B. Cox's ranch the first part of July who by no means could be called 60 percent of the cattlemen affected. Now, second, at this meeting Colonel Hart somewhat vaguely explained the Army's desires and plans, and I can assure you definitely that every ranchman there protested the plan of co-use of their ranches with the Army Forces, whereby their livestock be permitted to roam the ranges unattended while the Army Forces are firing live ammunition over their heads or possibly at them. This plan has been tried in other parts of Otero County and has proved a complete failure from the livestock standpoint. I have reference to Bill McNew's experiences at Oro Grande, who gave the plan a thorough trial for about one year, at the end of which time he was forced to remove his remaining cattle from the area, being short a large percent of his original number; with no recourse against the Army for damages sustained.

Quite a large number of us are planning to attend the Senate Land Committee hearings, at Albuquerque, on September 7, at which time we hope you will be in Albuquerque and will be agreeable to giving us your help and advice in presenting our case before the committee.

Again thanking you for your assistance, we are,

Yours very truly,

OTERO COUNTY RANCHES COMMITTEE,
By MALCOLM MCGREGOR.

The CHAIRMAN. What do you know about that? Are there those in the district who think it is a feasible idea?

Mr. COX. No, sir; there isn't a man that has agreed that the operation can be successfully carried on.

Mr. BRYANT. Those gunnery planes shoot a large number of bullets every minute. You know when they shoot at those different targets, those bullets have got to come down.

The CHAIRMAN. Most of them, anyway.

Mr. BRYANT. Well, at least one of our men put that up to them, asking if an occasional bullet wouldn't come down, wouldn't those bullets come down, and the colonel said occasionally they might come down and cause trouble. Our fellow said, "What about the other 365, wouldn't they come down also?", and that was it. But we have never felt that the reports of any conferences that we have had have been correctly reported. They have assumed that, because we wanted to be polite and not be rough about it, we were agreeing with them.

Senator CHAVEZ. You wanted to cooperate as far as possible?

Mr. BRYANT. We do want to cooperate; but we feel that they have about 5,000 square miles of already appropriated land in and around El Paso, and we feel, or have felt all along, that they can use that 5,000 square miles, or part of it, probably, part of the time, and co-ordinate this effort so as not to take other really productive land out of use.

The CHAIRMAN. Captain, do you know anything about this?

Captain SNYDER. No, sir. My end of this, Mr. Chairman, is acquisition after all of this planning is completed.

The CHAIRMAN. Would you mind stating your name and rank for the record?

Captain SNYDER. Floyd T. Snyder, captain, Corps of Engineers, head, division real estate suboffice, Albuquerque, N. Mex.

The CHAIRMAN. You know nothing of this movement?

Captain SNYDER. I heard it discussed, yes, sir; but I know nothing of the planning. I understand—I talked to Washington today about it, and the Chief of the Air Corps Office said it's now being considered, and is now under study. However, it has been cut down in size.

Senator CHAVEZ. That was the advice that I received from General Arnold's office, in response to the original telegram, to the effect that the matter would be considered further before final determination was made.

Captain SNYDER. That is the information I received today, sir.

The CHAIRMAN. Is there anything more?

Judge SETH. Mr. Cox, will you refer to this memorandum of your's and give some additional reasons as to why this 2-day a week business wouldn't work?

Mr. COX. In this dry area in New Mexico we have practically all practiced the feeding of supplements to our livestock through the spring and winter and early summer months. If we are going to feed these supplements, it is very necessary that the feeding be done every day, and not 2 days out of 7.

The CHAIRMAN. How do you feed supplementally?

Mr. COX. Cottonseed cake. We go up there and use a pick-up truck and spread it over the range to the livestock wherever we find them,

to keep the livestock as much as possible from walking long distances to get the feed. That is the general practice.

We also mentioned the 24-hour-per-day pumping, which lasts, generally, from May through July. That is generally. Occasionally, quite often, we have to pump when there is no wind, a lack of wind, through the other months. We occasionally have to pump for a week at a time, continuously.

We have another problem of the calving of young heifers, and the lambing of the young ewes. We have to be with them, or lose quite a percentage. I feel sure that we will have a loss of 20 to 25 percent in the calving or the lambing of the young heifers and ewes unless we are with them.

On these windmill or mill-repair jobs, they generally take from 7 to 10 days to make the repairs. We feel very positive that we could not start a well or repair job on a 640-foot well, which is the one that I have on my own place, and that is an average depth for the wells in the area—I at one time worked 22 days continuously, 22 days from daylight until dark, before I had my well back into pumping order. On the basis that the Army has asked us to cooperate, it would be impossible for us to keep the livestock alive while we were working on the well 2 days, and having to lay off the other 5 days, and then come back and resume our well work on the following week, and on a 22-day job, as I had once, and I am sure the other ranchers, a number of them have had as much as that, and occasionally more, on a well job. It would be just a long-drawn-out proposition, and before we got water for those livestock they'd probably all die on us.

Then there are pipe lines and water lines of different types. There are, I believe, a hundred miles of pipe lines within the area that need thawing out or repair occasionally. Those pipe-line repair jobs often take 2 or 2½ weeks at a time. When your tanks freeze, which is not often, but when they freeze over or they are frozen over, unless we are there to break the ice and open up the water, we have to do that in order to water the livestock. Again, oftentimes, they stay frozen for a week or 10 days.

Senator CHAVEZ. If the pipe lines were damaged by the activities that are supposed to take place if the Army takes charge of the area, and if the tanks were damaged, would you be able to repair them at all? Would you be able to get material?

Mr. Cox. We generally are mechanics enough that we can fix them. We usually keep a little extra piping on hand, and most of them, fortunately, have a little extra pipe line and extra pipe on hand since before the material shortage came up. As far as we are from the towns or the railroads—it is 70 miles to our nearest shipping points, or my individual shipping points are 70 miles away—we almost always have plenty of pipe or necessary repair equipment on hand.

The CHAIRMAN. How much of the time, ordinarily, do you spend on the range or in the field?

Mr. Cox. Generally we are on the range, or most of us stay on the job every day, 7 days a week, and we carry that out through almost the entire year, especially with the manpower shortage that we have nowadays. I'm now operating a ranch, I have 1,400 livestock, which are mostly cattle, practically all cattle, on my place and I am operating the place without one hired man. I am operating it by myself. I

was very fortunate when I was ready to come in here to Albuquerque, that I had a good shower on Saturday before I left home, and on Monday. It gave me a little water in the mud holes and water holes around, so that I felt safe to come to Albuquerque and stay through this meeting. Had I not had that, I would have felt very guilty leaving for 3 days and running in here for the meeting and getting on back.

Senator CHAVEZ. I want to ask another question with reference to the geography and the location of the area affected by the proposal. You are right on the Texas line, are you not?

Mr. Cox. Yes, sir.

Senator CHAVEZ. I mean, the area borders on Texas?

Mr. Cox. It borders on the Texas-New Mexico line.

Senator CHAVEZ. What is there south of the artificial boundary line on the Texas side?

Mr. Cox. There is similar territory to that that we are using.

Senator CHAVEZ. How far is that from Biggs Field, the center that is supposed to be used in this area?

Mr. Cox. It would be some closer to Biggs Field than our New Mexico area.

Senator CHAVEZ. There's plenty of land within the Texas side south of the New Mexico border available for Army uses at Biggs Field, is there not?

Mr. Cox. That is our belief; yes, sir.

Senator CHAVEZ. Well, you know, I think you know, the country.

Mr. Cox. The country is there; yes.

Senator CHAVEZ. The country is typical, almost identical, to the New Mexican side of the border, isn't it?

Mr. Cox. Very similar.

Judge SETH. Have you heard anything indicating an effort on the part of El Paso to wish this over on to New Mexico?

Mr. Cox. That has been one of the thorns in our side, so to speak, has been that our neighboring Congressman has endeavored to extend Biggs Field into New Mexico and into El Paso County.

Judge SETH. If you moved to Alamogordo or Carlsbad, are there housing facilities available in those towns?

Mr. Cox. No; there is no housing facilities in any of the towns or cities that we would have to move into.

Judge SETH. They are all crowded by Army operations, are they not?

Mr. Cox. That is right; yes, sir.

Judge SETH. Now, how about the schools, are there schools out in that area?

Mr. Cox. We have two schools in the area, two county schools accommodating 25 children.

Judge SETH. They, of course, would have to be closed?

Mr. Cox. They would have to be closed.

Judge SETH. Do you know about the school facilities in Carlsbad and Alamogordo, whether they are crowded?

Mr. Cox. I couldn't answer that question.

Judge SETH. I believe that is all.

The CHAIRMAN. Are there any questions from anyone?

Senator CHAVEZ. I have no more questions.

The CHAIRMAN. All right; thank you, Mr. Cox.

Judge SETH. May we offer, for the record, a letter from Mr. Harold Hurd, an attorney at law at Roswell, objecting to this on behalf of the Flying H ranch in that area?

The CHAIRMAN. You may.

(The letter referred to, and accompanying correspondence, are as follows:)

ROS WELL, N. MEX. August 25, 1941.

HON. CARL A. HATCH,
Clovis, N. Mex.

DEAR SENATOR HATCH: I am advised through the press that there will be a meeting in Albuquerque of some House committee on September 6, 7, and 8 with reference to a further withdrawal of Government lands west of the Sacramento Mountains in Otero County.

For many years I have represented the Hendricks Co.'s livestock interest operating the Flying H ranch.

This company purchased what is known as the Little America ranch lying west of the mountains covering approximately 100 sections, or about 64,000 acres. One of this 32,000 acres is under State lease and some patented land, the ranch being situated in township 23, ranges 15 and 16 east, and township 24 south of range 16 east. This was purchased in March 1941.

The ranch is stocked with 750 mother cows and 200 registered heifers and 200 yearling steers and heifers and will support an estimate of approximately 5,000 pounds of beef per section per year, and this, as I figure it, is a total production of around 9,000,000 pounds per annum.

You will also understand and know, from Alamogordo to Carrizozo there is already a bombing range, and I cannot understand why they want to add to this range from Alamogordo south to the Texas line taking in a piece of country approximately 170 miles, that is it is about 54 miles from Alamogordo to Carrizozo and it is about 115 miles through the area they expect to take south from Alamogordo, and about 30 miles wide.

I cannot see anything reasonable in taking this amount of country for a bombing range, based upon what they are doing in this country, taking a section here and there for a target, and if there is any other purpose for it I cannot see it.

The Hendricks Co. and others in this section want to do what they can to win the war, but I do not believe an effort to win the war would warrant the destruction of property and the facts in this case.

It further occurs to me, in closing, that the taking of this property without compensation is a clear violation of the constitutional rights and is destructive of legitimate efforts to win the war in producing beef for the armed and civilian population.

Yours very truly,

HAROLD HURD.

[Radiogram]

WASHINGTON, D. C. July 30.

C. N. BASSETT,
El Paso Tex.:

Re tel dated July 30 protesting the proposed acquisition by the War Department of land for gunnery range 30 miles north by 60 miles east from New Mexico State line. The subject acquisition, if approved, will be authorized on a course basis and it will not be necessary to remove any livestock from this area.

ROBINS.

Acting Chief of Engineers.

WAR DEPARTMENT,
OFFICE OF THE DIVISION ENGINEER,
SOUTHWESTERN DIVISION,
Dallas, Tex., September 25, 1942.

HON. CLINTON P. ANDERSON,
House of Representatives, Washington, D. C.

MY DEAR MR. ANDERSON: Before attempting to make a reply to your letter of September 11, 1942, I caused a special study to be made of the property in which you expressed so much interest.

I am advised that no directive to acquire this land has been issued by the War Department, although it has been, I understand, approved for use as an aerial gunnery range by the commanding general, Army Air Forces.

According to Grazing Service records, the carrying capacity of the range involved is 14,000 head of cattle, but the records indicate that at present there are only approximately 12,000 head of cattle on this range.

Approximately 81 percent of the subject area is public domain, about 7 percent is owned in fee, and the balance is State land.

The investigation made by this office indicates that the suggested area across the border in Texas is not feasible as this area includes numerous gas lines, is crossed by a main air line and a main highway.

This proposed method of acquisition appears to this office to be just and fair since it will be on the basis of some type of lease or suspension of leases under which agreement the Government would pay the operators a fair return on the value of their property. The exact method of payment has not as yet been determined, I am advised, and probably will not be determined until such time as a decision is reached that this land is necessary for the purposes suggested.

For your information, the area is tentatively known as the Guadalupe Mountain aerial gunnery range.

If there is any further information that this office can provide be assured that it will do so at any time on your request.

Very truly yours,

S. L. SCOTT,
*Colonel, Corps of Engineers,
Division Engineer.*

WAR DEPARTMENT,
HEADQUARTERS OF THE ARMY AIR FORCES,
Washington, July 31, 1943.

Mr. C. N. BASSETT,
Ranchers Committee, El Paso, Tex.

DEAR SIR: Your telegram of July 26, 1943, to the Chief of Staff, relative to the plans of the Army Air Forces for acquiring an air-to-air gunnery range in southern New Mexico has been referred to this headquarters.

The War Department is well aware of the necessity of permitting grazing activities to proceed with minimum interruption. As a consequence, whenever a military necessity exists for the acquisition of land, every effort is exerted to select land of the lowest value and, if possible, to arrange the use of the land in such a way as to permit continuation of grazing.

Consideration is being given to the acquisition of an air-to-air gunnery range in New Mexico and these considerations are being given proper weight. It is planned by this headquarters, in the event that the acquisition of such a range is ultimately approved, to require the military use of the land to be coordinated with the grazing activities. It is not intended that any cattle need be removed from the land and, consequently, there will be no need to reduce the number of cattle grazing in the area.

It is noted that reference is made to the Alamogordo range, and it is suggested in your telegram that this range is sufficiently large to provide adequate facilities for all Army airfields in that general vicinity. Unfortunately, it is not possible to disclose figures showing the number of planes using the Alamogordo range. Likewise, it is not possible to describe the manner in which ranges are used in order to produce well-trained aircraft personnel. You are assured, however, that the Alamogordo range and all other large Army Air Forces ranges are used to a maximum degree. The training program has reached a point whereby this additional range in the New Mexico area is a definite military necessity and there is no possible alternative.

It is the desire of this headquarters to impress upon you the fact that if this range is acquired, all possible cooperation will be extended to the ranchers so that schedules for firing and for supervising the grazing of the cattle will be worked out.

Very truly yours,

J. C. SHIVELY,
*Colonel, Air Corps, Buildings and Grounds Section Office, Assistant Chief
Air Staff, Material, Maintenance and Distribution.*

AUGUST 2, 1933

Col. JOHN J. O'BRIEN,
Chief, Engineers' Corps,
Real Estate Branch, Washington, D. C.

DEAR SIR: Supplementing our telegram of July 20, in reference to the proposed aerial gunnery range which would affect our ranch, we want to state our views, for your consideration.

Our contention, with reference to the Government's proposed plan of operation is that it will not work. The livestock will not be content. With gunnery practice going on, the fences will either wash out or be broken by stampeding cattle, and in the case of sheep, the coyotes will quickly eat us up without constant attention.

One has only to look at the condition of the ranches which already have been taken over within the past year and a half, and which were, prior to this taking over, well kept up and efficient units, in order to see with his own eyes what has taken place. We know of one rancher near Oro Grande, N. Mex., who thought he could operate on this basis and left his cattle on the ranch, looking after them part time. After a year of such operation, he was able to gather only approximately one-half of his cattle, and realizing that it was certain extinction of his entire herd, he rented another pasture and took all the living animals he could find, on to this, leaving his own ranch to the mercy of the Army. He talked to Army officials here about some compensation for his losses and was told that if he could prove that these animals were lost as a result of Army practice, he could make his claim and it would be acted on in due course.

We know of another rancher, only a part of whose ranch is within a reservation. On this part of the ranch he had a windmill, with wooden tower, a gasoline pump house, engine and pump jack, for use at times when the wind doesn't blow. On his visiting this place, on one of the days on which he was allowed to return, he found the pump house and windmill destroyed by fire and his cattle out of water. On complaining to authorities he, also, was told that it would be necessary for him to submit evidence as to the manner in which this was done, and that his claim would then be presented for approval.

We feel that the pressing of this matter, along the lines that have been presented to us by your representatives, will, slowly but surely, put us out of business, at great loss and with no recourse.

This is a matter not to be lightly considered, even though theoretically it may look feasible from your side.

If part-time operation is all that is necessary, we suggest that on the big reservations already set aside, and which are not being fully used, you could use part time for bombing and the other part time for gun practice, either by dividing them up on alternate days or letting one unit use the range early in the day and the other unit later in the day.

If it is considered unsafe for the 30 or 35 ranchers who will lose their homes, it is a foregone conclusion that animals will be disturbed.

Again, we thank you for your consideration, and hope you will put our side of the facts in the case to the proper authorities before final decision is reached.

Yours very truly,

Treasurer and Manager, Walbridge Ranch Co.

Judge SETH. Mr. Bryant, do you want to testify?

The CHAIRMAN. I am somewhat concerned about the statement that 60 percent of the people in the area were in favor of it. I hope that has been thoroughly checked by you, Mr. Cox, and by you others.

Mr. Cox. I believe, if Mr. Bryant will look through his file a little better, I feel very positive Mr. McGregor, another one of our men interested in the area, has been keeping the file that Mr. Bryant has. It was impossible for Mr. McGregor to be at this meeting, and I believe that Mr. Bryant has overlooked the letter which was addressed to Senator Chavez, a copy of which Senator Chavez referred to.

The CHAIRMAN. About how many people live in the area that would be covered by this range?

Mr. Cox. About 240 people.

The CHAIRMAN. Of the 240, how many have you actually seen and talked to whom you can say positively are against this?

Mr. Cox. I have talked to every family head or ranch head. Some are single men, of course, but addressing them as the heads of the ranches, I have talked to every man or woman who is at the head of the allotments.

Senator CHAVEZ. Isn't it a fact that the largest family within the area, the most-known family name is Lewis?

Mr. Cox. That is right.

Senator CHAVEZ. Have you ever heard of a single Lewis that was in favor of it?

Mr. Cox. Absolutely not in favor of it.

Senator CHAVEZ. And they are pretty thick around the area, are they not?

Mr. Cox. They have been thick in that area for some 40 or 45 years. There are some in the audience that are 40 years and older that were born within the area. Here is one of the gentlemen.

Judge SETH. State your name to the committee, please.

STATEMENT OF DINMAN LEWIS, OTERO COUNTY, N. MEX.

Mr. DINMAN LEWIS, Otero County, N. Mex. Yes, sir; I was raised right in that country, and I have been there all my life.

Judge SETH. How old are you?

Mr. LEWIS. I am 39 years old. I am the youngest one of the family that moved to that country, and there is quite a family. Each one has been married off and raised a big family of his own.

The CHAIRMAN. What do you know about the general feeling in the territory with reference to this?

Mr. LEWIS. We don't think that they really need it, and we think they need what we produce worse than they need it.

The CHAIRMAN. That isn't the question. The question is, Is it going to interrupt your industry so that the industry may be impaired or destroyed? The question whether they need it is not for your judgment, but for somebody else's. The question of whether they would do irreparable injury to your industry—that is a serious question in which you are really interested now.

Mr. LEWIS. I don't really know where we go to if we should have to move. I don't know whether we could find a place to rent, and I think we would have to stay there to take care of the cattle.

The CHAIRMAN. That is conceded to be impossible if this practice went into effect. Your family and your folks would have to move out of the territory. If you don't have to move the cattle, that would be one thing. They intimate that it would not be necessary to remove the livestock, but that the human beings would have to move out. Now, you have heard Mr. Cox state the conditions, that it is necessary to pump every day and that 2 or 3 days' failure to pump might seriously impair the herd, and you might lose your livestock. Is that true?

Mr. LEWIS. Yes, sir; and another thing is the way gasoline and rubber is, and the wear and tear of our cars; that is quite an objection.

The CHAIRMAN. What I am interested in is this: Somewhere in the correspondence here, or somewhere here this evening, I've heard or

read a statement wherein it was said that 60 percent of all those in the district favored it. Now, if that were true it would be a serious proposition, but if it isn't, that is another thing. Do you know of anyone over there who favors it?

Mr. LEWIS. What do you mean by "favors it"? Favoring us leaving there?

The CHAIRMAN. No; permitting the gunnery practice to go on under a co-use basis.

Mr. LEWIS. Sixty percent of them? I believe Mr. Cox is right, 60 percent of them feels like we should stay there.

Mr. BRYANT. You think you can't operate with the bullets going or overhead?

Mr. LEWIS. That is right.

Senator CHAVEZ. Have you discussed this matter with your neighbors?

Mr. LEWIS. Yes, sir.

Senator CHAVEZ. Not only your neighbors, but your brothers; have you discussed this matter with them?

Mr. LEWIS. Yes, sir.

Senator CHAVEZ. Have you found a single one that was in favor of it?

Mr. LEWIS. No, sir.

The CHAIRMAN. The thought that I have just expressed to Senator Chavez was that on the showing made here it might be of some value if the committee joined in a telegram on the matter. I wanted the showing made so completely and so positively and so unanimously, if that be the truth, that the committee could, with good grace, send a wire right from the ground here, setting out our views as to whether or not the matter is feasible. That was a thought, and no conclusion at all. But we thought perhaps it might be of some value, because by the time this transcript is out and the hearings are considered by the full committee, it is going to be too late. If anything is going to be done it should be done now. The real truth of the matter is that if another event like today—the surrender of Italy—takes place, there won't be any danger; you would not be troubled with any bombing range. [Applause.]

Senator CHAVEZ. Now, Mr. Lewis, let's get down to cases. Would you say that you knew every stockman within the area?

Mr. LEWIS. Yes, sir.

Senator CHAVEZ. How many would you say are affected in the area?

Mr. LEWIS. Every one of us.

Senator CHAVEZ. How many would that be in numbers?

Mr. LEWIS. Well, that is somewhere around 35 families.

Senator CHAVEZ. All right; would you tell this committee that you are acquainted with the average one of those 35 families?

Mr. LEWIS. I am.

Senator CHAVEZ. Would you tell this committee that you have discussed this matter with the average one of those families?

Mr. LEWIS. Yes, sir.

Senator CHAVEZ. Would you tell this committee that a single one of those families is in favor of this matter?

Mr. LEWIS. Not a one.

Senator CHAVEZ. Who else is here from that area?

The CHAIRMAN. Is there anyone else here from that area?

(The following members of the audience stood up, in response to the chairman's request: J. F. Akers, Cienega, N. Mex.; Wilson Bennett, Alamogordo, N. Mex.; Bryrie Duggan, Box 486, El Paso, Tex.; Clement Hendricks, Flying H, N. Mex.; Elmer Hepler, Carlsbad, N. Mex.; Sam Hughes, Carlsbad, N. Mex.; Alton Jones, Alamogordo, N. Mex.; V. M. Lee, Alamogordo, N. Mex.; O. M. Lee, Jr., Alamogordo, N. Mex.; Martin Jones, Cienega, N. Mex.; Martin Lewis, Salt Flat, Tex.; D. F. Lewis, Salt Flat, Tex.; Jack McArron, Cienega, N. Mex.; J. McGregor, El Paso, Tex.; R. H. Thomas, Carlsbad, N. Mex.; J. B. Runyan, Pinon, N. Mex.; John Prather, Alamogordo, N. Mex.; W. T. Wimberley, Alamogordo, N. Mex.; Thos. W. Jones, address not given; and Richard Lewis, address not given.

Senator CHAVEZ. I am going to ask a general question of this group of men. Are you all acquainted with the neighbors in the area in Otero County?

RESPONSE FROM THE FLOOR. Yes.

Senator CHAVEZ. How long has the average one of you lived there?

RESPONSE FROM THE FLOOR. Twenty-five years.

Senator CHAVEZ. And you all have families.

RESPONSE FROM THE FLOOR. Yes.

Senator CHAVEZ. Would you say you have talked with your neighbors about the subject matter?

RESPONSE FROM THE FLOOR. Yes, sir.

Senator CHAVEZ. Now, tell the chairman and the committee here now whether or not your neighbors that you have discussed the question with, are in favor of the proposal.

RESPONSE FROM THE FLOOR. They are not.

The CHAIRMAN. The jury is discharged.

Mr. J. S. McCALL, Carlsbad, N. Mex. Mr. Cox, if you were forced to move out of that area, what disposition would you make of your livestock?

Mr. Cox. I haven't quite come to that solution. I hoped that I would not have to come to that.

Mr. McCALL. Could you rent a pasture?

Mr. Cox. Not at the present date, I could not, because there hasn't been rain anywhere within the adjoining territory within a hundred miles. I don't believe there is a ranch within a hundred-mile radius of the area that any of us could move any appreciable number of livestock to.

Mr. McCALL. If you were forced to sell, it would be the equivalent for a forced sale, would it not?

Mr. Cox. Yes, sir.

The CHAIRMAN. With no market?

Mr. Cox. With no market; right.

Judge SETH. Aren't a good many of the people in that country indebted?

Mr. Cox. I believe not at this time; no, sir.

Judge SETH. But some of them are, are they not?

Mr. Cox. Some are, and some are not.

Judge SETH. Do you believe you could finance with any land agency on that 2-day-a-week proposition?

Mr. Cox. Very positive we could not. One of the things that our loan companies and the banks are very strict about is our operations, our watering, and our general improvements, and our ability to stay on the ranch most of the time.

Judge SETH. And to look after it.

Senator CHAVEZ. I might be able to give you some information on that indebtedness. You can take this for what it is worth. The meeting of the poorest people in Otero County, in El Paso, I noticed there were several bankers from that city deeply interested in it.

Judge SETH. Mr. Cox, is there anything further you want to add?

Mr. Cox. I just wondered if any more of the gentlemen from our area, if the committee would give us a little more time, would any of you gentlemen want to say something of importance that I have left out?

The CHAIRMAN. If there is anyone that takes issue with any of your statements, he may make a statement. Otherwise, we'll consider that they all agreed with your statements.

If it is understood, I don't know any other way to understand it.

Senator CHAVEZ. May I make this suggestion, that every one of the gentlemen who stood up from the area affected, should give their names to the clerk over here for the record, as appearing to substantiate the testimony of Mr. Cox.

The CHAIRMAN. Yes; that is quite important.

Very well, now, again with the thought that delay means a lot to you here, Senator Chavez will formulate a telegram this evening, explaining the position of the committee on this, and as chairman of the committee I will sign that telegram transmit it to the authorities in Washington, with the hope that it may be considered and you might be relieved of further anxiety. [Applause.]

Judge SETH. There is a gentleman here from Harding County, whom I would like to dispose of.

The CHAIRMAN. Very well.

STATEMENT OF M. W. BURKES, MILLS, N. MEX.

Judge SETH. Will you state your name, address, and occupation?

Mr. BURKES. M. W. Burkes. I live in Harding County, and I am stock farming there.

Judge SETH. Are you familiar with what they call the Mills resettlement area under the Soil Conservation Service?

Mr. BURKES. Yes, sir.

Judge SETH. Do you live in the neighborhood of it?

Mr. BURKES. Yes, sir.

Judge SETH. Do you have a permit on it?

Mr. BURKES. Yes, sir.

Judge SETH. Have you owned land outside?

Mr. BURKES. No, sir; not during the time that I have owned land inside.

Judge SETH. You mean you had a permit inside?

Mr. BURKES. That is right.

Judge SETH. What is the condition of that resettlement area as compared with the surrounding land, Mr. Burkes?

Mr. BURKES. In what way do you have in mind?

Judge SETH. Is it better or worse for grazing purposes?

Mr. BURKES. I would say that since the land has been taken over by the Government there has been an improvement, but not to a large extent.

Judge SETH. What is the principal value of it; what is it good for?

Mr. BURKES. Grazing.

Judge SETH. What is the attitude of yourself and other people over there as to what disposition should be made of it, Mr. Burkes?

Mr. BURKES. Some time ago there was a petition circulated among the permittees of this area. There was approximately 30 within the area, and out of the 30 there were 27 signed a petition to sell the land.

Judge SETH. In other words, you believe it should be sold after appraisal of what it is worth?

Mr. BURKES. I believe it should be sold or returned to—if an exchange could be worked out with the State in some manner. My reason for feeling this way is, we have a maximum limit there of 250 animal units. It is the limit, and if we get above that we have to give up our Government land accordingly, and we there in the project feel that we are American citizens. We are buying bonds, and we feel that we should be treated as the folks adjoining.

Judge SETH. And you think you should be able to run as many cattle per section as the people outside?

Mr. BURKES. Well, yes; I do. I feel that way. I feel that the area—however, I don't have too much complaint in that way. If I am right on this, we are running around 12 head now over the project, and I think it would carry 15 to 17 head.

Judge SETH. How much do the people outside run on an average, do you know?

Mr. BURKES. Well, it would be a guess on my part, but I would say around 18 to 20 head.

Judge SETH. That is per section?

Mr. BURKES. Per section; yes, sir.

Judge SETH. That is generally a good grazing country up there, isn't it?

Mr. BURKES. We think so.

Judge SETH. And how many employees does that 70,000 acres have; do you know, Mr. Burkes?

Mr. BURKES. Well, at the present time—well, that is hard to say; but before the war started now, they had two employees that worked there at the resettlement project office all the time. Then their district conservationist spent a part of his time there. But since that time, since the war started, they haven't put in so much time there.

The CHAIRMAN. Are they still there?

Mr. BURKES. No; they are not. They have discharged them.

Judge SETH. How many are there now?

Mr. BURKES. Well, this is operated from Mosquero, and the district conservationist, I believe that is his title, he comes up, I believe, 2 or 3 days a week.

Judge SETH. Is there anything further you want to state with reference to the matter, Mr. Burkes?

The CHAIRMAN. How is the outside range as compared with the range inside? Are you better or worse?

Mr. BURKES. Well, I'd say, Senator, they are not as good, but we are not carrying the stuff. In 1936 to 1937, these carrying capacities were set just after the drought of 1934, and I believe I am correct in this, that those carrying capacities have been raised on an average of around 10 to 12 percent since that time.

The CHAIRMAN. Well, the outside range may not be as good as yours because it's carrying too much. How about that?

Mr. BURKES. Well, of course, that would have something to do with it, sure.

The CHAIRMAN. You don't think you're carrying all that you could carry?

Mr. BURKES. I think we can get the same results that are being gotten off of the range and carry 15 to 20 percent more cattle.

The CHAIRMAN. All right.

Senator CHAVEZ. That is a good cattle country, as a general rule, is it not?

Mr. BURKES. It is.

Senator CHAVEZ. As a matter of fact, it is considered by the agricultural authorities as possibly the best cattle country in the entire State?

Mr. BURKES. Yes sir; northern New Mexico; I think that is right.

Senator CHAVEZ. Commencing from your area, down to the Texas line, down to the Alvariso, is that correct?

Mr. BURKES. Yes, I think that's right.

Judge SETH. We will call Mr. Roy S. Case.

STATEMENT OF ROY S. CASE, MILLS, N. MEX.

Judge SETH. State your name and residence.

Mr. CASE. Roy S. Case, Mills, N. Mex.

Judge SETH. What is your business, Mr. Case?

Mr. CASE. Mostly raising cattle, farming a little.

Judge SETH. Where is your ranch?

Mr. CASE. It is 4 miles west of Mills.

Judge SETH. Have you a permit on the Mills Resettlement place?

Mr. CASE. Yes, sir.

Judge SETH. And you have land outside?

Mr. CASE. I do not now.

Judge SETH. What do you know about the comparison between grazing on the area and outside?

Mr. CASE. Well, I know we are not allowed to run quite as many cattle as they do on the outside.

Judge SETH. And is there a maximum limit in that area?

Mr. CASE. There is.

Judge SETH. What is it?

Mr. CASE. 250.

Judge SETH. What happens if you exceed it?

Mr. CASE. Well, you are not eligible to hold your Government permit.

Judge SETH. Now that 250 is the limit on ownership, rather than grazing on the resettlement area, isn't it?

Mr. CASE. Yes, sir.

Judge SETH. In other words, if you own more than 250 head of cattle, you can't come in?

Mr. CASE. They tell me that I don't need any of it, if I have 250 head of cattle.

Judge SETH. And no matter what you may graze inside the area, if you own more than 250, you can't get a permit?

Mr. CASE. No, sir.

Judge SETH. How does the range inside compare with that outside, Mr. Case?

Mr. CASE. Well, it all looks pretty good right now.

Judge SETH. Both inside and out?

Mr. CASE. Yes, sir. Naturally, we have a lot more grass inside, for the simple reason we don't run the stuff on it that they do on the outside.

Judge SETH. What do you run on the inside on an average?

Mr. CASE. My unit runs around 12 head per section.

Judge SETH. What are they running on the outside?

Mr. CASE. Some of them tell me around from 18 to 20, I know.

Judge SETH. Are they producing cattle in good shape?

Mr. CASE. It just looks to me as good as mine.

Judge SETH. What is your opinion, and the opinion of the people generally, as to the disposition that should be made of this 70,000 acres, Mr. Case?

Mr. CASE. Well, it seems like they—if I understand your question right, they want to get out from under those restrictions. They would do most anything to get loose from those restrictions.

Judge SETH. Do they want the property disposed of by the Government?

Mr. CASE. I think so, the way they talk to me.

Judge SETH. They want to get it back and run it on their own. Is that it?

Mr. CASE. Sure.

Judge SETH. That is all.

Senator CHAVEZ. Have you discussed the matter of a repurchase, by private enterprise or by the State government, with the county officials, with reference to the property being placed back on the tax rolls?

Mr. CASE. Yes; I have.

Senator CHAVEZ. What is the consensus of opinion of the officials with reference to that?

Mr. CASE. They think it should be.

Senator CHAVEZ. Placed back on the tax rolls?

Mr. CASE. Placed back on the tax rolls.

STATEMENT OF T. J. HEIMANN, MOSQUERO, N. MEX.

Judge SETH. Will you please state your name?

Mr. HEIMANN. T. J. Heimann, Mosquero, N. Mex., stockman, farmer, and duly elected representative of the people of Harding and Union Counties.

Judge SETH. Mr. Heimann, have you discussed that Mills resettlement project with the county officers of your county?

Mr. HEIMANN. I have.

Judge SETH. Have you a statement here signed by the three county commissioners and the assessor, with respect to that property?

Mr. HEIMANN. Yes, sir.

Judge SETH. May we offer it into the record?

The CHAIRMAN. What is it?

Judge SETH. They favor that it be put back on the tax rolls, in some way or another. The county desperately is in need of money. The taxes would produce in the neighborhood of \$1,800 to \$2,000 a year for the tax rolls, and the county, as Senator Chavez knows, is on the verge all the time.

The CHAIRMAN. Very well, it may be inserted in the record.

(The document is as follows:)

RESPECTFULLY SUBMITTED TO THE SENATE SUBCOMMITTEE ON PUBLIC LANDS AND SURVEYS, CONDUCTING HEARINGS AT ALBUQUERQUE, N. MEX., SEPTEMBER 7, 8, AND 9, 1943, UNDER AUTHORITY OF SENATE RESOLUTION 241, SEVENTY-SIXTH CONGRESS

In presenting our case in the matter of the Mills land-utilization project let us review a letter from Dr. H. H. Bennett, head of the Soil Conservation Service, to Governor Dempsey and give our answer to several of his statements. (Copy attached.)

He states the area in question was taken up by an influx of homesteaders, which is correct. Homesteaders are composed of a large percent of people who are by nature somewhat of a roaming disposition and usually in any country after a certain period a good portion of them leave for possibly greener pasture, especially if the going gets tough. In this case it was time for this to happen and the adverse conditions gave them the excuse. We think by close study it will be borne out that the same thing happened all over our county and other like counties, whether the Government bought them out or not.

Dr. Bennett makes a comparison of total taxes for our county for 1935 with 1941 and says that with the 66,841 acres bought and taken out that the taxes levied are slightly higher in 1941 than 1935 and that the financial situation was not impaired by the purchase of this land. Before the Government purchased this land there was a slight margin of valuation over what had to be to maintain the county. The financial situation is impaired to this extent, that we now have no margin over what is actually necessary to maintain a county. In fact we are very slightly under the line. It is an uneasy position when there is nothing to take care of the time when conditions are not so good. The present expenses to run the county are now lower than any county perhaps in the State and the mill levy is just as high as it can legally be made and the county is having considerable trouble to meet the rising cost of operation, as a higher levy can't be made. There has been a few thousand other acres purchased by the Government, also, for game uses and this county can't stand any more such purchases and exist as a county.

Dr. Bennett mentions that \$5,700 of delinquent taxes were paid into the county treasury. We can't see where this statement gives the Government credit for anything as the tax delinquent situation existed all over the county and it is almost entirely cleared and the county has its money. The tax delinquent condition was no worse in this area than in any other of the county. Dr. Bennett states that the county will have received \$3,500 from this land for the years 1939 to 1942, inclusive. Figuring the same period this 66,841 acres would have paid the county \$15,786.96, instead of \$3,500, leaving a net gain to the county, \$12,286.96. The average by the year would be \$875 from the Government. The taxes each year from this land in private ownership would have been \$3,599.76 per year, averagely speaking, on land alone. The personal property would have been considerable more, also.

Our observation is that nature has done far more to revegitate and restore this area than any other factor. In other regions of this same country that the Government did not enter at all has been restored just as outstandingly as this one. The people adjust themselves to the changes that have to be made and we think, by the example of surrounding areas that if the Government had not purchased this land that it would be restored approximately as good as it is. The whole

county has recovered and prospered in the same proportion as in this area without the Government purchasing any land.

One other point is the cost of maintaining this project. We would have no way of getting the figures but by seeing the activity and people involved. We venture to say that the cost of maintenance is considerably more than the revenue. It is a heavy drain on the taxpayers of this country that could be eliminated and some recovery made of the original investment.

The people who live and own their own land in this area are very much handicapped as they can't make any expansion of their operations and are in a somewhat uncertain position. Twenty-seven of thirty-one have signed a request to have this land sold to private owners and the same proportion of the balance of the people in the county feel the same way.

In event this land is returned to private ownership, we recommend that the present permittees be given prior rights in the proposed repurchase of their present land permits.

FRANK HEIMANN,
Chairman, County Commissioner.
TELL BRADLEY,
County Commissioner.
ABRAM CASADOS,
County Commissioner.
L. R. CROSTHWAIT,
Assessor.

Senator CHAVEZ. Mr. Heimann, before we leave that, isn't it a fact that there are some bonds outstanding, school bonds outstanding, against this area at the time of the purchase?

Mr. HEIMANN. That is my understanding, that they have never been paid off.

I might also add that they have a wonderful school system, a gymnasium built in the town of Mills, or what there is left of the town of Mills, out of those bonds.

Just a moment, I have here, also, a statement from the Harding County Lions Club. This represents most of the business people of Harding County, scattered throughout the entire county, and, with your permission, I would like to read a few lines, and have it inserted as a matter of record.

ROY, N. MEX., September 2, 1943.

PUBLIC LANDS COMMITTEE OF THE UNITED STATES SENATE IN SPECIAL ASSEMBLY
AT ALBUQUERQUE, SEPTEMBER 7-8-9:

The Harding County Lions Club petitions the Public Lands Committee of the United States Senate to introduce a bill to amend title III of the Bankhead-Jones Farm Tenant Act, providing for sale of lands in the Mills land-use project to private owners.

HARDING COUNTY LIONS CLUB,
RAYMOND L. WESTFALL,
Secretary-Treasurer.

STATEMENT OF ALBERT K. MITCHELL, HARDING COUNTY, N. MEX.

Judge SETH. Will you please state your name?

Mr. MITCHELL. Albert K. Mitchell.

Judge SETH. Where do you live?

Mr. MITCHELL. Harding County.

Judge SETH. Have you been in the cattle business very long?

Mr. MITCHELL. All my life.

Judge SETH. Are you a past president of the livestock association?

Mr. MITCHELL. I am.

Judge SETH. Are you familiar with that Mills resettlement project?

Mr. MITCHELL. Yes.

Judge SETH. Mr. Mitchell, do you know anything about a tract now embraced in the project, known as the McKinley tract?

Mr. MITCHELL. Not the McKinley, the McDaniels tract.

Judge SETH. Tell what you know of the acquisition of that, by the Soil Conservation Service.

Mr. MITCHELL. A number of years ago, at the time they were purchasing the tract now known as the Mills resettlement tract—this, I learned, that this area known as the McDaniels holdings, at that time owned by John McDaniels, was being offered to them for sale. It happens to lie in the corner of our holdings, just outside of our fence, and I could have blocked up our holdings by acquiring title to that area. I am interested, as a taxpayer in our county, in seeing all of this land stay on the tax rolls, and I could have used this land to advantage.

I learned at that time that the land, it was contemplated to purchase by the Resettlement Administration, at a certain price. I wasn't anxious to own it, but I figured I could use it, and probably keep it on the tax rolls. I raised their bid 50 cents an acre, and I was greatly surprised to learn 10 days later that my bid had been rejected because the Resettlement Administration had, in turn, raised my bid 50 cents an acre.

Judge SETH. Did you regard it as submarginal land?

Mr. MITCHELL. No, I regarded it as full grazing land.

Judge SETH. You would have put it to the ordinary grazing use and kept it on the tax rolls?

Mr. MITCHELL. Absolutely.

Judge SETH. Mr. Mitchell, what kind of grazing is there in the country around that resettlement project, generally?

Mr. MITCHELL. Well, that is one of the most productive grazing areas in New Mexico, I think.

Judge SETH. Do you have any idea of the carrying capacity of the outside land, when properly handled?

Mr. MITCHELL. In our pastures adjoining it, we can average around 25 or 30 acres to the head per year.

Judge SETH. That would be 20 or 22 to the section?

Mr. MITCHELL. Twenty or more to the section, depending on the season.

Judge SETH. Would it be to the advantage of that county to get that land back into private ownership and onto the tax rolls?

Mr. MITCHELL. Definitely.

Judge SETH. The county is pretty hard up, isn't it?

Mr. MITCHELL. The county, one of our smallest counties, with a low valuation, is having a great deal of difficulty meeting our county budget, and the taking off of some 66,000 acres almost ruined our county.

Judge SETH. That is all.

The CHAIRMAN. All right.

This land is all under the administration of the Soil Conservation Service?

Judge SETH. Yes, sir.

STATEMENT OF ED HERINGA, CLAYTON, N. MEX.

Judge SETH. Please state your name.

Mr. HERINGA. My name is Ed Heringa. I live at Clayton, N. Mex., and I am a native citizen of New Mexico, and I have lived here all my life.

Senator CHAVEZ. Were you born around Gladstone?

Mr. HERINGA. Maxwell.

Judge SETH. Are you president of the Union County Livestock Association?

Mr. HERINGA. Yes, sir.

Judge SETH. Are you familiar with that resettlement project in Union County, over on the Texas line, south of Clayton?

Mr. HERINGA. Just in that I have been through there a good many times and have known the country, you might say, all my life.

Judge SETH. Have you a statement prepared by some of the board of county commissioners with respect to the disposition of that Union County resettlement area?

Mr. HERINGA. Yes, sir.

Judge SMITH. Is this the statement that I hand to you?

Mr. HERINGA. Yes, sir; that is the original copy.

Judge SETH. What do they favor as to the disposition of that?

Mr. HERINGA. Well, most of the people in the county want this land returned to the tax rolls.

Judge SETH. And they are not asking that it be donated to anyone, are they?

Mr. HERINGA. No, sir; they are asking that they be able to repurchase it from the Resettlement Administration.

Judge SETH. At appraisal prices?

Mr. HERINGA. Yes, sir.

Judge SETH. And they are willing to pay the appraised value?

Mr. HERINGA. Yes, sir.

Judge SETH. In your opinion, should they be gotten back onto the tax rolls?

Mr. HERINGA. Definitely.

Judge SETH. That is the substance of the statement, isn't it?

Mr. HERINGA. Yes.

Judge SETH. I would like to offer that for the record.

The CHAIRMAN. Very well, insert it.

(The document is as follows:)

At a public meeting held in the Union County courthouse on August 28, 1943, it was decided to appoint a committee of three members for the purpose of presenting data to the public lands hearing to be held in Albuquerque on September 7, 8, and 9. A committee composed of Ed Heringa, president of the Union County Land & Livestock Association; G. J. Dallas, a farmer and rancher of Clayton; and Ted Harris, a farmer and rancher of Seneca, N. Mex., was appointed by Mr. Dick Wright, of the Union City Board of Commissioners. This committee has formed the following report and respectfully submits it to the Senate public lands hearing.

Following the severe drought period of several years, the land in question was set aside as submarginal land and was bought by the Bureau of Agricultural Economics and since then has been turned over to the Soil Conservation Service for administration. Up to the present date, 56,464 acres have been bought by the Government and taken off the tax rolls. Several thousand acres more have been or still are under option, but we understand that these lands will not be

bought. The drought period and the economic depression combined to cause many of the land owners to move out because of their inability to make a living on the small tracts of land in their possession. According to the records in the treasurer's office of Union County, there were 538 landowners on the tax rolls in 1937 and the 1942 roll shows a total of 318, a loss of 220 families in the area in question. We agree that there were too many small landholders at this time and do not recommend that this condition be brought back. However, had it not been for the extreme drought period during the years 1933-36, many of these people could have stayed on the lands and the communities would not have disappeared entirely.

The average rainfall for Union County since 1891 is 15.99 and during the drought period of 4 years the average rainfall was 8.19, or about one-half of the average. The Dust Bowl as it was called at this time and later years was created by wind erosion on these abandoned farms.

Since its acquisition by the Bureau of Agricultural Economics and its administration by the Soil Conservation Service, these lands have been reclaimed to a large extent. Old abandoned improvements have been removed, fences taken up and moved to the boundaries of the various community pastures. Many old fields have been reseeded and the wind erosion hazard has been almost eliminated. Much credit is due the Soil Conservation Service for its work and we wish to commend them for their efforts. At present there are 67 permittees on these Government lands; that is, 67 people have grazing permits, and we understand these permits are all held by persons owning or holding under lease adjoining lands with their improvements. The grazing allowance at present is very low but the Soil Conservation Service district engineer assures us that as the land is further reclaimed the revenue to the county will be increased. A large percentage of the permittees are very well pleased with the administration of the district, yet many of them want a chance to buy a part of the Bureau of Agricultural Economics lands adjacent to them.

The revenue to Union County from the Soil Conservation Service for 1942 was \$484.59. At the present rate of valuation of lands in our county the 56,464 acres of land if they were on the tax roll would add \$1,518.59 to our revenue. The increased personal-property taxes would add considerably more to the above figure, if these lands were back in private ownership. Aside from the tax-revenue increase to our county, the elimination of the Federal expense on the land in question would save thousands of dollars of public money each year. If the land can be returned to private ownership and sold in units large enough for an individual to make a good living on by stock farming, possibly 30 to 40 families can be supported on the land involved.

We strongly condemn any further purchase of private lands by the Federal Government and respectfully urge that the lands taken over by the Government be returned to private ownership as speedily as possible.

We wish to submit a five-point program in regard to the repurchase of this particular area, and further request that these suggestions be admitted to the record of this hearing:

1. Lands involved to be appraised by the local representatives of the Soil Conservation Service and also to be apportioned or allocated to persons now having permits to graze on the area, if they desire to buy any of the land.

Justification.—We feel that these men know the lands better than any committee or other group that could be appointed. They also know the permittees and their problems, and as they would have no personal interest could administer the sales more fairly. We also respectfully request that an effort be made to sell the land without an auction sale to the highest bidder.

2. Permittees to be given preference right to buy lands adjacent to their holdings.

Justification.—The men holding permits are mostly citizens of the better class who have stayed with the county through bad times as well as good, and we feel they should have a first chance to buy lands they are interested in.

3. No one owner to be allowed to buy more than enough of the Bureau of Agricultural Economics lands to complete a four-section unit for himself.

Justification.—It is feared that unless this restriction is put on that some large operator will buy all or half of the acreage involved and cause some of the present permittees to lose their chance for a self-sustaining home place.

4. A restriction be put in the deed at the time of sale that no operator may plow up or farm more than 20 acres of any section of land bought from the Bureau of Agricultural Economics.

Justification.—A large part of this land is reclaimed farm land and to allow it to be farmed again would only increase the wind erosion hazard in the future when we have dry years. As it is proposed that this be strictly a stock-farming unit 20 acres per section or 80 acres on the four-section unit, would provide sufficient feed crop.

5. Land to be sold on a basis of 25 percent paid down at time of sale and a long-term loan be made on the balance.

We the committee, from Union County, N. Mex., strongly urge that our pleas be heard and respectfully submit the above paper as being the will of the majority of the citizens of Union County.

Judge SETH. Is there any other statement you want to make?

Mr. HERINGA. No; I don't think so. Most of the people think that the Soil Conservation Service has done a good job of administering the land. There is a good deal of it was oil fields, badly wind eroded, and they have brought it back to fairly good grassland.

Judge SETH. But they think the time is over for the Government to continue to hold it?

Mr. HERINGA. Yes, sir; the men that have the permits on the places want the land returned to private ownership.

Senator CHAVEZ. I am talking about the Union County project, along the Texas line, with reference to the town of Amistad.

Mr. HERINGA. North of Amistad?

Senator CHAVEZ. Between Amistad and Clayton.

Mr. HERINGA. Yes, sir; and east of it, against the line.

The CHAIRMAN. When was that acquired; that land?

Mr. HERINGA. In 1937, I believe, since that time.

Senator CHAVEZ. During the Dust Bowl period?

Mr. HERINGA. Immediately following the Dust Bowl period; yes, sir. That is what caused it to be so much wind eroded there, that Dust Bowl drought period from 1923 to 1937.

Senator CHAVEZ. It is by nature grazing land, instead of farming land?

Mr. HERINGA. It should have been; yes, sir. But a lot was plowed up prior to the time, 1934.

Senator CHAVEZ. And then the wind came and blew the topsoil out?

Mr. HERINGA. When the people left and the wind came it all blew away.

The CHAIRMAN. Is it going back to sod now?

Mr. HERINGA. No, sir; returned to weeds. The grass will come later. We figure it will take approximately 20 years for it to get back to sod.

The CHAIRMAN. All right.

STATEMENT OF JOHN DAVENPORT, ESPANOLA, N. MEX.

Judge SETH. Will you please state your name and address, and your business?

Mr. DAVENPORT. John Davenport, Rio Arriba County, N. Mex. I live at Espanola, and I'm in the livestock business.

Judge SETH. Are you a partner in Frank Bond & Son, Ltd.?

Mr. DAVENPORT. Yes, sir.

Judge SETH. How long have you been in the cattle business?

Mr. DAVENPORT. Sheep and cattle for 30 years.

Judge SETH. You live in Rio Arriba County?

Mr. DAVENPORT. Yes, sir.

Judge SETH. Have you worked up a statement of the land in Rio Arriba County, as to whether it is Government owned, State owned, and what is subject to taxation?

Mr. DAVENPORT. Yes, sir.

Judge SETH. Is that substantially correct, to your knowledge?

Mr. DAVENPORT. That's right.

Judge SETH. Will you please state the total area of the county?

Mr. DAVENPORT. The total area is 3,769,856.89 acres.

Judge SETH. How much is federally controlled?

Mr. DAVENPORT. Federally owned land, the total is 2,620,367.04 acres.

Judge SETH. Now, of the total you have just given, state how it is divided among the various governmental agencies.

Mr. DAVENPORT. The Forest Service, 1,190,709.29 acres. The Grazing Service, 552,113.02 acres. Farm Security Administration, 230,813.83 acres. Other Federal lands, 4,498.42 acres. Indian Service, 642,232.49 acres.

Judge SETH. How much State land is there in the county?

Mr. DAVENPORT. 83,329.45 acres.

Judge SETH. How much does that leave in private ownership?

Mr. DAVENPORT. 1,066,160.40 acres.

Judge SETH. What percent of the total private ownership is subject to taxation?

Mr. DAVENPORT. Twenty-eight and one-fourth percent, practically.

Judge SETH. May we offer this for the record?

The CHAIRMAN. Yes.

(The tabulation is as follows:)

Rio Arriba County, N. Mex.

Divided as follows:

	<i>Acres</i>
Forest Service-----	1, 190,709.29
Grazing Service-----	552, 113.02
Farm Security Administration-----	230, 813.83
Other Federal lands-----	4, 498.42
Indian Service-----	642, 232.49
<hr/>	
Total Federal-owned lands (all of which are nontaxable)---	2, 620, 367.04
State-owned lands-----	83, 329.45
Private holdings-----	1, 066, 160.40
<hr/>	
Total number of acres in county-----	3, 769, 856.89

0.2828 percent privately owned taxable property in Rio Arriba County.

0.7172 percent Federal- and State-owned lands in Rio Arriba County which are nontaxable.

The CHAIRMAN. What industries do you have up there?

Mr. DAVENPORT. Livestock, principally. There is some farming, and some timber operations.

Judge SETH. The farming is confined, to a great extent, to the valleys around the Rio Grande and its tributaries?

Mr. DAVENPORT. It is.

The CHAIRMAN. What do you raise, what crops?

Mr. DAVENPORT. Small acreages, mostly chile, truck, some beans.

Senator CHAVEZ. It's generally subsistence?

Mr. DAVENPORT. Generally subsistence farms.

Judge SETH. Would you say those irrigated tracts are cultivated, along the streams; would they average more than 10 acres to the family?

Mr. DAVENPORT. No; lots of them run down to 1, 2, and 3 acres.

Senator CHAVEZ. I think we can get some information from Mr. Adams, with reference to the average holdings. Is Mr. Adams here? Mr. Adams, we want to get a statement of the average family holding, for the irrigated land in upper Rio Grande.

Mr. ADAMS. A little less than 7 acres per family unit.

Senator CHAVEZ. Thank you.

Judge SETH. You have been in the sheep and cattle business for how long?

Mr. DAVENPORT. Thirty years.

Judge SETH. Are you familiar with the Espiritu Santo grant?

Mr. DAVENPORT. Very familiar with it.

Judge SETH. Have you had grazing lands, or do you still have grazing lands, close to it?

Mr. DAVENPORT. We adjoin it, on the south and on the east.

Judge SETH. Did you formerly adjoin it on the west?

Mr. DAVENPORT. Yes, sir.

Judge SETH. How does the Espiritu Santo compare, generally, with the surrounding country that you have had, as to the carrying capacity?

Mr. DAVENPORT. There could be very little difference.

Judge SETH. And what is the carrying capacity on the outside, and on the Espiritu Santo, in your opinion?

Mr. DAVENPORT. On the south of the Espiritu Santo, we have had the range for some 15 years on which we figured 15 head per section.

The CHAIRMAN. Fifteen head of cattle?

Mr. DAVENPORT. Fifteen head of cattle per year, per section, and on the east we have the San Ysidro, which we leased for a good many years, summer range. On that we figure 30 head per section, for the summer seasons.

Judge SETH. Is there any substantial difference between those grants and the Espiritu Santo?

Mr. DAVENPORT. The San Diego grant is similar to the eastern edge of the Espiritu Santo grant, which is much higher than the rest of that grant.

Judge SETH. But your land to the south——

Mr. DAVENPORT. It compares with it. We also control the land west of the Puerco.

Judge SETH. West of the Espiritu Santo, in that strip around Cabezon and the Ignacio Chavez, did you formerly have interests in there?

Mr. DAVENPORT. We controlled that for a good many years, and ran 15,000 to 18,000 sheep in there.

Judge SETH. How did you control it?

Mr. DAVENPORT. Through leases, with the railroad lands and the State lands.

Judge SETH. That is, Frank Bond & Son have the railroad land leased?

Mr. DAVENPORT. Yes, sir.

Judge SETH. Did you give it up?

Mr. DAVENPORT. Yes, sir.

Judge SETH. How did you happen to give it up, Mr. Davenport?

Mr. DAVENPORT. Well, the Soil Conservation Service informed us that if we didn't get out of that area they would force us out.

Judge SETH. How were they going to force you out?

Mr. DAVENPORT. They were going to establish grazing district No. 9, the sister or brother to No. 7.

Judge SETH. You were already familiar with No. 7; were you?

Mr. DAVENPORT. Yes.

Judge SETH. Who told you that?

Mr. DAVENPORT. Mr. Calkins, who was head of the Service at that time. Vance Rogers was there.

Judge SETH. What did you do, surrender your lands?

Mr. DAVENPORT. When they told us that we thought we were out of America; so we let them have it.

Judge SETH. You were in there longer than any other interest in there?

Mr. DAVENPORT. We have this interest, that the proposed regulations of district 8 were to the effect that no one person in there could own more than 500 head of sheep. We had the sheep rented out to shareholders. We sold the sheep to these sharemen; it will be 5 years this fall, on a 5-year contract. They have made this contract, and this year they will own those sheep, in bands of 500 head. The only interest that we have had was in seeing those men that lived there used that range all the while and will continue to use it.

Judge SETH. Were these men that used the range under agreement with Frank Bond & Son, that you sold the sheep to, the men that were handling your sheep before you moved out?

Mr. DAVENPORT. They were partido shareholders.

Judge SETH. You turned the sheep over to them?

Senator CHAVEZ. I am sure Senator McCarran, who was an outstanding lawyer long before he went to make the laws of the country, would be interested in the judicial explanation of a partido contract, as we know it in New Mexico.

Mr. DAVENPORT. Our partido contracts are like this: We rent a man a thousand head of sheep of a certain age for a period of 1 year and as long thereafter as both parties are willing. He pays us rent on that thousand head of sheep, 200 lambs every year, guaranteeing an average of 55 pounds or better. At the expiration of that contract, whether by the wish of the partido contractor or our wish, he returns to us the identical number of sheep of the same age. He has the rest of the lambs and the wool.

The CHAIRMAN. He gets all the wool?

Mr. DAVENPORT. He gets all the wool and the rest of the lambs.

The CHAIRMAN. How many out of a thousand?

Mr. DAVENPORT. Two hundred.

The CHAIRMAN. Fifty-five pounds, live weight?

Mr. DAVENPORT. Fifty-five pounds or better.

Senator CHAVEZ. What is the average lambing in the area, such as you have described, under the partido contract?

Mr. DAVENPORT. Well, our men average 80 to 85 percent.

Senator CHAVEZ. So he lambs 850 head of sheep, or 800, and gives you 200 as rental?

Mr. DAVENPORT. Yes, sir.

Senator CHAVEZ. And he keeps 600?

Mr. DAVENPORT. Yes, sir.

Senator CHAVEZ. Plus the wool?

Mr. DAVENPORT. Yes, sir; and when he needs cake he gets it on that day, and he doesn't have to ask any Government agency for it.

The CHAIRMAN. In other words, you see that he has what he needs.

Mr. DAVENPORT. We see that he is protected for range and what supplemental feed he needs, and anything he needs to take care of that bunch of sheep.

The CHAIRMAN. He carries an account with you for those things?

Mr. DAVENPORT. Yes; on which we charge him 8 percent interest.

The CHAIRMAN. How about his herders' pay; do they have herders or do they herd themselves?

Mr. DAVENPORT. They do the herding themselves. They pay herders on the first of the month, the renter renders me a statement of what he owes his herders, and I make a check out direct to the herder for his account.

The CHAIRMAN. Then after that he gives you the 200, and he settles with you, from what he has left, for his running account for 6 months or a year. Is that right?

Mr. DAVENPORT. That is right.

The CHAIRMAN. At the end of the year you have a settlement?

Mr. DAVENPORT. That's right.

The CHAIRMAN. At the end of the period you take back a thousand sheep of the same age and same grade that you gave him in the first instance?

Mr. DAVENPORT. Yes, sir.

The CHAIRMAN. And then he has the balance?

Mr. DAVENPORT. That's right.

Judge SETH. That has been a long-time custom of handling sheep in New Mexico, hasn't it?

Mr. DAVENPORT. That's right.

The CHAIRMAN. Of course he has to bear the expense of his fees and license charges for the range that he uses, and the like?

Mr. DAVENPORT. The only thing we do is pay the taxes.

The CHAIRMAN. You pay the taxes?

Mr. DAVENPORT. Yes, sir.

The CHAIRMAN. On the sheep, you pay the taxes on the whole?

Mr. DAVENPORT. The title is in our name, and we pay the taxes on whatever he has.

Senator CHAVEZ. Do you charge the taxes to him afterward?

Mr. DAVENPORT. No, sir.

Judge SETH. You handle his lambs and the wool that he sells?

Mr. DAVENPORT. Yes, sir.

The CHAIRMAN. Is that a part of your contract, that you shall?

Mr. DAVENPORT. No; if somebody else pays more money, he can sell to them. That's his privilege.

Senator CHAVEZ. He generally gets the market price for his wool and his lambs?

Mr. DAVENPORT. That's right.

The CHAIRMAN. All right. Thank you, Mr. Davenport.

Judge SETH. Is there anything further, Mr. Davenport?

Mr. DAVENPORT. Well, we have kind of gotten away from the comparison of carrying capacity. I am also a member of the grazing board of San Ysidro district No. 1, and I have been, since it started. The Soil Conservation Service made the statement here, today or yesterday, that the Grazing Service lands had been handled very well. I hope you remember that statement. Now, on this Espiritu

Santo grant, for the last—ever since the grazing district was established, we have handled the lands west of the Rio Puerco, and the Soil Conservation Service has handled the lands on the Espiritu Santo, and there is just the Rio Puerco between ours, which has an established carrying capacity for those lands of 10 head per section. It is taken up, along the Puerco, with free use permittees; but why is it, if our lands in the Grazing Service have been handled successfully, and we have handled 10 head per section, why can't they carry more than 5 head per section on the Espiritu Santo grant? That is something to think about.

The CHAIRMAN. Were your lands in that grant?

Mr. DAVENPORT. No; the Grazing Service lands are west of the grant, with the Rio Puerco between them.

The CHAIRMAN. The nature of the territory is about the same.

Mr. DAVENPORT. Exactly the same. It has been grazed all the same these years.

The CHAIRMAN. You run your stock in the grazing district?

Mr. DAVENPORT. Not Frank Bond & Son stock; the stock of the people that live up and down the Rio Puerco. I am speaking now as a member of the grazing board of the San Ysidro grazing district. The range is identical; the river separates them. We have been able to care of 10 head per section on the Grazing Service lands—the grazing board has. The Soil Conservation Service has been able to take care of 5 head per section, and I just don't know the answer.

Judge SETH. Are you familiar with the Ignacio Chavez grant?

Mr. DAVENPORT. Yes, sir.

Judge SETH. Is that about like the other?

Mr. DAVENPORT. Parts of it are better. It is a higher country, and the upper mesas are better, though not as well watered. But it is practically the same type of range.

Judge SETH. And should perhaps have a little more carrying capacity?

Mr. DAVENPORT. It has more carrying capacity on the high mesa country, as proven by Forest Service statements and Mr. Leech's statement that it carries 15 or 18 head per section.

The CHAIRMAN. All right.

STATEMENT OF CLAUDE E. WOOD, STATE LAND OFFICE, ALBUQUERQUE, N. MEX.

Mr. WOOD. My name is Claude E. Wood, and I am head of the grazing department of the State land office.

Before I make any statement, Mr. Chairman, I would like to add to your files by presenting your committee with the report of the operations of the State land office for the last 30 years. These volumes need not be made a part of the record, but merely placed in the files.

The CHAIRMAN. Very well.

(The volumes referred to were placed on file with the investigator of the committee.)

Mr. WOOD. As you all probably know, back before statehood, under the Ferguson Act, and then by our enabling act, the State of New Mexico was granted some 12,700,000 acres of lands from the public domain, which were held in trust by the State of New Mexico and are administered by the duly elected commissioner of public lands.

The CHAIRMAN. Now, right there, how were those grants made? What are the terms of the grants? They were sections 2 and 32, and 16 and 36; is that right?

Mr. WOOD. Sections 2, 16, 32, and 36 were granted to the State for the benefit of the common schools. Then there were various grants to the educational, penal, reformatory institutions of the State in various amounts, bringing the total up to the 12,700,000 acres. These lands were not in place, but were selected by the State land commissioner, the Governor and attorney general, which composed the State land board.

The CHAIRMAN. Were those lands selected by the board that you have mentioned at the behest or request of any individual, or merely as a selection for the State?

Mr. WOOD. Those selections were made at the request of the ranchers of the State.

The CHAIRMAN. And what were the terms on which the lands were sold to the individuals?

Mr. WOOD. Well, there has been very little of the lands sold, but those sales were made, contracts set up of various forms of contracts which were prescribed by law. One contract provided an amortization plan which paid the land out in 30 years. Another plan was to sell the land with a payment of 5 percent down, the first year's interest in advance, and the interest payable in advance each year thereafter for a period of 30 years, at which time the balance of principal would be due. Then we had what was called—

Judge SETH. Wait a minute, Mr. Wood, the enabling act set certain minimum prices, did it not?

Mr. WOOD. Yes; the enabling act set certain minimum prices for the lease and sale of those lands. All lands east of the range line, between townships 18 and 19 east, could not be sold for less than \$3 per acre. Any lands west of that line could not be sold for less than 50 cents per acre. The minimum least rental rate was fixed at 3 cents per acre for grazing lands, and, I believe, 10 cents an acre for agricultural lands. Under the enabling act, we in the land office considered that rents that are administered by the State are safeguarded in about every possible way possible that they can be safeguarded. The act is a model act, and is very plain. Most 10- or 12-year-old boys can understand the language of that act.

A few words in regard to the administration of the land by the land office in recent years. I want to say that during the last 3 years there has been only one contest of State lands in the State of New Mexico—and we still have under grazing leases some eleven and one-half million acres of State lands—and this contest was settled between the parties contesting before the commissioner had an opportunity to hand down a decision after the hearing. The records of the State land office, both as to pay rolls and any other expenses in connection with the land office, the recording of any of the operations of the land office, all leases, assignment contracts of every nature, copies of the United States public surveys, are available for the public at all times.

Policies of the land office are usually formed by the land commissioner, working with those that use the lands. We have at the present time an unofficial advisory committee, that is, one that is not prescribed by law, made up by some 25 or 30 ranchers, scattered

all over the State, shēepmen, cattlemen, big ranchers, small ranchers, Anglos, Spanish-American, and we call those men to advise with us when we have some legislation to consider, or some new rules that we want to put into effect, and see how they or the industry is going to be affected. I think, during, or just prior to, most sessions of our legislature, that committee, or a part of it at least, from one time to another, has met with us and we have discussed legislation that would be of benefit to the livestock industry and the people of the State as a whole.

One more thing, I mentioned contests awhile ago, and the land commissioner, when the land commissioner decides a contest and the contesting parties don't think they have justice, they have a right to appeal to the courts. They can appeal to the district court in the district in which the land is involved, and they can appeal from that to the supreme court of the State.

Senator CHAVEZ. Statutory authority?

Mr. WOOD. Yes, sir.

Judge SEITH. I might state there, on that appeal, it is a trial de novo, not like the N. L. R. B.; the court hears the case de novo on appeal.

Mr. WOOD. I would like to say further, that in years past, going back into some of the cases that have been tried before the land commissioner, and appealed, sometimes those cases are reversed, too. The commissioner is not considered always right.

In connection with the income and the cost of operation of the State land office, I'd like to say at this time that we have approximately \$20,000,000, so to speak, in the bank, in the permanent funds which are invested only in securities authorized by the State legislature, and then only after approval of the State board of finance. The Treasury cannot invest in any security of any kind without the approval of the State board of finance.

I would like to point out further, there has been so much discussion here about the different agencies, and the administration of lands, where there is so much overlapping of authority, or lack of authority in one agency or the other, so many of them don't know which one is responsible for the administration of the lands; I would like to point to one case, which the State eventually became involved in, leading up to something here that the grazing boys, Mr. Painter, around here will probably rib me a little about. Up here in Colfax County, I believe, there is the Carey Act lands, administered, a good many years ago, by the Carey Land Board, which ceased to function. For many years the land lay there, and was used or misused, I might say, by everyone that could get into the argument as to who had preference rights, and the State derived no revenue. It was not on the tax rolls. By act of Congress, I believe, in 1939 or 1940, I am not sure of the date, that land was granted to the State of New Mexico. We went on the ground, field men of the State land office and myself, and stayed 4 days. We talked to each of the ranchers involved, decided what they should have to lease, issued the leases, and we haven't heard from them since. They were apparently well satisfied with the way we adjudicated the rights, and I think that is true in the handling of all the other leased lands of the State land office.

Senator CHAVEZ. You get a check once a year?

Mr. Wood. Once a year, and we only have to send them a notice. We never have to write them the second time. I just had a telephone girl from the office, and she said they would be 2 days entering one morning's checks. We keep a record on the checks when they come in. That is the way they pay off, when the 1st of September comes.

We have heard some discussion of the soil-conservation lands, particularly the Mills area, tonight. There have been, from time to time, over the last 2 or 3 years, people that come to us from the State land office, and want to know why the State did not acquire some land, and handle it in the same manner that we handle the Carey Act land. We have told them that the land office was agreeable, but that it would take an act of Congress, probably. We took the matter up with Senator Hatch, Senator Chavez, and Mr. Anderson, and discussed the matter with them. We took the matter up with the Soil Conservation Service, and the reply we got would put so many restrictions on the State that we might just as well not own the land. So we concluded, before anything could be done, the State acquiring any such tract as that, it would be necessary for Congress to take such action. That is why I bring it up. If it isn't gotten back into the hands of private individuals and put on the tax rolls, that tract of land should be turned over to the State to administer so we could derive some use of the school sections within it. One question that might be brought up, in connection with the State handling such a tract, is that while they stated it had been badly overgrazed, and they rode it, and so forth, the field men of our Department and myself report, in traveling over the State and making an examination of State lands, find that, as a general rule, the State lands are cared for a little better than most any class of lands that you have.

The reason for that is, when a stockman gets hold of a State lease he knows he has got it. We are not going to take it away from him when the 1st of October comes. He has some security and some stability, and the right set-up when he holds State lands. Many of the ranchers of the State, I believe, would just as soon have State land as privately owned land, or, at least, they have expressed that opinion to us.

The question of State exchanges was brought up this morning or this afternoon, and especially in regard to the areas around those certain grants, the Rio Puerto area, which were mentioned. The State would be happy to make exchanges that would help relieve the situation, and we would be happy to make exchanges that would correct land patterns that need correcting. But, when you go to making those exchanges, let's remember that the lands located outside of those grants, in the Taylor grazing district, have already been allotted, and if the State selected those lands, under our present policy, we would have to lease them to the man holding the Taylor grazing allotment. That is the policy of the land office. If we didn't do that, we would be working in the opposite direction from the Federal Government in administering the public domain, and there would be no end to the confusion and argument between the two departments.

I'd like to say, in closing, that we find the Taylor Grazing Service very cooperative with our office. I have traveled with their men all over the State, and I think they are doing a splendid job. We find the Forest Service to be very cooperative with us.

As to the Indian Service, I can't say as much. We have tried to make one or two exchanges in that area, and the only exchange we got through, so far, is an exchange that they requested, and finally met with our approval, after some adjustment. I can't see, for the life of me, why, when the State wishes to make exchanges that would block up and consolidate our lands, when the administration of Federal lands—our lands are located in the Taylor grazing district, both our base lands and selected lands; I can't see why the Indian Service would have any say as to whether or not our selection was allowed. That case has come up, and we appealed that to the Secretary of the Interior, and will probably have a hearing and have the thing settled at some time. But that question has been in my mind, and that is something I can't understand. Why should one agency go over into the land administered by another agency and block the selection or exchange that would correct our land patterns and remedy the general situation as a whole?

The CHAIRMAN. Mr. Wood, Congressman Anderson wishes to ask a question.

Congressman ANDERSON. With reference to the Mills area, you speak about the regulations that the Soil Conservation laid down. The mills area, however, was very badly eroded, and badly going to pieces, was it not?

Mr. WOOD. That is right. That was my understanding.

Congressman ANDERSON. Did you see it at all in 1934 or 1935?

Mr. WOOD. Not in 1934 or 1935. The first time I was in the area was in 1937.

Congressman ANDERSON. Has it not improved between 1937 and the present date?

Mr. WOOD. I went over it a month ago and it has improved considerably.

Congressman ANDERSON. Then there are benefits in the restrictions?

Mr. WOOD. Oh, yes; benefits in the restrictions. I am of the opinion, though I think the Soil Conservation Service has done a good job in that respect, in bringing the land back, but I think their job has been completed, and is well on the road to recovery; and if it was turned over to the State to administer, that you would see the land continue to improve.

Congressman ANDERSON. What I am trying to find out is, if it were to be brought back to private ownership or State ownership, would you, or would you not, be in favor, of continuing the policy which would restore the land to productive use?

Mr. WOOD. Yes, sir. Our policy is this, we don't, when we know about it, and when it is called to our attention, approve of anyone misusing our lands, and will take the matter up with our lessee immediately, when it is called to our attention. Of course, we only have about 35 employees administering some 12½ million acres of land. We could administer a good deal more with that 35 employees.

Congressman ANDERSON. I am quite sure that would be the policy, and would be, in case you took it back; but I do believe that land was in very bad shape. I saw some of it in 1934, and the change between 1934 and 1943 is remarkable.

Mr. WOOD. I noticed a great change since 1937, myself.

Mr. LEE. Mr. Chairman, can I ask him a question? Did not the State land office receive a letter from the Office of Indian Affairs

protesting to all leases, to estopment, in the northern part of the State?

Mr. WOOD. We received a letter from Dr. Aberle, I believe, of the United Pueblo, stating they wished to protest the renewal of all grazing leases in certain townships and areas.

The CHAIRMAN. Do you mean leases of the State lands?

Mr. WOOD. Leases of the State lands. I replied to her that I would not consider any protest of the leases of those ranches in that area as being very friendly. I haven't heard anything further from it.

Senator CHAVEZ. What degree of confidence do you have for the results on your appeal, on the case that you have appealed to the Secretary of the Interior?

Mr. WOOD. We feel that the Secretary will give us a fair trial.

Senator CHAVEZ. I want to congratulate you.

Mr. WOOD. I would like to say, further, that I have confidence in our officials in Washington. I believe that they will not knowingly do the wrong thing, when the things are brought to their attention in the proper manner. I think sometimes, some of us fall down on the job, a little bit, and we fail to get up and express ourselves, and expend a little bit of time and energy in bringing some of these things to the attention of such hearings as this, which will bring it to their attention.

Senator CHAVEZ. I have the confidence; but as I suggested to Mrs. Henderson last night to appeal—

Mr. WOOD. Well, that is what we are doing. I would like to say that the Commissioner of the State land office requested me to make this statement.

The CHAIRMAN. I want to say that the winning ways of the Senator from New Mexico could do more than I could in 2 hours.

Mr. WOOD. Commissioner Rogers asked me to make the statement, and to inform this committee that our office is opposed to any further withdrawals of land from the public domain for national parks, Indian reservations, or any other kind of reservations in this State, without an act of Congress.

Senator CHAVEZ. I think that is supposed to be the law.

Mr. WOOD. It's supposed to be the law, but it isn't the law. It isn't carried out, rather. We have a recent notice from the Park Service, to a man in our office, stating that they need several more townships of land for the Carlsbad Caverns National Park. Now, that is all good grazing land, there, and it is only a little hole in the ground, and they have about a township or two already. We have a great deal of State lands in that area. And we have a request, from west of Gallup, that the Manuelita Park be set aside for a park area, a township or more of lands there, of which we have State land. They have asked us to exchange our lands in the White Sands area. We would be glad to exchange our lands; but we think there are mineral possibilities there, possibly oil, and they won't approve an exchange unless we relinquish our rights to the minerals.

Congressman ANDERSON. What do they want the land at Carlsbad for?

Mr. WOOD. I don't know—

Congressman ANDERSON. More than the undersurface rights?

Mr. WOOD. They wanted the surface rights.

Congressman ANDERSON. For a cave?

Mr. WOOD. Well, the cave doesn't cover only a very small area, as you know. These national parks, Mr. Anderson, a lot of times, use all this extra area to protect the game, and the squirrels, and the chipmunks, and stuff like that. There is a great penalty, you know, for killing a field mouse on a national park.

Congressman ANDERSON. I'm wondering if any explanation was given to you as to the exact purpose?

Mr. WOOD. No; other than they wanted to extend the boundaries of the park.

Congressman ANDERSON. Where are the officials of the Park Service?

Mr. WOOD. At Santa Fe.

Senator CHAVEZ. Well, they better do it by Executive order.

Mr. WOOD. We told them we wouldn't go along with them on their proposition; would not agree to make an exchange on a proposition of that kind.

Secretary CHAPMAN. Did I understand whether these were leases or permits?

Mr. WOOD. We issued some 5-year leases, in some cases. We do not issue annual permits.

Secretary CHAPMAN. That 11,000,000 acres that is mostly school lands, or part of that; how is that divided?

Mr. WOOD. That is—I forget just the figures on that. May I refer to one of these booklets here just a minute?

Mr. LEE. I think it would be well to tell the Secretary that those leases are transferable, and we can use them as collateral in the financing of our ranches, and we can also use them as commensurate base, under the Taylor Grazing Act.

Mr. WOOD. Well—

Mr. LEE. The most stable grazing in the State is on our State lands.

Mr. WOOD. 8,783,000 acres, common schools; 310,000, university; 249,000, agricultural college; 266,000, normal schools; 199,000, School of Mines; 148,000, Military Institute; 50,000, reform school; 50,000, blind asylum; 50,000, deaf and dumb, and there was a second grant for the deaf and dumb and blind of 99,000. That was 100,000, but it has only been 99,000 under the corrected grant. The water reservoir, 500,000; insane asylum, 150,000; improvements to the Rio Grande, 100,000; public buildings, 131,000; penitentiary, 150,000; reformatory institutions, 100,000; and there was what is known as county bond grants, railroad bond grants, amounting to about 1,000,000 acres. Then there was a later grant for 30,000 acres for the benefit of the Eastern New Mexico Normal School; and a county bond grant to satisfy certain railroad bonded indebtedness of the Santa Fe.

Senator CHAVEZ. 30,000 to the Eastern New Mexico—shouldn't that be 77,000?

Mr. WOOD. I beg your pardon, I didn't see that. There is 106,000 altogether, that has been selected for them.

Congressman ANDERSON. The Senator was in the House when that grant was made.

Senator CHAVEZ. I was responsible for that.

Secretary CHAPMAN. I would like to ask you one more question. What service are you doing in servicing these lands or the lessees?

Mr. WOOD. What do you mean?

Secretary CHAPMAN. Services of any kind, other than collecting the fees and issuing the permits.

Mr. WOOD. We issue the leases and collect the fees, and when differences arise between the lessees we go out in the field and attempt to make settlements and adjustments and work the matter up to the satisfaction of all parties concerned.

Secretary CHAPMAN. Would you be able to give me the date of that letter you referred to of Dr. Aberle's?

Mr. WOOD. I can't give you the exact date, but I would be glad to furnish you with a copy of it. I don't have it.

The CHAIRMAN. What is that?

Secretary CHAPMAN. The letter he referred to of Dr. Aberle's.

The CHAIRMAN. I would like to have a copy of that go into the record.

Mr. WOOD. We'll have some photostatic copies made, and will mail one to the committee and one to Mr. Chapman.

The CHAIRMAN. We'll be here tomorrow.

Mr. WOOD. Well, the office is in Santa Fe, and I'll have to get it from the office.

The CHAIRMAN. Very well.

(The letter is as follows:)

UNITED PUEBLOS AGENCY,
Albuquerque, N. Mex., July 18, 1938.

COMMISSIONER OF PUBLIC LANDS.

Santa Fe, N. Mex.

(Attention Mr. Claude E. Wood.)

DEAR MR. COMMISSIONER: United Pueblos Agency is negotiating for the adjustment of Indian and non-Indian use rights within Government-purchase areas. In order that the present status of State leases may not be changed until our plans are completed, I wish to enter a friendly protest against the issuance or reissuance of State leases in the following lands:

Section:	Township	Range
All State-owned land-----	6, 7 N.	6 W.
Do-----	6 N.	7, 8, 9, 10, 11 W.
Do-----	7 N.	9, 10 W.
Do-----	8 N.	9, 10 W.
2, 16-----	13 N.	3 E.
Portion 36-----	14 N.	3 E.
All State lands-----	14 N.	4 E.
Do-----	15 N.	4 E.
Do-----	14 N.	2 E.
Do-----	14 N.	1 E.
Do-----	15 N.	1 E.
Do-----	15 N.	2 E.
Do-----	16 N.	5 E.
Do-----	16 N.	4 E.
Do-----	16 N.	3 E.
Do-----	17 N.	3 E.
Do-----	17 N.	2 E.

Sincerely yours,

Senator CHAVEZ. Mr. Wood, it would be a little out of order, but you said something about 100,000 acres, I believe for the improvements of the Rio Grande. How is that administered? What do you do with that?

Mr. WOOD. That land is leased, just like the other land, Senator. It is selected at various places in the State and the money goes, I believe, to the State engineer's office in connection with their water work, and so forth.

Judge SETH. Interstate streams?

Mr. WOOD. That is right, interstate streams.

The CHAIRMAN. Are there any other questions?

Mr. FURMAN. Mr. Chairman, I was going to ask you if I could make a brief statement when Mr. Wood finishes.

Mr. WOOD. I am finished.

The CHAIRMAN. Very well.

STATEMENT OF ALAN F. FURMAN, SOIL CONSERVATION SERVICE, ALBUQUERQUE, N. MEX.

Mr. FURMAN. My name is Furman, of the Soil Conservation Service at Albuquerque, N. Mex.

I wanted to make a brief statement in connection with the remarks and observations made by several persons a few minutes ago, the first one being Mr. Burkes, from Harding County, N. Mex. Mr. Burkes is one of the permittees on that project, with whom we have had very amicable relations during the past several years. We have letters in our files from Mr. Burkes in which he states he has sold more pounds of better beef from his ranch after his range stocking was reduced, in accordance with our recommendations, than he produced before that time, when he was originally running them.

With reference to the request that the Soil Conservation Service administered lands in Harding County be sold to individuals, I want to submit for the record a letter from Dr. Bennett, Chief of the Soil Conservation Service, to the Honorable John J. Dempsey, Governor of New Mexico, dated May 10, 1943, in which Dr. Bennett says that the lands were in very bad shape when we bought them, are not fully revegetated, and we still have a job to do in that area, and I would like to read one brief paragraph of it.

We do believe that the provision in title III whereby Congress prohibited the sale of these lands to individuals is wise. More time is needed to revegetate and restore the productivity of range lands, and to make the necessary land-use adjustments, so that small operators who formerly depended largely upon the production of cash grain crops, may be assisted to develop a livestock-farm type of enterprise, or small ranches to increase their units to economic size. We believe the results of the purchase of these submarginal farm lands in this area speak for themselves, particularly at a time like this, when there is a demand in transition areas, such as this one, to forget conservation and again plow up grass lands to put into grain crops simply because moisture and price conditions are favorable. It is important, both from the standpoint of producing feed for the war effort and conserving the Nation's resources, that lands primarily suitable for grass production be kept in grass.

This letter applies also to Union County in every respect. There were some other gentlemen here, a few minutes after Mr. Burkes, who mentioned turning in the county lands, selling them back to individuals. I would like to submit this letter for the record.

The CHAIRMAN. Very well.

(The letter is as follows:)

DEPARTMENT OF AGRICULTURE,
SOIL CONSERVATION SERVICE,
Washington, D. C., May 10, 1943.

Hon. JOHN J. DEMPSEY,

Governor of New Mexico, Santa Fe, N. Mex.

DEAR GOVERNOR DEMPSEY: House Joint Memorial No. 4 of the Sixteenth Legislature of New Mexico, sent to the Secretary of Agriculture, has been referred to this office for reply as the lands in question in Harding County are a part of the

ills land-utilization project, administered by this Service under title III of the Bankhead-Jones Farm Tenant Act.

The memorial petitions Congress to enact appropriate legislation whereby these lands may be disposed of to private individuals so as to restore them to the tax rolls, or to compensate the State and county for the tax loss sustained as a result of Federal ownership.

In order to obtain a correct perspective regarding this project, it is desirable to survey briefly the conditions existing in the project area at the time land purchase was initiated by the Federal Government.

The project is located in the "transition zone" between the wheat country of the plains and the upland grazing areas of northeastern New Mexico. This area was formerly open range but with an influx of homesteaders, the range was broken up into small holdings which were inadequate for raising livestock and in which the land was unsuited for profitable farming over extended periods. Although this area formerly supported an excellent stand of blue grama, overgrazing had seriously depleted the range lands, wind erosion had not only removed considerable top soil from cultivated fields, but blowing soil had further destroyed the grass cover, and dust storms were a menace to the health and welfare of residents of the area.

The area was selected for purchase by the Federal Government after consultation with various State and local agencies, and local residents. Representatives of the agricultural experiment station expressed the view that some form of land-use adjustment was definitely necessary in the dry farming areas of northeastern New Mexico and that the Mills area offered probably the best situation in which to initiate a program of adjustment. Residents of the area entered a petition urging that a project be established and on December 8, 1934, the residents of the area unanimously voted that a project be initiated. At that time, many farms had been abandoned, wind erosion was prevalent, and there appeared little likelihood that the remaining farmers and small ranchers could locate or establish economic units.

Subsequently, 75,491 acres of land were purchased out of a total of 135,640 acres in the project area. Of the remaining acreage 16,360 acres are State owned and the balance in private ownership. There was purchased in Harding County 841 acres out of a total of 1,352,960 acres within the county. On the basis of the assessed valuation in 1935, lands taken off the tax roll in Harding County reduced the total tax base by \$134,746, or 4.4 percent.

In 1941, the total assessed valuation of Harding County was \$660 greater than in 1935. The total county levy was 11.457 mills in 1941, compared with 12.42 mills in 1935 and the school district levies have also decreased. Taxes levied were \$34,735.60 in 1941 and \$34,615.89 in 1935. In spite of the fact that 841 acres were taken off the tax roll in Harding County, through Federal purchases, the tax levy in 1941 was practically the same as in 1935, and the county had slightly more tax money in 1941 than it did in 1935. Considering the fact that during the 1935-41 period, the assessed valuation of cultivated land had been reduced from \$3.50 to \$2.50 per acre, it is difficult to see how the financial situation of the county has been impaired as a result of the removal from the tax rolls of the submarginal lands purchased.

As a matter of fact, there is considerable evidence to the contrary. As a result of the land purchases, approximately \$5,700 in delinquent taxes were paid into county treasury. The number of livestock on the tax roll has increased. This is partly due to the increased carrying capacity of the purchased lands. Some 19,000 acres formerly in cultivation have been seeded to grass or is returning naturally. In 1937 the carrying capacity of the purchased land was estimated to be 500 head yearlong. In 1942, 1,378 head were grazed and it is estimated that after the seeding program is completed and under proper range management, these lands will eventually support about 1,700 animal units.

As a result of the purchase program, it has been possible for the county to maintain maintenance on between 20 and 30 miles of roads. This was largely possible due to changes in the pattern of settlement.

Before the purchase program was initiated, the land was unable to support a population occupying it and a large number of farmers had abandoned their lands and left the county. The purchase of submarginal lands enabled a considerable number of persons stranded on uneconomic dry farms to liquidate their properties and relocate elsewhere. At the time of purchase 115 farm families lived in the area. In 1942 there was 48. Thirty of these families had grazing permits. The economic status of these families has improved is beyond question.

The average size of each unit has increased over 1,700 acres. This does not include Government-owned lands used for grazing. The average size of the 30 permits is 46 animal units. Twenty permittees owning less than 100 animal units each have permits for grazing on Government lands an average of 37 head each. Ten permittees owning 100 or more animal units have permits for an average of 68 head each.

A comparison of the size of the operating units of the 30 permittees in 1939 as compared with 1942 indicates an increase in taxable property (livestock) during that period. This increase in livestock is largely due to the increased productivity of the range brought about by seeding, fencing, and livestock water developments, resulting in increased carrying capacity of the range. In addition, the operators have obtained a much greater degree of financial security through the improved condition of the range, more adequate sizes of operating units, and the assurance that the Federally-owned land will be made available year after year.

Size of operating unit	1936	1942
50 animal units or less	18	2
51 to 100 animal units or less	6	11
101 to 200 animal units or less	3	4
201 to 300 animal units or less	1	2
301 and over	2	3
Total	30	22

In addition to the indirect benefits accruing to the counties resulting from the purchase of these submarginal lands, 25 percent of the revenue received from the project lands is paid to the counties in lieu of taxes for school and road purposes. When Harding County receives the payment from 1942 project revenue which is now due, it will have received \$3,500. for the years 1939 to 1942, inclusive, in cash payments from the Federal Treasury.

While on paper at least it would appear that if these lands were now on the tax rolls, the tax revenue to the counties would be greater for the present, it is also a fact that with these lands off the tax roll, the mill levy is the same as it was in 1935, the assessed value of cropland has been reduced from \$3.50 to \$2.50 per acre and the total tax revenue of the county has not decreased. There is no assurance that if these lands were returned to private ownership, the indirect benefits of the project to the community might not be wiped out and that in a very few years, conditions which prevailed in 1935 and the years prior to that time might not again develop. The financial structure of the county would reflect this changed condition in the community and would suffer accordingly.

We do believe that the provision in title III whereby Congress prohibited the sale of these lands to individuals is wise. More time is needed to revegetate and restore the productivity of range lands, and to make the necessary land use adjustments so that small operators who formerly depended largely upon the production of cash grain crops, may be assisted to develop a livestock-farm type of enterprise, or small ranchers to increase their units to economic size. We believe the results of the purchase of these submarginal farm lands in this area speak for themselves, particularly at a time like this, when there is a demand in transition areas such as this one, to forget conservation and again plow up grass lands to put into grain crops simply because moisture and price conditions are favorable. It is important, both from the standpoint of producing feed for the war effort, and conserving the Nation's resources, that lands primarily suitable for grass production be kept in grass.

The recommendation that the State and county be compensated for the loss in revenue sustained due to Federal ownership of the land is a subject which has been receiving considerable study by the various Federal Government departments which have land under their jurisdiction. It appears to be the consensus of opinion that some adjustments in the rate of payments in lieu of taxes is warranted. It is believed that some definite action in this regard can be anticipated before very long. Since congressional action is necessary to change the present schedules of payments, it is not possible to predict whether a change will be made, and if made, when it will be effective.

Sincerely,

H. H. BENNETT Chief.

Cc: CYRIL LUKER,

Soil Conservation Service, Albuquerque, N. Mex.

Mr. FURMAN. With respect to the loss of tax base through the purchase of lands, it would be futile to say that land acquired by the Government does not remove the tax base. However, I have a very well-prepared statement, in reference to Union County, which shows we purchased about eight-tenths of 1 percent of the land in that county, and it shows that the net savings to the county through this program were \$8,624, rather than a loss to the county.

I will explain how that happened. In the first place, we make a cash return to the county, as you know, of 25 percent of the yield from the land. We were able, through purchase, to eliminate a school and a number of miles of road, which cost the county several thousand dollars a year. The lands increased in their ability to support live-stock, and it was therefore a lot more taxable real property on the area than there was when we took it over, and all of these factors compensate the loss of tax base.

The situation at Harding County is not so favorable for the county. We were unable to eliminate as much school cost, but the purchased lands, which were capable of carrying about 500 head in 1937, are now carrying about 1,500 head; and it is obvious that the buying power of these ranches has increased, so there is considerable benefit to the county in the purchasing power alone. We submit that these circumstances have probably more than offset the loss of the tax base. I would like to submit this report on Harding County for the record.

The **CHAIRMAN.** Who made the report?

Mr. FURMAN. Mr. Daker, of the Soil Conservation Service.

Congressman ANDERSON. May I ask you a question? Did I understand you to say that that portion of the 300,000-acre tract in Oklahoma, west Texas, and New Mexico, that portion taken out of Union, was eight-tenths of 1 percent of the area of Union, or taxable values of Union County?

Mr. FURMAN. The acreage of Union County is 2,000,000 acres. We purchased 56,000.

Senator CHAVEZ. Let's get this straight.

Congressman ANDERSON. What is the total acreage of Union County? You purchased what?

Mr. FURMAN. The total acreage in Union County is 1,966,000 acres, approximately.

Congressman ANDERSON. That is right.

Mr. FURMAN. The acreage purchased in Union City was 56,464 acres.

Congressman ANDERSON. You maintain that is eight-tenths of 1 percent?

Mr. FURMAN. Of the assessed value.

Congressman ANDERSON. I asked you that specifically because I knew it was more than eight-tenths.

Mr. FURMAN. Well, I answered you because I have checked it. The assessed value in 1940 was \$9,678,000, assessed value of title III lands in 1940 was \$77,000, percentage in reduction assessed value of the county by purchase of land by the Government, eight-tenths of 1 percent.

Congressman ANDERSON. That is because that land at that time was badly eroded and had been very badly used, and was on the tax rolls at an extremely low value. As far as the area is concerned, it is substantially larger.

Mr. FURMAN. Mr. Daker, what is the percentage of reduction on acreage?

Mr. H. J. DAKER. About 2 percent.

Congressman ANDERSON. How do you figure that? As I figure, 56,000 and 1,900,000; I would say it was closer to 3 percent, wouldn't you?

Mr. DAKER. Two and a fraction.

Congressman ANDERSON. It's closer to 3 than it is to 2.

Mr. DAKER. I can't say without figuring it.

Congressman ANDERSON. It is closer to 3 than it is to 2.

Mr. DAKER. I have got the exact figures down there.

Congressman ANDERSON. As to the carrying capacity, you say the carrying capacity of Harding County, or the Mills development project, was 500 head of cattle. They are now carrying what?

Mr. FURMAN. The approximate carrying capacity of the purchased lands in the Mills County project in 1937 was approximately 500 head, in rough figures.

Congressman ANDERSON. And they are now carrying what?

Mr. FURMAN. Approximately 1,500.

Congressman ANDERSON. Are you familiar with the fact that there were small grain farmers in there not fattening cattle, the fact that those lands were taken off small grain and put into grazing areas; and that might account for this jump from 500 to 1,500?

Mr. FURMAN. In 1937, weren't most of those farms in very bad condition, with the topsoil going out?

Congressman ANDERSON. I think I got through saying it.

Mr. FURMAN. There was nothing being produced on them, anyway.

Congressman ANDERSON. That is correct.

Mr. FURMAN. So the production of livestock was about 500 head, and now it is being put back into grazing use, and thus will carry about 1,500 head with a potential of about 1,700.

A few remarks about the carrying capacities of the two projects: The average carrying capacity of the Mills project, including these blown-out fields, not fully revegetated, is about 12 head per section as established at that time. It has adjusted upward and downward, in accordance with the annual or seasonal production of forage. There are sections in the Mills project which carry as little as 3 head per section, and other sections which carry as much as 20 head per section. The carrying capacity in the Harding County—in the Union County project is 16 head per section, average carrying capacity. There are sections over there which are not in use at all at this time. There is no vegetation on them. They are being fenced and reseeded. There are other sections which carry 18 head per section. Our records show that, just as incidental information, \$4,824.20 were collected from the Mills project for this last calendar year, of which the county has one-fourth, or about \$1,250 in cash returns that will be paid to them in the next 2 weeks, I believe.

In Union County the return is still small because a lot of land is still not in use. You are familiar with the fact that that was actually in the Dust Bowl. On the west edge, the topsoil was almost entirely removed on some of that land.

With reference to Mr. Davenport's remarks, I presume he was talking about the Soil Conservation Service forming district 8. He must have meant the Grazing Service. The Soil Conservation Service

forms no grazing districts; neither does the Soil Conservation Service form a soil conservation district.

Judge SETH. Wasn't Mr. Calkins head of the Soil Conservation Service?

Mr. FURMAN. Yes.

Judge SETH. He was the one that said it to him, as he testified.

Mr. FURMAN. I don't know how such a remark had been made. The committee knows that the Soil Conservation Service has absolutely no power to form grazing districts.

Senator CHAVEZ. Could it have been under influence?

Mr. FURMAN. I am unable to answer that question.

Judge SETH. The Indian Service doesn't form grazing districts either, does it?

Mr. FURMAN. I believe not.

Congressman ANDERSON. Who forms it? Like Topsy, did it "just growed"?

Mr. FURMAN. There was no grazing district ever formed. It was talked about and read about in the records last year. It was a plan, but nothing ever came of it.

Mr. DAVENPORT. In other words, that was just a bluff the Soil Conservation Service was running?

Mr. FURMAN. I wasn't here at the time, Mr. Davenport; I don't know.

Senator CHAVEZ. There is only one man that can deny it. Mr. Davenport says it was Mr. Calkins, and he is in Central America.

Mr. DAVENPORT. I believe Herb Stewart was present at the time that interview took place. I'm not sure, but it is my recollection he was there.

Mr. FURMAN. Is Herb Stewart here?

The CHAIRMAN. Will you come forward, please, Mr. Stewart? Will you state your name, and your place of residence, and your business?

**STATEMENT OF HERB STEWART, SOIL CONSERVATION SERVICE,
ALBUQUERQUE, N. MEX.**

Mr. STEWART. My name is Herb Stewart, and I am stationed at Albuquerque. I'm with the Soil Conservation Service.

The CHAIRMAN. Did you hear the statements that were made here?

Mr. STEWART. Yes, sir.

The CHAIRMAN. It is related that perhaps you were present when the statements were made. What have you to say?

Mr. STEWART. I was not present. I know something about the statements, however. As far as I know, if any such thing was made, it was made by Mr. Calkins, who was a member of the Interdepartmental Rio Grande Board, and it had nothing to do whatsoever with the Soil Conservation Service.

The CHAIRMAN. Nothing to do with the Soil Conservation Service?

Mr. STEWART. Mr. Calkins at that time was a member of the Rio Grande Interdepartment Board.

Senator CHAVEZ. Which was advising as to the making of the district?

Mr. STEWART. Interdepartmental Board was.

Senator CHAVEZ. He was head of the Soil Conservation Service at the time.

Mr. STEWART. Of region 8; yes, sir; that is correct.

The CHAIRMAN. Perhaps Mr. Furman should not have touched on that subject, because he doesn't seem to know much about it.

Mr. FURMAN. I beg your pardon for touching upon it; but as spokesman for the Service, I wanted to try to attempt to cover the remarks that were made about the Service, as completely as possible.

The CHAIRMAN. Well, no accusation was made, and you don't know anything about it. It is not for you to cover up.

Mr. FURMAN. Very well.

The CHAIRMAN. What you do know about it, we will be very glad to hear.

Mr. FURMAN. Here is the report signed by Mr. Daker.

The CHAIRMAN. Very well; it may go into the record.

(The report is as follows:)

*Facts concerning Union County, N. Mex., and land utilization project, NM-LU-21
1948*

Total acreage in county	1,966,000
Acreage purchased in Union County land-utilization project	56,364
Assessed value of county in 1940	\$9,678,000
Assessed value of title III land in 1940	\$77,200
Percentage in reduction in assessed value of county by purchase of land by Government	(1)
Present assessed value of county (1943)	\$8,200,000
Estimated assessed value of land purchased (1943)	\$75,260
Total reduction in assessed value of county	\$1,478,000
Cause of reduction in assessed value of county:	
Acreage of land classes in county:	
1937:	
Range land	\$1,703,375
Crop land	\$262,635
1943:	
Range land	\$1,890,292
Crop land	\$75,705
Assessment rates used:	
Up to 1940:	
Range land, per acre	\$1.25 and \$1.50
Crop land, per acre	\$2 and \$2.50
Vega land, per acre	8
Alfalfa land, per acre	\$12.50
1943:	
Range land, per acre	\$1.33 $\frac{1}{3}$
Crop land, per acre	\$1.33 $\frac{1}{3}$
Vega land, per acre	8
Alfalfa land, per acre	\$10
Removal of Santa Fe Railroad in fall of 1942 (assessed value (\$742,000))	
Change in tenure of land in county with reduction in value of personal property:	
Number of farm and ranch units in county:	
1937 (estimated from county records)	1,640
1943 (Agricultural Adjustment Administration records)	750
Reduction in ranch units in county since 1937	890
Value of factors causing reduction in assessed value of county:	
Removal of Santa Fe R. R.	\$742,000.00
Reduction in assessment rates and number of farm families	660,734.00
Title III lands purchased by Government	75,266.00
Total reduction	1,478,000.00

¹ Eight-tenths of 1 percent in 1940.

Facts concerning Union County, N. Mex., and land utilization project, NM-LU-21
1943—Continued

Percentage in reduction in assessed value of county in 1943 by purchase of title III lands.....	(*)
County finances:	
Total county revenue:	
1938	\$619, 117. 56
1943	\$483, 443. 03
Cost of county government:	
1938	\$559, 440. 35
1943	\$438, 759. 85
Cost of road maintenance (included in above) 1943.....	\$12, 698. 11
Miles of county roads.....	1, 500
Average maintenance cost per mile.....	\$8. 46
Financial effects to county of title III lands:	
Income to county from title III lands:	
1942	484. 59
1943	* 750. 00
1944	* 900. 00
1945	* 1, 050. 00
After development work completed, per year.....	1, 260. 00
Present amount of taxes if title III lands were on tax rolls (1943) ..	1, 518. 59
Savings to county effected by purchase of title III lands:	
Mansker school closed; annual operating expenses saved.....	6, 000. 00
Seneca High School closed; annual operating expenses saved.....	3, 000. 00
46½ miles county roads closed; maintenance cost saved.....	393. 39
Total reduction in operating costs.....	9, 393. 39
Less difference in present revenue to county.....	768. 59
Net savings to county.....	8, 624. 80
Change in land tenure in county and project:	
County:	
Number of farm and ranch units outside of project:	
Prior to 1937.....	1, 276
1943	676
Reduction.....	600
Percentage reduction.....	47
Average size of units outside of project; acres:	
Prior to 1937.....	1, 496
Present time.....	2, 824
Project:	
Number of farm and ranch units within project:	
Prior to 1937.....	364
1943	74
Reduction	290
Percentage reduction.....	79. 6
Average size of units within project; acres:	
Prior to 1937.....	457
Present time	1, 488
Comparison of economic conditions between county and project:	
Average number of livestock on privately owned units:	
County outside of project area:	
Prior to 1937.....	37. 4
Present time	70. 0
Within project area:	
Prior to 1937.....	11. 4
Present time	37. 2
Number of grazing permits on title III lands, 1943.....	68
Number livestock grazed under permits, 1943.....	1, 594
Average number livestock per permit.....	23. 4

* Nine-tenths of 1 percent.

* Estimated.

Facts concerning Union County, N. Mex., and land utilization project, NM-LU-1943—Continued

Economic adjustment made possible by title III lands:

Number livestock on private land within project present time-----	57
Plus average number livestock per permit-----	57

Average number livestock per ranch within project, 1943-----	6
--	---

Land tenure within project at time of purchase of title III land:

Number farm and ranch units, 1937-----	3
Number units abandoned by 1937-----	1
Number units purchased by Government-----	1
Number farm families relocated by purchase-----	1
Number units absorbed by present farmers in project-----	1
Present number units within project-----	1

Comparison between State-owned and title III land in county:

Acres State-owned land in county-----	461.77
Percentage of total area of county-----	2.8
Acres title III land in county-----	56,464
Percentage of total area of county-----	3.5

Total revenue derived from land being used in 1943:

State-owned land in county-----	\$13,853.00
Amount of revenue received by county-----	00,000.00
Fee charged per acre, cents-----	0
Amount of revenue per acre received by county-----	000.00
Title III land in county-----	\$3,000.00
Amount of revenue to be paid to county-----	750.00
Fee charged per acre basis, cents-----	0

Amount of revenue per acre received by county-----	0.00
--	------

* Estimated.

SUMMARY OF FACTS CONCERNING UNION COUNTY, N. MEX., AND LAND UTILIZATION PROJECT, NM-LU-21, 1943

GENERAL

In 1937 the land utilization project in Union County was established as a part of what was then known as the tristate project, consisting of portions of Texas, Oklahoma, and Union County, N. Mex. This area was designated as a purchase area due to the economic unsoundness of the farm and ranch units. As a result of these unsound economic units an improper land use had developed which directly caused severe wind erosion and had, therefore, damaged the land to such an extent that most of it could no longer be farmed. The majority of the farmers within the Union County portion of the project had reached the stage where they could no longer make a living for themselves from the land, and the majority of them had either abandoned the land and left the county or were on some form of Government relief.

At the present time a minority group, consisting principally of very large landowners within Union County have petitioned to have this Government-owned land sold by the Government to private owners. This group will, no doubt, lay great importance on the fact that this Government-owned land has been removed from the tax rolls of the county and therefore has greatly reduced the county revenue.

Union County covers a total area of 1,966,000 acres. The Government has purchased 56,464 acres, or 2.8 percent of the total area within the county.

Within the total area of Union County the State of New Mexico owns and leases 461,770 acres, which is 23.4 percent of the entire county. Approximately 75 percent of this State-owned land is permanently leased to less than 2 percent of the total number of landowners within the county. The State leases this land at the rate of 0.3 cent per acre a year and the county received none of this lease money.

Ninety percent of the landowners within the Union County land utilization project now have the use of the Government land. These landowners at the present time are paying a fee of approximately 9 cents per acre for the use of this land. The county receives 25 percent of this fee.

ASSESSED VALUE

In 1940 the assessed value of Union County was \$9,678,000, whereas in 1943 he assessed value has been reduced to \$8,200,000, or a total reduction of \$1,478,000.

This reduction has been caused by four factors: The removal of a branch line of the Santa Fe Railroad in the fall of 1942, a considerable reduction in assessment rates on land, a large reduction in the number of farm and ranch units within the county and the purchase of title III lands in the county. The removal of the Santa Fe railroad caused the largest reduction in the assessed value of the county. The reduction in assessment rates and the decrease in farm families which meant the removal of personal property was the next largest contributing factor, whereas the removal of title III lands from the tax rolls has caused a reduction in assessment value of the county of only nine-tenths of 1 percent.

FINANCIAL EFFECTS

Between the years of 1938 and 1943 the total county revenue has been reduced \$135,674.48, whereas the cost of the county government during these same years has been reduced \$120,680.50. However, at the present time the cost of the county has been discontinued. These schools have been consolidated with the

This year the county's share of the revenue derived from title III lands will be approximately \$768.59 less than the revenue the county would derive if these lands were on the county tax rolls. However, through the purchase of this land by the Government one school has been closed and the high school of another county has been discontinued. These schools have been consolidated with the school system of Clayton, N. Mex. Forty-six and one-half miles of county roads have been closed as they are no longer needed. These factors are saving the taxpayers of the county \$9,393.39. This amount less the present loss in revenue received by the county makes a total saved of \$8,624.80 to the county.

CHANGE IN LAND TENURE

The above-mentioned minority group, no doubt, put some considerable stress on the reduction in number of farm families within the land-utilization project. It is true that there has been a greater percentage of reduction within the project area than there has been in the remainder of the county; nevertheless, the records prove that there has been a substantial reduction in the entire county. This reduction was needed in the entire county, and as a result of same the ranchers in the county are much more stable at the present time from an economic standpoint than they have been in the past. Furthermore, the records prove that this adjustment was needed more within the project area than it was in the balance of the county. Prior to 1937 the average size of the farm and ranch units in the county outside of the project area was 1,496 acres, as compared to 457 acres within the project area. Both figures were too low to make up a sound economic unit. At the present time the size of the farm and ranch units in the county have increased so that the units outside of the project area now contain on an average of 2,824 acres which is a sound unit, and within the project area contain 1,488 acres which are still economically unsound. However, by supplementing the units within the project area with grazing permits on title III lands, the farm operators are now able to make a living on the land and are comparable from an economical standpoint with an average operator outside of the project area.

Prior to the time the land-utilization project was established in 1937, there were 364 farms located within the project area. Of these 364 farms, 265 of them had been abandoned by 1937 and the land was in such condition that it was damaging adjoining property. Since 1937 the Government has purchased 138 of these farm units. Regardless of the contention that the Government reduced the number of farm families by the purchase of the land, the records show that of the 138 farm units purchased it was necessary for the Government to relocate only 25 families, and the remaining 113 are included in the above-mentioned 15 who had abandoned their farms. Since 1937 the remaining 74 families within the project area have absorbed the remaining 152 abandoned farms. This accounts for the increase in size of farms within the area from 457 acres to 1,488 acres.

ECONOMIC CONDITIONS

Prior to 1937 the average Union County farm located outside of the project area could produce forage for 37.4 head of cattle as compared with 11.4 head for the average farm within the project area. It can readily be seen that the average

farmer within the county could not make a living in 1937 from the production of livestock.

However at the present time the picture has changed. The average Union County farm outside of the project area is large enough to now produce feed for 70 head of cattle; whereas the average farm within the project area can produce feed for only 37.2 head of cattle which figure is still below that of the average farm outside of the project area in 1937. However, by the use of title III lands the average farmer within the project area is able to increase the size of his herd by 23.4 head thereby enabling this farmer to maintain an average of 60.6 head and thereby placing him in a position where he is able to make a living from the land.

CONCLUSION

The saving in county expenses greatly offsets the revenue which would be derived by the county from taxation of title III lands.

The majority of the present farmers within the project area are financially unable at the present time to purchase additional land; therefore, if this land were sold, it would undoubtedly be purchased by a few large ranch operators even though it would be impractical for them to use many tracts of this land. Nevertheless such a purchase would deprive the present permittees of the use of this land with the result that they would be unable to make a living on their own land and would eventually be forced to sell their land to these same large operators.

Mr. FURMAN. I'd like to ask if Mr. Wager Smith is in the room.

The CHAIRMAN. Is Mr. Wager Smith in the room? (No response.)

Mr. FURMAN. Well, since he isn't, and not knowing what he would say, and his only having told me this afternoon what he would say about land purchases in the Cuba-Rio Puerco project, of which he was in charge, I won't attempt to say what he told me this afternoon.

That is all I have to say.

Judge SETH. Were you here in 1937?

Mr. FURMAN. No; I was not.

Judge SETH. When did you first see the Mills or the Union County resettlement projects?

Mr. FURMAN. In the spring of 1938.

Judge SETH. And in your report of 1937 they were all feeling the effect of the Dust Bowl, were they not?

Mr. FURMAN. Yes; they were.

Judge SETH. In your reports are you giving credit at all to the moisture that has fallen since the Dust Bowl period quit?

Mr. FURMAN. Very much so. We had a fine year in 1941, which helped tremendously.

Judge SETH. And your activities are not responsible for the recovery of the area?

Mr. FURMAN. We hope we assist nature to some extent.

Judge SETH. Oh, you give nature some credit.

Mr. FURMAN. A great deal.

Judge SETH. Conditions have materially changed since the Dust Bowl time, have they not?

Mr. FURMAN. An extremely favorable year in 1941, which helped our seed planting to a great extent. Seeds planted for 2 or 3 years, which we thought might have been dead, came out in 1941.

Judge SETH. The west part of the Mills project never was in bad shape, was it?

Mr. FURMAN. I am going to call on Mr. Dickens to answer that.

Judge SETH. Wasn't it all good grazing lands?

Mr. DICKENS. Certain parts of the west portion of the project were good grazing land.

Judge SETH. A lot of that land in the west part never was submarginal, was it?

Mr. DICKENS. It never was broken out; it didn't blow away.

Judge SETH. It has always been fairly good grazing?

Mr. DICKENS. I haven't been there.

Judge SETH. When did you first see it?

Mr. DICKENS. About 9 months ago.

STATEMENT OF GEORGE MORRIS, MILLS, N. MEX.

Mr. MORRIS. I am a permittee in the Mills district. I came there 4 years ago in a covered wagon, and I have lived there all my life practically, except 3 years and 8 days in the United States Army, when I served 27 months in the Philippine Islands. I don't know whether I did such a good job or not, but I came back.

In regard to the Mills district, in there, in 1916, we had a very dry year that year. We had no more bad weather up until 1933 or 1934, and that is when it blew away practically, more or less. The land I live under permit today—I found out from the people that owned that land—owned the land right west of me; I tried to buy that land. I went to those people and tried to buy it, and they said they would sell to me, but the United States Government had too many high-powered lessees for me. I couldn't buy it.

The CHAIRMAN. What branch of the Government?

Mr. MORRIS. The Soil Conservation Service.

Senator CHAVEZ. Wait a minute; wasn't it the Resettlement Administration?

Mr. MORRIS. Pardon me, that's what it was under when they came. I went to buy that land, and I am willing to buy that land today, and willing to pay the cash for it, and willing to pay the taxes on it, and I think I could make a good job of it, just as good as has been done.

Senator CHAVEZ. You consider it good grazing land?

Mr. MORRIS. I do. If I didn't, I wouldn't try to buy it.

Senator CHAVEZ. Mr. Morris, differentiating between the land that being used for farming purposes and the grazing land, has the grazing land been good land all the time since you have known it?

Mr. MORRIS. Yes, sir.

Senator CHAVEZ. The land that blew away was the plowed land?

Mr. MORRIS. What blew away had been plowed, more or less.

Congressman ANDERSON. When did the Rural Rehabilitation Corporation come in and buy that land?

Mr. MORRIS. They first come in there, I think, in 1935 or '36.

Congressman ANDERSON. At that time, could you have bought a tax title to that land?

Mr. MORRIS. No, sir.

Congressman ANDERSON. Why not?

Mr. MORRIS. Not on the land that I wanted to join up with me.

Congressman ANDERSON. You say that the Government bought it away from you; from these people that owned it?

Mr. MORRIS. I tried to buy it from them.

Congressman ANDERSON. What did you offer them?

Mr. MORRIS. I offered them \$3 an acre for that land.

Congressman ANDERSON. What did the Government pay for it?

Mr. MORRIS. I don't know. There was no improvements on the land at all, practically. There might have been one or two little bar cross fences on it.

Congressman ANDERSON. I am surprised; I was connected with the Rural Rehabilitation at the start. I can't recall a single piece of ground that the Government bought that anybody else was bidding for. I do I recall a single piece that the Government bought that there was not any delinquency tax dealing against.

Mr. MORRIS. The tax dealings against it, I don't know anything about it.

The CHAIRMAN. You offered \$3 for it?

Mr. MORRIS. I did, and I offered to buy it, and I would buy it today but I could not buy it, because they were too high powered for me. Because I had the same question come up with my mother. Our land was in the estate, and they came down to my mother, and almost drove her crazy, and told her she would blow away, and she had better go. Consequently, I had to go to a lawyer to protect my mother.

The CHAIRMAN. From whom?

Mr. MORRIS. They sent Sandy Smith down there, from Washington Smith's office.

The CHAIRMAN. To do what; to get what?

Mr. MORRIS. To buy that land.

The CHAIRMAN. Was he acting for the Rehabilitation people?

Mr. MORRIS. He was; he was working in their office.

The CHAIRMAN. What was he offering?

Mr. MORRIS. I don't remember that they offered any money at that time, or the exact amount.

The CHAIRMAN. Well, you make the statement that he was setting her crazy, trying to buy the land. Just how? Was he making inducements to her to sell?

Mr. MORRIS. Sure; he had her scared to death, afraid it would blow away; he said the lands were blowing away, and doing this and that and my mother, by jingo, went down there without me and my brother knowing anything about it—

The CHAIRMAN. And what happened?

Mr. MORRIS. She went up to the office. I think she went to the office. I came there, and I found him in my mother's house, and I told him, I said, "Now, listen, keep away from mother and don't try to buy that land." I went back the next day and the same thing happened, and I said, "Get out and stay out and don't come back any more."

The CHAIRMAN. He was buying for the Rehabilitation?

Mr. MORRIS. He was either buying or talking it up.

The CHAIRMAN. I see. All right, he was a pretty good talker.

Mr. MORRIS. I'll say he was a good talker!

Congressman ANDERSON. Mr. Morris, as a matter of fact, in 1934 and 1935, do you recall whether or not a delegation came from Mills to talk to the Relief Administrator and petition him to buy agricultural lands? Would you remember a delegation leaving Mills to see if a sale could be made to the Government?

Mr. MORRIS. No; I don't.

Congressman ANDERSON. You were there all that time?

Mr. MORRIS. I was living there.

Congressman ANDERSON. Did they raise any money to send a delegation down to Santa Fe, to see if the land could be sold to the Government?

Mr. MORRIS. I could not say.

Congressman ANDERSON. Were there not two types of land, range lands that were pretty good, and fields plowed up, that were pretty bad?

Mr. MORRIS. There were. That was plowed up.

Congressman ANDERSON. Would you regard it as sensible that the Government said it had to buy sufficiently large tracts, so it could control the area. It did buy some range lands that were good, in order to protect those lands that were blowing away?

Mr. MORRIS. Well, I don't know about that.

Congressman ANDERSON. Did you have dust storms in Mills?

Mr. MORRIS. Yes, sir.

Congressman ANDERSON. Steady?

Mr. MORRIS. Not always.

Congressman ANDERSON. Well, were they bad?

Mr. MORRIS. Bad at that time, 1933 and '34.

Congressman ANDERSON. You were sorry to see the Government buy that land, and try to stop the Dust Bowl?

Mr. MORRIS. I didn't like to see land bought that I would like to have bought myself.

Senator CHAVEZ. You are talking about grazing land?

Mr. MORRIS. Yes, sir; grazing lands only.

Congressman ANDERSON. I would say there was grazing land purchased at the time, without any question, in order to round out a project, as a person who heard something about it. I was not head of Rural Rehabilitation when most of the work was done and I opposed the purchase of most of the land. I do recall that many people came in to petition the Government to buy.

Senator CHAVEZ. Mr. Congressman, Wilson & Co., who were the biggest holders of the outfit in Mills district, were actually the ones who wanted the Government to buy; as a matter of fact, have had some congressmen trying to collect from the Government now for what they think they weren't paid. There is a bill pending in Congress for \$30,000 for the old buildings.

The CHAIRMAN. Very well, thank you, sir.

Now, gentlemen, I have got to come to a pause. It is 10:30. I think we have gone about as far as we can tonight, although I would like to go on for another hour or so, because I am afraid that tomorrow night we are going to have to run later than now. However, we are trying to boil this thing down so we can conclude and hear everybody before tomorrow at midnight, because I must leave here today morning.

At this point there will go into the record, by request, a letter from a rancher who states that he is unable to be present. The Soil Conservation Service respects to the charges made in this letter, as follows:

CIENEGA RANCH,
Rodeo, N. Mex., August 29, 1943.

DR. PAT MCCARRAN,
Chairman, Subcommittee of the Committee on Public Lands and Surveys,
Albuquerque, N. Mex.

DEAR SIR: Although unable to appear in person before your committee, I beg to introduce into the record of your hearings the following statement rela-

servation Service will be given an opportunity to submit competitive to the acquisition of private land by agencies of the Federal Government and its coincidental withdrawal from the tax rolls:

On or about September 1, 1937, the undersigned acquired from the First National Bank of Lordsburg, N. Mex., a ranch of some 75 sections in Hidalgo County, N. Mex. and Cochise County, Ariz., of which some 25 sections consisted of private land (deeded and State lease), and some 50 sections controlled under the provisions of the Taylor Grazing Act. Included in the former was an unexpired lease of 1,305 acres of patented land, the owner of which was Mr. D. D. Parramore, Abilene, Tex., and which property lay in the virtual geographical center of the ranch acquired by the undersigned, and known as the San Simon Cienega.

At the time of acquisition it was understood by the undersigned that the Department of Agriculture, Soil Conservation Service, contemplated the construction of an erosion control dam on the lower end of said San Simon Cienega, and the construction of said dam, and its protection by fences was agreed to by both parties to the lease upon the renewal thereof in 1938. For many years the said San Simon Cienega had been valued for tax purposes at \$3 per acre and was so carried on the rolls. Due to its unusual subirrigated properties, however, a portion thereof was at that time worth in excess of that figure, and the whole tract according to land values was worth on an average of \$8 per acre, or a total value of approximately \$6,500. This valuation will be borne out by any cattleman living in the vicinity and knowing the tract.

About this time the said Soil Conservation Service inaugurated a policy of purchasing land on which the construction of practices was contemplated, accordingly, the said Cienega was appraised by the said Service, and an offer in excess of \$19,000 was made to the owner, Mr. Parramore, which naturally was immediately accepted; and the undersigned was accordingly immediately deprived of the use of a tract of land lying in the very heart of his ranch, which had been a part of said ranch the memory of man runs not to the contrary. The property also was immediately withdrawn from the tax rolls, and the county deprived accordingly of proportionate revenue.

Upon commencing construction of the aforementioned dam, it was discovered by the said Soil Conservation Service that more than half of the proposed dam site lay outside of the tract purchased, and on property owned in fee by the undersigned.

Although deprived of 1,305 acres of pasture to build a dam occupying not to exceed 2 acres in extent, the undersigned was then threatened with condemnation proceedings unless he acquiesced in a perpetual easement over his own land to complete the construction of the said dam. Needless to say, the undersigned, powerless to do otherwise, acceded to the demands of the Service; and executed an easement, for which he was granted the munificent sum of \$1.

In summation, permit me to make the following points:

- (1) The Soil Conservation Service expended \$19,000 (approximately) to acquire a dam site, for which they could have secured easements gratis.
- (2) The Soil Conservation Service expended \$19,000 (approximately) for property whose fair value did not exceed one-third thereof.
- (3) The undersigned was deprived of the very heart of his ranch for no ostensible good purpose.
- (4) The counties of Hidalgo and Cochise were deprived of the revenues from the said San Simon Cienega, enjoyed thereby for more than 60 years.
- (5) The Federal taxpayers were virtually defrauded of more than \$19,000 by a whim of bureaucracy.

Very respectfully yours,

EZRA J. WARNER
DEPARTMENT OF AGRICULTURE,
SOIL CONSERVATION SERVICE.

Albuquerque, N. Mex., November 24, 1943.

HON. PAT McCARRAN,

Chairman, Subcommittee on Public Lands and Surveys,

Senate Office Building, Washington, D. C.

DEAR SENATOR McCARRAN: Reference is made to a letter written you by Mr. Ezra J. Warner, of Rodeo, N. Mex., under date of August 29, 1943, a copy of which was supplied us by Mr. E. S. Haskell with the suggestion that we provide you with our views on the matters taken up by Mr. Warner.

Our answers to the five points enumerated on page 2 of Mr. Warner's letter are as follows:

1. The Soil Conservation Service did not acquire the lands in question for the mere purpose of securing a dam site. The construction of the dam and dike at the north end of the Parramore tract, which is the land referred to by Mr. Varner, was merely mechanical aid and incidental to the main task of protecting the entire south end of the San Simon Valley from the fate which has already overtaken the central and northern portions.

The principal reason for land purchase was not merely to construct the dam but to control the use of lands in the valley south of the dam which were beginning to erode in the same manner as lands have in the 60-mile stretch of valley between the dam site and the Gila River.

For your information the San Simon Valley beginning at its confluence with the Gila River near Solomonville has been channelized by accelerated erosion over a distance of nearly 60 miles southward. This has overdrained and ruined fertile valley lands and the San Simon River while contributing a negligible quantity of water has been the largest contributor of silt on the entire Gila watershed, thereby seriously impairing the life and effectiveness of the San Carlos Reservoir.

There are still 30 miles of fertile valley south of the Parramore tract which the Soil Conservation Service is doing its best to protect and save. As stated in the opening paragraph, structures alone are insufficient, sound land use must be practiced above any structure in order to accomplish the objective.

When the Soil Conservation Service began to work on this problem, severe erosion had already begun in the Parramore tract which lies in the heart of a small subirrigated area called a Cienega which could be thought of as a meadow. The Soil Conservation Service did not immediately propose the purchase of this tract but according to our records attempted for a period of 2 years to bring about proper controlled use of the Cienega through cooperative agreements with the owners, Messrs. Parramore and Davis. All efforts in this connection failed since the owners would not agree to the rate of stocking determined to be necessary for the protection of the area. Neither did the owners agree to supply contributions of material for mechanical remedial measures including the fencing of the area. Thus it was regrettably but finally determined that the saving of the Cienega and the southern portion of the valley could not be accomplished as long as the land concerned remained in private ownership.

It is granted that easements alone might have been secured gratis but it is stated that easements and structures alone would not have arrested one of the worst cases of man-made erosion in the entire West which has to be seen to be appreciated.

2. The appraised value placed upon the 1,305-acre Cienega tract segregated by the States in which it lies is as follows:

TRACT 1008 (ARIZONA)

Land classification	Acreage	Appraised valuation	Total
A-1. Hay and pasture.....	71	\$30	\$2, 130. 00
B-1. Hay and pasture.....	14	15	210. 00
A-1. Grazing.....	362	6	2, 172. 00
C-1. Submarginal grazing.....	177. 48	2	354. 96
	624. 48		4, 866. 96
IMPROVEMENTS			
miles of fence.....			300. 00
Total.....			5, 166. 96

TRACT 1008-B (NEW MEXICO)

A-1. Hay and pasture.....	395	\$30	\$11, 850. 00
B-1. Hay and pasture.....	173	15	2, 595. 00
C-1. Submarginal grazing.....	112. 02	2	224. 04
	680. 02		14, 669. 04
IMPROVEMENTS			
Well.....			200. 00
Buildings and fence.....			650. 00
Total.....			15, 519. 04
Grand total.....			20, 685. 00

You will notice that the tracts have been divided into land classes and each class valued separately. The A-1 hay and pasture land has been given a value of \$30 per acre. This land is unique in that there is nothing like it in southern Arizona. It is naturally watered, has irrigation water rights, a number of springs, several flowing wells, and is capable under careful supervision of carrying 10 times the number of livestock carried on adjoining dry lands. This tract is capable of supplying feed during drought or other emergency conditions to large numbers of small stockmen in this area.

You will note that the other classes of land are given lower values down to \$2 per acre. The State of Arizona places a minimum price of \$3 on any of its land. The price paid by the United States for the 1,305 acres was \$19,750 including improvements or slightly more than \$15 per acre.

Attached is a copy of a letter to this office from Robert E. Barnard who was negotiator for the Soil Conservation Service at the time the appraisal and optioning of this land took place. You will note that he states that Mr. Parramore advised that Mr. Warner was willing to pay \$25 per acre for exactly the same tract of land which was described and discussed above. We feel that this answers point 2 and that portion of Mr. Warner's letter which deals with the alleged value or lack of value of the land. It might be mentioned incidentally that Mr. Parramore chose to sell his land for cash to the United States rather than to accept the terms which Mr. Warner offered.

3. The United States did acquire 1,305 acres which lay within the exterior boundaries of the 50,000-acre Warner ranch, though, according to our map at the north end. This tract might well have been sold by the owner to any individual who desired it and who could meet the terms. The owner was nonresident and its eventual sale might have been anticipated.

Mr. Warner owned and still owns, we believe, an area of similar Cienega hay and grassland approximately equal to the Cienega area acquired by the Government. This valuable property lies to the south or above the Cienega land acquired by the Government and will be protected and benefited through the proper management of and conservation practices established on the adjoining Government land and by the structure which has been installed.

We submit that Mr. Warner's statement to the effect that he was deprived of the heart of his ranch is seriously overdrawn since at the time the Government began negotiations for the Parramore tract he did not own or control any land as far north as this area but did subsequently acquire adjoining land.

We believe that the phrase "for no ostensible good purpose" was answered under point 1 of this letter.

4. The Bankhead-Jones Act provides that 25 percent of the yield from lands acquired under title III shall be returned to counties for schools and roads.

Our records indicate that approximately the same returns are being paid by the United States to the counties as were received by the counties from taxes before the lands were purchased. As an example, taxes paid to Cochise County in 1938, \$37.30. Paid by the United States to Cochise County in 1942, \$32.13.

5. We feel that this point which is evidently intended to be of a general derogatory character has been answered largely under points 1 and 2.

The only other comment we have to make in this matter is that Mr. Warner was not advised at any time that the erosion-control structure could be placed entirely on the north end of the Parramore tract. Our engineers had known that the dike would extend westward on to adjoining property. Mr. Warner acquired this tract subsequent to the time the Government began negotiations for the Parramore tract. He was advised that the Government began negotiations for the Parramore tract. He was advised that the Government would either like to secure an easement on a small area or would purchase the land. According to our files Mr. Warner could not reach a decision for an interminable time and as a matter of fact this Service despaired of ever working out the situation and had considered abandoning the entire project on account of difficulties of this nature. After having analyzed all written material and discussed the matter with all the personnel who handled this case, we are prepared to state categorically that Mr. Warner was not threatened with condemnation which is contrary to existing Bureau policies. Our records are available at any time.

If there is any further information needed in this matter, we will be pleased to attempt to secure it.

Very truly yours,

CYRIL LUKER, *Regional Conservator.*
By F. D. MATTHEWS, *Acting.*

Mr. LEE. Mr. Chairman, we have one other witness who has come a long ways and who will be unable to remain until tomorrow. Would it be possible for the committee to hear his statement?

The CHAIRMAN. Very well, we will go on.

Mr. LEE. I will ask Mr. Davenport to interpret for him, because he doesn't speak English.

STATEMENT OF JACOBO HERRARA, CUBA, N. MEX., AS INTERPRETED BY MR. DAVENPORT

Judge SETH. Will you state your name and where you live?

Mr. HERRARA. Jacobo Herrera, Cuba, N. Mex.

Judge SETH. What is your business?

Mr. HERRARA. I am a farmer and sheep herder, sheep owner.

Judge SETH. Did you formerly run sheep under partido, from Bond?

Mr. HERRARA. Yes, sir.

Judge SETH. Where did you run them?

Mr. HERRARA. On the forest and on the east of the Navajo; that is the territory adjacent to the Navajo Reservation, east of the Navajo Reservation; in Cuba, the west of Cuba, now in the new area of the Soil Conservation Service.

Judge SETH. How many sheep did you have of your own?

Mr. HERRARA. I had as many as 600.

Judge SETH. How many did you have on shares from Bond?

Mr. HERRARA. Four hundred.

Judge SETH. You ran them in the summertime on the forest?

Mr. HERRARA. Yes, sir.

Judge SETH. And do you know that Mr. Bond's permit on the forest was cut?

Mr. HERRARA. Yes, sir.

Judge SETH. And you have to take back, give back, the sheep that you ran for Bond, because they couldn't run on the forest. Is that right?

Mr. HERRARA. Yes, sir.

Judge SETH. And how many sheep do you have now?

Mr. HERRARA. Five hundred.

Judge SETH. Where are they running?

Mr. HERRARA. Part of them are on the forest, part of them on my private lands at Cuba.

Judge SETH. How much on each?

Mr. HERRARA. Two hundred and fifty head.

Judge SETH. How far apart are those two herds?

Mr. HERRARA. They could be 6 miles.

Judge SETH. And how many men do you have with each 250 head?

Mr. HERRARA. Two men with each 250.

Judge SETH. In other words, you have four men with 500 head of sheep?

Mr. HERRARA. Yes, sir.

Judge SETH. Did you make application to graze them altogether, Mr. Herrera?

Mr. HERRARA. Yes, sir.

Judge SETH. And who did you make application to?

Mr. HERRARA. First application at Mr. Strong's office, and he didn't pass it.

Judge SETH. And did you ever run on any of the Soil Conservation area west of Cuba?

Mr. HERRARA. I had them for 15 days on the Soil Conservation Service land west of Puerco, at the old Tillman switch, on the Western Railroad. The Grazing Service and Mr. Salmon, the grazier, gave me a permit at this particular spot in June for 15 days. When I got there, there were other sheepmen on the area, two other bands of sheep, and there wasn't any feed left. They gave me a temporary permit for about 15 days on this place; but you see I was so slow about getting the permit that the feed was gone and I had to feed the sheep on my own ranch.

Senator CHAVEZ. Let me get this straight. The translation is that the Grazing Service gave Mr. Herrera the permit, a permit from February to the 15th of June, but he was unable to use it because there were other sheep on the range, and he only used it for 15 days.

Judge SETH. Now, what became of your forest permit?

Mr. HERRARA. They gave me a permit on the forest for 250 head. The other 250 head I bought from Frank Bond & Son, and they have been running under Frank Bond & Son's permit.

Judge SETH. Didn't you have a permit at one time for a bigger amount than 250 head on the forest?

Mr. HERRARA. Yes, 600 head.

Senator CHAVEZ. May I interpolate there, too? Didn't he also say the reason he was refused a permit was because he had not finished paying the Frank Bond Co. for the sheep, still owed some money on the sheep?

Judge SETH. Is that the reason the forest permit was cut down?

Mr. DAVENPORT. Because he had not finished paying for it.

Judge SETH. Your forest permit was cut from 500 or 600 to 250?

Mr. HERRARA. Yes, sir.

Judge SETH. For any reason other than you had not finished paying for the sheep?

Mr. HERRARA. No.

Judge SETH. Had you bought the sheep from Frank Bond?

Mr. HERRARA. Yes, sir, part of them, to finish out my permit, to make a total of 500 head.

Judge SETH. And you had to divide your herd, then, and you run 250 on the forest and the other 250 wherever you could get grass?

Mr. HERRARA. Where I can.

Judge SETH. Where do you winter?

Mr. HERRARA. I don't know where I am going to winter them. I only have my ranches.

Judge SETH. Then your 500 head now are divided into two bands, and you have to have two men with each band?

Mr. HERRARA. Yes.

Judge SETH. Can you make any money running sheep that way?

Mr. HERRARA. No.

Judge SETH. Is there anything else you want to say?

Mr. HERRARA. If I am unable to get range, I don't know what I am going to do with these sheep.

Mr. LEE. Mr. Herrera, in helping you to get your range, Congressman Anderson, our Congressman, took it up with Washington to get you some lands on the grant. He got a temporary permit, only for this year, and this winter you will be out entirely unless you are able to get an extension. Mr. Chairman, he won't have any range this winter.

Mr. HERRARA. I work for 10 years, until I was 26 years old, trying to get started in this business. In 1917 I had a little bunch of sheep and the Government called me for military service, and I had to sell them in order to go to the Government service. I was in the service a year. When I got back, I had to start in all over again in order to get another start in the sheep business. Now I have 10 children, and I have these sheep to see if I can be an independent man.

One of my boys is now in the military service. If I am unable to get range for my sheep, I will have to sell them. I am ready to go and help the Government out again, if that is necessary.

Congressman ANDERSON. How long was he with Frank Bond?

Mr. DAVENPORT. He says for 14 years.

Congressman ANDERSON. Did he ever have any complaint from Mr. Bond on his work as partidero?

Mr. DAVENPORT. I can answer that, Congressman Anderson; I know that, but I want him to.

Mr. HERRARA. There was none. Evidently he trusted me, because he trusted his sheep to me.

Congressman ANDERSON. He did, and the point I wanted to bring out, Senator, was that this man would never have lost his connection at all except that the Bond permit was reduced and they had to get rid of their partidero contractors, men like that who had been running sheep for them for years and years and years. When that partidero contract was dissolved, this man found himself with the results of 14 years of hard work in the shape of a group, or a band, of sheep. In order to try and take care of that band of sheep, he sent his boy into the Army and he has to keep half of the sheep in one place and half of the sheep in another place. Only by the most vigorous type of protesting am I able to get him a chance to stay on the land at all. Now, he doesn't know how long he can stay.

The CHAIRMAN. Who has control of the territory over which he grazes?

Congressman ANDERSON. I found two agencies had control of it. I had a great deal of difficulty in trying to get them together as to whether he should have any lands at all.

The CHAIRMAN. Who was that?

Congressman ANDERSON. The Soil Conservation Service and the Grazing Service.

Mr. DAVENPORT. Could I also make a statement there? We at one time had a permit, on the Santa Fe National Forest, of 12,000 sheep. That permit has been cut down to 4,100, to be exact. At the time of this cut we endeavored to have that cut adjudicated to these partidero men of ours, but it was denied by the Forest Service, and there was nothing we could do. That is the reason for this situation now. This man has 250 sheep on the forest, and he has 250 sheep which, this summer, have been on our private mountain ranges, because we want to take care of him.

Congressman ANDERSON. I don't think, Senator, either agency wanted to be failing in duty, but you have divided responsibility. The way it could have been solved was to apparently bring the two agencies together in one office and say, "Will you both agree to try to do something for this man, temporarily?" It would be much better if we had the same sort of single control in this part of the country.

The CHAIRMAN. What do you know about it, Mr. Leech?

Mr. LEECH. I would have to ask Mr. Salmon to tell us about it.

The CHAIRMAN. Mr. Salmon is in charge of that area?

Mr. LEECH. He is the district grazier of district 1

STATEMENT OF H. M. SALMON, DISTRICT GRAZIER, ALBUQUERQUE, N. MEX.

Mr. SALMON. In the start, when this Grazing Service commenced, I think Mr. Herrera had a permit with the Grazing Service in the area. There is very little Federal land, it is so little there is scarcely none at all. However, adjacent to Mr. Herrera's base property were 240 acres of land, which he was allocated, and it was base land which was assigned to him. He kept this permit—I don't recall, but it must have been for a couple of years or something like that, and we gave him as much as we could from that base in the period of time. That was all we figured could be run in this particular area. Then he let his permit go for a couple of years, thinking, I suppose, that it was hardly enough to support the outfit; and then some time ago when this came up, Mr. Anderson, I think, had quite a little to do with it. We got together with the Soil Conservation Service, and we selected an area in there that had not been maybe used by anyone else, and I think that Mr. Herrera still holds a permit to graze on that particular area. I don't know that the Soil Conservation Service, or the Grazing Service, either, have canceled Mr. Herrera's permit on this area. I think that it is still intact, and that he has the privilege of grazing at that place.

Congressman ANDERSON. Did you say he would be safe in assuming he is protected there for the winter?

Mr. SALMON. Yes, I think so.

Congressman ANDERSON. That is the best assurance he has had in a long time. I couldn't get that in Washington.

Mr. LEE. I think, Mr. Salmon, you are mistaken. We have a letter from Washington from the Grazing Service.

Congressman ANDERSON. He has overruled it, emphatically, and I am delighted.

Mr. SALMON. There might be a higher official that has made some statement to that effect; but as far as I know, with my transactions with Mr. Strong, he is still eligible to a grazing permit there.

Senator CHAVEZ. Did you understand the statement made by Mr. Salmon?

Mr. DAVENPORT. He says he did.

Congressman ANDERSON. He is set for the winter.

Mr. DAVENPORT. On 240 acres?

Mr. SALMON. The land that was allowed him by the Soil Conservation Service and this, too, of course.

Mr. DAVENPORT. Will the Soil Conservation Service say that?

Mr. SALMON. Probably. I don't think they would disagree.

The CHAIRMAN. Is the Soil Conservation Service here?

Mr. STRONG. Mr. Chairman, and everyone that has asked for this response, I concur with what Mr. Salmon has said. We found a piece of land that was near there, in which the Grazing Service had some land and the Soil Conservation Service had some land. The Soil Conservation Service and the Grazing Service made a verbal agreement on the administration of that particular land. We, under the Soil Conservation Service, our employees, were of the opinion that that land was being handled by the Grazing Service, and so informed them that we were looking for this particular piece of land, and the Grazing Service issued the permit. They have charge of our lands in that area and can continue to issue the permits.

Senator CHAVEZ. You can stop right there. That is good.

The CHAIRMAN. The committee will stand at recess until tomorrow morning at 9 o'clock.

(Recess until 9 a. m., Thursday, September 9, 1943.)

ADMINISTRATION AND USE OF PUBLIC LANDS

THURSDAY, SEPTEMBER 9, 1943

UNITED STATES SENATE,
SUBCOMMITTEE OF COMMITTEE ON PUBLIC LANDS AND SURVEYS,
Albuquerque, N. Mex.

The CHAIRMAN. The committee will be in order.

There were some matters I understood you wanted to present this morning, Mr. Lee.

Mr. LEE. Mr. Hovey would like about 10 minutes.

The CHAIRMAN. I am going to have to request that everyone be as brief as possible, so that all who wish to be heard may be heard. This meeting must terminate this evening. We will run as late as we can, and try to give everybody an opportunity, but I must ask for as much brevity as possible.

STATEMENT OF B. P. HOVEY, BERNALILLO, N. MEX.

Mr. B. P. HOVEY. Mr. Chairman, the people of La Jara and Cuba community, some of them are here present. The Apache Indian Reservation extends clear down to the area where these people could be using it, and at the present time, and for years the Indians have never used that land. It is a reservation, Mr. Chairman, that extended—I couldn't exactly say the mileage—from the headquarters on down, but I imagine it's about 40 miles. Some Indian agency from Dulce has tried to push the Apache Indians on down to us; this lower end of the reservation. For years and years the native people from La Jara and Cuba country have used it. At the time it was under lease, Edward Sargent from Chama put in improvements.

As far as I understand, on this map I would like to show the committee. The people from La Jara live right in this spotted line or patch. This is the reservation, unused. These people are well crowded; sometimes turn their stock in here to trespass.

The CHAIRMAN. What is in there on the reservation?

Mr. HOVEY. Nothing.

The CHAIRMAN. No stock?

Mr. HOVEY. No stock. There is an Apache Indian's place about here [indicating] by the name of Henry. I don't know his last name. I have been up to him time after time, trying to inquire what stock belonging to the Apache Indians would graze down it, and the only answer I have gotten from him, he is the only one willing to come down there, because he is a part Spanish boy from somewhere in Rio Arriba County. That is the information I got from this man named Henry Lynch, Fred Lynch, that is right. He is the only one that has

about 200 head of cattle somewhere around here, but no other ones will use this. The way I understand it, the Sandoval and Rio Arriba boundary line, and the people from this area are asking just what land is within the county. That is composed, more or less, we could say, of eight townships and they want to know if it is possible for the needy people from that area there could use it for their domestic use.

If there are any questions to be asked, Mr. Chairman, we have a number of Spanish-speaking people, good Americans, and some of them have boys in the armed service. They are good citizens of this country.

(At Mr. Hovey's request the representatives from the above-named community stood up.)

Mr. HOVEY. Any questions to be asked? Mr. Chairman, you can ask any one of those people from that area and they will tell you more about it than I can.

The CHAIRMAN. I understand from your statement that these people who arose here a moment ago live in the area just off of that reservation?

Mr. HOVEY. Yes, sir.

The CHAIRMAN. That is supposed to be, or you have explained it as an Apache Reservation?

Mr. HOVEY. It is an Apache Reservation.

The CHAIRMAN. But according to your statement, it is not being used by any Indians?

Mr. HOVEY. Yes, sir; with the exception of Fred Lynch, who was up here.

The CHAIRMAN. He adheres to the Apache Tribe, doesn't he, although he is part Spanish?

Mr. HOVEY. He is half Apache, and half Spanish-American, married to a squaw of the Apaches.

STATEMENT OF A. E. STOVER, DULCE, N. MEX.

Mr. A. E. STOVER, Dulce, N. Mex. Mr. Chairman, can I ask the gentleman some questions?

The CHAIRMAN. Yes, sir.

Mr. STOVER. You say a Jicarilla Indian named Fred Lynch?

Mr. HOVEY. That's right.

Mr. STOVER. You say he is a Jicarilla? Not a Jicarilla-Apache?

Mr. HOVEY. Yes.

Mr. STOVER. I beg your pardon, he is a Mexican.

Senator CHAVEZ. Probably that's why he is not in there.

Mr. STOVER. He's in there, because he is married to Emma Quirt's daughter.

The CHAIRMAN. The statement was that he adheres to the tribe.

Mr. STOVER. He's married to a woman of the tribe, and she runs cattle in there. That statement that there are no Apaches in there is absolutely false.

The CHAIRMAN. Well, the time is ripe now.

Mr. STOVER. The Jicarilla-Apache Tribe, Mr. Chairman, has been in that area since 1909 and have been making beneficial use of that reservation. They are using it now, sir, every foot of it, and they

are practicing deferred grazing which, if the gentleman and his compadres and all the rest of the livestock men in New Mexico had practiced—

Senator CHAVEZ. I suppose they have had fine advice from the Indian Bureau, and that is why they are doing it. I happen to know that country, too.

Mr. STOVER. Yes, sir; I know you do, Senator. I believe you know that it is in the hands of—

Senator CHAVEZ. If it is in the hands of the Indians, I think it would be—

Mr. STOVER. It is in the hands of the Indians.

Senator CHAVEZ. How large is that reservation?

Mr. STOVER. There are 750,000 acres.

Senator CHAVEZ. How many Apache Indians?

Mr. STOVER. Eight hundred.

Senator CHAVEZ. Is that the total—men, women, and children?

Mr. STOVER. Yes, sir.

Senator CHAVEZ. They have 750,000 acres of land?

Mr. STOVER. Yes, sir.

Senator CHAVEZ. How many head of cattle in that reservation?

Mr. STOVER. 1,600.

Senator CHAVEZ. In the entire area?

Mr. STOVER. Yes, sir. I would also like to qualify the statement that gentleman said that that land is not in use down there. The reservation is approximately 70 miles long, north and south, with an average width of 18 miles, and extends far into the mountains. It is an ideal sheep range, with summer and winter range, and the Indians practice deferred grazing, using the north end of the reservation in the summertime and moving every hoof of livestock to the south end of the reservation in the wintertime. They have 36,000 head of sheep that they move into this area where the gentleman said there was no livestock on, 6 months out of the year, 1,600 head of cattle, and several hundred horses.

Mr. LEE. How many people do you employ outside of the reservation to herd the sheep for the Apaches?

Mr. STOVER. Are you speaking of me, or the Apaches?

Mr. LEE. You are managing it.

Mr. STOVER. Government activity, or individual Indian activity? Which are you speaking of?

Mr. LEE. You draw so many fine lines I can never tell which is which. The point I want to know is how many native people outside of the reservation are employed to herd the sheep of the Jicarilla-Apaches on the reservation?

Mr. STOVER. Very few. No one can give you the exact number.

Mr. LEE. Pretty near all of the sheep are herded by native herders, or they have been for the last few years.

Mr. STOVER. The Jicarilla-Apaches are herding their own sheep, just as other men are, because of the shortage of man-power.

Mr. LEE. Because of the shortage of man-power?

Mr. STOVER. Yes; a large number of their boys are in the armed forces, the same as those of other citizens.

Mr. LEE. Don't ever think we doubt that. We have Indians here that show you their sons fought in Guadalcanal, and we have not a

single word against a single Indian. It has never been shown in this hearing in any place where a livestock man has had any trouble with a single Indian, nor has there been an Indian testify to any trouble with the stockman. Our trouble is entirely different, so don't say they are serving their country. They serve the country, and we serve the country, both the same, and we are both agreed on what is happening here.

Mr. STOVER. Thank you, sir.

The CHAIRMAN. All right, let's proceed.

Mr. STOVER. I would be glad to answer any question concerning the use of land on the Jicarilla Reservation.

The CHAIRMAN. The statement is made here that the Indians are not using that lower part of the reservation, and here is a group of 10 or 12 who arose here and wanted to use it. How many of the men who are sitting over here who arose a minute ago have seen Indians on that reservation, using it?

(Mr. Hovey translated the above question of Senator McCarran, to which there was no response.)

STATEMENT OF MAX EICHWALD, CUBA, N. MEX.

Mr. EICHWALD. I was into the Apache Reservation this spring, and up until May—I was in there looking for some cattle that had strayed. I rode with Fred Lynch and talked to him, and he said that there wasn't enough cattle or sheep to cover that area around to the Cuba-La Jara country; that he had been there for 5 or 6 years, or maybe more, and he had, from Dulce clear on to Cuba to graze his stock. I rode with him 1 day, all day, and we rode for miles and miles together, and I didn't see any cattle at all along that place.

Senator CHAVEZ. Who is Fred Lynch?

Mr. EICHWALD. Apache-Spanish fellow that is staying inside the reservation. He has about 200 head of cattle.

The CHAIRMAN. Well, are there Indians in there using that territory?

Mr. EICHWALD. There are in the northern and western part of the reservation.

The CHAIRMAN. How about the southern part referred to by the witness?

Mr. EICHWALD. I haven't seen any.

The CHAIRMAN. How often have you been in there?

Mr. EICHWALD. I have been in there on and off for about every 2 weeks.

The CHAIRMAN. Is there any livestock in there?

Mr. EICHWALD. I haven't seen any. There is a few of Fred Lynch's on the summer.

The CHAIRMAN. How long ago is it since you have been there?

Mr. EICHWALD. I have been all my life in Cuba.

The CHAIRMAN. How long is it since you have been in the southern end of the Apache Reservation?

Mr. EICHWALD. I have been about 2 months, maybe.

The CHAIRMAN. Does anyone else want to be heard on that?

STATEMENT OF REYES S. GURULE, LA JARA, N. MEX., AS INTERPRETED BY SENATOR CHAVEZ

Mr. GURULE. My name is Reyes S. Gurule, and I live at La Jara. I was born and reared and I am still at La Jara. I adjoin them. I am acquainted with the reservation. I know that part adjoining us. I do not know the part where the Indians live.

About the only time the Apaches come into that part of the reservation is when they come to the feast at Jemez.

Around the neighborhood of where we live they do not have any stock. They do have some stock on the western portion of the reservation. I arrived here on the 7th of the month. I was around the area the day before, on the 6th. About the only head of stock on there now is those that stray from the outside to the inside.

Mr. STOVER. May I ask a question? Will you ask the witness if he is familiar with the stock that runs on that reservation between the 1st of November each year and the 1st of May of each year?

Mr. GURULE. No, sir.

Mr. STOVER. Was he ever on part of that reservation during that period of time?

Mr. GURULE. I go there practically every day in the year, throughout the entire year.

Mr. STOVER. On the reservation?

Mr. GURULE. On the reservation, because my stock gets in there, and I go in after it.

Senator CHAVEZ. Have you ever leased a part of that property heretofore?

Mr. GURULE. I have tried to rent it, but they never have rented it to me. Mr. Sargent did have a lease in there; Mr. Ed Sargent, several years ago, he rented the place.

The CHAIRMAN. All right.

Mr. HOVEY. If you want any more witnesses, everyone will testify about the same, Mr. Chairman.

Senator CHAVEZ. John, are you acquainted with the circumstances up there?

Mr. DAVENPORT. Yes, sir; I had the first lease referred to, but the last lease was about 7 years ago, when the Indian Service adopted the policy of throwing all the lessees off the land to acquire more property. I ran the last lease there.

Senator CHAVEZ. You leased the property from the Service?

Mr. DAVENPORT. Yes, sir.

Senator CHAVEZ. And in turn, you rented it to Mr. Gurule?

Mr. DAVENPORT. I ran my cattle in part of his.

The CHAIRMAN. Have you been in there recently?

Mr. DAVENPORT. I go by there quite often.

The CHAIRMAN. That is referring to the southern end of that reservation within the county lines described here by the witness having the map. Are there any Indians in there?

Mr. DAVENPORT. I never have seen one in there. I held that place under lease about 3 years, and I never saw an Indian in there.

Senator CHAVEZ. How far away were the Indians?

Mr. DAVENPORT. They live at Dulce. That must be, I would say, around 75 miles from there. I may be off a little there.

Senator CHAVEZ. Do the Apaches group themselves around?

Mr. DAVENPORT. Yes, sir; they do winter some of their sheep a little farther north, probably 15 or 20 miles farther north than this particular area they are talking about. This is the extreme south end of the reservation. It is impossible to use that area for sheep, because it is a pingue country.

The CHAIRMAN. A what?

Mr. DAVENPORT. That is a poisonous weed.

Senator CHAVEZ. So you have to use it for cattle?

Mr. DAVENPORT. It has to be used for cattle.

The CHAIRMAN. Are there any questions?

Mr. STOVER. Mr. Davenport, have you been on that part of the Jicarilla-Apache Reservation between the 1st of November and the 1st of May, in the last 7 years?

Mr. DAVENPORT. I haven't been on the reservation. I have been by it and through it on the Farmington Road several times during that time.

Mr. STOVER. During the winter months?

Mr. DAVENPORT. Yes.

Mr. STOVER. And you saw sheep?

Mr. DAVENPORT. No, sir.

Senator CHAVEZ. Did you go through there last winter?

Mr. DAVENPORT. Yes, sir; I went to Aztec last winter.

Senator CHAVEZ. And the winter before last?

Mr. DAVENPORT. Yes, sir.

Senator CHAVEZ. At any time did you see any sheep in this particular part?

Mr. DAVENPORT. Not in that particular area, in fact, we have a range in Largo Canyon, and we have to go through Counsellor's Trading Post to get down there. I have to go out there once or twice every winter.

The CHAIRMAN. All right. Let's proceed.

Mr. HOVEY. Are there any other questions to the native people?

Senator CHAVEZ. No.

Mr. HOVEY. Well, we will pass on to the other questions we have involved here.

The people somewhere on this grant, the land surrounding that village belongs to Mr. Lee Evans. There is a small piece of land here in Township 11, R. 3 W., right around here. Some native people live in that area, but now it is under control of the Indian Service.

The CHAIRMAN. What is that, now?

Mr. HOVEY. Some native people living in that area there, in the public domain there, it is in the hands of the Indian Service for the Navajo Indians from Canyoncito to here somewhere. [indicating]. They haven't used the land since they acquired it. They have some exchange for use of that public domain. I asked one of the agencies yesterday whether or not they owned any land in that area and the answer was "No." Of course, I knew that should have been the answer, because I have checked on it.

So, therefore, I, by myself here—the boys can't stay here, they are just poor people. They came in here Monday and stayed until last night until the meeting was adjourned. This land, the way I understand it, the yellow belongs to the Indians. The people are asking

or 14 sections of that land there, including the holdings that the people have within the area.

Senator CHAVEZ. Now let me get this straight, Mr. Hovey. You say that the Indian Service has some public-domain land there?

Mr. HOVEY. Yes, sir.

Senator CHAVEZ. Where did they get it?

Mr. HOVEY. The information I can give you, Senator, the inquiry between me and the Indian Service, whether or not they had any holdings of their own, and the answer was "No." I asked them, "What have you got there?" And they answered, "Public domain."

Mr. JAMES STEWART. Mr. Chairman, may I make a statement?

The CHAIRMAN. Yes, sir.

Mr. STEWART. This area is occupied by a small group of Navajos, as Mr. Hovey says, a Canyoncito Band of Navajos. The land status within this small area of a total of 55,626 acres is involved. That is the total over all.

Senator CHAVEZ. How many Navajos are within the area?

Mr. STEWART. I will lead up to that.

The land tenure or the pattern of ownership in this over-all acreage consists of 11,626 acres of Indian owned land, Indian owned in terms of allotted land. There are 35,948 acres of so-called submarginal resettlement purchase land. There is some public domain totaling 18,766 acres. There is so-called rehabilitation land of 951 acres, all totaling 55,626 acres of land.

The Navajo population in this particular area is 351. That is the average of about 17 families, Navajo families in there. They have approximately, in terms of cattle units yearlong, 777 units. Those are split into sheep and cattle. The carrying capacity in the area is 708 cattle units. The average spread per family would be 65 sheep units converted from the cattle units on the five to one basis.

There is use of this land, unquestionably. There is a problem, as Mr. Hovey has indicated, of those people over the rim. That is where they are, are they not?

Mr. HOVEY. That's right.

Mr. STEWART. Of the use in there.

Now, there is an existing arrangement of ours with certain of the Spanish-American people that are over this rim, so to speak. Now, those people want to extend that use, in this over-all area that I just mentioned.

Now, before that is done, there is also a Spanish-American, Steve Herrera, further in and toward the center of the area. Before any adjustment of use in behalf of the people over the rim is considered, then the equities and rights of Mr. Herrera must be considered. To give a decision here at this meeting now is impossible, but rather than leave the matter in the air and say that we would resist any attempt to take from these Canyoncito Navajos any land-use rights, I would a lot rather leave it on this basis, that we will meet with those people over there and unquestionably we have got to meet with Mr. Herrera and work out what can be worked out for the solution of the problem.

Senator CHAVEZ. The additional property that you obtained there for the use of the Indians, based on the same idea that you did on district 7, by getting the public domain, by getting some of the Taylor grazing land, by taking advantage of submarginal purchases, the re-

habilitation purchases, and so forth, under the idea that instead of going to the United States of America, the land should have gone to the Indians, isn't that correct?

Mr. STEWART. Of course, basically, Mr. Senator, these allotments were made to these Indians long prior to our discussion. This is in the proposed old Navajo Boundary extension bill area.

Senator CHAVEZ. That didn't pass.

Mr. STEWART. That is right. Those allotments were made long prior to any consideration of legislation.

Senator CHAVEZ. No one is worrying about the allotments, because they were made.

Mr. STEWART. But the fact that the allotments are being checker-boarded naturally could not be made otherwise, because of the land grants in there, in order to give them to the Navajo people on the area to block out. The same thing was done by the Santa Fe over here. We went into this program and built it up for the Navajo Indians.

Senator CHAVEZ. You suggested the word "equities" here awhile ago.

Mr. STEWART. That's right.

Senator CHAVEZ. I am in favor of that. Why shouldn't the people, other citizens, and I consider the Indians just as good citizens as any other citizen—the idea is to give him equity. But there should be some equity for the other people, too. Why grab it over there for a few Navajos and let the others starve?

Mr. STEWART. Of course, Senator, the equities of the people that have property rights within this over-all area have been met by virtue of the resettlement purchase program.

Mr. LEE. May I inject one other issue in there that goes a little further than what you have said? Mr. Brophy, when one of these native people in there was trying to buy the land from the Santa Fe Railroad, he wrote a letter telling them the Santa Fe Railroad had no title in there, it was no good. He wrote a letter to the Santa Fe Railroad telling them their title was no good. Mr. Hemenway wrote a letter back and said he didn't agree.

Now, the native people that tried—that particular family had been on that land, I imagine, some 30 or 40 years. Mr. Hemenway can be summoned here and can produce the evidence that they had been leasing that land for years and years, and yet they were frightened out of trying to protect themselves by an attorney for the Indians. I don't know just what Mr. Brophy's title is, the Indian Rights Society, or the Indian Service; but they are always like that, they drive these people out, and they don't want to bring a lawsuit.

Mr. STEWART. Do you have copies of such letters, Mr. Lee?

Mr. LEE. No; but we can secure them from the Santa Fe Railroad. I have seen them.

The CHAIRMAN. Let's have the copies as soon as you can get them. We can't let this drag out all day.

(The letters are as follows:)

ALBUQUERQUE, N. MEX., April 4, 1942.

SANTA FE PACIFIC RAILROAD CO., AND ATCHISON,

TOPEKA & SANTA FE RAILROAD CO. LAND DEPARTMENT,

Albuquerque, N. Mex.

GENTLEMEN: It has come to my notice that you claim to own and are preparing to sell sections 3, 5, 7, 9, and 17, in township 2 north, range 6 west, and section 35, township 3 north, range 6 west. This land is in New Mexico.

We have been advised by the Puertocito Band of Navajo Indians that they and their ancestors have occupied this land since 1844. Improvements have been built thereon, wells have been dug and considerable areas have been cultivated. This is to advise you that said land is now claimed by the Puertocito Band of the Navajo Tribe of Indians and the individual Indian occupants of the said land or either of them. Said land is owned by said band or tribe or individual occupants in fee simple. Any other lands occupied for the required length of time, although apparently within your grant, are likewise claimed and owned by said band, tribe or individual Indian occupants.

Please advise us whether or not you agree with this statement.

Yours truly,

WILLIAM A. BROPHY,
Special Attorney for Pueblo Indians.

ALBUQUERQUE, April 18, 1942.

MR. WILLIAM A. BROPHY,
Special Attorney for Pueblo Indians,
Albuquerque, N. Mex.

DEAR MR. BROPHY: Wish to acknowledge receipt of yours of April 4 in the matter of the ownership of certain lands in township 3 north, range 6 west, Socorro County, N. Mex.

This is to advise that the Santa Fe Pacific Railroad Co. does not agree with the statement made in your above-mentioned letter of April 4.

Yours truly,

E. O. HEMENWAY.

ALBUQUERQUE, N. MEX., April 4, 1942.

MR. MARTINIANO CHAVEZ,
MR. JOSE CHAVEZ Y BACA,
Magdalena, N. Mex.

DEAR SIR: We understand that you are negotiating with the Santa Fe Pacific Railroad Co. or the Atchison, Topeka & Santa Fe Railroad Co. for the purchase of sections 3, 5, 7, 9, and 17, township 2 north, range 6 west, and section 35, township 3 north, range 6 west.

This land has been used and occupied by the Puertocito Band of the Navajo Tribe of Indians and the members thereof since 1844 according to information furnished us by said band of Indians. Pursuant to the law said lands are owned by said band, tribe, or the individual occupants thereof. Improvements have been made upon said land by members of said band or tribe.

This is to place you upon notice that said land is claimed and owned by said Puertocito Band of the Navajo Tribe of Indians and the members thereof who occupy said lands, without any admission that notice other than the factual occupancy of said lands by said Indians is necessary to charge you with knowledge of the correct ownership.

Yours truly,

WILLIAM A. BROPHY,
Special Attorney for Pueblo Indians.

MR. HOVEY. Mr. Chairman, nevertheless, the land has not been used by the Indians for the last 2 years; but the question put to them whether they used it last year and the year before last, they said, "No." We are the ones that are using them.

Now, we don't like to take all the time, and we can't run all day here.

There is another question involved, where the Indians from Cochiti—I will show you on the map. The people living in Chili acquired the deeds from the Government, according to some records we have here, away back in 1856. The Indian Pueblo Agency from Santa Fe asked those owners of those deeds to let them have them, so they would have a copy. One of the deeds was 1856, and the other one was 1876. I don't know whether they got their deeds back from the Indian Land Board or not, but they have receipts that they furnished deeds to the Board members.

Senator CHAVEZ. Was the idea there that the deeds were not returned; is that it?

Mr. HOVEY. I don't know. I asked one of the men, and he said, "I don't know what happened," but they have receipts anyhow, and can be checked up in Washington.

Now, this is the land involved, Mr. Chairman, and these people, their deeds are right around here, and this is the Indian grant, Santo Domingo land grant. There are, more or less, 15 sections of land that has not been used except 10 days in May. The reason that that land was used in May, I suppose, was because the people from Chili came to Bernalillo and asked me whether I could come and see the Indian agency; if they could get a sublease from them to use this land for their domestic use livestock.

Senator CHAVEZ. The piece of land between the Cochiti grant and the Santo Domingo grant?

Mr. HOVEY. That's right.

Senator CHAVEZ. Where did that come from?

Mr. HOVEY. Public domain, with the exception of one State land that the Indian Service got it leased. When I came and talked to Mr. Dismuke, he said, "No; we haven't used it, but we are going to." They brought an Indian from Zia Pueblo from up here to lamb, and this Indian stayed in that land 10 days, because none of these Indians have used this patch of land.

Senator CHAVEZ. And they still won't let the neighbors use it?

Mr. HOVEY. They won't let the poor people go in with their milk cows there.

The CHAIRMAN. Who controls that strip of land?

Mr. HOVEY. The Indians have a lease from the State land office.

The CHAIRMAN. Who controls the public domain in there?

Mr. HOVEY. Well, we allotted—I, as a member of advisory board for district No. 1, allotted that to begin with, to a fellow by the name of Real from Cochiti. Later on he came to us and said he had no use for that, and the Indians had an obligation put in. These people, well, they don't read papers or anything, and didn't know anything about it, and they didn't put in application. We act on the applications that we had before us.

Senator CHAVEZ. You allotted it to the Indians?

Mr. HOVEY. We allotted it to the Indians.

Senator CHAVEZ. Notwithstanding that allotment, they are not using that?

Mr. HOVEY. That is right.

Mr. STEWART. Mr. Chairman, could Mr. Dismuke make a few comments on that? I don't know anything about it.

STATEMENT OF DEWEY DISMUKE, UNITED PUEBLOS RANGE, FORESTRY DEPARTMENT, UNITED STATES INDIAN SERVICE

Mr. DISMUKE. I would like to make one correction, please. There are only about 10 sections in the allotment, instead of 15, and the Pueblo of Cochiti was given a grazing permit by the Grazing District No. 1 Board for 40 cattle units in the area. According to information I get from the Indians, they haven't made as full a use of it as they would like to have, due to there not being any water in the area. If

you will notice the map, they have to come clear from this allotment over to the river for water, the inhabitants of Chili.

Mr. HOVEY. Mr. Chairman, excuse me, there is a ditch. People use that ditch to irrigate their land, their holdings that they have. These people acquired those holdings back in 1856, 10 years after this land was turned in to the United States.

Mr. DISMUKE. So the Cochitis haven't made the full use of the number they were permitted to use in there, due to lack of water. Until such time as they could drill a well near the west boundary of their Pueblo grant, and in so doing be able to water this public domain allotment. But it took time for them to arrange for funds to drill such a well. Plans are now ready to drill this well.

Senator CHAVEZ. Why didn't they have funds? Haven't they got some tribal funds?

Mr. DISMUKE. This is tribal money they plan on using to drill the well.

Senator CHAVEZ. But didn't they always have funds?

Mr. DISMUKE. They have to get permission from the Indian Office to spend those funds for a matter of this kind.

Senator CHAVEZ. Those funds attained to the Pueblos, under the Pueblo lands bill.

Mr. DISMUKE. I believe you are right.

Senator CHAVEZ. Did they make application to develop the water?

Mr. DISMUKE. They expected the agency, over a period of 2 or 3 years, to make this development, and the agency never got around to it with the agency's funds. Recently, about 3 or 4 months ago, the Cochitis decided to use tribal funds to make this development.

Senator CHAVEZ. Is there anything wrong with their using the tribal funds prior to the time, instead of using public funds?

Mr. DISMUKE. No, sir.

Senator CHAVEZ. The Government allotted them quite a sum of money, as I recall. Anyway, it was a substantial sum, though I don't recall the amount. Do you mean to tell the committee right here now, instead of allowing them to use their own funds, you suggested that the United States Government build that well; is that the idea?

Mr. DISMUKE. That seemed to be the Indian idea. They never suggested using the tribal funds, until some 3 or 4 months ago.

Senator CHAVEZ. You say the Indians are only using this for a few head of cattle, due to the lack of water. If another neighbor can use it, isn't that good Americanism?

Mr. DISMUKE. That would be up to the Indians, and the Division of Grazing.

Senator CHAVEZ. Is it the Indians, or the Bureau, that objects to letting the poor neighbors put in a cow or two?

Mr. DISMUKE. Let the Indians speak for themselves as to whether they are using it, and to what extent they have used it in the past.

The CHAIRMAN. You are in charge of it. There is no use passing it on to the Indians. You can answer that question. Don't dodge around it.

Mr. DISMUKE. They tell me they are using it now; they have cattle in there now. I haven't seen the cattle, but they are there. They would know whether or not——

The CHAIRMAN. This work is under your supervision, isn't it?

Mr. DISMUKE. Two million acres; yes. Our territory is something like 300 miles across, and I can't keep track of all the details.

The CHAIRMAN. All right; let's go ahead.

Mr. STEWART. The governor of the Cochiti Pueblo—

The CHAIRMAN. You asked yesterday that this hearing be deferred. I have got to close this matter. I intended to call on you for an opportunity for the Indians to be heard.

(Off-the-record discussion.)

The CHAIRMAN. I want to close this matter now, and then go on with the other matters.

Mr. STEWART. On the request that the Navajos be heard, I told your investigator yesterday they had withdrawn that request.

The CHAIRMAN. That is what I was told.

Mr. STEWART. Yes, sir; but this is a Pueblo Indian.

The CHAIRMAN. You want that of record, do you not, that they have withdrawn that request, because I want to be in the clear on that. I don't want anybody to say I have denied anyone the right to be heard.

Mr. STEWART. But this is the Pueblo group.

The CHAIRMAN. Do you have anything more to say, Mr. Hovey?

Mr. STEWART. Where is Mr. Montoya, the governor?

Mr. STOVER. That is not in connection with the Pueblos—

The CHAIRMAN. This is on the subject uppermost here?

Mr. STOVER. No; it isn't.

Secretary CHAPMAN. Wait a minute, Mr. Stover, please.

STATEMENT OF JOSE ALCARIO MONTOYA, GOVERNOR, COCHITI PUEBLO

Secretary CHAPMAN. Give your name.

Mr. MONTTOYA. Jose Alcarrio Montoya. I am governor of Cochiti Pueblo.

The CHAIRMAN. Do you speak English?

Mr. MONTTOYA. Just a little; not much.

The CHAIRMAN. All right; take your time and speak English slowly. and say what you have to say.

Mr. MONTTOYA. Well, according to that I have heard about it, I am going to—Pueblo Cochiti have a governor, and it seems to me that we in bargain with our grant, at least a Taylor grazing land, on the west side of it.

I heard a man that testify that the holding of the pueblo, the people of Chili, that they claim from 1836; and it seems to me that we were first, then the Mexicans; that we were using that land before any white men ever came in our grant, or our property. Now it seems to me that we are the first privileged to use that land, instead of other people. Of course, the pueblo has a small grant, and we are not able to take care of our livestock for this reason; the Pueblo Cochiti is looking for so many grazing lands, and that is why we leased this grant on the west side of our grant.

Senator CHAVEZ. It was stated here that land was allotted to the Pueblo Cochiti, but it was not being used, for the reason that Mr. Dismuke said, you didn't have water.

Mr. MONTROYA. That is true. We are not able to use it on account of the lack of water. The stock has to come about 3 or 4 miles from the grazing land down to the river, and now we have made an application, through the Indian Office, for the money that we have in the treasury.

Senator CHAVEZ. Your money?

Mr. MONTROYA. Our money.

Senator CHAVEZ. It belongs to the people of Cochiti, not to the government, at all?

Mr. MONTROYA. No, sir. The money is available now, that is going to be started to dig a well for that purpose, to graze on that grant, or mean on the grazing land.

Mr. LEE. Do you mind telling the people how many cattle you have here at Cochiti?

Mr. MONTROYA. Probably there would be about 400 cattle and about hundred horses.

Mr. LEE. All told, that is, everybody's?

Mr. MONTROYA. No; not everybody.

Mr. LEE. That's what I meant—how many?

Mr. MONTROYA. Well, there must be 24 of them, the people that have cattle, but we are speaking for all of it.

Mr. LEE. I realize that, but I meant the total number. I realize there are only 24 that do own livestock.

Mr. MONTROYA. Yes.

The CHAIRMAN. Well, let's get this clear. The 24 own about 400. Is that right?

Mr. MONTROYA. Yes, sir.

Mr. LEE. I think, Governor, it might be enlightening to the committee if you explain to them how you handle your stock there. That the war chief is in charge of the stock?

Mr. MONTROYA. Well, you see, we haven't got any herd of sheep or goats. That is only cattle and horses that we have in your property, is that right?

Mr. LEE. But the sheep brought in there; there were some sheep that came from Jemez this spring?

Mr. MONTROYA. From Jemez, that is not from Cochiti, it was the Jemez. Now, it seems to me that we are involving with our grant that I think we are the first privileged to have that land, instead of somebody else.

Senator CHAVEZ. According to the testimony of Mr. Hovey, that is correct. You were allotted that particular piece of land by the board duly created. The only question is whether you are using it. If you are not using it, there wouldn't be anything wrong to have somebody else graze a cow.

Mr. MONTROYA. How about if you give these other people grazing lands where they are going to water the cattle or animals they are going to put in there? They have got to come through into our grant, because they haven't got no water, where to water them?

Senator CHAVEZ. Something was said about a ditch. I don't know where it is.

Mr. MONTROYA. Right in our grant.

Senator CHAVEZ. Why don't you use that ditch for water?

Mr. MONTOKA. Well, be more conflict if they give to somebody else.

Mr. LEE. Can I explain this? Under the Taylor grazing law it couldn't give it to anyone else but your pueblo, as you know. We had allotted it to you. Now, in the past you have rented that land. The Pueblo has rented it 1 year to Hugh Bryant. I remember another time you rented it to other people to come in there.

Mr. MONTOKA. We didn't rent it to graze there; we leased them to go through.

Mr. LEE. Hugh Bryant leased it for quite a while, didn't he?

Mr. MONTOKA. I don't think he did; no. We just leased them to go through for the right of way.

Mr. LEE. But the point is, they want you to understand, that with your commensurate rights you people have a right to use it. The question is whether, when you are not using it, if somebody else can use it until such time as you were in shape and had stock enough to use it. That is the question here. We are not trying to take it away from you.

Mr. MONTOKA. No; but then you see, now we are able to draw water there, you see, to have it watered close to the pasture. We are going to use it.

Senator CHAVEZ. When do you think you are going to get a windmill up there?

Mr. MONTOKA. That depends on the Indian Agency. They are the ones that have got to do it.

Senator CHAVEZ. I think the committee would be interested in this point, with reference to the use of your own money; now you have some money, as a pueblo, have you not?

Mr. MONTOKA. Not as a pueblo, the Treasury of the United States.

Senator CHAVEZ. But it belongs to the Cochiti Indians?

Mr. MONTOKA. Yes.

Senator CHAVEZ. When you need some of that money, you have to go through the agency?

Mr. MONTOKA. We have to go to the agency. That is the way it comes.

The CHAIRMAN. Are there any questions from anyone? All right, Governor, that is all.

Mr. DIEGO ABEITA (Isleta Pueblo). I would like for you to state the population of the Cochiti Pueblo, so the committee can understand how many the land is supporting.

Mr. MONTOKA. There is 335.

Senator CHAVEZ. That is the population, men, women, and children?

Mr. MONTOKA. Yes, sir.

The CHAIRMAN. Is there anything else on this subject?

We are going to pass on to another subject. You wanted to make a statement, sir?

Mr. STOVER. Mr. Chairman, if you would permit, I would like to call a witness to explain the use of the reservation land at Jicarilla, so that the record might be clear.

Mr. LEE. We admit the grazing is deferred.

The CHAIRMAN. Very well; state your name and your residence and your official position, if any.

STATEMENT OF EVAN L. FLORY, REGIONAL CHIEF OF SOIL AND MOISTURE CONSERVATION, UNITED STATES INDIAN SERVICE

Mr. FLORY. My name is Evan Flory, and I am regional chief of soil and moisture conservation for the Indian Service at Phoenix, Ariz.

The Indian Service has an obligation to protect the resources of the Indian lands for the Indian reservations in the Southwest region. Some of them are understocked. Some of them are overstocked. The carrying capacity on the Jicarilla Reservation is not more than the number of stock that they have on the reservation.

The area in question was released from lease some years ago, and it was felt that it needed a rest for a short time in order for the vegetation to recover its vigor and productivity. In 1940 and '41 we had a very fine year, plenty of grass on the rest of the reservation. Last year there wasn't enough water adequate to utilize the grass on the area in question. Water has since been developed, and full use will be made of that area this coming winter. If grass is not knee-high at the present time on that area, there is not going to be feed during the coming winter.

When you practice deferred grazing you will have a full vegetative growth of the season available at this time of the year. On many of the reservations in the Southwest attention has been called from time to time to the fact that feed is available and not being used. But the general practice is to defer pastures and rotate pastures. That program is not complete at the present time, but the Indians have been making improvements every year in making more uniform use of their vegetative resources.

I said a while ago no reservation is understocked; on some reservations, however, we have areas which are heavily overgrazed, and other portions of the same reservation which are not properly utilized, because it is not possible to develop water in all cases, and the complete movement of stock has not been entirely worked out.

The CHAIRMAN. All right, sir, thank you.

We will pass on to another subject. Again I want to go back to the subject that was deferred the other day to make this record complete here and to protect this committee at all times. On the opening day it was announced by Mr. Stewart that a group of Navajo Indians wanted to be heard that day. I called for them and asked them to testify, and Mr. Stewart asked that it be deferred to the following day; asked that it be deferred until the evening; and that day our investigator advised us that Mr. Stewart had advised him that they preferred not to be heard. The record so stands.

Senator CHAVEZ. Mr. Chairman, one Navajo, Deshna-Clah-Cheshiligay, chief of the Navajo Rights Association, an organization that doesn't get along with the Bureau, requested me last night, if it was possible for the committee to hear him, he would like to be heard.

The CHAIRMAN. We will hear him now. Will you come forward, please?

STATEMENT OF DESHNA-CLAH-CHES-CHILIGAY, SHIPROCK, N. MEX.

The CHAIRMAN. Do you speak English?

Mr. CHILIGAY. A little; not much.

The CHAIRMAN. Take your time and speak plainly and slowly. The reporter can get your expressions. Tell your story just as you want to, without any fear of anything.

Senator CHAVEZ. Tell the committee your name first.

Mr. CHILIGAY. Deshna-Clah-Ches-Chiligay.

Senator CHAVEZ. You live where?

Mr. CHILIGAY. I live at Shiprock, N. Mex.

Senator CHAVEZ. What district of the Navajo area is that?

Mr. CHILIGAY. Northern district.

Senator CHAVEZ. Have you an official position among the Navajos?

Mr. CHILIGAY. Yes, sir; I am chairman of the Navajo Rights Association.

Senator CHAVEZ. Are you a full-blooded Navajo?

Mr. CHILIGAY. Yes, sir.

Senator CHAVEZ. Were you born in the area?

Mr. CHILIGAY. Yes, sir.

Senator CHAVEZ. Now tell your story.

Mr. CHILIGAY. Ever since Navajo Nation came back from the Battle of Redondo, or Fort Sumners, my people have abided by the treaty which was made at that time, in 1868. My people made an agreement with the Government of the United States, and this treaty the Navajo Nation abided by. And as the Navajo Nation were very small in numbers at that time, they have increased greatly up to the present time, something like around 50,000 Navajo Indians. We are progressing rapidly, and we want to go ahead. We do not want to stand still, for some bureau of the Government, particularly the Indian Bureau, to let my people stay in one spot and be looked at from outside, as sort of a curiosity, something like buffalos fenced up in the area.

People that don't know what buffalo is will go there to see what buffalo looks like. I don't want my people to be looked at that way.

The present Indian Bureau had, ever since it came to administrate Navajo Nation, have administrated according to what I said about the buffalo. Now we, the Navajo Nation, have many grievances, ever since present Indian Bureau came into existence. We are in confusion; we don't know who to go to. There are too many bosses on the reservation.

Senator CHAVEZ. White bosses or Navajos?

Mr. CHILIGAY. White bosses; and of course we have the Soil Conservation Service administrating to our people that wanted to try to go ahead, through the Indian Bureau. The Indian Bureau takes it, then the present Service comes in, and then the Agriculture Department comes in, and then of course there are many officers under them, and too many regulations has been put to us. Some of them which we do not understand, which we cannot understand, yet today it is too complicated for my people.

For this reason the regulations were drawn up, against the wishes of my people; and to enforce these regulations against the wishes of the tribal council, law and order has been set up to enforce these regulations. That is the un-American way of doing things in the

United States, are these regulations that are affecting my people.

Senator CHAVEZ. The law-enforcement branch is another branch of the Bureau?

Mr. CHILIGAY. Another branch. It is in the same Service, but another branch to enforce these regulations, which were drawn up against the wishes of my people, to enforce the Indian Bureau's regulations. And under Mr. Fryer, the general superintendent, things got worse and worse and worse, and the Indians, the old people, the old-timers, they even could not speak. When they do speak and try to explain, he did not understand them. The regulations affecting the grazing, regulations which is put before them time and again, the Navajo Indians, the old people, and even crippled people, tried to explain that they didn't know what the regulations meant, and would like to have it explained more fully to them; and the Indian, he is thrown in jail, time and again, under Mr. Fryer. Of course these regulations has been established, and still are enforced.

Mr. STEWART. These are grazing regulations?

Mr. CHILIGAY. Grazing regulations.

The CHAIRMAN. Where is Mr. Fryer now?

Secretary CHAPMAN. He is not with the Service any more.

The CHAIRMAN. Well, what other service did he transfer to?

Secretary CHAPMAN. He went to the War Relocation.

The CHAIRMAN. He has charge of the Japs now?

Mr. ADAMS. He is in Africa, with the Rehabilitation.

Senator CHAVEZ. Military or civilian?

Mr. ADAMS. Rehabilitation.

Mr. CHILIGAY. Some of the old employees that he worked with, some of them were still in the Service here. Of course, they are under the Soil Conservation Service.

And now, you see that we don't know who our bosses are, who to go to present our grievances. We would like to have as a superintendent that we can go to and discuss our problems with, in the American way. Up to the present time, on the reservation and off the reservation, the Navajos still are in confusion, because a lot of improper administration to the Navajo Nation is going on. The Navajos are requesting, today, that they want the Government to look into their cases, and have more in a better way than what the Indian Bureau is trying to make for the Navajos, and an agent that will look into their cases, and that will give them a better management on their reservation.

We are looking up to the time when we can compete with our white brothers.

Under this court system, on the reservation, the cases are tried without a jury. Policeman, when he makes the arrest, arrests the Indian, and the judge of the Indian court; those two are the only ones. They are the prosecuting attorneys, or whatever they may be called, but the person having trouble has no defense. If he tried to get one, he is charged with contempt. If a man tries to help him, he is thrown in jail, and sometimes they both have to go to jail.

That sort of business, on and off the Reservation, affects the Navajo and altogether brought confusion upon my people; and of course, the Soil Conservation Service, we have outs and outs.

The CHAIRMAN. What was that last expression?

Mr. CHILIGAY. We have it out and out with the Soil Conservation Service. Of course, their policy, I suppose, is a new branch of the Government, which most of us here, yesterday and today, and day before yesterday, most of the white people, even though they are smart people, and have been educated for years and years and hundreds of years, still don't understand the Soil Conservation Service program.

Now, I don't see, when just in a hundred years—1868, that is a little over 70 years—I don't see how we can understand their program. As I had a large flock of sheep, one time when the Soil Conservation Service came into existence, forcing our agents—that is, they are forcing our agents like you would do when a bull gets naughty and you can't manage him, you have got to put the ring through his nose to lead him around. The Soil Conservation Service is leading our agent around, so the agent is confused, he is in confusion.

That is the way we look at it, that is the way the whole thing is. I had a flock of sheep; well, they told me to reduce it.

Senator CHAVEZ. How many did you have?

Mr. CHILIGAY. I had close to 2,000 head, one time. I had close to 300 head of cattle, too. They asked me to reduce; and I only got about 350 sheep units today. But every now and then they come to me and say, "How many sheep you have got? You count your sheep, you count your sheep." Well, if I don't count my sheep, I have to go to jail. That is, the Indian court, without defense, without nobody to present my case. Finally, they told me to go out: "You go off the reservation: the surplus animals you take off the reservation."

Well, I tried to do that.

Senator CHAVEZ. Who told you to do that?

Mr. CHILIGAY. The Window Rock Agency. So I went around, scouted around all over the country south of Farmington, off the reservation there, and I found a Navajo Indian living over there. I asked him if he had any land around there that he don't use; so he say he got a little piece up there, an allotment. I say to him, "They told me to get off with the surplus animals that I have." So he say he consented to my wishes, and we went to the subagent of Window Rock, and he asked me to fill out papers. When I start to fill those papers out I asked questions about the forms, and came to find out that it was around about what when I took my sheep off the reservation, just as soon as I pass over the line the property becomes the property of the other fellow that I am supposed to loan, or just give it to him, so that I might increase my holdings off the reservation. But the thing was ruined as soon as I cross the reservation. "The whole thing was not mine; so I said to myself, "If this thing is that way, I might as well sell them and use the money to my pleasure."

A lot of these things go on. That is the kind of set-up. I say—

Senator CHAVEZ. How were the reductions made? You said you had 2,000 head of sheep. Did they ask you to sell to him?

Mr. CHILIGAY. They don't ask me; but they force us to.

Senator CHAVEZ. Tell the committee how they went about it.

Mr. CHILIGAY. Well, I say something about the regulations. The regulations are drawn up by the Indian Bureau, and, of course, we don't know when we go to Washington to present our cases to the Bureau heads in Washington. He refers it back to the tribal council, and the tribal council meets and tries to correct these mistakes. The Bu-

reau head won't listen to us. Just like recently, the tribal council, the Commissioner, won't even listen to us.

How are you going to get along with a man of that kind? How are you going to thresh your troubles out? We like to have a man we can plan our things with, and we want to go ahead. Of course, you know that we are the first Americans on this continent, and we want to be alongside with our white brothers. We don't want to have no friction; we want to get along.

So there, I am asking the Government, through the committee, to postpone all what they are trying to do with us, the program what they have now. Postpone it until everything quiets down, until the United Nations win the war; and several years afterwards, when everything quiets down, then we talk the thing over and thresh it out.

Senator CHAVEZ. You want to do for the duration what other Americans want to do and then afterward you want to do what the other Americans want to do.

Mr. CHILIGAY. We want everything in the American way, in the democratic way. We don't want to sneak around and do something here, and blame it on another Bureau agency; another Bureau agency would blame it on the other fellow.

Senator CHAVEZ. Well, there is only one redeeming feature about the whole situation, and that is that the white man is in the same shape.

Mr. CHILIGAY. That is the way I look at it. [Applause.]

The CHAIRMAN. Anyone else care to be heard now?

Is Mr. Walter Sarracino here? If you will please come forward, you may make any statement you see fit. Please state your name for the record, and where you live.

STATEMENT OF WALTER SARRACINO, LAGUNA PUEBLO, N. MEX.

Mr. SARRACINO. My name is Walter Sarracino, from Laguna Pueblo.

The CHAIRMAN. For whom do you speak?

Mr. SARRACINO. Right at the present time I will speak for myself and my sister, but I am representative from our pueblo in regard to their interests.

The CHAIRMAN. Very well.

Mr. SARRACINO. While it may come up a little later on, I would like to say something in regard to my people, which I have always been interested in, tried to work in the interests of my people.

The CHAIRMAN. You may proceed on that.

Mr. SARRACINO. Right at present time, this is personal holdings which we have, a little ranch on the Canyoncito area on the Rio Puerco; took a homestead up, father and I, about 1912, and we have been ranching there ever since, over 30 years. We had at the beginning, when we took up this place, we live according to regulations of the homestead. We built home, corrals, fences, and earthen tanks, and whatever is available around there in railroad land, we lease it; and we lease this here from State land; which I can show you the old leases that we have from the railroad, since 1917. I have them right on my person here; and the leases from the State; and we have another homestead.

We took my sister, she took up homestead there, in section 30; and my father took up another homestead, half of this section 60, town-

ship 9, which is 320 acres. Then he bought a citizen homestead on section 34, and we have had control of section 32, as a State land; and on this here we have a small permit description on this holding. But after that, when this law came in, where the railroads discontinued holding their rights, why, we had to give up our leases; and we have around, over a thousand acres of citizen holdings, acres on there which we pay taxes on.

Senator CHAVEZ. That is land that the family owns?

Mr. SARRACINO. Yes, sir. There is a lot of them come up here and stated about the soil conservation. It came in, and we were sitting there; why, just as the man stated, we don't know who to go to. So finally, as Mr. Fryer was in charge from this office, here in Albuquerque, at that time, around 1938, we went to him for permit on that land.

Senator CHAVEZ. On the land you had formerly leased from the railroad?

Mr. SARRACINO. Yes; and, at that time, I think it was under discussion that you people had yesterday on No. 7, Navajo area, Canyoncito area. They took another area at that time, and it changed again, and it was thrown under the head of the Indian Service here in Albuquerque.

So that agreement that I had with the Forest, at that time; it was no good. Then the agreement that I made with Mr. Fryer, at that time; we made it for 5 years. I have here the agreement with me, the one first made.

Senator CHAVEZ. With Mr. Fryer?

Mr. SARRACINO. With Mr. Fryer.

Senator CHAVEZ. First you were leasing from the railroad?

Mr. SARRACINO. Yes, sir.

Senator CHAVEZ. You were leasing State lands?

Mr. SARRACINO. Yes, sir.

Senator CHAVEZ. Then the matter was exchanged, and it was thrown into the Canyoncito area?

Mr. SARRACINO. Yes, sir.

Senator CHAVEZ. After that it was changed to another agency?

Mr. SARRACINO. Yes, sir.

Senator CHAVEZ. And finally to the Pueblo Board here, or to the Pueblo Agency?

Mr. SARRACINO. Yes, sir.

Senator CHAVEZ. But the first one that took it after the exchange was Mr. Fryer, the superintendent of the Navajos, and you went to him and tried to lease that land from that agency?

Mr. SARRACINO. Well, I wanted to have some kind of agreement, so we could run our stock in there.

Senator CHAVEZ. And you did?

Mr. SARRACINO. Then I did.

Senator CHAVEZ. Is that the agreement that you have?

Mr. SARRACINO. It is right here.

Senator CHAVEZ. For how many years?

Mr. SARRACINO. Five years.

Senator CHAVEZ. Commencing when?

Mr. SARRACINO. Around October 1938.

Senator CHAVEZ. When did the Pueblo Agency get control of your area?

Mr. SARRACINO. I can't give you the exact date, but according to this agreement, the agreement I got was on January 8, 1940.

Senator CHAVEZ. From the Pueblo Agency?

Mr. SARRACINO. The Pueblo Agency.

Senator CHAVEZ. Very well, go ahead.

Mr. SARRACINO. And I was told that the agreement that Mr. Fryer as made was no good; it was not strong.

Senator CHAVEZ. He belonged to the Indian Bureau; didn't he?

Mr. SARRACINO. Yes; but that is what I didn't understand. And this agreement was made again, from the Indian Office here, and it is just made for a year. It could be revoked any time, and is just an agreement. Like this gentleman just said, how can a man make improvements on ranches or other things? He would be afraid to spend his money, if they are liable to take it away from him most any time, and when you have no protection whatever on your rights, well, I don't know. A fellow don't know where he is, and after this land was exchanged and turned into Navajo, well, the Navajos could graze me all over with the sheep. I had no more protection. They told me that they could graze me right up to my door, which they did. They make that, after they heard this thing, that it was open for them, they all came up there in our area. They built corrals on the places there, especially on section 28, on the northeast corner, where my brother has his holding. There is big corrals still there. The Navajos stayed here for 2 or 3 weeks, I don't know, and that is what ruined the country, too, staying in one place. That is what the process is supposed to be, to move from one place to another, without staying in one place.

Then, another one on the northwest part, he stayed there for about 2 or 4 weeks, too; and on the south side, too, the same way; and I don't know what to do. I don't have any more protection.

Senator CHAVEZ. Did you take it up with the agency?

Mr. SARRACINO. I tried to, but it was turned over to them. I didn't have any more chance to go anywhere, and we were told that that was the law.

While I am here, I have no grudge personally against any of the office force. But what I want is some protection. Where we have been holding this grant, where I could graze my stock, that is what I want to know, like we have been grazing before. But the way it is, I am standing here, and I can't make no improvements. I even went up to the office, and tried to get a permit to build horse pastures, or build a few tanks. They told me if I build the tanks, they have to be \$500 tanks. But I have no protection that these Indians could come right in there and water their sheep. We have an earthen tank up there, which we spent around a thousand dollars on. And ever since we take this homestead up there, the Navajos comes in and water their sheep, and they water what stock they have down here. I tried to raise just as good stock as like any of you men have good horses, and more good studs, but I have no pastures to put them in.

When these people find out, down below, that I am on top of the mesa, they throw their horses in there; so they are going to get the benefit out of it, and I have to go to work and discontinue my studs and make workhorse out of them.

So all I am asking is some kind of a protection, where I could continue grazing, like we have been before. That means my two sisters—one of my sisters is a widow, and I am looking after their interests—when on the outside—the Pueblo grant, you understand. But it is no longer outside, it fell inside the Navajo area.

Mr. LEE. Can I ask you a couple of questions? You have a boy the Marines, who volunteered in the Marines, down at Guadalcanal, didn't you?

Mr. SARRACINO. Yes, sir.

Mr. LEE. On this land you own outside, you have always paid tax on it, haven't you?

Mr. SARRACINO. Yes, sir.

Mr. LEE. Aren't you a delegate, by your people of Laguna, Washington? Didn't you go there one time? I think I remember seeing you there.

Mr. SARRACINO. Yes, sir. On that question that you asked, that is the reason I tried to hold this land, for the boys when they come back so they can enjoy it again. But the way it stands, what is a man going to do when you have no protection, and you are trying to live like the rest of the citizen people?

The CHAIRMAN. Who is your superintendent?

Mr. SARRACINO. My superintendent is Dr. Aberle.

The CHAIRMAN. What is the condition of your people? What is the feeling of your people, your Pueblo people, with reference to the administration of your reservation, and the Indian Service, generally speaking?

Mr. SARRACINO. Well, before this Soil Conservation came in, our people in Laguna, well, they were pretty well-to-do; just like when we first hit that First World War. They came out, and asked if they could buy bonds, at that time; and we had a meeting in Laguna, and presented this case to our people, our stockmen, and in about 5 or 10 minutes we had \$30,000 bonds bought right there.

Senator CHAVEZ. The Lagunas are generally stockmen, aren't they?

Mr. SARRACINO. Yes, sir.

Senator CHAVEZ. Cattle and sheepmen?

Mr. SARRACINO. Yes, sir. But today you can have a meeting for weeks and months, and they couldn't raise ten or five thousand dollars. That is the difference now.

On reductions, I am sorry to say, there is no regulation: there is no system. If they were going to reduce it, like that man said, he is not the only man that really went down. We have got a lot of people that really went down, too.

I have one little instance right here with me; it was sent in to us when we were going to Washington to present to our Commissioner. This man got some sheep, like some that were asking questions. He had 175 head of sheep, and he was supposed to pay \$85 a year back to the Government. He came around to see what could be done: that after the reduction, he had only 35 head of sheep, from 175; and he still owed the Government. How was he going to pay this back? Not just only this one man, there are several of them in there.

I am not afraid to testify it. That is the reason they sent us to Washington, to try to see our Commissioner, and see if we can make some kind of adjustment on this here reduction. But just as that

an said here, when we went in his office, we weren't very well received there in the office. We tried to present our case in a way here we could try to get together; but no, he wouldn't listen.

The CHAIRMAN. Who wouldn't listen?

Mr. SARRACINO. Our commissioner, John Collier.

Senator CHAVEZ. You made a trip clear to Washington, at the expense of the Laguna Pueblo?

Mr. SARRACINO. At the expense to the Pueblo Laguna, because it was hurting them on this reduction. When we got there, we went up; we was going to Ickes, but at that time he was in New York. He was supposed to be there for about 3 weeks, and we couldn't afford to stay 3 weeks up there; so we had to—there we were, we didn't know where to go. So finally we decided to go up and see our Senator, and see what he could do for us; so we went to see him. I guess you will recall that we came into your office at that time, and we explained this thing to you, didn't we?

Senator CHAVEZ. That's right.

Mr. SARRACINO. And after discussing it, we had a date to meet with Mr. Collier, didn't we?

Senator CHAVEZ. That's right.

Mr. SARRACINO. And he didn't come, did he?

Senator CHAVEZ. That's right.

Mr. SARRACINO. I think he sent Mr. Stewart to your office, at that time.

Senator CHAVEZ. That's right.

Mr. SARRACINO. And we discussed this thing. I remember it very well, just like yesterday, what you said to Mr. Stewart here. You did not mention his name as Mr. Stewart, you said, "Jim, what is the matter down there with the Bureau? We are having so many complaints, the same thing as this here." Isn't that what you said to him?

Senator CHAVEZ. That's right.

Mr. SARRACINO. Well, you said, "You fellows ought to go down and do something for these people. One thing, Jim, I want you to do," you said to him at that time, "to go down and try to adjust that. Will you promise me that, Jim?"

Senator CHAVEZ. That's right.

Mr. SARRACINO. And Mr. Stewart said that he would. He came down here at that time, and no adjustments were ever made. It is still running just the way as when we had the meeting. Our Commissioner was there when we were holding this meeting. He was so anxious to get out; he wants to go to Navajo country; no business ever there; and left the council and went. What he promised would be made with us never has been carried out.

The CHAIRMAN. Was Collier out here himself?

Mr. SARRACINO. Yes; he came out here.

Senator CHAVEZ. As a result of that conference in Washington with Mr. Stewart, he promised to come and look into the matter. The boys appealed to me, and it appeared that they had a reasonable request, stated the conditions of the range, and said that they needed more cattle and more sheep, to give them a little chance to produce a little more for the market. They promised to do it; but I've never been able to get them to do a thing.

Mr. SARRACINO. That is the reason that we went. We inquire for more livestock, as our stock; and what our people give us to try to have it increased.

Senator CHAVEZ. How do the people in general feel toward the position of the authorities, the Commissioner's office? Are they satisfied with their work?

Mr. SARRACINO. Well, just as I stated, I guess you could judge it by yourself, the way it has been carried out.

Senator CHAVEZ. Has any effort been made to intimidate any of the members of the Laguna Indians, with reference to reductions or other regulations, by officials of the Bureau, or do they just do nothing?

Mr. SARRACINO. Well, it is just about the same, never been doing anything hardly. Might be a little increase a little later; but it was a very little increase, when we came back from back there. I know you gentlemen, Senator, you are here to try to adjust this here; not just for the outsiders, but with the Indians. Isn't that true?

Senator CHAVEZ. That's right.

Mr. SARRACINO. But there were rumors around that the McCarran committee is coming out, and Mr. McCarran, himself, he is against the Indians. He is going to take the land away from them. And Mr. Chavez the same way, our Senator. That is the way it was put before the Indians.

Senator CHAVEZ. Who put it before them like that?

Mr. SARRACINO. Well, the parties—I would rather not mention.

The CHAIRMAN. I think it should be mentioned.

Mr. SARRACINO. The party that is looking after the Indians.

The CHAIRMAN. Who is it?

Mr. SARRACINO. Just the party that is looking after the Indians.

The CHAIRMAN. An Indian Service employee?

Mr. SARRACINO. Indian Services employees; that you were coming out to take the land away from the Indians.

I was trying to explain, if it wasn't for that, because our Senator knows that the Lagunas are always stockmen and depend on the stock. He knows this; we haven't got enough land. That is the reason, when they inquire for the Montana and Sedillo grants, he approved to pass it. Isn't that right?

Senator CHAVEZ. That's right.

Mr. SARRACINO. Because you find out the Laguna Indians needed that land, didn't you?

Senator CHAVEZ. That's right.

Mr. SARRACINO. That is the way I understood you in Washington. We asked him, when we went out back there, to try to get some kind of—

Senator CHAVEZ. It wasn't a question of land. It was a question of the number of animals that the Indian Bureau would let you raise.

Mr. SARRACINO. But still, we were asking, as you may recall, we would like to have this Montana-Sedillo into more of a firm, so the Laguna could say they owned it. You stated, I think, that it could be done, and passed by Congress; that you were willing to cooperate with the Indian Office if they were ready to push. Isn't that true?

Senator CHAVEZ. Yes; but are they ready? I'm still waiting, and I don't know how long we are going to have to wait. Maybe the wagon is going to break down.

The CHAIRMAN. Have you any questions, Mr. Secretary?

Secretary CHAPMAN. No.

The CHAIRMAN. This presents an interesting picture, I think, to you.

Mr. LEE. How is the grass out there in that area now? What is the condition of the range?

Mr. SARRACINO. It has been very good all this time; and what we were afraid of at that time, we were afraid of you looking over into the pasture and seeing the grass coming up.

Mr. LEE. Well, I was.

Mr. SARRACINO. That is the reason we tried to get the office to increase a little more, so we could use all that grass; but no.

Mr. LEE. I was looking at it every day.

Mr. SARRACINO. But I know I can depend on our Senators. They will do all they can, so my people could still hold them lands that they are holding on.

Mr. LEE. To keep the record straight, there has never been any protest by either livestock associations that you people shouldn't have those grants. We always admitted that. There has never been any protest to your office, has there, Senator?

Senator CHAVEZ. No and the position of the office has always been this, that the Indian must be protected, but must not be protected at the expense of the others. The others must not be protected at the expense of the Indian. Treat them all alike.

Mr. LEE. Well, that is all Mr. Sarracino is asking to be treated like anyone else.

Mr. SARRACINO. That is it. We would like to put a little more stock on this Sedillo and Montana. I think it is only running about six or seven to a section now. But just as the gentleman states, up north around the Cabezon, that is poorer country up there; and we ought to have at least 12 or 14 to a section; and still it wouldn't hurt that. I know it, because I spent 8 years on Sedillo grant, when we still had them cattle in there. We had over 2,000 head in there running at that time; and it never did hurt it.

Mr. LEE. It's in better shape now than it has ever been in a hundred years?

Mr. SARRACINO. Yes; because there ain't hardly enough stock in there. The Laguna people has got enough stock to use every bit of it, and then more, on this here ranch, and that is what we ask. We like to have a little more increase, and still hold just the way they are, for the benefits of my people there.

The CHAIRMAN. All right. are there any questions?

Mr. DIEGO ABEITA. May I ask a question to Mr. Sarracino? You were Governor at the time, I think, that the reduction of Laguna started. Do you remember how many sheep in aggregate the tribe had, the Lagunas had? Wasn't it 54,000 head?

Mr. SARRACINO. At that time we had—correct. We had around there.

Mr. ABEITA. How much was the total reduction?

Mr. SARRACINO. I think we have now around 23,000 in there.

Mr. ABEITA. Around 23,000?

Mr. SARRACINO. Around it there.

Mr. ABEITA. Weren't we all made to understand by the Government, that with these reductions we were paying for these submarginal lands

which were to be given to us, and we were paying our sheep; isn't that your understanding?

Mr. SARRACINO. Not exactly. Here is one thing we were promised at the time of the reduction. I was Governor at that time, and Mr. Fryer was on at that time. One, I want you people to reduce your stock, and I am going to get more land for you people. That is the promise that was made to our people there.

The CHAIRMAN. Did he say how he was going to get it?

Mr. SARRACINO. He didn't say exactly, but he said, when the Indian Office is going to get it for you people, if you make this reduction, we are going to give you 8 years' work if you reduce it; and I got up and said, "Eight years' work? I just can't understand that 8 years' work."

At that time, when the Soil Conservation Service was made, it was so much money, I guess you all understand. At that time they don't know which arroyo they want to dump money into at that time.

Senator CHAVEZ. What is the use of having the land if they won't let you use it?

Mr. SARRACINO. Oh, this year they promise us, they promise my people 8 years' work. We were supposed to reduce and get rid of all of that, goats, that was mentioned here yesterday. At that time there was a lot of goats on our reservation.

The CHAIRMAN. What are they used for? Are they grazed just as sheep are grazed?

Mr. SARRACINO. They use it for their own use, and in the camps they use them as a milk, and when the dry season comes they are the only ones that are left in good shape enough to use them. That is what they were using at that time. I think the sheepmen will approve that, that the goats were a lot better than sheep during that time, isn't that correct?

Mr. LEE. That is correct. They are more of a meat animal, and they give more food value in milk for the children than sheep do.

Senator CHAVEZ. And they can stand the drought better?

Mr. LEE. If properly handled, they are quite an asset to the range. In Texas they use them completely, to balance the range.

Mr. SARRACINO. I made a statement at the meeting at that time to the Indian Office. Maybe they still remember. I said that I just could not believe this work could be carried through 8 years. I said, "I may believe, if you people guarantee my people that you will keep them operating 8 years." He said, "No," he says, "we can't guarantee."

I know why, because the Congress is the party that appropriates this money, and we don't know what is going to happen in 8 years. Maybe it will come, and maybe it won't. We have a big war, and maybe the Government will call all that money, just as our Senator says, "There goes the airplane, buy more bonds." Maybe it's a good thing we didn't dump all that money into them arroyos. But I want you to understand, too, that we haven't got anything against the Bureau. I know they are trying to do the best they can, that is, the Bureau back there.

Senator CHAVEZ. In Washington?

Mr. SARRACINO. In Washington.

Senator CHAVEZ. Well, I don't like Washington any more than you do.

The CHAIRMAN. All right.

Mr. SARRACINO. So my people make the reduction on this year on the stock. It was not voluntarily made, it was promised to them; but finally we heard in different reservations that this here, that this reduction was voluntarily made by Lagunas. So, we bought with years work but it never went through, but we went through with our reduction. A lot of our men went broke, small men, like that man that was testifying here yesterday.

The CHAIRMAN. You made one statement there, and I didn't quite catch your wording. You said, "Was this reduction made voluntarily?" It sounded like it was "involuntarily." Was it made voluntarily or involuntarily?

Mr. SARRACINO. No, sir; it wasn't.

The CHAIRMAN. I wanted to get the word clear.

Mr. SARRACINO. A little later it came up, if we don't go according to this here, there will be no soil-conservation work, we are going to haul everything out here and put it some place else. But our sheepmen were a little scared and come right out. If they carry this out, our other nonsheepmen will have no work, is what they thought, so they had to sacrifice so they would go ahead, so they reduced their herds.

The CHAIRMAN. In other words, your sheepmen reduced, so that the nonsheepmen might have some benefits?

Mr. SARRACINO. Correct.

The CHAIRMAN. I am trying—I would like to ask you a question. Your pueblo lives as a community. Is that right?

Mr. SARRACINO. Yes, sir.

The CHAIRMAN. One for all, and all for one?

Mr. SARRACINO. Yes, sir; but I want you to understand, we are making living for individuals who got their own problems just like you people are trying to make their living. But just as that man says yesterday here, in regard to over-carrying capacity, we understand it; we are not trying to ruin our country by grazing, but it is already over-carrying capacity.

Now, this other man wants to come up and try to have a little more stock. Where would he go? They told us that the man was to start a business, and he has to go outside and lease the land, or get out and have to stock some place else. That is the way I was told.

Senator CHAVEZ. Anything else?

Mr. SARRACINO. On that, of course, they had pretty good leeway. When the offers come we could say we never made any such agreement. Why? Because the agreement was never made. At the meeting down there they made it at the office, and they left that 8 years out. But all my people understand that this 8-year work was supposed to be, and they took from all, the goats away from the poor old fellows that aren't able to go out and do any more work, but they were promised the work on different little places when the Soil Conservation Service came in. They did work maybe 1 or 2 months, and then they was throwed out and today they are trying to make their own living. Right in my own holdings, right in here. I have no protection whatever. I am going back to my personal holdings.

We have some private fence and different other things, and they have been destructed, and they broke into our headquarters to get provisions and ropes and other stuff. So I sent my sister's son-in-law

to go down to Canyoncito and see the range rider. I don't know what his title is; his name is Thompson, or Thomas. He made that report this year, and he says what happened; and Thomas turned around and says, "Oh, that is just a little thing. The Indian Office won't pay no attention to it." It is not a little thing for me.

Senator CHAVEZ. What about this law and order set-up they have, isn't that supposed to take care of things like that?

Mr. SARRACINO. They are supposed to enforce it. That is the way I got it. Well, we have a watering place in section 34 there, and it was skin dry, and I was depending on my tanks there. What happened, some of the outsiders there, neighboring people, they open the water faucet and let the water run on down to the creeks. I have had such a thing happen to me, back and forth like this; and I am here today to get some kind of protection on our holdings. I am willing to cooperate.

The CHAIRMAN. Are there any questions?

Mr. JOHN ALONZO. I would like, with your permission, to allow Mr. Beardsley to speak for us. He is the spokesman that has been elected.

The CHAIRMAN. Are there any questions of the witness before the committee? Do you wish to interrogate the witness? Do you want to ask any questions of this witness?

Senator CHAVEZ. You are from Laguna, too?

Mr. JOHN ALONZO. The governor of Laguna Pueblo. This is Mr. Eli Beardsley from Winslow, a member of the Puebla Laguna, a railroad man.

The CHAIRMAN. There was someone over here who wanted to be heard. I don't want to cut anybody out.

Do you wish to be heard, sir?

Mr. JOHN ALONZO. Yes, sir.

STATEMENT OF JOHN ALONZO, CORREO, N. MEX.

Mr. ALONZO. Mr. Chairman, in order to forestall the statements that Walter Sarracino has made, for the benefit of the record. I would like to get this straight in regard to what he said. He had been living on outside holdings, outside the Laguna Reservation.

To begin with, just as a matter of introduction, Walter is an uncle of mine, see, and he had left the family, prior to my return from the school. I had returned from school to assist my grandfather, so he and I had worked in together as partners, you might say. In other words, I was there to provide for him, see? Up until the days in 1938, after I left home for myself, which is off the reservation. I did that. At that time Walter Sarracino, who was operating independently, he was in the hotel business in New Laguna.

Well, it came to a time after I left home and went out for myself. my grandfather had asked them to be personal representatives.

The CHAIRMAN. Asked who?

Mr. JOHN ALONZO. Walter Sarracino. Now, then, this was along in 1937 when all this land program was at the beginning. My grandfather and myself had paid railroad leases on this particular township referred to up to this date, which I have a letter from Walter V. Woehlke, as chairman, and John Adams as secretary. In order to

clarify the whole matter for the record, we had to surrender our railroad leases, due to the fact of the Government purchase.

The CHAIRMAN. Who required you to surrender your railroad leases?

Mr. SARRACINO. Well, this letter—should I enter that in the record, or shall I read it?

The CHAIRMAN. Is it by that letter that you were required to surrender your leases?

Mr. ALONZO. Yes.

The CHAIRMAN. Who signed the letter?

Mr. ALONZO. Walter Woehlke and John Adams.

The CHAIRMAN. Very well, I think it might go in the record.

(The letter is as follows:)

INTERDEPARTMENTAL RIO GRANDE COMMITTEE,

Albuquerque, N. Mex., June 2, 1937.

Mr. J. J. ALONZO,

Corrao, N. Mex.

DEAR SIR: The Interdepartmental Rio Grande Committee is most anxious that you should place the correct interpretation upon the granting of a temporary grazing permit for the grazing season of 1937 on the area of withdrawn public domain and the railroad sections purchased by the Government within the Canoncito purchase area. The railroad sections in the area for which a temporary seasonal grazing permit has been issued to you was bought in order to enable the Government to exercise effective control over the area to prevent overstocking and overgrazing, to check erosion, and to bring about revegetation, while at the same time affording relief to the Navajo Indians whose reservations are enormously overstocked and in a state of advanced erosion. The objective underlying the purchase of the railroad sections by the Federal Government cannot be reached unless the Federal Government, through the proper agency, has complete control over the stocking and grazing of the entire area. It had been the intention of purchasing not only the railroad sections but also all of the limited acreage of private holdings within the purchase-project area, but a temporary scarcity of funds delayed the completion of the purchases.

As a result of the delay this spring, a situation arose which would have led to the overrunning of the entire area, including the land which you formerly had under lease, by outside stock. This development would have resulted in still greater overgrazing and additional damage to the Government sections, as well as the patented lands in the area.

In order to prevent this additional damage and to protect the land within this area, the Interdepartmental Rio Grande Committee induced the various agencies concerned with the administration of the land in this purchase project to agree to a temporary allocation of grazing use in the withdrawn area pending the completion of the purchase program, limiting this temporary grazing to the 1937 grazing season. This step was undertaken for the protection of the land and in order to give you additional time in which to rearrange your business in contemplation of the assignment of the grazing rights on this area to Indian use under conservative management. There would have been no need for this temporary allocation of grazing use if the purchases had been completed at the time when the railroad sections were acquired.

Now the necessary additional funds to complete the purchase program have been provided and you are being given an opportunity to rearrange your operations and to dispose of your holdings in the purchase-project area.

The Rio Grande Interdepartmental Committee is most anxious to have you realize that the grazing use allocated to you in the withdrawn project area is limited to the present grazing season and was made for your protection and for the purpose of giving you additional time to adjust your operations preparatory to the use of the grazing on the purchased lands and the intermingled public domain by the Indians. The provisions of the Taylor Grazing Act do not apply on the withdrawn area. There is no possibility of renewing these temporary permits beyond the present season. The committee hopes that this explanation will make clear to you the temporary nature of the concessions granted you in the purchase project and that you will make use of the opportunity to adjust your

operations to the conditions described above. It is quite certain that the Federal Government will put conservative management of the area into effect prior to the grazing season of 1938 and that this conservative management will necessitate the surrender of the use of the purchased railroad sections and of the withdrawn public domain by the present temporary permittees.

Very truly yours,

WALTER V. WOHLKE, *Chairman.*
By JOHN A. ADAMS, *Secretary.*

The CHAIRMAN. Now, go ahead.

Mr. ALONZO. The idea of the letter was at that time we was allowed a temporary permit just for the season, a seasonal permit, which was for the last year, in 1937, giving us to understand that we were no longer in a position to operate and continue our operations, but to get out and seek, and give us enough time to get out and see if we could make some arrangements for our future operations as well. It so happened, at the time, there was a wealthy Spanish-American, Ysidro Sandoval, who had at that time under his holding a township which was later sold to the Government, for the benefit of the Indians, in that Canyoncito area. The only one excluded out of the purchase was the State lands. I went ahead and acquired the State lands, for the purpose of blocking out with the Indian Service, for the purpose of my own individual protection.

Well, this was done, what I feared, in a systematic way, because at that time the Soil Conservation Service was supervising the area. So I have here, with letters, the agreement that we drew up on October 19, 1938, for the 5-year period, which will expire next month.

During that gathering, in order to work out this problem, we had a proposed boundary set up, which would be my north boundary, or the south boundary of the Navajo Canyoncito Grant. This exchange aggregated in the neighborhood of a little better than 2,700 acres, that is in lieu of exchange selection. These isolated State lands were turned over to the Indian Service for grazing use; in lieu was turned over to me this Government purchase area.

Well, going back to the date that I had left my grandfather, under this agreement and exchange; I think Mr. Dismuke is here in the house, and he is well familiar with this situation. Here is the whole situation of the agreement: that was supposed to be within the proposed boundary, which aggregated 2,700 acres. That was what the Indian Service had for an exchange; but I am annually paying to the State rental for these isolated sections. There was, I can't recall the exact figures, but it is in the agreement what I consider a surplus acreage of the State land. These, we agreed, that I would turn over my grandfather's—of course, he is dead now, he has been dead for the last 3 years—for his own personal use, and I would be paying leases on it right along. Of course, Walter was appointed as representative.

Now then, what I am trying to get in, gentlemen, for the record, as I said, I would like to continue that for the benefit of the record; but I have a personal problem here, which, in your presence and knowledge. I would like to consult the Indian Service people on, because, for the simple reason, I think they are to some extent responsible for this full-blooded Indian, who has never been educated. His name is Vivian Herrera, of Zia Pueblo. According to my understanding, he had been told to vacate the Reservation here at Zia, due to some religious difficulty, or something.

Senator CHAVEZ. Does the Indian Bureau take part in the religious business of the Indians?

Mr. ALONZO. To my knowledge, they don't seem to try to do something for this gentleman.

Well, this Indian had around in the neighborhood of a hundred head of cattle of his own at that time, and he didn't know who to turn the cattle to. He was throwed off the reservation, and finally a man from San Ysidro, Garcia, a Spanish-American boy, took hold of these cattle down to the Montana grant, and had them for a period of time. I don't know just how long; but finally they stayed there, until he moved down to what is now the Rio Puerco Bridge, on Highway 66, and located.

These cattle wasn't there a short length of time until he got a notice to buy him out. So there he was, with this man's cattle, and didn't know where to go; so they approached me, if I could accommodate this boy. I asked him if they had done anything about trying to get available land for him, due to the fact he was a ward of the Government, and still retaining his tribal rights as Indian. But nothing has been done now, up until this present date, and they are on this little set-up, this little ranching unit of my own, which is operated independently of the Indian Service.

Senator CHAVEZ. That is yours?

Mr. ALONZO. That is mine.

Senator CHAVEZ. They haven't a thing to do with it?

Mr. ALONZO. Under this exchange, a portion of it is under this exchange, and I have title holdings thereon. It is getting to a time with me as an individual, where I cannot continue to accommodate this boy no longer. Since there is all kinds of available land on these Government areas, it seems as though they ought to be able to accommodate them.

The CHAIRMAN. Let's see if I can get this clear. This boy was put off the reservation?

Mr. ALONZO. Yes, sir.

The CHAIRMAN. Which reservation?

Mr. ALONZO. From the Zia Pueblo.

The CHAIRMAN. He had some livestock?

Mr. ALONZO. Yes.

The CHAIRMAN. He took the livestock with him from the reservation?

Mr. ALONZO. That's it.

The CHAIRMAN. He came down here to the bridge on the river?

Mr. ALONZO. Yes, sir.

The CHAIRMAN. Then you had some holdings, and you accommodated the livestock up to the present time?

Mr. ALONZO. Up to the present time, which is about 2 years now.

Senator CHAVEZ. But in order to locate this bridge, that is within the Sedillo grant?

Mr. ALONZO. That is it.

Senator CHAVEZ. In Indian country?

Mr. ALONZO. Indian country, west of the Rio Puerco.

Senator CHAVEZ. And they sent him out of that country, too?

Mr. ALONZO. He had this cattle up on the Montana grant, which is up above, 10 or 12, or 15 miles.

Senator CHAVEZ. They got him out of there, and you accommodated him, so he wouldn't lose his cattle; but you are not in a position to carry on?

Mr. ALONZO. That is it.

At this particular moment the object in my mind, like as I said a moment ago, in your presence and knowledge, I would like to work out some kind of a solution for this Indian with the Indian Service, whereby they could find available range for him sometime hereafter, in the near future, when we can get together.

The CHAIRMAN. Who knows about this Indian; anybody? Who is the superintendent of that reservation?

Mr. STEWART. The Governor of Zia Pueblo could answer that.

The CHAIRMAN. What's the matter with your reservation authorities? I want to know from the reservation authorities what they know about this case. Are any of them here? There is no use calling on the Indians to answer such questions that the agents of the range should answer.

Mr. DISMUKE. The matters Mr. Sarracino and Johnny Alonzo were referring to, a three-way deal there, whereby we consolidated, agreeable to Sarracino and Alonzo, consolidated the Johnny Alonzo holdings, and gave Walter Sarracino a permit to graze 50 animal units yearlong within the Canyoncito area. Those agreements were made in 1938 and will expire this fall, still operating. As far as we intend, those agreements will be renewed upon their expiration.

Senator CHAVEZ. Let's go to the Indian that has a hundred head of cattle.

Mr. DISMUKE. I wanted to state this for the record.

The CHAIRMAN. What about this Indian here?

Mr. DISMUKE. What I know about that is hearsay. Let the Zia Governor tell about it. He is really just as——

Secretary CHAPMAN. He was talking about another Indian lease, weren't you?

The CHAIRMAN. This Indian that was put off the reservation with his livestock, and he has been accommodated here for about a year or a year and a half.

Mr. ALONZO. Two years.

The CHAIRMAN. Is there no one in the administration circles who knows anything about that case?

Mr. WHITAKER. I am superintendent of education of the United Pueblos Agency. I would like to testify for the record, Mr. Vivian Herrera, unless there are two persons of the same name, has been employed, first by the Santa Fe Indian School, and the Albuquerque Indian School, continuously, I believe, since I became associated with those schools, a year ago last June.

The CHAIRMAN. What has that got to do with this matter that is up now?

Mr. WHITAKER. I understood you wished to know about the livelihood of the Indian.

Mr. ALONZO. He is employed by the Indian Service on odd jobs at Santa Fe, and finally transferred to Albuquerque, and was employed here at the dairy, or on a farm, as a common laborer.

Senator CHAVEZ. He would still be with his cattle, attending to his business, if he hadn't been sent out of the Zia Pueblo?

Mr. ALONZO. That's right.

Senator CHAVEZ. And forced to let someone else take care of this cattle for him, because he didn't have anywhere to go; but he would be with the cattle right now, if he had a place to go.

Mr. ALONZO. I imagine he would.

Mr. DISMUKE. The matter of the expulsion of this Zia Indian from the Pueblo is not an agency action in any way; it is strictly a Pueblo matter.

Senator CHAVEZ. Well, I know; but hasn't the Bureau supervision over matters of that kind, where the very livelihood of an Indian is involved? Isn't it your duty to go down and find out what the trouble is?

Mr. DISMUKE. As to the use of the Pueblo lands, but we leave that largely up to the Governor. If he and the people expel him, that is their business.

Senator CHAVEZ. You don't protect the Indian and his rights at all, then?

Mr. DISMUKE. In a matter of that kind I say it isn't our affair.

Mr. ALONZO. Well, that is the point, right there.

The CHAIRMAN. I don't think we are going into any religious controversy.

Mr. ALONZO. Regardless of whether it be a religious matter, or whatever it may be, this gentleman, being an Indian without an education; just for a trifling matter, or trouble within the community; and the United States Government and the Indian Service as an agency; for them to stand back and see this injustice done, I call that——

The CHAIRMAN. The matter presents itself to the chairman of this committee thus: Regardless of the cause of the expulsion, the matter cuts itself up there. We have got nothing to do with the expulsion whatever, or what it is behind it. That is a matter of tribal relations, or whatever it may be. But it is an Indian with some stock out on the range, who seems to be taken care of by another of his tribe, and they are asking the question, Can there be range found for these livestock?

Now, that is the story, as far as this committee is going into it; and if there is such a thing as working it out, fine and dandy. It is an isolated case, and I don't know that we are going into it very deeply. But if the Indian Service, or some service having charge of the open public domain, can find a solution for it, it would be very advantageous if it could be done while this man is here.

Mr. ALONZO. Just a moment there, Senator; what I am after, at this point, is some assurance for this unfortunate Indian. Supposing that I decided to turn his cattle out, where should he go? That is the point. It looks like all of the available land we have been hearing about has gone to waste. We ought to be able to find a little feed for these cattle.

The CHAIRMAN. Has anyone in authority an answer to that question?

Mr. DISMUKE. So far as I know personally, Mr. Herrera has never appealed to us for relief for his cattle. If he will do so we will make an attempt to find a home for them.

Mr. ALONZO. If you will give me that assurance——

Mr. DISMUKE. We will do our best.

Mr. ALONZO. I will do all I can to help him out; I have done it so far.

The CHAIRMAN. Let's proceed here. Is that all?

Mr. ALONZO. Well, so far as that, that is all, Senator, for the time being. I am more interested in that matter than anything else. Thanks.

STATEMENT OF ELI BEARDSLEY, WINSLOW, ARIZ.

Mr. BEARDSLEY. What I want to say this morning is perhaps what has been said along the line of the Indian people. Perhaps very few of you people, that have never had any contact with the Indians, understand the way these people carry out their government.

The Indian Service has not attempted to interfere with any of our Pueblo governments. I want to say this much; it has been stated from different ones that so far as the Indian is concerned, you will all perhaps reflect and understand, since the landing of the white man on the eastern shores, he has gradually gone west. He has gradually shoved the Indian further and further from his possessions.

There came a time when the United States assumed—when I say the United States I means you citizens, because you are the ones that took on the responsibility of keeping the Indians. You made your treaties. I am sorry to say a good many of those treaties have not been kept.

In order that you may accomplish and bring about your obligations, you placed the responsibility in the Congress of the United States, so that they could function. The Indian was placed under the wardship, under the authority of what is now known as the Indian Bureau. Not caring to take its own responsibility, the state designated its power and authority to the Congress, and Congress designated a branch whereby that the Indians should be looked after, and that is the Indian Bureau today.

The Indian Bureau, so far as it is concerned today, has been assailed because it has tried to protect what few Indians there are left. The State is represented well here, and it seems that the idea, so far as we can gather, has been to take away, or, as I might say, that the cattlemen of this State of Arizona and New Mexico seem to feel that they must monopolize the whole grazing areas in these two States, regardless of whether or not the Indian has any right to graze, or to have any rights in the States.

I say this personally because I have experienced that the States are very much opposed and, in a way, have passed discriminatory laws which will not benefit the Indian. I say this, insofar as I have lived in these States, I have experienced that in a good many places.

There are, I say, people in this State that are willing to consider the Indian, his highest obligation toward him; and so I say that, so far as the Indian Department is concerned, they are trying to rectify some of the mistakes. You know and I know that none of us are without these things. Perhaps mistakes have been made in the Service in trying to handle the stock, in trying to keep the Indians as they should be. There have been a great many misunderstandings between the Indians and the "Big Father," as he calls the Government.

There have been up to this date accusations of improper conduct of the Service, misuse of the lands which they have prohibited the Indians from using as our outside livestock men have used theirs. Some of

these things that are being brought up the Indian knows well just the condition he has to go by.

When the time this great reduction came for the Indians we were told just exactly what was to come off. We explained to our people that conditions, the sacrifices that had to be made, in order that these range conditions can be brought back to its fullest use. The Indian really has sacrificed. He sacrificed three-fourths of his livestock. A while ago you heard a gentleman ask what the Indian had before the reduction of the stock on the Indian reservation. We had at that time about 55,000 head, on a small area, overstocked, which only had a capacity for about 18,000 head. We were told at the time that this area could not carry the number of head that we had. What must be done? That was the question brought up to the Indian; and the Indian himself willingly, whether he was willing, but he gave his consent to reduce in order that this grass may come back again so as to be used in time to come.

It is nearly 8 years now since that took place. Within the time we have not been permitted to increase because we wanted to get the grass and have it get a good stand. Many of you stockmen perhaps have noticed that there is plenty of grass on the Indian ranges. That is for the reason the Indian himself realizes that if he overstocks the range it will be in the same condition in no time, because we are not certain of these ranges. Therefore, we must conserve, to a certain extent; but we are in a position today to begin to increase on the areas that we held back so that it can stand to have stock on it.

Another thing we have consented to these things, is that the statement has been made that it was under certain conditions. Those conditions did not mature in that case, and it was not the fault of the Indian Service. It was the fault, I believe, in Congress, that the money had been pulled away. They have set out a program, and we were to follow that program. The program was laid down, and a certain amount of money was to be appropriated; but that money never came.

There we are, right there, and we are trying to blame the Indian Service and the other bureaus.

For my part, the Soil Conservation has done a remarkable work, on all these lands. What could I have done, if I was left to look after the soil erosions, and all these things? What could my people do? Although someone here said that we knew how to take care of these things, we may have known natural things; but the scientific way of doing things, as I believe, has done a wonderful thing in our forests, in our lands, and everything that pertains to the Nation and to nature.

Therefore, I can't see why we should condemn anything, until we have seen that it is not beneficial to the human race. I believe this way, that so far as we are concerned, the Indian has always been loyal. I hear a good many of you say you are a hundred percent American. I can go you one better. I am 200 percent American, because my forefathers were here, and they started to fight for their lands, in defense of their homes, ever since you can remember, any of you can remember, and still today he is fighting for his country. We all ought to prosecute this war for what we know, and for what we understand, to the democracy of the Nation. Democracy covers

a whole lot, ladies and gentlemen, and if we could understand it, all of us, this is no time to pick at one another. This is no time to bring up the question, whether you have the right, or I have the right. I consider that I have just as much right, and you consider that you have just as much right. We are spilling the blood of humanity, in order to maintain that.

Democracy includes the right and privilege, to the fullest extent, to individuals; and it gives us the right to do as we have done in the past. The American way of life, you all understand what that means. We are fighting for those things.

So, in behalf of the people, and my people, what we want is unity. Unity and consideration for each other's rights, to life, liberty, and the pursuit of happiness. That is all we ask, and what these people, these Indians want, is enough to make a decent living, and an honest living. That is all we ask for. We are not here to plead for land that we cannot use; we are pleading to give us a chance to live.

You stockmen have, some of you, I don't know how many sections, each one of you; and perhaps you are making money to put it in the bank. That is not the idea of the Indian. He may have that, but he hasn't got that. He has not enough land. We say, we still cry, there is not enough land for the Indian.

When I mentioned, a while ago, that the Indian at one time had 55,000 head to a small area, but we are back to not half. At that time the Indians made a fine living off the number of stock that they had. At the present time there is not enough to make a decent living out of it. Therefore, we are only pleading that more land be granted. We feel, as some of you have said, you have prior holdings, and I can say, we had prior holdings, before any of you came here. [Applause.]

And that is all I am asking for. So far as the things have been spoken here, the Indian feels that, so far as the Bureau is concerned, they still adhere to the Bureau, because the Indian has the protection. If he did not have the protection, the Indian would become a tramp right now. And besides, the State has not consulted us on any question, whether we desire to come under the State, or whether we still wish to remain as we have. The State has not said how they are going to care for us. They have not given us any assurance as to what protection our land will have. Perhaps there is a time coming that we may sit down and reason these things over, because it is coming eventually.

The American Indians will merge into civilization, and the Indian will take up his responsibility, just the same as anybody else. The time is not quite ripe. We need a little more time. Some of you got the idea, perhaps, that it would be better for the Indian to be turned loose, as the black man was turned loose in 1865, or somewhere around there. But we feel that we still need the protection. Many of you say, "Why, you are able to take care of yourselves." I am; I am able to take care of myself as an individual citizen; but as a tribe, as a race of people, the Indian is not ready. He must have a little more time. We must give him the full benefits of your institutions, education, in order that he may assume his responsibilities when the time comes. Preparation is needed. A man that is going into a race must have preparation. I know that because I used to be a long-distance runner when I was in school. I had to train. I had to prepare, in order

that I may enter the race; and that is the same thing that holds good with the Indian people.

I believe when I say these things, I represent the sentiment of the people of all these pueblos throughout this valley; and I want to say that, insofar as the difficulties that have been presented come up among the Indian people, the Indian people have their own form of government, just like this case, that this boy has been, perhaps, ousted out of his reservation. That is entirely up to the Indian people themselves, within the community. We have certain laws and rules which govern the people of that particular village. Any difficulties, any problem that arises within the pueblo, the pueblos themselves take care of that. It is not up to the agency.

The agent has been accused of meddling with things, pueblo affairs. So far as I know, I don't know whether she ever has; but so far as we are concerned, she has never meddled with our affairs, because, as I have said, the affairs of the people, it is up to them. It is their problem, and they must discuss those things and work out a solution to their problem; and that, I want to be understood, because there has been some statement made here that it looks like no one knows anything about these things. But there is the whole situation right there. It is up to them to solve that problem. And in conclusion, I will say this—that, so far as the Indian people are concerned, with the stock at the present time, they have a chance to sit down with their agencies, different agencies, and work out the stock problem among themselves.

It is perfectly agreeable with all these Indians that they can and will, perhaps, be looked after in a manner which will be satisfactory to all of them.

I thank you.

Mr. LEE. How many years have you worked for the Santa Fe Railroad?

Mr. BEARDSLEY. Twenty-two years.

Mr. LEE. You live in Winslow, Ariz.?

Mr. BEARDSLEY. I live in Winslow, Ariz., but I have stock out here.

Mr. LEE. You haven't any cattle.

Mr. BEARDSLEY. I did have some sheep, but I had to sell them.

Mr. LEE. And you haven't any now.

Senator CHAVEZ. Is that due to the program you have been talking about?

Mr. BEARDSLEY. Yes, sir.

The CHAIRMAN. We will take a few minutes recess.

(Recess until 10:45 a. m.)

The CHAIRMAN. The meeting will come to order.

All right, sir, you may proceed. What is your name?

STATEMENT OF DIEGO ABEITA, ISLETA PUEBLO

Mr. ABEITA. My name is Diego Abeita, Isleta Pueblo, located 12 miles south of here, a plat of which I have here.

Now, I understand you are a committee on lands. I will explain the situation of our Pueblo, which is a grant we hold a title to in fee simple. As Senator Chavez knows, it is made up of three grants, the Isleta Pueblo grant, granted to the Indians by the Crown of Spain;

the Lo de Padilla, bought from the native people in 1750—we bought that area of 51,000 acres from the heir of Diego Padilla in 1750—and the Joaquin Sedilla-Antonio Gutierrez grant. We purchased the two grants outright, and we hold them as anybody holds title to their property.

The CHAIRMAN. Those grants, one came from Spain during the time of the reign of Spain over Mexico, and the others were purchased by your Indian group individually from whom?

Mr. ABEITA. From the heirs of those who acquired the grants, from the Crown of Spain, at the same time.

The CHAIRMAN. All were Spanish grants, originally?

Mr. ABEITA. The title of all the three grants dates back to the sovereignty of Spain. We lost some of that land, 14,710 acres, which was bought by the submarginal land purchase.

This is to kind of clear the issue—you want to get into something else; clear the issue.

The Lo de Padilla tract was bought by the submarginal land program, 14,710 acres; and 10,000 acres on the Rio Puerco side was bought by the same program, as a correction area. Inasmuch as we had purchased those on previous occasions, but had lost them through the negligence of the Government in representing our claims, or the recognition in the prejudicial errors that occurred since we acquired these lands, these are not in conflict with any of the stockmen. One of the stockmen made the remarks that there was a squeeze in, by the Bureau on one side, and by another, a purchasing agent, on the other side.

Well, we feel that the squeeze is from interested parties on one side, and the bureaucrats on the other, and the Indians are in the middle; and we heard yesterday what little stockmen had to do with the Bureaus. They certainly didn't like them. You can imagine our predicament; we have to live under them from day to day, and all the time.

The CHAIRMAN. Do you belong—I am trying to get this clear in my mind—do you belong to a tribe?

Mr. ABEITA. The Isleta Tribe. I come up here officially, speaking for the Governor of the Pueblo Isleta, two lieutenants, and a council of 12 men, who are elected by an overwhelming majority vote of the people of Isleta Pueblo.

The Indian Office has seen fit to ignore and disregard these elections, and place upon us those people of their own choice, and their own selection, for personal benefits and personal ambitions, I think.

The CHAIRMAN. When did that take place?

Mr. ABEITA. We have our elections on the 1st of January, every year. It took place on the 1st of January.

The CHAIRMAN. Now, you elected your Governor and your tribal council, or whatever it is called?

Mr. ABEITA. Elected our governor through our own ancient customs, and we have our own system of government there, which is denied us by the Indian Bureau.

The CHAIRMAN. I want to get this clear. In January you elect your Governor and your council?

Mr. ABEITA. Yes.

The CHAIRMAN. Now, the Indian Bureau refuses to recognize the elections?

Mr. ABEITA. They not only refuse to recognize elections, but they have inspired, planned, and conducted other elections, so they can recognize who they please, even if they are not elected by the people of the Pueblo. They have denied a fact of democracy that has existed there from time immemorial, to place upon it an oligarchy that is a thing of their own fancy.

The CHAIRMAN. Is that in your Pueblo alone?

Mr. ABEITA. I think it exists also in the Pueblo of Zuni. I think it is a systematic effort of the Indian Department to break down the Pueblos, and they will break down the larger ones first, inasmuch as they can break down the weaker Pueblos at their will, and deny us the right of self-determination and self-administration and self-government.

Now, I want to make the record clear here. We have no quarrel with our friend, the Secretary of the Interior, Harold Ickes, with our good friend, Mr. Oscar Chapman, Under Secretary. We think they are good men. We have never known them to be otherwise. I might say, I went to school with Mr. Chapman, at one time. I don't want to embarrass him, but I got thrown out of the same Spanish class with him. The only difference is, I landed by the wayside and he landed up in "Costigan's bailiwick."

Anyway, we think that the Secretary, and our worthy friend here, are prevailed upon, preoccupied with a good many other matters of importance; and they are prevailed upon by fast, smooth, and persuasive talk by these bureaucrats, these people who have never held a job in their lives before, some of them; some of them never had any power. They bring those short-haired women from Columbia University and the University of Chicago, with their bass voices, to dictate to us what an Indian should do. That is not fair. You will pardon me for my mild manner.

We want to paint before you this picture of this gross incompetence, waste, wasteful expenditure of the public's money, wasteful and shameful administration of Indian lands, Indian property, people's property, people's money, people's lives. This is a serious thing that cannot be dwelled upon lightly by the administration, I think; and as I said, we are not including those people who are occupied with a great many other matters. We know that it is humanly impossible to review every act that some minor official might have. But I do want to impress upon you that they should be disciplined in some way. If they can't be disciplined by the Department, then Congress and its might should discipline them.

This Bureau of Indian Affairs operates under John Collier, the Commissioner. His agent, Dr. Sophie Aberle Brophy, to whom he has sought to delegate authority over the Pueblo people, and to whom he has bestowed a title, "Superintendent of the United Pueblo Agency," at an annual salary of \$6,000 a year, and an unknown amount in expenses; during this year she has been absent from her work for 6 months, half of the year, sojourning in Mexico, Puerto Rico, and Washington, Chicago, and elsewhere.

We don't see why any superintendent should spend one-half or one-third of her time, or any substantial part of her time, away from her post. I think it's impossible to administer anything under that condition.

Now, that is the customary amount of absenteeism among the higher-ups in the Indian Service. The traveling expenses must be terrific.

In this critical time, we do not see why Mrs. Aberle Brophy's salary can't be stricken from the appropriation bill. A precedent for this action, Senator, has been already set. Back in 1932, you will remember, a very courageous Senator by the name of Senator Frazier from North Dakota, who inserted a provision in the appropriations bill, where he provided that none of the money appropriated for Indian causes should be used to pay the salary of a commissioner of the Southwest tribes, which movement, oddly, Mr. Collier sponsored at that time. Now he has effected the same thing, by the change of words and change of terminology, and change of titles. A rose by any other name is—well, you know the rest.

The administration of the land is purportedly vested in the trustees for the Indians, but the Indians are a mere chattel. Here is signed a contract between the Indians and the Government. Now, we are not here to argue, but there could be a question of whether a guardian has any right to sign a contract with a ward. I am not an authority on contracts, I am not a lawyer, but there is a question as to how far a guardian can make a ward carry out a contract.

Senator CHAVEZ. Tell the committee, go into details. I would like to know about that, for my own information anyway. What are you referring to?

Mr. ABEITA. To a range-management contract. I want to show the committee, Senator, that these range-management contracts are a version of a land steal. Now, it is better than that. Now—pardon the phrases, Senator, but I can't think of better terms—these ranges that are set up, instead of being administered as they used to be, there is a set-up made, and then a request goes into Washington, into Congress, for an appropriation. Say they set up at one time; they were requesting for—let us say, setting up something like 200,000 acres, and they were requesting \$300,000 to administer it; more than the market value of the land.

Senator CHAVEZ. With tribal funds?

Mr. ABEITA. Public money, out of Washington.

Well, I fail to see the difference between Indian money and money appropriated by Congress to the Indian Bureau. It is all Indian money, because as I gather it, Senator, after Congress appropriates for the Indian, it is the Indian's money, and the money appropriated for the benefit of the Indians should be used to the benefit of the Indians.

Senator CHAVEZ. It's appropriated to the Indian Bureau to carry on the administration of Indian affairs.

Mr. ABEITA. For the welfare of the Indians.

Senator CHAVEZ. And Indian affairs.

Mr. ABEITA. Well, it is Indian money.

The CHAIRMAN. What you mean by that is, after it is appropriated by the Congress, it is appropriated for specific purposes?

Mr. ABEITA. Yes; for the Indians.

The CHAIRMAN. It becomes Indian money in that it can only be devoted to the purposes for which Congress appropriated it, and that is, for the Indians in their respective activities.

Mr. ABEITA. That's right, yes; that is the point I wish to make.

Now, it seems to me like here is a broad picture of the whole thing; before the Indians can ever get benefits from it, in the first place, here is a Bureau that gets hold of most of that money, and uses it to pay salaries, expenses, telephone bills, and one thing and another, that do not pertain to the Indian administration, or the welfare of the Indians, and the Indians are left alone, anyway.

This contract, that last contract, these signed or purportedly signed by the Government, and setting up five Indians as dummies to manage this range, every provision in that contract is made so that it meets the approval of the superintendent of the United Pueblos Agencies.

Now, that doesn't determine any administration, it doesn't leave any of the determining of the administration to the Indians; it leaves it to the Indian Office, again.

Senator CHAVEZ. They have the final veto power?

Mr. ABEITA. The final veto power, and the final say on how it is to be administered.

The revenue off this land must be largely from a cattle herd. When we had the nerve to borrow, back in 1934, when all the cattlemen here were going broke, we took the drought-relief cattle on the provision that we pay back a like sum to the Government in 3 years. We paid back the 643 animals in 3 years, and made \$18,000, which we put in the bank here, and we had one of the best herds going. These gentlemen over here with whom we were competing, will testify to that.

Now, while we were in debt, the Indian Service didn't want to get their hands into this cattle herd; but as soon as we got out of debt, it was a different picture.

When we took over our cattle, in the first sale we weighed our stuff around 255 pounds. At sales times the following year, around 230 pounds. The last year that I knew something about it, they weighed 459.7 pounds; and no credit to the Indian administration, but credit to the Indians.

Now, again, under the Indian administration, when they have got their fingers in the pie, and got their farmers as key men in the trusteeship, the sales time last year they went down to 342 pounds again; which, I think, indicates a downward trend, although the range was better last year than the year we made an average of 459.7 pounds.

Now, no report of that business has been given us, even though it is stipulated in the contracts. No report has been given us for 2 years of the business transactions of that herd. We don't know what is going on. When the dividend was declared last year, half of the pueblo was left out of it. Over 126 people in the pueblo, deserving people, old people, people of the pueblo who had an undivided, equal interest in that corporate—

Senator CHAVEZ. Do you mean to say that the herd belongs to the pueblo as a whole?

Mr. ABEITA. That's right. Everybody has an interest in it.

Senator CHAVEZ. The smallest child has an interest?

Mr. ABEITA. It is established and patterned after the old Indian system, set up and advocated by the Indians themselves. That system would work out, if it wasn't for the selfishness of the bureaucrats. Now, last year they divided this income, say, they gave \$20 to each individual, but left one-half, about a half of the pueblo out; incidentally, those not to the liking of the Indian Bureau. I am not here

to fight for that \$20; it wouldn't carry us over if we were starving, nor would it make us rich, either. But if that principle is set down, the Indian Bureau can say, "You have no right on this reservation," and they can exclude us from any interest in the whole reservation; and we don't feel like selling our heritage for a brass button and a tin whistle!

Those benefits have been construed to belong to only the faction that is favorable to the Indian Bureau.

Senator CHAVEZ. Will you please clear that up? The herd belongs to the tribe as a whole?

Mr. ABEITA. That's right.

Senator CHAVEZ. And last year they declared a dividend?

Mr. ABEITA. Yes.

Senator CHAVEZ. And the dividend was not apportioned to all who you feel were entitled to it?

Mr. ABEITA. It wasn't apportioned at all to most of the people; only to a group favorable to the Indian Bureau.

Senator CHAVEZ. What was the reason? The other Indians are full-blooded Indians living in the pueblo, and entitled to the benefits. What excuse was given, if any?

Mr. ABEITA. I see an ulterior motive, several excuses.

Senator CHAVEZ. Never mind the motive; what excuse was given?

Mr. ABEITA. The Indian Bureau gave the excuse that they had nothing to do with it. The bank said they were stopped by the Indian Bureau, and everything was conflicting. We can't make heads or tails out of this arrangement. I see a motive in it still, Senator, and that was to defeat our elected governor, and give the power to the Indian Bureau's recognized governor over this fund; to kind of buy off the constituents, to sign away their rights to elect whoever they please. I don't call that democratic. We have our system of democracy, that is as old as the hills down there; and I think it is a very detrimental thing to any people to tear it down.

Although we may be few, as compared to the white people, in our own set-up we are certainly not going to see our little democracy torn down.

Now, right here at this point I want to bring out that there has been some statements here as to the number of Indians that are serving in the war. About 10 percent of our population is in the war, and lots of them are in the war effort. Now, it is kind of bad to see that lots of Indian boys are going away and still feel they have to look over their shoulders to see what the Indian Bureau is going to do next, and to be at the mercy of such an Indian Bureau, while they are going over to fight for their country. I dare say, Mr. Chairman, that more of us Indians would be in this war, helping to win it, if we didn't have to look out and be on guard all the time with this treacherous Indian Bureau at our throats.

Now, just dwelling on the cattle herd some more; there are some sheep in this Isleta grant of doubtful ownership. We don't know who they actually belong to; I mean, we don't know whose they are. They are using one of the trustees as the owner, and we think they belong to a white man who has a connection with the Indian Bureau. We don't know; but we would like to have some investigator look into the ownership of a certain band of sheep ranging on the Montana side

of our range, over there, that we think is being used by some white stockmen; and they are using the Indians merely as a dummy; and we are getting neither range lease nor revenue.

Now, on certain parts of the Indian lands there are situated schools conducted by the Indian Bureau, Government improvements, schools. The standard of education dispensed in these institutions is sorrowfully deficient, due to mismanagement, meddling, lack of sincerity of purpose.

The Indian Bureau sends experimenters, with freakish ideas on education, to toy with the institutions at Albuquerque and Santa Fe and Haskell. The curriculum does not meet any of the college-entrance requirements; the students come out of there practically illiterate; and still the Government is spending \$10,000,000 a year for Indian education.

Mr. Collier himself flouts that principle of education in the statement in the issue of News Week of April 26. He very boldly says:

The Indian schools are not controlled by the octopus of college-entry requirements. We are not held down by the goose step and uniformity of public schools, which prevent creative work.

Well, you know the public-school system is one of the best things this country has.

Senator CHAVEZ. That's what has made the country.

Mr. ABEITA. It has made the country; and yet here is a man at the head of a bureau in the Government that flouts that system of public education.

Senator CHAVEZ. Do you know any lawyers among the Indian boys in the State?

Mr. ABEITA. Not one in the pueblos.

Senator CHAVEZ. Engineers?

Mr. ABEITA. None; not one among the pueblos.

Senator CHAVEZ. Dentists?

Mr. ABEITA. Not one.

Senator CHAVEZ. Do you know of any particular professional men within the pueblos, outside of the ones who have been brought in?

Mr. ABEITA. I don't know of one, Senator, and the Indian Department has been educating the Indians for a hundred years, and at a cost of millions of dollars. What education I have has largely been acquired through personal effort.

Now, Mr. Collier made the statement there that they don't have to go by the academic standards of the public schools. Well, Senator, when our boys go to fight over there with the United States Army, they are required to calculate by the same standard of academic learning as the white boys in the same Army and at the same time, and they are jeopardizing the efficiency of the manpower of the armed forces.

Senator CHAVEZ. You are pretty well acquainted with the conditions of the schools and the Indian Bureau agencies throughout the entire State, are you not?

Mr. ABEITA. Yes.

Senator CHAVEZ. Are there any Indian girls over there who are stenographers or typists, or so on, at Window Rock, for instance?

Mr. ABEITA. I believe there are some stenographers, Indian stenographers, in the Indian Service, but there is not an Indian in the policy-making section.

Senator CHAVEZ. In comparison to the population of the Indians—

Mr. ABEITA. There is no comparison. There is no comparison of ratio of employment of Indians. There are more white people employed in there, and we are not objecting to the white people, only the class of white people. Some people are brought in here from New York, Chicago, and from San Francisco, and from God knows where else, who have read something about the Indians in a book maybe, and they try to fit up to that pattern.

Now, we don't like that. If you were an Indian, you wouldn't like it, either.

Senator CHAVEZ. On the practical end of it, do you have Indian farmers practically in every pueblo?

Mr. ABEITA. That is a sad thing, Senator; these farmers are being used merely as messengers. I can tell you here that these farmers—

Senator CHAVEZ. Are there any Indians among them?

Mr. ABEITA. There are Indians among them. I can show you here what they are—just up to here; and they are being used to coach Indians, like when this committee comes around and the Indian farmers are given gasoline and automobiles and tires, and paid to go among the Indians to tell them this committee, like you heard one witness say, is coming over here to take the lands away from the Indians. That has been going on now ever since they heard this committee was going to appear here. They come in here and try to change the conditions and the constitution of the council. This was delivered to a spokesman of Santo Domingo Pueblo on May 4 by an Indian farmer.

We have no quarrel with the farmers, or with that farmer; only that he is used as a tool for the Indian Bureau and the Indian Agency.

Senator CHAVEZ. What are you referring to?

Mr. ABEITA. The constitution of the All-Pueblo Council, which is simple, with four provisions in it. They tried to change it, so that they can exclude any Indian they don't approve of.

The CHAIRMAN. Who doesn't approve of?

Mr. ABEITA. Well, this was typed at the Indian office over on the third floor of the Federal Building. I imagine the Indian Bureau would have to approve of them.

Senator CHAVEZ. With reference to messengers, and so forth, that you speak of, I am handing you some documents here, and I ask you if you know what they are, to tell the committee how they were brought about, and circulated?

Mr. ABEITA. Sure.

Senator CHAVEZ. What is that?

Mr. ABEITA. That is a resolution that was brought up to Taos and Sandia, the other two pueblos. Anyway, this one happens to be—this was brought by the farmers or the extension agents in Government cars.

Senator CHAVEZ. Where was that taken to?

Mr. ABEITA. To Sandia Pueblo, as it is date-lined; and the Indians there were told that unless they endorsed it, the Bureau—or they were

given to understand that unless they endorsed it the Indian Bureau, which was being criticized, which I was to criticize, they would be taken out of their lands and homes, and that it was coming, and so therefore, I think this was signed.

Senator CHAVEZ. Do you know that that was distributed by an Indian Bureau agent?

Mr. ABEITA. I know. I can identify him.

The CHAIRMAN. What does that say?

Mr. ABEITA. It says:

Whereas the question of abolishing the Indian Bureau has been brought to our attention, and we have seen by recent articles in the press that certain citizens and Members of Congress have shown their desire to do away with the Indian Service, we the undersigned members of the Pueblo of Sandia hereby show our opposition to abolish the Indian Service.

The feeling of the entire pueblo is that the Indian Service has done a great service to the Indians, and should be permitted to continue.

Senator CHAVEZ. Accordingly, that was not prepared by any member of the Sandia Pueblo at all?

Mr. ABEITA. No; it was prepared here in the Indian Service office, and delivered by the Extension Service, for which you appropriate \$663,000 a year to be of service to the Indians. That is the kind of stuff that we don't think is of any service to the Indians.

Senator CHAVEZ. You have seen this resolution, too?

Mr. ABEITA. Yes, sir.

Senator CHAVEZ. How was that circulated?

Mr. ABEITA. It was brought up by the Extension Service, by people hired to be farmers and stockman, and various other titles; brought to Taos and Sandia.

Senator CHAVEZ. Read that resolution.

Mr. ABEITA. It reads as follows:

RESOLUTION OF THE PUEBLO OF SANDIA

Be it resolved by the pueblo of Sandia in New Mexico, at a general meeting of the qualified members of the pueblo, duly called and assembled, That only the governor, Francisco Lauriano and lieutenant governor, Paul Chavez, of this pueblo, and such other persons as they designate, are authorized by the pueblo of Sandia to present to the McCarran committee of the United States Senate, and any other investigating committee of Congress, the official position of the pueblo at Sandia concerning any lands, or any other matters that those committees may be investigating, or interested in.

Dated at Sandia Pueblo, this 5th day of September 1943.

Senator CHAVEZ. Do you know where that was prepared?

Mr. ABEITA. In the Indian Office.

The CHAIRMAN. Who is that duly elected governor whose name is mentioned?

Mr. ABEITA. We have no quarrel with the governor of Sandia Pueblo. He is a good man, and we know it. He is the governor of Sandia Pueblo.

Senator CHAVEZ. But this was not prepared by the Sandia Pueblo people?

Mr. ABEITA. No; it wasn't.

Taos had a chance to sign something like that and they wouldn't; and Antonio Lujan, who was over here a minute ago, the same thing was brought up there. They wouldn't sign.

What I want to impress the committee with is that these resolutions you have there have been inspired by the Indian Bureau, and no weight should be given to such resolutions.

Senator CHAVEZ. That is, if they are presented?

Mr. ABEITA. If they are presented. John Bird here has a resolution that was prepared by himself. I have no quarrel with that.

Senator CHAVEZ. All of these were acceded to by the Indian people, irrespective of how they feel?

Mr. ABEITA. If it is prepared by the Indian people we have no quarrel with it.

Senator CHAVEZ. Here is another one. Do you know whether that was ever circulated?

Mr. ABEITA. Yes; this was brought over to the Sandia Pueblo. It reads as follows:

RESOLUTION

Be it resolved by the pueblo of Sandia at a meeting of the qualified members of the council on this day of September 5, 1943, That:

1. We have no reason to oppose the administration of our lands by the Indian Service because we feel it has always acted in our best interests.

2. Although our pueblo does not use very many public lands we are standing strongly against the changing of the administration of these lands because we want to stand by those pueblos who are directly affected with this investigation.

3. We are under the flag of the United States and many of our boys are fighting for the protection of their land which has been handed down to us by our forefathers. We feel that the least we can do and the least our Government can do is to hold these lands intact for us and for the men in the armed forces. As a people under the flag we have a right to ask for this protection not only for our soldiers but for ourselves and those that will follow us.

What will our boys say when they return and see that everything they have fought for is lost? Are our young men being killed in the battlefields to preserve this land of ours for some selfish stockmen who already have most of the land and wants more? No; we believe in our Government and we have faith that when this investigation is completed these lands will remain in our hands.

4. Many years ago we had more land which we used in the right way. Then the Government staked out our boundaries and opened the rest of the land for settlement by non-Indians. Now we hear of this investigation and it appears that the white man has found a way by which our few remaining pieces of land can be taken away from us. The Spanish and the Mexican Governments respected our rights to these lands and we ask only that this Government also respect our rights.

(Generally circulated among the pueblos by employees of the Extension Service of the Indian Bureau—names of signatures not copied by request of person calling attention to this.)

Senator CHAVEZ. Now, you believe in the right of petition, of course?

Mr. ABEITA. Of course, sure.

Senator CHAVEZ. And you believe there is nothing wrong with that particular petition?

Mr. ABEITA. No.

Senator CHAVEZ. Do you know whether or not the Indians of the pueblo affected prepared that petition?

Mr. ABEITA. I don't think they prepared it. I think it was prepared in the Indian Bureau. It was delivered up there by an Indian Bureau official, or an employee of the Indian officials.

The CHAIRMAN. We will take a recess at this point, until 2:30 o'clock.

(Recess until 2:30 p. m.)

AFTERNOON SESSION

The CHAIRMAN. The committee will come to order. The witness who was before the committee may come forward.

There was a party who wished to interrogate you.

You may come forward. Please state your name for the record, and then you may ask your question.

STATEMENT OF GEORGE K. PRADT, LAGUNA, N. MEX.

GEORGE K. PRADT (Laguna, N. Mex.). My name is George K. Pradt. I am from Laguna.

Mr. Abeita, you were reading some resolutions, awhile ago, and I believe you stated they were written by the personnel of the Indian Service.

One of those resolutions was written at a meeting of the all-pueblo meeting, and they discussed the matter by bringing up a resolution, and wanted to go up to their regular meeting place up in Santo Domingo. That is so far away; I was low on gasoline, on my ration book. If I had gone up there I would have used up my ration book, and I wanted to save enough to get home on, so I got up and proposed to the house, and said, "Why not make one out here? A resolution is simple enough to make out here." So when I sat down they called my bluff and wanted me to write out my resolution.

The CHAIRMAN. Who called your bluff?

Mr. PRADT. The Indian people.

The CHAIRMAN. Where was that?

Mr. PRADT. At the Indian school in Albuquerque.

The CHAIRMAN. How many were there?

Mr. PRADT. I cannot say how many pueblos were represented, but I suppose they were all to be, all 19 pueblos, I believe, were supposed to have been there.

The CHAIRMAN. How many were there?

Mr. PRADT. Laguna, Acoma, Taos, San Ildefonso, Santa Clara; I don't know about that Santo Domingo, I'm not familiar with the other pueblos.

The CHAIRMAN. How many resolutions did you write there?

Mr. PRADT. I wrote one.

The CHAIRMAN. Go ahead and ask your question.

Mr. PRADT. I would like to read those resolutions. I would like to pick out the one I wrote.

Mr. ABEITA. Those resolutions were in the possession of Senator Chavez. They were turned in to the record. If you want to identify them—

Mr. PRADT. I will identify the one I wrote. Here it is, this is the one here, the resolution reads:

Whereas the question of abolishing the Indian Bureau has been brought to our attention and we have seen by recent articles in the press that certain citizens and Members of Congress have shown their desire to do away with the Indian Service, we, the undersigned members of the Pueblo of Sandia, hereby show our opposition to abolish the Indian Service.

I was asked to write the resolution, and I told them I would write a sample and they didn't have to necessarily follow the exact words, but the resolution is just about the exact words that I just read here.

The CHAIRMAN. Is that the resolution you wrote?

Mr. PRADT. It is a copy of it. They made a copy of it. I wanted to give the Indians credit for doing that themselves, and not the employees of the Government service.

The CHAIRMAN. All right, are there any other questions?

Mr. PRADT. I have nothing else to say.

The CHAIRMAN. All right, that is all.

You may proceed, Mr. Abeita.

Mr. ABEITA. I want to make a statement, in furtherance of this resolution here, that the Taos Pueblo, and several of the other pueblos, told me they came away from that meeting at the Albuquerque Indian school, which is Government property—and, incidentally, it is rather unusual to hold pueblo meetings on the Government ground—the Indians complain that they don't feel free to express themselves while they are guests of the Indian Bureau, and they must always comply with the wishes of the Indian Bureau while they are on the Government Indian school grounds, or Indian Bureau property. To further amplify that, the Indian Bureau does extensively circulate resolutions of this kind.

I can call Warren Ondelacy up here.

Warren, didn't you have an experience of this kind where, in Zuni Pueblo, the Indian Bureau has circulated resolutions against you?

STATEMENT OF WARREN ONDELACY, ZUNI, N. MEX.

Mr. WARREN ONDELACY (Zuni, N. Mex.). Yes, sir.

Mr. ABEITA. Tell us about it.

The CHAIRMAN. I don't know, I'll be frank with you, I want to let everyone have a chance here, but it seems to me we are going a little far afield, much farther afield than we have time for. We must bring this to a close as speedily as we can, because time is very short with us here.

Mr. STEWART. Mr. Chairman, all the pueblo governors that are here would like to be heard. They have indicated that to me this noon.

Mr. ONDELACY. I am the ex-governor of Zuni. I came before this committee to present myself as an individual delegate from Zuni. I have been governor for 6 months only.

First of all, I want to say that I am interested in Indian land problems, like anybody else. I am interested in livestock; I haven't got very much livestock, but my brothers are. I am interested in more room, more land for the Indians. But while I was working on these problems—there is a tribal head man, a religious head of the tribe, who is the sun priest, general director of all religious rites. I'm not going into details because that tribal religious rites does not come in with this hearing. The Indians can settle that trouble among themselves.

The main thing I came up before this committee is because, when they put me out of office, just because these priests came to me for help to remove a non-Indian agent, or rather to be given a transfer, on account of a religious standpoint of view. But the trouble arised after they put me out of office, though improper, you might say. But

I want to understand that I am glad to be out of office, because I do not get paid for it. All I get is good name; that is all I get. But this is one reason I came up before the committee, is because, when they put me out of office, they went ahead, the Indian Bureau did, went ahead and published about me in newspaper. This newspaper clipping came out of Albuquerque Journal and one from the Gallup Independent. It says here:

Zuni Indian change of governor, called by tribesmen "Little Hitler" Warren Ondelacy, Zuni governor, has been removed and his lieutenant governor, Henry Nalu, has been appointed to his place by the tribesmen, Dr. Aberle, superintendent of the Albuquerque Agency, had been informed. Dr. Aberle said Zuni Indians reported the change to her, and that circumstances of Ondelacy's removal were not given. Gallup sources and tribesmen considered Ondelacy a "Little Hitler" because he tried to eject from the reservation all who disagreed with him.

This little statement hurts my feeling, because I did not kill my tribesmen; I didn't kill anybody. My son-in-law is in Africa right now, today. What are we fighting for? What are the Indians fighting for? Are we fighting for religious freedom, or are we fighting for servants to the Government employees?

I tried to call a third meeting of all the Indians. They turned me down. We could not have no more meetings.

The CHAIRMAN. Who said you couldn't?

Mr. ONDELACY. Mr. Olsen, representing Dr. Aberle. So there I was, but I said, I am glad to be out of office. But I am interested in the land problem, and we all want to increase our herds, but like some of our men have stated, there is too many bosses. We don't know which one to go to. That is true with the Zunis. Any old Indian can tell you the same thing. Way back years ago old Indians used to refuse to ask more money from the whites, because we don't like to get nothing from the white people. We would rather work for our own selves, instead of asking for more money every year.

So that is all I have to say.

The CHAIRMAN. Any questions?

That is all. You may proceed, Mr. Abeita. I wish you would bring this to a close as rapidly as possible, because I think we have gone into a field where we don't have very much jurisdiction.

Mr. ABEITA. Yes, sir, Senator; I will try to make it as brief as possible, and discuss the extensive nature of these things, but the administration of the Indian Service is extensive.

I wish to introduce, as further elaboration of all this argument, that resolution formed by the meetings of Indians, which indicate just what we have been arguing here. One of them is dated February 8, 1943, where we tried to call an all-Pueblo council meeting, and were prevented from having this council meeting by employees of the Indian Service sending notes to various pueblos before the meeting. They stated that there would be no meeting held, and the meeting was poorly attended. We don't think it is just right.

At this meeting, that was called the 8th day of February, those that were there made a resolution as follows:

At the meeting of the all-Pueblo Council, duly called on this 8th day of February 1943, after hearing and deliberating on certain situations in the pueblo, here by resolution condemn the practice of the Indian Bureau in creating trouble within

various Indian pueblos by pitting one Indian against another or one faction against another faction to cause disunity at a time when unity is so needed. We label this as unpatriotic and incompatible to the best interest for the Indian and Government for which they work. We condemn the acts of violence to which certain factions have been spurred with the tacit approval of the Indian Bureau and at times even helped along actively by paid members of the Indian Bureau to oppose and tear down Pueblo institutions known to us traditionally without giving us better forms by which to live.

We plea that, at this time as no other before, there is need for competent and efficient management of Pueblo Indian affairs and selection of personnel in the Indian Bureau, if it is to continue, that will make this possible. We resolve further that copies of this resolution be sent to the Secretary of Interior, Commissioner of Indian Affairs, and possibly others who may have an interest to effect the desired results.

(Signed) GOV. ELIAS JIRON.
Sandia, GOV. FRANK LARAMIE.
Cochiti, GOV. PATACIO ARQUEBO.
Taos, JUAN LAIBRO CONCHA.
Acting Chairman, JOSE ALCARIO MONTAYA.
Acting Secretary, TELESFORE ROMERO.

There was another resolution that passed, which endorsed the selection of Elias Jiron as Governor of the Pueblo Isleta to a much-discussed position. I wish to present those two matters for the record.

The CHAIRMAN. Very well.

(The resolution is as follows:)

THE ALL-PUEBLO COUNCIL OF NEW MEXICO

The all-pueblo council meeting, on this 8th day of February 1943, called upon by several pueblos to deliberate the case of Isleta Pueblo, hereby rendering opinion, after due deliberation and hearing, that Elias Jiron, a resident of the pueblo of Isleta, N. Mex., is a duly elected governor of the pueblo of Isleta by reason of coming into authority through customs that are known in the pueblos and by voice of the people of that pueblo as it has been shown.

We consider that although the symbols of his office and those of the captain of war and the other symbols of various officers of the pueblo of Isleta have been confiscated and grabbed by force, that possession of these symbols alone gained by forceful violence is not sufficient to give the physical possessor reason to exercise governing authority. Authority and honor are given by election by the governed through majority vote, not by the theft of symbols or badges of office.

This applies also to the authority of the captain of war and we similarly find that Jose Velarde is the properly qualified captain of war of Isleta Pueblo and Felipe Lente and Antonio Torres the lieutenant governors of that pueblo.

The caciques, and in this case, the acting cacique, are the proper custodians of the canes which are symbols of authority in the pueblos and we urge upon the authorities to restore these canes into their custody through proper means as promptly as possible. We request that the Secretary of the Interior and the Commissioner of Indian Affairs take cognizance of this council's findings and give proper recognition to Elias Jiron as governor of the pueblo of Isleta and properly recognize him so that he may discharge the duties of that office to which he has been duly elected. We further appeal to the Secretary of the Interior to remove the underlying influence in the Indian Bureau that have been causing these disturbances now well nigh onto 8 years, and that a copy of this be sent to the Secretary of the Interior, the Commissioner of Indian Affairs, and such other Government authorities as may be able to correct this situation.

(Signed) GOV. ELIAS JIRON,
Sandia, GOV. FRANK LARAMIE,
Cochiti, GOV. PETACIO ARQUEBO,
Taos, JUAN LAIBRO CONCHA,
Acting Chairman, JOSE ALCARIO MONTAYA,
Acting Secretary, TELESFORE ROMERO.

Mr. ABEITA. There is one little incident here, which involves a small school section situated on the Indian land. I want to show it because it is an example of other things that the Indian Office is doing in misadministering Indian Affairs. The pueblo of Isleta is made up of three settlements, Chicole, Charcos, and Isleta pueblo. The Chicole has 60 or 70 families, and on this section over here, three miles from the pueblo at that place, the Government has maintained a small school, called Chicole school, to accommodate 60 little children. This year we find, at the opening of school, that school is abolished, without previous notice to parents; which a lot of people take to be an act of reprisal by the Indian Bureau. Here is the situation, the Government appropriates the money. From the hearings of the House Committee on Appropriations, on page 352, a request is made by the Indian Service for the Chicole school, which they say contains two rooms, for the amount of \$6,900.

The CHAIRMAN. What year?

Mr. ABEITA. 1943; and they closed this school at this time when the children need it; and they get the appropriation, too.

The CHAIRMAN. Was the appropriation passed by both Houses?

Mr. ABEITA. Yes sir; and here is the situation: I am glad that Governor Dempsey is here, our friend, Governor Dempsey, is here to hear this. Here is the Indian situation: Here is an appropriation by Congress for the education of these Indian children, the humblest children in the State. We pay a sales tax, which is the New Mexico school tax. We don't complain, but every purchase we make we pay a 2 percent sales tax. Here are 60 children left out in the cold, without means of getting an education, unless they can walk over to the other school at Isleta.

The CHAIRMAN. How far is that?

Mr. ABEITA. About 4 miles. On cold days it's quite a problem. Now, the Indian Service can't see the way to provide a teacher, or can't transfer a teacher, for some reason or other. Why can't they make arrangements to use the facilities there, instead of letting it stand there and depreciate into non-use? There are good facilities and school houses and everything there. Why can't they make arrangements so that the State can send teachers there for these children?

Senator CHAVEZ. Where are the \$6,000?

The CHAIRMAN. Maybe it was impossible to get teachers.

Mr. ABEITA. There was a teacher, up to the first of this month, and she was transferred. We don't know where to.

The CHAIRMAN. One teacher to that school, or more?

Mr. ABEITA. I think there were two teachers; but I am sure the Governor of our State is very fair, and he is interested in all children of the State, no matter whether they are Indian, Spanish-American, or white children.

Senator CHAVEZ. I want to know what happened to the \$6,000 that the Government appropriated.

Mr. ABEITA. We don't know what happened to that \$6,900 that the Government appropriated,

Now, there is a lot of money for wasting. It seems like there is plenty for studies and surveys, and useless expenditures; and when it comes to cutting down on economies, and they have to economize

on something, they have to economize on poor little helpless children, the humblest children, as I say, in the State of New Mexico. They can't fight back; but we intend to see that they get justice.

As I say, there is money wasted on experimental houses, green-houses. Over here, that experiment with water-grown plants, whatever that is costing, \$5,000 or \$6,000, right out here at this Government warehouse place; and so far all we can gather is that those green-houses have raised 100 pounds of kale and 100 pounds of beet tops. Now, they throw beet tops away, these markets; and we don't see that there is any connection between those expenditures and that sort of thing. Why can't they apply some of that money to educate those school children?

The CHAIRMAN. That isn't the question at all. The money has been appropriated for it specifically, and it should be directed to that item specifically. Again, I wish you would move along, because we have got to close as soon as possible, some time tonight.

Mr. ABEITA. I am making this all as brief as possible.

Here is another resolution I present for the record, a resolution passed by several of the Pueblos, which Mr. Collier, in *ex parte* hearing in Congress, refused, and attached several unsavory adjectives before my name, when he was refuting it. There is a matter to illustrate how money is spent. I have got a break-down of how money is spent, to show you how the appropriations are spent.

Now, you know, 2 years ago \$50,000 was appropriated for arts and craft, the Board of Arts and Craft. Now, I got these figures from the General Accounting Office. Now, out of that \$50,000, \$22,280 was used for salaries in Washington alone; \$13,700 in the field, assistant general manager and four clerks.

Senator CHAVEZ. That included personnel?

Mr. ABEITA. Yes.

\$3,800 for salaries; \$7,500 for salary for general manager; \$7,600 for traveling expenses; \$400 for telephone and telegraph.

That exhausted the whole appropriation. The Indians didn't even get representation on that board. [Applause.]

Now, on that board is not a single Indian craftsman who knows the mechanics of Indian arts and craft. They went down to Mexico, and retained somebody whose name we can't even pronounce—d'Harnoncourt, I think his name is.

Senator CHAVEZ. He is Hungarian. Suppose you pronounce it.

Secretary CHAPMAN. René d'Harnoncourt.

Mr. ABEITA. I understand he is a Hungarian by birth, or something. But the thing is that the Indian boys are going over there trying to win his freed m back; and he comes over here at \$7,500 a year. It looks like the Indian Department isn't satisfied with us going over to get their freedom, they want us to prostrate our freedom and our destinies to their foolishness. It is not fair.

I don't want to take up any more time, unless you want to ask questions, Senator. I will offer this resolution for the record.

(The document is as follows:)

ISLETA PUEBLO

Whereas the nation now faces a critical time and it becomes necessary that we all strive to make available all resources possible for the defense of our country; and

Whereas we witness many needless and extravagant expenditures by the Bureau of Indian Affairs of Government moneys and substance for projects and purposes at times not only unnecessary but often detrimental to us;

Therefore we the officers and the council of the Pueblo of Isleta hereby take this occasion to memorialize the Congress of the United States to consider seriously these our propositions:

1. To eliminate appropriations for—
 - A. The Indian Arts and Crafts Board.
 - B. Farmers, stockmen, extension workers, etc.
2. To provide in the appropriations law that none of the space and equipment of the Indian Service shall be used to accommodate "trainees," "consultants to trainees," "special scholars," and the like, whose presence around the Indian Office only tends to make that department less efficient to the Indians.
3. To limit the expenditure of moneys appropriated for traveling expenses of the Indian Service employees and officials to within the respective bounds of their jurisdictions.
4. To provide that none of the money appropriated for the Indian Bureau shall be used to pay the salary or expenses of Dr. Sophie D. Aberle, superintendent of the United Pueblo Agency at Albuquerque, N. Mex.
5. That the Indian Bureau be made responsible to deliver the academic and vocational education to the Indians for which purpose they are drawing funds from Congress.
6. That the salary of any employee or official, including the Commissioner of Indian Affairs and superintendents, be suspended upon the demand of the majority of the Indians for whom they work and the money reverted back to the Federal Treasury.
7. To eliminate all nonessential employees and items from the Indian Bureau and stress efficiency, economy, and results from what is provided for the Indians by the Congress of the United States.

We hereby further endorse as accurate and representative of us the declaration of grievances and other statements made by Elias Jiron, Governor of the Pueblo of Isleta, and Diego Abeita, secretary and spokesman of Isleta Pueblo Council, and filed with the Senate Committee on Indian Affairs.

Signed this 16th day of April 1942 in the Pueblo of Isleta, N. Mex.

First Lt. Gov. PHILIP LENTE.

Second Lt. Gov. ANTONIO TORRES.

(Other signatures attached.)

The CHAIRMAN. You made one statement that I am interested in. In one expression you said that Mr. Collier said something about you before a committee?

Mr. ABEITA. Yes, sir.

The CHAIRMAN. What was it?

Mr. ABEITA. I have it right here, sir:

Finally, the Diego Abeita petition request that funds for the payment of the superintendent of the United pueblos be withheld from the appropriation act—

Senator CHAVEZ. You are quoting?

Mr. ABEITA. I am quoting the letter.

* * * In sum: an excitable, aggrieved, injudicious individual Indian has got himself into a position of leadership with a minority faction of one pueblo. He is in consultation with white people, including an attorney retained by his faction. He has made extreme exertions to procure expression in support of his course of action, through all the pueblos, and has succeeded in getting signatures of 2 among 19 Governors, and from none, I believe, of the councils and principal men of any of the pueblos, and nothing by a condemnation of his course of action, through the council of all the New Mexico pueblos.

Well, that is characteristic of Mr. Collier. He calls names. The broad implication is that this man is in charge of people trying to get more power, even down in Mexico through his Indian institute. If he is allowed by Congress to go down there, and he calls those Indian leaders names, it is going to cause serious international criticism; and I understand that he got \$22,500, some years ago, to pro-

mote this plan of action down there in Mexico, and got himself a power there in supreme control. That is the exact wording of the constitution of that compact.

Senator CHAVEZ. Now, Diego, let's get down to the facts. The side you represent are discontented with the Indian Bureau, we can see that.

Mr. ABEITA. That's right.

Senator CHAVEZ. What proportion of the entire Indian population would you say that your side represents?

Mr. ABEITA. Well, I have signatures here, Senator, of about 137 people, just men, in Isleta. There are hundreds in the pueblos, thousands, I should say, thousands of Indians that feel that way. We are unfortunate that I represent the more humble people of the Indians, who cannot afford to be here today, and who have no way of being here. We are limited.

Senator CHAVEZ. That is the Isleta. Would you say that 55 percent of the Indians in Isleta take your side?

Mr. ABEITA. I should say about 80 percent of them.

Senator CHAVEZ. What about Sandia?

Mr. ABEITA. That is a compact pueblo. They are favorable to us.

Senator CHAVEZ. How many Indians are there, about 140?

Mr. ABEITA. About 125.

Senator CHAVEZ. Go up to the other places. Santa Ana, are they in favor of the way things are being done by the Bureau?

Mr. ABEITA. We have never solicited their expression there.

Senator CHAVEZ. What about the big pueblos, Laguna?

Mr. ABEITA. John Bird is here as spokesman for Domingo. They are in favor of us. John Bird is here. I think he can rise and give you a short answer to that.

Senator CHAVEZ. John, would the majority of the people of Santo Domingo be in accord with the program of the Indian Bureau, or would you people want it different?

STATEMENT OF JOHN BIRD, LAGUNA, N. MEX.

Mr. BIRD. At the beginning of their trouble the Santo Domingo majority were in favor of Abeita's followers; not only the Pueblo of Santo Domingo, but most of the pueblos in the Rio Grande Valley. However, up to the present time, how the situation stands, but we are still for Abeita.

Senator CHAVEZ. Is there anyone here from Taos?

STATEMENT OF ANTONIO MIRABAL

Mr. MIRABAL. Well, do you mean come from the meeting up at Santo Domingo? At that time I was not at the meeting myself, because the rule is that when we send our delegation to some meetings, any of the places, it is up to the council to choose this man and send him to the meeting. At that time I was not at the meeting, but I heard they favored Abeita.

Senator CHAVEZ. You are from Taos?

Mr. MIRABAL. Yes.

Senator CHAVEZ. You know the people, every boy, child, man, and woman?

Mr. MIRABAL. Yes.

Senator CHAVEZ. What is your opinion? Do you feel like telling the committee whether you are in favor of the Abeita side or the Indian Bureau program?

Mr. MIRABAL. You are speaking about——

Senator CHAVEZ. I am now talking about the program of the Indian Bureau. Are you satisfied with that?

Mr. MIRABAL. No; I'm going to tell you how we feel from Taos. Of course, the Indian Bureau officials, they are human beings, and the Indian Bureau is set up, I think, by Congress, to control the Indian administration; so this is the way Taos council feels: Since we come to the meeting here in Albuquerque, up to the Indian school, we were explained there that the Indian Bureau was to be abolished, and we was to be taxed and all the schools were to be closed.

Senator CHAVEZ. Who told you that?

Mr. MIRABAL. Well, up there, I think a man—I don't know his name.

Mr. JOHN BIRD. Mr. Brophy and Dr. Aberle were in the session that morning. We had a 2 days' session and they were there the last day. I happened to be present there.

The CHAIRMAN. What did they tell you about closing the schools and doing away—who told you that?

Mr. MIRABAL. At the meeting, that is what we have been discussing. So then when we come time, when they asked us resolutions be sent, they were sent by a farmer up to Taos. I told the meeting there that we didn't sign that resolution because our rule is, it is up to our council to send a man to the meeting, and we don't know what man is going to be sent to the next meeting. For that reason we didn't fill out. We told him that if we didn't bring in that resolution, if we are put out, we can go right back—no, sir, that is not our rule. We told them there, so in that line this is the way the council discussed in our pueblo after we went back and told them what it was all about. They say that we be under the Indian Bureau for many years, and the Indian Bureau had the power to look after our land so the land squatters do not come in, and in case we are taxed, no protection. That means the whole Indian life will be abolished because, in those days, while we have the agent looking after our land, still other land squatters come in and took possession of the best of our land. We were kind of pushed up on the hill, and by good-hearted people, all over the United States, help us out to get back our land or be compensated where the land was lost, and in case of this happening, all those good people's money and their work will be all lost. So the way we decide, that if the employers, the white man, makes mistake, all he lose is his job, but if we Indians make mistake, not get any protection, then that is just a hard lot that will break up the whole thing. So we must be very careful to take every step. That is the way the council discussed the matter up, that is the way we stand.

If the employers done wrong, and don't handle the matter good, and they are fired, all they lose is their job; but if we make mistake, that means we are going to suffer the rest of our lives. So the council says that we want it, and the Indian Bureau, with protection for the land, so the squatters do not come in. At the same time we want to give us a better education, because a man like me, I pick up English, and to speak is pretty hard. If I had a good schooling it would be

different today; but I have no education, and it is pretty hard for me to speak a foreign language. I would do better with my own language. But there are a lot of things I can't speak the way I want.

We want the Indian Bureau, with the protections of guarding our land just like it has been; and we want better schools, in order to compare with you white people, and you just look how these things are. You white people, you have got your own race in Congress, and also the Spanish people got their man over at Congress, and I am pretty sure they can help them. Who have we got there? If we are turned loose and those protection is gone, why, then we might as well be dumped into the trash pile. That is where we are fit to live, we Indians.

Senator CHAVEZ. Do you think if the Indian Bureau continues you will be able to get to Congress? I want you to go to Congress and go to the Senate and to the House. I want you to take part, but I want you to take part as Americans, not because you are under control of some Government bureau.

Mr. MIRABAL. Well, but, Mr. Chavez, look here. I suppose not me—I am too old—

Senator CHAVEZ. I am speaking about the Indian, the Indian in general.

Mr. MIRABAL. I am too old, I suppose. If we have a good education there will be some children who would learn. I think they are human, but since we have no education, how can we go there?

Senator CHAVEZ. Tony, for a hundred years the Indian Bureau has been trying to educate you people. That is the complaint of lots of people in the country, that is the complaint of the Indians themselves, that notwithstanding the millions and millions of dollars that have been used, you still have to have the protection of the Indian Bureau. I would like to see the time come when you people can run your own business.

Mr. MIRABAL. That is what I mean, with that education.

Senator CHAVEZ. When is that coming?

Mr. MIRABAL. I don't know. You don't know, either. I don't.

Senator CHAVEZ. It seems that the system under which you have prevailed has not been successful, that what—if you need a farmer, they get somebody from the East to show the people around, to show the Taos how to weave their blankets, and how to pound the silver, some short-haired girl from an English village, and it isn't doing the Indians any good. On the Navajo Reservation, among the employees, there are 85 Indians doing menial work; nothing like typewriting, or anything like that. I would like to see the Indian get over, like Mr. Lee and Mr. Davenport and Mr. Chavez. I'd like to see the day come when he can take care of himself without depending upon Washington.

Mr. MIRABAL. But then, right now, you mean to say, we have gone and pay the taxes right now?

Senator CHAVEZ. Nobody ever said anything about taxes.

Mr. MIRABAL. Why did they be discussing about it?

Senator CHAVEZ. I don't know why they should say anything of the sort, or that it was recommended that the Indian Bureau be abolished, or reported to that effect, but nothing has been done. If the Indian Bureau should be abolished by the Congress of the United States they will take care of the Indian. Don't you worry, you have lots of friends. It is a mistake for the Indians to feel that way. If

there is something wrong with the way the Indian Bureau is going, we are trying to rectify that. [Applause.]

Mr. MIRABAL. Now, we from Taos, is just one pueblo, and I don't know how the rest feel. At the same time, if this matter is taken all over the United States, why I don't know how much we amount to. But then, as I said, if the Indians be smart enough to keep the land squatters out of their land, there would never be no trouble, but we are so dumb, or I don't know—when that happened that way, we lost part of our best land, and we were compensated. And if that matter comes up, why then, it will be lost, all those good people's money, and their work that they help us out to get our land back.

Senator CHAVEZ. Don't you think Congress has something to do with that? I helped to get \$720,000 for the Indians in New Mexico that the Indian Bureau had nothing to do with. I helped protect your lands up in Taos County and helped you get 40,000 acres of land in the area of Taos. Don't you think Congress had something to do with that?

Mr. MIRABAL. Now, look here, Mr. Chavez, the last meeting you had in Santa Fe, you was there and Mr. Frazier and Senator Thomas and somebody else. That time we asked for a patent in the Blue Lake, for the Blue Lake area.

Senator CHAVEZ. You got it didn't you?

Mr. MIRABAL. We did. We were still tricked on that particular tract.

Senator CHAVEZ. Well, Mr. Collier prepared the bill.

Mr. MIRABAL. Well, you know the way it happened, when the land board section was going on in Taos one of the lawyers went up there and they told us, "You are fighting foolishly here. You had better give up this town here, that is the way that exchange for the Blue Lake area." So the council, excited, we don't even go to see our lawyer, Mr. Judge Hannah. We just went right ahead and told the lawyer we wanted to give up certain land there, up at Taos, for Blue Lake; and later they told us that you can't trade a horse that doesn't belong to the owner.

Senator CHAVEZ. Let me say something right there, Tony. I know that Judge Hannah worked like a slave for many years in the interests of the Pueblo Indians of this State. He slaved without a penny of compensation. I know that he was responsible for getting \$720,000 for what you had lost to the white settlers. I know that he was responsible for the protection of the lands that you got. I know that he was responsible for the Blue Lake area. Let's try to be fair with him. As a matter of fact, you paid him for it after you got the \$720,000, but he worked hard for the Indians of New Mexico. I want that for the record.

Mr. AREITA. I want to insert for the record that the Indians realize how hard Judge Hannah worked: but they compensated him afterward to the extent of \$7,000, or thereabouts, for our fight and he earned it, and he has been a good friend of ours and he is still a good friend of ours.

Mr. MIRABAL. Now, our Governor over here got the resolution that we wrote, and I want to put it in the record.

The CHAIRMAN. All right, thank you.

(The resolution referred to will be found among the resolutions inserted later, under the title "Taos Pueblo Community.")

Mr. JOHN BIRD. Let me check a moment with Mr. Mirabal. I don't believe he quite understood what Senator Chavez has asked him.

Prior to the Indian Bureau, or the practice of the self-government of each pueblo, through the Rio Grande pueblos—I don't think he quite understood you.

Mr. Mirabal, are you for going to learn to leave your people, or are you for going to or not going to have Indian Bureau or Service pull you around? Are they doing you any good or not? That is the main thing right there. I believe that, up to this time, each pueblo have certain things to be corrected, in the function of the Indian Bureau: not saying all pueblos have the same type of Indian. That is what he wants to know, Mr. Mirabal.

The CHAIRMAN. I think he has answered it as far as he needs to answer it.

Again, I must draw your attention to the fact that we have to curtail this matter. We are on the edge of where we have jurisdiction.

Mr. ABEITA. I just wanted to cite that instance, Mr. Chairman, of this ex parte hearing. It returned to that statement there. I want to warn you that we think Mr. Collier is the dangerous man; dangerous not because he is all wrong, but dangerous because he is one-half right, yes, even three-fourths right. But the one-fourth or one-half in which he is wrong is utterly and fundamentally wrong, which makes his net conclusions all wrong. [Applause.]

The CHAIRMAN. All right.

Now, I promised Governor Dempsey and others who are interested in the bill known as S. 1152 that they could be heard.

This matter was brought on this morning and it has reached some considerable limit. The Governor is here and I am not going to try to hold him. I understand there are several people here who want to be heard on the S. 1152, and if they want to be heard now I think they should be heard.

Mr. STEWART. There is a Zuni here who wants to make a statement.

STATEMENT OF HENRY NATEWA, AS INTERPRETED BY HENRY NIETO

Mr. NATEWA. I am Governor of Zuni, N. Mex. I am official delegate for my tribe, and also this is my interpreter.

Mr. NIETO. Senator and friends, my name is Henry Nieto, and I am the official interpreter for the Zuni Governor. We are here today to discuss a little on our land, of what we had held before the Spaniards and white people came. Prior to the time of the Spaniards the Zunis—

The CHAIRMAN. You are not interpreting now.

Mr. NIETO. I have a statement that I wish to make.

The CHAIRMAN. I don't know how far you are going to go, but you're not going to get very much further.

Mr. NIETO. I am saying that prior to the time of the Spaniards the Zunis held Government north purchase area and the Government south purchase area. This boundary extended from what is known area New Mexico, extending clear down to St. John's, sort of a rectangle. All of these lands have been owned once before by the Zunis, including both the purchase areas. That was later taken away and brought back to the Indians again.

As to the fact of the Indian Bureau, I, in behalf of my people, most of my big sheep owners are uneducated, for this simple reason, my people are not able to be under any agency or either under State jurisdiction. This is through the power of my people that the Governor and I are the representatives from Zuni, and we wish that all of our lands to be administered under the Indian Bureau. I thank you.

Mr. STEWART. Mr. Chairman, in view of the fact that all of the Governors have wanted to be heard, the chairman or the vice chairman of the All-Pueblo Council is here, and it seems to me he could speak for all of the Governors and save that much time. In addition, Joe Padilla would like to be heard.

The CHAIRMAN. Well, one thing leads to another, Mr. Superintendent. I found that out by letting this come in this morning. You asked to have Indians heard, and I have deferred for you right straight along, but it has to come to an end somewhere. Now, how long is this going to take?

Mr. STEWART. These are Pueblo Indians, rather than Navajos.

The CHAIRMAN. I understood all of these were Pueblos.

Mr. STEWART. Those that you deferred for, particularly at my request, were the Navajos. I don't believe it will take those two gentlemen long. This is Mr. Abel Paisano.

The CHAIRMAN. How many of these who have testified here are in the employ of the Indian Service, the last two? The last four? How many of those are employed by the Indian Service?

Mr. STEWART. I don't believe any of them are employed—

Senator CHAVEZ. Directly or indirectly?

Mr. JOHN BIRD. That Paisano, he is one employed in the Indian Service, and I object, because of all the pueblos on the Rio Grande Valley, a delegate from each one pueblo has a certain matter to present, prior to the Indian Service. So I object that any Indian Service employee, whether it is an Indian or not, should represent the Indians as a general whole.

The CHAIRMAN. Are you in the employ of the Indian Service?

Mr. PAISANO. Yes, sir.

The CHAIRMAN. Do you want to present employees of the Indian Service, Mr. Superintendent? Let's get this thing clear here. I don't see why you should attempt to bring forward employees of the Indian Service and not announce it.

(The following letter and statement are inserted at this point by request of the Department of the Interior:)

CASA BLANCA, N. MEX., September 10, 1943.

Hon. PAT MCCARRAN,
United States Senate, Washington, D. C.

DEAR MR. MCCARRAN: Your committee ruled me out at the hearing yesterday and at the request of governors of my pueblos, I kindly ask of you as chairman of the committee that I be allowed to have my brief speech into the record on the following conditions: None of my official representatives from the pueblos were heard except from the Zuni Pueblo. Mr. James Stewart requested that I be heard, but was ruled out on account of being an employee of the Indian Service. I wish to clarify that I was to speak for my people as a secretary of the All Pueblo Council being elected the same way that the Congressmen are elected, as an official representative from my pueblo (Laguna) and also as an ex-serviceman of the First World War.

I shall only be too grateful if the Senator will reconsider the ruling and let my statement go into the record.

Sincerely,

ABEL PAISANO,
Secretary, All Pueblo Council.

Speaking as secretary of the All Pueblo Council and for the pueblo governors who are present here and representing the people of their pueblos and who will not be able to speak on account of limited time of the committee. I shall make this as brief as possible, making statements of facts as seen myself as I visit all the pueblos as time permits, studying problems of my people. Since the committee is mainly interested in the land and grazing problems I shall cover briefly by stating that of the 19 pueblos, there are 7 pueblos who have benefited from the resettlement or submarginal purchases; of these, 3 of them depend entirely on livestock for their livelihood on the reservations. They are Zuni, Acoma, and the Laguna. The other 4 depend on both livestock and farming and the balance of the 19 depend mostly on farming but to a certain extent have some livestock. Prior to 1935 much of our grazing land was fast depleting under the strain of over-grazing which was the problem all over the West. At this point I shall use my pueblo (Laguna) as an illustration to the committee. In 1934 Laguna realized that it was facing a problem of soil erosion on their land and which was gradually getting worse and something had to be done. We had then some 242,348 acres with approximately 55,000 sheep units on the area (5 head of sheep equivalent to 1 unit, or a cow). The Department of Agriculture and the Indian Service surveyed our range and found that the carrying capacity of this land was only 15,000 sheep units. I wish for the stockman to take note of this, or any nonstockman, and see our problem. I am sure that anyone could see what this meant, if proper grazing was to be administered. It means either more land for the Indians or a tremendous cut of livestock which meant a tremendous sacrifice of livelihood of the Pueblo of Laguna, realizing that the land was fast eroding, Laguna agreed with the Department of Agriculture and the Department of the Interior to carry out a stock-adjustment program, with an assurance of additional grazing land. The program was started in 1935 and additional land was secured for the Laguna's use totaled 166,000 acres and the carrying capacity of the land totaled 5,942 sheep units; the same course was followed in the other pueblos depending largely on the amount of stock. Soil-erosion control work was carried out in all of the pueblos. The result of this program was a great sacrifice of stock reductions, but today we have good range lands. So well have the Indians and the Government agencies done the work that the non-Indian stockmen, now, envy the Indians. I may further state these facts, that when the Indians received additional grazing land, these lands were bought from the non-Indian stockmen who were glad to get rid of them because of overgrazed conditions. I actually saw the land myself which was given the Laguna and which Mr. Floyd Lee sold to the Government and was in a far worse condition than that of the Laguna Reservation. This land was the Montano grant consisting of 44,071 acres and the carrying capacity was then 1,800, and the purchase price was \$132,211.98.

But, as I have stated, that with the cooperation of the Federal agencies, and with great sacrifices and with sincere effort we improved the grazing conditions, and today this same land looks so well that some of the same stockmen have petitioned to get it back by requesting that these lands be under the Taylor Grazing Act. Indians could not qualify in many things under the act and would eventually lose out with the grazing permits. It just seems unjust that the land be taken away from a large group of people who were promised land and who sacrificed to get them and put it in good condition and be given to the stockman who already sold it and unwisely overgrazed it.

The non-Indian stockmen have been well represented here by able lawyers because they can afford to, and they have spoken in terms of thousands of head of stock, and in hundreds of land sections, and I will be willing to bet that each one of them has bank accounts in terms of thousands of dollars. If my people were to be heard they would speak in terms of hundreds of head of stock, and below 500 head, and in terms of tens of land sections and no bank accounts. And if justice were to be done more land would be recommended for my people instead of "no more land for the Indians." Non-Indian stockman spoke for bigger bank roll. If the Indian spoke he would speak for only fair living, as money to him is greediness, loss of friendship, trouble, and worry. May I state that Laguna in 1942 derived from stock \$133,176 with population of 2,686, and if divided for individual distribution each would receive about \$49.58. Of all the 19 pueblos this amount was derived from the stock, \$543,526; with total population of 13,743 each would receive \$39.60.

In view of these facts, the Indian Service has been criticized by non-Indians for land grabbing. It leaves only one explanation, and that is the Indian Service must have carried out the obligation of the Congress of the United States for its people to look after the Indians' property and care for him as they have, or else

the officials who represented their Indian people would not be so unanimously in favor of the Indian Service.

Since the pueblo governors could not be heard, I wish to inform the committee that they are here officially representing the people of their respective pueblos, just as the committee is representing the Congress of the United States by its people. Each pueblo held meetings and had the people choose their representatives to this hearing and a message for the committee to take back to the Congress of the United States that the Indians have answered the call of Uncle Sam to the armed forces, 10 to 1, in proportion to that of the white man, and the Indians' part in this fight is for what he now has and for the democracy which has been his traditional guide long before any white man sat a foot on this continent. The Indian has always been very friendly as far back as when the white man came to this country, he came [white man] with only what he had on his back, and the Indian gave him protection, shared his land, game, food, and his home. The Indians were exempt from the First World War but nevertheless they volunteered by the thousands and fought with his white brother, and to date he is still a friend. One can but look into every corner of the earth where there is fighting, and there you will find the Indian side by side with his white brother again fighting for what he wishes to share when he comes back. A quotation of Gene Linberg in the Denver Post fits well into the picture—title, "War Aim": "Guard well the dream of a man who knows what he is fighting for. Out where the reek of tropics steams up from a jungle floor, let nothing change in this land of his. Let nothing dull its gleam while he's away risking pain and death fighting to save that dream. He shares it gladly with all who love freedom—whose hearts have known. Pride in their God-given right to choose each for himself alone. Let nothing darken their land of dreams however far they roam. They have entrusted its keeping to you, guard it well till they come home." Be it known to the committee that the Indian Service has not taken away any land from the non-Indians or the Indians unless the owners themselves have offered the land to sell, and we still do not have what we should have at present, in order to make a fair living, the same as the non-Indian stockman. I state this because it has been stated by many non-Indians that they are not opposing anything with the Indian himself but are opposing the Indian Service.

We [Indians] feel that when they oppose the Indian Service's land policy they directly oppose us. In conclusion I wish to say that the statements made from individual Indians condemning the Indian Service has been made on purely the basis of personal grudges which do not cover the wishes of the pueblo as a whole. On the other hand the Governors want to present the sentiments of their people who wish to thank the Indian Service for the good things that they have accomplished for them and for the protection of their land and property. They wish for the committee to convey to Congress that they wish to continue under the same protection of the Indian Service until they have adjusted themselves as the white men did who have had since the eleventh century to the eighteenth century to adjust themselves and the Indian has only had about a better than half a century now. We shall let the Congress know when we do not need further protection by the Government.

I thank you.

ABEL PAISANO,
Secretary, All Pueblo Council.

Mr. BIRD. I may be interrupting this thing, but I believe I have as much right as anybody. He was registered with the Indian Service before he went in the service in the Army.

The CHAIRMAN. Who?

Mr. BIRD. Joe Padilla.

The CHAIRMAN. Has that man been in the Indian Service?

I don't want to cut you out of anything, but I tell you right now—

Mr. STEWART. He is not in the Indian Service now.

The CHAIRMAN. How long since he has been?

Mr. STEWART. Virtually all of these Indians have been employed by the Government at one time or another.

The CHAIRMAN. How long since this man was employed?

Mr. PADILLA. Nearly 2 years now.

The CHAIRMAN. All right, come in.

STATEMENT OF JOE PADILLA

Mr. PADILLA. My name is Joe Padilla, and I am a member of New Mexico, member of the armed forces, under assignment.

Mr. Chairman, I have not attended all of your meetings, but what I have heard here, it seems fundamentally the underlying statements and the wishes of the people, is freedom. I have got to please the man who coined the word, got to please the man who fights for his rights to distribute it among the people. It seems that the underlying statements that have been uttered through this picture, for the record, for the committee, has been more or less charges against the Indian Bureau.

Well, to my knowledge, the Indian Bureau, whether it has done any good or not, I am certain of one thing, that to the present day the Indian is not able or capable of running his own affairs in such a way so that he can maintain and retain his own land. An indication or example of that has been experienced by the Indians of South Dakota. I do not wish to bring them in, only by way of remarks. The Indians, as a whole, although the Government has been trying to educate them for the last 100 years, due to the attitude of the Indians, and the nature and the customs and their belief, they have not been able to readily accept the white man's way of life. They have accepted some of the worst ways of the white man, but they have not learned to have the better ways. As a result, I do not believe that, at the present time, the Indians should be turned loose or without an agency, to live and run their own affairs, because of the very nature of the white man or his political set-up. Because of that, sooner or later, the Indian will lose every bit of land he has. If he does not know how to read, and the few that do know can see only so far, and not any further.

The people as a whole have been charging the Indian Office that the Indians are not given a good education, or the schools are not good enough, so that they can obtain a good education. I have seen in some of the pueblos where we have schools. Many of the youngsters are not attending these schools, because there is no rule whereby to force these youngsters who badly need the education. And then they wonder why we have no education or why we have not learned in the last 100 years.

A remark was made with reference to the distribution of community money at Isleta Pueblo, sometime in the past. I do know that in 1942 there was a distribution made, and it was an equal distribution; but, for some reason or another, some of the people did not go to the place of distribution to receive their share of that money. Whether they did it in order to show that they did not want the man in office who was distributing the money, or whether it was some other reason, I don't know. But whatever it was, they had just as much chance to receive that share, and I want you to get this clear, that there was no misdistribution, and no one was left out of that particular fund.

I would like to say that, in general, that in the last 4 years, from what I have seen on the reservation, there has been a tremendous improvement through the agency and the cooperation of other Federal agencies, such as the Soil Conservation and other bureaus, which have

been established for that purpose in the State of New Mexico. That is all I wish to say.

I will not take up any more of your Irish patience.

The CHAIRMAN. Take up what? Who told you to say that?

Mr. PADILLA. No one; it came from my mind.

Senator CHAVEZ. May I say I have known Joe Padilla many years, and he is a very good boy. He went to school and he has a very good character. He is well respected.

The CHAIRMAN. Who gave you the information that there was any movement on the part of Congress, for this committee or any committee of Congress, to take your lands away from you?

Mr. PADILLA. I did not say anything about Congress.

The CHAIRMAN. Who gave you the information that there was any movement on the part of Congress, or a committee of Congress, to do away with the Indian Bureau?

Mr. PADILLA. No one, except that I felt that from what had been said that might be the tendency.

The CHAIRMAN. Who said anything that made you feel that way?

Mr. PADILLA. No one in particular.

The CHAIRMAN. Well, anyone in general?

Mr. PADILLA. No one in general.

The CHAIRMAN. Why did you dwell on the subject when you came up here?

Mr. PADILLA. I felt you might be impressed in the same way I was, so I decided to make these remarks.

The CHAIRMAN. Let me tell you something. There is no movement in Congress, or on the part of any committee in Congress, to do away with the Indian Bureau. There is no movement of any committee of Congress to take your lands away from you. Anyone who has peddled that propaganda to you is doing you irreparable injury and a great wrong. There is, perhaps, a scrutiny on the part of Congress to try to see that the Indian Bureau is conducted for what it was intended to be, and not to meet the whims of some individual or group of individuals. You had better get that clear. [Applause.]

Mr. PADILLA. I am glad to hear that.

Mr. STEWART. Mr. Chairman, I would like to assure the chairman that I had no knowledge that the previous person was a Government employee at the time of calling him.

The CHAIRMAN. Very well.

Mr. STEWART. That still leaves the other governor, who has requested to be heard. He was to speak for all of the governors. Since Mr. Paisano was disqualified, it still leaves the other governors who request for consideration.

The CHAIRMAN. All right; that is all. That will end that subject. We will now go into the other subject, the matter of S. 1152.

Mr. STEWART. Mr. Chairman, did you intend they could be called?

The CHAIRMAN. Well, you see the time, Mr. Superintendent. I take it that controversy would run about as it has run all day.

Mr. STEWART. It would be to give their views as to what has gone on heretofore.

Senator CHAVEZ. Can't they put that in writing and submit it to the committee?

Mr. STEWART. Yes.

Mr. BIRD. Mr. Chairman, I believe each one of the pueblos has a resolution, in writing, to present to the committee. Each pueblo has one to be filed.

The CHAIRMAN. Each pueblo has a resolution and wishes to file it: is that the idea? Are they already prepared?

Mr. BIRD. Yes, sir.

Mr. STEWART. Is that true?

Mr. BIRD. Yes, sir.

The CHAIRMAN. We'll have someone collect them.

Mr. STEWART. The governors of the various pueblos—

The CHAIRMAN. Have them put in their resolutions, too.

(The resolutions referred to are as follows:)

STATEMENT OF PUEBLO OF ACOMA

When the United States took over our territory, in 1852, treaties were negotiated which pledged to the Indians their lands, these treaties were not ratified by the Senate, President Lincoln renewed the pledge and gave the Indians title to their lands and recognized their civilized self-government, he, knowing the Indians owned the lands long before any white man set foot on this continent.

Since the arrival of white man, encroachments on the Indian lands were heavy, what lands granted to the Pueblo Indians by Spain, passed to white ownership through the fact that paper titles had been lost, or dishonest surveys threw the Indian lands into white boundaries.

Because their grazing areas had been reduced to mere pittance compared with the original areas which they possessed, many of the Pueblos were compelled to load their small ranges at an improper number of stock. They had the choice of overgrazing their range and thereby damaging their land or of going hungry. This is the reason why Congress saw fit to purchase additional land in recent years, with a sincere belief that Congress acted with prospective ideals for the Indians with a view of what they contemplated of the past.

Previous to the enactment of acquiring land by purchase by the Government, all around the Indian lands overgrazing was done, depleting and destroying the cover of its top soil, but since grazing regulation has been put into effect by the Government, on the areas used by the white stock owners now used by the Indians, is gradually getting its grass back again.

We are willing to apply every kind of scientific method to best use on the lands made available for our use, but it is a fact that human, as well as animal carrying capacity of our land will not be sufficient to sustain the growing population of my pueblo and the answer to this problem is in your hands, my Indians have no authority to answer them.

The Indians understand this land was bought according to a direction by the President himself, whatever is affixed to the soil in its management, the Indians have applied to it, resulting with bringing back the forage and vegetation on these ranges.

The Indians at this particular Acoma Pueblo, derive their main source of income from livestock industry of which the purchased area is adapted to, both sheep and cattle are ranged on these lands practically 7 months out of a year, being high it is used mostly for summer range for both classes of livestock. Water being the main factor, few springs were developed and windmills were installed, open dirt tanks were built to hold surplus water when it rains. These developments were done by Emergency Conservation Work, Soil Conservation Service, and triple-A funds. Even with such developments water is not at our command at all times, windmills go out of working order and we are met with drought in some years, making it very difficult for the livestock owners to meet their economic conditions, thereby using voluntary drastic cuts in their herds by sales, sacrificing young breeding stock to meet the circumstances.

We have our own cattle-and-sheep officers appointed by the owners who do not draw any kind of compensation. They cooperate with the Government supervisors in management of range practices. With such program in operation, one notices great improvements in weight of fleeces, grade and weights of both classes of livestock. An example of one herd which I helped this spring to shear averaged 10 pounds per fleece off bred ewe.

Reduction in livestock is made every fall to conform to the carrying capacity of the range. This is done through marketing channels, comprising of non-breeding class and at various times of breeding stock when the quota of the range capacity does not justify it.

We enjoy our property and the Indians feel that the Government purchased these lands for the use of the Indians to carry on their industry and in the manner it does not injure the white stock owner, providing the injured person was not guided by selfish purpose.

The population of this pueblo is 1,293 according to the census, 822 families making up the population. Two hundred and sixteen families are interested in livestock industry. Total income from sales of livestock and livestock products in 1942 amounted to \$69,914 averaging approximately \$23.67 income per family from the industry.

We have tried to explain the usage of the range to interpret whether we have abided in the way it was intended by the Government, if we have, it is fair to say that we have played our share in exercising the democracy on the range.

In view of the above the officers and members of the pueblo of Acoma at a duly assembled meeting resolve:

That this pueblo recommends to any committee investigating lands be advised that the pueblo of Acoma wants administration of their lands to stay as it is in the Indian Service, the Indian Service not only knows our needs in grazing lands in livestock but in everything concerning our economic conditions.

Vicente Roy Chavez, Governor; Lorenzo (his X mark) Concho; Toribio (his X mark) Aragon; Albert Lino; Ben E. Ortiz; Julian L. Chino; Robert R. Vincenti; Lorenzo Romero; John E. Sanchez; Roman Sanchez; Joe H. Louis; John K. Poncho; Raymond Wanya; Joe H. Sanchez; Frank Estevan; Touleo Sanchez; Sam L. Vallo; Fedak Elurds; Antonio Garcia; Steve Orilla; Casquins Lorenzo W. Pino.

RESOLUTION OF THE PUEBLO OF ACOMA

Be it resolved by the Pueblo of Acoma in New Mexico, at Acoma, N. Mex., in general meeting of the qualified members of the Pueblo duly called and assembled, that only the Governor, Vicente Roy Chavez, and the Lieutenant Governor, Lorenzo Concho of this Pueblo and such other persons as they designate, are authorized by the Pueblo of Acoma to present to the McCarran committee, of the United States Senate, and any other investigating committees of Congress, the official position of the Pueblo of Acoma concerning any land or any other matters that those committees may be investigating or interested in.

Dated at Acoma this 12th day of August, 1943.

Vicente Roy Chavez, governor; Lorenzo Concho (his X mark); Toribio Aragon (his X mark); Albert Lino; Ben E. Ortiz; Julian L. Chino; Robert R. Vincenti; John E. Sanchez; Lorenzo Romero; Roman Sanchez (his X mark); Joe H. Louis; John K. Poncho; Raymond Waulju; Joe H. Sanchez; Frank Estevan; Toreblo Sanchez; Sam L. Vallo; Frank E. Weeks; Antonio Garcia (his X mark); James T. Vallo; Steve Orilla; Lorenzo W. Pino.

To the McCarran Investigating Committee:

GENTLEMEN: Our Federal Government still has an Indian problem, and has not yet fulfilled its obligation to the Indians of the Southwest. We Indians are inclined to believe that influential citizens of the State, and a few of our own race, have over-estimated their ability to shoulder our problems should the Indian Service be abolished. The Indian agency is the only representative system the Indian relies on for protection of his property and well-being. Abolishing the Indian Service at this time would mean the breaking down of what the Government has built up in shaping our life, to the stage where we will be able to take our place in this country on an equal chance with our white brother. When we say this we are speaking for the majority of Indians who are unable to read and write English. It is necessary to continue to have the Indian Bureau function as it has done to safeguard our interests and continue to improve conditions where it is needed.

We all know that it is humanly impossible for any one superintendent to satisfy all of our people at the same time, just as much as it is for you Congressmen to satisfy all the people in your respective States. But it is true also that some good is in every one of you, or you would not be where you are; and it is the good

motives and principles in such persons that has inspired them to accomplish many of the practical things done for the Indians. There are many problems that come up, too numerous in fact for anyone to solve in any limited time covering matters from our industry to legal questions. We have no members of our tribe who are capable of transacting business in a white man's way. Naturally we look up to someone to represent us. The burden falls on the Indian Service which we regard with respect.

Our people seldom make decisions without giving considerable thought to the problem at hand. Important matters sometimes require several council meetings for discussion and understanding, in which every member of the tribe is privileged to express his views, coming to their decision by majority vote. At no time is a Government official permitted to transact any business without the approval of the tribe, thence through the Agency department concerned. And we believe we keep the Indian Service personnel plenty busy. Most Government policies and regulations need more detailed explanation and supervision among Indians than for other classes. Full compliance with stock reduction programs, selective service and rationing would be impossible without their help. This is the reason we say, the Indians are looked after about little matters as well as big. It is this Indian Bureau representation which Congress created for the Indians and which we are rightfully entitled to, not so much because our forefathers once owned all the lands, but because we are respectable, deserving citizens of this country. From the Acoma Reservation through enlistments and Selective Service our boys number 52 serving beside their white pals, in the meanest places. Some Pueblo—several Indian mothers—have given five or six boys for the cause that is dear to us. With these facts in mind, we are wondering what root will be the next that will be out to retard the progress and well-being of our Indians in their fight to welcome citizens of the United States of America.

In view of the facts stated above, the Acomas in assembly, September 4, 1943, proposed and passed the following resolution:

"Resolved, That the Indians of Acoma go on record as opposed to any movement to abolish the Indian Service."

Respectfully,

Vicente Roy Chavez, Governor; Lorenzo Concho (his X mark); Torihio Aragon; Albert Lino; Ben E. Ortiz; Julian T. Chino; Robert R. Vicenti; John E. Sanchez, Lorenzo Romero; Ramon Sanchez; Joe H. Louis; John K. Poncho; Raymond Wanya; Joe H. Sanchez; Frank Estevan; Toulro Sanchez; Frank E. Week; Antonio Garcia (his X mark); James T. Nallo; Steve Orilla.

COCHITI PUEBLO,

Bernalillo, N. Mex., September 3, 1943.

RESOLUTION

We the council members, the governor and lieutenant governor, all members of the United Pueblos Council, and members of Cochiti Indian Pueblo, do hereby present the following resolution to wit:

1. That we earnestly protest the abolishment of the Indian Bureau as proposed by Senator Elmer Thomas and other members of the Indian Affairs Committee. We feel that the following reasons are sufficient to continue the Bureau in operation.

A. We Indians are in no position to pay for boarding schools outside of our pueblo. This would be discontinued if the Bureau were to be abolished.

B. The health of our families would suffer if hospitals were to be discontinued. The Indian hospitals are kept by our Government under the supervision of the Indian Bureau. We have never been, nor are we now, in a position to pay for hospitalization for our families and for ourselves.

C. If the Bureau were to be abolished, the day schools at the pueblos would be discontinued and probably taken over by the county and State. Since we are not citizens and taxpayers, we would not be in a position to contribute to these schools.

D. Our extension service which has played a big part in the improvement of our lands would be abolished.

E. Not being prepared to assume the duties of citizenship, and our land being nontaxable, we are in no position to assume the expenses which would come with the abolition of the Indian Bureau.

F. Our boys in the armed forces are fighting for the liberty and freedom of the world as well as for us. We do not want them to come home to find that

some of the very things they have been fighting for have been taken away from them. We feel that they would be paid a very poor reward should the Indian Bureau be abolished.

G. In regard to our land: Were we not the sole owners of America? After everything is taken away, where do we Indians go from here?

Gov. Petacio Arquero, Lt. Gov. Jerry Quintano, Jose Loreto Arquero, J. D. M. Melchor, Celestina Quintana, Louis Ortiz, Gruz Perez, Santiago Arquero, Cipriano Quintana, Joes Rey Suina, Lorenzo Suina, Lorenzo Cordero, Crescencio Pecos, Nestor Herrera, Frank Herrera, Pasqual Suina, Fernando Cordero, Juanito Trugillo, Jim Herrera, Philip Coopa, Robert Martinez, Epifanio Pecos, Juan Benada, Santiago Pecos, Alfred Herrera, Raymond Herrera, Paul Trujillo, Eluterio Cordero, Juan R. Merchor, Juan Jose Suina, Diego Romero, Eluterio Suina, Eufasio Suina, Cipriano Chavez, Frank Chavez, Crescencio Suina, Jim Herrera, Petacio Arquero.

PUEBLO OF ISLETA,

Isleta, N. Mex., August 26, 1943.

CHAIRMAN OF THE SENATE SUBCOMMITTEE ON INDIAN INVESTIGATION:

Mr. CHAIRMAN: We, authorized by the governor of Isleta acting upon the advice of the Isleta Pueblo Council to give the following statement in the name of the people of Isleta Pueblo:

The governor and the Council of Isleta for whom we are giving this statement represent the people of Isleta.

We are not asking much of you. All we ask is to help us to retain what land we have now. This land or grant was, we will say for the sake of history, given to us by the King of Spain which was later approved by the Mexican Government when it was taken over by them, and then again approved by the United States when we became part of the United States.

It seems like every time we are transferred from one government to another our grant decreased in size, especially when the United States took over. Now, that the United States Government has given us back a few parcels of land some people are kicking on that account, and want these parcels of land taken away from us and given to them.

We have stock on these lands. We are paying leases for these lands which we think is unfair to us for the simple reason that it had been ours even before Columbus was born. We do not think that if a white man got a hold of these lands he would pay more taxes or make more improvements on it than we do now.

One of these parcels of land which is located on the southwest corner of our grant was lost by us through an error of one letter when the title for this land was in question.

We will explain it only briefly and you can form your own ideas as to the nature of this error. When our southwest boundary was being approved, one letter in one simple word in Spanish made a difference of some 2 miles in the length of this boundary. The word "Caja" in Spanish, was misspelled to "Ceja" and was the cause of our losing this corner of our grant when the survey was made. The surveyor went west on our south boundary only as far west as the deed stated in Spanish; "Hasta la Ceja del Rio Puerco" instead of going as far as "Hasta la Caja del Rio Puerco."

We are not asking to have this changed any other way, we only wish to have you see just how simple it was to take advantage of our old people who did not understand the language and the writing of any form.

1. It has come to our attention that Congress has been given a report which if passed will abolish the whole Indian Service. Some people have made the suggestion that the Government need no longer take care of us. These people want to do away with all Government protection for our land, do away with all of the schools for our children, abolish all hospitals and then make us citizens and in general refuse to carry out the sacred promises that their forefathers made in the treaties with our forefathers.

2. We must say that this bill is very bad and it will do no good but only harm for all. We have experienced many times the breaking of treaties and the troubles that come after broken treaties, but never, never before has anyone tried to do us more harm than those who are now trying to have the Government stop all help for us. If this bill passes we see in the future for our people and all Indian people in general nothing but trouble and unhappiness.

3. It is true that some of our people without thinking asked that the Indian Service be abolished because of some personal feelings against some Indian officials and because of the mistakes made by some Indian Service employees. In their attempt to get even with some Indian Service officials they have led the way to hurt their own people. They did not stop to think that the majority of us are not yet ready for citizenship.

4. They only think of themselves and they have not thought of the general welfare of our people. These few ignorant people who have from time to time fought against the Government that is helping us, have never expressed the real voice of the people they claim they represented.

5. We wonder why some people should ask Congress to abolish all help from the Government. We have read over and over again the proposed bill or report that attempts to do away with the Indian Service. We read that the writers of the bill have charged that the Indian Service has not used the money wisely given by Congress. They charge that the Indian schools are bad and in general the Indian Service has many incompetent officials.

6. We gather from these reports that the Indian Service could have done a better job with the money given by Congress instead the Indian Service has been wasteful. That if the Indian Service had done a good job in carrying out its obligations we would be more ready for citizenship today.

7. * * *

8. We are not here to file charges against anyone but only to reason for justice. We suggest that Congress make a thorough investigation of the Indian Service as soon as possible to find out just what the real causes of these troubles are in the Indian Service. Then correct the trouble but not abolish the whole Indian Service because of the incompetence of some Indian Service officials.

9. We take this opportunity, gentlemen, to express our sincere gratitude for our Government's help all these years. And hope that it will not stop helping us simply because some Indian Service officials have neglected their obligations or because a few smart, ambitious Indians cry for citizenship regardless of our wishes.

10. There have been no interference from any of the offices in our internal affairs as has been stated by some dissatisfied members, unless we ask them, too, and only for advisers and not judges. They have nothing to do about our customs and our management of our internal affairs. It is unfair to accuse anyone for disrupting our customs since no one but ourselves have that to manage.

11. Leave us as we are now with what we have and you will be doing your part in helping us to be good citizens. We are doing our part in helping with what we have in pennies as well as the boys in the service, so let's be friends and help and meet half way.

12. Today we have some eighty boys from our village in the armed forces. A good many are on foreign soil and in the thickest of fighting with the enemy, fighting for what? Fighting to retain our freedom, we are told. Now, gentlemen, how much of this freedom is the Indian going to enjoy when the war is over? Is he going to have his land intact when he gets back from the war or will he have to go elsewhere to make his living because some avid people acquired his land while he was fighting for these same people? Now, we ask you in the name of justice and our boys in the service to let your conscience guide you instead of the political votes.

13. We petition Congress to be mindful of the many thousands of our young Indian braves who are now fighting for our country and not let it happen to have those braves return home to find all Indian schools closed for their children, no hospitals for them to go to and find their pueblos at the mercy of politicians and their lands being held for auction because of tax delinquency.

Thank you, gentlemen.

RESOLUTION OF THE PUEBLO OF ISLETA

Resolved by the Pueblo of Isleta in New Mexico, at a general meeting of the qualified members of the pueblo duly called and assembled, That only the governor, John R. Abeita, and lieutenant governor, Juan Rey Lucero, of this pueblo, and such other persons as they designate are authorized by the pueblo of Isleta to present to the McCarran committee of the United States Senate and any other investigating committees of Congress, the official position of the pueblo

of Isleta concerning any land or any other matters that those committees may be investigating or interested in.

Dated at Isleta Pueblo this 28th day of August 1943.

Members of council, 1943: Jose Carpio, Frank Marrujo, Juan Domingo Jojola, Damacio Lujan, Joe L. Lucero, Felipe S. Abeita, Antonio Lucero, Juan P. Jojola, Remijio Lente, Juan Andres Abeita, Andres Lucero, Felipe Lujan.

Officials of pueblo, 1943: John R. Abeita, governor; Juan Rey Lucero, first lieutenant governor; Frank Chiurivi, second lieutenant governor; Pete Jaramillo; Joe S. Jiron; Charles F. Jojola, secretary.

Members of the pueblo: Nicolas Lente, Andres Jojola, Nicolas Lujan, Domingo Lucero, Juan Lucero, Lolo Lucero, Bartolo Montoya, Tomas Abeita, Juan B. Jujola, Lulidor Lucero, Ambrosia Abeita, Nicholas Oujillo, Felipe Zuni, Joe S. Abeita, Bautista Zuni, Tomas Chavez, Lazaro Chiurivi, Joe Anzara, Diego R. Chiurivi, Pablo Jaramillo, Francisco Jiron, Esquipula Jojola, Alfred Lente, Juan Chavez, Carlos Lucero, Ramon Zuni, Bartolo Lente, Diego Lujan, Bautista Lucero, Remijo Jiron, John P. Jojola, Felipe Sangre, Joe S. Jojola, Laurence Anzara, Charlie D. Jojola, Johnny Lucero, John D. Jojola, Domingo Jojola, Moses Lujan, Jose M. Lujan, Jose Abeita, Frank Lucero, Manuel Abeita, Elario Lucero, Pedro Lujan, Felipe Montoya, Juan Cruz Abeita, Miguel Lucero, Juan Rey Olguin, Bautista Jojola, Seferino Lucero, Bautista Lucero, Romaldo Abeita, Richard Jojola, Jose D. Trujillo, Ambrosio Jojola, Lewis Valdez, Paoqual Abeita, Felipe Jiron, Lawrence Jaramillo, Cresencio Carpio, Jose Jojola, Jose Chiurivi, Alcario Jaramillo, Marcellino Jojola, Nicolas Jaramillo, Lazaro Abeita, Salamon Lente, Pasqual Chiurivi, Josecito Lucero, Bautista Juanecho, Bautista Lente, Domingo Chrino, Cresencio Jaramillo, Pablo Apodaca, Dolores Jojola, Pulldore Lucero, Jose Rey Jaramillo, Santos Anzara, Juan Rey Jojola, Felipe Lucero, Joe L. Lujan, Patricio Lujan, Juan T. Abeita, Jose Lupe Zuni, Juan Domingo Zuni, Bautista Martinez, Remijo Chiurivi, Cresencio Lucero, Francisco Jaramillo, Jose Jojola.

RESOLUTION OF THE PUEBLO OF JEMEZ

The meeting was held in the pueblo of Jemez on the 28th of August. The decision was made in the meeting in regard to the United States Indian Service.

We, the Jemez Indians, abide by the Federal law and by the law of the pueblo. Of course, we also abide by the State law. We Indians are defended by the United States Indian Service.

We do not want anybody to abolish the Indian Office. Our present life and our young generation and whatever we hold dear in our pueblo life need full protection by the United States Indian Service. We have no way to continue living if the Indian Office should be abolished.

We depend on the United States Indian Service because they have done all we need and we want this to continue in our future life.

Approved by the Council of Jemez.

Alcario Gachupin, governor of Jemez Pueblo; Pat Toya, lieutenant governor; Manuel Fragua; Jose Manuel Loretto; San Juanito (his mark) Lorette; Juan Diego (his mark) Casiquito; Jose Felipe Jepa; Joe M. Toya; Manuel Yepa.

(All signatures and marks witnessed by Pat Toya, lieutenant governor.)

RESOLUTIONS TO BE PRESENTED TO THE McCARRAN COMMITTEE. PASSED BY THE JEMEZ PUEBLO COUNCIL SEPTEMBER 1, 1943

In the first year we were captured by the Spanish Government and were issued a grant. Later the United States Government by a treaty took possession of this country. We were put under the flag of the United States and our Jemez Pueblo, similar to the other pueblos of New Mexico were placed under the United States Indian Service and we are satisfied. At our meeting we drew up the following resolutions—

Resolved that

1. The administration of Indian lands and other lands administered by the Indian Service remain under the agency.

2. Indians of the pueblo will be glad to expand their small herds of stock on their present land if by so doing they could remain under the Federal range regulations. Recommendations of the Indian Service Range Division are followed in all cases pertaining to land use.

3. The Indians of this pueblo are poor and needy and the manner in which grazing rights has been handled has done the most good to the greatest possible number of individuals.

4. The present lands in use by the pueblo is only a portion of the lands originally held by the Indians of this Pueblo. Therefore, we feel that our rights to the present holdings be assured us by the Government.

5. At the present time we seriously oppose the changing of administration of lands because we have no complaint against the manner by which the United States Indian Service has handled these lands for us.

6. The Indians have lost a great deal of land in the past for which they have not been properly paid. Now we find that the number of Indians in the pueblo are increasing and are greatly in need of that land we lost.

7. Lastly, we wish to ask our friends, the various governmental agencies, the Senators and Congressmen of this State, and the McCarran committee to carefully study our situation before making any recommendations. Being under the flag we have our boys in the armed forces fighting to protect that which we hold dear, namely our land and our way of life. We do not want them to return and find the things they are fighting for gone and in its place the things they went out to destroy.

ALCARIO GACHUPIN, *Governor.*

PAT TOYA, *Lieutenant Governor.*

SAN JUANITO (his mark) FRAGUA, *Councilman.*

GUADALUPE FRAGUA, *Councilman.*

MANUEL YEPA, *Councilman.*

RESOLUTION

Resolved at a joint meeting of the Councils of Jemez and Zia at Jemez Pueblo, N. Mex., on September 1, 1943, in regard to Ojo de Espiritu Santo Grant, which is now administered by the S. C. S. for the use of the Indians of Jemez, Zia, and certain non-Indians.

That in view of the fact that Espiritu Santo Grant once belonged to us, given to us by Don Thomas Velez Gachupin, governor general of the kingdom of New Mexico (the act of grant on file at the Land Office in Santa Fe, N. Mex.), the exclusive use should be given to the Indians of the pueblos of Zia and Jemez.

That even though we still claim ownership of the land, the Court of Private Land Claims has judged against us and is now legally owned by the United States Government. We feel that the grant should be turned over to the Indian Service, to be administered for the use of the Indians of Jemez and Zia.

The Indians of these two pueblos have perhaps the poorest grazing land in the State of New Mexico, and if the Ojo de Espiritu Santo Grant which is their best grazing land, is taken away from them, the already exceedingly poor Indians will be subjected to still more suffering.

The Indians of these two pueblos have always been satisfied with the administration of lands by the Indian Bureau.

Jemez: Alcarrio Gachupin, governor; Pat Toya, lieutenant governor; Manuel Fragua, second lieutenant governor; Jose Manuel Loretto, fiscal; Joe M. Toya, Manuel Yepa, Guadalupe Fragua, Juan E. (his + mark) Sando, Santiago (his + mark) Lucero, Juan Diego (his + mark) Casiquito, councilmen.

Zia: Juanlito Medina, governor; Perfecto Pino, lieutenant governor; Antonio Gachupin, Lorenzo Medina, councilmen.

(All signatures and marks witnessed by D. C. Dozier.)

RESOLUTION OF THE PUEBLO OF LAGUNA

Whereas the question of abolishing the Indian Service has been brought to our attention; and whereas this item has been published in the Associated Press news so that the citizens of this State and some Members of the Congress have expressed strong sentiment to abolish the Indian Bureau, therefore, we the undersigned

members of the Pueblo of Laguna Council at a meeting held September 1, 1943, at Laguna, N. Mex., do hereby resolve that the Indian Bureau shall not be abolished.

John C. Sarracino, acting governor; Abe Larkmond, first lieutenant governor; Robert K. Thompson, second lieutenant governor; _____, head fiscal; Antonio Chero _____, first fiscal; Walter Hardia, second fiscal; _____, interpreter; R. O. Marmon, Secretary; Phil Paisand, Joseph T. Ray, Mariano Lenton, Tom Kose, Francisco Lourzo, Frank J. Peters, Robert Walla, Goge Piro, Howard Analla, Lewis Daylice, David Hiyi, Noble Thompson, Juan Aragon, Roy Sice, Sr., John E. Martinez, Sr., Lorenzo Mooney, Harry Lliston, Joe Luther, George P. Dailey, Fred Davis, Sr., Lorenzo Aragon, Sam Victorino, Charlie Day, Dan Romero, Jose Romero (his mark), Albert F. Paisano, Benjamin Romero, Thomas Analla, Lewis Phillips, Morris L. Spira, John R. Peters, Thomas Perry (his mark), _____, Pablo Montogo (his mark), councilmen.

NAMBE PUEBLO,

Santa Fe, N. Mex., September 2, 1943.

RESOLUTION OF THE PUEBLO OF NAMBE

Whereas the recommendation of the Senate Subcommittee on Indian Affairs for the abolishment of the Indian Service has been brought to our attention, and whereas this recommendation has been given publicity in the Associated Press newspapers, and some of the citizens of the State and Members of Congress have expressed strong sentiment to abolish the Indian Service, we the undersigned members of Nambe Pueblo of the State of New Mexico do hereby resolve to protest the abolishment of the Indian Service.

PETARIA PENA.
ANTONIO TRUJILLO.
MOSES PEÑA.
FEDENCIO ROMERO.

PICURIS PUEBLO,

Penasco, N. Mex., September 1, 1943.

Whereas the question of abolishing the Indian Service has been brought to our attention and whereas this item has been published in the Associated Press news so the citizens of this State and some Members of the Congress have expressed strong sentiment to abolish the Indian Service.

We, the undersigned members of pueblo of Picuris, of the State of New Mexico, do hereby resolve that the Indian Service shall not be abolished.

Augustine Martinez, Antonio D. Simbolo, Jesus Mermejo, Manuel Duran, Roman Martinez, Kumoo Duran, Jose E. Lopez, Jim Simbolo, Johan J. Martinez, Abran Martinez, Manuel Vargas, Roland Durand, Cruz Simbolo, Gerald Nailor, Manuel Simbolo, Ayapito Martinez, Pedro Martinez, Frank Duran, Reyes Martinez.

RESOLUTION OF THE PUEBLO OF POJOAQUE

POJOAQUE PUEBLO,

Santa Fe, N. Mex., September 2, 1943.

Whereas the question of abolishing the Indian Service has been brought to our attention through the newspapers and by other means; and

Whereas strong sentiment has been voiced by citizens of the State of New Mexico and Members of Congress for the abolishing of the Indian Service, we, the undersigned members of Pojoaque Pueblo, do hereby

Resolve, That the Indian Service should not be abolished for the following reasons:

1. We are not ready to face taxation of Indian lands, nor do we think we could hold our lands without the protection of the Government.

2. We are not able to send our children to private boarding schools, and no suitable schools are available to us at or near our pueblo.

3. We do not believe that the Public Health Service would help the Indian people like the Indian hospitals do, and we are not able to pay for private hospitals.

4. We need assistance with our land and livestock problems that is not available to us only from Indian Service.

5. We need help in our dealings with the non-Indians, so that they do not take advantage of us.

6. We need help to understand the rules and regulations of our Government during wartime and how best to help with the war effort.

JUAN I. TAPIA.
THOMAS ROMERO.
ZENOBIA MARTIN.

RESOLUTION

Be it resolved by the pueblo of Sandia at a meeting of the qualified members of the council on this day of September 5, 1943, that—

1. We have no reason to oppose the administration of our lands by the Indian Service because we feel it has always acted in our best interests.

2. Although our pueblo does not use very many public lands we are standing strongly against the changing of the administration of these lands because we want to stand by those pueblos who are directly affected with this investigation.

3. We are under the flag of the United States and many of our boys are fighting for the protection of their land which has been handed down to us by our forefathers. We feel that the least we can do and the least our Government can do is to hold these lands intact for us and for the men in the armed forces. As a people under the flag we have a right to ask for this protection not only for our soldiers but for ourselves and those that will follow us.

What will our boys say when they return and see that everything they have fought for is lost? Are our young men being killed in the battlefields to preserve this land of ours for some selfish stockmen who already have most of the land and wants more? No; we believe in our Government and we have faith that when this investigation is completed these lands will remain in our hands.

4. Many years ago we had more land which we used in the right way. Then the Government staked out our boundaries and opened the rest of the land for settlement by non-Indians. Now we hear of this investigation and it appears that the white man has found a way by which our few remaining pieces of land can be taken away from us. The Spanish and the Mexican Governments respected our rights to these lands and we ask only that this Government also respect our rights.

FRANCISCO (his X mark) LAURIANO,
Governor.

PAUL CHAVEZ *Lieutenant Governor.*

JUAN A. LUJA, *Councilman.*

PASQUAL ASTORI, *Councilman.*

IGNACIO BACA, *Councilman.*

SANDIA INDIAN PUEBLO,
Bernalillo, N. Mex., September 5, 1943.

Whereas the question of abolishing the Indian Bureau has been brought to our attention and we have seen by recent articles in the press that certain citizens and Members of Congress have shown their desire to do away with the Indian Service, we the undersigned members of the pueblo of Sandia hereby show our opposition to abolish the Indian Service.

The feeling of the entire pueblo is that the Indian Service has done a great service to the Indians and should be permitted to continue.

Francis (his mark) Lauriano, Governor; Paul Chavez, Lieutenant Governor; Juan H. Lujan; Pasquale Antoni; Ignatius Baca; Lorenzo Chavez; Lorenzo Lucero; Pete Avila Juan R. Chavez; Miguel Lucero; Vincente Lujan; Nicholas Ortiz; Hilore Sanchez; Luciano (his mark) Lujan; Lupito (his mark) Ortiz; Juante Lauriano.

Whereas the question of abolishing the Indian Service has been brought to our attention, and whereas this item has been published in the Associated Press news, and the citizens of this State and some of the Members of Congress have expressed strong sentiments to abolish the Indian Bureau. We, the undersigned members of the pueblo of San Felipe de Bernalillo, N. Mex., do hereby on this day of August 31, 1943, resolve that the Indian Service shall not be abolished.

Don Sanchez, governor of San Felipe; Jim Sanchez, secretary; Fred Tenorio, fiscal major; Phillip D. Sandoval, lieutenant major. Councilmen: Santiago Troncosa, Harvey Townsend, John Ray, Chris Sandoval, Jose Rey Sanchez, Valentino Sandoval, Felipe Chavarillo, Daniel Valesquez, Antonio Duran, Pablo Aguilar, Domingo Chaves, Andres Valesquez, Antonio Valencia, Martino Candlario, Diego Leyba, Felipe C. Tenorio, Pedro Candlario, Jose D. Valencia, Alendro Troncosa, Jacoba Sandoval, George Tenorio, Jose Chavez, Zick Chavarillo, Ramon Sandoval, David Quintana, Joe Parina, John Valencia, Jim Tenorio, Marcelino Troncosa, Joe Duran, Barney Sandoval, Felipe Sandoval, Ignacio Garcia, Nasario Lucero, Feliciano Valencio, Juan R. Valencio, Delfino Valasquez.

SAN FELIPE PUEBLO,
Bernalillo, N. Mex., September 6, 1943.

RESOLUTION

Resolved by the Pueblo of San Felipe on this 6th day of September 1943, That:

1. All lands used by Indians whether federally owned or under Indian ownership remain under the present administration for the reasons stated below:

(a) The Indian Service understands our problems and has administered our lands in such a manner so that the majority of Indians have been treated on an equal basis.

(b) Our grazing lands are limited and if they are to be opened for outsiders it will cause considerable hardship on all our people.

2. The Indians are increasing and at this time cannot afford to lose any land. In fact we are needing more land which unfortunately we cannot get. Therefore, we have to conserve the lands we now hold and have them managed carefully and intelligently. We believe the Indian lands are better managed by the Indian Bureau because of its long experience in dealing with the Indians.

3. We have our young men fighting in this war to attain freedom and protection for the future. If they come back and find that their Indian Service has been abolished and their lands taken away they would have fought in vain.

4. Many years ago our Indians used all the land around our pueblo then the white men came and some of our land was opened for them to settle. They practically took all our lands and left us with only the poorest grazing lands. Now it seems that they are trying to take this away. Because of the unjust treatment of the past we believe that our Government should at least give us the uninterrupted free use of the land we now hold.

Don Sanchez, Governor, Lut Jim Sanchez, Fred Tenorio, trial mayor, Phillip D. Sandoval; Lupe Valasquez, David Chaumillo, Councilmen.

SAN ILDEFONSO PUEBLO, N. MEX.

September 2, 1943.

Whereas the question of abolishing the Indian Service has been brought to our attention, and whereas this item has been published in the Associated Press news so that the citizens of this State and some Members of Congress have expressed strong sentiment to abolish the Indian Bureau, we, the undersigned members of the pueblo of San Ildefonso de New Mexico, do hereby resolve that the Indian Service shall not be abolished.

1. We do not want Indian property taken from Federal protection and put on local tax boards.

2. We do not want Indian boarding schools closed, but we do want education and discipline improved so that the pupils can go to college without further preparation.

8. We do not want Indian day schools closed, but we want grades increased through the eighth with sufficient good teachers.
4. We want tuition for Indian children in public schools paid where necessary.
5. We do not want Indian hospitals abandoned for Indians and turned over to the United States Public Health Service. We want good doctors who will not be transferred frequently. We should like to see Indians who are capable employed in the hospitals. We want to keep the medical field service.
6. We want to keep the Indian Arts and Crafts Board.
7. We do not want the management of Indian forests turned over to the Department of Agriculture.
8. We do not want Indian tribal funds distributed per capita to individual Indians.

San Ildefonso Pueblo: Gov. Sotero Montoya, Phillip Montoya, Antonio J. Martinez, Antonio Virgil, Juan Jose Montoya, Anselmo Martinez, Incarnacion Peña, Bernardo Sanchez, Facundo Sanchez, Miguel Martinez, Ignacio (his x mark) Aguilar, Joe A. Aguilar, Agapito Pino, Juan B. Tafoya, Juan Cruz Roybal, Louis Gonzales Atlano Montoya, Adam Martinez, Doniclo Sanchez, Richard Martinez, Abel Sanchez, Antonio Peña.

RESOLUTION

We, the Indians of San Ildefonso Pueblo, present for your serious consideration, the following resolutions on which we are agreed:

- (1) We beseech you in prayer that the Indian Bureau shall not be abolished.
- (2) We further beseech you in prayer that Indian property shall not be taken from Federal protection nor put on local tax rolls. We are not now endowed with sufficient means for decent living.
- (3) In our prayer we beseech you that the Indian boarding schools shall not be closed. We desire higher education and discipline so our children may go on the college without further preparation.
- (4) We continue our prayer to ask that the Indian day schools shall not be closed but that we shall have higher grades established through the eighth grade with sufficient good teachers.
- (5) In our prayer we beseech you to have tuition for Indian children paid in public schools when necessary.
- (6) We reach deep in our hearts to know how our sick may be attended if Indian hospitals are abandoned for Indians. We desire and need good, permanent doctors. Give Indians, who are capable, employment in hospitals and continue the medical field service.
- (7) We most deeply implore you to allow the Indian forests to remain under their present administration.
- (8) And we further implore you to keep the Indian arts and craft board.
- (9) We pray again to gain your attention that all Indian tribal funds may remain intact to accumulate so that agricultural requirements will always have a fund to provide supplies when needed.

We close our prayer to have you know that deep appreciation will flow freely from our hearts for all the good that has come our way in the past, and in your careful deliberation, we feel that all good shall remain and increase.

GOV. SOTERO MONTOYA.
LOUIS GONZALES.
JOE A. AGUILAR.

RESOLUTION OF THE PUEBLO OF SANTA ANA

Resolved by the Pueblo of Santa Ana in New Mexico, at a general meeting of the qualified members of the Pueblo duly called and assembled, That only the governor, Jesus Manuel, and lieutenant governor, Leo Peña, of this pueblo and such other persons as they designate are authorized by the pueblo of Santa Ana to present to the McCarran committee of the United States Senate and any other investigating committees of Congress, the official position of the

pueblo of Santa Ana concerning any land or any other matters that those committees may be investigating or interested in.

Dated at Santa Ana Pueblo this 31st day of August, 1943.

Jesus (his X mark) Manuel, governor; Leo Peña, lieutenant governor; Puorpilo Montazu, councilman; Valentino Montazu, councilman; Louis (his X mark) Peña, councilman; Jose Bobe (his X mark) Pino, councilman; Cristo (his X mark) Raton, councilman.

SANTA ANA PUEBLO,
Bernalillo, N. Mex., September 3, 1943.

RESOLUTION

At a meeting of the Santa Ana Pueblo Council held September 3, 1943, the following resolution was passed in regard to hearings of the McCarran committee of the United States Senate.

Resolved, That Indian lands, public lands, and all other lands now used by the Indians and administered by the Indian Service remain under that Bureau for the reasons stated below:

1. Through a long period of working with Indians, the Indian Service understands and respects the rights of Indians and, therefore, has administered the Indian lands and other land used by Indians of this pueblo in such a manner so that the greatest possible good has been done to the maximum number of individual Indians.

2. The Indians are increasing and, therefore, are needing more land for their crops and their stock. We understand that it is not possible to get more land for us; therefore, it is necessary that we follow careful plans of grazing, etc., to get the greatest possible amount of good from the lands we now have. The least our Government can do is to assure us of the use of these lands for all time to come.

3. Intentional misuse of grazing lands has not been practiced by the Indians because we have followed only practices recommended by our Government. For example: The Indians in many cases wish to increase the number of their stock; but as this would mean going against regulations, this has not been permitted.

4. We realize that some of the larger cattlemen need more land so that they can increase their stock and in that way make it possible to put more cattle on the market. On the other hand, we have filled our land to capacity; and we also would like to increase our herds not only to put more beef on the market, but to feed our increasing population.

5. The land which we use now and a great deal more was once used by us; and if we had realized that it was to be opened to non-Indians, we would have grabbed it, put fences around it, and perhaps today we would not be as poor as we are.

Jesus (his mark) Manuel; Leo Peña, lieutenant governor; Elifio Montoya; Dossisio Roman; Joe Gareid; Pampito Montoya; Valentino Montoya.

SANTA ANA PUEBLO, September 3, 1943.

RESOLUTION

Since the question of abolishing the Indian Bureau has been brought to our attention, we feel strongly that we should make our statement in defense of the Indian Service, especially in view of the recent publicity which shows that certain citizens and some Members of Congress are for abolishing the Indian Bureau.

The undersigned members from the Pueblo of Santa Ana hereby resolve that the Indian Service shall be permitted to continue for all time.

Jesus (his X mark) Manuel, governor; Leo Pena, lieutenant governor; Pompilo G. Montoya, councilman; Porfino Montoya, councilman; Valentino Montoya, councilman; Longino Otero, councilman; Valencia Garcia, councilman; Elias (his X mark) Armijo, coun-

cilman; Louis (his X mark) Pena, councilman; Ventura (his X mark) Sanchez, councilman; Jose Bohe (his X mark) Pino, councilman; Eligio Montoya, councilman; Tomas Cristobal, councilman; Fabian Lopez, councilman; Emilliano Otero, councilman; Joe Sanchez, councilman; Frank Garcia, councilman; Domingo R. Montoya, councilman; Sandro Montoya, councilman; Donicis Roman, councilman; Joe Garcia, councilman; Unelio Monchego, councilman; Santiago Tenorio, councilman; Pedro Leon, councilman; Petralino Montoya, councilman.

RESOLUTION OF SANTA CLARA PUEBLO

Whereas the question of abolishing the Indian Service has been brought to our attention by the Senate partial report 310 of June 11, 1943:

Some Members of Congress and some citizens of New Mexico have expressed strong sentiments against abolishing the Indian Bureau.

We, the undersigned, qualified members of Santa Clara Pueblo, hereby resolve that the Indian Bureau shall not be abolished.

Resolved, That the Santa Clara Indians wish to go on record as being well satisfied with the management by the Bureau, of the land, schools, forest, and hospitalization.

Dated on this 1st day of September 1943, at Santa Clara Pueblo, N. Mex.

Juan Chavarria, governor; Cleto Tafoya, lieutenant governor; Joe D. Naranjo, sheriff; Joe C. Naranjo, secretary; Patrick Gutierrez, representative; Jose D. D. Naranjo, representative; Jose Reyes Tafoya, representative; Abristo Naranjo, representative; Jose Dolores Naranjo, representative; Ralph Suazo, representative; Alvino Naranjo, representative; Henry Gutierrez; Mike Naranjo; Christina Naranjo; Mrs. H. O. Hardin; Herman Velarde, Alcaraz Tafoya; Geromino (his thumb mark) Tafoya; Camilio Tafoya; Antonio Silva; Nestor Naranjo; Paul Naranjo; Anastacia Sisneros; Helen Sisneros; Geronimo Naranjo; Lawrence Singer; Helen C. Padilla; Florencia Suazo; Marcelino Gutierrez; Victoriano Sisneros; Clara Sisneros; Epemano (his thumb mark) Sisneros; Josefita (his thumb mark) Naranjo; Santiago Naranjo; Kenneth Shupla; Ignacio Naranjo; Eugene Naranjo; Felix Sisneros; Lupita (his thumb mark) Sisneros; Jose C. Naranjo; Augustine (his thumb mark) Tafoya; Lucarla J. Baca; Luterio Gutierrez; Juan I. Gutierrez; Vidal (his thumb mark) Gutierrez; Salvador Naranjo; Tomasita Tafoya; Cresencia Tafoya; Placido (his thumb mark) Tafayo; Julia Martinez; Antonio (his thumb mark) Gutierrez; Matias Gutierrez; Eugene Gutierrez; Frances Chavarria; Desiderio Naranjo; John Naranjo; Ruyenta Dashus; Severo (his thumb mark) Naranjo; Sam Baca; William P. Baca; Marelene N. Miller; Rosila L. Bailey; Damacio Tafoya; Pedro (his thumb mark) Cajeti; Laurencita Gutierrez; Jesusita Suazo; Margaret Cata.

SANTO DOMINGO PUEBLO RESOLUTION

SEPTEMBER 3, 1943

Whereas the recommendation of abolishing the Indian Service has been brought to our attention through report No. 310, We, the undersigned members of the Pueblo of Santa Domingo do hereby resolve that:

As applied in this area, the Indian Service shall not be entirely abolished but corrected to enforce an administration suitable to a more direct benefit to the Indians and so planned as to prepare the Indians to a place equal to those of other people. In correcting the Indian Service policies, Congress should have a planned program for a given year executed to really help prepare us to that end. This preparation must of necessity be without any political hindrance, mismanagement on the part of the administrators, and any experiments.

We favor doing away with researches as carried on and practised at present, because these researchers are done not only at the expense of Indians but also

at the expense of the appropriation money earmarked by Congress for the Indians' benefit. These researches under any title or name, are for the sake of experiments and furthering the promoters' interest rather than helping the Indians. The results of these "studies" are not made known to the Indians.

Trained Indians who are as well qualified to participate in such programs as the "student aid and trainees" of the United Pueblos Agency are denied the chance which the handpicked choices of the administration enjoy. With unusual exceptions, these students stay but for a short period and are given high salaried positions in the offices where they handle problems that require wise counseling.

Concerning directors, supervisors and "experts," we consider such a group as being too highly paid for the services they render the Indians. Their services are limited to their own likings and are too limited or insignificant to be of much value to us. These high salaried people should conform to the civil service laws and not be appointed by personal friends in high positions. Special workers for the Indians should be paid for the specific services rather than carried on monthly or yearly salaries.

The appropriation fund intended for the Indians should be made known to us and we should be informed as to its expenditures. The Indians should be informed about their own tribal funds which ought to be handled directly by the agency instead of the office in Washington. When the Indians make important and necessary trips in behalf of their respective pueblos, they should be entitled to the use of per diem and travel expenses from the Indian appropriations as our Indian officials are, instead of using their tribal or compensation funds.

The standards of all Indian schools must be raised without further delay. The boarding schools should be used to educate the Indian children. The children should not help keep up the schools by working on details for half a day which has no connection in preparing him academically or later life. The school period of 9 months should be used in schooling the children 9 months and not only half of that due to help keeping up the school. We want Indian supervisor of our schools. We demand putting Indians on school boards at every school to assure us of high standards. We demand that we have a voice in determining as to who is best qualified to serve our interests in schools and other administrations.

Besides schooling, we consider agricultural extension a very vital program in the furtherance of preparing the Indians to self-sufficiency. We ask that this branch of service be expanded rather than liquidated. If this branch of service were to be eliminated, the Indians would lose much. The extension service has much valuable data on Indian farms, livestock, families, etc., which the State does not have.

The United States Government has its moral and legal obligations to respect its treaties and agreements with the Indians. The United States Government should not break faith with us at this time when we are not prepared to assume full responsibilities as a result of its seemingly disinterested manner of handling the program of Indian policies to prepare us to self reliance. We demand that our land be held in trust by the Government and the Government adhere to every agreement and treaty it has signed with the Indians.

Since the health situation among the Indians is acute and the Government has its obligation to maintain health of its people, the hospitals and other medical facilities should continue uninterrupted. Since health deals with a human life, we demand that only the best qualified doctors and nurses be employed to maintain and improve health among the Indians. We want the same provision in health as in schooling with regards as to determining who is a desirable employee. The interns should not practice and experiment in the Indian hospitals and among Indians as has been in the past.

Since we are so out of touch with the Arts and Crafts Board, the Board should be abolished and Congress should grant a specific arts and crafts program which would prove of more value to us. A regional or local art board would be of more value than one in Washington. Indians should have something to say in the matter of what the schools should offer in the art courses.

Respectfully submitted.

JOSE ELASEO CALABAZA, *Governor.*

(Signed also by the Lieutenant Governor, the secretary, and 20 council members.)

TAOS PUEBLO COMMUNITY.
Taos, N. Mex., August 6, 1944.

We, the undersigned, adopt the resolution opposing to abolish the Indian Bureau. We are not able to carry on the taxation. We are not able to pay the schooling for our children.

We are not able to pay the hospitals for our health. We wanted all the protection from the Federal Government which we are receiving up to date.

We wanted for our land to not be allotted. We wanted to carry on our land as a community, as we are carrying on today.

We firmly oppose to abolish the Indian Bureau.

SANTANA SANDOVAL, Governor (his X mark).

JULIAN SUAZO, Lieutenant Governor.

JUAN ISIDRO CONCHA, Casiqui.

CESARIO ROMERO, War Chief.

JUAN ANTONINO LUJAN, Lieutenant War Chief,
(his X mark).

(And 27 councilmen.)

TESUQUE PUEBLO, N. MEX.,
September 2, 1944.

To Whom It May Concern:

We, the members of Tesuque Pueblo, have met to talk over the report of the Senate subcommittee under Senator Thomas, which favors a large reduction in the Bureau of Indian Affairs.

We have all decided that we are opposed to such reductions, and we go on record in favor of continuing the Bureau of Indian Affairs and of increasing instead of decreasing its appropriations.

We realize that the various Commissioners and their assistants, including those now in office, have made many mistakes. They have failed to do many things which they have promised to do. Money which could have been used for necessary purposes has been spent on things which do not amount to much. Better people could have been hired for many positions, but many of those positions have salaries too low to attract the best people. In spite of all of this, we feel that the Bureau of Indian Affairs has done great good for the Indian tribes and we wish to continue our lives under its administration.

We are a small tribe, numbering about 150 people, and we have very little tribal or family money. We earn our living by farming, pottery making, and such jobs as we can get from time to time. Most of our living comes from our farms, because farming our land is the only work of which we are certain.

Our grant of land contains more than 16,000 acres, but only a few hundred acres have soil good enough for farming. There are less than 100 acres of good pasture. The rest is poor grade range land capable of supporting about 100 head of stock according to Soil Conservation Service. Actually we graze about 150 head because we need that many for our living and our work. We could use more horses and cattle if we had good enough range land on which to pasture them. While we have nearly 110 acres of land for each person in the Pueblo, we have only about 3 acres per person of land which can be farmed, and because of water shortage we farm only a part of this.

Our land is so located that it must be irrigated by ditches coming from reservoirs. Rainfall is not sufficient and not enough comes at the right time for our crops. The Indian Service has built us two reservoirs, but these are not large enough to properly irrigate our land under cultivation. We cannot farm more land without more water. We had no money to build these reservoirs and we are very grateful to the Indian Service for them. Before these reservoirs were built our people had a hard time getting enough to eat.

The Indian Service has helped us with our ditches far more than we could have done ourselves. Our soil is very porous and we lose a great deal of water as it runs through the ditches. The Indian Service put in concrete pipes from our reservoirs to the edge of our fields. This has saved much water. We hope that more of such piping can be done after the war.

The Indian Service has helped us build a number of structures to retard soil erosion and to protect us from floods. These have been of great help to our village and our farm lands. We are in need of more of this kind of protection for our fields.

The Indian Service has made it possible for us to fence our land and thus keep our stock on our grant and other stock out. Also the Service has helped us fence our fields and keep stock out of them.

The Indian Service has been of great help in showing us how to improve sanitary conditions around our village. As a result there is better health among our people, and we do not lose so many of our babies. Our population is increasing instead of decreasing as it did for many years.

We have a day school where our young children go. We want to keep this school. We do not want to send our children to day schools at villages several miles away. We are an Indian tribe and we want to remain so. We want our children educated together at the school on our grant. We have no money to keep up this school, and we need the Indian Service to help us do so.

We want our field nurse, a field doctor after the war, and use of the hospital at the United States Indian School at Santa Fe, N. Mex. We do not have money to pay for much medical service, and the health of our people will suffer if the Government service is taken away. Many times we have not been satisfied with the medical service furnished by the Indian Bureau, but we prefer it to what we could afford to get from the city of Santa Fe or the State of New Mexico.

We are the descendants of an Indian tribe which has lived on our land long before the white people came to America. We want to remain an Indian tribe and live according to the customs and religion which we have always had. We do not care about voting under the white man's law, or about other rights which we might receive if Government protection were taken away. We have gotten along very well under the Indian Service, and we wish to continue under it. We feel that we will have a much better chance for improvement and will receive much better treatment than if we are put under State control.

We realize that there are Indians who do not like the Indian Service and who are trying to make trouble and have it abolished. There always are people who are never satisfied no matter how much is done for them. We feel that these Indians do not realize the great problems which the Indians will have to face after the war. They do not realize what it would mean to adjust ourselves to a new way of living if the Indian Service were taken away. We know that many Indians have just complaints against the Indian Service and they should be allowed to tell of these. But these complaints are of small importance as compared with the good which the Indian Service has done for the Indian tribes.

There are white people who do not like the Indians or the Indian Service. Most of these white people do not understand the Indians, their problems or needs. They are jealous and angry because the Government of the United States is helping the people who were here first and most of whose lands and rights the white people took away. The Indians have asked very little. Much of the land which they occupy is very poor and of low value. The things which have been done for the Indians by the Government are no more than should have been done by a just government in return for what the Indian tribes have suffered and lost. It is true that we Indians are few in number. But we have a long history and we have done and made things which give much credit to ourselves and to the American Nation. We are unique groups in the American Nation which are worth while for the Government to protect and perpetuate. If Government control is withdrawn together with the encouragement which the Indian Service has given to maintain our tribal characters and customs, there is serious danger that the tribes will disintegrate, their peoples scatter, and the Indian groups would be lost forever as groups distinct in the American Nation. We do not want this to happen.

We have given many of our boys and some of our girls to serve in the war. We are glad to do that. We have given in many other ways. But we do not want to give up the protection of the United States Government and the Bureau of Indian Affairs which have helped so much in giving us better living conditions and better knowledge.

We consider that the Indian Bureau under Commissioner Collier has done more for the Indians than was previously done under any other Commissioner. We have received more material benefits, such as irrigation and flood-control improvements, roads, fences, sanitary improvements, betterment of farm and livestock methods, medical service, and education, than we had received under previous administrations. We have received greater encouragement to develop as a group and to preserve the customs and activities which have been handed down to us by our ancestors. We have gone far under the administration of Commissioner Collier and we declare ourselves as being very much in favor of him.

Julio Christ, Governor; Benino Duran, Lieutenant Governor; Senobio Romero, Isabel Padilla, Candido Herrera, Baselio Herrera, Jose la Cruz Herrera, Rinaldo Herrera, Homer Samuel, Hilario

(his X mark) Vigil, Martin Vigil, Sr., Mara Vigil, Louis Hana Juan I. Pino, David Leno, Emiliano Vigil, Thomas Vigil, Diego Herrera, Thomas (his X mark) Duran, John de (his X mark) Cruz Padilla, Pvt. (1st cl.) Joe M. Romero, Seneffe Herrera, Isabel Pino, Alex Herrera, Abe Padilla, James Hena, Patrick Swaze, Eligio Vigil, Lupe Duran, George Herrera.

The following resolution was passed by the Zia Pueblo Council at a meeting held August 23, 1943:

Resolved, That Indian lands and lands belonging to the United States Government now being administered by the Indian Service for the use of the Indians remain under the present administration for the following reasons:

1. It is land, the greater portion of which has always been used by the public and has been properly grazed according to range regulations introduced to us by the Indian Service.

2. The right of individuals to use this land has been handled in such a manner that it has done maximum good to the greatest number of needy Indian stock men.

3. The Indians of this pueblo would gladly expand the number of stock; but as this would mean breaking the rules of proper grazing, this has not been permitted nor will it be resorted to.

4. We oppose the changing of administration of these lands because in many cases the Indians will not qualify under the Federal Range Code in grazing land and it would mean taking many, many acres now used properly by the Indians.

We justify the above item because the Indians have in many instances in the past suffered unjustly from the loss of land which they have always claimed as theirs and which they had used prior to the whites, but of which they have lost the use. For the loss of these lands the Indians have never been compensated.

5. The Indians are a growing minority and need a greater amount of land. Unfortunately, no more land can be acquired for the Indians due to certain laws of the Government. Therefore, the least that we can ask is that we be assured the use of the lands we now have.

6. The Pueblo of Zia feels that the Indian Service was created to assist the Indians, to protect him and his property, and to see that they are properly rehabilitated. For this reason the Indians of Zia wish the committee to listen to the Indians and do what they recommend.

7. Zia: Population as of January 1, 1943, 235.

Land:

Original pueblo grant	16,281.67
Reservation	368.35
	<u>16,650.02</u>

Government lands used by Zia:

Zia allotment (Government-purchased lands in Zia-Santa Ana purchase area)	13,164.22
Zia community allotment (Government-purchased land)	5,232.39
	<u>18,396.61</u>

Public domain—under permit from Grazing

Service:

Zia allotment	13,172.62
Community	2,528.64
	<u>15,701.26</u>

Borrogo grant

Zia portion of San Ysidro grant

Espiritu Santo grant (by permit from Soil Conservation

Service)

	39,862.00	60,538.56
--	-----------	-----------

State leases, 2,243.98.

Total lands used by Zia (grant, reservation, Government purchases, Grazing Service permit, Soil Conservation Service permit, State lease), 113,530.95.

Sheep units owned Jan. 1, 1943, 5,045.

8. I, Juanito Medina, as Governor of the Pueblo of Zia, wish to make my personal statement.

First. I wish to confirm every item in the resolution made by my Pueblo Council.
Second. I plead with this committee, with the various governmental agencies and the various Indian defense associations to assist us in retaining our lands and the lands we are using, as this means of raising livestock is our only source of income. Grazing lands are poor, farming is very limited as our farm land is very small, and the soil is very poor. Water for half of the crop season is not available to our crops.

Juanito Medina, Perfecto Pino, Cres Toribio, Lorenzo Medina, Emiliano Galvan, Jose L. C. Galvan, Antonio Gachupin, Andres Pino, Jose R. Toribio.

At a meeting of the Zuni councilmen, held on August 23, 1943, the following resolutions were adopted:

(1) We, the Zuni people, favor the administering of our grazing land by the Indian Service.

(2) We also favor the continuation of the administration of the Indian Service on our reservation. We do not favor the administration of our schools, hospital, land, and other problems by the State and other agencies.

The reasons we favor these views are as follows:

(1) We have received just, satisfactory, and sympathetic treatment in the past and we wish to continue under the Indian Service administration.

(2) We feel that we are not ready to be put under State government. Under the present system we are assuming responsibilities gradually and we wish to continue along that policy rather than be put under agencies whose policies have not been tried out on our reservation.

(3) We already have a range program worked out by the Zuni stockmen that is proving satisfactory in the improvement of sheep and cattle and range and soil conservation and we favor the continuation of this program under the administration of the Indian Service.

(4) We favor the continuing of the administration of our schools, hospital, and range, under one head. Their administration under different agencies would not be a savings in expenses as they cannot be administered with less personnel. As it is the present staff is being worked to the maximum. Various positions have been abolished and the same work is being carried on. We do not think that the State can assume the financial responsibilities of administering our various agencies. If the Federal Government will be expected to appropriate funds for their maintenance, we favor their administration by the Indian Service.

(5) We enjoy the rights and privileges of true democracy in being able to administer our own internal affairs, regarding law, order, marriage, and religion. Under a form of civil government administered by the State we feel that these rights and privileges would not receive the same consideration. We wish to have the right to continue in the freedom and liberty of our own form of government that has been worked out and handed down to us for many generations.

(Signed by:) Kaskala (his thumb mark); Ewanle Quam (his thumb mark); Henry Natewa, governor (his thumb mark); Awashu California, lieutenant governor (his thumb mark); H. R. Nieto, official interpreter; Johnnie Pattone—witnesses to marks: Alfonso Zunio, Madelyn Walela.

RESOLUTION

SEPTEMBER 2, 1943.

We the undersigned members from the pueblo of Zia hereby show our opposition to the Senate Report No. 310 which proposes abolishing the Indian Bureau. The Indians of this pueblo have felt it necessary to take this action because they have seen in recent articles and publications that certain leading citizens and Members of Congress have expressed their desire to abolish the Indian Service.

The feeling of the entire pueblo is that the Indian Service has assisted them far more than can be described in words.

Juanito Medina (governor), Perfecto Pino (lieutenant governor), Jose L. C. Galvan, Cres Toribio, Lorenzo Medina, Emiliana Galvan, Antonio Medina, Antonio Lucero, Antonio Gachupin, Jose B. Toribio (his mark), Amado Shiye, Isidro Shiye, Joe D. Pino, Cecilio

Shije, Jose V. Medina, John S. Salz, Juan Diego Herrera, Sebastian Shije, Andres Pino, Juan Jose Shije, Aleandro Toribio, Frank S. Toribio, Antonie Galvan, Juanice Galvan, Jose H. Shije, Beato Pino (his mark).

All signatures and marks witnessed by Perfecto Pino.

RESOLUTION OF THE PUEBLO OF ZUNI

Be it resolved by the pueblo of Zuni in New Mexico, at Zuni, N. Mex., in general meeting of the qualified members of the pueblo duly called and assembled, That only the governor, Henry Natewa, and the lieutenant governor, Awashu California, of this pueblo and such other persons as they designate are authorized by the pueblo of Zuni to present to the McCarran committee of the United States Senate and any other investigating committee of the United States Senate and any other investigating committees of Congress, the official position of the pueblo of Zuni, concerning any land or any other matters that those committees may be investigating or interested in.

Dated at Zuni, N. Mex., this 25th day of August 1943.

(Signed with various signatures and thumbmarks of Indians.)

At the meeting of the Zuni councilmen held on August 23, 1943, the following resolutions were adopted on pertaining to land used by the Zunis.

We want this information be given to any committee who are investigating lands.

1. We want to keep on using the land we are now using. We have rights to these lands for the following reasons:

(1) The Zunis founded their present land prior to the time of the Spaniards; prior to all surveys the Zunis had large amount of lands, but it was never surveyed, the Zunis thought it was theirs then, but no white man knew of it.

(2) The Zunis have used their reservation all the way since their first settlement, including the present north purchase area and most of the south purchase area; and

(3) There are several Zuni homesteaders outside and within the two purchase areas. In the north purchase area, Laniate Quetawki, Jamon. In the south. Utimer Watecelu, Wyaco (now Lucio). At present you can still see their ruin homes and stock corrals, which shows that the Zunis used this purchase areas years ago.

(4) During the years when first land surveys were made the Zunis started leasing lands; before 1912 the Zunis used more of the land than they do now, including the north and the south purchase areas.

(5) The Zunis would like to increase their stock in number, but due to a small amount of land we have now, we cannot increase our stock. Compare to the white man's stock owners, as the Zunis do not have too much land.

(6) The Zuni stock owners paid leases on the railroad lands, until the Government purchase the land.

(7) The Zunis had 7,000 acres least in Arizona until the railroad refused to lease to the Zunis, as they did not want the Zunis in Arizona.

(8) The Zunis have 415,000 acres to 611 families, compared to Fitchner, a white stockman, who has 5,000 acres. An average Zuni family has only 670 acres compared to Fitchner of 5,000 acres.

Our sons are fighting in the war to protect us and to protect their lands and their Government. When they come back they must call it their land and would want to raise stock on this, their land. Without this land they would not raise their stock of their own sufficient to their needs.

(9) The Zunis depend largely on their stock and land for their support and do not have any other incomes that they largely depend on. Their other source is through the Zuni farmer with his products from the farm.

2. We, the Zuni people, favor the old administering of our lands by the present Indian Service for the following reasons:

(1) We already have a range program worked and by the Zuni stockmen that is proving satisfactory in the improvement of sheep and cattle and range and soil conservation, and we favor the continuation of the program under the administration of the Indian Service.

(2) The Indian Service grazing regulations are understood by the Zuni live-stock owners and wish to continue on as it has been.

(3) Majority of stock owners are uneducated and still depend on our own Government through the Indian Service.

(5) The majority of our Zunis are uneducated and are unable to be governed by the State.

(6) Through the Taylor grazing regulations we may not understand and may not be qualified to use the land even though we know we have a right to use the land.

(7) The improvement of sheep have greatly increased in weight and quality in wool through the extension work of the Indian Service.

(8) About 1927 our wool weight was $3\frac{3}{4}$ pounds. In 1942 our wool weight was $7\frac{1}{2}$ pounds, gaining about $3\frac{1}{2}$ pounds.

(9) The improvement of cattle have greatly increased in weight and quality.

(10) We Zunis are satisfied with the way the Indian Service are helping with administration of our land and our stock.

We the Zuni people wish to have our land the way it is at present so that our sons who are in the armed forces will help decide what shall be done with our land and our administration.

HENRY NATEWA, *Governor.*

AWASHU (his thumb mark) CALIFORNIA,
Lieutenant Governor.

HARRY ROE NIETO,

Acting Secretary, Official Interpreter.

KAS (his thumb mark) KALLA.

JOHNNIE PATTONE.

EWANNIE (his thumb mark) QUAM.

Witnesses to thumb marks: H. R. Nieto and Johnnie Pattone.

The CHAIRMAN. Governor Dempsey, you wanted to be heard on 1152. You may proceed now.

Mr. STEWART. Thank you, Mr. Chairman, for the privilege of getting those in the record. I regret that they could not speak, but I appreciate this opportunity.

The CHAIRMAN. I take it that the colloquy would run along just about as it did all morning, and I think that we tried to give you as fair a break on the thing as we could.

I want to make a statement before we go into this other subject. I want to say to these people who have come forward here on various subjects and testified here, some for groups and some individually, I made a statement at the opening of this hearing, as I have at the opening of other hearings, that they might make a free and untrammelled statement, without any fear of reprisal. So that that word may be understood, I repeat that they may make a free and untrammelled statement without any fear of punishment. The special investigator of this committee is going to return to the State of New Mexico, and he is going to return at the behest and instruction of this committee, for the purpose of determining whether or not any reprisals follow this hearing, and I am going to say to you frankly that if there is even a symptom of reprisal or punishment on the part or toward anyone who has testified here this committee is going to take it up, and I am very sorry to say somebody is liable to lose his status or else his meal ticket.

Now you may proceed, Governor Dempsey.

Secretary CHAPMAN. Mr. Chairman, quite a few of these Indians have asked if they would be permitted to leave now as they want to get back to their territories.

The CHAIRMAN. Certainly. Again I want to before that is done, lest perchance anyone should say I denied anyone the right of being heard, I opened the subject this morning as I did earlier in the hearings that they might all be heard as best we could hear them. I closed it because I thought we had listened to a pretty fair cross section of the colloquy or the controversy, and I closed it because we must close the hearings and other subjects had to be heard.

Now, if I have denied anyone who really wanted to be heard the privilege of being heard, I would like to know it. Otherwise those who desire to leave may leave now if they see fit or they may remain if they see fit.

Very well, Governor.

STATEMENT OF JOHN J. DEMPSEY, GOVERNOR OF THE STATE OF NEW MEXICO

Mr. DEMPSEY. Mr. Chairman, Senator Chavez, ladies and gentlemen: I come here, Mr. Chairman, to voice opposition to S. 1152. It has for its purpose providing a Federal agency to take over practically the wildlife of the State of New Mexico. We of New Mexico believe that insofar as that sovereign State is concerned, that it is quite competent to manage its own affairs, cooperating with any agency of the Federal Government that desires our cooperation.

But this bill goes far beyond that. Under this bill a Federal agency in Washington would be dominant over the State of New Mexico. The bill sets forth that when any agency of the Government having land—supervising land in New Mexico—calls upon the game commission or game warden to exterminate certain game, if that commission or if the warden is unwilling or unable because of provisions of State laws and regulations to comply, then the Federal agent, notwithstanding restrictions of State laws, may come in and give permits to those within the State or without the State to do such killing as the Federal officials may elect.

We think that is wrong. We have worked in very close cooperation with the Federal agencies. We have worked in close cooperation with the farmers, the stock growers of this State, and it has only been a short while ago that there was an appeal made to me requesting that certain elk be killed on one of the ranches. I had no difficulty whatever in arranging that with the commission and the game warden, and that was done.

Now, there is another thing in this bill that appears in so many pieces of legislation that are passing the Congress of the United States and all going to curtail the privileges of the people of this Nation. I refer to section 2 that says:

Any person who willfully violates any rule or regulation promulgated, or any condition or requirement of any permit issued, under authority of this Act shall, upon conviction thereof, be fined not more than \$500 or imprisoned for not more than six months, or both.

We have had quite so much of this recently, Senator, in connection with O. P. A., in particular, where, notwithstanding State laws making certain speed limits, in violation of that law and providing a penalty when it was found that the individuals did violate the speed regulations, instead of haling the violator before a judge and a jury, which guarantees to these citizens a fair trial, an investigator of the O. P. A. would arrest the violator, and sometimes not the violator. In one instance that I know of where a truck driver exceeded the speed limit, the truck was ordered out of service for 15 days. That man that owned the truck had a total of about 20 trucks. In the final analysis of the situation, the man who violated the law was given 15 days and the owner of the truck was denied the service of his truck for some 15 days. It so happened that that truck happened to

be engaged in war industry. I took that up with the director, Mr. Bingham, a reliable and fair person. He didn't have the authority to change it and he called the regional director in Denver and finally prevailed upon him in this particular instance to free that truck.

When the Congress of the United States in a piece of legislation advocates the power to an agency to make rules, any and all of them which have the same power as the law creating them—well I think we are going a little far. We have recently had a ridiculous thing occur to us in the Congress of the United States, where I was a Member for 6 years, representing you people, and closely associated with the chairman of this committee, Senator McCarran. There never was an important committee representing the Rocky Mountain States of which I was not a member. The steering member of the Rocky Mountain group was the now junior Senator from Nevada, Senator Scrugham. He was the steering man of our special Rocky Mountain States insofar as the Congress of the United States was concerned. We were always recognized as one of the Rocky Mountain States, and then suddenly we are taken out of that area, out of that group, and we're placed with Louisiana and Arkansas for gasoline rationing purposes. Now, we have less transportation facilities in New Mexico than probably any State in the Union. When you ration gasoline you are rationing transportation in this State. If we had subways, such as they have in New York, and elevated railroads and trolley cars and busses and what not, you wouldn't complain, nor are we complaining now. Anything the Government wants for the war effort they can have. We are not complaining that Nevada, Arizona, Idaho, Colorado, all get 4 gallons of gasoline. But we want to be placed in the group that we belong in, and we don't want the power vested in anybody in Washington to take us out of that group.

If this bill were passed I am fearful, Senator, that the situation in New Mexico will be such that, instead of conserving our game and wildlife in New Mexico, it would be eventually destroyed. We have a splendid commission in New Mexico; we have splendid control over the situation; and there is very, very little complaint about it.

I intended to say more. I thought the bill was drawn by the Fish and Wildlife Bureau in Washington, and I know something about that particular Bureau. I was going to discuss that. But I am advised, reliably, that this bill was not drawn by that Bureau and not drawn by the Interior Department. As a matter of fact, they are opposing the passage of the bill, and, I understand, opposing it because they feel that the cooperation existing now is all they could possibly ask for; so I have nothing to say about the Bureau. But I do hope, and I am sure, Senator, since you are the introducer of the bill, insofar as New Mexico is concerned, this bill will not pass the Congress of the United States, because it goes too far; and I hope that never again in the Congress of the United States, will there be a bill passed that will authorize any agency to make laws affecting the people of this Nation or the State of New Mexico. [Applause.]

I am quite willing, with the Members of Congress who are the representatives of this Nation, to abide by or support any law that Congress itself passes, but to delegate to these agencies the power to do it, I think it is wrong. There is no Bill of Rights or no safety in the Bill of Rights if that is going to continue.

That is all I have to say, Thank you, sir.

The CHAIRMAN. Thank you.

Are there any questions? Is Mr. Colin Neblett here?

Mr. ELLIOTT BARKER. He regrets very much that he is tied up in the Federal court and is not able to come.

The CHAIRMAN. I am very sorry. He asked to be heard on this subject and I am extremely sorry he couldn't be here.

STATEMENT OF ELLIOTT S. BARKER, STATE GAME WARDEN, NEW MEXICO

Mr. BARKER. Mr. Chairman, I am Elliott S. Barker, State game warden and secretary to the State game commission of the State of New Mexico, Santa Fe, N. Mex.

For the purpose of showing the background for the statements that I shall make relative to wildlife, livestock, ranges, and Senate bill No. 1152, I wish to state that I was raised in a game country on a mountain cattle ranch in New Mexico. I entered the Forest Service as assistant forest ranger in 1909, and worked up through various positions to forest supervisor, in which capacity I served for several years before resigning in 1919 to again go into the cattle business. I ranched again for 11 years in an excellent big-game area. Then for a year I had charge of game and predator control on a 300,000-acre ranch. For the past 13 years I have been State game warden. I feel that my experience has given me a rather broad conception of game from an ecological viewpoint.

There is a bit of history back of Senate bill No. 1152, which it is necessary that we understand. Back in 1934 the Secretary of Agriculture promulgated a regulation known as G-20-A, which contained virtually the same provisions for turning game administration over to the Forest Service, as Senate bill 1152 contains for turning game over to any Federal land administrative agency, except that regulation G-20-A did have some redeeming features not found in the Senate bill.

That regulation drew fire from game administrators, conservation and wildlife protective organizations all over the country. Finally at the insistence of the Western Association of Game and Fish Commissioners and the International Association of Game, Fish, and Conservation Commissioners, and many other organizations that regulation, which so far as I know, was never used due to opposition to it was abolished 2 years ago and a regulation known as W-2 was promulgated in its stead. I submit a copy of regulation W-2 for the record.

This regulation was acceptable to the various States, because it has the spirit of cooperation written into it. It has been in effect too short a time for anyone to say that it will or won't solve some overpopulation problems. State game administrators believe that regulation W-2 is workable, and provides the proper approach to the subject.

When the Taylor Grazing Act was passed, we of New Mexico got all interested groups together to work out a plan for handling of wildlife on the public domain. Stockmen, sportsmen, conservationists, university professors, the State game department, and other State and Federal officials, working together, evolved a plan now known as circular No. 3, Special rules for grazing district in New Mexico, which

was formally adopted, and approved by the Secretary of the Interior on August 21, 1935. I submit a copy of that circular for the record. We have been operating satisfactorily under that plan for 8 years. (The document is as follows:)

WILDLIFE ON THE PUBLIC DOMAIN

Wildlife, or game, is a public asset of exceedingly great value and has a definite right and place on all public lands. This right is recognized by the Taylor Grazing Act. Therefore, all interested agencies and organizations in the State of New Mexico working through their official representatives evolved a definite program for wildlife on the public domain. The plan was approved by the New Mexico Cattle Growers Association, and the Wool Growers Association, demonstrating again the friendly attitude of New Mexico stockmen to game. The plan is fair to all, sportsmen, stockmen, game department, and above all to wildlife itself. The plan was approved by the Secretary of the Interior and promulgated into a regulation designated as rule 3, and is in effect and operation at the present time.

The entire plan or rule is quoted below for information of all stockmen using the public domain:

CIRCULAR NO. 3, "SPECIAL RULES FOR GRAZING DISTRICTS IN NEW MEXICO"

"In addition to the regularly elected district advisers for each grazing district established under the Taylor Grazing Act in New Mexico, there is hereby authorized to be appointed one district adviser in each grazing district to represent wildlife and recreational resources. Such district adviser shall have the same qualifications as the elected advisers, except that he need not be an owner of livestock, and he shall be nominated by the land use committee of New Mexico State Planning Board. This district adviser may be appointed by the Secretary of the Interior in the same manner and form as the other district advisers.

"The utilization of grazing district lands by domestic livestock shall be in accord with the following fundamental principles for conservation and propagation of wildlife and other natural resources upon the public domain:

"(a) *Carrying capacity to provide for game.*—In estimating carrying capacities of public domain ranges and in allotment of numbers of domestic stock to be grazed within any grazing district, allowance shall be made for reasonable utilization by wildlife.

"(b) *Game and bird refuges.*—Game refuges necessary for adequate protection and restocking of game animals and game birds may be established within any grazing district, the location and size of such refuges to be determined so far as possible in cooperation with grazing district permittees.

"(c) *Areas best suited to wildlife production.*—Upon such areas as may be determined by the Secretary of the Interior, upon consideration of all interests involved, to be of higher value for and better adapted to production of wildlife than to domestic stock, preference shall be given to such higher use.

"(d) *Game animals to be limited.*—If or when game animals shall become overabundant to an extent detrimental to the range and forage thereon, the State or Federal laws will be invoked to limit by removal through hunting or otherwise the game animals on such overpopulated area until a reasonable number has been attained.

"(e) *Game law observance.*—All permittees on grazing districts shall be required to comply with all State and Federal game laws, and local officials of the Department of the Interior shall cooperate with State officials in the enforcement of State game laws and regulations.

"(f) *Administration.*—Provision for the observance of game regulations shall be included in each grazing permit.

"In conformity with these principles the State Game Commission should prepare and submit to the Land Use Committee of the New Mexico State Planning Board a game management plan or any modification of any game management plan theretofore adopted for any grazing district, which plan after approval by the Land Use Committee of the New Mexico State Planning Board may constitute the State's official plan for wildlife management within such district or area and after such plan is approved by the Secretary the administration and operations under the Taylor grazing act in that district or area involved shall conform to such plan.

"The State Science Commission, which is now charged with the duties of preservation of the archeological, ethnological, paleontological, and other similar scientific resources of the State, may prepare and submit to the Land Use Committee of the New Mexico State Planning Board a program for the preservation of these objects of scientific value, which program may be added to or changed from time to time by the State Science Commission as necessity arises and this plan after its adoption by the Land Use Committee of the New Mexico Planning Board may constitute the official plan for the State, and the provision therein shall be binding in all grazing districts after such plan is approved by the Secretary of the Interior.

JOHN F. DEEDS, *Acting Director.*

"Approved: August 21, 1935,

HAROLD L. ICKES,
Secretary of the Interior."

Mr. BARKER. Since the Forest Service and the Grazing Service are the chief land administrative agencies with which we deal on wildlife matters, and since we have had no difficulties whatever over jurisdictional matters with other agencies, we assumed that all was going well. This feeling was justified by the additional fact that we have made many cooperative agreements with all agencies concerned in the management of large tracts of land purchased in recent years for various purposes by the Federal Government. A copy of one of these agreements, that for the La Majada grant, is submitted for the record.

The State game commission also has a general cooperative agreement with the United States Forest Service, which serves as a guiding policy in game management on national forests and I tender a copy of that agreement for the record.

(The agreement is as follows:)

FIELD AGREEMENT BETWEEN THE NEW MEXICO STATE GAME DEPARTMENT, SANTA FE, N. MEX., THE BIOLOGICAL SURVEY, UNITED STATES DEPARTMENT OF AGRICULTURE, ALBUQUERQUE, N. MEX., THE SOIL CONSERVATION SERVICE, UNITED STATES DEPARTMENT OF AGRICULTURE, ALBUQUERQUE, N. MEX., RELATIVE TO WILDLIFE MANAGEMENT, CAJA DEL RIO-MAJADA AND RAMON VIGIL GRANTS, SANTA FE AND SANDOVAL COUNTIES, N. MEX.

A. GENERAL

The following plan, with only such needed additions or modifications as are found necessary during its actual application, shall constitute the wildlife section of the land use plan for the Caja del Rio-Majada and Ramon Vigil grants.

These grants are located 15 to 25 miles north and west of Santa Fe, in Santa Fe and Sandoval Counties, N. Mex. They lie in townships 15, 16, 17, 18, and 19 N. and ranges 6 and 7 E., New Mexico principal meridian, and contain 123,000 acres of land.

Upon its approval, this plan shall become the wildlife management plan for this area and will be recognized by the approving agencies as such. In the event that an agency other than those approving this plan should later be given custody, the acceptance and perpetuation of this plan by the receiving agency will be requested by the approving agencies.

Nothing contained herein shall be construed as binding the signatory Federal agencies to the expenditure of funds, unless appropriated by Congress for that purpose, or to activities not authorized by their regular duties; nor to bind the State game department to acts or expenditures not authorized by the laws of the State of New Mexico.

B. PROTECTION

In order to increase the numbers of beneficial wildlife on this and adjacent areas, the State game department will close and post against hunting the horse pasture at the Old Pankey ranch headquarters, an area of approximately 1,400 acres, and the horse pasture at the 1,200-foot well, an area of approximately 600 acres (these areas are outlined in red on the attached map), for an indefinite period, in order to protect quail for restocking purposes, and to provide for better hunting on areas adjacent to these enclosures.

C. LAW ENFORCEMENT

(1) The Soil Conservation Service range rider, or riders, on these areas will be designated by the State game commission as nonsalaried deputy game warden, or wardens, and will render assistance to the game department, consistent with their regular duties on the area.

(2) If the arrangement above outlined should prove inadequate to provide the necessary protection, the State game department will make a special effort to protect the area from illegal hunting by assigning a paid district deputy game warden to a patrol that will include this area.

D. RESTOCKING

The Biological Survey will furnish basic biological information concerning the planting of game species to insure that the stock proposed for planting are suitable for the area and are free from disease which might defeat the purpose of the plantings or do other damage.

No exotic game plantings will be made under present conditions. The following planting plan shall be adhered to as closely as possible.

(1) *Game birds.*

(a) Scaled quail (*Callipepla squamata*) will be trapped on areas where they are abundant and transported to this area for releasing.

Approximately 100 will be transplanted during the spring of 1939 and will be added to by small plantings later if required.

These plantings will be released at selected locations on the grants with approximately 30 birds released at each location. (One planting to be made in the Water Canyon area on the Ramon Vigil grant.)

(b) Turkey (*Melagris gallopavo*): The Ramon Vigil portion of this area is now supplied with a light stocking of these birds. It is confidently expected that with the improved vegetative cover and better control of hunting, the desired increase in the numbers of these birds will occur.

(c) Grouse (*Dendragapus obscurus*): The western portion of the Ramon Vigil grant is suitable range for these birds. There are a few birds on the area and, with proper protection, they should increase in numbers sufficient to afford a limited amount of hunting.

(2) *Game mammals.*

(a) Antelope (*Antilocapra americana*): There are none of these game animals present on the area. The two southern range subunits, namely, Tetilla and Majada, are suitable for antelope, the former consisting of 21,305 acres and the later 18,054 acres. Both subunits are fenced and well watered. Each of these units should be stocked with these animals in numbers not to interfere with use by domestic livestock. It is estimated that the Tetilla and Majada subunits will range a maximum of 200 head of antelope on the more remote portions of the area, utilizing the annual weeds and browse, without any reduction in livestock numbers or interference with proper recovery. Stock for transplanting shall be secured by trapping from antelope herds located in New Mexico, the trapping and transplanting to be done by the New Mexico State Game Department. The number available for stocking will be determined by the number trapped. Probably 10 or 12 does and 4 or 5 bucks can be secured and these will be added to by new plantings of small numbers for the next 2 or 3 years to insure new blood in the herd. Since there is no regular open season for antelope hunting in the State, the area will not be posted as a game refuge, except the small portions previously referred to. Hunting will be permitted when the antelope planted have shown a substantial increase. The total numbers for the area will not be allowed to increase to exceed 200 head which is the estimated allowable maximum that will not be detrimental to the range. The annual take after this number is reached shall be decided by the administrative agency and State game department.

(b) Mule deer (*Odocoileus hemionus*): There are a small number of these game animals on the area. Browse plants suitable for deer are scarce on the area except along the breaks of the Rio Grande and on the Ramon Vigil grant. No additional plantings will be made on the area. The control of illegal hunting on the area by the deputized range riders should give ample protection for deer and maintain them in sufficient numbers. If, at a later date, investigation by the administrative agency and the State game department indicates the need of greater protection, the deer range or portions of it will be closed to hunting.

(3) *Miscellaneous game and fur bearers.*

(a) Bear (*Euarctos americanus*): The canyon portions of the Ramon Vigil grant are suitable bear habitat. There are a few bears in the area and, with proper protection, should remain and possibly increase. If at any time individual bears become predatory in relation to domestic stock on this area, the State game department will take proper steps to remove these predatory bears from the area.

(b) Beaver (*Castor canadensis*): A small number of these animals have been planted in Water Canyon on the Ramon Vigil grant. These animals will very probably stock this stream and aid materially in stabilizing the flow. They will be protected. When they are properly established, an annual harvest will be made of selected animals taken under permit from the State game department.

(c) Abert squirrel (*Sciurus aberti*): These game fur bearers are common to the west of the Rio Grande in this area and, given the protection proposed in this plan, will continue in sufficient numbers on the area.

E. FACTUAL DATA

The recovery of vegetation on the area has been gratifying during the brief period of conservative use which has obtained so far. It is confidently expected that the numbers of domestic stock to be accommodated will in no way be diminished by the proposed stocking of wildlife. The present water developments appear adequate to care for the domestic stock and wildlife.

The grants comprise typical rolling foothills, mesas, and alluvial valleys. Drainage is effected by the Cienega, Santa Fe, Arroyo Ancho, and other drainages from the east and by Water Canyon and two other canyons from the west. The drainage from both east and west empties directly into the Rio Grande.

The elevation varies from 5,500 feet for "flat" areas on the Majada to 8,000 feet for the upper portion of the Ramon Vigil grant. The average rainfall varies from 10 inches in the southwest corner to 16 inches in the highlands on the Ramon Vigil grant. Snowfall on the higher elevations is slightly over 2 feet. The vegetative type is made up of western yellow pine saw timber on the west portion and of pinon-juniper woodlands and grasslands over the major portion remaining except for the lower portion of the Tetilla and Majada subunits, which is mainly grassland. The grassland is composed chiefly of grama species with some snake-weed, ring grass, and annuals.

Soils of the area vary from a reddish-brown silt and clay loam in the mountains to light grayish-brown sandy loam in the lower flats east of the Rio Grande. Water penetrates the typical surface soils of these areas at a moderate rate. The soils of the Ramon Vigil grant west of the Rio Grande are lighter in texture and, consequently, absorb moisture more readily than the more heavy-textured soils of the Caja del Rio-Majada grants east of the river.

F. RANGE MANAGEMENT

We believe that vegetative cover is the governing factor in our wildlife problem, and any wildlife plan on range land should be based on proper range management.

The following grazing plan, or a plan with similar limitations as to carrying capacity for domestic stock, shall be continued by the agency in charge of the area. Any increases in domestic stock, if allowed, will be only the numbers justified by a utilization survey.

The grants are at present used as a cattle range by the farmers and ranchers adjacent to them. Their total area is divided into five subunits for range management purposes. The carrying capacity of the area is now estimated at 1,050 cow units yearlong, to be grazed according to the attached management plan. The plan provides for deferred and rotation grazing by domestic stock and will materially enhance the value of the area from a wildlife standpoint.

Should the status of the area change and it be found desirable to change the class of livestock grazed to sheep, no adverse effect on wildlife should be felt, provided the proper carrying capacity and seasons of use are adhered to.

G. GENERAL SUMMARY

In predatory animal control, fur values shall be considered only as of secondary importance to the protection of valuable game species. However, where adequate predatory control is possible through winter trapping, preference shall be given that season in order to secure the maximum value for the fur.

Wildlife shall not be allowed to increase on the area to such an extent that they will, at any time, seriously interfere with the vegetative recovery or the proper use of the range by permitted domestic stock. Should this condition threaten at any time, the State game department will take proper measures to forestall it by removing the surplus game animals from the area either by trapping or by special open seasons, if the regular open seasons are not sufficient to control the numbers.

The number of game animals to be taken and the manner of taking shall be determined annually by the State game department in collaboration with the administrative agency in charge, on a basis of a game census of the area.

Respectfully submitted this 9th day of November 1938.

LOUIS LANEY,

Chief Biological Aide, Rio Grande District.

Approved by:

COLIN NEBLETT,

Chairman, State Game Commission.

DON A. GILCHRIST,

Regional Director, Biological Survey.

HUGH G. CALKINS,

Regional Conservator, Soil Conservation Service.

MR. BARKER. In view of all these things, we were astounded when we received a copy of Senate bill No. 1152. We stand firmly upon the principle that the State is capable of managing its own wildlife affairs, on all types of land. We stand firmly in the position, which is upheld by many Federal and State court decisions, that the wildlife belongs to the State, in its sovereign capacity, and that its regulation is the undeniable prerogative of the State.

We feel that this bill, which purports to give any Federal land administrative agency the right to set seasons and bag limits and issue licenses to hunt, contrary to State law, is not needed, in the first place, and, in the second place, is an unjustified and unprecedented attempt at usurpation of States' rights, even at the present level of such infringements as we see from day to day.

Not only that, but the bill is wholly impracticable, and utterly impossible of application. Why, Mr. Chairman, you have that evidence before you. If you will but take a look at this land status map here, you will see it. Land ownership on the public domain and the national forests are interspersed with State and private lands to such an extent that no hunter, no game animal, nor even the land administrator himself, can tell when he is on State, private, or public land, and certainly this bill, at best, could apply only to Federal land. Then, too, recall what Mr. Floyd Lee said yesterday about the 17 different land agencies involved in grazing district No. 1. How could anyone administer the game on his area, or how could the various agencies ever hope to get together on the management and carry it out regardless of State laws? No, even if passed, it won't work.

In gaining control over migratory birds, the Federal Government maintained that the movement of birds from one State and one Nation to another made it necessary for the larger governing body, the Federal Government, to have control. That was correct. But now the Government reverses itself, and attempts to give control of other game to the many agencies administering innumerable tracts of Federal land within the State. Big game and upland birds are migratory, insofar as movement from one type of land ownership to another is concerned, and must be controlled by the State as a whole, instead of the agency administering small units.

The New Mexico Game Department may possibly be in an unusually fortunate position, in that we have the full support of livestock growers and enjoy pleasant cooperative relations with the various Federal agencies. But I assert that we do not have anything here that cannot be brought about in other States, if those concerned will get together and sincerely try to find a common meeting of minds and policies where game and range use is concerned.

We, in New Mexico, have been watchful to prevent any serious overstocking of game occurring on public, private, or State lands. The commission has taken action, whenever and wherever needed, by providing special seasons and bag limits to remove the desired number of game animals, to keep them within the carrying capacity of the range.

Our game code provides that the commission shall have power to make regulations providing when, to what extent, and by what means game of any species, or of either sex, may be taken. Hence, we can relieve any situation that arises, and we have consistently done so.

Whenever any problem area is called to our attention, joint investigations by all interested parties are made, and action taken upon the basis of facts brought out. In many cases the game department takes action upon its own initiative. True, we have had local problem areas, but we have taken care of them, and shall continue to do so.

As an example, a few years ago we found antelope becoming concentrated in certain areas. We first provided hunting seasons, under a permit system. This scattered them out, put them onto new ranges, and relieved the problem, for the most part. In other areas hunting was not sufficient, and since we had lots of areas with no antelope at all, our department devised a technique for trapping and transplanting them. And I might say that we pioneered in that work, being the first agency in the world to successfully move antelope in this manner. Since 1937 we have trapped and moved over 1,600 head of antelope to new ranges, and have gotten 60 new herds started in locations where there were none. And I know of no single instance where the land user did not welcome the animals to his lands. Several other States have copied our technique, and are now successfully moving antelope.

We recognize the fact that Federal land administrative agencies are responsible for protection of their lands against damage. When damage occurs, and can't be relieved otherwise, these agencies have recourse to the courts. The Kaibab decision gives them the right to go in and kill the game, but not to issue licenses to others to do so in violation of State laws, as Senate bill 1152 purports to do.

Game definitely has a rightful place on our public ranges. Like livestock, it should and must be kept within the proper joint carrying capacity of the range. This can be done through cooperative endeavors, but it can never be done by threats, such as Senate bill 1152. We do not claim that the State game departments are perfect, and we won't admit that Federal agencies are either. Some have assumed that to turn a thing over to a Federal agency is a panacea for all evils. As a matter of fact, to do so is to write a prescription for more trouble.

While there have been some who felt that the Forest Service is sponsoring this bill, we refuse to believe that the United States Forest Service desires to see this bill passed, because, in the first place, the

bill is wholly destructive and does not contain any of the redeeming features of old regulation G-20-A, and, second, because through the promulgation of regulation W-2, in agreement with the States, a definite plan for handling overpopulations of game was provided, and to attempt to supplant that regulation, before it has been given a fair trial, by a bill of this sort would be an act of bad faith.

So far as New Mexico is concerned, Circular No. 3, Special Rules for Grazing Districts in New Mexico, is adequate for handling problem areas on the public domain administered under the Taylor Grazing Act, and I can't see why the Grazing Service should want this bill. The sportsmen of the State are unanimously opposed to it.

As for the stockmen, they will later speak for themselves, but our relations in game matters have been so satisfactory and so agreeable right along that I cannot conceive of their supporting such a bill.

If it has been introduced, as some state, to spur the various States on to more effective cooperative action, I foresee the reverse effect will result. You can't make a balky horse pull a load by waving a whip over his back, but you can make a steady horse balk that way.

In conclusion, may I say that certainly the bill is not needed and not wanted in New Mexico. If perchance there should be States where there seems to be a need for it, may I say that what has been accomplished in the way of legislation, and development of cooperative relations in New Mexico, can be accomplished in any other State if the subject is properly approached by all concerned. We feel that a helpful hand by Federal agencies, along that line, can accomplish far more than any attempt to take over control of wildlife resources.

I think the following verse expresses the sentiment of the people of this State:

Oh, give me a home, where the buffalo roam
And the deer and the antelope play,
Where seldom is heard a discouraging word,
And the skies are not cloudy all day.

[Applause.]

The CHAIRMAN. Mr. Hugh Woodward, president of the Game Protective Association of Albuquerque, you may be heard.

STATEMENT OF HUGH B. WOODWARD, PRESIDENT OF THE GAME PROTECTIVE ASSOCIATION, ALBUQUERQUE, N. MEX.

Mr. WOODWARD. Mr. Chairman and gentlemen, the Albuquerque Game Protective Association, at a general meeting held July 9, 1943, unanimously adopted a strong resolution opposing the enactment of Senate bill 1152 of the Seventy-eighth Congress, first session. We tender for the record, with this statement, a copy of this resolution.

Insofar as the State of New Mexico is concerned, we believe that no such legislation as embodied in the McCarran bill is necessary or advisable. Under the existing statutes of the State of New Mexico ample powers are vested in the State game commission, in its supervision of wildlife, to assure protection of all lands within this State, whether controlled by a Federal agency, by the State itself, or by private individuals. All such lands are, by the State game commission in cooperation with the several Federal bureaus and agencies, State land commissioner of the State of New Mexico, and private owners, presently

being adequately protected against excess game animal populations. The present policies of game and wildlife administration by the State department have the approval and support of the New Mexico Wool Growers' Association, New Mexico Cattle Growers' Association, and of the several Federal agencies. Representatives of the sheep and cattle industries and the Federal agencies are present before this committee, and we solicit inquiry by your committee of these representatives as to their cooperation with the State department with reference to land use.

New Mexico is singularly fortunate in its statutory provisions for the preservation and regulation of wildlife.

By chapter 35 of the Session Laws of 1921, section 43-102, New Mexico Statutes 1941 Annotated, the legislature created a State game commission of three members, not more than two of said members to be of the same political party, the commission to be appointed by the governor with the advice and consent of the senate, its membership to have staggered terms of 6 years for each member.

For many years United States District Judge Colin Neblett has been chairman of this commission and, under his exceptionally wise and able direction, the functioning of the commission has won the respect, approval, and support of the citizenship of this State to a remarkable degree. During the past 15 years under all Governors, Republican and Democratic alike, the department and its personnel has been nonpolitical and independent.

Funds for the support and administration of the department are all derived from license fees, the sale of furs and pelts taken by the employees of the department, and incidental revenues. None of its funds is derived from general appropriation. Reciprocally the legislature of New Mexico has uniformly refused to permit any part of such funds to be used for any purpose extrinsic to the work of the department.

The first section of the basic act creating the commission recites a declaration of policy, to-wit:

It is the purpose of this act and the policy of the State of New Mexico to provide an adequate and flexible system for the protection of the game and fish of New Mexico and for their use and development for public recreation and food supply, and to provide for their propagation, planting, protection, regulation, and conservation to the extent necessary to provide and maintain an adequate supply of game and fish within the State of New Mexico.

By the basic act the game commission was given general powers. After 10 years' trial of wildlife administration by the commission, the legislature of New Mexico, by chapter 117 of the laws of 1931, section 43-111, New Mexico Statutes 1941, annotated, gave the game commission very broad and general authority to make rules and regulations relating to game and fish with reference to seasons, bag limits, manner, methods, and devices which may be used in hunting, taking, and killing game animals, game birds, and game fish. The functioning of the commission and the department, under the broad powers accorded by the 1931 statutes, has permitted and fostered a broad program of cooperation between the State department, the several Federal agencies having supervision over lands in the State of New Mexico, the livestock interests, and private landowners, to the end that, while the wildlife population of the State has been steadily protected, developed, increased, and distributed, the range, forage,

and habitat of game animals have been protected, and the numbers of big game animals limited, so that no serious conflict has arisen or now exists between game animals and domestic livestock. Where excess game populations have developed, in cooperation with Federal agencies and ranch owners, special seasons and special rules have been promulgated by the game commission, which have been effective in limiting and reducing excess populations of such animals upon areas where reduction of numbers seemed necessary or advisable.

A number of cooperative contracts have been entered into between the game commission and the various Federal agencies having supervision of lands within this State. These contracts have had to do with the restoration, protection, and administration of wildlife upon the areas involved, with due regard to the protection of the soil, herbage, and forage upon said areas, and for the reduction of excess populations of big game animals, where such populations increase so as to threaten serious conflict with domestic livestock. These agreements have in practice functioned most successfully so that a harmonious relationship has been continuously maintained between the several Federal agencies, private livestock interests, and the game department of the State of New Mexico. The best evidence of such functioning has been the consistent and valued support of the State game department by the livestock interests of the State of New Mexico, functioning through the New Mexico Cattle Growers' Association and the New Mexico Wool Growers' Association. Where problems have arisen, they have all been successfully solved by field inspections and negotiations between all interested parties involved.

Special seasons are each year established by the game commission, and special rules promulgated, so that excess populations of big game animals are reduced by orderly and proper procedure. This method of administration has resulted in the protection of the wildlife of the State and of the range and habitat of such animals, and has removed any serious complaint of livestock men against unwarranted consumption of forage by big game animals.

The New Mexico legislation involved, and the program of administration, has been first sponsored and consistently supported by the organized sportsmen and conservationists of the State of New Mexico through the various wildlife protective associations of the State and, particularly, by the several units of the State Game Protective Association of the State of New Mexico. Speaking for the sportsmen of the State of New Mexico, may we say that we believe that, under the guidance of our State game commission, New Mexico has had a singularly happy experience in the administration of its wildlife. The sportsmen of the State gratefully appreciate the cooperation and support which has been given to the wildlife program by the ranchers, landowners, and livestock interests of the State and of the tact, wisdom, and cooperation accorded the program by the local administrative heads of the various Federal agencies and bureaus within this State.

We believe that it would be most unfortunate to disturb the prevailing conditions within the State of New Mexico, by transferring the supervision of wildlife upon federally controlled lands to any bureau or department of the Federal Government. No reason for such change exists, and we strongly feel that such change of policy could not func-

tion successfully but would result in continuous conflict, disagreement, and dissatisfaction between private landowners, Federal agencies, livestock interests, sportsmen of the State of New Mexico, and the game department. We hold that, when administrative matters concerning land use and wildlife administration are referred to local and resident Federal representatives, the problems are readily met and solved, but when delegated to Washington, to be administered under a code of rules and regulations formulated by some swivel-chair theorist, the result would be disastrous to all parties concerned and, especially, to the wildlife of this State for whose protection, preservation, and restoration the sportsmen's organizations of this State have continuously battled during the past 40 years.

I anticipate the retort that the happy relationship which exists in New Mexico, with reference to wildlife problems and land use, does not exist in some other Western States. My answer is this: That New Mexico has given a practical demonstration of maximum beneficial land use, both by game animals and livestock, under a program of cooperation between the State department, the Federal agencies, and private landowners. If the problems involved are approached by the several interested parties in a spirit of forbearance and cooperation, such problems can be worked out in other States as they have been in New Mexico. The administration of wildlife, other than migratory birds, is essentially a local, not a Federal problem. Local agencies and authorities can remedy existing evils much better than any Federal department in Washington.

Two fundamentals are necessary: First, the vesting, in a nonpartisan and politically independent State commission or department, of flexible regulatory authority; and, second, a disposition on the part of such department and of private landowners and Federal agencies supervising public lands to meet and counsel in a spirit of cooperation for the adjustment of land use to suit local conditions.

Mr. Chairman, in behalf of the organized sportsmen and wildlife conservationists of the State of New Mexico, we desire to register our strenuous, unalterable, and unanimous opposition of the enactment of Senate bill 1152, or any similar legislation which would trespass upon the rights of the people of the State of New Mexico to administer what we consider a vitally important asset of this State, namely, its wildlife.

RESOLUTION

(Unanimously adopted by the Albuquerque Game Protective Association, July 9, 1943)

Whereas the provision of the McCarran bill, being Senate bill No. 1152 of the Seventy-eighth Congress, first session, introduced on April 21, 1943, are in direct violation of the principles uniformly sustained by the several courts of the United States, including the United States Supreme Court, that the wildlife within each State is the property of the State and subject to State regulation;

And whereas the passage and enforcement of Senate bill No. 1152 would constitute an unlawful appropriation of the property of the people of the sovereign State of New Mexico and the enactment of such a statute would be in direct violation of the spirit of all former statutes and acts promulgated by the Congress of the United States and the legislatures of the several States and the judicial interpretations thereof:

And whereas our organization believes that the matter of the control of wildlife to the Federal Government or any division, bureau, or corporation thereof would be an infringement upon the rights of our State and would be seriously

detrimental to the welfare of the wildlife of the State of New Mexico and ultimately to the people of the State of New Mexico;

And whereas the policy adopted and uniformly maintained by the State Game Commission of the State of New Mexico cooperating with the several Federal bureaus, departments, and agencies having the supervision of the Federal lands of this State, has consistently been to annually harvest and take such game animals as will protect and preserve the species and at the same time, protect, and preserve the range and habitat of such animals;

And whereas said practice, as followed, has the approval and endorsement of the people of the State of New Mexico and particularly all sportsmen and conservationists interested in the preservation of the wildlife within this State: Now, therefore, be it

Resolved, That the Albuquerque Game Protective Association is most strongly and unalterably opposed to the enactment of the McCarran bill or any bill which would deprive the State of New Mexico and its agencies of the right to protect and conserve the wildlife resources of this State;

That in our opinion, said bill is vicious in principle and its operation, if enacted, would be seriously detrimental to the wildlife of the State of New Mexico and to the welfare of the people of the State of New Mexico.

That, by reason of said matters, we urgently request that our Senators and Representatives in the Congress of the United States strongly oppose the enactment of the McCarran bill or any other legislation of similar import which would vest control of the wildlife of the State of New Mexico in any Federal bureau, agency, department, or corporation;

That a copy of this resolution be immediately forwarded to each of the Senators for the State of New Mexico and to each of the members of the House of Representatives from the State of New Mexico;

That the officers and directors of this association be and they are hereby empowered to take any further action which in their opinion may be of assistance in manifesting our condemnation of and opposition to this proposed legislation.

[Applause.]

The CHAIRMAN. Mr. Raymond B. Stamm, secretary of the State game protective association, do you wish to be heard?

STATEMENT OF RAYMOND B. STAMM, SECRETARY, NEW MEXICO STATE GAME PROTECTIVE ASSOCIATION

Mr. STAMM. Mr. Chairman and gentlemen of the committee, because I cannot believe that it is necessary for me to be otherwise, I am going to be pleasingly brief, but I will ask that you not construe this brevity to be otherwise than unalterable opposition to this Senate bill.

Thirty years ago we had game laws in New Mexico worthy of the name. The sportsmen organized a cosmopolitan organization, which is still alive in this State today, with members made up of the Forest Service, Government bureaus, a member of the livestock association—Senator Chavez is a member, Representative Anderson is a member—and we built up a game department in New Mexico of which we are very proud. We are proud of the record we have made in solving all of the problems, and talking it over around a table.

We feel as Mr. Barker and Mr. Woodward have stated, we have proven the lack of any need of such a bill as this; and while we of New Mexico are bound, in our State pride, to feel maybe we have done something they could not do, deep down in our hearts we know the other States could do; and we see no use for the bill.

Again, I ask you not to take my brevity as indicative of any lack of opposition. I assure you I am speaking for the other local associations throughout the State, or 15 of them, who are unalterably opposed to this bill.

Senator CHAVEZ. Do you agree with Mr. Woodward's statement that the Federal Government from Washington should not control our State game?

Mr. STAMM. Absolutely I agree with him; yes, sir.

Senator CHAVEZ. How do you feel with reference to the other agencies of the Federal Government controlling the affairs of New Mexico?

Mr. STAMM. I am speaking here today as a voice for the sportsmen of New Mexico.

Senator CHAVEZ. Well, then, I won't ask you to answer it.

The CHAIRMAN. Mr. Floyd B. Lee, president of the New Mexico Wool Growers' Association.

Mr. LEE. Mr. Chairman, I just might state that the New Mexico Wool Growers' Association has cooperated 100 percent with the State game department. We feel there is no need for the bill. We have our game representatives on our board and we have had no trouble whatever with the game in New Mexico. We have worked out—in fact, it went so far that when there was some elk on one of my farms out there eating the alfalfa that when they heard we were out of the Rocky Mountain States they moved back into the Rocky Mountains.

The CHAIRMAN. Mr. Brownfield made his statement the other day.

Mr. LEE. He made it and asked to be excused today.

STATEMENT OF ALBERT DAY, ASSISTANT DIRECTOR, UNITED STATES FISH AND WILDLIFE SERVICE, CHICAGO, ILL.

Mr. DAY. Mr. Chairman, ladies and gentlemen, Mr. Chapman has just been called away to a conference. He asked that I report to your committee that the Interior Department is officially opposed to the enactment of this bill, although the report has not been made public as yet.

In brief, the reason for the Department's position is about the same as the expressions that have been given by some of the State representatives, not only here but at other hearings. In effect, it is felt that the Federal Government now has the authority to undertake reductions in the States if the States fail or refuse to act, but that such actions are to be performed only under the most extreme circumstances. The authority, however, does exist, as exemplified by the famous *Kaibab deer case*. It is also felt, in connection with authorization of this sort, the Federal Government would be put in a peculiar position of going out and regulating wildlife on public lands leased by permittees for the benefit of the grass, which belongs to the Government but is eaten by the livestock of the permittees. This would put the Government in rather an unusual situation.

The CHAIRMAN. Pardon the interruption. I have been trying to straighten out that last statement, Mr. Day. You say it would put the Federal Government in a peculiar position because it would require the Federal Government, who leases the public domain to permittees—what was the remainder of that?

Mr. DAY. Under the terms of this bill, the Government would actually make reductions of deer on the open public domain for the benefit of livestock which are privately owned, as well as to protect the soil and vegetation of the lands of the United States. If it were making the reduction for the benefit of the soil or the plantlife, there would be

little question; but if it is being made merely to protect the interests of the permittees, it extends the Government into new fields.

Senator CHAVEZ. What are the coyotes exterminated for, for the benefit of whom, the grass or the stockman or the individual or the lessee?

Mr. DAY. That is correct.

Congressman ANDERSON. What's the difference?

Mr. DAY. Well, it extends the authority to a point——

Senator CHAVEZ. Beyond the coyotes?

Mr. DAY. Beyond the coyotes. The confusion that would result in administration of the bill has already been pointed out, with the various patterns of land ownerships as they are. Various agencies administering interwoven tracts of land would lend no end of local problems in handling a bill of this sort. It must be admitted that some States do have serious game problems. They are, however, considerably localized, and it is not felt that there is a sufficient general problem to warrant legislation of this kind. We feel it would undoubtedly lead to confusion and to differences of opinion and to difficulties and misunderstandings between the States and the many Federal agencies.

Of recent years there has been a better and broader understanding between State game departments and the Federal agencies, I believe, than ever before; at least, in speaking of the Fish and Wildlife Service, that has been the case. We have had more cooperation with State game departments than we have ever had before; and, for that reason, we are fearful that this legislation would impair some of the fine relations that we now have. For that reason we feel that the bill in its present form would be inadvisable.

Mr. RUTLEDGE. Mr. Chairman, I would like to question him now, or later.

The CHAIRMAN. Yes, sir; I think now would be the best time.

Mr. RUTLEDGE. I have always got to be on the unpopular side. I can't wave the flag and make the eagle scream. What about Jackson Hole? Right now, young man, you have got somewhere about 30,000 head of elk. You fellows don't know what game congestion is. They come down on your refuge there to the extent of 10,000 head, and you can only feed 7,000 head. What are you going to do about that? That has been going on, to my knowledge, for the last 20 years, and no action has been taken on the reduction of that herd. Now, I think it is time we looked these things squarely in the face.

Mr. DAY. We are. I have made several trips to Wyoming in an attempt to work out a satisfactory arrangement with the game department. I must admit that we have been at loggerheads, and even reached the point where, at one time, the newspapers said it was "Federal domination," and that we were telling the State what they must do. We have continued to insist that it is their right to reduce that herd, and that they must assume that right. Last winter they paid out \$50,000 for feed, and they have taken the position that they will pay it out again this year, unless the herd is reduced. I think they are going to bring it down; however, if they don't, we still have the authority to go in and make the reduction ourselves, as a last resort measure.

Mr. RUTLEDGE. On what basis?

Mr. DAY. The Kaibab decision

Mr. RUTLEDGE. Who got it? You know who took the Kaibab decision. I've got my fighting clothes on.

The CHAIRMAN. You are not half as unpopular as the author of this bill.

Mr. RUTLEDGE. Fellows, did you get that? Twenty-five or thirty thousand elk coming down in that town of Jackson, on those farms and haystacks. He says he has to have it done this year, or next year. I have been hoping to have it done for 20 years; and I think that maybe Mr. Kneipp worked on it for 10 years before that. We didn't get any action.

Mr. DAY. We are hopeful we will get it this year. There were 5,000 head killed throughout the western part of Wyoming last year, and we have insisted on 6,500 head to be killed in Jackson Hole this year. We're opening a portion of the Federal refuge to hunting. I still think it is the States' responsibility to reduce it, but I also think that we now have the authority to do it, if it becomes absolutely necessary.

Mr. RUTLEDGE. I doubt if you will exercise that authority. As I said in the Glenwood Springs meeting, you lack the guts.

Mr. DAY. Of course, we are not alone. There happen to be others.

Mr. RUTLEDGE. I know that.

Senator CHAVEZ. Well, we've got the Federal Government fighting now.

The CHAIRMAN. Thank you very much.

There is one more name on the list; but before he speaks, I think in fairness, in that he represents the Forest Service, he is the forester for region No. 3, I believe a little light on this subject will do no harm.

I wish that those who consider this bill would consider it from another standpoint, rather than condemnatory. To begin with, there is no man, and I say this boastfully, no man on the floor of the Senate of the United States more zealously determined to retain States' rights, in every particular, than the author of this bill. But I am confronted, and you are confronted, with the law, and everyone who has discussed this bill, in every meeting, has overlooked the law.

What is the law now? You have State rights. Now, do you control the open public domain of the United States? Whose property is it? The rights set out in the *Kaibab case*, by the Supreme Court of the United States, were not new, nor novel. The principles enunciated in the *Kaibab case* were as old as English civilization. The owner of private property has the right to remove a destructive agency. In a not too remote case, in the State of Montana, the principle was enunciated, where a farmer sent word to the game warden, "We are killing elk on this farm," and the game warden, when he came up, was led out to where the body of the elk was. The farmer was arrested for a violation of the laws of the State of Montana. The case is most interesting in that it held that he had a right to protect his ranch and the feed for his cattle against invasion by elk herds.

Now, that was nothing new. The Supreme Court of the United States, in the *Kaibab case*, only enunciated the common old principles of law, that the Federal Government had the right to go in upon its own property and remove that which impaired the range or devastated the territory; and the Supreme Court of the United States, in the *Kaibab case*, went farther. It said that it could kill, could reduce the numbers, and could remove the bodies, by taking them across the terri-

torial lines or the Federal lines, notwithstanding State law in the State of Arizona.

So, to begin with, this overriding by the Federal Government, of which we hear so much complaint, is here now. It is upon us now; it is the law now; and it can be exercised by the Federal Government tomorrow morning, if they see fit. It was admitted by the learned gentleman representing the Fish and Wildlife Service of the Federal Government, that the Federal Government can go into Jackson Hole and eliminate, reduce, if you please, now. If the Kaibab Forest again became infested with too many game animals, the Federal Government can go in and eliminate, without consulting the State of Arizona, but upon its own determination. Could anything be more distinct? Could there be a more outstanding overriding by the Federal Government than what exists in the law at the present time?

There has been some discussion, some here, and some in other hearings, that the wildlife belonged to the State. That is not the law. The Supreme Court of the United States has enunciated, and the State courts have held, with but rare exception, that the wildlife belongs to all the people. The State is trustee for the people, and has the right to regulate the taking of wildlife, the taking of game animals.

So we approach this subject with some other things in mind. We were startled, just a few months ago, in the Congress of the United States, when an Executive order issued from the Executive office that even dumbfounded the congressional delegation from the State of Wyoming. Overnight, the Jackson Hole country had been the subject of an Executive order, whereby territory of thousands upon thousands of acres were withdrawn from the public domain, under the monument law. A park can only be created by an act of Congress, but a monument can be created by an Executive order. The monument law was set up by the Federal Government so that objects of historical, scientific value, unusual natural objects, and the like, might be, by Executive order, preserved. But here the monument law was transformed into a park law, and a great national park was set up over night, by Executive order.

Executive order after Executive order is being handed down today by the Federal Government. The hearings of this committee held in Colorado and other places, in Utah, reflected a condition wherein it is stated before this committee that deer are tramping out great sections of the State of Colorado. When we ask, "Can't the State of Colorado do something about it?" they say, "We have done everything we can; we have enlarged the season; we have done away with the sex regulation; we have permitted a greater number to be taken per season."

And then we ask the question, "Doesn't that reduce the numbers?" and the answer comes back, "No." And if I may be just a little facetious at this point, this was a striking thing. When we said, "When you enlarge it, do away with the sex regulation, why won't that permit the sportsmen of this country to come in and reduce what is necessary in this area?" One fellow said, "Because the sportsman will only shoot a deer just as far as his rifle will reach from his car." That was an answer, and I thought it was facetiously made; but it was made quite seriously. He said, "That does not reduce the deer population in the interior."

So, the problem presents itself to the Forest Service, to the Grazing Service, to other services of territories that are today overstocked with that which is destroying or impairing the grazing possibilities on the Federal domain. Is the Federal Government going to remain complacent all of the time, until the States get around to it; or will we get an Executive order overnight that will follow the Kaibab case and say, "Mr. Kneipp," or "Mr. Rutledge, you go in on that territory and kill off where you find the population to be so great?"

That is the law. When that Executive order is issued no Congress has a right to change it. All we could do would be to complain; and you fine gentlemen, all you could do would be to say, "We are overridden with Executive orders." A lot of us would agree with you.

So what was the thought behind all of this? This bill was introduced as drastically as our imagination could fix it. This did not come from the Forest Service; this did not come from the Grazing Service; this didn't come from any department. It came out and went into Congress to arouse the people of America, the sportsmen of America, and those who are interested in the welfare of the open public domain and the promulgation of wildlife, that they might formulate a statute that would head off an Executive order. [Applause.]

Now, it can be done. The first part of this proposed statute would stop and stay the hand of the Federal Government, if it should be passed, because it says that the Federal Government shall first consult the State authorities.

The Federal Government doesn't have to consult the State authorities today. All they have to do is to determine for themselves that an impairment of the Federal range is being brought about by wildlife, and they can go in and eradicate or reduce. That they don't do it shows a fine spirit of cooperation, to be very frank with you, because they could do it.

Now, to my friends of the sportsmen of this community, this bill need bring you no harm. This bill need bring you no alarm. It was introduced by one who believes in State rights. It was introduced, and then referred to his own committee, so that today it rests securely in this committee, right here. You need have no alarm. What I want from the sportsmen of this country and from the sports writers of this country is some constructive suggestion, rather than this everlasting saying, "Kick the bill out." The bill is out, as far as that is concerned; you needn't worry about that.

You are going to be confronted, one of these mornings, by the Executive order; and you won't be able to kick that out.

MR. HUGH B. WOODWARD. May I ask a question at this point, Mr. Chairman?

THE CHAIRMAN. Certainly, sir.

MR. WOODWARD. This is my question: In behalf of the sportsmen, I want to express our appreciation of the statement you have made as to the reasons back of this bill. Let me ask you this question: Would you not accomplish the result which you say is sought by a very short bill, which would state or provide that no wild game animals shall be killed by any Federal agency or supervising agency upon any public land until a request had been made of the State Department, and the State Department had failed to act?

THE CHAIRMAN. That is exactly what the bill says.

Mr. WOODWARD. But it goes further, and then says that if the State Department fails to act, that then the Government, or any head or acting head of an agency, can go ahead and license hunters, and put them in there, under any terms they see fit, and take away what they see fit.

The CHAIRMAN. If that is the part you object to, your objection is well taken. You don't have to worry about that at all.

Mr. WOODWARD. I suggest a statutory limitation of power, not an enlargement of power, which we conceive that bill to be.

The CHAIRMAN. That is just what I want to bring up. This is a limitation of power. We have demonstrated that the power now exists. As the law is written now, the Federal Government doesn't even have to consult the State. The power now exists. This very part of this bill limits that power, and says you must first go to the State.

Mr. WOODWARD. If it stopped there we would be very happy.

The CHAIRMAN. Your criticism is a good one, and I am glad to have this criticism, because I am in hopes that out of all this discussion, Nation-wide, if you please, there will come progressive legislation suited to conditions and cooperated in by the respective States to which the Federal Government will accede.

Mr. WOODWARD. Amen.

The CHAIRMAN. That is the story.

But you are not going to get that by saying, "Kick it out." You're not going to get it by standing up and criticising it. Why haven't you come in here and given me a criticism? I'll give you one that is more than yours.

This brings up a conflict between every Federal department that has control of Federal range. Nobody has said a word about that.

Mr. WOODWARD. Yes, sir; I think Mr. Barker pointed out the possibility of conflict between the various administrative agencies.

The CHAIRMAN. Very well. The General Land Office, the Grazing Service, the Forest Service, the Indian Bureau, even the Soil Conservation—truly, the Soil Conservation would come in to conserve the surface. Why not? If it was overrun by animals that could cause erosion, and so on, and so forth?

Now, gentlemen, your criticism is good; it is commendable. The author of the bill takes it. He likes it. He wants legislation that will be acceptable to those of you who have made a study of it, but who have forgotten that the law now exists; and as it now exists, it is more drastic than this bill itself.

Now, that is the whole story behind this bill. It is the whole story in the bill; and if some of these magazine writers would only frame a bill that would be progressive and meet the criticism that you gentlemen have very properly made, and let us have it, and put it through Congress, so that the Federal Government may protect its holdings, that the stock raisers may have the benefit of that protection—because the stock raisers are interested in this thing—so that the respective States may have their rights recognized, and the people of those States have their rights recognized as being the owners of the wildlife.

Now, there is another side to this. If the Appropriation Committee, and I have been sitting on it now for 11 years, if the Appropriation Committee for the Department of the Interior were to fail to

make an appropriation for the extermination of predatory animals, we would have the sky brought down on our heads. The States call on the Federal Government to go in and kill off the predators. Some of the States cooperate; some contribute to it; but the Federal Government is always called upon. Now, with one breath you say, "Kill off," and with another breath you say, "It is an invasion of States' rights!" Do you see your position?

Mr. WOODWARD. We appreciate that. That is correct.

The CHAIRMAN. Out of that position, what I want to bring out—I am going to say this now for the last time—is a meeting of the minds of the fine people of this country who are really intent upon conservation of wildlife, to bring about a statute, whether it be authorized by me or the Senators from New Mexico, or someone else, that will meet all the conditions that you want, and still protect the open public domain, and still give a right to the Federal Government to protect the open public domain.

That is the story, all in a nutshell. It all emanated from this wise, fine-looking fellow over here in the Grazing Service, who went up into the Kaibab Forest and eliminated; and the Supreme Court of the United States said he had a right to do so.

Mr. WOODWARD. I think he was right.

Mr. RUTLEDGE. Thank you, Mr. Woodward.

The CHAIRMAN. Now, I omitted one gentleman, because I thought it would be fair to let someone reply to my position here, and I purposely selected the last one, Mr. Frank C. W. Pooler, regional forester. If he cares to be heard, we would be glad to hear him now.

**STATEMENT OF FRANK C. W. POOLER, REGIONAL FORESTER,
UNITED STATES FOREST SERVICE, ALBUQUERQUE, N. MEX.**

Mr. POOLER. I am afraid I haven't very much to offer, in addition to what has been said here on the bill. I can testify, however, to the splendid cooperation that has existed among the agencies, particularly the Forest Service and the Game Department, in all matters relating to game, wildlife; and the situation has been such that it is only fair to say that in New Mexico we do not need this bill. We would not have to invoke it, and I think we would get along very well without it.

Now, I am not authorized to speak for the Forest Service on this subject. Mr. Kneipp, the representative of the Chief, is here, and I believe that he could perhaps add something to what I have said. Thank you.

The CHAIRMAN. Thank you, Mr. Pooler.

Mr. Kneipp, do you care to be heard?

**STATEMENT OF L. F. KNEIPP, ASSISTANT CHIEF, UNITED STATES
FOREST SERVICE, WASHINGTON, D. C.**

Mr. KNEIPP. Mr. Chairman, I think the Forest Service could fully endorse the statements made by Mr. Barker and Mr. Woodward, on the basis of our knowledge of the fine and constructive cooperation we have had in New Mexico. My thought would be that if S. 1152 were on the statute books today it would be wholly inoperative in the State, because its operation demands the existence of certain condi-

tions, and through the cooperative and constructive attitude in New Mexico, those conditions do not exist in this State.

Unfortunately, there are other States where the situation is not nearly so happy. You, as chairman of this subcommittee, know that at a number of the hearings there have been very strong protests in a number of the States that conditions remain uncorrected, and are very acute; and that it was in response to the widespread demand of stockmen that this matter first receive the committee's attention.

As to the attitude of the Department of Agriculture with respect to the bill, at the time I left Washington the Department's report had not been formulated. The subject was then under discussion. It involved not alone the Forest Service, but several other bureaus as well; and the final opinion had not been reached. At that time, however, the attitude of the Forest Service might be presented in this way: In response to a widespread demand from the various game interests, the old regulation, G-20-A, formulated in 1934, has been superseded by a new regulation, W-2, predicated upon the principle of complete cooperation between the States and the Federal Government. Some progress has been made under that regulation in some States but not in all States. However, the feeling of the Forest Service is that the regulation has not been in operation long enough to fully test its effectiveness to determine whether it will or will not meet all the situations that seem to demand correction. The viewpoint of the Forest Service is that it would just as soon or, rather, would prefer to proceed under regulation W-2 for such further period of time as might be necessary to prove whether that is or is not a workable formula. If it proves to be workable, the situation, so far as the Forest Service is concerned, will be met, and no need will exist for further legislation. If it proves unworkable, if there are certain States which fail to meet the requirements of the situation, then, further legislative action clearly defining the policy of the Congress and the position of the United States with reference to this question would seem to be desirable, and should be enacted.

The CHAIRMAN. Thank you, Mr. Kneipp.

Mr. RUTLEDGE. Could I ask Mr. Kneipp a question or two?

I feel, as the rest of you, that nothing demands this in New Mexico; but I wish you would tell us how many congested areas of game animals there are in the forests of Colorado.

Mr. KNEIPP. As you know, Mr. Rutledge, at the meeting in Glenwood Springs last November, the Forest Service submitted plats showing, I believe, a total of 21 areas of serious or major proportions to which, I think, were added areas outside the national forests. Upon those areas, the conditions were very acute, affecting not only the land itself and the forest cover on it, and not only the livestock, but the game itself. There are other States; there are some very difficult and unsolved problems in Oregon, some in Washington, some in California, and, I think, there are some in Montana, in some parts. These are not spread throughout the entire States, but are more or less localized in certain territories. There may be still other States in which the same problem exists in rather an acute degree, in comparatively small areas, in fact, in some of the eastern States, the problem is becoming one that requires attention.

Mr. RUTLEDGE. I'm trying to remember the name of that area in Colorado. Was it Sapinero? That was where the technical man

of the State Game Commission had studied the area carefully. He had studied others; but this one sticks in my mind. They have found eighteen or nineteen thousand head of deer on that territory within a comparatively small watershed, and, he said, forage only for 12,000. The problem was what to do with the extra six or seven thousand head of deer. The State game warden was there, and he hedged around it a great deal, and I don't think he got much done. We did get the information that they burned the carcasses of 2,500 deer along the road of the Sapinero district. That is the kind of thing that—

Mr. KNEIPP. At the Glenwood Spring meeting the people from Gunnison cited a condition there that was quite acute. Two or three spokesmen spoke to the committee quite effectively, and their factual contentions were not seriously denied. Gunnison, incidentally, is a small mountain town, and yet in the town of Gunnison, subsequently, I understand, a meeting of sportsmen strongly expressed opposition to any effort to reduce the deer that were congregating around that town. We have some confused conditions there, where people of the same community differ markedly as to the gravity of the situation, and as to the means of cure. I think, though, you were referring to the statement made by Mr. Carhart, who is now connected with the Pittman-Robertson organization.

Mr. RUTLEDGE. Mr. Chairman, I don't know whether you are going to close this thing. I feel I ought to say a few words. I will try to make it very brief.

The **CHAIRMAN.** Very well.

STATEMENT OF R. H. RUTLEDGE, CHIEF, UNITED STATES GRAZING SERVICE, SALT LAKE CITY, UTAH

Mr. RUTLEDGE. I think the chairman is right—that we should try to get our heads together on these things. Maybe I go at it roughly or crudely, but I am faced with this thing every day; not in New Mexico—Elliott Barker is handling things all right here.

In some States I am accused of being a partisan toward wildlife by the stockmen. I am surprised these stockmen take this position. Maybe I am partisan to game; I don't yield to anybody, not even that little old gentleman back there, as to knowledge of this western country and my love for game and wildlife, but I sense that in the handling of grazing we have got to put in business principles. In the Grazing Service there are three fundamental things connected with game: First, in the carrying capacity of our ranges we have to set aside enough carrying capacity for the game now running there; we have, secondly, a wildlife representative on each advisory board; and, third, we are following the principle that when, under the Pittman-Robertson Act, land is purchased by the State, the grazing preferences or rights which belong to that land goes to the State for game. Now, that shows our general approach on it.

Now, this thing was discussed in Glenwood Springs. I understand I have been quoted and accused about what I said there on some of these things. I want to read just a word or two. In discussing this matter with Mr. Carhart after he had made his report, Senator Holman asked this question:

Senator HOLMAN. May I pursue that question a little further? Do you believe you have reduced the herd from 18,000 down to 12,000 now?

Mr. CARHART. No; we haven't. Now the manpower to take our census is very low. I don't know whether I can get them.

That is just the kind of thing that works all the time. We don't get it.

Now, as to my own statement, I may have made other statements in there, but I said this: "If I have any suggestions to make on this legislation, it might be that you men [speaking to the committee] consider the possibility for some legislation which will give the administrative forces controlling a piece of land the authority to keep game within proper limits."

I stand back of that suggestion, fellows. I stand back of the game men and of the stockmen. I could point out to you, as Mr. Kneipp has quoted to you, 21 areas in Colorado—I can point out a lot of them on grazing districts that are very, very bad, and State game wardens don't seem to be able to get any action. The stockmen's boards come to me and ride me ragged with, "What are you going to do with the excess deer or elk on those grazing districts?" What am I to do? I believe I am as good a cooperator as there is in the world. As a matter of fact, I was sponsor of the game-control bill of Utah, which has had its up and downs for 10 or 15 years. We are getting some results on that, but it takes that long to get action, and the action is not complete.

Now, all I am asking for is that you listen to Senator McCarran pretty carefully. He is a wise-looking guy—and I'll come right back at him—he knows what he is doing and is trying to do. He's trying to do something here that will put us all in the clear on this thing, so that we can go at these cases in a businesslike way and handle them whenever they need to be handled. If the State can do it, fine; if it can't and doesn't do it, then what are we going to do?

Mr. HUGH W. WOODWARD. Will the gentleman yield to a question?

Mr. RUTLEDGE. Yes.

Mr. WOODWARD. Is it not possible to handle these acute situations as the Kaibab was handled, under the authority which the Supreme Court has said is vested in every landowner?

Mr. RUTLEDGE. I'll give you a job if you'll come up and handle some of them for me.

Mr. WOODWARD. If your answer is no, that it can't, that is a fair answer.

Mr. RUTLEDGE. It can be handled, but that is a very painful process, to go into a State, and, again, to move the deer and the elk without any legislative pronouncement on the matter. You have got your finger on it exactly. I know you can go down and kill those deer, I can go down and kill those deer, and I have done it, and I have lived through it. Sometimes I have wondered if I was going to live through it. But that is not the kind of thing we ought to be doing. I think we should be jamming in there, under an Executive order, as the chairman has said, and doing that, in spite of the contract.

Mr. WOODWARD. May I ask you further, this, then; instead of grabbing an affirmative right to the head of the Federal agency to exercise judgment as to a particular situation, would not a statute such as I have suggested, a statute of limitation, accomplish its purpose so far as putting the pressure upon the individual State is concerned, which, I understand, is the object of this bill?

Mr. **RUTLEDGE**. My mind is open on it, on any approach. As I said in Glenwood Springs, we ought to explore the ground and see what could be done about it. Your suggestions will aid in that exploration.

Mr. **BARKER**. May I ask one question, Senator?

In this particular bill there is one point that we would particularly object to in any bill, even if we conceded, as Mr. Woodward has said, probably that some bill might be necessary, and that is the provision that whenever in the opinion of the head of any land administrative agency this thing needs to be done—we doubt just a little bit whether it ought to rest solely with the head of a land administrative agency to say what should or should not be done. Would there not be some way to provide a check? I might say on this particular phase of it, without turning it over, lock, stock, and barrel, to one man and permit him to exercise his authority, couldn't there be a check? As I said in my talk, we don't claim to be perfect in our game administration in New Mexico, but we steadfastly refuse to admit that the Federal agencies are or would be perfect, either. We would, in the legislation, insist there would be some check on that man as to when the removing was really necessary.

I have one case in mind that I might just mention. Eleven or twelve years ago the Forest Service man, then in charge of game, came to our commission meeting and reported 3,000 elk in the Pecos area of the Santa Fe Forest, where I knew, and everyone knew, there were not over 500 or 600 head of elk. In that case the Forest Service did not follow that up in any way; neither did the commission; because the request was more or less ridiculous. Yet the official made that request in that commission meeting, to open the season to unlimited hunting for elk, because there were 3,000 elk in a few sections. Actually they were not there, and they still are not there. Therefore, we feel some check could be made.

Do you think that could be worked out?

Mr. **RUTLEDGE**. You don't want whole authority——

Mr. **BARKER**. We don't want to see the full authority going to one man. The State ought to have some check. If you were to attempt to apply this law, if it were passed now, all you have to do is take this man's opinion. It may be the opinion of game experts or the opinion of your stockman that that action is not necessary, and yet that particular man may say it is. The law, in referring to anybody, should determine that it is necessary, but not that he go ahead and do it without any check. What would you suggest as to a check on him?

Mr. **RUTLEDGE**. You are making suggestions to the Senator for the drawing of this bill. I didn't draw this bill. I'm not too much wedded to any approach to it, except that we get together, and get something that we can work under.

The **CHAIRMAN**. Let me answer that.

My own State has taken quite definite steps, in the last legislature, toward that end. When there appears to be a congested area, a committee is set up, consisting of one representative of the Forest Service, a representative of the Grazing Service, a representative of the State fish and game commission, and one or two others. I haven't them in mind right now. They go in and make a survey, or cause a survey to be made, and their judgment goes as to whether or not there shall

be eradication or elimination. Now, that is a step in the direction of the first principle enunciated in this bill, and that is that the Federal Government shall not act until it has first conferred with the State authorities. Remember, now it has the right to act without conference, but if this bill were passed, with all of its other failings—and there are points in it with all of its failings—if this bill were passed, any court would construe that the Federal Government must first submit this matter, pursuant to the bill, to the State authorities.

So this is an inhibition, rather covered up in there, but it is an inhibition against voluntary action by the Federal Government without first announcing it to the State. But your idea has merit in it, ample merit. In other words, I don't think it should be left to the judgment of any one individual. I think it should be left to a study, and the study should be made by some constituted authority, and the State should have a voice in the making of that authority; so your suggestion meets with my thought that I have had for a long time.

Every time I see a magazine article bearing on this bill it sets me back to studying again as to how we can formulate it, but I don't get any ideas from the articles. I've had to drum them up myself.

Mr. BARKER. I might just say, that is what I was trying to put over; the very thing we are practicing here in New Mexico without any bill that says we must. For instance, last year on the San Andreas National Wildlife Refuge, where the Forest Service also has interests, there is an overlapping there with where the Grazing Division has interests, and that causes an overlapping there, and the game department has definitely an interest, because we are custodian of the State game; and where the sportsmen have an interest, because they're the ones that harvest it; and where the stockmen have an interest, because they are using the forage in there also; we, among us—I don't know who suggested it—realized there was an approaching point of overpopulation on that particular area.

We got together and provided a field inspection of several days with a representative of the United States Forest Service, perhaps more than one, a Fish and Wildlife Service representative, a representative from the local sportsmen's organizations, and one from the stockmen, one from the game department, one from the Grazing Division, and one from the Soil Conservation Service, who was not directly interested. Out of that came a general report which we could all sign, and did sign, recommending and recording certain findings of facts, and recommending certain action. The action was taken, and I think everybody is happy; and also it is being repeated in other areas. It is illustrative of what we are doing. Now, if a bill were passed, some provision like that ought to be made.

The CHAIRMAN. I agree with you entirely. Let me tell you something about wildlife; some of us out here in the wide, open country know what wildlife is. We have grown up with it. Some of us have hunted for wildlife since we were able to put a gun to our shoulders, and I happen to be one of them—that is the only weakness that I have—that happens to be one of them, but the only weakness that I have, among many others, that is public. In other words, I like to hunt and I like to fish, so I know what wildlife is.

But there are many people in this country, and many authors of articles in this country who put out fine articles on wildlife who know

very little about the real nature or the real existence of wildlife. They have it as a hobby, but they don't know it intimately, so that bills of this kind, or even movements such as you suggest, or plans such as you have set up here in the State of New Mexico would be criticized severely. If you said, "We are going to kill off or remove a certain number of deer from a certain section," the holy horror that would go up would be colossal. But you know and I know that we have to deal with this thing realistically. The people that live and dwell and own and operate and pay taxes off the open public domain have got to deal with it factually and realistically, because there is where it is, in reality. That the plans you have worked out here are admirable, I agree, from what I have listened to today and I think other States could do the same, but they don't always do it. They have conditions that I fear, that I have good and sufficient cause to give me fear, that some day or other the attitude of Mr. Rutledge, wherein he says he dispises to go in and kill off, the attitude of Mr. Kneipp, when he says he is opposed to the plan of killing off for the purpose of eliminating, the attitude of others who are not in favor of eliminating in that way, that will all culminate in the White House in which an Executive order will come out and say, "Go in and kill off." Then, what are you going to do?

Now, if we get a statute worked out of it, I think we will have done a great and good work. That is the reason I am glad you gentlemen have come in here and criticized this bill. I thank you.

Senator CHAVEZ. I believe that finishes the game department's end of the proceedings.

There is an attorney here from Santa Fe, representing several clients, and he would like to get a little time from the committee.

The CHAIRMAN. Gentlemen, I think that we will have to close this subject.

Mr. WOODWARD. Thank you very much, Mr. Chairman, for your courtesies.

STATEMENT OF ALBERT H. CLANCY, ATTORNEY AT LAW, SANTA FE, N. MEX.

Mr. CLANCY. Mr. Chairman and gentlemen of the subcommittee. I appear on behalf of some half a dozen people, as an attorney and a friend. These people live down here close to Beaverhead, N. Mex., 8 miles from Magdalena. It has been impossible for them to get here on account of the gasoline situation and rubber, and I believe a reading of the letter of Mrs. Jack Dyer, one of the people interested, will give you the situation:

My husband and I own $2\frac{3}{4}$ sections of land. We have in addition a permit for grazing privileges on one-fourth section of isolated United States Grazing Service land which joins many sections of grazing land that is now controlled by the Hubbell Sheep Co., who is one of the largest land controllers in the State. I went to the office of Mr. John L. Greenwald, regional grazier of the Grazing Service, Magdalena, N. Mex., in March of 1942 to make an application for grazing privileges on about 6 sections of Grazing Service land adjoining our land, but was not allowed to apply by Mr. Greenwald.

We later took this matter up with the Albuquerque office and the Grazing Service, and were permitted to apply there. The application was forwarded to Mr. Greenwald, and we have on file his acknowledgment of the receipt. The advisory board of this territory was to act on this application at their meeting this spring, but in April I had heard nothing concerning this matter and wrote

to Mr. Greenwald about it, explaining I wanted information concerning the action taken by the board on our application of June 1942. His reply dealt only with my application of February 1943, which was a renewal application for the quarter section of grazing land mentioned above. I feel sure he has failed to present our application to the advisory board, since all applications that I am personally acquainted with received this information by registered mail early in April.

I have in my possession correspondence showing that he on one occasion refused to use information concerning the number of acres of grazing land controlled by the Hubbell Sheep Co., due, as he said, to the national emergency. At the same time Mr. Greenwald refused to allow me to apply, refused also to let a neighbor of ours, apply whose situation was the same as ours. I believe this neighbor would sign an affidavit to that fact.

There is another man down there, Claude Austin by name, who owns patented land right close to Mrs. Dyer, who has a legal fence around it and who has a good well on his place, who has made application through the Magdalena office for the last 4 years for land adjoining his land and in the forest for the purpose of grazing some stock.

Each and every one of these applications have been rejected, as have the applications of another in that locality, one Artie Davis. It all seems to run along the same lines, the information requested is "of a confidential nature." This is with reference to the letter I read from Mrs. Dyer. I can't see why it is confidential.

The CHAIRMAN. What is that?

Mr. CLANCY. The answer of the district grazier, when Mrs. Dyer requested the number of acres which the Hubbell Co. was using, the answer was:

Since part of the information requested is of a confidential nature, and you stated no reason for such a request, and due to the present national emergency, this office does not feel at liberty to grant the information requested until more definite information concerning your request is submitted.

Mr. RUTLEDGE. I think we can get action on the application. I don't know what the reasons are. I don't think we will try the case here. Apparently there is some slip-up here.

The CHAIRMAN. I think we can terminate that very quickly. Mr. Leech, and others connected here, will you take this matter up?

Mr. LEECH. Yes, sir; Mr. Chairman, I will take it up with Mr. Greenwald this very evening, and I will be glad to discuss it with the attorney also, and I believe we can work that out.

Mr. CLANCY. That is all we want, gentlemen.

The CHAIRMAN. Thank you.

I understand that there are two stockmen present who intended to testify, but because of the lateness of the hour, they will submit short statements for the record instead.

(The statements are as follows:)

HATCH, N. MEX., September 9, 1943.

Senator PAT MCCARRAN,
McCarran Subcommittee,
City.

GENTLEMEN: I have come 200 miles from near Hatch, N. Mex., in order to tell you of the unjust things the department of grazing has been doing in connection with the Taylor Act, in my part of the country.

In my case, I started it in 1939, with plenty of prior water rights and prior years, and was turned down on every decision until it reached the Secretary of Interior, who gave me five sections.

Later, I purchased 2 ranches with prior water and prior years enough for not less than 100 head, but at the trial the examiner, Mr. Williams, compared me to

a hitch-hiker, and when my attorney heard of it, he advised a settlement, so I left with less than I came with. My lawyer was R. C. Garland, of Las Cruces, N. Mex., who will verify.

My case is just typical of the way they treat small operators.

Sincerely,

C. H. WARD

PETITION: OBJECTIONS TO TAYLOR ACT FROM SMALL CATTLEMAN'S POINT OF VIEW

To the McCarran Subcommittee on Public Lands:

As a small cattleman, I, R. B. Hackler, of Rincon, N. Mex., hereby respectfully submit that the following outline expresses some of my objections to the Taylor Grazing Act, from the point of view of a small cattle raiser:

1. I believe that there should be an independent reexamination and reopening of all cases decided, where any interested party desires same, and independent adjudications based upon equity, rather than upon arbitrary rules. Influence of large operators should be eliminated.

2. I believe that the act should be amended to increase what I call the exemptions under the act. Every livestock man should be permitted to have what he had before the passage of the act, up to 100 head and 20 sections of land, and then permit the Bureau to go ahead and regulate all above that. This will eliminate from the Taylor Act the abuse whereby large operators have through pressure and litigation taken thousands of acres from the weaker competitors, under color of law and without just compensation.

R. B. HACKLER,
Small Cattleman.

STATEMENT OF D. S. HARROUN, CARLSBAD, N. MEX.

Mr. HARROUN. My name is D. S. Harroun. I am a farmer at Carlsbad, N. Mex.

Congressman ANDERSON. Just a moment, won't you let the Senator have some idea as to the size of your ranch and the character of your operations?

Mr. HARROUN. Yes, sir.

Our farm—to go back a little, my parents brought me to this country in 1913. At that time this land that we now operate was mostly wild land. I remember the survey party that we had out that year killed over a hundred rattlesnakes in less than 2 months. I worked on the farm during every summer vacation until the time I went to college. I think the work I did as a farm hand was one of the things that convinced me I would like to be a mining engineer, and when I went to school I chose mining engineering as a profession. That was in 1917. The war was on and I only attended for 2 months, and then I enlisted in the Navy and was discharged in March 1919.

I determined to go back into mining, but first, to learn a little about it first-hand, and I got a job at Joplin in the lead-zinc district as a mucker. During that time I determined for myself that I wanted to follow mining, and I went back to Golden and graduated in 1922. Subsequent to that, that is following graduation, I worked in various mining camps in the Southwest, in Bisbee as a miner, in Jerome as a miner, powder monkey, timberman, timberer, contractor. Later I went down to northern Sonora, worked in the old mines for pretty near 2 years. I worked as an engineer and line foreman.

Congressman ANDERSON. I was principally trying to get the size of your ranch down there, and the scope of your operations.

Mr. HARROUN. I'm coming back to that in just a minute.

The reason I give this background is because it has a bearing on the subject matter I am going to bring up in just a minute.

After 6 years' experience—you know a man doesn't learn mining in school—at the end of 6 years' actual experience, at which time I worked up to superintendent of a small mine in Colorado, I felt I was beginning to know something about the business. At that time our farm was in rather bad financial condition, and my parents asked me to come back and assist them in the operation of the farm. That was in 1927.

The farm lies south and east of Carlsbad, about 6,000 acres all told, served by direct diversion through the water of the Pecos River. We are farming, I regret to say, only about 1,500 or 1,600 acres. That is due to the present shortage of men. We can't get enough farm hands and there is a great deal of good land lying idle. At the time I went there, as I say, we had something over \$200,000 in the place, and the potash development was just starting in that area, and, naturally, being a mining man, I was interested in the development of potash. For that reason I quickly became acquainted with some of the men who were connected with the work there and, when it developed they needed water, we made a trade with them; sold them the upper end of our place. Now that, together with some rather successful years, has reduced our indebtedness to less than \$5,000, so that we are practically out of debt now.

Being neighbors to the potash industry—in fact, the United States Potash Co. erected a refinery on the upper part of our place; bought the land in order to get the water, because we do have the oldest water right on that part of the river. In 1932 a group of us, largely due to my advice—and these were all either relatives or friends of mine—made application for potash-prospecting permits. You know, it is different from lode mining, it is a little bit like the Joplin lead-zinc mines, in that your exploration work is done solely by core drilling. There are no outcrops, of course. So that instead of staking a mining claim, you make an application for a permit to drill. Your priority that you gain is simply by being first to choose this area, and you state your reasons for so choosing it, and, of course, those are based on the mineral composition and the geology of the region. I'm not going into that discussion of the ore permits there.

I had hoped to have a blackboard, so I could put it on so you could understand it very quickly, but it is more or less irrelevant, the case.

Our applications were made; eight of them were accepted and permits granted in 1932. At that time, due to the depression, we were unable to get to drill them ourselves or to get anyone who would drill them, except wildcat promoters, and we didn't care to get involved with any promotional scheme. Therefore, in 1934, we applied for an extension of time, and it was granted, and the conditions were such that you could not interest anyone in development of potash at that time. The potash industry was in its infancy and was going through a test competition with the European cartel. The result of that was successful; by the way, the American companies were successful in competing with the European cartel. I have a statement I will read later on in support of that.

To carry our history a little further, then, in 1936 these eight permits were held for cancelation. We protested it, and corresponded until

1939, at which time they were finally canceled. We took out new applications on the same area. Now, it is important to realize that no one else, including the present producers, was interested in our area, the area that we had under permit application at that time.

We are south; we join onto our patented line and run east about two townships, roughly 12 miles, and about a township wide. We are directly south, and join onto the holdings of the Union Potash, or their successors, the International Co., and more or less in line with the other producers. It is my feeling that we have the best area to prospect in America, and I think a great many other people feel that way, too, now, although at that time, as I say, there was very little interest in it. There was one hole that had been drilled by the United States Geological Survey. It was drilled for potash on the area that we are discussing; drilled before we went in there. It has attracted very little attention; it is No. 22, and about 1,200 feet disclosed 3 feet of potash ore of a grade of about 16 percent. It is generally considered that a bed should be at least 5 to 6 feet in thickness and about 20 to 27 percent K_2O content to be commercial, so this was not considered a commercial discovery. While it is not a commercial discovery, however, it is an indication, and is one of the things that we intend to follow up if we are allowed to prospect.

To make it brief—that is, to conserve time—in 1939 we divided all ore activities to secure these permits. In 1935 the Secretary of the Interior issued Order No. 914, which is as follows:

In the interest of the public it is hereby ordered that, until further notice, no action be taken in the matter of granting permits or leases under the Potash Act of February 7, 1927 (44 Stat. 1057), unless required by law.

This order shall not preclude action on any application for extension of term of permit under the amendatory act of May 7, 1932 (41 Stat. 151); nor shall it preclude rejection of any application or cancellation of any permit or lease for cause, or action in connection with royalty or rental under any lease; nor shall it relieve any permittee or lessee from compliance with any requirement contained in his permit or lease.

But in any particularly meritorious case, when in the judgment of the Secretary delay might be detrimental to the interest of the public, the provisions of this order may be waived.

That order, therefore, had stopped all action for our group and, of course, stopped all action on new applications for the eight that had been canceled. We went to Washington in January 1940. We presented this memorandum to the General Land Office, asking that we be made an exception. The reason we should be made an exception was, on the advice of a great number of people, it would be impossible to get the Department of the Interior to change their basic policy, that we could understand this last paragraph which states that any particular meritorious case, and so forth, they could grant a permit; so we asked that we be made an exception. That was presented, and the arguments largely were based on the use of a patented project called the "Cross process", which I will not go into now. As a matter of fact, all those arguments and the memorandum are obsolete at the present time.

In March our application was rejected. We appealed it and in April we had a hearing in Washington before Dr. Mendenhall, who was acting for the Secretary. I have with me our arguments that we presented in support of our case, and the transcript of that hearing. I'm not going to read it, but I will read who was there. It was held before Dr. Mendenhall, Acting Assistant Secretary of the

Interior. Present were: A. B. Carpenter, our attorney; Mr. Walter Cross, one of the owners of the patent, and myself, representing the applicants; and Mr. Harry Edelstein, assistant solicitor; Oscar A. Baker, assistant solicitor; a gentleman from the conservation branch of the United States Geological Survey; Mr. H. I. Smith, also of the conservation branch of the United States Geological Survey.

Immediately following the hearing we were promised prompt action, and we asked for a statement of the time, and they said between 1 and 2 months; in other words between 4 and 8 weeks. Actually it was 2 years and 7 months before a decision was handed down. During those 2 years and 7 months I made three or four trips to Washington and developed a game view argument due to our entering into the war and the use of potash in the war industry. I am pretty sure I was right on my contentions, because all three of the operating companies have been awarded the Army and Navy E.

Let me say at this point that I have a great many friends among the operating personnel of those three companies, personal friends. They are fine men and the companies are doing a good job. I don't quarrel with the companies, other than when they attempt, if they do attempt, to preclude the rest of the public from developing further the potash resources of the country. I feel that we made the charge in these documents that you see here, the potash industry was a bottleneck. Now, we can't prove that charge legally, I realize. The Department of Justice attempted to do that, and referred it to the Department of Commerce. Harry Hopkins wrote a long article or a long answer to it and said there were four companies operating in America, which there are, and that, therefore, they had free competition. It might be free. Just because there are four companies doesn't necessarily mean you have complete freedom of competition.

However, if the Department of Justice could not definitely prove a monopoly, certainly I couldn't. I do know this, that while I was there I went to the Potash Institute in Washington and asked them if I, as a farmer, could buy the potash, and the price I was quoted would be the same as from any company, and it would be the same anywhere in the United States, roughly, the same. As a farmer at Carlsbad I would have to pay the same price as a farmer at Atlanta, Ga., would have to pay for potash. Prior to the Department of Justice hearings I would have had to pay not only the price of the Atlanta, Ga., farmer, but the freight would be added from there back, but they dropped that later.

So our case, then, was decided finally by the Secretary on November 25, 1942. It was rejected. However, we felt that we had virtually won our case in this rejection. It is rather long and I don't intend to read all of it, but I will read the last few paragraphs which bring out the point and explain my reason for saying that we considered it a victory.

(The document is as follows:)

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, November 25, 1942.

A. 22585

Walter M. Cross, Jr., and D. S. Harroun. Las Cruces 045258, 045480, 047279, 047280, 047281, 047282, 047395, 057109, 057110, 057111, 057112, 057113, 057114, 057115, 057116, 057149, 057150, 057527, 057548. Applications for potash prospecting permits rejected. Affirmed.

APPEAL FROM THE GENERAL LAND OFFICE

Walter M. Cross, Jr., and D. S. Harroun have appealed from a decision of the Commissioner of the General Land Office entered March 5, 1940, denying their request that certain potash prospecting permits be issued and that they be permitted to test a patented mining process by actual operation in the Government potash test well drilled in the NW¼ NW¼ sec. 35, T. 20 S., R. 29 E. New Mexico principal meridian.

The present appeal is confined to the refusal of the General Land Office to issue the potash-prospecting permits. The request for the use of the Government test well has been abandoned.

The decision of the Commissioner of the General Land Office rejecting the applications was based on departmental order No. 914, dated April 5, 1933. That order suspends further action on application for permits or leases under the Potash Act, but provides in paragraph 3 that, "In any particularly meritorious case, when in the judgment of the Secretary delay might be detrimental to the interests of the public, the provisions of this order may be waived."

The issue, therefore, is whether the proposal of Cross and Harroun constitutes a particularly meritorious case such that delay in its approval might be detrimental to the interests of the public.

Briefly stated, the facts are these: Roy Cross, of Kansas City, Mo., has been granted a patent on a hydrothermal process for the mining of potash. The appellants, Walter M. Cross, Jr., of Kansas City, Mo., and D. S. Harroun, of Carlsbad, N. Mex., on behalf of 19 applicants urge the issuance of potash prospecting permits for an aggregate area of about 40,000 acres of public lands in the State of New Mexico for the purpose, as stated by them, of demonstrating by actual test the feasibility of the Roy Cross process.

The appellants allege that all locations suitable for a favorable test of the process and for the economic production of potash are on the public domain. They contend that the Roy Cross process has important advantages over present methods of mining potash which justify the granting to them of prospecting permits. The process has not been developed beyond what may be termed the "test-tube" stage, but has been reported to have given favorable results on small quantities of potash salts in the laboratory. Appellants maintain that the laboratory process may be translated into commercial production, that its use will result in substantial economies in the cost of producing potash, with a consequent decrease of its cost to the consumer, and that it will make possible the removal of 100 percent of the potash content of the deposits and thus contribute to the conservation of an important natural resource.

The advantages claimed for the Cross process present technical issues and, in accordance with established procedure, the appeal was submitted to the Geological Survey for a report. The Survey has submitted a number of memoranda, all adverse to permitting the process, in its present laboratory stage, to be used on a large scale on public-domain potash lands. It has been pointed out that no proof of the appellants' contentions, or even substantial evidence of their validity, has been or can at this time be submitted; that the alleged economy and efficiency of the Roy Cross process are purely hypothetical; and that the application of the process to public lands might be hazardous to the potash deposits. These deposits are public, not private, property; therefore, they are not to be dealt with casually and experimentally. The Survey also reports that, at least for experimental purposes, suitable private lands can be found on which to test the process.

After appellants had been informally advised that I had found their contentions to be without substantial merit, but before the formal decision no ruling had been signed, new attorneys requested that their appearance be noted in behalf of the appellant-applicants. In a supplementary letter they stated that if the Department should conclude that the use of the Cross method should not be permitted, appellants were willing to use methods already in use in other potash mines for the extraction and treatment of the mineral. Although the appellants have not expressly relinquished their claim for special consideration because of their process, their present willingness to use conventional processes weakens their position in this respect and suggests that their concern may be as much to enter the potash business as to demonstrate the effectiveness and advantages of a new method.

In all the circumstances the claim of appellants to an improved method of mining potash is not substantial enough to warrant a conclusion that this new process makes the application a "particularly meritorious case" in which "delay might

be detrimental to the interests of the public" within the terms of order No. 914. Apart from the claimed advantages of their new process, the appellants are in no better position to obtain permits than the more than 200 other applicants for potash prospecting permits whose applications have been suspended pursuant to the order.

The appellants have also in effect challenged the policy implicit in order No. 914 because it has resulted in confining potash production to a few companies, claiming that this in effect amounts to a monopoly which operates against the public interest. This argument is addressed to a reconsideration of general policy and either a modification or revocation of the order; it cannot be urged as a basis for distinguishing these particular applications from all other applicants for permits.

I have carefully considered this important policy question. Order No. 914 was promulgated in part because at the time, April 1935, domestic producers had substantial unsold stocks on hand, the German potassium syndicate was underselling these producers, and the domestic market was further disturbed by a large Spanish production offered to American consumers at secret discounts and by fears of Russian dumping. These reasons no longer exist. As a matter of general policy, it is the position of the Department that within the limits of sound conservation policies, the privilege of extracting minerals from public lands should be generally available to qualified persons and should not be confined to a few individuals or companies. I have, accordingly, ordered an investigation for the purpose of ascertaining whether order No. 914 should be revoked or modified, or whether the administration of the potash lands and leases should be modified to meet the needs of the economic situation resulting from general order No. 914.

The decision of the Commissioner of the General Land Office is affirmed.

HAROLD L. ICKES,
Secretary of the Interior.

Mr. HARROUN. Now, that very evidently pointed to a revocation of 914, and we expected that to happen, which it did.

Order No. 1829 was issued June 9, 1943:

The potash resources of the public domain have been managed so as to facilitate the domestic production of potash upon a sound basis. In furtherance of this policy, order No. 914 of April 5, 1935, suspended the granting of permits or leases under the Potash Leasing Act of February 7, 1927 (44 Stat. 1057, 30 U. S. C., sec. 281), unless delay might be detrimental to the public interest. This order is no longer deemed necessary in view of the changed conditions since its issuance, and it is hereby vacated.

To assure the prudent utilization of the potash and associated minerals to the public lands, thereby benefiting agriculture and aiding the national defense, and in order to develop the domestic potash industry, all pending applications for potash permits or leases and all such applications hereafter filed will be considered in the light of the act, the applicable regulations and the following factors:

1. The current and future need for additional development of potash and associated compounds, consistent with sound conservation principles.

2. The prospective value of the land designated in the application for other minerals, such as magnesium, aluminum, oil and gas, whose production is essential in the public interest, and the ability of the applicant to develop and produce commercially potash and associated minerals in conformance with conservation and sound business practices, thus providing diversified development and production in the same area.

3. The decentralization of sources of production through the development of potash deposits in different areas.

4. The maintenance of competitive enterprise in the potash industry.

If by reason of one or more of these four factors, an application is considered to be in the public interest it may be granted.

Applications by lessees for additional lands may also receive favorable consideration where essential to continued operation of existing facilities.

I'm going to read that last statement again because I feel that it is important:

Applications by lessees for additional lands may also receive favorable consideration where essential to continued operation of existing facilities.

Gentlemen, we are ready now. At the time we would not have been financially able to prospect this area. We now can do it ourselves, and we don't have to go to any promoters or anyone else to drill it.

The CHAIRMAN. Have you made application?

Mr. HARROUN. Applications are in, yes sir; and I have here in my hand a printed form. We figured when we got that order it was really a matter of time until we could go ahead with this drilling, and we proceeded along these lines, to get ready to drill. Less than a month ago my attorney in Washington sent me this printed form. It is no secret, but it has not been sent out yet. It is headed "Decision," then it has a place for the applicant's name, a space for the serial number, a title "potash," and a subhead, which reads "application rejected." I am going to read it.

The Secretary of the Interior, by order No. 1829 of June 9, 1943, a copy of which is attached, vacated order No. 914 of April 5, 1935, which had suspended action on all applications for potash permits and leases, and stated that all such applications should thereafter be considered in the light of the act of February 7, 1927 (44 Stat. 1057, 30 U. S. C. sec. 281), the applicable regulations and the factors set out in order No. 1829.

Pursuant to the provisions of order No. 1829, the above potash application has been considered. It does not contain a showing sufficient to permit its approval under the terms of the order or the regulations (43 CFR 194.7, 194.16, Circ. 1120, April 20, 1927, 52 L. D. 85, 88).

This application is hereby rejected, effective, without further notice, 30 days from receipt of this decision by the applicant if he shall fail to file prior to the expiration of such period a supplemental statement in support of the application. Such statement should contain a detailed showing in compliance with the current regulations as to his proposed methods of mining and conducting operations, the diligence with which such operations will be carried on, the amount of capital available therefor, and should include the essential information required by order No. 1829. The applicant should also indicate whether he has available the necessary machinery and equipment for the production of potash, or if not, that he will be able to obtain such machinery and equipment taking into account, among other things, the necessity of obtaining War Production Board priorities. Should a supplemental showing be filed, the application will be considered in the light of all the relevant data.

We waited 2 years and 7 months to get a decision, and now we are given 30 days to prepare a short statement, and this is what they say the statement should be:

Such statement should contain a detailed showing in compliance with the current regulations as to his proposed methods of mining and conducting operations, the diligence with which such operations will be carried on, the amount of capital available therefor, and should include the essential information required by order No. 1829.

Now, that, on the face of it, might look fair. There are a number of men here who have been down there and seen those plants. Living next to them and knowing them intimately, I know about what they consist of, and I know there is not one of them built under a cost of less than \$5,000,000, and probably most of them are running close in the neighborhood of 10,000,000 by now. That is a surface plant, and the cost of sinking the shaft, and so forth.

Senator CHAVEZ. Is this refinery a part of the thing to be prepared within the 30 days?

Mr. HARROUN. I assume it would be, Senator.

This strikes me simply as a cold turkey. I can't conceive of anybody being able to qualify under this decision, except the present producing companies. They are the only ones that could.

Senator CHAVEZ. Doesn't the decision refer to the fact you should give full information as to your ability to produce? In other words, to get the permit to produce it does not refer to the construction?

Mr. HARROUN. Senator, it implies that—

The CHAIRMAN. It doesn't refer to treatments, does it?

Senator CHAVEZ. Ore production information is what they desire before they can pass on your application.

Mr. HARROUN. I'll read it again.

Such statement should contain a detailed showing in compliance with the current regulations as to his proposed methods of mining and conducting operations, the diligence with which such operations will be carried on, the amount of capital available therefor, and should include the essential information required by order No. 1829. The applicant should also indicate whether he has available the necessary machinery and equipment for the production of potash, or if not, that he will be able to obtain such machinery and equipment taking into account, among other things, the necessity of obtaining War Production Board priorities. Should a supplemental showing be filed, the application will be considered in the light of all the relevant data.

Senator CHAVEZ. That is a statement?

Mr. HARROUN. That is a statement. Now, ordinarily you have to find an ore body before you can make a detailed statement of just how you are going to mine and how you are going to conduct your operations. Until you have found an ore body, I don't know how you would detail a statement.

Senator CHAVEZ. Detail it by saying you intend to drive a shaft and find out.

Mr. HARROUN. You can do that; yes.

Senator CHAVEZ. Isn't that what they want?

Mr. HARROUN. I don't see why it is necessary to give a detailed statement that we are conducting a mining operation diligently. We'd be fools if we didn't. They want to know the amount of capital available. We have arranged through some sources to get capital if we find the ore. We would not care to disclose those sources at the present time because quite a lapse of time will intervene between the time we get the permit and the time we discover ore. You have got to drill it, that's the only way we can find these bodies.

Senator CHAVEZ. Get back to the three companies here in New Mexico. How do they proceed? They have got a permit?

Mr. HARROUN. They proceed this way, they got a permit and then proceeded to drill.

Senator CHAVEZ. Before they got the permit they had to show the Department, I presume, that they had so much money available?

Mr. HARROUN. I suppose they did, to make some kind of a showing.

Senator CHAVEZ. That is what the Department requires now of you and your associates.

Mr. HARROUN. As I recall it, all they had to do was simply show they had the money to go ahead and drill it and explore under the requirements at that time. The requirements at that time simply were that you drill 500 feet which, of course, is enough to account for the bed—you drill 500 feet and you could hold a permit. It was similar on the oil-gas permit. After you drilled and made a discovery you applied for a lease, and that followed the set form.

Now, here they say:

The applicant should also indicate whether he has available the necessary machinery and equipment for the production of potash.

Now, to produce potash, you have to have sufficient machinery there to mine it, sink a shaft in the mine. For high-pressure equipment it takes a great deal of copper tubing, and that is hard to get right now. The Army is furloughing a batch of men back to the copper mines, and how in heaven's name we can go to the W. P. B. and ask for priority on that type of equipment when we haven't even discovered potash is beyond me.

The CHAIRMAN. Is the product as it comes from the earth known as potash, or is it potash after the treatment?

Mr. HARROUN. The word "potash" merely refers to K_2O , which does not exist. Potash is the term, Mr. Senator, and it refers to all classes of ores, refined ores, and I will say this right now, that no raw ores are being shipped; the salts are the highest grade ores, which used to be shipped directly without being refined. They were not very competitive.

Senator CHAVEZ. Well now, to get down to the Senator's question. Is the term "potash" used in reference to the mineral that is produced, or what the results of the processing are at the refining plant?

Mr. HARROUN. It is a loose term. I wouldn't attempt to answer that question. I will say this ore that they mine and ship, used to mine and ship directly, was called by the trade "manure salts"; the fine potash that is sold, is sold on the basis of the K_2O content, is called "refined potash" in the trade journals. Does that answer the question?

The CHAIRMAN. Well, it does and it doesn't. I wanted to know how that regulation addressed itself to the product as it comes from the earth. Then you would have to state what you had in the way of equipment to bring it from the earth.

Mr. HARROUN. That's right.

The CHAIRMAN. If it is not potash when it comes from the earth, but must be refined or treated, and its production depends on the refinement or treatment, then you would have to state what equipment you had for the refining of it. So, if it is potash when it comes from the earth, that is one thing; if it is not potash until it is treated, that is another.

Mr. HARROUN. As used locally, the term "potash" is generally considered to be the fine product as it is shipped. That is, they speak of so many carloads of potash in shipping. That is the way it is termed.

The CHAIRMAN. However, you locate for potash and you apply for potash.

Mr. HARROUN. Yes.

The CHAIRMAN. It is the question of how the department means to deal with the subject. That is, the way you would make answer to that question propounded there and make a statement to cover it, would depend on how the department regarded the term "potash."

Mr. HARROUN. Even if it regarded it as the ore in the ground, you would still have to show your equipment, and apparently from this order you have to show availability of your equipment. Now, you would have to have two shafts, one to get proper circulation of air, and, to compete with the present companies, you have to have one of those large shafts like they all, four compartment shafts.

The CHAIRMAN. Isn't it true that if you intended to go seriously into the mining of potash you have to have that type of equipment and facilities?

Mr. HARROUN. Yes, sir; it is the general procedure in exploration and development of those beds—that has been more or less as follows, and it is the procedure we will adopt: You start drilling operations to try and locate a commercial bed. When you find in the hole what appears to be a commercial bed, you continue drilling until you have blocked out enough ore to justify further development by shaft sinking, and sinking these two shafts, connecting them, and putting in your refining plant or your ore-dressing plant and milling it. Now you have to develop enough ore on that pay, or some part of it, as soon as you have enough ore blocked out to do that. Then you will immediately begin your sinking of the shaft; that can be done on very short notice. The first shaft, which is usually the smaller one, they get down to the ore and then they put in the large shaft.

The CHAIRMAN. Now I'm afraid I must ask you to get at your point. What is it that you want to present to this committee?

Mr. HARROUN. I want to present the committee this fact: That, as it appears to us, we cannot under any circumstances hope to go before the W. P. B. and ask for a priority for enough equipment to put any beds into production until we have the beds. Therefore, that apparently present blanket decision will drop all present applications out of the picture and leave available only the four companies who already have the equipment.

The CHAIRMAN. All right.

Mr. HARROUN. That's all there is to it.

The CHAIRMAN. Have you anything to say, Mr. Havell?

Mr. HAVELL. No, Senator; I think Mr. Harroun has made a fair statement concerning the histories of the applications, both of which have been rejected. However, he has not as yet filed a showing under the new regulation, and I can assure you that if you will file your application, with the showing required here, it will be given careful consideration, as will be many, many other applications. As to this form, it is only a form to avoid typing hundreds and hundreds of letters. It is filled out in connection with any particular case. It is of no special significance.

The CHAIRMAN. There is one comment I would like to make there. It would seem as though it did have some significance. That is, whether or not that circular letter is so couched as to be complied with only by certain existing concerns. In other words, do you mean there for him to state what equipment he has to treat the ore; put it into the form of potash? If so, of course, he hasn't anything, and couldn't get anything, probably, at this time, so he would be shut out there. If, on the other hand, it means facilities for removing the ore from the earth, that is another thing; he probably could or might be able to get that equipment.

Mr. HAVELL. Mr. Chairman, I am quite positive that it referred to the equipment to remove from the bowels of the earth that substance that under the Leasing Act is called potash, on which the royalties must be paid.

The CHAIRMAN. Well, that clarifies it to some extent.

Mr. HARROUN. Some extent; yes, sir. However, those shafts are large ones. We could go in and put in a makeshift job merely to hold the permit.

The CHAIRMAN. But right there I can see a very good reason why the Department would call for certain specific activities, and certain

specific equipment. The necessity for potash in this country is so great and possibly will continue to be so great, that to permit locations and only partial activity, enough on the locations to hold the territory in which the potash exists, is certainly not to be encouraged; and it would look as though the Department had sought to discourage that very thing. We have today, and I use this by way of a very rough illustration, in this country, various areas of public domain, so-called, held by placer or lode locations, many by the placer locations. We hear of them at these hearings every day. There is a great territory covered by placer locations that are simply held there from year to year, from period to period, and have been held there for years and years, and nothing has yet been done, nor has the Government been able to do anything to extricate it from that condition. Now, it would be exceedingly grave if any department would permit a condition of this kind to visit itself upon the deposits of potash that may be in this country, and I say, the Department should be commended to this extent, to see to it that the location is made in earnest, seriously, and with the purpose of extracting the ore from the earth for commercial use.

Now you can see where the justification is for some of these regulations.

MR. HARROUN. I quite agree with you on that. I don't think the Department, or anyone else, believes that we are not sincere in our effort. After 11 years, and about seven or eight trips to Washington, I think they will grant us that. The only thing in connection with the large shafts, and I quite agree with what Senator McCarran has said, and I think the Department is correct in protecting their land, because after all they are the landlords, and the producers are simply lessees; but at the present time it may be rather difficult, and I think you gentlemen of the Interior Department will agree with me, that it may be a little bit difficult to get priorities on cables and such things as that, until we have drilled and located an ore body. I can't conceive of the W. P. B. granting us priorities until we have something to talk about. Now, after all, my first job is to drill.

SENATOR CHAVEZ. How are you going to drill unless you get the equipment?

MR. HARROUN. I have arranged for that; to do the exploration.

If there are no other questions, I think that is all, sir.

THE CHAIRMAN. I just want to say this to you, though; to be frank with you, while I have gone through and listened, and I am very much interested, and I would like to be of assistance, you are really addressing your problem to the wrong committee. There is a committee of the Senate headed by Senator O'Mahoney, of Wyoming, that has to do with that very specific thing; and I think that your presentation should be made to that committee, rather than this committee. I merely say that to you because it distinguishes between the two committees and their functions.

MR. HARROUN. That is in Washington?

THE CHAIRMAN. Senator O'Mahoney has come out and held several hearings; I don't know whether he is coming out again, or what you propose to do. The reason I let you go on in detail was to make the record, and present it to Senator O'Mahoney. That is what I shall do, because I think that is where the jurisdiction lies.

Senator CHAVEZ. His committee has to do with exploration, mineral exploration, such as you have outlined.

Mr. HARROUN. Thank you, sir.

The CHAIRMAN. The committee will be in recess until 8:30 tonight. (Recess until 8:30 p. m.)

EVENING SESSION

The CHAIRMAN. It appears to the Chairman that we are on the last lap of these hearings. There are a few more here to be heard and we will try to cover the ground.

There were two parties who came here from Dona Ana County. I think what they want is to have a certain letter put into the record. Is that what you wanted, to have this letter inserted in the record? It will be inserted into the record. I am not at all certain that this committee has jurisdiction of the subject, but your letter will be inserted in the record.

Mr. JOHN SWIFT, Las Cruces, N. Mex. We want the letter put in, but I would like to make a statement.

(The letter and enclosure are as follows:)

SOUTHERN TENANT FARMERS UNION,
Memphis, Tenn., September 7, 1943.

Senator PAT McCARRAN,
Senate Land and Survey Committee,
Albuquerque, N. Mex.

DEAR SENATOR McCARRAN: I am sending this letter and the enclosed material by J. J. Olden and G. W. Holesome in whose behalf I wired you yesterday requesting that they be permitted to appear before your committee.

These men represent about 40 Negro farm families who settled in Dona Ana County in 1926 after taking up homesteads. We are interested in seeing that the lands these people now own are developed for farming purposes and further that additional land in the Jornada experimental range be opened for farming purposes.

We recently sent Mr. J. E. Clayton of Houston, Tex., out to Las Cruces to look into possibilities for some of our people here in the South being settled on some of this land in New Mexico. Mr. Clayton is principal of a State agricultural high school at Littig, Tex., and for several years was with the land development division of the Missouri Pacific Railway. During this time he succeeded in settling on lands owned by this railway company and others some 8,000 families. I am enclosing a copy of his report on the situation in Dona Ana County.

We will appreciate it if you will have this letter and his report included in the record of your hearing there.

Yours very truly,

H. L. MITCHELL, *General Secretary.*

EL PASO, TEX., August 26, 1943.

Mr. H. L. MITCHELL,
General Secretary, Southern Tenant Farmers Union, Memphis, Tenn.

DEAR MR. MITCHELL: I left Las Cruces, N. Mex., this morning and will leave here on the 10:30 train tonight and will get back to home in Houston at 6:30 Saturday evening.

I have been organizing among my people for over 25 years and I have never seen the like as the meetings we held at Las Cruces. We got the applications of every colored family in the town and country. All the farmers, school teachers, and preachers joined the union.

We have people here from Arkansas, Louisiana, Georgia, Alabama, Mississippi, Oklahoma, and Texas and many of them knew me several years ago.

Though I found these people ready for the union, they have some hard problems and need help. I want the union to get in touch with our good friends in Washington and see if we can't get some help for these people.

G. W. Holesome, one of the leaders of the colored farmers and president of our local, came from east Texas along with most of the others in 1926 to take up Government-owned land which they homesteaded. The Department of Interior and the Department of Agriculture opened the valley between the Organ and Dona Ana Mountains in Dona Ana County, N. Mex. to colored homesteaders. The valley between the two ranges of mountains west of Las Cruces was opened to white people at the same time. Both groups began settling in 1926. Times got hard several years afterwards and the whites sold their homesteads and left for the cities but the colored settlers stuck it out and when their 3 years was up the Government gave them a patent on their lands. Most of them got patents on 640 acres and other 320 acres. When these people got their titles to the land the few big cattlemen in Dona Ana County saw that these colored farmers would soon become independent and they could not longer lease this land from the Government for grazing cattle at a few cents an acre. The cattlemen then tried to drive those farmers out but they refused to be frightened off their property. Then the cattlemen put pressure on the local merchants and bankers and got them to deny these farmers any sort of credit. They then had the agricultural college and Department of Agriculture to declare this valley submarginal land. The local officials of the Farm Security Administration likewise refused to give them any help and would not make them loans. Some of the families had to leave their farms and go into Las Cruces to work but many of them like G. W. Holesome remained on the land. The cattlemen are now trying to buy their farms from them. These farmers hold on some way and make crops each year and even those in town manage to work a little of the land every year.

The Government Weather Bureau states that this is the driest year in the past 10 years but yesterday they carried me through all of this valley in a truck and I saw much better crops on this land than I have seen anywhere in east Texas or the hills of Arkansas and Alabama. Last year a man rented 80 acres from one of the settlers and raised a crop of hegira which brought him \$3,500 and he did not get to work it often as his tractors were busy on his large cotton farm in the Rio Grande Valley. He had only two rains on this crop. This year he has the same land rented and it's planted in pint beans and I have not seen a bean crop as good as his in any other State I have visited. A few years ago some of our men were able to get in a full crop and produced all the seed and food they needed. They made 1½ to 2 bales of cotton per acre. I saw alfalfa on this land yesterday knee-high and they get three to four cuttings each season. This land without fertilizer and irrigation will produce as much per acre as Arkansas and Mississippi delta lands. All these people need is some help from the Government and more settlers in to co-operate with them. The help they need in financing to drill enough wells to irrigate 10 to 20 acres each and they can clear thousands of dollars on small tracts and produce tons of food and feed crops.

The cattlemen of Dona Ana County have persuaded the Department of the Interior to close all of the land not yet homesteaded so the farmers can't get any more of it. The cattlemen will then have a chance to lease it all for a few cents an acre. Can't you get in touch with Secretary Ickes and urge him to investigate and have this land opened up to homesteading again?

The cattlemen are meeting in Albuquerque on September 8 and 9 and plan to get the Secretary of the Interior to let them have all that valley for grazing purposes. Our colored farmers have patents on 26,000 acres now and it would be a shame for the United States Government to oust them from their homes and turn their lands over to the cattlemen. All of these people have sons in Europe, Asia, Africa, and Australia fighting for our country. This valley is needed for our farm boys when they get back home.

If the Government will open up this land to homesteaders again the Union can put several hundred families who have sons or husbands in the armed services and have this rich valley ready for them when they get back from the war. Millions of dollars worth of food can be produced here in the meantime. President Roosevelt said the other day that he wanted to see the Dust Bowl put back into cultivation next year. This land is a thousand times better than the Dust Bowl. The part of the valley our people are now in is 8 miles long and 12 miles wide. The fine paved U. S. Highway 70 runs through the south

end of the colony. It is 8 miles to the line where the Government has reserved. I also went up there where the Government sign reads "United States Department of Agriculture Forest Reserve Jornada Experimental Range."

This body of land in the reserve extends 30 miles up the valley between the two mountain ranges and is 12 miles wide, rich, and level land. Our Union could put thousands of homesteaders in there if it could be opened up but right now we want to keep the part of the valley where our members have 26,000 acres homesteaded.

I am sending you some letters and a newspaper clipping about the Albuquerque meeting. Please see if you can get these people some help at once.

J. E. CLAYTON, *Houston, Tex.*

The CHAIRMAN. I want to tell you that I doubt very much if this committee has jurisdiction over this subject.

STATEMENT OF JOHN SWIFT, LAS CRUCES, N. MEX.

Mr. SWIFT. I have been residing in this State for 16 years. I come in this State, filed a homestead, northeast of Las Cruces, and during the time that we have been there, we have had some very perilous times of trying to stay on the homestead. We stayed on there all right up until we secured our patent. After we secured our patent, they came to buy us out.

The CHAIRMAN. Who tried to buy you out?

Mr. SWIFT. Mr. Berry and Mr. Cary and the resettlement habilitation, when they first began to set up, first come before us, and called a meeting, and said that the Government was trying to buy us out, and move us out of the land; said it was submargin land. After we met them at the Federal court, where Mr. Paul Krump—they were going to move us out, and buy our land out at 90 cents per acre—said the Government authorized them to secure the filing fee, their fees for the proving for it, would be \$4, deducted from our money, if they bought us out. That the money that the land was sold for, won't be turned over to each individual, but would be placed in the hands of an overseer. There would be an overseer appointed over us, for 20 men to each overseer; and if we needed a horse or a milk cow, we would have to go to an overseer, and ask him for a horse or cow; and he would take our money out of his pocket and buy our cow and bring it to us and tell us whatever he paid for it. What was left of the remainder he would put back in his pocket, and hold it until we needed something else. I told him at the time I didn't see any need for us to sell out, and going out into a set-up as that. Mr. Paul Krump asked—which is our register there. He said, "Is that the way you dealt with the white homesteaders?" They said, "No; but we are going to deal with these black people that way." Mr. Paul said to us, he said, "If you all accept that kind of a deal, why it would be all right, but if you don't want to accept it, you don't have to." We said, "We are not accepting that kind of a deal."

So we refused selling out and, after we refused selling out, they said our land was submargin, and we had been rejected from any help whatever of any set-up of the Government. We don't get any help; so Congressman Dempsey, when he was in operation in Washington—my wife taking it up with him and contacting him for help. He asked her, and told her, he said, "I can't answer your question, Mrs. Swift, until I hear from Mr. Wilkins," which is our county agent there, operating at the time. He contacted Mr. Wilkins, and got an answer from him,

and then he advised my wife what to do. He said to my wife, he said, "I have an answer from Mr. Wilkins, and I'll advise you what to do." He says, "You all sell out; go into the valley, where Mr. Wilkins would want you to go, and I am sure you will get all the help you want from the Government set-up. They will help you. I don't know your present circumstances on your homestead, but here is Mr. Wilkins' letter." That is the only letter we ever got back from Washington that was sent in to Washington, that they didn't wash our face with it. They would want the letter if we go to them for help. After I got the letter and seen what it was, I go to the chamber of commerce, and get a statement of commerce there that I have been putting stuff we raised on exhibit in the chamber of commerce, and he gave me a statement. I went to the Lone Star Feed Co., and they give us a letter and a statement of what was growing upon the ground; and also the Gin Co., he gave a statement of what had been grown in cotton we had grewed out there, and had grown a bale to the acre. I bundled them all up and sent them to Mr. Dempsey, when he was our Congressman; and also Mr. Wilkins said to Mr. Dempsey, "John Swift said if the Government comes back with a sell-out he won't sell out. We offered to pry those black people out, and they would not leave. What money is appropriated to help those people we are using in the northern part of the State, where it is better used. Let them folks come down in the valley and pick cotton for a living."

That was all done because we would not sell our home. They started for what they could do, try to buy our homes out; so we wouldn't sell.

We had a little school, and they closed this school, moved it into town. We had 12 students at the time, and had our bus hauling our children. I was handling the bus. In order to discontent, to make us leave from out there, they moved the children into town, consolidated the school; and then I would be at the bus hauling in transporting our children into town, which would come to \$156 a month. They readily seen that would be a help to us out there, drawing that money. By moving us into town they knocked us clean out of transporting our children into town to school, for a period of a year. Then they brought it back again, and then hired a white man to handle the bus and pick up our children and haul them into town.

I don't think it's fair that they should treat that way. I think we should handle our own children; but since that segregation cut us out of the school, they won't let us operate, and now the children come into these schools. Why should they move us from hauling our own children, and let a white man haul our children around? Why can't we haul our own children? If you are going to discriminate against any child being with you in your school then they had three or four white children, too. If those discriminations against any children were set in our schoolhouse it should be the same for my child to sit in that bus with your white child, should it?

That is your rulings and regulations. Those things are what we are trying to foot down there.

The CHAIRMAN. Who is doing this?

Mr. SWIFT. It seems to be the cattlemen. Pardon me just a minute. And it seemed to be a syndicate there, most, that works with the cattlemen; and also our State college, they seem to be working in cooperation with them. They say our land is submargin land, not

sufficient to live on, to make a living; and they cannot furnish us any help out there, for it will not secure anything. But I don't see why that land would be submargin land, or a person cannot make a living on it, when it will produce the stuff which I have before you here tonight.

Now, there is a white gentleman out there; last year he rented land from one of us colored people, steaded, a white man. He come out there, and he planted the colored boys to work it; and he worked this land, and on about 30 or 40 acres, or something like that, I think he sold about three or four thousand dollars worth of feed off this land. If this land is submargin land, which they tell us it won't produce nothing, why would it not produce for the black man as well as for the white man? It seems to me there is some officials in there who do no want this black man to own this land, see? Just a few days ago a white fellow wanted it. The people who homesteaded sold out, overheard two of them talking, "What made you sell out your homestead?" Well, he said, "The reason I sold out and left them out there," he said, "we are trying to get shut of them; and the harder we fought them, they stuck and stayed. I thought I would move out, and put all of my time to help moving, to try to move those niggers out of this country." The fellow said, "Now, if you can move them away from there we could settle our folks there, and we know it is fine land; it makes good stuff if we get a section, we do something with it."

The CHAIRMAN. You don't have to sell, do you?

Mr. SWIFT. No, sir.

The CHAIRMAN. What are you worried about?

Mr. SWIFT. We can't get help to handle our land, you see.

The CHAIRMAN. You're not the only ones in that trouble.

Mr. SWIFT. I have, in all, 1,500 acres of land. I filed on six forties, to take care of our land, and would have to move. Here is a bean we raised in 1941, a pinto bean that I raised on my place, and a white bean that I raised in 1941. Here is a black-eyed pea we raised in 1942. This squash, and those cucumbers and beans, are being raised out there this year. Now the State college, they have a record; been kept for a hundred years. Every 10 years there is a drought, from 7 to 10 years drought, that don't anything produce. This year is the tenth year, and this stuff is being produced out there this year.

The CHAIRMAN. Do you irrigate out there? Have you got any water?

Mr. SWIFT. Rainfall, we depend upon for our living. All this stuff is raised. Here you see it from the rainfall. We are farming there.

The CHAIRMAN. How many acres have you?

Mr. SWIFT. I have, in all 1,500 acres of land. I filed on six forties, and bought the rest; and there is others on from three twenties up to a section. There are about 26,000 acres of land in that body of homesteaders out there of my race of people, whom I am representing here tonight.

The CHAIRMAN. How many?

Mr. SWIFT. Twenty-six thousand.

The CHAIRMAN. How many colored folks?

Mr. SWIFT. Somewhere around thirty-six or forty families of us; something like that, I think.

The CHAIRMAN. Do you have any livestock?

Mr. SWIFT. Milk cows, a few horses, hogs and chickens, and such as that.

The CHAIRMAN. You are making a living over there?

Mr. SWIFT. We don't exactly make a living there. We have to go out and work by the day; but if we were so we could stay at home, and put our time at home, we would be able to make our living, and just raise food and be able to put into the Government, to help this war and trouble which is going on. We have boys into this war, as well as others. We feel it would be our duty, if we raised food and stuff, to help secure this war; and if we have something to do with, such as beans and vegetables, we could raise it there without any trouble.

The CHAIRMAN. What is to prevent you from going on and raising it now?

Mr. SWIFT. Finances. We haven't the finances. Where you have to go out and work every day, you can't secure enough above to go home and make a crop and feed your family. That is our trouble; mostly day labor.

The CHAIRMAN. If you did not work on the outside, could you make a living on the land?

Mr. SWIFT. If we had finance we could stay there, as we ought to, the year through; and we could make plenty of money, and a good living on the homesteads and be able to pay our loans back.

The CHAIRMAN. Of course, the trouble with everybody, if they had the finances they would go all right.

Mr. SWIFT. Yes, sir.

Mr. LEE. Mr. Chairman, may I just offer, as information, that they have the R. A. C. C. loans now, that you don't need any security. You can go there, to your board at Las Cruces, and could secure loans up to \$1,500, which would be enough, I think, to make your crop on.

Mr. SWIFT. Without the I. C. C. loan?

Mr. LEE. The R. A. C. C.—Regional Agricultural Credit Corporation.

Mr. SWIFT. How long has that been established there?

Mr. LEE. Recently. I thought maybe you didn't know it. I thought that would help you.

Mr. SWIFT. I appreciate that. All the other loans we have been to, that have been set up there, were denied us. This year we went to the three A office there, where we understood that the Government get money to raise beans, and such things like that and pay to us for the war purpose, and we knew if we could raise that—we went to the fellow, I went, and he said to me, he says, "Well," he says, "we ain't going to let you have a damn thing out there." And one of my committee, that went with me, said, "Well, if you can't help us we will have to take it up with the high authorities." He said, "You can take it up with whom you damned please; take it up to the high heavens, if you want to. We ain't going to let you have a damn thing out there."

Those impressions upon people who are supposed to be citizens, and who pays our taxes, as law-abiding men. I feel if you go and ask for loans, I don't believe a man should be spoke to like that, especially where you are not going in and insulting and speaking to people that way. I think he should speak to us as nice as we speak

to him. I take it for granted, when a man speaks, if I go and speak to a man rough, he has the same privilege to speak rough back to me, because I spoke to him just as I want him to speak to me. We were taking it nice with him. Well, we went ahead and tried to raise some stuff, and come to find out later, one of my neighbors has a few peas out planted, and now he begin to inquire from him, "Are you going to make any beans out there this year, and around how many are you going to have?" If he had helped us, we could have had possibly a thousand tons of beans, which would have been a help to the country today. But we just haven't got but a few, so we are here before you today to see if there would be any way, whether we could thrash out any way that might help us. Since this gentleman has told us about this man, we will go back and try to look into this.

We have lots of land, and we would like to settle other people in there on that land, who are needing homes from back in the other States where they have been flooded and washed out. Our race of people would like to come there. We are willing to cut our land up, and divide it up and put those people on the land so they can help themselves. As a race of people we don't feel that we want to look to another man to support us. We feel that we are able to work, and if we can get aid to go along we can support ourselves and help others. We don't believe in going out begging for our living.

One reason we went out there and suffered as we did on that land, we felt that the Government, when it opened up that land for entry, or stock raising and forage crops, we felt he knowed what he was doing when he did so, knowed that land would make that, or else he wouldn't have stated it to the people: would grow those things, and that you could file on it. We feel today that the Government in Washington, D. C., still knows that ground would produce that stuff, rather than others coming to us and telling us that it will not do it. We feel that our Senator in Washington, D. C., knows that ground will produce what they say it will produce. We have no other source to go to, but to our Congressman and our Governor for help. I thank you. I don't want to take up any more of your time.

The CHAIRMAN. Are there any old established ranches, or farms, in that community that have tried out this dry-farming business there?

Mr. SWIFT. No; there isn't any old farms there; only from 1926, when we began to file in there. But we learned since we went in there, the early days—

The CHAIRMAN. Were you the first to try dry farming in there?

Mr. SWIFT. Some in there ahead of us. I went in in 1928, and some went in in 1926. Since we went there we found out there was people that tried farming there in the early days of the cattlemen. They went in there and tried it out.

The CHAIRMAN. Did they make a go of it?

Mr. SWIFT. They made a go of it, and then abolished that, I understand they say, "We better abolish this, and stop. If we don't, the Government will open that land entry and people will come in here and file it and take it and then deprive us of this range." I understood, from old-timers, we were not the first ones, but we stuck. They says, "No credit should come to the black people who went there and produced stuff, where you said you couldn't. You all weren't the first to

raise stuff there. We raised it there years ago, and abolished it on this account—afraid it would be open for entry and deprive them of the land.”

The CHAIRMAN. Well, you take it up with the R. A. C. C., if they have established an office there, as I’ve just stated. You should be able to get assistance. I don’t know of any other way. I don’t know that you can be compelled to leave there. You stay there just as long as you can.

Mr. SWIFT. We’re going to do that. We have to work by the day, as we have been, but we’re going to try to stay right on, and do our best. We thank you all for the privilege of coming before you, and demonstrating our stuff before you, and anything you can do to help us, we certainly would appreciate it.

The CHAIRMAN. All right. A dry farmer, as a rule, has a pretty hard time in any country.

Mr. SWIFT. It’s pretty hard for him anywhere he goes. Now, it seems like the people have gotten to a place where we can’t trust the Saviour any longer to furnish us water and aid. He tells us to till the soil, and he will send the rain. It seems like we have gotten it in our heads that we can’t trust the Master. We have to appropriate the thing for ourselves, and put the water like we want it, before we will be able to produce. If we go back and trust Him a little bit closer, I believe we would be much better and more successful in our understanding, than we is.

The CHAIRMAN. That is right.

Mr. SWIFT. We have done disregarded our Heavenly Father. We don’t look to Him any more; we’re just taking things into our own hands.

The CHAIRMAN. It wouldn’t hurt any of us a bit to go back to Him.

Mr. SWIFT. I think that is the best thing for us to do; lay close to His bosom. Thank you very much.

The CHAIRMAN. All right.

There were some permittees on the Jemez National Forest who wish to be heard.

STATEMENT OF MAX EICHWALD, CUBA, N. MEX.

Mr. EICHWALD. My name is Max Eichwald from Cuba, N. Mex. and I am a farmer and cattle man.

The CHAIRMAN. What is your trouble?

Mr. EICHWALD. The problem that I have to bring before you is that we have a few people that have come from my town, up here, to discuss the manner of increasing our permits on this national forest, in order to make a better living. We all have permits, but we don’t have enough permits to take care of the stuff that we did every year.

The CHAIRMAN. What forest are you in?

Mr. EICHWALD. The Santa Fe National Forest.

The CHAIRMAN. How much of a permit have you?

Mr. EICHWALD. I have a permit for 6 head of cattle.

The CHAIRMAN. What else do you do besides raise cattle?

Mr. EICHWALD. I farm.

The CHAIRMAN. Have you got a dry farm, too?

Mr. EICHWALD. No; I irrigate.

The CHAIRMAN. What do you raise?

Mr. EICHWALD. Beans, corn, wheat, oats.

The CHAIRMAN. Well, now, how are the other permits on there? Are they large permits there?

Mr. EICHWALD. There are some large permits.

The CHAIRMAN. How large?

Mr. EICHWALD. Some up to a hundred head.

The CHAIRMAN. None over a hundred head that you know of?

Mr. EICHWALD. No; I don't.

The CHAIRMAN. About how many of you there use that forest, if you know?

Mr. EICHWALD. I don't exactly know.

The CHAIRMAN. Have you taken this up with the local forest office?

Mr. EICHWALD. We have tried, for years and years and with no success been able to get any permits. In my case, I have a good 4 permit, which was an exchange of permit for my own land, in exchange of their grazing land. I have over three 40-acres of land, and I haven't been able to acquire any better than 6 head of cattle for that small amount of land. There is a few of us here, that I know are in the same fix that I am in there. There are some that have 6 or 10 head of cattle, and some that have 5, and they've never been able to acquire an increase in their permits. We are required to have registered bulls on the national forest. They are all extremely high now. I know there is a good thing, and I wish I had a registered bull. But with 6 head of cattle I don't know if I could even raise one-fourth of the amount to buy one. I believe that we have been trying to make a living in that country and we have asked for permits, but we haven't been able to get any. We know that country, we have been through it, and we know that there is plenty of grazing land for the amount of cattle that there is in that region.

The CHAIRMAN. I think we had this matter up here about the first or second day, didn't we?

STATEMENT OF P. V. WOODHEAD, ASSISTANT REGIONAL FORESTER, ALBUQUERQUE, N. MEX.

Mr. WOODHEAD. Mr. Chairman, would you like to have me make a brief statement about the situation on the Jemez division?

The CHAIRMAN. Yes, please.

Mr. WOODHEAD. This gentleman has given you the high lights of the situation which typifies northern New Mexico. I don't know about his individual case, but there are a great many like it. I have on my desk right now a petition, signed by 110 people in the Cuba area, asking for increased permits. Most of those people are thinking about this Jemez division, the area this gentleman is talking about.

Now, on this area there are now 424 permittees, grazing 5,515 cattle and horses, an average of 13 per permit. There are 48 sheep permittees, grazing 19,107 sheep, or an average of 398 per permit. The largest permits on the unit for cattle are 2, with a total of 358. That would be about 175 apiece, 179 average for those 2 classes. Most of the permits are in the very small groups.

The CHAIRMAN. You made a study to see whether or not this carrying capacity is sufficient to increase the smaller ones?

Mr. WOODHEAD. Senator, we have given that area every special consideration, for a number of years. We realize that many of the stockmen will not agree with us when we say the area is fully stocked or overstocked; but as a result of 25 years, at least, experience on that particular area, and range surveys and range inspections and watching that vegetation, that is our considered judgment of the condition.

We wish that we could do something for these people, in the way of increasing their permits. There is no question but what they need them; and that is true of the whole northern New Mexico section, where we have 2,100 permits on the 2 national forests, the Santa Fe and the Carson. Each has the same sort of situation described here by other people talking about other types of land. I wish I could hold out encouragement for the gentleman, but there is nothing I can do, as I see it.

The CHAIRMAN. It is just a question of not enough land?

Mr. WOODHEAD. Too many people for the resources that are there. They desperately need additional sources of income, everybody realizes that, everybody in the whole country has been studying things, but nobody has come out with any real solution for the problem.

The CHAIRMAN. All right.

I wish I could say more to you. I am sorry.

Is there someone else to be heard?

STATEMENT OF EPIFANIO GUITIERREZ, LA JARA, N. MEX.

Mr. GUITIERREZ. Well, I don't speak very good English.

The CHAIRMAN. Well, you may speak slowly.

Mr. GUITIERREZ. In fact, I don't speak my own language, but whenever I am a blank maybe you can guess what I mean and fit it up.

The CHAIRMAN. All right.

Mr. GUITIERREZ. To be brief, I have two boys in the Army. One is married and has three children, so I am in charge of his stock—in fact, have his ranch while he is away. He has a permit in the forest for 170 head of sheep, and I have a permit of 441 head on the forest. I have been trying to increase for—I don't know how many years—and the result is that I had to have half of my herding down in the Grazing Service lands and in the Soil Conservation Service land and part in the forest. Now, with my sheep, I cannot afford—with that small number of sheep, I cannot afford to hire four herders and make a living.

I tried the Forest Service several times to let me go and take all these sheep in the forest for a shorter season. Then I could come out, in order to save expenses. The only one that I remember, and you can correct me if I am wrong, the only ones that I remember that I can do it.

The rest of the time I make my application for my full amount, and in return we get our answer that the application was approved for so much head and rejected for so much because there is no range available.

The CHAIRMAN. That is, from the forest? What do you do with the rest of them?

Mr. GUITIERREZ. These am outside on the Grazing Service land—Soil Conservation Service land.

The CHAIRMAN. How many?

Mr. GUITIERREZ. I have got at the present time 250 head—in fact, I left 270 head.

The CHAIRMAN. Outside?

Mr. GUITIERREZ. On the grazing and soil-conservation land; but you know that it is pretty hard to leave these, I should say, separate the same sheep and leave them down here, when you have to keep them all together the rest of the year, after you come out of the forest.

So, by leaving this bunch of sheep over here, of course, you leave some of the sheep that knows where to go to get their feed.

The CHAIRMAN. What is the permit your son has?

Mr. GUITIERREZ. One hundred and seventy head.

The CHAIRMAN. How many have you?

Mr. GUITIERREZ. Four hundred and forty-one.

The CHAIRMAN. In the forest?

Mr. GUITIERREZ. Making a total of 611 head.

Mr. WOODHEAD. Could I ask a question, Senator?

The CHAIRMAN. Yes.

Mr. WOODHEAD. You run your sheep and your son's sheep together up on the forest?

Mr. GUITIERREZ. Yes, sir; in the same allotment.

Mr. WOODHEAD. I have a few figures here on this case, and I would just like to check them with the gentleman to see if they are right. It is really not so pertinent to what he is talking about, but it does give a little of the history of the case, according to the record. If these are wrong, will you please correct me?

Mr. GUITIERREZ. Sure.

Mr. WOODHEAD. He was granted his first permit in 1915—28 head of goats—and that apparently ran along at that level, 28 head of goats, until 1923, when he changed over to sheep, 150. In 1925 a permit was issued for 200 sheep; in 1926 a permit for 200 sheep; in 1927 a permit for 200 sheep; and then, in 1928, you purchased 50 sheep from Mr. Aragon, and a permit renewed for 300. In other words, your old permit for 200 was increased by 50, plus 80 more—an increase there over the number you purchased. Then, in 1929, you had 330 again, and in 1930, 341, which is your present preference, which you stated.

Your son's preference is 170. Now, as I understand your problem, you have 200 more sheep which you have to handle down on some other land during the summertime.

Mr. GUITIERREZ. Yes.

The CHAIRMAN. Let me get this straight. You have 411 on the forest, altogether, your son and yourself?

Mr. GUITIERREZ. Six hundred and eleven.

The CHAIRMAN. Besides that you have 200 down?

Mr. GUITIERREZ. Two hundred and fifty down.

The CHAIRMAN. Besides that?

Mr. GUITIERREZ. Besides that; yes. Different herd, and what I'm trying to do is to find a solution, where to take these sheep in the forest.

The CHAIRMAN. All of the time?

Mr. GUITIERREZ. A shorter season, in order to save time and save expenses.

Mr. WOODHEAD. Senator, I don't know what we might be able to do about it, but I would be glad to agree to do this much, anyway.

This is your summer season, but it is about over now, so the problem won't face you——

Mr. GUITIERREZ. We have about a month, until the 15th of October.

Mr. WOODHEAD. I would be glad to meet with you this fall, with the ranger or the supervisors, at Cuba; is that your home?

Mr. GUITIERREZ. La Jara.

Mr. WOODHEAD. And talk it over with you a little bit, and see whether or not we could do what you want to have done, without saying now that it can or cannot be done.

Mr. GUITIERREZ. It's too late to do anything this year.

Mr. WOODHEAD. I mean, before next summer.

Mr. GUITIERREZ. But if you can do it next summer, yes; because at the present time I either have to trust that you, or trust that the Grazing Service, or the Soil Conservation land——

Mr. WOODHEAD. We'll possibly have to get together with the people on whose land you have this winter permit, and we might be able to work something out.

Mr. GUITIERREZ. The reason is this, because I have these sheep, as I stated, in two different bunches, one on the forest, and one on the outside——

Mr. WOODHEAD. I understand that, Mr. Gutierrez.

Mr. GUITIERREZ. It's pretty hard to get somebody to herd them right now. I have two men over there waiting for me tomorrow.

Mr. WOODHEAD. I understand that part of the problem.

Mr. GUTIERREZ. They have agreed to herd the sheep until tomorrow. I'll have to be there tomorrow, and I have two different bunches of sheep and, in order to save them from the coyotes, I either have to take these into the forest, or take the others into the forest and herd them over here. That is the reason I have to trespass the forest or the Grazing Service, or the Soil Conservation Service land. I may not have to do it very long down here, just for a few days; but I have to trespass the Soil Conservation Service land in taking them to my place.

Mr. RUTLEDGE. What is the size of your permit on the Federal range, the public domain, the Grazing Service?

Mr. GUITIERREZ. It is 500 head.

Mr. RUTLEDGE. For what period?

Mr. GUITIERREZ. Well, it cuts down, you see.

Mr. RUTLEDGE. From October?

Mr. GUITIERREZ. From October 15 to June 15.

Mr. RUTLEDGE. That is your permit?

Mr. GUITIERREZ. Yes.

Mr. RUTLEDGE. What is the boy's permit?

Mr. GUITIERREZ. It is the same; and then I have to leave the other ones here; why I have got to go over——

Mr. RUTLEDGE. In the winter, you are out on Soil Conservation and Grazing district land, and you put them together, do you?

Mr. GUITIERREZ. Yes; together.

Mr. RUTLEDGE. You don't have to have two herds there?

Mr. GUITIERREZ. No; that is what I am after, to find a solution to put these sheep together, in order to save them, and save their expenses.

Mr. WOODHEAD. May I ask Mr. Davenport a question? Is he talking about this adjustment right now or next summer?

Mr. DAVENPORT. He wants to put those 250 head of sheep up on the forest with the others, right now.

Mr. WOODHEAD. I thought he was talking about an adjustment for next summer's range use.

Mr. GUITIERREZ. I'm up against it right now. I don't know whether to go on the winter range now. That would make it very bad.

Mr. LEE. What distresses him is where to go. If he goes on the winter range now, there is nothing left for the man to do but put the sheep together on a forest, and be trespassed. Our wool growers' association has advised him to do it, and advised him that's the thing to do. Here he is; he has committed the great crime of starting with 20 head of goats in 1915; in 28 years he finally got up to 500 sheep; and he has 2 sons in this war, and he has to have 4 men to herd 500 head of sheep, because they won't give him a permit to go up there to protect himself for winter. It is unfair and unjust, and we feel it should be settled and settled immediately.

Mr. RUTLEDGE. Is our man on that district here?

Mr. GUITIERREZ. People say there are several permits that have been canceled around over there, even in my own allotment, and my neighbors' allotment.

The **CHAIRMAN.** Wait a minute; let me hear from the Grazing Service.

Mr. RUTLEDGE. I was thinking of this, Mr. Woodhead; they graze a certain amount of time on the forest. I wonder, if it is practical, could it be arranged that they graze a certain number of days, or A. U. M.'s on the forest, and then they can graze a certain number of A. U. M.'s off. Would it be possible there, if he could double up for a shorter time, and then come on to the winter range; or would that work?

Mr. LEE. That was discussed; that is what our board has permitted him to do, and he has asked to cut down the permit on the forest to make up for the difference in the number, and the Grazing Service is giving him permission to come on the winter range when he has to.

Mr. RUTLEDGE. Balance are A. U. M.'s.

Mr. LEE. Here we are at war, and the Government agency doesn't want to bend a rule the tiniest bit to help win it.

Mr. RUTLEDGE. I will authorize Mr. Salmon to work it out from our standpoint.

The **CHAIRMAN.** That settles that. Let's go on to the next one.

STATEMENT OF JESUS MARIA MONTOYA, CUBA, N. MEX.

Mr. MONTOYA. My name is Jesus Maria Montoya. I was here yesterday afternoon.

Well, I have a bunch, 80 head of cattle, that belongs to my boy, who is in the Army, and I and Leandro Montoya. We have permits, turned them down on them. He had 80 head of cattle permit, only have 70 head. They have been there. If I don't make a mistake, they have been there 28 years now. My boy in the Army, and I have to take care of the cattle, and I asked Mr. Joe Foreman; he has the permits that I have outside; and I need to keep myself and the sheep and I have to hire another man. I have to hire another man to take care of these 15 head of cattle outside, and I asked for these fellows maybe, I don't know for how many years, year after year, to make an application for 80 head of cattle to allow those

outside. They have never give me a permit; instead of giving me permit——

Mr. RUTLEDGE. Where are those 80 head?

Senator CHAVEZ. Where is the 80 head of cattle that belong to your boy in the Army; where are they now?

Mr. MONTOKA. One part is in the forest, 70 head, and the other part is outside.

Senator CHAVEZ. Ten head are outside. What do you call outside, Taylor grazing land?

Mr. MONTOKA. No; this is the Reid's ranch, outside. I have here rented about five sections. It belongs——

Senator CHAVEZ. He leases it from somebody else.

Mr. MONTOKA. Yes, sir; I have a neighbor that I have in there.

Senator CHAVEZ. Eighty head belong to your boy who is in the Army?

Mr. MONTOKA. Yes, sir.

Senator CHAVEZ. And you have a permit for 70 of those, and 10 more you have to lease for from private neighbors?

Mr. MONTOKA. That's right.

Senator CHAVEZ. What is the problem now? Do you want a permit for the 10 head?

Mr. MONTOKA. If they could; yes, sir.

Senator CHAVEZ. Where would you get the land, the Forest Service or the Taylor grazing, or what?

Mr. MONTOKA. I ain on the forest for the summer season, and I come out on Taylor grazing in the wintertime, and I have my own place there, keep the cattle and sheep in the wintertime.

Senator CHAVEZ. You have land for your sheep?

Mr. MONTOKA. Yes, sir.

Senator CHAVEZ. You are not worrying about the sheep?

Mr. MONTOKA. No; I don't worry about the sheep, because Mr. Bond here is helping us a little bit in the summer.

Senator CHAVEZ. Irrespective of who helps you, you have enough land for your sheep?

Mr. MONTOKA. No; I have to reduce.

Senator CHAVEZ. You have sufficient land to take care of them?

Mr. MONTOKA. But I have to stay in it.

Senator CHAVEZ. What about the 10 head of cattle you are asking to try to get a permit for. The 10 head of cattle?

Mr. MONTOKA. Yes; every year.

Senator CHAVEZ. Now, don't say about every year. Now, do you want 10; is that what you want now?

Mr. MONTOKA. Yes, sir—no; I want to get——

Senator CHAVEZ. What do you want?

Mr. MONTOKA. I want permit for 90 head in the forest.

Senator CHAVEZ. But he only has 80 head.

Mr. MONTOKA. Yes.

Senator CHAVEZ. What do you want 100 head for?

Mr. MONTOKA. They like—we keep the good bulls outside. Of course, they cost maybe \$250 or \$200. What are we going to do with their calves that is coming; the heifers that we have to raise there; sell the whole thing, and keep the bulls there? I could talk in Spanish if you want.

Mr. POOLER. Mr. Chairman, I don't even know the gentleman's name. Senator CHAVEZ. You don't listen to it, Mr. Pooler. His name is Jesus Maria Montoya.

Mr. SALMON. I know the case, as far as the Grazing Service is concerned, but the other part, I don't know.

Mr. RUTLEDGE. Tell us what he has on Grazing Service land and private land, and what time of the year.

Mr. SALMON. He has a permit with us for 70 head of cattle, I think, and 500 head of sheep.

Mr. MONTOKA. I have permits for 80.

Mr. SALMON. In that neighborhood, I don't recall the exact number.

Mr. RUTLEDGE. What period of the year?

Mr. SALMON. For the winter season.

Mr. LEECH. What months?

Mr. SALMON. I believe it commences in October.

Mr. MONTOKA. No; the last day of November, the cattle.

Mr. SALMON. And extends to something like May, I guess; the last of May?

Mr. RUTLEDGE. Yes; the first day of May. The Grazing Service takes care of all of the stock in the winter; is that right?

Mr. SALMON. His ownership—

Mr. RUTLEDGE. He has some private land. Just what is the point?

The CHAIRMAN. What is the point? That is what we want to get now.

Mr. SALMON. I think that the point is he would like to have as much carrying capacity on the forest as he has down on the public domain, so he could balance his operation, if I understand it right.

Mr. RUTLEDGE. How much would that be?

Mr. SALMON. I don't know what his forest permit is for.

Mr. WOODHEAD. He said 70. Your forest permit is for 70 head?

Mr. MONTOKA. Yes.

Mr. SALMON. If I understand it correctly, he would like to have permits for another 10 head.

Mr. LEECH. On that 500 sheep, does he have a forest permit for them?

Mr. MONTOKA. No, sir; I graze them out; Mr. Bond gives me a permit.

Mr. RUTLEDGE. What was that?

Mr. SALMON. He grazes the 500 head during the summer period on the San Diego grant, which is controlled, I think, by Mr. Bond.

Senator CHAVEZ. But he hasn't winter grazing for the 500 head of sheep and 80 head of cattle. You have 80 head of cattle on Taylor grazing?

Mr. MONTOKA. Yes.

Senator CHAVEZ. Then you have permits for 70 head in the Forest Service?

Mr. MONTOKA. In the summertime.

Senator CHAVEZ. You want a permit from the Forest Service for 10 head of cattle?

Mr. MONTOKA. More.

Senator CHAVEZ. Now "more"—you would like to have more? Well, all would, too.

Mr. MONTOKA. Ten more. That makes 80.

The CHAIRMAN. He wants 80 head both ways, is what he wants.

Senator CHAVEZ. Then you want 500 head of sheep outside of the San Diego grant?

Mr. MONTOKA. Yes.

Senator CHAVEZ. Which do you want, Taylor grazing or Forest Service?

Mr. MONTOKA. My place, they give me permit. I don't have permit, except in the wintertime, on the Taylor grazing.

The CHAIRMAN. He has no forest permit for his sheep at all?

Mr. MONTOKA. No, sir.

The CHAIRMAN. Do you have a Taylor grazing permit?

Mr. MONTOKA. Yes; for the summertime.

The CHAIRMAN. Where do you graze the sheep in the wintertime?

Mr. MONTOKA. Taylor grazing; summertime, my sheep is up on the San Diego ranch.

Mr. LEE. May I try to sum it up, so we can speed along? It is a question of where you have 2 departments controlling the range, in which we have many, many of them, and here is one case. He has a permit for 70 head on the forest, and 80 on his winter range, and where the two services do not balance to where a man can make an economical set-up. He is caught in between those; and what he is trying to protest is to get some way that the 2 permits will match each other, and he can move his 80 cattle both ways.

The CHAIRMAN. That is the cattle, but how about the sheep?

Mr. LEE. Private land in the San Diego Forest, where he runs them in the summer, and he has a winter permit down below, as I understood the problem. All he is trying to do is to balance it out.

The CHAIRMAN. Ten head of cattle is the question?

Mr. LEE. That is the point. However, he would like to raise up to a hundred. Of course, that is out, there is no room for any increase on that forest, I think even the Forest Service will admit that.

Mr. KNEIPP. Mr. Chairman, some of these cases are given a very definite tinge of bureaucracy, especially by some of the speakers, but this thought occurs to me: This gentleman is talking about a range that is now used by 424 permittees, who graze 5,515 cattle and horses, or an average of 13 apiece. This gentleman has a permit for 70, which is a little more than 5 times the average. He wants a permit for 80, which means an increase of 10. One question is this, Should he get that increase, as against some of the other 424 permittees who have only 6 or 7, like this man who spoke here a little while ago?

Senator CHAVEZ. Shouldn't you also consider the fact that these 10 head belong to a soldier who is out of the country, and what is going to happen to that soldier's property if he doesn't get the permit?

Mr. KNEIPP. I had assumed possibly many of these other permits belonged to soldiers, or the fathers or wives of soldiers. I'm trying to arbitrate between a group of people in dire need, to apportion between them a resource which is wholly inadequate to their needs, in the fairest possible way. That is not bureaucracy.

Mr. LEE. Doctor, I think you missed the point. He is not asking to get more cattle than his neighbors, or an increase to damage any of his neighbors. He is trying to work out an economic unit where he can go from one place to another with these 80 head which he has a permit for. He could solve the question very easily by cutting his Taylor

down 10, and then he would have an economic unit to go back and forth, but he would be down 10 head. Naturally, any man wants to try to keep the total up to where it is, and he's not arguing to get in and bother any of those people. All his relatives belong to the same—

Mr. KNEIPP. Well, to accomplish that object, he wants to put 10 more cattle on a heavily stocked range, upon which there is a large unsatisfied demand from other people at the present time.

Mr. LEE. That is the truth, he is trying to make himself an economic unit.

Mr. MONTOKA. Where I keep my cattle, nobody is in there except my own property. I have been there for 28 years.

Senator CHAVEZ. You mean in the forest?

Mr. MONTOKA. Yes; it is a place nobody can ride in there except a man who knows the country. I don't think that the rangers go into that country, or anybody very good except myself.

Senator CHAVEZ. Anyone who knows that range from the Forest Service, in that area?

Mr. WOODHEAD. I know it in a general way, Senator.

Senator CHAVEZ. He says he goes in there where very few people go in.

Mr. MONTOKA. The rangers know that country just by the files. When I go to gather my 70 head of cattle, I can, I know where to go. I can keep them, and ask these people sometime to brand my calves to give me a place, some other place where I can gather them. I could show them how many cattle I have; they never give me a chance to do it.

Mr. WOODHEAD. I think I made this statement before you came in; on my desk right now I have a petition signed by 101 people from Cuba. I haven't checked it. I don't know how many of them have permits, or if any of them have permits; but they all want larger permits or a permit. This case could be multiplied, up in that country, as you know, many times.

Now, we have studied that range situation up there as carefully as we know how for a good many years. In our judgment, we have all the livestock on there that we can carry. We realize some of the other stockmen over here won't agree with us. We have heard them for 3 days, but we know distinctly how much a range will carry.

Senator CHAVEZ. Of course, the Forest Service is all knowing, and must know it all, and must carry out their way, irrespective of what somebody else might say.

Mr. WOODHEAD. I don't think so, exactly, Senator. I have ridden this range.

Senator CHAVEZ. Have you been on the place and encountered a single cow? But you can sit at Albuquerque, or Santa Fe, or elsewhere, and tell him how many head of cattle he can graze.

Mr. WOODHEAD. No, sir; the supervisor and the local ranger handle those permits.

Senator CHAVEZ. You are driving the country to perdition and resentment.

Mr. RUTLEDGE. Mr. Senator, I still have another suggestion. I understand that the land outside that he grazes on is, to a very small extent, Grazing Service land. He runs mostly on the private land,

and the Grazing Service has a few little forties, or sections in there. Is that right?

Mr. MONTONA. I expect that I can keep that more cattle all right on that range.

Mr. RUTLEDGE. I don't mean that. I was just explaining the situation. Maybe I am speaking out of turn, because the interests of the Grazing Service are small. We only have a small amount of range, and it is an off and on with his range that he leases; but, again, would it be possible to put the 80 head on there for a little shorter time, and bring them off?

Mr. WOODHEAD. I don't know whether it is a community allotment, or what the situation is there.

Mr. RUTLEDGE. We are willing to balance animal units in——

Senator CHAVEZ. You arbitrarily say he can't put one more cow in there.

Mr. WOODHEAD. I didn't say. I said I couldn't sit here and make the decision.

Mr. RUTLEDGE. Do you know this case also, Mr. Lee?

Mr. LEE. Yes, I know the case very well.

Mr. RUTLEDGE. Is the statement right, that I was making to Mr. Salmon? I am not sure I got it all. The Grazing Service; land outside upon which he runs is largely patented land. We have a few forties or sections in it.

Mr. LEE. He has a full permit for what he needs.

Mr. RUTLEDGE. Now, I don't want to speak out of turn, but he could run 10 days shorter on the forest, with the whole bunch; 10 days' shorter season on the forest with the 80 head; maybe we could take care of them the rest of the time.

Mr. LEE. Yes; I think he could do it; bend the rules to meet the conditions in these kinds of times, yes.

The CHAIRMAN. I understood that the Forest and Grazing Service will try to get together on this, if it is possible. This is not binding to anybody; but if it is possible, the committee will appreciate it.

Mr. MONTONA. Thank you.

STATEMENT OF J. VALENTIN SWAZO, ABIQUI, RIO ARIBO COUNTY, N. MEX

The CHAIRMAN. Will you come forward and state your name, so the others will know it?

Mr. SWAZO. Valentin Swazo.

The CHAIRMAN. Where do you live?

Mr. SWAZO. Abiqui, N. Mex.

The CHAIRMAN. What is your business?

Mr. SWAZO. Farmer and cattleman.

It being that I cannot speak the English language, I am going to discuss myself, and I am going to forget for a while the high rank of the officials of Senator Chavez in which he has been promoted by the people of New Mexico, and ask him to be my interpreter. I want to make the brief remarks I will make in Spanish.

Senator CHAVEZ. Go ahead.

Mr. SWAZO (as interpreted by Senator Chavez). I come from a section of Rio Arribo County, representing an association of 120 members of cattlemen.

We have approximately 100,000 acres of land within land grants. We have some 840 head of cattle that we herd or graze within that range. We have different units of fence lines within the area, and we have sufficient land there to take care of our herds. This is due to the cooperation we have been getting from the Department of Agriculture, or the officers there, and we feel that we can go ahead with such cooperation.

The president of this committee wishes that my colleagues, or partners, would come, but they suggested that I speak for them. I have heard many complaints here this afternoon. I know that the committee has worked hard and is tired, the Senators, and would not desire to tire them further, but I'm going to refer to a few things I have heard this afternoon.

With reference to the increase of animal units, with reference to the permits, I wish to say that this organization of ours do not have such difficulties. The officers of the Farm Security and the Soil Conservation Service cooperate with us right along, and due to that we have no difficulties whatsoever. We appreciate and are very grateful for same. The people who surround the land grants in question have the opportunity of asking for permits, and they do get those permits when there is an opportunity to so get them, and we are very much satisfied.

Thank you for your attention.

STATEMENT OF BUD RICE, BUDVILLE, CUBERO, N. MEX.

MR. RICE. My name is Bud Rice, Cubero, N. Mex.; I am a stock raiser.

Senator CHAVEZ. You speak for yourself and other people?

MR. RICE. Some of my neighbors. I myself have a few head of stock of cattle that I run, together with Joe Sanchez. We both own deeded land, what is known as the Rinconado district, west of San Fidel.

It is my understanding that Mr. Sanchez, back in 1924, had a permit on the forest, which he used until it was revoked in 1932, I believe it was. The excuse given at that time was that the cattle he had were not his own, they were a share proposition with Mr. Mirabal. Mr. Silvestre Mirabel is well known in this State; the majority of the small operators know him. The majority of them still do operate a share proposition. It was called to our attention yesterday, this proposition is worked out through the Bond interest, in reverse to what it used to be. Mr. Sanchez now owns his own cattle, the same as I do, and me and he has tried repeatedly to get back a permit, of some size or other, and has been refused. On our side of Mt. Taylor there is, I understand, the three permits at present in use, Mr. Duran, Mr. Chavez, and Mr. Chavez' son-in-law, which is all one. It seems to me to be an injustice that this man Sanchez, who, when he took out his permit in 1924, was given to understand that if he was to put improvements along on this forest land, he would be allowed to stay there. Now, he built 6 miles of fence, which is still there, and some other improvements which, of course, he lost at the time his permit was revoked. It seems as though there should be some way for a man that has lived there, as he has, for over 20 years, on his own property, and now has a few head of stock of his own, that he should be allowed a permit for part of that

stock, at least, on the forest for the summer. We are able to take care of our stock, on our lower deeded land, through the winter, by keeping them off in the summer. But we are forced to go out and rent land from men who have large tracts of Taylor grazing allotment and have pooled their allotments and blocked out, used their allotments themselves and leased out their privately owned lands to us, per head—they will not lease it out per section—so we will be protected from year to year. We are forced to go some years to one place and some years to another. Instead of that, we have to depend on our good luck from year to year. We are forced to use range along with their sheep, and we have no protection at all.

Senator CHAVEZ. Let's get that straight. Do you mean to tell the committee that some of these people have Taylor grazing land and Forest land and land of their own?

Mr. RICE. Yes, sir.

Senator CHAVEZ. They graze their sheep and stock within the lands that they lease from the Government, and rent out their private property?

Mr. RICE. That is exactly the point I wish to bring out.

Senator CHAVEZ. Is that an isolated case, or is it a general practice?

Mr. RICE. It seems to be the general practice in that district. How it is over the rest of the State I could not say, Senator.

Senator CHAVEZ. They use private property as commensurate, in order to be able to get Taylor grazing land?

Mr. RICE. That is right. I understand, due to their own private holdings that they allotted Taylor grazing permits.

Senator CHAVEZ. They graze their own stock within the Taylor grazing permits, and rent out their private property?

Mr. RICE. Right. That is what I want to bring to your attention. Why shouldn't the smaller men be allowed those permits, or a small percentage of them, so that we could benefit directly, instead of paying higher rent? It doesn't seem to be quite fair.

Now, there came up, during the last few months, a situation there where my father had a homestead, a few years ago, on the Seboyeta, where this land around there was thrown open to homestead entry. That was filed on, and this certain tract I am speaking of, the homestead entry was revoked here about the end of last year. My mother received notice that her claim had been disallowed, and then I in turn applied for that small tract of land, because we owned railroad land adjoining it, upon which we have a spring. That has run as far back as anyone can remember. I came to the office and talked about it, and some of the gentlemen there stopped by to speak to me, and said it looked to them like Mr. Durand should have it, because he had a well. It doesn't seem to me that a well, even man-made and operated by a windmill, entitles a man to more land than a man who owns land with a spring on it that has run. That is a question I don't see their side of. If they don't pump that water, they don't have the water on the land. We own the spring, that has run forever. The amount of land isn't large; it isn't a matter that it would help them any, but it would help the little fellow an awful lot.

Mr. LEECH. Mr. Salmon, what can you tell us about this case?

Mr. SALMON. There is a tract of land in the town of San Fidel, right in the town; it comprises maybe three quarters of a section.

Mr. LEECH. The tract owned by Mr. Rice?

Mr. SALMON. No; the Federal land we have in this area. The rest of it is all patented.

Mr. LEE. It comprises 200 acres; doesn't it?

Mr. SALMON. I can't say what the acreage is; it's a very small tract of land, and we have had, I expect, 15 applications for this land by applicants, citizens of this town, who have applied. I don't think to date the advisory board has acted on this case. I was at our last meeting, and I don't think anyone has notices of the action taken by the advisory board. I know that I have not dictated them, and I don't suppose they have gone out of the office yet. I think that the advisory board's recommendation was, finally, that the people of this community be allowed free use license on this tract of land, for the carrying capacity of the piece of land. I don't think Mr. Rice lives within the area, so I believe, under the Federal Range Code, he would be disqualified for free-use licenses. He doesn't live within several miles of the place.

Mr. RUTLEDGE. These people in this little town used it for milk cows, saddle horses, and work horses?

Mr. SALMON. That's right.

Mr. RUTLEDGE. Is that all of the case, or is there something else?

Senator CHAVEZ. Do you know anything else about the Sanchez case, Mr. Salmon?

Mr. SALMON. Yes, sir; I think I do. At one time this entire outfit was what is known as the Mirabal estate, and it was finally divided amongst the heirs of this estate in Candelaria. That thing he refers to was the allotment adjacent to this area. I think Mr. Sanchez was at one time the foreman on this ranch, for Mr. Mirabal. It seems they had some kind of an agreement amongst themselves—I don't think in writing, I think it was a verbal agreement—that Mr. Sanchez would control certain equities in these lands, maybe the stock, I won't say for sure, for his compensation for his labor or pay. I don't know the particulars, but after this was divided in Candelaria—anyway, the man is in Holbrook, Ariz.

Senator CHAVEZ. That is the son-in-law of Mirabal's?

Mr. SALMON. And I think last year he leased this property to someone, and then they had a grazing license on the area. That is the first time that we have had anything to do with Mr. Mirabal's estate since it has been divided.

Senator CHAVEZ. Is that the way you understand it?

Mr. RICE. That is the way it is. Mr. Sanchez owned some deeded land there, and I, too, have some deeded land there. We have some land leased, altogether composing little more than 8 sections, within 2 miles of the forest, in the Rinconado district. I have four and a half days of water there, on a 28-day "corrida," which I run into a dirt tank for watering purposes; and Mr. Sanchez has water on his property. We have the spring on this railroad purchase for water, when we use this as winter range; but our situation is that we need summer range. If it is possible to secure, as Mr. Salmon advises, a little piece of land, I am quite agreeable that it be allowed to the pueblo.

Senator CHAVEZ. You have discussed summer range with the Forest officials, you and Mr. Sanchez?

Mr. RICE. He has handled it, I haven't talked to them.

Senator CHAVEZ. Have you been turned down?

Mr. RICE. According to what Mr. Salmon says, it has been awaiting the settlement of the estate.

Senator CHAVEZ. As I understand, Mr. Salmon represents the Taylor Grazing Service.

Mr. RICE. Yes.

Senator CHAVEZ. Have you discussed the matter of summer range with the Forest Service officials?

Mr. RICE. I haven't. Mr. Sanchez did; he has been trying to get his permit renewed for the past few years, due to the fact he owns his own stock now.

Senator CHAVEZ. Suppose you call him up here.

Mr. RUTLEDGE. How much land do you own or lease?

Mr. RICE. Altogether, a little over 8 sections owned and leased.

Mr. RUTLEDGE. How many has Mr. Sanchez?

Mr. RICE. That is the two of us together.

STATEMENT OF JOE SANCHEZ, CUBERO, N. MEX.

Mr. SANCHEZ. You know, Mr. Salmon, that I and Juanito Mirabal, our people, came to your office and asked about this land, and you told me to wait until the heirs will settle up. Mr. Salmon, he told me he will not advise me, so we can make arrangements, and he never done it until he make arrangements with Candelaria; yet I and our people came to his office again and discussed the matter again; and he told me this, he make me a date, so we settle it at the ranch. He went over there, and I showed him the property and water and everything, so they blocked me on 8 sections of land, and I don't think it is enough land for the year round, for the 150 head that I got. I have been running that place for 20 years, and I think that Mr. Floyd Lee knows about it.

Mr. LEE. I know the place; yes.

Senator CHAVEZ. That is Mr. Salmon; that is the Taylor Grazing man. It appears that is about to be solved, this application for summer range.

Mr. SANCHEZ. I used it to run the cattle on the forest, since 1924 to 1932.

Senator CHAVEZ. Under your permit?

Mr. SANCHEZ. Under my permit.

Senator CHAVEZ. It belonged to you, and not to Mr. Mirabal?

Mr. SANCHEZ. Not to Mr. Mirabal.

Senator CHAVEZ. Why did you lose it?

Mr. SANCHEZ. They told me if I make improvements on the forest, they would protect me on the forest.

Senator CHAVEZ. What did you do?

Mr. SANCHEZ. I made 6 miles of fence. When I got through of it, and I make a little house on the forest to look after the cattle in the summer; then they told me I can't use the forest because I had the cattle on shares. So they threw me out; so I had to go to Silvestre, about 60 miles from this place, to summer range.

Senator CHAVEZ. You had the cattle on shares prior to the time you were thrown out?

Mr. SANCHEZ. Yes.

Senator CHAVEZ. From 1924 to 1932; they knew, then, that you had them on shares?

Mr. SANCHEZ. Yes; I had the cattle on shares for 40 or 50 years; my dad did, and when he died I took the cattle. I think Mr. Floyd Lee would say that, too.

Mr. LEE. That is right; you and your family have had those cattle since before I was born.

Senator CHAVEZ. Can someone from the Forest Service tell us—

Mr. SANCHEZ. I want to see if they allow me on the forest again.

Senator CHAVEZ. Here is a man who has run a bunch of cattle there under the system that prevails in New Mexico and was thrown out all of a sudden.

Mr. WOODHEAD. I don't know that case.

Senator CHAVEZ. Now that he has the cattle, he still can't get the permit.

Mr. SANCHEZ. That is the Montana National Forest.

Mr. WOODHEAD. Ask him to whom he talked about this, and when.

Senator CHAVEZ. Have you applied lately to the Forest Service for that?

Mr. SANCHEZ. I went to Mr. Tucker, and he told me I can't go in the forest.

Mr. LEE. He is the forest ranger there, stationed at Grant.

Mr. POOLER. Are you familiar with this, Mr. Arthur?

Mr. O. FRED ARTHUR, supervisor, Cibola National Forest, Albuquerque, N. Mex. The condition there, stated by the first gentleman—free permittees in the forest, Mr. Durand, Chavez, and Tafoya; the range is stocked by those three permittees. I know nothing about Mr. Sanchez' case, of course, since, so far as I know now, he would be considered as a new applicant, along with other people in that vicinity.

The CHAIRMAN. But he has been running in there for years.

Mr. SANCHEZ. Mr. George Flake ran there at the time, in 1924.

Mr. LEE. George Flake, the ranger there? George Flake?

Mr. SANCHEZ. George Flake, the ranger. John Means told me that.

Mr. LEE. You were put out under Mr. Means?

Mr. SANCHEZ. Mr. Flake, first, in 1924, and then Mr. John Means.

Mr. LEE. Means canceled it?

Mr. SANCHEZ. Yes.

Senator CHAVEZ. After he had allowed you to range for how many years?

Mr. SANCHEZ. From 1924 to 1932; and I make improvements on the Forest; got 6 miles of fence on the south end of that forest.

Mr. ARTHUR. Not knowing what the records might show, I imagine the applications, over these years, showed ownership by Mr. Sanchez, and when it finally was disclosed that he didn't own them, under the policy that prevailed, the permittee must be the owner of the stock permitted.

The CHAIRMAN. He has answered that to the effect, as I caught it, that it was known all the time that he was running on shares.

Mr. ARTHUR. I doubt very much if it was known by the Forest officials, in the individual case, although we have all been familiar with the partido arrangement.

The CHAIRMAN. That seems to prevail quite constantly here, or did.
Mr. ARTHUR. As far as I am personally concerned, I know nothing about the case. I wasn't there at the time.

Senator CHAVEZ. If you go and make a new application, we will see what happens.

Mr. SANCHEZ. I went to Tucker, and he said he couldn't give it to me.

Senator CHAVEZ. Let them turn you down once more.

Mr. POOLER. Senator——

Mr. SANCHEZ. Yes, sir.

Mr. POOLER. In a good many of these cases, in most of these cases, probably all of them, you run up against just this, that if you put more stock on you either are going to spoil the grazing for everybody, or you are going to have to take somebody's stock off, to make room for the stock you put on. That is just an unpleasant, but realistic, way of looking at it. It comes right straight back to the same proposition, that the ranges are fully stocked, and that if you put on more stock, why, you are going to run down hill; and if you put on more stock and not hurt the range, you have got to take somebody else's stock off.

Mr. SANCHEZ. Somebody else is out already, 100 head of cattle. Mr. Floyd Lee took 100 head out of that forest. R. H. Wylie died 2 or 3 years ago; sold out that cattle——

Mr. LEE. Yes; those cattle are out of the Forest.

Mr. SANCHEZ. I used to run 200 head on that forest. The ranch used to run six or eight hundred head, and now about four or five hundred head are on that forest.

Mr. LEE. Mr. Adams, do you remember when his permit——

Mr. ADAMS. I remember when he had a permit, when I was supervisor there.

Mr. LEE. Do you remember who it was that was put in his place, when he was canceled out?

Mr. ADAMS. I just remember he was a permittee, when I was on the Forest, but what happened afterward, I'm sorry, but I don't know.

Mr. SANCHEZ. Just I and Durand, Wylie, and Chavez used to run in that forest before.

Senator CHAVEZ. Now, Durand is there, and Chavez is there, and Wylie has gone?

Mr. SANCHEZ. Only but 500 head in that side.

Mr. LEE. The whole south side of Mount Taylor?

Mr. SANCHEZ. They used to run about 1,000 head over there. I don't think it was overstocked.

Senator CHAVEZ. Still, you make the application.

Mr. RICE. I would like to say one more thing in regard to the bill presented here yesterday, proposing to set as a permanent figure the amount of the permits allotted. It looks to me like it is very shortsighted in one way, and farsighted in another.

The CHAIRMAN. What bill is that?

Mr. RICE. Making it unlawful to reduce the size of a permit, except reducing for range necessity, not to reduce it to allow smaller persons to enter. It looks farsighted in this respect; it is a foundation work upon which a cattle king can be built, through acquiring all of the cattle of the smaller man who is forced to sell out; and it is very nearsighted, I believe, in looking forward to the return of these boys who

have gone off to fight for us. When those boys come home, those few that do, will have a certain amount of money that has been put in bonds for them, through their families. Supposing now, a few wish to purchase a few head of cattle and settle down on little land they may happen to have, close to these different places where the permits allowed, and they need permits for 5 or 10 or 11 head? According to this bill, it would be impossible to accommodate them, and I wish to protest it on those grounds.

I thank you.

Mr. LEE. Mr. Chairman, to keep the records straight, you protested that land inside of San Fidel. Do you still want to protest?

Mr. RICE. It's all the same to me, as long as it is allowed to the public, and not to one individual who at present has monopolized one side of Mount Taylor. It is very satisfactory to me.

Mr. LEE. That is what we wanted.

STATEMENT OF JOE C. WARF, CARONA, N. MEX.

The CHAIRMAN. State your name and your place of residence.

Mr. WARF. My name is Joe C. Warf, Carona, N. Mex., Grazing District No. 6. I have a big property, mostly consisting of patented land; no State lease. The other gentlemen around me have acquired State leases, small ranches; neighbors applied for an allotment on Taylor land. One in particular that I know of, it took him 3 years to get it, lots of trouble, and running around. The other has asked for allotments in our district, that has not got an allotment. He never made an appeal, and only put in for allotments. I made an appeal; take me for an examination, and decision was against me. I appealed it to the Department of the Interior, and the decision is still against me.

I have a little better than 3,000 acres of patented land, I pay taxes on State leases, and I'm completely surrounded, a matter of 40 acres, 80, something like that.

The CHAIRMAN. How many livestock do you have?

Mr. WARF. I have around 47 head of 6 months' old calves, 26 or 7—

The CHAIRMAN. Is that all the livestock you run?

Mr. WARF. I have a couple of horses. I did have more, but I sold them down, on account of cutting down on the unit; building up the grass. I asked for an allotment, to protect my private holdings that I had. My intervener, Mr. Jenkins—it is not a question of too small, not enough land there, we have got plenty. I only asked for enough to block up my unit to where I could handle it economically, not trespass on anyone, use my land; and I offered, in this hearing before Mr. Williams at Roswell, we offered to do anything in the world to get my little holdings together. My base property is outside of the district, no fence from my patented land to the district. Then I have a section over in the district, and I asked him for a small allotment around there. It would give me a chance to go to that and run some sheep. This section runs two miles long, and directly east of me. The allotment is made to a neighbor rancher, strictly, so they give Mr. J. R. Jenkins an allotment on a small strip right where he is completely surrounded by my section of land, 60 or probably 160 yards down there, running on the east strip. I have a plat here that shows.

I have tried to trade out, deal out, so I am getting there. I haven't used this 640 acres; only a few sheep for a short while. It was laying

in a way that couldn't be herded. I didn't want to trespass on the Taylor grazing land; that is the law. One neighbor of mine down there, I understand, was up by the Federal Government, and fined \$100 for trespassing on the Taylor grazing land.

I appealed and I understand, and finally probably settled it some way. I don't know. I haven't heard.

I was refused an allotment. They claim conditions are, not sufficient permit water to service that immediate range. My intervener had wells. I never did contest him having his wells or his rights or anything in it, at all. I wanted him to have any rights, and I would like to have my little unit to where I could operate successfully, to make a living.

I got no relief when I appealed to the Department of Interior: carried it up to the further decision, and it was all against me, all the way up. I have the decisions and everything here. I tried to comply with the law.

I had another section of land; it is what we call Government land. Taylor grazing land, laying outside the district. I made application for it, or part of it, and I was turned down on the lease on it; so my intervener intervened for me to have any allotment on this, refused it to trade out any land, so I could use any land.

The CHAIRMAN. Any questions?

Mr. WARF. J. R. Jenkins, the man that intervened to keep me from getting it.

Mr. RUTLEDGE. He means his competitor.

Mr. WARF. They have it on this paper here, my intervener. Meantime, my neighbor for 3 years is getting allotments. His ranch is set up here. He has been established for a long time in water; and then they give this J. R. Jenkins this Taylor land, clear across this ranch over there. This boy had quite a time getting it allotted, and I never have had any allotment to me. I made my application, and I'm still making applications. I understand they have given J. R. Jenkins a 10-year allotment on this. I and another boy filed a protest with the board at district 6. We'll protest any 10-year allotment on this land, as long as our right was ignored; and, as far as a man establishing this Taylor land, why a man wouldn't be an innocent purchaser, when he sold this ranch and set up with these Taylor allotments on it, and 10 years.

I guess that will be about all.

The CHAIRMAN. Any questions?

Mr. LEECH. Mr. Chairman, this is a case from over in New Mexico grazing district No. 6. It was considered by the advisory board and the district grazier. An appeal was filed, through an examiner, a hearing had, and a decision rendered, and an appeal made to the Secretary of the Interior, and the examiner's decision was affirmed. It was a conflict between this gentleman and Mr. J. R. Jenkins, as I understand. The issue was a question of whether or not this man had water on his range to service it for a 12 months' period. I have Mr. Carl Welch, the district grazier, here and we would be glad to give you any of the details of this particular case, if you like.

The CHAIRMAN. It is an individual case, strictly so. It has been taken through all the courses afforded by law, and has gone to the Secretary of the Interior, you state, and it stands in that condition now. This committee is powerless. Our limitations are such that

we can't interfere with that judgment. I would like to do it, perhaps, if I knew the details and the facts. But I don't, and I haven't power, nor has the committee any power, even if we did know them. The only thing we can say to the Grazing Service is, use every means possible to see that justice and fair play and equity is worked out. Now, when we have said that, that is all we can say.

Mr. LEECH. We assure we will do that, Senator.

The CHAIRMAN. It is one of those cases where you have reached the end of the road, and this committee is powerless. I think nothing short of a congressional act would change the situation.

Mr. WARF. I would like to ask you if it wouldn't apply to others on the base, the same as it would apply to me?

The CHAIRMAN. I would say yes.

Mr. WARF. I know of other parties, practically in the same status, that got their allotment, by the simple reason, I guess, that the neighbors around them would not fight them; so this man fights and intervenes for me, to have a little acreage to divide up with.

The CHAIRMAN. You understand, that is a matter between two individuals, by one intervener against you. He doesn't intervene against someone else. I am powerless to say he shall or shall not intervene. He has a perfect right to, don't you see, and he has a right to pick those against whom he may intervene. He may intervene against one or a half a dozen others. It is impossible to say we could regulate that. That appears plain to you, doesn't it?

Mr. WARF. Yes, sir; that is the situation.

The CHAIRMAN. Well, I am very sorry.

Mr. WARF. Thank you.

The CHAIRMAN. There were some papers proposed for the record, from John M. Cooper, Navajo Indian Agency; sheep-dipping records, during the period when goats were killed.

Mr. STEWART. We have permission to put that in with the Investigator tomorrow morning, Mr. Chairman.

The CHAIRMAN. Very well. We have figures on the goat and sheep slaughter under the F. E. R. A.

Mr. STEWART. We would like to have the same permission for that.

The CHAIRMAN. Claude E. Wood, State land office, is to furnish us with a photostatic copy of a letter by Dr. Aberle protesting renewal of leases to ranchers.

Now, there were some letters to be produced by Mr. Brophy. He was to furnish two letters for the record.

Mr. WILLIAM BROPHY. I will have those in the hands of the investigator in the morning.

The CHAIRMAN. Very well. Thank you.

Now, ladies and gentlemen, we are about at the end of the road. In fact, we are there.

Mr. LEE. Mr. Chairman, we have finished the investigation, and I would like to say on behalf of the New Mexico Cattlemen's Association and Wool Growers' Association, we appreciate very much your bringing your committee to New Mexico, and we feel that the investigation here has brought to the attention not only of our people but also to you gentlemen in the Senate the problems we confront. I think it is only through such outstanding gentlemen as you are, and fearless, that we will be able to meet these problems and in the future be able to work out the land problem not only in New Mexico but the

West. We wish to thank you, and to say that we think that you are very fair. We hope that if we can ever be of assistance to you in the future on the problem we will be more than glad to do so. [Applause.]

Senator CHAVEZ. On behalf of the many constituents from the State of New Mexico that do not belong to any organized group but who have appeared before the committee and testified and told their own little tales of woe as they appeared to them, I want to thank you. I am sure they are satisfied with the way they were treated before the committee; not only the committee but by the different agencies of the Federal Government that have to do with the many problems of the citizenship of New Mexico. They will get cooperation and fair treatment.

The CHAIRMAN. In conclusion I deem it entirely proper to make some brief observations. Naturally I will not attempt to pass on contested matters here, which must eventually be reviewed by the full committee. It would be presumptuous on my part to assume the attitude of being the entire committee.

Nowhere in our investigations and hearings, conducted now over several years, has there been presented a labyrinth of intricate problems such as that which has been presented in the 3 days' hearings here. These questions involve human equations and human conditions that to solve will require tedious study and long-range planning. It is not a question of how many stock or livestock one individual or one group may have; it is a question, in most instances, of whether one or more have enough to sustain life. That has appealed to me all through these years. In most other hearings that we have conducted the numbers have been entirely larger than those presented here. If I may express it, the marvel is that human beings can sustain themselves on the numbers that they have disclosed in this record. Six animals on the open public domain, five animals on the open public domain, even a hundred cattle on the open public domain is, in most countries, not enough to sustain a family unit.

The involved map of the land patterns here are intricate beyond description. The overlapping of Federal agencies presents itself most emphatically here. The study is one of tremendous interest and extreme necessity for some careful solving of the problems.

There are groups here that are increasing in numbers; there are groups that are not particularly increasing; but as a whole, the population is increasing, the population of all classes. As the population increases, the problem increases. To say that this could be solved by any agency, in one fell swoop, would be to put it beyond human ability. But I am of the belief that, with some cooperation on the part of the Federal agencies in charge of administration, and with some cooperation on the part of the State of New Mexico, and with some cooperation on the part of those who are the larger users of the open public domain, the matter can be worked out. And worked out it should be. Not that anyone will ever grow rich out of it, but that humanity may have a chance, individually, to sustain itself, as the years go on. [Applause.]

We wish to express, at the conclusion of the hearings, our sincere gratitude to everyone who represents the departments here. We have had cooperation, a cordiality, and a fine spirit prevailing throughout all the hearings. We have had the Grazing Service, the Forest Service,

the Park Service, and all of these services, and the Land Office, and all of the other services, who have had their experts and their well-trained men attending these hearings; and we have called on them for assistance; and whenever we have called on them for advice, we had it. The Indian Service, likewise, and all departments, have come forward with advice and information.

I want to express my personal gratitude to Mr. Stewart for the candor, the frankness, with which he answered the questions that were propounded to him. I think it was commendable. In many instances he answered the questions in a way that brought reflection, perhaps, upon his own department; but he did it fearlessly, and he did it frankly, and it was a refreshing instance of a fine, upstanding individual who did not fear to take a little criticism if it was coming his way.

With that, and with our gratitude, we leave tomorrow morning, on the Chief, for Washington, to go back to the Congress. Again, we are all grateful to all who have attended this meeting here. It has been the best-attended meeting we have ever had, since this committee was created; and we like the interest you have taken. We like the interest that the community has taken in it; and especially we like the fair comments that have come of this hearing and about this hearing from the press of this city. They have been fair and frank and candid all the way through.

The meeting stands adjourned.

(Adjournment 10:45 p. m.)

×

ADMINISTRATION AND USE OF PUBLIC LANDS

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON PUBLIC LANDS AND SURVEYS
UNITED STATES SENATE
SEVENTY-EIGHTH CONGRESS

FIRST SESSION

PURSUANT TO

S. Res. 241

(76th Congress—Extended by S. Res. 39, 78th Congress)

RESOLUTIONS AUTHORIZING THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS TO MAKE A FULL
AND COMPLETE INVESTIGATION WITH
RESPECT TO THE ADMINISTRATION
AND USE OF PUBLIC LANDS

PART 11

SALT LAKE CITY, UTAH

NOVEMBER 19, 1943

Printed for the use of the Committee on Public Lands and Surveys



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1944

COMMITTEE ON PUBLIC LANDS AND SURVEYS

CARL A. HATCH, New Mexico, *Chairman*

ROBERT F. WAGNER, New York
JOSEPH C. O'MAHOONEY, Wyoming
JAMES E. MURRAY, Montana
PAT MCCARRAN, Nevada
CHARLES O. ANDREWS, Florida
MON C. WALLGREN, Washington
ABE MURDOCK, Utah
EDWIN C. JOHNSON, Colorado

GERALD P. NYE, North Dakota
CHAN GURNEY, South Dakota
RUFUS C. HOLMAN, Oregon
JOHN THOMAS, Idaho
RAYMOND E. WILLIS, Indiana
EDWARD V. ROBERTSON, Wyoming

W. H. McMains, *Clerk*

N. D. MCSHERRY, *Assistant Clerk*

SUBCOMMITTEE ON SENATE RESOLUTION 241 (76TH CONG.)

PAT MCCARRAN, Nevada, *Chairman*

CARL A. HATCH, New Mexico
JAMES E. MURRAY, Montana
CHARLES O. ANDREWS, Florida
MON C. WALLGREN, Washington
ABE MURDOCK, Utah

GERALD P. NYE, North Dakota
RUFUS C. HOLMAN, Oregon

E. S. HASKELL, *Chief Investigator*
ELIZABETH HECKMAN, *Secretary*

CONTENTS

Statement of—	Page
Backman, Gus P.....	3542
Balsley, E. W.....	3635
Blackner, A. E.....	3625, 3657
Brewster, Burt B.....	3614
Brown, A. S.....	3512, 3539, 3582, 3601, 3619
Bundy, Ora.....	3545
Champ, Frederick P.....	3639
Fjeldsted, E. J.....	3638
Hauptman, C. A.....	3616
Havell, Thomas C.....	3523, 3526, 3605, 3624, 3644, 3656
Hooper, James A.....	3544
Kneipp, L. F.....	3642
Laskey, F. G.....	3628
Leech, J. H.....	3623
Leonard, Ross.....	3640
McCarthy, W. S.....	3548, 3621
Mackenzie, A. G.....	3541
Melich, Mitchell.....	3603
Montgomery, L. C.....	3622
Morgan, N. G., Jr.....	3587, 3606, 3631
Olsen, O. A.....	3642
Patterson, Knox.....	3525, 3589, 3624, 3650
Plumhof, H. J.....	3624, 3646, 3657
Severy, C. L.....	3579
Taylor, Eli F.....	3644
Trauerman, Carl J.....	3606
Woolley, Ralph R.....	3615

III

THE LIBRARY OF THE
APR 10 1944
UNIVERSITY OF ILLINOIS

Digitized by Google

ADMINISTRATION AND USE OF PUBLIC LANDS

FRIDAY, NOVEMBER 19, 1943

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS,
Salt Lake City, Utah.

The subcommittee met at 10 a. m. in the Rose Room of the Newhouse Hotel.

Present: Senator Pat McCarran (chairman), United States Senator from Nevada, and Senator Abe Murdock, from Utah.

Also present: E. S. Haskell, special investigator.

Thereupon the following proceedings were had:

Senator McCARRAN. This meeting will come to order. If there are those outside of the meeting room who want to attend, will somebody kindly announce that the meeting has been called? The reason for that is that time is exceedingly precious. We want to utilize every moment possible.

This meeting is called by the subcommittee of the Committee on Public Lands of the United States Senate under Resolution 241, Seventy-sixth Congress, and subsequent resolutions.

Resolution 241 authorizes and directs a subcommittee of the Committee on Public Lands and Surveys of the Senate to investigate matters pertaining to the acquisition, the withdrawal, and the administration of the open public domain.

There is a uniform rule in the Committee on Public Lands that whenever a hearing is held in a State having a member on this subcommittee the member who lives in the State, and who represents the State, shall be the presiding officer at the meeting.

Therefore, this meeting will be conducted under the guidance of our very able colleague, Senator Murdock, of Utah. I am now turning the meeting over to Senator Murdock to chairman the meeting during the course of these hearings.

I just want to say one thing further before I give up the gavel—it is a funny-looking gavel but it is all right. I must leave here this evening. I shall remain during the entire day to assist Senator Murdock, but it is just absolutely imperative that I depart for other places this evening. We will utilize every hour and every minute of the time. We hope that those who have remarks to make will address themselves specifically to the subject at hand, and we will proceed accordingly. Senator Murdock.

Senator MURDOCK. Mr. Chairman—

Senator McCARRAN. You are now the chairman.

Senator MURDOCK. In behalf of the people of Utah, and Utah's Governor, we want to express, first, our gratitude to you for coming

here and bringing your committee to listen to the problems and questions that may be presented here.

I want to say this, that there is no man in the Senate of the United States today who is more conversant and more sympathetic and more aggressive on western problems, whether they are livestock, mining, grazing, or whatnot, than the senior Senator from Nevada, the Honorable Pat McCarran. This makes the second hearing that he has held in Utah while I have been a member of his committee, and I know that coming here at this time is a real sacrifice on his part, but we are delighted, Senator McCarran, to have you here, and very grateful to you for coming.

Our question this morning, that is, the first question that we will consider, is the Executive order which resulted in the withdrawal of approximately 3,000,000 acres of the public domain in Grand and San Juan Counties. I think the great bulk of the land is in Grand County, but I am informed that part of it extends into San Juan County.

We called on the Grazing Service, and Mr. A. S. Brown, chairman of the Publicity and Industrial Commission of the State of Utah, to arrange our hearings for us; that is, to arrange the place of the hearing and the reporter and for witnesses. We take this opportunity, Mr. Brown and Mr. Leech, we thank you for the very splendid cooperation we have had from you.

I think Mr. Brown has prepared a list of witnesses who want to appear and to be heard on the question I have referred to. Mr. Brown is with us. We will ask you, Mr. Brown, to present the witnesses in the order that you think they should appear.

STATEMENT OF A. S. BROWN, CHAIRMAN, DEPARTMENT OF PUBLICITY AND INDUSTRIAL DEVELOPMENT, SALT LAKE CITY, UTAH

Mr. BROWN. Mr. Chairman, I furnished that list but I think perhaps it would be better as we go along for you to call the names as we proceed. It is designated on the list what their business is, so that there will be no trouble I think, but after I am through testifying myself I will be here ready to serve in any way that I can, in order to expedite the meeting.

Senator MURDOCK. Before you begin, Mr. Brown, may I say that cards will be passed among the audience here for the purpose of registering. We hope that everyone of you will put your name and address on one of these cards, so we will know who is here. Those who register will be provided with copies of the record after it is printed. (Those who registered are as follows:)

LIST OF PERSONS PRESENT AT SALT LAKE CITY, UTAH, HEARING, 1943

J. Pratt Allred, Fillmore, Utah.

Gus P. Backman, Salt Lake City, Utah.

Reed W. Bailey, 1061 Twenty-fifth Street, Ogen, Utah.

H. W. Balsley, Moab, Utah.

Burt B. Brewster, Mining and Contracting Review, Salt Lake City, Utah.

A. S. Brown, chairman, Department of Public and Industrial Development, 210 Dooly Building, Salt Lake City, Utah.

Ora Bundy, vice president, National Reclamation Association, Salt Lake City, Utah.

- Albert M. Buranek, Utah State Department of Publicity and Industrial Development, 210 Dooly Building, Salt Lake City, Utah.
- George M. Cannon, 623 Continental Bank Building (attorney for Howells Livestock, Inc.), Salt Lake City, Utah.
- Frederick P. Champ, Logan, Utah.
- H. T. Cheney, Utah Metal Mine Operators Association, 918 Kearns Building, Salt Lake City, Utah.
- Charles DeMoisy, grazing inspector, United States Forest Service, Ogden, Utah.
- J. D. Dillard, Box 215, Moab, Utah.
- E. J. Fjeldsted, secretary, Chamber of Commerce, Ogden, Utah.
- J. Whitney Floyd, extension forester, United States A. C., Logan, Utah.
- A. W. Gabbey, Square G Ranch, Jenny Lake, Jackson Hole, Wyo.
- Mrs. A. W. Gabbey, Square G Ranch, Jenny Lake, Jackson Hole, Wyo.
- C. A. Hauptman, United States Geological Survey, Salt Lake City, Utah.
- Thomas C. Havell, General Land Office, Washington, D. C.
- Knute Hill, superintendent, Uintah-Ouray Indian Agency, Fort Duchesne, Utah.
- William A. Hilton, Chief Counsel, Grazing Service, 401 Walker Bank, Salt Lake City, Utah.
- Charles T. Hohenthal, field examiner, Branch of Field Examination, General Land Office, 355 Federal Building, Salt Lake City, Utah.
- James A. Hooper, secretary, Utah Wool Growers Association, 408 Beneficial Life Building, Salt Lake City, Utah.
- Lee Kay, Utah State Fish and Game Department, State Capitol Building, Salt Lake City, Utah.
- Don E. Kenney, State board of agriculture, Salt Lake City, Utah.
- L. F. Kneipp, Assistant Chief (also representing Department of Agriculture), Forest Service, Washington, D. C.
- F. C. Koziol, forest supervisor, Wasatch National Forest, 465 Federal Building, Salt Lake City, Utah.
- F. G. Laskey, United States Geological Survey, Salt Lake City, Utah.
- J. H. Leech, Acting Director, Grazing Service, Department of the Interior, Salt Lake City, Utah.
- Ross Leonard, director, Utah Fish and Game Commission, Salt Lake City, Utah.
- Joseph F. Livingston, Craig, Colo.
- Tom Lyon, 818 Kearns Building, Salt Lake City, Utah.
- W. S. McCarthy, 1451 Arlington Drive, Salt Lake City, Utah.
- A. G. Mackenzie, manager, Utah Metal Mine Operators Association, Kearns Building, Salt Lake City, Utah.
- Spencer W. Madsen, 1659 East 3350 South, Salt Lake City, Utah.
- Frank G. Martinez, Richfield, Utah.
- R. N. McIntosh, Fillmore, Utah.
- Dalton Meeks, Moab, Utah.
- Mitchell Melich, attorney at law, Moab, Utah.
- L. C. Montgomery, Heber City, Utah.
- Charles F. Moore, regional grazier, Grazing Service, Salt Lake City, Utah.
- N. G. Morgan, Jr., 210 McIntyre Building, Salt Lake City, Utah.
- O. A. Olsen, Regional Forester, Ogden, Utah.
- Knox Patterson, attorney at law, Boston Building, Salt Lake City, Utah.
- John Q. Peterson, 1032 South Seventeenth East, Salt Lake City, Utah.
- Henry J. Plimhof, commissioner, department of publicity and industrial development, Salt Lake City, Utah.
- George W. Reid, 57 North Ninth West, chief warden, State fish and game commission, Salt Lake City, Utah.
- D. R. Seeley, Vernal, Utah.
- H. E. Seeley, Vernal, Utah.
- O. L. Severy, Bureau of Mines, Salt Lake City, Utah.
- David G. Smith, 1433 Richards Street, Salt Lake City, Utah.
- Tony Smith, 96 Virginia Street, Salt Lake City, Utah.
- Walter T. Smith, 1660 Harrison Avenue, Salt Lake City, Utah.
- Leon S. Stanley, civil engineer, 129 F Street, Salt Lake City, Utah.
- John Stewart, 925 South West Temple Street, Salt Lake City, Utah.
- Glen C. Stewart, president, West Millard Wildlife, Delta, Utah.
- Ell I. Taylor, Salt Lake City, Utah.
- George Thomas, University of Utah, Salt Lake City, Utah.
- Carl J. Trauerman, mining engineer (secretary-manager, Mining Association of Montana), Butte, Mont.
- B. L. Turpin, fish and game department, State Capitol Building, Salt Lake City, Utah.

H. A. Tyzack, Vernal, Utah.

N. F. Waddell, regional field examiner, General Land Office, Salt Lake City, Utah.

H. B. Waters, president, Telluride Power Co., 1309 Walker Bank Building, Salt Lake City, Utah.

Ralph R. Woolley, United States Geological Survey, Salt Lake City, Utah.

Senator MURDOCK. Mr. Brown, we will hear you now. You may proceed in your own way.

MR. BROWN. Mr. Chairman and ladies and gentlemen, I have in my hand here a copy of the General Land Office Public Land Order No. 130, which I later will introduce into the testimony here and will mark for identification purposes as "Exhibit B." This states:

Subject to valid existing rights, the public lands in the following-described areas are hereby temporarily withdrawn from settlement, locating, sale, and entry, and reserved for classification and for prospecting and development under the mineral-leasing laws:

The areas described, including both public and nonpublic lands, aggregate approximately 2,977,700 acres.

Ralph R. Woolley, United States Geological Survey, Salt Lake City, Utah.

Governor Maw was to have been here this morning. He is keenly interested in this matter and very much opposed to the land withdrawal; but he was called back to a meeting of the executive committee of the Governors' Conference in Chicago and was unable to be present; so he asked me to represent him.

I do not know exactly what he would have said, but I have in my hand here, and will introduce it, to be marked "Exhibit A" for purposes of identification, a resolution which was introduced by Governor Maw at the Governors' Conference of Western and Southern Governors at Denver, Colo., on September 17 and 18, 1943.

At that Governors' Conference there were 23 Governors present. This is the text of the resolution:

Whereas under date of May 28, 1943, the Secretary of the Interior executed Order No. 130 withdrawing approximately 3,000,000 acres of lands in Grand and San Juan Counties, Utah, from entry for mineral development and homesteading; and

Whereas said order was issued without the knowledge of the general public and without granting the opportunity of a hearing to the people of the immediate area, State and county officials primarily concerned. Now, therefore, be it

Resolved, That we are unalterably opposed to the practice of Federal agencies secretly withdrawing such lands by Executive order and believe that the interests of the people of the public-lands States can best be served only if such activity is immediately discontinued and that such withdrawals be properly effected only by an act of Congress which will provide for public hearing and debate where the rights of all parties concerned may be adequately considered; be it further

Resolved, That we are opposed to the extension of the leasing system as applied to mineral deposits as a means of circumventing the mining laws of the States; be it further

Resolved, That a copy of this resolution be sent to President Roosevelt.

MR. BROWN. For the sake of the record, I am introducing a copy of General Land Office Public Land Order 130, Utah. (See exhibit B, p 3521.)

This is the order which attempts to withdraw approximately 2,977,700 acres of Government land in Grand and San Juan Counties, Utah. The date of this order is May 26, 1943, but it was not filed until July 23, 1943, and published in the Federal Register, Saturday, July 24, 1943.

On July 30, 1943, immediately after I was advised of this order No. 130, I wired Senator Abe Murdock, of Utah, as follows:

Public Land Order No. 130, General Land Office, withdraws approximately 3,000,000 acres of lands in Grand County. Will appreciate it if you can find out why and advise.

Senator Murdock, soon after, advised that he had taken the matter up with the Department, and they had offered some sort of an explanation which was not at all satisfying to me. Consequently, on August 23, 1943, I wired Harold L. Ickes, Secretary of the Interior, as follows:

Would appreciate full explanation of Public Land Order No. 130 to General Land Office withdrawing approximately 3,000,000 acres of land in Grand and San Juan Counties, Utah. We are having numerous requests for information in regard to the cause of this order. Would appreciate prompt reply by wire.

On August 25, 1943, having had no answer to my wire to Secretary Ickes, I wired Fred Johnson, Commissioner of the General Land Office, Washington, D. C., as follows:

Our Department requested by Governor to make complete analysis of order issued by Secretary of the Interior known as Public Land Order No. 130, withdrawing nearly 3,000,000 acres of public lands in southern Utah for classification. We feel our people entitled to complete understanding as to causes and effects of this order. If made for purpose of protecting people of Utah and United States from having area monopolized for purpose of retarding development, there is no objection, but if this order will discourage development of the area by private enterprise or take for the Federal Government interests which naturally would reflect to advantage of State or communities close to this area, we naturally would protest. Feel that in interest of harmony and cooperation between State and Government we should be fully apprised of all purposes and conditions surrounding withdrawal so we may appraise effects from standpoint of State. Am sure full open complete frank statement would benefit both our State and Nation. I wired Secretary Ickes Monday but have not yet received reply. Please wire collect, followed by full letter of explanation and our people will appreciate it.

On August 27, 1943, I received the following wire from Fred Johnson:

A. S. BROWN,

*Chairman, State Department of Publicity and Industrial Development,
Salt Lake City, Utah.*

Retel 26 Public Land Order 130 protects development Utah's strategic war minerals against filing of nonmetalliferous mining locations. Withdrawal only temporary pending classification of lands and does not preclude mineral leasing operation. Letter follows.

JOHNSON, *Commissioner.*

When the letter mentioned in Johnson's wire did not reach me promptly, I again wired Commissioner Fred Johnson, of the General Land Office, on September 1, 1943, as follows:

Letter promised by your wire August 27 not received. There is a violent storm of protest brewing in Utah which might be stopped by full disclosure of facts and reasons for order 130. Please air mail letter and make it complete in every detail.

On September 7, 1943, I received two letters, one from Fred Johnson, Commissioner, General Land Office, and one from Oscar L. Chapman, Assistant Secretary of the Interior. These letters are dated, September 4, 1943, and both were sent by air mail, addressed to me. The opening paragraph in the letter from Fred W. Johnson says:

This is in reply to your telegram of September 1 requesting complete information concerning Public Land Order No. 130.

The first paragraph in the letter from Oscar L. Chapman says :

Secretary Ickes has asked me to reply to your telegram of August 23, 1943, requesting information concerning Public Land Order No. 130.

From that point on the letters are identical in their wording. One signed by Mr. Chapman and the other signed by Mr. Johnson.

This convinced me that there was a "nigger in the wood pile" somewhere, and that someone, higher up, was telling Mr. Johnson and Mr. Chapman just exactly what they could say and what information they could pass on to us. I am introducing these two letters into the record. They do not contain any specific information to tell anything definite or worthwhile about the meaning of the order. In fact, I gained the distinct impression that their main idea was to throw out a "smoke screen" and then get behind it. It was clearly evident that somebody in the Interior Department in Washington was framing up something, through order No. 130, which they did not wish to have the people of Utah know about. Consequently, every word that was sent out from that office was censored. (See exhibits C and D, pp. 3521-3522.)

I do not charge anybody with criminal conspiracy, but I do say that evidently, in the Interior Department, they do not think that the people of Utah know what is best for them in regard to the handling of the public lands within the confines of the State of Utah. They want to tell us just what is good and what is bad for us. Paternalism in government raised to the *n*th degree. It is just another of the many examples we have had of bureaucratic practices and tendencies, indicating that the members of these departments in Washington think they know more about the people's business than the people themselves, and they are going to run our affairs for us whether we like it or not. I approached this matter with them in a very conciliatory frame of mind, and offered to cooperate, if they would give us full information in regard to the intent and purpose of the order; but they treated me, a State officer, charged with developing the natural resources of the State, like I was a small boy who had to be told just what was good and what was bad; and I'll admit, I don't like to be treated that way. I think there should be cooperation between National and State Government, instead of having the National Government try to do all the thinking and dictating.

The most objectionable and humiliating feature of this whole affair is that busy men, cattlemen, sheepmen, mining men, men busy trying to do their part to win the war, have to stop their work and come in here to this hearing, in order to protect their highly essential business interests, and see to it that their own Government doesn't take away from them their ways and means of making a living.

None of us really knows what this is all about, and they won't tell us.

In our protests, we have to guess more or less what it means and what they are trying to do.

We are shooting with a shotgun when we ought to be shooting with a rifle.

I offer the following statement as my best guess as to the aims and effects of order No. 130.

MEMORANDUM IN RE: PUBLIC LAND ORDER No. 130

WITHDRAWAL ORDER

On April 24, 1943, by Executive Order 9337, the President undertook to make a blanket delegation to the Secretary of the Interior of authority to withdraw or reserve public lands, under the authorization vested in the President by the act of June 25, 1910. Acting under this attempted delegation of authority, the Secretary of the Interior, on May 26, 1943, by Public Land Order 130, "temporarily withdrew from settlement, location, sale, and entry, and reserved for classification and for prospecting and development under the mineral-leasing laws" an area of 2,977,700 acres in Grand, San Juan, Wayne, and Garfield Counties, Utah.

EFFECT OF THE WITHDRAWAL

Although the withdrawal order refers to a reservation "for prospecting and development under the mineral-leasing laws," no withdrawal was needed to make operative the mineral leasing laws in the withdrawn area. These lands before, as after the withdrawal, were subject to prospecting and development under the mineral-leasing laws.

The withdrawal under the Taylor Grazing Act, and the inclusion of this entire area within grazing districts, under this act, precluded the filing or allowance of any nonmineral entries without specific approval of the Interior Department.

Even under the withdrawal order, mining locations for metalliferous minerals may be made under the mining laws.

The practical effect of the withdrawal order was, thus, to prevent the location of mining claims for valuable nonmetalliferous minerals.

PURPOSE OF THE WITHDRAWAL

Both Assistant Secretary of the Interior, Oscar L. Chapman, and Commissioner of the General Land Office, Fred W. Johnson, have stated that the withdrawal "was issued as a measure of protection to the State and the Nation in order to assure the future development of strategic leasing minerals needed for successful prosecution of the war."

The Assistant Secretary and the Commissioner have each further stated:

"Had this order not been issued, opportunity to contribute important leasing minerals to the winning of the war from these public domain lands within the State might have been frustrated by the filing of locations for nonmetalliferous surface minerals of relatively little value compared to the strategic leasing minerals which are believed to occur at substantial depth.

"The withdrawal is designed to protect the interest of the State and the Nation in oil, gas, potassium, sodium, and minerals associated therewith, which are subject to lease under the mineral-leasing laws. The effect of the order is to encourage and promote the development of these minerals without interference by persons who might attempt to locate unimportant surface minerals under the mining laws."

The records of mining locations of the affected counties fail to show any basis for the expressed fear of frustration of opportunity or interference with development of oil and gas or potassium and associated minerals by reason of mining locations for nonmetalliferous "unimportant surface minerals."

A valid location of a mining claim requires more than a mere posting and recording of a notice. It requires a valid discovery of a valuable mineral. Regardless of the filing of a mining location, the Interior Department retains jurisdiction to investigate and determine the good faith and validity of any mining location. The Interior Department has authority to prevent the acquisition of minerals, subject to the mineral leasing laws, through any subterfuge of location of nonmetalliferous mineral deposits of slight value. The mere possibility of the filing of mining locations for nonmetalliferous minerals is not limited to the Utah area withdrawn. This offered reason would afford equal "justification" for blanket withdrawals of public lands throughout Utah and throughout other public land States, unless this withdrawn area is thought

to be unusually replete with valuable nonmetalliferous minerals, subject in discovery to valid location under the mining laws.

If this Utah area is outstanding in this regard, even greater seriousness appears to the preclusion of development of discovered valuable nonmetalliferous minerals on the mere possibility that other minerals may exist and, at some future time, be found at substantial depth underlying the lands so located.

The areas within the withdrawal limits presently considered most likely to contain oil and gas, or potassium and magnesium, are now covered by applications or permits or leases which, while outstanding, preclude valid mining locations either for nonmetalliferous or for metalliferous minerals. No mining location can be made, after a filing under the mineral leasing laws, which will interfere with the exercise of rights granted under such laws. The necessity of valid discoveries of valuable mineral, the requirement of good faith, and the expense of locating and maintaining mining claims practically preclude the covering of any substantial areas for "unimportant surface minerals" of little value.

A far more real interference with oil and gas prospecting throughout the West is, and has been, the repeal under sponsorship of the Interior Department, of the law authorizing the issuance of oil and gas prospecting permits with the incident reward of a discovery lease on one-fourth of the permit area at a 5 percent royalty, and the substitution of legislation limiting disposition to leases involving annual rental payments and royalties of from 12½ to 32 percent. The deterring effect of this change was recognized, and but partially removed, by Congress in the act of December 12, 1942, authorizing a flat 12½ percent royalty on oil leases where wells are brought in constituting discoveries of new fields or new deposits.

An absolute frustration of opportunity for development of potassium and minerals associated therewith was found in Order 914 of the Secretary of the Interior, dated April 5, 1935, under which all applications for potassium permits and leases were suspended. No permit or lease for potash, and associated minerals, has been issued in Utah under the mineral leasing laws since 1935, although hundreds of applications have been filed. Not until the Secretary of the Interior's order No. 1829 of June 9, 1943, was said order 914 modified so as to afford any opportunity for the development of the potassium, and associated minerals, resources in this area.

The justifications offered by Assistant Secretary Chapman and Commissioner Johnson are but general and indefinite assertions, undemonstrated, and without supporting facts.

PERIOD OF WITHDRAWAL

While Assistant Secretary Chapman and Commissioner Johnson each states: "Moreover you will observe from the text of the order itself that the withdrawal is merely a temporary safeguard which will be set aside as soon as the lands involved have been classified in accordance with conservation requirements."

Experience has shown that similar withdrawals for "classification" have been in effect for over 30 years, with no present prospect of revocation. It is difficult to conceive how, during a period of present reasonably contemplated duration of the war, the extensive prospecting and development necessary for any recovery and utilization of possible deep-seated deposits of potash and associated minerals could be made in the withdrawn area, with the possible exception of the area near Thompson, Utah, where considerable prospecting has been done on patented lands and under a State mineral lease and under Federal oil leases. Practical considerations and past experience justify serious doubts that withdrawal order 130 could have any relation to the development of strategic minerals for the winning of the war, or that such order is temporary within any commonly accepted conception of the term.

It is well known that Secretary of the Interior Ickes has sponsored, and desires, a program to prohibit future disposition of any minerals on the public domain by other than leasing—that is, Federal ownership and control of all presently undisposed of mineral resources. Congress has been, to date, unwilling to subscribe to this program.

In the enactment of the Federal Leasing Act of February 25, 1920, the House report stated, "this legislation is made necessary by certain withdrawals made

by President Taft during his administration and later by President Wilson during his administration * * * it will keep open and develop the West and * * * it will break the deadlock which has existed in the West since the withdrawals of 1909."

Can order 130 be a beginning—a "trial balloon" perhaps—of a broad withdrawal program, a program contemplated to force congressional action by tying up, in great areas, nonmetalliferous minerals not subject to the mineral-leasing laws, and creating a new deadlock? I have no doubt about it. In my judgment that is exactly what they are trying to do.

The mineral resources of the West have been developed and can best be developed, under a system of private ownership and initiative; a system which offers the prospector a chance to secure and hold ground by his own work; the pot of gold at the end of the rainbow of faith and optimism; an incentive to support the prospector's struggle and bolster his faith; an inducement to invest capital despite the uncertainties and risk of mining ventures.

The reasons for a leasing system which apply to oil and coal and potash to some other minerals subject to the mineral leasing laws do not apply generally to the mineral resources.

Conservation is, of course, a worthy object, but, in its true sense, conservation is a proper and full use. The term is too frequently misused to mean nonuse—a hoarding of resources for the future. The term "conservation" is too frequently used to cloak a socialistic philosophy—a nonfrank sponsorship of Government ownership and control.

The Utah Department of Publicity and Industrial Development is charged with fostering the development of natural resources in every part of the State of Utah. It would be surprising if this department were not concerned with the effect and clear implications of the withdrawal order above referred to. The citizens and officials of Utah, and of all public-land States, should be concerned with the exercise by the Secretary of the Interior—an official not directly responsible to the electorate—of a delegated authority in suspending the operation of public-land laws as to a substantial portion of Utah. They should be even more concerned with the existence of this delegated authority to suspend the public-land laws at will as to all public lands in all States.

The significance of the withdrawal order under discussion must be interpreted in the light of other acts, such as the recent withdrawal of lands near Jackson Hole, Wyo., as a national monument.

In my judgment the power of withdrawal of public lands, whether by direct Presidential action or exercise of a delegated authority, should be limited to strictly temporary withdrawals, for a period of not to exceed 1 year to 18 months, with congressional approval constituting a prerequisite to continued effectiveness of the withdrawal.

This right of temporary withdrawal would permit the prompt executive action necessary to meet exigencies requiring such action, but would require an accounting and justification by the executive of the action taken, and congressional approval for any long-continued suspension of the operation of the laws enacted for the disposition and management of the public lands.

I wish to put into the record the attached clipping from the Salt Lake City Tribune of Sunday, October 25, 1943:

"NEVADAN HITS MINE LEASE ACT EXTENSION

"WASHINGTON, October 24.—Senator Scrugham, Democrat, Nevada, said Sunday the Interior Department 'again is sending up trial balloons' to get the mining industry reaction to a proposal 'which would extend the present leasing act to include all mineral deposits.

" 'This proposal of the Secretary of the Interior is not new,' Scrugham said in a statement. 'It is a bugbear which is periodically raising its ugly head to plague our mining industry.

" 'It is stated in defense of a leasing system on the public domain that State and Federal revenues from mining will be increased. Perhaps those responsible for concocting this scheme have never heard of the law of diminishing returns.'

"Scrugham, chairman of a subcommittee on mining of the Senate Small Business Committee, said: 'The West wants no part of such a scheme.'

I say, "Amen."

UNITED STATES,
DEPARTMENT OF THE INTERIOR,
Washington, June 9, 1943.

ORDER No. 1829

The potash resources of the public domain have been managed so as to facilitate the domestic production of potash upon a sound basis. In furtherance of this policy, order No. 914 of April 5, 1935, suspended the granting of permits or leases under the Potash Leasing Act of February 7, 1927 (44 Stat. 1057, 30 U. S. C. sec. 281), unless delay might be detrimental to the public interest. This order is no longer deemed necessary in view of the changed conditions since its issuance, and it is hereby vacated.

To assure the prudent utilization of the potash and associated minerals in the public lands, thereby benefiting agriculture and aiding the national defense, and in order to develop the domestic potash industry, all pending applications for potash permits or leases and all such applications hereafter filed will be considered in the light of the act, the applicable regulations and the following factors:

1. The current and future need for additional development of potash and associated compounds, consistent with sound conservation principles.

2. The prospective value of the land designated in the application for other minerals, such as magnesium, aluminum, oil, and gas, whose production is essential in the public interest, and the ability of the applicant to develop and produce commercially potash and associated minerals in conformance with conservation and sound business practice, thus providing diversified development and production in the same area.

3. The decentralization of sources of production through the development of potash deposits in different areas.

4. The maintenance of competitive enterprise in the potash industry.

If by reason of one or more of these four factors, an application is considered to be in the public interest it may be granted.

Applications by lessees for additional lands may also receive favorable consideration where essential to continued operation of existing facilities.

HAROLD L. ICKES,
Secretary of the Interior.

(Exhibits referred to in preceding address by Mr. A. S. Brown:)

EXHIBIT A. RESOLUTION PASSED BY CONFERENCE OF WESTERN AND SOUTHERN GOVERNORS, DENVER, COLO., SEPTEMBER 17 AND 18, 1943.

(Twenty-three Governors were represented.)

Whereas under date of May 28, 1943, the Secretary of the Interior executed order No. 130 withdrawing approximately 3,000,000 acres of lands in Grand and San Juan Counties, Utah, from entry for mineral development and homesteading; and

Whereas said order was issued without the knowledge of the general public and without granting the opportunity of a hearing to the people of the immediate area, State and county officials primarily concerned; Now, therefore, be it

Resolved, That we are unalterably opposed to the practice of Federal agencies secretly withdrawing such lands by Executive order and believe that the interests of the people of the public lands States can best be served only if such activity is immediately discontinued and that such withdrawals be properly affected only by an act of Congress which will provide for public hearing and debate where the rights of all parties concerned may be adequately considered; be it further

Resolved, That we are opposed to the extension of the leasing system as applied to mineral deposits as a means of circumventing the mining laws of the States; be it further

Resolved, That copy of this resolution be sent to President Roosevelt.

EXHIBIT B

GENERAL LAND OFFICE

(Public Land Order 130)

UTAH

WITHDRAWING PUBLIC LANDS FOR CLASSIFICATION

By virtue of the authority contained in the act of June 25, 1910, chapter 421, 36 Statutes 847, as amended by the act of August 24, 1912, chapter 369, 37 Statutes 497 (U. S. C., title 43, secs. 141-143), and pursuant to Executive Order No. 9837 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the public lands in the following-described areas are hereby temporarily withdrawn from settlement, locating, sale, and entry, and reserved for classification and for prospecting and development under the mineral-leasing laws:

SALT LAKE MERIDIAN

Tps. 21 to 24 S., R. 15 E.
Tps. 21 to 26 S., R. 16 E., partly unsurveyed.
Tps. 21 to 32 S., R. 17 E., partly unsurveyed.
Tps. 21 to 32 S., R. 18 E., partly unsurveyed.
Tps. 21 to 32 S., R. 19 E., partly unsurveyed.
Tps. 21 to 32 S., R. 20 E., partly unsurveyed.
Tps. 21 to 32 S., R. 21 E., partly unsurveyed.
Tps. 22 to 32 S., R. 22 E., partly unsurveyed.
Tps. 22 to 37 S., R. 23 E.
Tps. 23 and 24 S., R. 24 E., partly unsurveyed.
Tps. 29 to 38 S., R. 24 E.
Tps. 23 and 24 S., R. 25 E.
Tps. 29 and 38 S., R. 25 E.
Tps. 23 and 24 S., R. 26 E.
Tps. 29 to 38 S., R. 26 E.

The areas described, including both public and nonpublic lands, aggregate approximately 2,977,700 acres.

ABE FORTAS,
Acting Secretary of the Interior.

MAY 26, 1943.

(Federal Register Doc. 43, 11800: Filed, July 23, 1943; 9:30 a. m.)
(As published in Federal Register Saturday, July 24, 1943.)

EXHIBIT C

1949750 N

UNITED STATES DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington 25, D. C., September 4, 1943.

MR. A. S. BROWN,
*Chairman, State Department of Publicity and
Industrial Development, Salt Lake City, Utah.*

MY DEAR MR. BROWN: This is in reply to your telegram of September 1 requesting complete information concerning public land order No. 130.

This order provided for the temporary withdrawal of approximately 3,000,000 acres of land in Utah from settlement, location, sale, and entry under the public-land laws, including locations under the United States mining laws for non-metalliferous minerals, and was issued as a measure of protection to the State and the Nation in order to assure the future development of strategic leasing minerals needed for the successful prosecution of the war. Prospecting and development for minerals subject to lease under the leasing laws is expressly authorized by the terms of the order. Had this order not been issued opportunity to contribute important leasing minerals to the winning of the war from these public-domain lands within the State might have been frustrated by the filing of locations for nonmetalliferous surface minerals of relatively little value

compared to the strategic leasing minerals which are believed to occur at substantial depth.

The withdrawal is designed to protect the interest of the State and the Nation in oil, gas, potassium, sodium, and minerals associated therewith, which are subject to lease under the mineral-leasing laws. The effect of the order is to encourage and promote the development of these minerals without interference by persons who might attempt to locate unimportant surface minerals under the mining laws. You may feel assured that the order does not preclude in any way the filing of applications for permits and leases covering the leasable minerals.

Moreover, you will observe from the text of the order itself that the withdrawal is merely a temporary safeguard which will be set aside as soon as the lands involved have been classified in accordance with conservation requirements. I am confident you will agree that the task of making essential minerals available for the winning of the war is of paramount importance and far outweighs any possible inconvenience which may result to private persons affected by the order.

Very truly yours,

FRED W. JOHNSON, *Commissioner.*

Received September 7, 1943. Department of publicity and industrial development.

EXHIBIT D

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., September 3, 1943.

Mr. A. S. BROWN,
*Chairman, Department of Publicity and Industrial Development,
Salt Lake City, Utah.*

MY DEAR MR. BROWN: Secretary Ickes has asked me to reply to your telegram of August 23, requesting information concerning public land order No. 130.

This order provided for the temporary withdrawal of approximately 3,000,000 acres of land in Utah from settlement, location, sale, and entry under the public-land laws, including mining locations under the United States mining laws for nonmetalliferous minerals, and was issued as a measure of protection to the State and the Nation to assure the future development of strategic leasing minerals needed for the successful prosecution of the war. By the terms of the order prospecting and development under the mineral-leasing laws is expressly authorized. Had this order not been issued, opportunity to contribute to the production of the leasing minerals from these public-domain lands within the State might have been frustrated by the filing of locations for nonmetalliferous surface minerals of relatively little value compared to the important leasing minerals which are believed to occur at substantial depth.

The withdrawal is designed to protect the interest of the State and the Nation in oil, gas, potassium, sodium, and minerals associated therewith, which are subject to lease under the mineral-leasing laws. The effect of the order is to encourage and promote the development of these minerals without interference by persons who might attempt to locate nonmetallic surface minerals under the mining laws. You may feel assured that the order does not affect in any way the right of applicants to file for permits or leases under the mineral-leasing laws. Moreover, you will observe from the text of the order itself that the withdrawal is merely a temporary safeguard which can be set aside as soon as the lands involved have been classified in accordance with conservation requirements.

I trust that the foregoing will satisfactorily explain the purpose of this withdrawal.

Sincerely yours,

OSCAR L. CHAPMAN,
Assistant Secretary.

Received September 7, 1943. Department of publicity and industrial development.

Senator MURDOCK. The very purpose of a meeting of this kind, under the rules established by our distinguished chairman, is to afford every

person in the room an opportunity to question any witness who makes a statement. Now, if any of the officials here from the Interior Department, or any other department, or any other person in the room, has any question to submit to Chairman Brown of the publicity and industrial development commission, you now have that opportunity. Are there any questions?

Mr. THOMAS C. HAVELL (of the General Land Office). I presume there are to be other witnesses on this general subject.

Senator MURDOCK. That is true.

Mr. HAVELL. It may be necessary later, and I may ask the privilege to make a statement as to the attitude of the Department in connection with this withdrawal, but I have no question to ask at the present time.

Senator MURDOCK. We will hear you later, Mr. Havell. Does anyone in the audience have any questions to submit to Mr. Brown?

Apparently not, Mr. Brown.

Mr. Burt Brewster, we will hear from you. State your name.

STATEMENT OF BURT B. BREWSTER, THE MINING AND CONTRACTING REVIEW, SALT LAKE CITY, UTAH

Mr. BREWSTER. Burt B. Brewster. Owner and publisher of the Salt Lake Mining and Contracting Review.

Senator MURDOCK. All right, Mr. Brewster, you may proceed in your own way.

Mr. BREWSTER. Senator Murdock and Senator McCarran, since, as an engineer of mines, I have devoted the past 32 years to the mining industry, with the first 21 years of that period to equipping mines, from Mexico to Nome, and the last 10 years to studying the problems of mining, particularly the problems imposed by legislation and bureaucratic action, I do not feel that I am presumptuous in appearing before this committee.

My statement will be confined to the recent somewhat stealthy withdrawal of 3,000,000 acres of public lands in southern Utah. Officially, this withdrawal was labeled "General Land Office, Public Land Order 130, Utah, Withdrawing Public Lands for Classification."

I contend that the order was illegally drawn and stealthily executed, for the following reasons:

1. "Stealthily executed" because dated May 26 but not filed for public notice until July 23, both dates referring to 1943.

2. "Illegally drawn" for the following reasons: Public land order 130 was couched in the following English:

By virtue of the authority contained in the act of June 25, 1910, chapter 421, 36 Statutes 947, as amended by act of August 24, 1912, chapter 369, 37 Statutes 497 (U. S. C., title 43, secs. 141-143) and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the public lands in the following areas (indicated on map displayed at this hearing) are hereby withdrawn from settlement, location, sale, and entry, and reserved for classification and for prospecting and development under the mineral-leasing laws.

Order No. 130 was signed by one Abe Fortas, Acting Secretary of the Interior.

What was the nature of Executive Order No. 9337 of April 24, 1943? Examination of the record reveals that it superseded Executive Order No. 9146 of April 24, 1942, which authorized the Secretary of the Interior to sign all orders withdrawing or reserving lands, and so forth.

But note what Executive Order No. 9337 (issued a year later) did to Executive Order No. 9146. Signed by President Roosevelt, order No. 9337 bestowed upon the Secretary of the Interior the right to withdraw or reserve lands to the same extent that such lands might be withdrawn or reserved by the President himself. That is, the authority to sign was changed to the right to promulgate such orders.

Since Executive Order No. 9337 was issued "by virtue of the act of June 25, 1910, as amended by the act of August 24, 1912," it becomes necessary to examine both of these acts.

The act of June 25, 1910, gave the President the right to make withdrawals of public lands but specified (note well)—

that all lands withdrawn under the provisions of the act shall at all times be open to exploration, discovery, occupation, and purchase under the mining laws of the United States, so far as the same apply to minerals other than coal, oil, gas, and phosphates.

The act of August 24, 1912, which amended the act of June 25, 1910, says:

All lands withdrawn be open to exploration, discovery, and purchase under the mining laws of the United States, so far as the same apply to metalliferous minerals.

Returning to order 130, under which the 3,000,000 acres of public domain in Utah were withdrawn, it will be noted that the order withdrew the land and reserved it for prospecting and development "under the mineral-leasing laws." I call your attention to the use of the words "mineral-leasing laws" instead of "mining laws," as provided in all the statutes upon which order No. 130 is predicated. The words "mineral-leasing laws" do not appear in the statutes upon which the order is based.

It is also a fact that there is no statute in existence that authorizes either the President or the Secretary of the Interior to grant a lease or prospecting permit on any lands for any substance not provided for in the act of 1920, an act not mentioned in the cited authority for the Utah withdrawal order, and an act which does not deal with ordinary metalliferous deposits.

In conclusion: From the foregoing it would appear that order 130, withdrawing the 3,000,000 acres of Utah land, is not legally drawn, because it assumes certain authority which is not provided for in the statutes upon which it is predicated; and, further, there is grave doubt that in enacting the statutes relating to the withdrawal of public lands that the Congress intended that the President could, under the provisions of the acts, delegate his executive authority *carte blanche* to the Secretary to withdraw lands at will, in the absence of a formal Executive order of withdrawal, something Ickes and his subordinates appear to have been doing for some time.

In closing, it is my sincere belief that the steadily and legally questionable withdrawal of 3,000,000 acres of Utah land, and all its ramifications, are worthy of special congressional action. And, if by some loophole, order 130 can be stamped "legal," that Congress in-

augurate legislation calculated to protect the States and the citizens of the United States from the erratic acts of more or less ignorant and unprincipled promulgators of facistic orders and manifestos.

Senator MURDOCK. I take it you do not object to submitting yourself for interrogation?

Mr. BREWSTER. No, sir.

Senator McCARRAN. You are familiar with the character of the land withdrawn?

Mr. BREWSTER. Fairly, yes.

Senator McCARRAN. From the standpoint of its being mineral or nonmineral?

Mr. BREWSTER. It is very much mineralized.

Senator McCARRAN. That is what I want to find out—the nature of the land. I understand it is depicted on the board over here, as it is located geographically. The green on the map represents the land withdrawn, approximately?

Mr. BREWSTER. Yes, sir.

Senator McCARRAN. Someone has stated, in my presence, that this tract of land is apparently much given to shale and shale deposits. Is that true?

Mr. BREWSTER. There is a considerable amount of shale on the surface, yes, sir; on various parts.

Senator McCARRAN. Have any minerals other than metal been discovered?

Mr. BREWSTER. Yes; magnesium and potassium, in lands adjoining, and no doubt extend into that area. There are copper deposits. The LaSal district is copper. There is no proof that the copper has not extended into that particular part that is withdrawn.

Senator McCARRAN. Have shale locations, placer locations, been laid over any of this section?

Mr. BREWSTER. That I don't know.

Senator McCARRAN. Does anyone here in the room possess that information?

Mr. KNOX PATTERSON. What was that question?

Senator McCARRAN. Have shale locations, or placer locations covering shale, been lain over this section?

Mr. PATTERSON. Yes, very recently.

Senator MURDOCK. Will you state your name so we will have it for the record?

Mr. PATTERSON. Knox Patterson. I am very familiar with all that country.

Senator McCARRAN. Thank you. I will address my questions to you now, for just a moment, Mr. Patterson:

How extensive is the information, or the evidence, that shale exists in that particular locality that has been withdrawn?

Mr. PATTERSON. There are all characters of formations there. It is not limited to shale in any sense of the word. Throughout that area there are hundreds, perhaps thousands, of particular locations of vanadium and uranium and coal and other metals, gold, silver, copper. There are minerals of various kinds, the same minerals you will find everywhere.

Right now, at Monticello, Utah, there is a large vanadium mill being operated by the Government, producing tons and tons of vanadium

for the Government. That extends over that entire area, and other lands, clear to Colorado.

Senator McCARRAN. The reason I propound the question as I do—please understand that I am not familiar with the locality, and that I have only heard some rumors as to why this Executive order may have been promulgated. I am looking for an answer to the question from those who know. We may propound questions, from time to time, during the day. This statement has been made in my presence here, not by anyone in authority, however, that the withdrawal was primarily promulgated because there was rather a rush in there to cover the open public domain with placer locations, looking to the control of shale.

Mr. PATTERSON. And magnesium.

Senator McCARRAN. And magnesium; yes; that may be true, but the shale was the thing mentioned.

Mr. PATTERSON. I don't know what they claim for it, but there have been numerous filings of shale lands. What they claim for it, I don't know exactly.

Senator McCARRAN. At the present time it may be observed here—and I say this just in passing—that our oil reserves in the West are rapidly being depleted, according to the best advice we can get. Just recently the O'Mahoney bill went through the Senate, providing that the Bureau of Mines, or other agencies of the Government, will set up testing plants, and establish the possibility of successfully treating and reducing synthetic oil from shale, and that has given an impetus to a new activity for the acquisition of open public domain possessing shale. The excuse was given to me, unofficially—entirely unofficially—and from one official, then, that the Government sought to make reserves out of these lands, thus to protect the Government in the matter of getting additional oil.

There isn't any question, Mr. Chairman, but what in the very near future the United States Government is going to have to look for oil from other sources in the West, because, when the war really gets into the Pacific—in my individual judgment it has not reached into the Pacific at all yet—but when it really gets going in the Pacific we are going to have to have greater reserves of oil than we now seem to have for the future.

I am just wondering if the suggestion that was made to me unofficially has any real significance. That is the reason I am asking these questions.

Mr. PATTERSON. Referring to shale land, there are no oil shale lands in that section. Getting farther north there may be.

Senator MURDOCK. Are there any further questions from anybody. I hope no one in the audience will be at all backward in submitting any questions they may have.

STATEMENT OF THOMAS C. HAVELL, CHIEF, BRANCH OF ADJUDICATION, GENERAL LAND OFFICE, WASHINGTON, D. C.

Mr. HAVELL. Mr. Chairman, Mr. Brewster has questioned the legality of withdrawal order No. 130. In answer to that I would say that under the authority vested in the Secretary of the Interior to sign what were theretofore known as Executive orders withdrawing public

lands, the Secretary is required to submit all drafts of orders, which he seeks to sign under the delegated authority, to the Bureau of the Budget and the Attorney General. These are the two screens set up by the President, through which these withdrawal orders must pass before the Secretary is authorized to sign the order.

This public-land order should have been and was so submitted to the Bureau of the Budget, and received approval there, and was so submitted to the Attorney General and received approval there. So, I feel that the highest legal authority of the Government having passed upon the legality of the order, the Secretary of the Interior was surely justified in signing it, so far as the legal aspect was concerned.

Mr. BREWSTER. May I answer that?

Senator MURDOCK. Yes.

Mr. BREWSTER. It is strange that they did not discover that the words "mineral leasing" were substituted for "mining law."

Mr. HAVELL. There is a distinction in the public-land laws between the mining laws and the Mineral Leasing Act. The Solicitor's office of the Department of the Interior, and the Attorney General, if my memory serves me correctly, have ruled that the term "Mining Laws of the United States" does not include the Mineral Leasing Act.

Senator MURDOCK. And refers specifically to what?

Mr. HAVELL. Specifically to the mineral laws, the lode and placer laws.

Mr. PATTERSON. May I ask the gentleman a question?

Senator MURDOCK. Yes, Mr. Patterson.

Mr. PATTERSON. Does it show the approval? Does the law so show the approval of the Attorney General or the President?

Mr. HAVELL. The Executive order authorizes the Secretary of the Interior to sign these orders, and is designed to relieve the White House from the enormous burden now carried because of the war.¹

Mr. PATTERSON. How do we know that the President and the Attorney General approve it?

Mr. HAVELL. I will give you my word; but that is not the answer. The answer is that the President, by Executive order, has made that requirement.

Mr. PATTERSON. Where do we get evidence of that?

Mr. HAVELL. By the fact that the President has ordered the Secretary of the Interior to adopt that course, and that course is adopted.

Mr. PATTERSON. Is that an official document?

Mr. HAVELL. That is an official document.

Mr. PATTERSON. Where may it be had?

Mr. HAVELL. You mean the Executive order or these instructions?

Mr. PATTERSON. No; requiring it to be submitted to the Attorney General.

Mr. HAVELL. The two Executive orders authorizing the Secretary to sign, Executive Order No. 9337, or the one that that order amended. That is in the Executive order.

Mr. PATTERSON. Do the orders carry that information, approved by the President?

Mr. HAVELL. That is in the Executive order itself.

¹ See later testimony of this witness for copy of Executive order.

Mr. BREWSTER. Is there anything in the statute that provides the Third Assistant Secretary of the Interior is able to promulgate orders?

Mr. HAVELL. The Secretary can delegate to his Assistant Secretaries the signing of any documents, papers, or orders, and when so signed they have the same effect as if signed by the Secretary himself.

Mr. BREWSTER. If President Roosevelt happens to be in Moscow or Casablanca the Department at Washington can withdraw anything they wish, as long as the Attorney General sees it.

My impression is that this 3,000,000 acres of land is rather a small item in the Department. They kick it around until it reaches the Third Assistant Secretary, and, in the meantime, words can be inserted in the order that are not authorized by any of the authorities cited.

Mr. HAVELL. Mr. Brewster, quite to the contrary, every one of these public-land orders are considered most carefully. They pass through the Solicitor's office of the Interior Department; they pass through, as I have said, the Bureau of the Budget and the office of the Attorney General. To my mind, it is not conceivable that there would be any authority exercised thereby that is not strictly in accordance with the law.

Mr. BREWSTER. Is it usual procedure to withdraw lands and then hold up notice to the public for 2 or 3 months?

Mr. HAVELL. I would like to speak on that. I had intended to do so later, but now, that the question is here before us, I would like to make this statement regarding the delay in the publication of this public-land withdrawal order No. 130. The delay in the publication in the Federal Register occurred in this way: The order was signed by the Secretary and came to the desk of one of the attorneys who was charged with the responsibility of handling such matters. It happened in my branch of the General Land Office, the adjudication branch. Inadvertently, the paper got off of his desk, and it was not discovered until about 2 months later.

When it was discovered I personally reprimanded the employee who was responsible for the delay. In addition to that, I set up a procedure in the office to prevent such an occurrence happening again.

It was an accident. There was no motive back of it. It happened in my own branch of the office, and the only explanation that can be offered, and the correct explanation, is that it was an accident. The papers got off the desk.

However, since the Federal Register Act provides that no order is effective, as notice to the public, until it is published in the Federal Register, no rights have been impaired or injured because of the delay in the publication. If anything, it has worked to the advantage of these people who are complaining of the order itself, because it gave an additional period of 60 days.

Senator MURDOCK. Mr. Havell, may I make this suggestion, that all of the documents that you have referred to be inserted in the record at this point, following your statement, so we will know what you are talking about.

Mr. HAVELL. I will be very happy, Senator Murdock, to present to the investigator all of the documents to which I have referred, or all

of the documents which I have referred to here that are not otherwise introduced in the record.

(The documents are as follows:¹)

EXECUTIVE ORDER 9146

AUTHORIZING THE SECRETARY OF THE INTERIOR TO WITHDRAW AND RESERVE PUBLIC LANDS

By virtue of the authority vested in me by the act of June 25, 1910, c. 421, 36 Stat. 847, and as President of the United States, I hereby authorize the Secretary of the Interior to sign all orders withdrawing or reserving public lands of the United States, and all orders revoking or modifying such orders: *Provided*, that all such orders shall have the prior approval of the Director of the Bureau of the Budget and the Attorney General, as now required with respect to proposed Executive Orders by Executive Order No. 7298 of February 18, 1936, and shall be submitted to the Division of the Federal Register for filing and publication: *Provided, further*, that no such order which affects lands under the administrative jurisdiction of any executive department or agency of the Government, other than the Department of the Interior, shall be signed by the Secretary of the Interior without the prior concurrence of the head of the department or agency concerned.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE, April 24, 1942.

[F. R. Doc. 42-3682; Filed, April 25, 1942; 11:04 a. m.]

EXECUTIVE ORDER 9337

AUTHORIZING THE SECRETARY OF THE INTERIOR TO WITHDRAW AND RESERVE LANDS OF THE PUBLIC DOMAIN AND OTHER LANDS OWNED OR CONTROLLED BY THE UNITED STATES

By virtue of the authority vested in me by the act of June 25, 1910, ch. 421, 36 Stat. 847, and as President of the United States, it is ordered as follows:

Section 1. The Secretary of the Interior is hereby authorized to withdraw or reserve lands of the public domain and other lands owned or controlled by the United States to the same extent that such lands might be withdrawn or reserved by the President, and also, to the same extent, to modify or revoke withdrawals or reservations of such lands: *Provided*, That all orders of the Secretary of the Interior issued under the authority of this order shall have the prior approval of the Director of the Bureau of the Budget and the Attorney General, as now required with respect to proposed Executive orders by Executive Order No. 7298 of February 18, 1936, and shall be submitted to the Division of the Federal Register for filing and publication: *Provided, further*, That no such order which affects lands under the administrative jurisdiction of any executive department or agency of the Government, other than the Department of the Interior, shall be issued by the Secretary of the Interior without the prior concurrence of the head of the department or agency concerned.

Section 2. This order supersedes Executive Order No. 9146 of April 24, 1942, entitled "Authorizing the Secretary of the Interior to Withdraw and Reserve Public Lands."

FRANKLIN D ROOSEVELT

THE WHITE HOUSE, April 24, 1943.

[F. R. Doc. 43-6460; Filed, April 26, 1943; 3:15 p. m.]

¹ With the exception of General Land Office Circular 1120: Regulations concerning Potash Mining and Prospecting Leases. This circular is readily available from the General Land Office.

UNITED STATES,
DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY.
Washington, February 25, 1943.

The COMMISSIONER, *General Land Office*:

Information has been received from your office and from other sources to the effect that numerous mining claims for relatively valueless surface minerals are being staked in the Salt Valley area, Grand County, Utah, in an apparent attempt to acquire title by subterfuge to deposits of leasing-law minerals occurring at depth in that area.

Accordingly, for the purpose of protecting the Government's interest in any deposits of oil, gas, potassium, sodium, magnesium, and associated minerals in the Paradox basin of southeastern Utah, I recommend that appropriate action be taken, pursuant to the act of June 25, 1910 (36 Stat. 847), as amended by the act of August 24, 1912 (37 Stat. 497), to withdraw, subject to valid existing rights, the public lands in the following townships from settlement, location, sale, or entry and to reserve them for classification and for prospecting and development under the mineral-leasing laws:

SALT LAKE MERIDIAN, UTAH

Ts. 21 to 24 S., R. 15 E. et al.

Ts. 21 to 28 S., R. 16 E.

Ts. 21 to 24 S., and unsurveyed Ts. 25 to 32 S., Rs. 17, 18, and 19 E.

Ts. 21 to 30 S., and unsurveyed Ts. 31 and 32 S., R. 20 E.

Ts. 21 to 32 S., R. 21 E.

Ts. 22 to 32 S., R. 22 E.

Ts. 22 to 37 S., R. 23 E.

Ts. 23 and 24 S., and Ts. 29 to 38 S., Rs. 24, 25, and 26 E.

Conflict exists with grazing districts Nos. 6 and 7, Utah, with the La Sal National Forest and with the Arches National Monument.

JULIAN D. SEARS, *Acting Director*.

UNITED STATES,
DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, April 3, 1943.

The DIRECTOR OF THE BUREAU OF THE BUDGET.

SIR: Enclosed for your consideration are copies of a proposed public-land order. Pursuant to Executive Order No. 9146 of April 24, 1942, please inform this Department whether the draft meets with your approval.

Copies of the proposed order also have been forwarded to the Attorney General.

Very truly yours,

OSCAR L. CHAPMAN, *Assistant Secretary*.

Title of proposed public-land order: "Withdrawing Public Lands for Classification."

Pertinent information: The purpose of the withdrawal is to protect the Government's interest in any deposits of oil, gas, potassium, sodium, and minerals associated therewith. Information available indicates that mining locations for non-metalliferous minerals relatively of little value are being made on the lands in order to acquire by subterfuge leasable minerals occurring at depth in that area. The lands are affected by withdrawals for grazing districts, a national monument, first form reclamation, a national forest, water-power projects, public-water reserves, and coal.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., April 29, 1943.

The honorable the SECRETARY OF THE INTERIOR.

MY DEAR MR. SECRETARY: I am herewith transmitting a revised draft of your proposed order temporarily withdrawing certain public lands in Utah from settlement, location, sale, and entry, and reserving them for classification and for prospecting and development under the mineral-leasing laws.

The proposed order has been revised in this Department, primarily to incorporate a change suggested by the Bureau of the Budget and to substitute for the reference to Executive Order No. 9146 of April 24, 1942, occurring in the introductory paragraph, a reference to Executive Order No. 9337 of April 24, 1943. No change has been made in substance.

The revised draft has been informally approved by the Bureau of the Budget, and it has my approval as to form and legality. A copy of Mr. Bailey's letter of April 21, 1943, with which he transmitted a copy of the order for my consideration, is enclosed.

Sincerely yours,

FRANCIS BIDDLE,
Attorney General.

UNITED STATES DEPARTMENT OF THE INTERIOR

WITHDRAWING PUBLIC LANDS FOR CLASSIFICATION

UTAH

By virtue of the authority contained in the act of June 25, 1910, chapter 421, 36 Statute 847, as amended by the act of August 24, 1912, chapter 369, 37 Statute 497 (U. S. C., title 43, secs. 141-143), and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the public lands in the following-described areas are hereby temporarily withdrawn from settlement, location, sale, and entry, and reserved for classification and for prospecting and development under the mineral-leasing laws:

SALT LAKE MERIDIAN

Tps. 21 to 24 S., R. 15 E.
Tps. 21 to 26 S., R. 16 E., partly unsurveyed.
Tps. 21 to 32 S., R. 17 E., partly unsurveyed.
Tps. 21 to 32 S., R. 18 E., partly unsurveyed.
Tps. 21 to 32 S., R. 19 E., partly unsurveyed.
Tps. 21 to 32 S., R. 20 E., partly unsurveyed.
Tps. 21 to 32 S., R. 21 E., partly unsurveyed.
Tps. 22 to 32 S., R. 22 E., partly unsurveyed.
Tps. 22 to 37 S., R. 23 E.
Tps. 23 and 24 S., R. 24 E., partly unsurveyed.
Tps. 29 to 38 S., R. 24 E.
Tps. 23 and 24 S., R. 25 E.
Tps. 29 to 38 S., R. 25 E.
Tps. 23 and 24 S., R. 26 E.
Tps. 29 to 38 S., R. 26 E.

The areas described, including both public and nonpublic lands, aggregate approximately 2,977,700 acres.

ABE FORTAS,
Acting Secretary of the Interior.

TITLE 43. CODE OF FEDERAL REGULATIONS

SUBTITLE A

PART 4. DELEGATION OF AUTHORITY

Order No. 1795

By virtue of the authority vested in the Secretary of the Interior to issue rules and regulations in the administration of the functions of the Department of the Interior; the authority conferred by the act of March 14, 1862 (12 Stat. 355, 369, ch. 41; secs. 438, 439 Rev. Stats.; 5 U. S. C. (1940 ed.), secs. 482, 483); the act of March 3, 1885 (23 Stat. 478, 497, ch. 360; 5 U. S. C. (1940 ed.), sec. 482); the act of May 9, 1935 (49 Stat. 176, 177, ch. 101; 5 U. S. C. (1940 ed.), sec. 481a):

the act of March 28, 1918 (40 Stat. 499, ch. 29; 5 U. S. C. (1940 ed.), sec. 483); sec. 161, Rev. Stats., 5 U. S. C. (1940 ed.), sec. 22; and the general authority of the Secretary of the Interior to prescribe the functions and delegate the duties to be performed by the Under Secretary, the First Assistant Secretary and the Assistant Secretary, the following delegation of authority is hereby ordered and prescribed:

4.1 Delegation of authority to the Under Secretary, First Assistant Secretary, and Assistant Secretary.—The Under Secretary, the First Assistant Secretary, and the Assistant Secretary are hereby respectively authorized and directed, with respect to any matter, duty, or function relating to, arising under, or in connection with the following bureaus, offices, officers, and functions of the Department of the Interior, to perform all the functions and duties and exercise all the powers, authority, and discretion of the Secretary, and the acts and directions of the Under Secretary, the First Assistant Secretary, or the Assistant Secretary, respectively, pursuant to the authority herein delegated, shall be deemed to be the acts and directions of the Secretary:

A. Under Secretary: (1) Division of Territories and Island Possessions; (2) general departmental supervision, including the functions of organization surveys, budget, personnel supervision and management, classification, labor relations, and the Chief Clerk.

B. First Assistant Secretary: (1) Bureau of Mines, (2) Geological Survey, (3) Bureau of Reclamation, (4) Bituminous Coal Division, and (5) Petroleum Conservation Division.

C. Assistant Secretary: (1) Office of Indian Affairs, (2) General Land Office, (3) Grazing Service, (4) National Park Service, (5) Office of Land Utilization, (6) Fish and Wildlife Service, and (7) Board on Geographical Names.

4.2 Conservation Branch of Geological Survey.—Matters on which the Conservation Branch of the Geological Survey acts in conjunction with the General Land Office or the Office of Indian Affairs, or in which it acts in relation to the work of these bureaus, shall be considered to be within the assignment of the Assistant Secretary.

4.3 Authority in absence of designated secretarial official.—In the absence of the Secretary, the Under Secretary will act as Secretary of the Interior and at all times the Under Secretary shall have general jurisdiction subject only to the Secretary. In the absence of the Secretary and the Under Secretary, the ranking Assistant Secretary on duty will act as Secretary. In the absence of either the Under Secretary, the First Assistant Secretary, or the Assistant Secretary, the Secretary or Acting Secretary will designate the person who shall act as such officer.

4.4 Offices under direct supervision of the Secretary.—The following offices and divisions shall remain under the direct supervision of the Secretary: (1) Office of the Solicitor, (2) Division of Information, (3) Division of Power and the Bonneville Power Administration, (4) Office of Field Representatives, (5) Petroleum Administration for War, (6) Office of Solid Fuels Coordinator for War, and (7) Office of Fishery Coordination.

4.5 This order supersedes orders 1764 of November 20, 1942, and 1772 of December 14, 1942.

This order shall be published in the Federal Register.

Issued and effective this 11th day of March 1943.

HAROLD L. ICKES,
Secretary of the Interior.

GENERAL LAND OFFICE.

OFFICE COMMUNICATION

Memorandum for the Commissioner.

The order was signed May 26. I am unable to explain why it had not been sent to the Federal Register, and regret that such action was not taken promptly.

The files do not show that the record was recharged to me, although I must have had it at the time in June, when a memo covering withdrawals was prepared for the annual report. The fact that it had not been sent to the Federal Register must have escaped by attention then. The record did not appear on my desk again until July 19. I don't know where it had been or who had it. It was not lost on my desk during that time because I have no records except one mineral case, other than those submitted for review, and my desk is usually clear of such records at the close of office hours.

My experience with records like Public Land Order 130 is that they are borrowed and oftentimes held for some time by the borrower, or passed from desk to desk for information.

When I saw public land order, July 19, it did not occur to me then that it had not been promulgated through the usual channels. On the morning of July 20 Mr. Hoffman brought in Public Land Order 150. I looked at Public Land Order 130 to see if it had the form of certification I needed. It was then I discovered that the order had not been promulgated. The record and a copy of the file card are attached.

R. L. WILKINSON.

GENERAL LAND OFFICE,
July 23, 1943.

OFFICE COMMUNICATION

To: Mr. Hoffman, Division N.

Mr. Wilkinson, in his note regarding Public Land Order No. 130, says that the file does not show that the record was recharged to him and that his experience in such matters is that the cases are borrowed and often held for some time, or passed from desk to desk for information. This is all beside the point.

Public land orders are not officially promulgated until they are printed in the Federal Register. Therefore, the employee who prepares and submits a public-land order should carry the responsibility of seeing that the original and copies are submitted for publication just as soon as the order is signed. Publication should not depend upon whether the case is recharged or whether it is borrowed or passed from desk to desk. The responsibility rests with the employee, regardless of what becomes of the case.

HAVELL,

Supervisor, Branch of Adjudication.

DEPARTMENT OF THE INTERIOR,
Washington, April 5, 1935.

ORDER No. 914

In the interest of the public it is hereby ordered that, until further notice, no action be taken in the matter of granting permits or leases under the Potash Act of February 7, 1927 (44 Stat. 1057), unless required by law.

This order shall not preclude action on any application for extension of term of permit under the amendatory act of May 7, 1932 (41 Stat. 151); nor shall it preclude rejection of any application or cancelation of any permit or lease for cause, or action in connection with royalty or rental under any lease; nor shall it relieve any permittee or lessee from compliance with any requirement contained in his permit or lease.

But in any particularly meritorious case, when in the judgment of the Secretary delay might be detrimental to the interest of the public, the provisions of this order may be waived.

T. A. WALTERS,

Acting Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
Washington, June 9, 1943.

ORDER No. 1829

The potash resources of the public domain have been managed so as to facilitate the domestic production of potash upon a sound basis. In furtherance of this policy, order No. 914 of April 5, 1935, suspended the granting of permits or leases under the Potash Leasing Act of February 7, 1927 (44 Stat. 1057, 80 U. S. C., sec. 281), unless delay might be detrimental to the public interest. This order is no longer deemed necessary in view of the changed conditions since its issuance, and it is hereby vacated.

To assure the prudent utilization of the potash and associated minerals in the public lands, thereby benefiting agriculture and aiding the national defense, and

in order to develop the domestic potash industry, all pending applications for potash permits or leases and all such applications hereafter filed will be considered in the light of the act, the applicable regulations and the following factors:

1. The current and future need for additional development of potash and associated compounds, consistent with sound conservation principles.

2. The prospective value of the land designated in the application for other minerals, such as magnesium, aluminum, oil and gas, whose production is essential in the public interest, and the ability of the applicant to develop and produce commercially potash and associated minerals in conformance with conservation and sound business practices, thus providing diversified development and production in the same area.

3. The decentralization of sources of production through the development of potash deposits in different areas.

4. The maintenance of competitive enterprise in the potash industry.

If by reason of one or more of these four factors, an application is considered to be in the public interest it may be granted.

Applications by lessees for additional lands may also receive favorable consideration where essential to continued operation of existing facilities.

HAROLD L. ICKES,
Secretary of the Interior.

Mr. BREWSTER. Senator, may I have one more question?

Senator MURDOCK. You may.

Mr. BREWSTER. Isn't it a rather strange coincidence that the one spot in the United States that had the eyes of every engineer and every metallurgist focused on it—because of containing probably the greatest deposit of magnesium in the world, and possibilities of potash and oil—should have all these accidents and coincidences occur, just at that moment? It seems rather strange to me.

Mr. HAVELL. I will respond later on that; but if this is the proper time to address myself to that matter I want to say that it was brought to the attention of the Department, or was reported to the Department, that a large number of nonmetalliferous mining claims were being located in this general area.

Senator MURDOCK. By what means—under the lode law, or the placer law?

Mr. HAVELL. That I cannot answer, Senator. I don't know. But it was brought to the attention of the Department and it was reported to the Department, that on a large number of mining claims for fire clay and building stone, and so forth, there was a very pronounced indication of valuable deposits of magnesium and potash through this area. That matter was brought to the attention of the Geological Survey. Some of the information resulted from wells drilled for oil in about 1920, when oil was a leasing mineral, and some was gained from other sources, including wells put down on Eagle, No. 1, on private lands in cooperation with the Bureau of Mines.

A mining claim gives the locator the right to all the minerals in his claim regardless of whether it is for shale, or any other nonmetalliferous substance. If the claim should include a vital deposit of potash or magnesium, the claimant would have the right to extract the potash under the guise of the claim. In order to insure the development of the potash and the magnesium under the mineral leasing law which Congress had provided in 1927, the Department felt that it would be advisable to withdraw these lands from location, principally under the nonmetalliferous mining laws, in order that the potash and the magnesium, so vital to the prosecution of the war, would be made available for immediate use, and not tied up as minerals have been tied up under mining locations.

Under a mining location you only have to show a discovery and perform your annual assessment work, and even that assessment work you are relieved of now, because of the shortage of manpower.

The result is that these mining claims would tie up an area of potash, because, under the mining laws, it would not be possible for a potash lease to operate on that area.

So in order to insure the immediate development of potash and magnesium, and not permit a situation to develop whereby these valuable war minerals could be tied up for speculative purposes, this order of withdrawal was put into effect. It does not stop metalliferous mining claims. It does not stop the honest development of potash and the magnesium, under the leasing law provided by Congress for those purposes.

Senator MURDOCK. If you say the order was made principally for the purpose of making your potash and magnesium immediately available for development, isn't it true that there are now pending before the Interior Department, and have been for months, applications for leases by the potash company? I am not sure that I know the correct name, but the company that took over the territory which was drilled,

Mr. BREWSTER. The Potash Co. of America.

Senator MURDOCK. The Potash Co. of America. Haven't they pending, with the Interior Department now, for months, applications under the leasing law, without any action whatever?

Mr. HAVELL. I understand there are a number of potash applications that have been filed. There has been some confusion as to whether potash could be developed under oil leases, but I think you are correct, Senator; there are before the Department, or have been before the Department in recent months, these applications for potash.

Before the war there seemed to be an abundance of potash. I might relate a little history. Some years prior to the war all of our potash came from Germany, and later some from Spain. We depended entirely on foreign markets.

The discovery of potash in southern and southeastern New Mexico, and the potash that is being recovered from Searles Lake in California, all of which is on public land, Federal property, have been developed to the point where they were meeting the entire national demand.

There is some now, Senator, being developed in this State, in the salt flats. That is from patented private property, but practically all the potash of this country today that is being used for fertilizing and for the war is coming from the public lands under the leasing system.

With the supply before the war sufficient to meet the demand, the Secretary withdrew all potash from further location under the Leasing Act. More recently he relieved the potash from that withdrawal.¹

Senator MURDOCK. Is that general?

Mr. HAVELL. The order was lifted in its entirety, but he required, however, that a showing be made as to four matters before he would entertain an application for potash.

I have not the order here. It was introduced in the hearings of this committee at Albuquerque. In general, it required the showing of the need for the potash, and that the applicant was in a position to pro-

¹ The text of the 2 orders appears in earlier testimony of the witness.

duce the potash, and also a showing that it would not lead to any monopoly. That, in substance, was what the Secretary required. So the Department is now in a position to consider those applications for potash leases under a showing on those four points that have been set up in the Secretary's order.

Perhaps I can later lay my hand on that order No. 1829. May I submit it for the record?

Senator MURDOCK. Yes.

Mr. HAVELL. So that the situation with reference to those pending applications is that a showing under these war provisions here will put those applications in a position where they can be processed.

Senator MURDOCK. With the need for magnesium as it has been for months, and also, I assume, for potash, doesn't it occur to you that it is not immediately available for war purposes, by reason of the procrastination or delay within the Department itself, in failing to take action on these leases?

Mr. HAVELL. No.

Senator MURDOCK. That is a hard thing for me to understand—to have months and months go by, and still no action taken.

Mr. HAVELL. I wish I had a better insight into the details of the particular cases to which you refer. Were they not filed during the period in which the potash was withdrawn, and that has caused some delay? Then, in addition to that, Senator, was not the Defense Plant Corporation interested in the development of potash? Did it not finance the putting down of this well on Eagle No. 1? Was there not considerable delay due to the uncertainty, on the part of the Defense Plant Corporation, to know just how they were going to proceed, or whether they were going to proceed at all, with the Government development of this potash? Wasn't it only recently, in recent months, that the Defense Plant Corporation has decided not to go further, so far as Federal support is concerned?

Senator MURDOCK. I think we can eliminate the Defense Plant entirely, and go back to the time that they moved out and served notice on the Interior Department that they were through. That has been. I would say, at least 8 months ago. Then, when the Potash Co. moved in and took over, under an operating agreement, it was my understanding that they met on the lifting of the ban on potash and magnesium, and immediately submitted their applications. I was advised, just the other day, they are still pending. Nothing had been done. It is that delay—what appears to me to be an interminable delay—in the Department itself, that has held up the development of this country out here.

Mr. HAVELL. Senator, had the applicants made the showing in those four paragraphs, under the order of June 9, 1943?

Senator MURDOCK. In other words, they have not made a separate showing?

Mr. HAVELL. I am speaking off the record, because the record is in Washington, and I am here. I am rather inclined to say that up to the time we left Washington no showing had been made under these four paragraphs of order 1829, of June 9, 1943. It may be there has been some misunderstanding between the potash applicants and the Interior Department. If so, perhaps this is the place to bring it out, to see if we can't break the log jam.

Senator MURDOCK. That is one of the purposes—to break that log jam, and get this country developed, if there is anything to develop.

The record I read from the Bureau of Mines is the record of the well that was drilled for the Defense Plant Corporation, and the corroborating statement of Mr. Brewster that the territory surrounding that is probably the richest carnallite and sylvite deposit that has ever been discovered. In the report I read from the Bureau of Mines, they had a value of \$4,000,000 per acre, on the land surrounding the well.

Mr. HAVELL. It has been 5 months since the area was open for potash applications, and it has been publicized. I think every applicant is aware of the showing that has to be made; and until the showing is made, the responsibility for the delay must be with the applicants.

Senator MURDOCK. I would say this, that in glancing over the four points that are made, I do not challenge their legality, but it seems to me that there are certain provisions imposed on the person who wants to develop it, that might make it impossible for him to comply with the four conditions there that he must comply with.

You take it on the competitor's situation; it seems to me that is a matter that could be handled by the Antitrust Division of the Department of Justice. When the Secretary of the Interior begins to delve into that question before issuing application, there might be some encroachment on the Department of Justice. I am just thinking out loud on the situation that is created by the four points.

Senator McCARRAN. While we are on that, I wonder if I might present a suggestion, or query, to Mr. Havell, dealing with these four points?

The one is the current and future need for additional development of potash and associated compounds. Now, how could anyone say what the future need would be? How could any applicant give a satisfactory answer to a Department, as to what the future needs might be?

Then "consistent with sound conservation principles," he will say: "What are sound conservation principles?" I will select any 20 engineers, and there will be 20 decisions as to what sound conservation principles would be. That is my guess.

Senator MURDOCK. I think you mean 20 different opinions.

Senator McCARRAN. Yes. This seems to be somewhat of an answer, Mr. Chairman, to your query as to the delay.

We come to No. 2:

2. The prospective value of the land designated in the application, for other minerals, such as magnesium and aluminum, oil and gas, whose protection is essential in the public interest and the ability of the applicant to develop and produce commercial potash and associated minerals in conformance with conservation and sound business principles, thus providing diversified development and protection in the same area.

Now, will you, Mr. Havell, tell me how one individual, or one group of individuals, could possibly make good on that requirement? I refer especially to this—

and the ability of the applicant to develop and produce commercial potash and associated minerals in conformance with conservation and sound business principles, thus providing diversified development and protection in the same area.

I am just going around in a whirl there.

Mr. HAVELL. As you know, I am not a geologist, nor a mineral man.

Senator McCARRAN. No; but you have pretty good horse sense—I know that.

Mr. HAVELL. Perhaps I can throw some light on this—the ability of the applicant to develop and produce. If it is a matter that was brought up by Mr. Harroun, in Albuquerque, in the hearing there, I

think the chairman pointed out to Mr. Harroun that it was not good policy to allow potash applications when the applicant did not have the ability to produce. Since the War Production Board proposed the matter of equipment, as to what may be made available to the applicant to produce, there is a problem there to clear up, so potash leases will not be granted and held dormant, with no production.

So the Department felt the applicant should show an ability to produce potash before it was allowed.

Senator MURDOCK. May I interrupt you there?

Mr. HAVELL. Yes.

Senator MURDOCK. Considering it from that angle alone, didn't you, by that provision, tend to throw all production into the hands of the people who are already in the field? It seems to me, from reading the four conditions there, that are set out, very casually—for this is the first time I have seen them—it seems to me if I were already in the potash business and I wanted to perpetuate and preserve a monopoly on it, I could not write four conditions that would be more conducive to that end than what we find here.

It seems to me that if the company that is now monopolizing that business, if they wanted to accomplish that they could have nothing better than that rule.

Mr. HAVELL. Isn't that negatived by No. 4? The Secretary said he wanted to maintain a competitive enterprise in the industry.

Senator MURDOCK. How can you bring in competition when they first must establish the fact that they are able to produce? Probably the very questions that would be asked the applicant, who is trying to qualify under that condition, would be: "What is your background? Have you ever produced potash before? Do you know anything about its commercial production?" So that, in my opinion, under that one condition there he would have to qualify by showing a background of producing.

Mr. HAVELL. The purpose of that, Senator, was to prevent the tying up of this potash by allowing the lease to one who was not in a position to develop it.

Senator MURDOCK. That is just the point that I am making.

Mr. HAVELL. The development of oil shale in Colorado and Utah was tied up. There was no production. The oil shale is lying there and no effort at all to produce.

Senator MURDOCK. I deplore that as much as you do.

Mr. HAVELL. They are trying to prevent the tying up of potash and mineral leases in the same way.

Senator MURDOCK. It seems you are keeping everybody out of the field. Certainly that is not the type of conservation we want. It certainly is not conducive to winning the war, to have potash and magnesium lying dormant out there in Grand County. As a practical proposition, it seems to me we are keeping everybody out of the field, and thereby preserving a monopoly of the one or two or three companies.

Mr. HAVELL. I am not advising the potash applicants to present their case to the Secretary, but I am sure that a showing to the Secretary of the Interior, in response to No. 2, would be given very serious consideration, because I know that the Department is anxious to develop potash and magnesium and strategic war minerals to the extent of the demand.

Senator McCARRAN. I am interested in another phase of this, Mr. Havell. I don't like to interrogate Mr. Havell too closely, because I know he does not have the direct say with many of these things. We are indebted to him for acquiring knowledge of his branch of the Interior Department. We find him a source of very valuable information, and we thank him.

I want to touch on another phase of this subject, Mr. Havell, relative to the Executive order that is now in existence. You have stated that it was required, before the Secretary of the Interior shall sign an order of withdrawal, that it shall first be submitted to the Bureau of the Budget, and also the Department of Justice, the Attorney General. The thought that strikes me is that somewhere the initial act must come into existence. In other words, who was it that selected this territory and promulgated the activity to have it withdrawn, in the first instance? Where did that originate, and why? Can anyone answer that?

Mr. HAVELL. I think so, Senator. Unless my memory is at fault, in the Department, the recommendation for the withdrawal came from the Geological Survey.

Senator McCARRAN. That is — a communication, do you suppose?

Mr. HAVELL. The Geological Survey recommended the withdrawal of these lands in the form in which this order now exists.

Senator McCARRAN. Mr. Havell, could you give us, for the record here, the date and the nature and form of the request from the Geological Survey? Is it available to us?

Mr. HAVELL. I cannot, but will later furnish the committee with a copy.¹

Mr. BROWN. Perhaps somebody from the Geological Survey is in the audience.

Senator McCARRAN. Is there anyone from the Geological Survey who can answer that question—the date of the request, the nature of the request, and the form of the request? Is there anyone here from the United States Geological Survey?

Mr. BROWN. We will have them here this afternoon.

Senator MURDOCK. May we ask, Mr. Brown, that you contact whoever is here from the Geological Survey, and tell them the committee requests their presence this afternoon.

Mr. BROWN. Yes, sir.

Senator McCARRAN. When the order is first made in that form, it is sent to the Bureau of the Budget, undoubtedly, and probably simultaneously sent to the Department of Justice, or perhaps following the O. K. of the Bureau of the Budget. I am wondering if, during that time, during its transition from the requests by the Geological Survey to the promulgation of the Executive order, and its submission as to form to the Bureau of the Budget and the Department of Justice, is there any step by which the public may be apprised of the nature of the order and its significance?

Mr. HAVELL. There is not, Senator; and in a withdrawal of this kind, I don't believe that it would be advisable, because it would be like locking the door after the horse is out. This being what we consider a protective withdrawal of these minerals to head off these mining claims for low value nonmetalliferous minerals, if we had

¹ See earlier testimony of the witness for copy of the communication.

adopted that plan we would have simply brought them in, and the whole country would have been plastered with claims. I don't believe it would have been in the public's interest to have brought a proposed order of this kind before the public—I am not speaking now of all orders, but of this kind. I don't think it would be the proper thing, because you would simply be inviting the doing of the very thing the order was intended to stop.

Senator McCARRAN. I don't know whether I am correct in this assumption, but it does appear to me that both the Bureau of the Budget and the Department of Justice pass on the order, largely, as to form. I doubt if either the Bureau of the Budget or the Department of Justice goes into the merits behind the order itself, as to whether or not it is an order well founded, by reason of the nature and character of the country to be affected. I rather take it that both of those departments pass on it as a matter of form. I may be mistaken in that, but I haven't anything to the contrary.

Mr. HAVELL. Of course, I can't speak for the Bureau of the Budget or the Attorney General. I can say that orders are returned to us, at times, from both sources, for revision.

Senator McCARRAN. That is as to form?

Mr. HAVELL. No. The Bureau of the Budget is concerned with economic factors, and matters of that kind. Of course, the Attorney General is primarily responsible for the law.

Senator McCARRAN. Thank you.

Mr. BREWSTER. Senator, may I get out of your way, with a final statement?

Senator MURDOCK. Yes.

Mr. BREWSTER. These gentlemen from the Department of the Interior testified that the withdrawal order was based upon the solicitude of the Department for production of magnesium and potassium for war purposes, by withdrawal of the land at the time that the second largest company in the world was interested in drilling the ground—and a great many sections. There seemed to be no doubt that they were going ahead.

Now, what did they do? When they withdrew that land, they left entirely in the hands of this large potash company, the best-known carnallite project in the world.

It happens the president of one of the largest potash companies in America admitted to me, in the presence of witnesses, that it had never been their intention to produce magnesium for war; it was to be a post-war proposition. After leading all the people of Utah to think we had a war industry right at hand, you left it in the hands of one of the largest potash companies in America.

I suggest this Senate committee try to connect up Mr. Bunker's activities, in connection with this withdrawal order.

Senator McCARRAN. We will do that, before we get through.

Senator MURDOCK. Mr. Brewster, that is the point I was attempting to develop. The four conditions imposed had the practical result of monopolizing, rather than decentralizing, the production of potassium.

Mr. BREWSTER. The people of Utah have been left to think they had a war industry in magnesium, down there, that would immediately produce. I took the question to the president of the company, and he said it was a post-war company, from the very start.

Senator MURDOCK. Mr. Mackenzie, you may proceed.

**STATEMENT OF A. G. MACKENZIE, MANAGER, UTAH METAL MINE,
OPERATORS ASSOCIATION, SALT LAKE CITY, UTAH**

Mr. MACKENZIE. I am A. G. Mackenzie, of Salt Lake City, manager of the Utah Metal Mine Operators Association.

This organization is a group of large and small mines which produce more than 90 percent of this State's metal output. I appear at this hearing to present briefly the attitude of our group with respect to the matters under consideration. I am aware that many others wish to present their views to the subcommittee, perhaps in detail. I will devote my statement to the broad facts and the broad principles involved.

Our industry is opposed to withdrawal of public lands without specific action by Congress, after opportunity for hearing and consideration. We are also opposed to extension of the program of leasing mineral lands. The subjects are closely related; and advocacy of either implies a reversion to outmoded conceptions of government, suggestive of the ancient and medieval doctrines of sovereignty, or what in modern dress is generally termed totalitarianism.

Our industry is, and always has been, an advocate of the historic plan of developing the West, and especially the western mineral resources. It is a proved success, and has become a stable factor in western progress. In this State, for illustration, about one-half the entire population normally depends for livelihood on the metal mining industry, and that is true in greater or less degree in all the western mining States.

The prevalent system for the development of the mineral lands in this country is three-quarters of a century old. The procedure is clearly defined by law, not subject to change except through established and orderly legal action, and is well understood. Any citizen, even in the most modest circumstances, may participate, and the rights of the general public are abundantly protected and safeguarded through the laws and the properly constituted agencies to administer and enforce them.

These conditions have resulted in a splendid and efficient utilization of our mineral resources. They have encouraged and made possible full and economic development. They have evolved methods, practices, equipment, and personnel that have become patterns of excellence throughout the world. They have made possible an industry so readily adapted and responsive that it has never failed to meet the demands of any national emergency, as well as all peacetime requirements.

The encouragement of private ventures into the mineral field continues to be important. We have been, and are now, in a period of rapid depletion of known mineral reserves. Stimulation of private ventures is urgently needed. They call for assumption of hazards which Government will never assume, but which never have daunted the initiative, fortitude, and perseverance of those who created the great mineral empire of the West. These accomplishments can never be repeated or approached under the restrictions and disabilities inherent in any plan of leasing. Private enterprise, especially the multitudes of persons of small means, has never failed gallantly to enter into the mineral field, and will continue to do so as long, and

no longer, as it is assured the right to own, operate, or sell what it discovers.

Senator MURDOCK. Is there anyone in the audience who wants to ask Mr. Mackenzie any question?

(No response.)

Senator MURDOCK. Mr. Backman. State your name, Gus, and your official position, if any?

STATEMENT OF GUS P. BACKMAN, PRESIDENT, MOUNTAIN STATES ASSOCIATION, SALT LAKE CITY, UTAH

Mr. BACKMAN. Gus P. Backman, president of the Mountain States Association.

As the representative of the Mountain States Association, an organization composed of the chambers of commerce of the eight Rocky Mountain States, and pursuant to a resolution adopted at the annual meeting of said association held at Denver, Colo., October 30-31, 1943, I wish to present the petition of that organization and its affiliated members, that congressional legislation be adopted through which the policy of withdrawing land for various and sundry reasons by administrative or Executive order, on recommendation of any individual or department, be terminated.

We are unanimously in favor of the repeal of the act passed by the Fifty-ninth Congress on June 8, 1906, and known as an act for the preservation of the American antiquities inasmuch as it has been, and is being, used for purposes other than the original intent of Congress in passing such legislation. This legislation was passed for the purpose of preserving historical or prehistorical ruins or monuments, and to preserve objects of antiquity, not for the purpose of withdrawing hundreds of thousands of acres of land from public use, without the approval of Congress, which has occurred in two instances recently, to wit: The withdrawal of tremendous areas of land in eastern Utah and western Colorado, purportedly for the preservation of dinosaur skeletons, but actually withdrew from the possibility of local development some of the finest power sites in this area; and, secondly, the Jackson Hole National Monument, which was withdrawn in spite of the strenuous protests which had always been made against such a policy by the people of the State of Wyoming, and particularly the people of Teton County.

We further believe that all types of legislation comparable with the Antiquities Act should be immediately repealed, in order to avoid the possibility of a withdrawal by a department of such tremendous areas as has recently occurred in Utah, where approximately 3,000,000 acres were withdrawn by Executive order, without the knowledge or consent of either the Congress or the people of the State of Utah.

We appreciate the fact that from time to time emergencies of various types might develop, through which it may be imperative that some type of order be issued to protect the best interests of the people of the United States; and we recommend that the Congress give study to the adoption of legislation which would grant to the Chief Executive the authority to withdraw, on a temporary basis, any lands where definite proof can be made that the best interests of the public is served through such procedure. Such authority, however, should limit the

effective time of such withdrawal to a period long enough only for the matter to be brought to the attention of the Congress of the United States, for legislative action.

From the experiences of the last several years, it is evident that only through the repeal of legislation granting the right to withdraw lands or establish monuments by Executive order, can the best interests of the States and the general public be served; and we unqualifiedly recommend that the right to permanently withdraw lands or establish monuments on a permanent basis rest in the hands of Congress only.

Senator McCARRAN. Let me say to the gentleman that, immediately following the Jackson Hole withdrawal, the Senator from Wyoming and the senior Senator from Nevada joined in a bill to repeal the Monument Act. That bill is on the calendar of the Senate, but it is one of those bills that will meet, undoubtedly, with departmental opposition. Whenever a measure meets with strenuous departmental opposition, the chances to get the bill through, the chances that it may become a law, become more than lessened. The bill has to go through the Congress, both Houses, and to be signed by the President. There is your "sticker." You will have to get the President's signature to the bill for it to become a law, repealing the Monument Act.

There is so much power vested in the President, by reason of the Monument Act, at least so much power construed to be in the President, that it is not likely you will find an Executive giving up any power. So you have to approach the subject with those things in your mind. I just draw your attention to that, to let you know the difficulties that all of the Western States would have, if they were all united, if all their legislative groups were united, in a movement to pass the measure—which they are not, I am sorry to say.

There is one other thing, Mr. Chairman, about which I want to make an observation here. Those of us who are familiar with the West, who know the significance of the open public domain, do not make our knowledge clear, no matter how hard we try, to those who live in the older and more densely settled regions of the United States. When you get east of the Mississippi River, the conception of what the West is, and what the open public domain is, is an exceedingly limited thing. They look upon us in various ways. They think that those of us who utilize the open public domain out here for grazing purposes have a golden thing thrust into the laps of those who use it.

Every day we are confronted with the statement that we ought to be paying for a subsidy; that the stock-raising industry of the West is being subsidized by the Federal Government, because they utilize the open public domain. We had that statement made in Denver, just a few days ago, by the head of the Isaac Walton League. He made it twice in succession; called it a subsidy that the Government was extending to the livestock industry of the West.

I make mention of this to show you the difficulties that those of us have who represent the Western States, in getting over a conception of what the open public domain is, and what we try to do with it.

The entire effort to put over legislation must be a united effort of all of the Western States in which public lands exist, and that of itself is not always so easy of accomplishment. Then, after we

have the delegations of the 11 Western States, in which public lands exist, we must set about on a campaign to educate our brothers from the East—east of the Mississippi River. Then we must overcome the other more strenuous hurdle of the Department.

Senator MURDOCK. Are there any questions of Mr. Backman?

Mr. BACKMAN. Mr. Chairman, with respect to the location of oil shale, I think the United States Geological Survey will provide you with information about that. The oil shale deposits in this area start about at Grand Junction, or Rifle, Colo., and run in a north and westerly direction into Uintah County, Utah, and into southwestern Wyoming, and not into this area at all.

Senator MURDOCK. Mr. Chairman, may I take this opportunity to make this statement?

Senator McCARRAN. I want you to know you are chairman of this meeting.

Senator MURDOCK. I submit, I will refer to you as "chairman."

In referring to this matter, the newspapers yesterday, in speaking of the oil shale, quoted me as saying one of those plants would be located in the State of Utah. I made no such statement. The statement I made was thus: That the enormity of our coal deposits in the State of Utah, also the enormity of our shale deposits, considered in the light of their richness, in the production of oil and gasoline, would justify the location of a plant in Utah.

I think it would be improper for me, at this time, before the legislation is even passed—it has passed the Senate, but not the House—to make any such statement. I wanted to correct that for those of you who might have read the yesterday afternoon papers.

Senator McCARRAN. I am glad you did that, Senator, because I wanted to locate it in Nevada.

Senator MURDOCK. Our next witness is Mr. James Hooper.

Mr. Hooper, will you state your name?

STATEMENT OF JAMES A. HOOPER, SECRETARY, UTAH WOOL-GROWERS ASSOCIATION, SALT LAKE CITY, UTAH

Mr. HOOPER. James A. Hooper, Secretary of the Utah Woolgrowers Association.

Senator MURDOCK. Proceed in your own way, Mr. Hooper.

Mr. HOOPER. We realize that Public Land Order No. 130 in no way restricts the particular use of the grazing. We have been, and are, opposed to the withdrawal of public lands except by an act of Congress, as we feel, unless we are protected by an opportunity to express our views, that methods such as were used in withdrawal order No. 130, will eventually militate very much against our industry.

We have repeatedly, at our conventions, opposed the withdrawal of public lands, without congressional legislation, for the establishment of national parks, national monuments, and recreational areas. We wish at this time to go on record as opposed to these withdrawals, except through legislation.

We also feel, in view of the feed shortage, from the standpoint of pasture, roughage, and concentrates, that the time has arrived when our food and fiber situation should be helped by grazing the national parks and the national monuments.

This is an opportunity which we did not wish to pass without expressing our wishes. I thank you.

Senator MURDOCK. Are there any questions to be propounded to Mr. Hooper?

Mr. HAVELL. No. I would like to confirm his statement that withdrawal order No. 130 does not restrict the grazing area of the land.

Mr. HOOPER. We realize that. We wanted to go on record as being opposed to those withdrawals without congressional action.

Senator MURDOCK. Thank you. The next witness is Mr. Ora Bundy, of the—State your name, Mr. Bundy, and your official position.

**STATEMENT OF ORA BUNDY, VICE PRESIDENT, NATIONAL
RECLAMATION ASSOCIATION, SALT LAKE CITY, UTAH**

Mr. BUNDY. My name is Ora Bundy, vice president of the National Reclamation Association, member of the publicity and industrial development commission, and director of water resources development for the State of Utah.

I have little to add, in regard to the question at hand, other than to express my apprehension of potential developments that may result from such a widespread withdrawal of public lands, not only in Utah but in any State.

The practice seems to have grown in this western country, and it is not an uncommon occurrence for those in authority to exercise their prerogatives in such matters.

Some years ago dinosaur remains were discovered in eastern Utah, excavations were made, and it was definitely established that this particular area was one of outstanding national importance in regard to paleontology. We, in Utah, were proud of this, proud that we could contribute something of historic value to the scientists and explorers of our country, could establish something of permanent record for the edification of posterity. But soon we were faced with the fact that we saw a national monument established in this area. This, I presume, under the Antiquities Act, which provides machinery for such establishments. To our great consternation, thousands of acres of land in this area were included in the monument, while, as a matter of fact, perhaps a quarter section of 160 acres would provide all of the necessary land for exploration and excavation by paleontologists, and would afford an opportunity for establishment of monuments, museums, or other desirable institutions to perpetuate the scientific discoveries in the area.

On the other hand, the inclusion of the vast acreage above mentioned goes far beyond any conceivable territory which might be productive of further remains of either mammals, reptiles, or fossils through continuing exploration, but does, on the contrary, take in in some of the most valuable potential hydroelectric sites on the Green, Yampa, and White Rivers, such as Echo Park, Split Mountain, Rattlesnake Canyon, and Minnie Maud, the development of which we, of Utah, are eagerly awaiting as a potential asset for the installation of hydroelectric plants to furnish power for the development of the vast phosphate deposits of eastern Utah, southern Idaho, and Wyoming, and for production of additional power to stimulate industries in this area.

As director of the water-resources development for the State, and director to the national reclamation association for Utah, I am deeply concerned with the possibility of the loss of any of the potential values of our waters, or the interference of Federal authorities, to the end that this life-giving asset of ours can be so curtailed as to prevent or prohibit its conservation or utilization to the greatest benefit of our people. Our national reclamation association looks upon this procedure as offering a threat to the very life of reclamation and irrigation, and has so gone on record.

As we understand it, once an area has been included in a national monument, or national park, it has been the general policy over a long period of years to preserve such areas in their primitive conditions, to prevent any development or utilization of such areas for industrial use, to prohibit the cutting of timber, as well as precluding all mining activities, and only under the strictest regulations permitting use of such areas by livestock.

We have recently been apprised of the controversy in the establishment of a national monument in the Jackson Hole area, with which you are all no doubt familiar; and we, here in Utah, are apprehensive, perhaps unjustly so, but nevertheless apprehensive, that some such procedure will result from this recent withdrawal of approximately 3,000,000 acres of land in southeastern Utah.

We are cognizant of the fact that for a number of years there has been under consideration the establishment of a monument in this area to be known as the Escalante Monument. If the present withdrawal should result in the establishment of such an area, it would mean the destruction of our greatest hopes for this area in the production of hydroelectric power at the Dewey and Dark Canyon sites, for the development of the vast magnesium and potash fields of southeastern Utah, as well as create an inhibition against several smaller irrigation and reclamation projects in this end of the State, as well as the merchandising of millions of feet of now merchandisable timber where it has reached the stage that it should be considered as ripe stumpage for future utilization, of which our Commission has spent considerable time and thought toward the development of sawmills and other processing plants, as well as the development of markets for this resource.

Our commission has never taken a stand as being against an orderly withdrawal of areas which will circumscribe any scenic or attractive territory which might contribute to the enjoyment and education of the general public. Conversely, our entire commission feels that all such scenic attractions should be protected, should be withdrawn and placed under proper jurisdiction for preservation in their scenic category for the benefit of all mankind. But we are also just as strongly of the opinion that, to set aside millions of acres and mile after mile of territory included in one large block withdrawal, is not in the public interest.

As above stated, we do not know, but we are apprehensive of the establishment of a monument in this area which, if included in this large acreage now withdrawn, would mean the taking out of circulation of mile after mile and section after section of lands that can have no value as parks or monuments but do not have great values in their mineral deposits, in their waters, in their timbers, and in their stock-

grazing potentialities, all of which would be lost to the citizens of our State upon the conclusion of such drastic action.

Under such instruments as the Commerce Act and the Antiquities Act, and the interpretation placed upon their intent, once brought into use either in connection with our water or our lands is a matter of greatest concern to the people of all these western States.

The continued encroachment of the Federal Government upon what we please to term "States rights" and the threats which such Federal actions bring to the stability of existing property rights has cast upon us a great doubt as to our authority to exercise control over such matters. Therefore, we, as citizens of this State, and we, as a commission, established for the purpose of upbuilding the State through industrial and agricultural development and for the purpose of raising the standard of living of the people of this State, wish at this time to express our keen interest in this matter; to establish our anxiety as to what the ultimate outcome of such wholesale withdrawal of lands may be and to request, of your honorable body, that all necessary steps be taken to safeguard the rights of the people of this State against unnecessary or unjustifiable encroachment by Federal authorities which may result in the loss to us of what we have always been led to believe were our individual and legally protected rights.

Senator MURDOCK. Any questions, Senator McCarran?

Senator McCARRAN. No. I am very much interested in the statement of this matter, as it develops. As it develops, it becomes entirely more interesting, and to my mind, very much more significant as we go along; but I dare say that we could bring 95 percent of the population of Utah to file their respective and individual protests against this withdrawal.

This committee has got authority, at this hearing or at a future hearing, or by other processes, in my judgment, to go deeper into this thing than the mere entertainment of protests.

I am going to make a suggestion to you, Senator, before this committee rises today, of an additional step, or additional steps, that I think we can take to get at the bottom of this thing.

I want to know who initiated this whole proposition. I want to know who was set into the picture, soundly and securely, as it appears now, before the first step was initiated; and who knew of the existence of the then set-up organization; and who, if anyone, was interested, either in the territory or its development, or its future preservation in its present state, or in the industry that might be stimulated by the product.

Those are things that I think this committee will have to dig into, and perhaps deeper than we can now dig into it today.

Senator MURDOCK. Senator, I have certain facts I have accumulated myself with reference to the magnesium deposit that was controlled by the Defense Plant Corporation. I will not take the time to relate them now, but I think I have told the distinguished Senator about them: but it seems to me that probably the whole thing can be traced back to what happened in respect to that drilling.

I might say this much, that after the United States Government, through the Defense Plant Corporation, had expended in the neighborhood of \$70,000 to drill this magnesium, carnallite, and sylvite deposit, the Bureau of Mines then made a report on the discoveries,

which were much greater than anyone ever anticipated, and then recommended to the Defense Plant Corporation that it would take about \$17,000 additional—no, I think it was \$12,000 additional—to determine the best means of mining that enormously rich deposit of magnesium and potash.

It was submitted to the War Production Board, presided over by a man there by the name of Bunker; that is, the Light Metals Division.

Mr. Bunker, at that time, was a director of the Potash Co. that finally took it over. I know for a fact that Mr. Bunker, on being apprised of the recommendation of the Bureau of Mines, reported to the Defense Plant Corporation that the War Production Board was no longer interested in it, and for the Bureau of Mines to get the machinery off the property. But, within a very short time, we find the very company of which he is a director, coming into the picture and taking over the property.

Mr. BREWSTER. Senator, he resigned.

Senator MURDOCK. Yes, he resigned later, I understand, and now claims to have disposed of his stock.

Senator McCARRAN. What I have in mind, assuming all that—the narrative is one thing—the digging in and getting the facts that we must have to establish a record here seems to me now to be the work of this committee; and, with your permission, I am going to make a suggestion later during the day or will put the special investigator of this committee right into the picture, at some time to come.

Senator MURDOCK. I think we could do nothing more beneficial at this time than to do that very thing. I have been reluctant to make any statement that would at all impede or interfere with the Potash Co. in developing that part of our State. I knew these facts at the time that the company came in. It was my opinion then that if that company, then, in good faith, had taken over those deposits, with the idea of developing them, that it was not my business to question it, and I did not; but I am rather disappointed at the way that the thing has gone since. I think that it is high time for us to put our investigator immediately on the matter to find out just what the facts are.

Mr. BROWN. May I suggest that, when you are through with Mr. Bundy, Mr. McCarthy be called next, because he can tell you more about the query of the Senator than anyone here, with reference to Mr. Bunker, whom we consider enemy No. 1 in Utah.

Senator MURDOCK. If there are no questions for Mr. Bundy, we will call Mr. McCarthy at this time.

Will you state your name, Mr. McCarthy?

STATEMENT OF W. S. MCCARTHY, SALT LAKE CITY, UTAH

Mr. MCCARTHY. W. S. McCarthy.

Senator MURDOCK. You have mining interests in Grand County?

Mr. MCCARTHY. Yes.

Senator MURDOCK. You may proceed.

Mr. MCCARTHY. Experience over a period of 20 years, and especially since September 1940, has convinced me of the truth of the statement of the Honorable Hatton W. Sumners in the September 1943 issue of Reader's Digest that—

It is not easy to get a law passed by Congress, but the bureaucrat can toss off a directive while you wait.

He can thus defeat the clearly evident intention of Congress and prevent development of the public domain to the detriment of the whole country.

My testimony, therefore, is intended to show, in a specific case, how that was accomplished by denial, without formal hearing, of rights legally acquired and apparently without regard to equity.

The old-time prospector, to whom we are indebted for bringing to light most of our valuable ore deposits, and who, in case of success, confidently expected the reward which Congress evidently intended would be his, no longer feels that assurance, if the expressions of experienced prospectors which I have heard are to be believed.

Also, he has practically disappeared, since, in addition to his bacon, beans, and burro, he now requires a certified public accountant at one elbow and a first-class lawyer at the other, neither of which he can afford, that his title to what he finds may withstand departmental assault.

Since location in 1919 to this date two small companies, locally owned, have been continuously in actual physical possession of about 2,800 acres in Grand County, Utah, taken up as placer filings.

During all the intervening years these claimants have worked diligently to develop the area, demonstrating their faith in its possibilities by the expenditure of funds of their own, and others whom they were able to interest, in a sum well over \$200,000. The officers of those companies never drew a penny of salary and, almost without exception, paid their own expenses.

Discoveries resulting from their work in this previously unnoticed and unattractive section aroused such interest as to cause a flood of applications for prospecting permits under the act of February 25, 1920, many of which have been held until very recently without effort or apparent intention on the part of the permittee to comply with requirements of that act.

Thus have prospecting rights on public land been held and development of the area retarded by payment of a \$32 filing fee, over a 20-year period.

Following our discovery of oil, applications for permits were granted, covering the ground upon which we were then actually engaged in drilling.

One such \$32 permit, held by a college professor in an Eastern State, was offered to us for a cash payment of \$3,000, plus a one-eighth royalty in oil.

Similarly were others held by opportunists for purely speculative purposes and relinquished promptly when, under new legislation, they were called upon for an annual rental fee of 50 cents per acre.

At the time our filings were made many thousands of acres were open to location. The land was barren, unattractive, and apparently worthless. After long survey and study, being otherwise convinced, these locators took over only such limited acreage as it was felt could be financed, efficiently and profitably developed.

Up to January 1942 the locators and associates had, as stated, spent approximately \$200,000 in development and annual assessment work, duly recorded, in a conscientious endeavor to comply with every rule, regulation, and requirement of Government, confident that their placer filings were valid and would ultimately be approved.

That confidence was buttressed by Supreme Court decisions and, later, by the fact that, on June 16, 1939, the Secretary of the Interior asked the House Public Lands Committee to sponsor legislation (H. R. 6560) giving him authority to remove from the land, and void the claims, of those who had for years retained possession without doing assessment work or meeting other governmental requirements.

The bill failed to pass; thus, according to the Secretary's figures as of that date, leaving 30,000 claimants in possession of 4,000,000 acres of the public domain which "were not being maintained by the performance of annual assessment work."

Evidently Congress did not look with favor upon the legislation requested. Nevertheless, by a departmental ruling, without formal hearing, we were told that our claims were not valid; that we could retain possession of the ground only by relinquishing our assertion of placer rights and applying for permits in lieu thereof, our conscientious effort, large expenditures and important discoveries notwithstanding.

Right here I want to call your attention to the fact that had it not been for the expenditure of \$200,000, or more, by a number of Utah citizens, we would not know today that we have the largest and richest deposit of potash and magnesium in the world.

Senator MURDOCK. Let me ask you, you held your metal claims under placer locations?

Mr. McCARTHY. Yes, sir.

Senator MURDOCK. And had expended \$200,000?

Mr. McCARTHY. Yes, sir.

Senator MURDOCK. Then, in your negotiations with the Department of the Interior, you were required, were you not, in order to continue with your holdings, to give up your rights under your placer locations and apply for leases? Have I followed you correctly?

Mr. McCARTHY. Yes, sir.

Senator MURDOCK. That was in connection with the drilling of the magnesium deposit out there by the Defense Plant Corporation?

Mr. McCARTHY. Yes, sir. In that connection, I would like to make my attitude clear. I have no doubt that the men who passed upon this matter, in the General Land Office, acted strictly within their rights, strictly according to law; but I have always felt that, in view of the great value of the discovery, the conscientious effort put forth, and the money expended honestly by these people, that possibly a little more elasticity in the final decision might have been exercised.

I feel, as I have always felt, and as we had good legal advice, that these placer filings were absolutely valid. The Department does not agree with us, as I say, insofar as the people who pass upon that are concerned. I think that they did it in the utmost good faith, the best of faith. They did that, no doubt; when it comes to the fine interpretation, they are right; but I do think, just the same, that we were entitled to the placer filings.

Senator MURDOCK. Let me ask you, under your placer locations, besides the metal, did you not consider you were the owner of all other minerals that might be found within the boundaries of your claim?

Mr. McCARTHY. That is the way the law was interpreted. You were not required to "call your shots" in those days.

Senator MURDOCK. In the action that was finally consummated between you and the Interior Department, did you secure the rights to the magnesium, carnallite, and sylvite, that was discovered in the area?

Mr. McCARTHY. I think those permits have not yet been issued. As to the status of them, I am not clear. We have the oil rights.

Senator MURDOCK. That is what I wanted to know.

Mr. McCARTHY. I think we have every reason to believe that we will be granted the mineral rights.

Senator MURDOCK. You take the position that the existence of the magnesium deposit there was ascertained by the work that you people did?

Mr. McCARTHY. Yes, sir.

Senator MURDOCK. It was by reason of the knowledge that was secured in your drillings that interest was created in the magnesium later on. Isn't that right?

Mr. McCARTHY. That is absolutely true. I don't think this field would have been uncovered up to this time had things gone on as they were; but we discovered that.

Mr. MURDOCK. I take it you feel now that you people were the original locators of the placer claims and should be given at least some priority in connection with the magnesium and sylvite discovered. Is that your position?

Mr. McCARTHY. Absolutely. I have in my hand here an analysis made by Mr. Herman Harmes, who was then, I think, the State chemist—September 29, 1924. I will show you that for your information. We knew then that we had these values in that ground. The reports of the United States Geological Survey, in 1932, show the same thing.

To continue with my statement: So was development of a potential oil field, and what is said to be the largest and richest deposit of magnesium in the world, delayed and prevented by departmental action, thus depriving the country at war of critically needed supplies.

Recent drilling indicates that the carnallite beds underlie at least several hundred acres. In War Minerals Report 12, at page 2, the Bureau of Mines says:

The deposit contains 78,600 tons of carnallite per acre—
and that—

The possibilities are tremendous.

At page 29 is shown the mineral content per acre, magnesium metal, 13,740,000 pounds; and K_2O (potash), 34,660 tons.

At page 32 is said:

Assuming the deposit to extend over 100 acres, 1,375,000,000 pounds of magnesium metal could be produced from it, or sufficient to supply a plant having an annual capacity of 54,000,000 pounds for 25 years.

Senator McCARRAN. In what form does that come in?

Mr. McCARTHY. Carnallite, magnesium chloride.

Mr. BREWSTER. Carnallite is a mixture of magnesium chloride and potassium chloride.

Mr. BROWN. We can show you samples of that this afternoon.

Mr. McCARTHY. Since late 1940 other factors seem to have conspired to prevent development of this rich section of the public domain.

On September 20, 1940, 7 months before the plans for a magnesium plant at Las Vegas, Nev., were first considered by the War Production Board on April 15, 1941, I wrote Mr. Donald Nelson regarding this deposit. It was again brought to his attention in February 1941 by Mr. Thurman Arnold, then Assistant Attorney General. A second letter to Mr. Nelson, on January 16, 1942, giving reference to three United States Geological Survey reports of analyses of Utah brines, as proof of their richness and value, brought a reply from Mr. Arthur Bunker, Chief of Aluminum and Magnesium Branch, who, according to testimony before the Truman committee, part 6, pages 2180-2181, was executive vice president of the Lehman Corporation, at a salary of \$60,000 per year. Mr. Bunker was also a director of the Potash Co. of America, in which the Lehman Corporation held a substantial interest.

According to press reports of that time, the Office of Production Management was told by the Army and Navy that all existing and projected magnesium plants would produce only three-fifths of their requirements; that the demand was far greater than those plants could supply.

At that critical time, in his effort to bring about development of the Utah deposit in the national interest, Senator Murdock seems to have encountered strong passive resistance, with obstacles at every turn. O. P. M. was interested, but reported to be "not disposed to take any action toward development of the deposits at the present time." The operators were advised to "get in contact with the Dow Chemical Co."

Mr. Bunker told Senator Murdock he already had asked the Bureau of Mines to drill the Utah magnesium deposits, but, strangely, the Bureau of Mines says it never received such a request.

On November 28, 1941, was published the statement that Arthur Bunker "has sent an expert to Utah to examine the brines from wells near Thompsons," but again, strangely, according to those in charge of the ground, the expert did not appear.

I want to state, gentlemen, that these people that are on the ground, in possession of the ground, have been there every minute of the time, and if the expert came there he could not very well get by them.

Senator McCARRAN. When you say "they," whom do you refer to?

Mr. McCARTHY. The men on the ground, in charge of the property.

Senator MURDOCK. Will you give his name, so that when our investigator takes up this matter he will have the information.

Mr. McCARTHY. Mr. W. F. Reeder and Joseph Wedell.

Senator MURDOCK. They reside there?

Mr. McCARTHY. Right on the ground.

Senator MURDOCK. What is their post office?

Mr. McCARTHY. Thompsons, Utah.

Disregarding, and apparently discrediting, United States Geological Survey findings—

Office of Price Administration would make no move and make no recommendation until it received a report from the National Academy of Science.

According to published reports, in January 1942, we had 6 magnesium-producing plants in operation, and in June 1943 the number had increased to 24.

By what miracle did we obtain these 18 additional plants, in view of Mr. Bunker's letter to me of February 6, 1942, file 2003-R, in which he said:

The present difficulties in obtaining adequate amounts of magnesium are not due to lack of satisfactory raw materials, but rather to shortages of electric power, difficulties in obtaining electric equipment and other critical materials.

He found it to build 18 additional plants, but he could not find it to build a plant in Utah.

Quite as obvious a query is, Did the Light Metals Branch require investigation by, and approval of, the National Academy of Science before spending millions of dollars of the taxpayers' money for these additional plants?

Little wonder that the Truman committee, in their report No. 480, part 6, page 4, says:

Evidence gathered by the subcommittee indicated there is still something seriously wrong in the Light Metals Section of the War Production Board, successor of the old Office of Production Management section, which failed so miserably to anticipate and prepare for the greatly increased demand for these metals.

What became of this property as to which the Bureau of Mines says, "The possibilities are tremendous"? It is now in possession of, and being operated by, the company of which Mr. Arthur Bunker was a director.

This particular case seems to clearly demonstrate how development of the public domain may be retarded, and the expressed will of Congress circumvented, by the action of individual Government employees.

Senator MURDOCK. Are there any questions of Mr. McCarthy?

Senator McCARRAN. You are submitting that statement for the record, Mr. McCarthy?

Mr. McCARTHY. Yes, sir.

Senator MURDOCK. Thank you very much, Mr. McCarthy. I will hand this record back to you.

It is now nearly 12:30. I suggest we will recess for lunch until 1:30.

AFTER RECESS

(Met pursuant to adjournment.)

Senator MURDOCK. The meeting will come to order. We will ask Mr. McCarthy to resume.

STATEMENT OF W. S. McCARTHY—Resumed

Senator McCARRAN. May I have a further statement.

Mr. McCarthy, how long have you been acquainted with the territory involved in this hearing, depicted in green on the map?

Mr. McCARTHY. Since 1822 or 1923. That was my first connection with it.

Senator McCARRAN. How did you first become interested in that territory?

Mr. McCARTHY. I was induced to purchase some stock in the Crescent Eagle Oil Co., at first.

Senator McCARRAN. Is that an oil producer?

Mr. McCARTHY. No; not a producer; but they drilled the first well there, which came in with a flow of oil, at that time estimated at from 1,000 to 1,200 barrels. But the well was ruined.

Senator McCARRAN. Let us go back at that. The well came in a flowing well?

Mr. McCARTHY. It blew clear over the derrick, and was estimated, as I say, to be a 1,000 to 1,200 barrel well, at that time.

Senator McCARRAN. When was that?

Mr. McCARTHY. That was in 1924, I think.

Senator McCARRAN. What has been done with that well since?

Mr. McCARTHY. The company was advised by the driller in charge to go deeper; that they had not struck what they wanted.

Senator McCARRAN. How deep were you then?

Mr. McCARTHY. About 3,200 feet. They went down to, I think, below 4,000 feet.

Senator McCARRAN. What were the results there at that time?

Mr. McCARTHY. With a 4-inch hole, it was finally abandoned, with two strings of tools and of the wire cable in the hole and the driller, when he walked away from it, is reported to have said: "Well, they will never open up that well again."

Senator McCARRAN. When you struck your flow, that blew out over your derrick, why did you go further? Why didn't you case up?

Mr. McCARTHY. Because the board of directors, as I am advised, were told by this driller—who was an experienced man—that they would get much greater production at depth.

Senator McCARRAN. Had you carried you casing down to that point?

Mr. McCARTHY. No; it is cased about 2,050 feet, I think.

Senator McCARRAN. Has any other well ever been drilled in that immediate vicinity?

Mr. McCARTHY. Yes. Ten years later we made an arrangement with the Brendel Oil & Gas Co. of Pittsburgh. They went in there looking for potash and magnesium. They drilled about 4,125 feet. They brought their own drillers from the East, very competent men; and at 4,125 feet they abandoned the project. Their drillers urged them at that time, to go on and get an oil well. In their judgment it was there.

Senator McCARRAN. How far from the first well was this later well?

Mr. McCARTHY. It is about 400 feet.

Senator McCARRAN. Did they, in passing through the strata, or the depth where you had struck the flow, encounter oil?

Mr. McCARTHY. Oh, yes.

Senator McCARRAN. Was it a flowing well then?

Mr. McCARTHY. No; but that well has made oil from that day to this, and is still making it.

Senator McCARRAN. Flowing?

Mr. McCARTHY. Just a little trickle of oil in the brine.

Senator McCARRAN. They had your log as you went down? They had your experience to guide them, didn't they?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. You had had the experience of going beyond your flow, into a different stratum, many thousands of feet beyond, and one would think that they would have taken advantage of your experience?

Mr. McCARTHY. Their reason for abandoning that, at the time, as they said, was that they did not want to ruin the chemical showing; they did not want to strike oil.

Senator McCARRAN. They did not want to strike oil?

Mr. McCARTHY. No; they were afraid of ruining the chemical showing.

Senator McCARRAN. What were they drilling for?

Mr. McCARTHY. Potash and magnesium.

Senator McCARRAN. What did they strike in the way of magnesium?

Mr. McCARTHY. As I recall, the United States Geological Survey Analysis Report, page 591, shows from 42—the latter figure I would not say definitely—but it shows a minimum of 42 percent in the salts. In the Crescent Eagle well it showed as high as 68.8.

Senator McCARRAN. Do you know where the log of those drillings might be at this time?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. Where?

Mr. McCARTHY. You will find it in War Minerals Report 12, of the Bureau of Mines. There are three logs in that War Minerals Report 12: The Crescent Eagle, the Brendel and the Defense Plant.

Senator McCARRAN. That later well, the well drilled by the Pennsylvania people, was put down in what year?

Mr. McCARTHY. 1932.

Senator McCARRAN. Were any other wells put down in that vicinity?

Mr. McCARTHY. Yes; there was a well drilled by a man named Armstrong, of California, down in the southeast corner of that same section, and that showed considerable oil at a rather shallow depth.

Senator McCARRAN. A flow?

Mr. McCARTHY. No; it did not flow, but it showed a very good sand.

Senator McCARRAN. When you say "a shallow depth," about what?

Mr. McCARTHY. Around 700 feet; something of that kind.

Senator McCARRAN. You said here in your statement this morning that up to January 1942 the locators and associates had, as stated, spent approximately \$200,000 in development and annual assessment work, duly recorded, in a conscientious endeavor to comply with every rule, regulation, and requirement of Government, confident that their placer filings were valid and would ultimately be approved.

I take it, that was put into the well which your organization put down?

Mr. McCARTHY. Yes; it was put into the well; it was put into assessment and development work. Mr. Reeder, who has been in charge of that ground all these years, one of the original locators of it, and the man who brought it to light, realized that if the agricultural lands south of there were to be protected, it would be necessary to excavate reservoirs for the brine, to keep it from running down over the country; and that was a part of the work that applied on the assessment work, and so forth.

Senator McCARRAN. War Minerals Report No. 12, I suggest at this time, become a part of the record. We can acquire that through the agency here.

(The report is as follows:)

[United States Department of the Interior War Minerals Report 12]

THOMPSON MAGNESIUM WELL, GRAND COUNTY, UTAH

Magnesium, potash

SUMMARY

The Thompson magnesium well was drilled for magnesium chloride in Grand County, Utah. The site is about $7\frac{1}{2}$ miles south and west from Thompson on the Denver, Rio Grande & Western Railroad.

A very rich section of carnallite ($\text{KMgCl}_2 \cdot 6\text{H}_2\text{O}$) and sylvite (KCl) was cored at a depth of 3,318 to 3,538 feet. This was the only magnesium-bearing section in the well. A 5.5-foot bed of sylvite began at a depth of 4,152 feet.

The results of the coring were very gratifying. In the 220-foot section, there were 91.6 feet of carnallite beds ranging from 1 foot to 13.5 feet in thickness and assaying 10 to 80 percent carnallite. Many of the thick beds assayed better than 50 percent carnallite. The 91.6 feet averaged 39.5 percent carnallite or the equivalent of 36.15 feet of solid 100-percent carnallite.

The sylvite amounted to 47.5 feet in thickness, averaging 26 percent or the equivalent of 12.35 feet of solid 100-percent sylvite. Converted into K_2O , this represents 7.8 feet of solid K_2O . The potash in the carnallite amounts to the equivalent of another 6.1 feet of solid K_2O , a total of 13.9 feet.

The deposit contains 78,600 tons of carnallite per acre, with a content of 13,740 pounds of metallic magnesium and 13,260 tons of potash. In the sylvite section, there is an additional 21,400 tons of potash per acre. The lateral extent of the deposit has yet to be explored by drilling other wells, but it is considered that this well, with the two old cable-tool test wells prove about 20 acres.

The possibilities are tremendous—the deposit may cover 20 acres, 200 acres, or 2,000 acres. Further drilling is necessary before its extent can be determined.

Material was moved on the location May 1, 1942, and the well spudded in on May 6 and completed to 4,207 feet on August 3. The well was cored continuously from 2,105 to 4,207 feet, with a recovery of 91.17 percent of the cores. Special mud, consisting of Zeogel, Impermex, magnesium chloride flake ($\text{MgCl}_2 \cdot 6\text{H}_2\text{O}$), potassium chloride, and common salt, was mixed to core the very soluble salt between 2,105 and 4,207 feet. This solution kept the cores well out to gage and is responsible for the excellent recovery. There was some etching of the cores in the carnallite section.

INTRODUCTION

The Defense Plant Corporation-Utah Magnesium Corporation Reeder No. 1 well is in the $\text{SE}\frac{1}{4}\text{SW}\frac{1}{4}\text{SE}\frac{1}{4}$, sec. 4, T. 22 S., R. 19 E., Grand County, Utah. The well was drilled on a patented placer claim belonging to W. F. Reeder and under lease to the Utah Magnesium Corporation. It is about $7\frac{1}{2}$ miles south and west from Thompson, Utah, and $1\frac{1}{2}$ miles south of Crescent Junction. The well was drilled on the north end of the plunging axis of the Salt Creek anticline (see fig. 3).

Drilling under the supervision of the Bureau of Mines¹ was done by the Mack Drilling Co. under contract. As stated above, work was begun May 6, and the hole was completed August 3, 1942.

The Reeder No. 1 well was drilled by the Bureau of Mines with the cooperation of the Geological Survey, as agents for the Defense Plant Corporation.

HISTORY OF DRILLING

Many wells have been drilled on the Salt Creek anticline in search of oil and gas. The nearest one is 218 feet S. 40° E. from the well drilled for the Defense Plant Corporation. The Crescent Eagle Oil Co. Reeder No. 1 well was started in 1920 and was finished in 1925 to a depth of 3,972 feet. It was in this well that carnallite was first discovered and many analyses made of the brines

¹ This War Minerals report is based on a field report by C. L. Severy, mining engineer.

and samples while drilling. It was a cable tool test, so no cores were taken. The log of this well and many others of the district is shown in Federal Geological Survey Bulletin 863, *Geology of the Salt Valley Anticline and Adjacent Areas*, Grand County, Utah, by C. H. Dane (1935, 184 pp.).

In September 1928 another well was started 400 feet south of the Crescent Eagle No. 1 Reeder. It was drilled by the Brendell Oil & Gas Co. in NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, Sec. 9, T. 22 S., R. 19 E., and was carried to a depth of 4,125 feet with cable tools. This well was drilled principally to prospect the salt section for magnesium and potash. Samples of the brines from the drilling water were taken and analyzed. A considerable amount of carnallite was reported in this well. It was the showings of magnesium and potassium in the Crescent Eagle No. 1 and the Brendell No. 1 that caused the interest in the area that resulted in the drilling of the Defense Plant Corporation well.

The Utah Magnesium Corporation assembled a block of leases and permits in the area, with secs. 4 and 9, T. 22 S., R. 19 E., as the center, and interested the Defense Plant Corporation in financing the drilling of the well.

PHYSICAL FEATURES

The site of the well, except for about one-fourth mile of dirt road, is reached by hard-surface roads. Moab, Utah, lies 30 miles south; Grand Junction, Colo., 90 miles east; Green River, Utah, 22 miles west; and Salt Lake City, 210 miles north and west.

The area is an upland desert, with an elevation of about 4,800 feet above sea level. The summers are hot, and temperatures of 100° to 110° are not uncommon. The nights are always cool. In the winter the wind whips across the open desert, and the temperatures drop well below zero at times.

The annual rainfall ranges from 6 to 9 inches.

Locally there is very little water. There are no wells with any large amounts of water. Streams in the canyons of Book Cliffs to the north flow the year around but disappear upon reaching the desert. Floy Canyon has a minimum flow of 1.6 second-feet and a maximum of about 6 second-feet. This water could be made available to the magnesium operations by laying an 8- or 9-mile pipe line. The minimum of 25,000 barrels a day should be ample for a chemical plant.

Twenty miles westward is Green River, a fairly large stream which is navigable to its junction with the Colorado River to the south, and the Colorado River is navigable upstream to Moab. Twenty-five miles southwest of the well is the Colorado River, which is slightly larger than Green River. The terrain to the Colorado River is very rough and highly eroded into perpendicular cliffs several hundred feet high. The land slopes gently toward Green River. Water could be piped from Green River for working the magnesium deposits. The lift to the well would be about 800 feet.

DESCRIPTION OF DEPOSITS

The rocks exposed at the surface are Mancos shales of Cretaceous age. The well was started in the Mancos shales, which continued to 1,770 feet, and are hard, brittle, gray, and black, with calcite seams. The Dakota sandstone of Crataceous age extended from 1,770 feet to 1,807 feet, and was hard and well cemented. There was a show of oil from 1,770 to 1,779 feet. Below the Dakota the Morrison formation of Jurassic age was drilled from 1,807 to 2,091 feet. The upper part, from 1,807 to 1,932 feet, was mostly green shales, with some purple members and some thin sandstones. From 1,932 to 2,050 feet was another extremely hard quartzite sandstone, with a showing of oil and gas in the upper part. From 2,050 to 2,091 feet was shale with lime streaks, also believed to be Morrison. Below 2,091 feet, where the top of the salt occurred, to the bottom of the hole at 4,207 feet, was a succession of salt beds in alternation with several sandstones and shales, members of what is believed to be the Paradox formation of the Pennsylvanian series. The salt beds dipped 15 to 65° and the shales 20° to almost vertical. Some of the salt cores showed complete folds and change of dip in the same section of core, indicating that the salt had been squeezed.

Following is the normal stratigraphic section for the area:

Generalized section of rock exposed in area around and adjacent to Defense Plant Corporation Reeder No. 1 well and identified in logs of wells

System	Series	Formation and group	Thickness, feet	Character of rocks
Cretaceous	Upper	Mancos shale	2,000+	Slate-gray marine shale.
		Dakota sandstone	25 to 60	Yellowish quartzite sandstone.
Jurassic	do.	Unconformity:		
		Morrison formation.	700+	Variegated green and purple shales, with some white and yellow sandstone members.
		Sommerville formation.	37 to 58	Chocolate-colored shale and red sandy mudstone.
		Entrada sandstone.	275 to 300	Massive cross-bedded pinkish and grayish white sandstone.
		Carmel formation.	125 to 150	Pink, red, and reddish brown muddy sandstone.
Jurassic?		Navajo sandstone.	300	Pale buff highly cross-bedded sandstone.
		Kayenta formation.	150 to 225	Irregular bedded white, light gray, buff, pink, red-brown, and lavender sandstone.
		Wingate sandstone.	325 to 350	Massive buff cross-bedded sandstone.
Triassic	Upper	Chinle formation	200 to 225	Variegated mudstone and sandstone containing reptilian bones and teeth.
	Lower	Moenkopi formation.	0	Chocolate-brown to red-brown sandy mudstone, muddy sandstone, and shale.
Carboniferous		Permian Cutler formation, including equivalent of Rico in lower part.	225 to 300	Brown to red sandstone with subordinate red to chocolate shales.
		Pennsylvanian Hermosa formation.	0 to 800	Blue greenish and gray fossiliferous limestone interbedded with white, gray, and greenish sandstone.
		Paradox formation	2,100+	Salt, anhydrite, and some gypsum interbedded with gray-black and brown shale; some sandstones.

This generalized section is compiled from a section by E. T. McKnight in Geological Survey Bulletin 908, from a section by C. H. Dane in Geological Survey Bulletin 863, and from well logs.

Geologic section as drilled in Defense Plant Corporation—Reeder No. 1 well

Cretaceous	Upper	Mancos shale	1770	Gray and black brittle shale.
		Dakota sandstone	37	White to light gray cross-bedded sandstone.
Jurassic	do.	Morrison formation	284	Green and chocolate shales, hard quartzitic sandstone with shale and limestone at bottom.
Carboniferous	Pennsylvanian	Paradox formation	2116	Salt (halite) beds and carnallite and sylvite beds with interbedded sandstone and black shales showing oil and gas.

In the Defense Plant Corporation Reeder No. 1 well a vast section of formations is missing. Just how many feet of sediments this represents cannot be stated exactly, as the formations change in thickness over short distance, but it is estimated at 2,800 to 3,000 feet.

The theory of these salt domes is that the salt has been squeezed by tremendous pressures through the overlying formations to their present positions. It is believed that this happened at the site of this well. The salt cores showed folds

and changes of dip that would bear out this theory, which has a very material bearing on the volume of reserves that may be expected.

No detailed geology of the surface formations is shown or contemplated in this report, as this phase has been adequately covered by Geological Survey Bulletins 841, 863, 865, and 908. These bulletins discuss the surrounding territory for many miles in all directions and show most of the logs of the wells drilled in the area. For details of the geology of the area, reference is made to the above bulletins.

OCCURRENCES OF OIL AND GAS

Both oil and gas showings were found in the well at several places. The Dakota sand (1,770 to 1,807) showed some hard, oily sand from 1,775 to 1,781 feet, but it is very doubtful that there is enough porosity in this sand to permit production of oil.

In the lower sand of the Morrison formation (1,935 to 2,019 feet), a show of oil and gas was contained in the core from 1,935 to 1,942 feet. This sand was very hard, and the oil occurred in the fractures in the sand. It is very doubtful that there is enough porosity to make an oil well.

From 3,103 to 3,116 feet were alternating black bituminous shales and sandy shale with some sand that has a strong smell of petroleum and gas. The mud became very gaseous and light and smelled strongly of oil. Some high-gravity oil was collected from the mud stream. During drilling in salt at 3,160 feet the gas broke through and shot the mud 40 feet up in the derrick. At this point a gas well might be completed with a small amount of oil, if there happened to be more than just a pocket of gas. Many of the wells drilled in this area had strong flows of gas which, when let flow, lasted from only a few hours to a few days. It is believed that the conditions in this well are similar. Above this show of gas and oil the crystals in the salt cores contained small globules of oil.

From 4,178 feet to the bottom of the hole at 4,207 feet was a section of black shales, sandy shales, and shaly sands, and the fractures were filled with salt and anhydrite. These formations had a strong smell of gas and petroleum. Gas bubbled from the cores when washed. It is believed that this is the best show of oil and gas in this well.

After drilling was completed and the well shut in, the gas and oil showings increased. The hole was full of the 10.8-pound mud used in coring. A pressure of 500 pounds built up at the top of the casing above the mud, indicative that the pressure in the formation was considerably above hydrostatic and the extra weight of the mud. The well was bled many times through a valve, and several barrels of very light gravity green oil was collected on the pond. It had the appearance of the light Pennsylvania oils of Oklahoma. It is impossible to tell until a proper test is made whether production can be obtained at this point or whether most of this oil is coming from 3,103 feet or 4,178 feet. In other parts of the United States—in oil-producing territory—a showing of so much oil and gas through 4,200 feet of heavy mud would indicate a commercial well. In this area, however, much depends on the porosity of the sands, which, as observed in this well, has been very hard. The sands at 3,103 feet and at 4,178 feet were more porous than any of the upper sands.

The temperature at the bottom of the hole when the well was finished was 114.3° F. Cecil Spicer, of the Geological Survey, who assisted in sampling, believes that it will be lower after a month or 6 weeks. He expects to return later and take a series of readings at intervals of 500 feet throughout the well.

DESCRIPTION OF OPERATION

Since speed, as well as high core recovery, was one of the main considerations on this work, it was decided to use a regular oil-well rotary rig and a Reed B-R wire line core barrel. Both proved very satisfactory, and the results as to time and core recovery could not have been equalled by any other method.

A 96-foot steel tubular derrick was erected, and a Wilson Mogul Unitized draw works with a 60-horsepower Cummings Diesel engine was moved in. The pump was a Gardner-Denver mud pump powered with a 60-horsepower Waukesha gas engine using butane.

The soil at the well location and for several feet below the surface was mostly unconsolidated sand. Mud pits (see fig. 1) were dug with a bulldozer but caved so badly when put into use that a lining of 2- by 12-inch lumber was neces-

sary for the sides. No leakage was apparent after the Aquagel was mixed with the water for the regular rotary mud. Two of these pits were constructed. One was 67.5 feet long by 11.5 feet wide and 6 feet deep, with a capacity of about 900 barrels. The other tank was 16.7 feet wide by 49.5 feet long and 6 feet deep, with a capacity of 880 barrels. While the well was being drilled to the top of the salt, both tanks were used to circulate the drilling mud.

A sectionized portable office and core house (12 by 24 feet) was constructed in Moab and erected at the well. The portion of the building used as a core house was later turned over to the Geological Survey, and another house was built for storing and splitting the cores.

DRILLING

Workmen began to erect the derrick on May 2, and the well was spudded in on the afternoon shift of May 6.

Water was hauled for mixing mud on this well. The nearest supply was from a dam about 4 miles south of the location. This water was exhausted in about 3 weeks because the farmers used it for irrigating. After that, all the water was bought from the Denver, Rio Grande & Western Railroad and hauled from its water tank at Thompson, Utah, a distance of $7\frac{1}{2}$ miles. One thousand four hundred barrels of water were hauled and placed in the mud pits, and 200 sacks of Aquagel added to make the drilling mud.

The well was started with an 18-inch drag bit and the 18-inch hole carried to a depth of 25 feet through the soft surface materials. At this point the formation became hard, and the hole was drilled to 122 feet with a $14\frac{3}{4}$ -inch Hughes rock bit, then reamed to 18 inches to 85 feet to receive the surface string of casing.

Eighty-five feet of second-hand, 16-inch O. D., 70-pound welded pipe was set and cemented with 50 sacks of oil-well cement. The cement filled the hole back of the pipe solid to the surface. The cement was allowed to set 72 hours before the plug was drilled and drilling of the hole continued.

On May 14 drilling was resumed with $9\frac{3}{8}$ -inch Hughes rock bit and continued to 563 feet. At this point the hole was reamed with a $12\frac{1}{4}$ -inch rock bit and carried that size to a depth of 1,627 feet, where the hole was reduced to $8\frac{3}{4}$ inches and drilled to 1,948 feet. From 1,948 to 2,105 feet, $8\frac{3}{8}$ -inch hard-rock Reed Roller bits were used. The top of the salt section was noted at 2,091 feet. At this point a 17-foot core was taken with the Hughes conventional core barrel, and 17 feet of salt core recovered.

After this core was taken, the hole was reamed from $8\frac{3}{4}$ inches to $12\frac{1}{4}$ inches from 1,627 feet to 2,016 feet with Hughes hard-rock bits. It was the intention to set the $9\frac{3}{8}$ -inch casing on top of the salt; but after the $12\frac{1}{4}$ -inch bit was worn out on the job at 2,016 feet in a very hard sandstone and no headway had been made, it was decided to set the pipe at this point (see fig. 2).

A string of $9\frac{3}{8}$ -inch O. D., 40-pound, seamless steel casing was set at 2,016 feet and cemented by the Halliburton Oil Well Cementing Co. with 200 sacks of oil-well cement. This amount of cement was calculated to cement the casing solid for 600 feet above the casing shoe.

While the casing was being run and after 12 joints had gone into the hole, a slip used to hold the casing in place when the next joint was being screwed on fell into the hole. The bolt holding the slip to its framework had sheared off and let it fall. One day was lost fishing for this slip without recovery. The casing was finally run and cemented at 2,016 feet. After 72 hours for the cement to set, the plug was drilled and the hole bailed dry to be sure of a good water shut-off. There was no water in the hole. Three days were lost fishing and milling up the lost slip. The slip was a piece of case-hardened steel 15 inches long, 10 inches wide, and $1\frac{1}{2}$ inches thick. It finally had to be milled up and taken out in pieces.

On May 25 the hole was bailed dry to remove the rotary mud used to drill the hole, and a new pit of rotary mud was mixed, with which to core the salt section. This mud had to be one that would not flocculate in a brine and still have the viscosity and wall-plastering qualities of a regular rotary mud.

Coring was started on the twenty-sixth, but very poor recovery was obtained because small pieces of iron from the milled-up slip and ball and roller bearings from the worn-out reaming bits remained in the bottom of the hole. Coring and fishing were continued until May 29 when R. S. Rathke, the morning shift driller, constructed a most ingenious fishing basket, which recovered a half gallon of balls, rollers, and pieces of slip and completely cleared the hole.



FIGURE 1.—Drilling—mud pits in foreground.

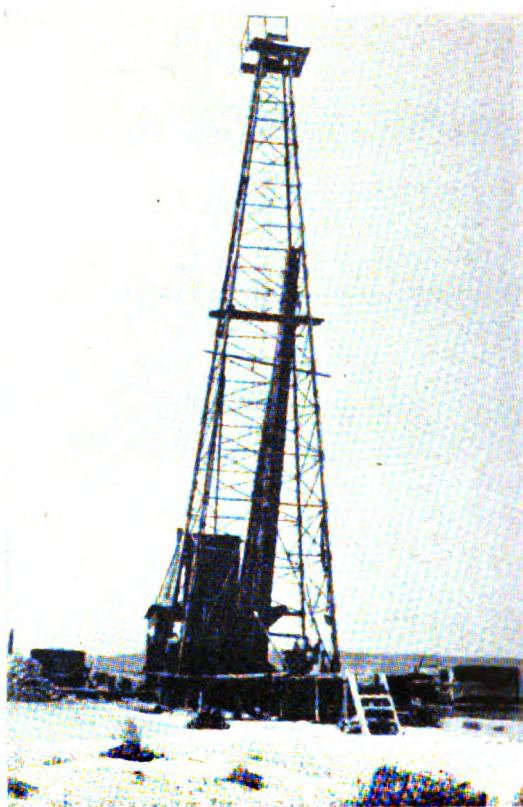


FIGURE 2.—Pulling drill pipe from hole.



FIGURE 3.—Looking southwest from Defense Plant Corporation-Reeder No. 1. Salt Creek anticline is in the distance. In the foreground, Crescent Eagle No. 1; to the right, Brendell No. 1.



FIGURE 4.—Removing salt from core barrel.

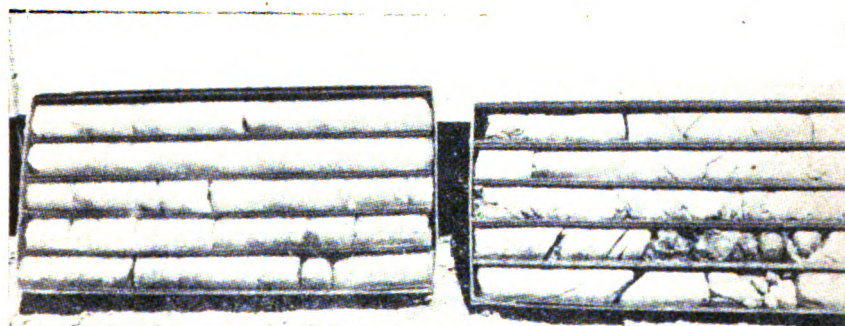


FIGURE 5.—Core box on left, salt core; core box on right, shale with seams filled with salt.

From May 29 and a depth of 2,177 feet, coring progressed (with only one delay of 2 days on account of a broken crown block) until August 3, when the coring was completed and the well finished to a depth of 4,207 feet.

The following tables give the bit and drilling record on the Defense Plant Corporation-Reeder No. 1 well:

Bit used before setting surface pipe

	<i>Feet</i>
18-inch Hughes drag bit.....	0-25
14 $\frac{3}{4}$ -inch Hughes rock bit.....	30-122
18-inch Hughes rock bit (reaming).....	25-87

Bit record

Trip	Make of bit	Size	Run No.	Type of cone	Serial No. of bit	Depth, feet		Footage
						From	To	
1	Hughes	9 ⁷ / ₈	1	OWS	3036	122	563	441.
2	do.	12 ¹ / ₄	1	OSQ2	26394	563	652	89. 478 feet reaming.
3	do.	12 ¹ / ₄	1	do.	27053	652	902	250.
4	do.	12 ¹ / ₄	1	do.	27089	902	1050	148.
5	do.	12 ¹ / ₄	1	do.	27049	1050	1296	246.
6	do.	12 ¹ / ₄	1	do.	27061	1296	1506	210.
7	do.	12 ¹ / ₄	1	do.	27074	1506	1627	121.
8	do.	8 ³ / ₄	1	do.	93036	1627	1698	71.
9	do.	8 ³ / ₄	1	do.	2929	1698	1771	73.
10	do.	8 ³ / ₄	1	do.	31626	1771	1795	24.
11	do.	8 ³ / ₄	1	do.	31628	1795	1800	5.
12	do.	8 ³ / ₄	1	do.	82076	1800	1820	20.
13	do.	8 ³ / ₄	1	do.	35335	1820	1822	2.
14	do.	8 ³ / ₄	1	do.	35334	1822	1852	30.
15	do.	8 ³ / ₄	1	OSC	30889	1852	1948	96.
16	do.	12 ¹ / ₄	1	OSQ2	27062	1627	1718	Reaming 91.
17	Reed	8 ⁵ / ₈	1	SE2	3909	1948	1957	9.
18	do.	8 ⁵ / ₈	1	do.	3929	1957	1979	22.
19	do.	8 ⁵ / ₈	1	do.	3937	1979	1998	19.
20	do.	8 ⁵ / ₈	1	do.	3936	1998	2010	12.
21	do.	8 ⁵ / ₈	1	SE-M	8933	2010	2015	5.
22	do.	12 ¹ / ₄	1	Reamer	927 R	1718	1766	Reaming 48.
23	do.	8 ⁵ / ₈	1	SE2D	41201	2015	2024	9.
24	do.	8 ⁵ / ₈	1	do.	42051	2024	2040	16.
25	do.	8 ⁵ / ₈	1	SE2	5845R	2040	2065	25.
26	do.	8 ⁵ / ₈	1	do.	?	2065	2105	40.
	Hughes	8 ⁵ / ₈		Core bit and barrel.		2105	2122	Coring 17.
27	do.	12 ¹ / ₄	1	OSQ2	27082	1766	1795	Reaming 29.
28	do.	12 ¹ / ₄	1	do.	28084	1795	1866	Reaming 71.
29	do.	12 ¹ / ₄	1	do.	27077	1866	1918	Reaming 52.
30	do.	12 ¹ / ₄	2	do.	27062	1918	1952	Reaming 34.
31	do.	12 ¹ / ₄	2	do.	27074	1952	1965	Reaming 13.
32	do.	12 ¹ / ₄	3	do.	27062	1965	1976	Reaming 11.
33	do.	12 ¹ / ₄	2	do.	26394	1976	2003	Reaming 27.
34	do.	12 ¹ / ₄	2	do.	27049	2003	2010	Reaming 7.
35	do.	12 ¹ / ₄	2	do.	27061	2010	2014	Reaming 4.
36	do.	12 ¹ / ₄	2	do.	2,089	2014	2016	Reaming 2.
37	do.	12 ¹ / ₄	2	do.	27053	2016	2016	Reaming 0.
38	Reed	8 ⁵ / ₈	1	Core head drag bit.	6320	2122	2126	Coring 4.
39	do.	8 ⁵ / ₈	1	Used drag bit	?	2126	2130	Coring 4.
40	do.	8 ⁵ / ₈	1	Used 1-SE-SM	?	2130	2169	Coring, Junk in hole 30.
41	do.	8 ⁵ / ₈	2	do.	?	2169	2177	Coring, Junk in hole 8.
42	do.	8 ⁵ / ₈	1	Used F P-2	6334	2177	2323	Coring 146.
43	do.	8 ⁵ / ₈	1	do.	6333	2323	2418	Coring 95.
44	do.	8 ⁵ / ₈	1	do.	6724	2418	2493	Coring 75.
45	do.	8 ⁵ / ₈	1	Used F P-2	2309	2,493	2,523	Coring 30.
46	do.	8 ⁵ / ₈	1	F P-2C	2547	2,523	2,547	Coring 24.
47	do.	8 ⁵ / ₈	1	do.	2544	2,547	2,678	Coring 131.
48	do.	8 ⁵ / ₈	1	F P 1	3211	2,678	2,729	Coring 51.
49	do.	8 ⁵ / ₈	1	F P-2C	2550	2,729	2,930	Coring 201.
50	do.	8 ⁵ / ₈	1	F P 1	2419	2,930	2,968	Coring 38.
51	do.	8 ⁵ / ₈	1	do.	6326	2,968	3,256	Coring 288.
52	do.	8 ⁵ / ₈	1	do.	6324	3,256	3,634	Coring 378.
53	do.	8 ⁵ / ₈	1	do.	6325	3,634	3,880	Coring 246.
54	do.	8 ⁵ / ₈	1	do.	6523	3,880	4,207	Coring 327.

Summary of bit performance from 85 to 4,207 feet

Number of bits used	Character of work	Size of bit, inches	Make of bit	Total footage	Average footage per bit	Character of material
6.....	Drilling...	12¼	Hughes hard rock	1,064	177.3	Hard brittle shale.
1.....	do	9¾	do	441	441.0	Shale and clay.
8.....	do	8¾	do	321	40.0	Hard shale and quartzite sandstone.
5 new.....	Reaming	12¼	do	867	79.0	Do.
7 second run.....						
1 third run.....						
(Total feet drilled and reamed by the 11 Hughes 12 ¼-inch rock bits was 1,931 feet for an average of 175.5 feet per bit.)						
9.....	Drilling...	8½	Reed roller rock	157	17.4	Very hard quartzitic sandstone. Same hard shale with lime streaks.
16.....	Coring	8½	Reed B-R core	2,085	130.3	¾ salt and ¼ sandstone and shale.
45.....	All classes	All sizes.	Hughes and Reed	4,935	109.7	All kinds.

Summary of drilling time

	Days
May 1 and 2. Building derrick and digging mud pits.....	2
May 4-5-6. Rigging up—spudded.....	2½
May 6. Drilling.....	26½
Reaming.....	9½
Fishing.....	6½
Waiting on cement (2 strings of pipe).....	6
Running pipe.....	2½
Lost time (break-downs).....	5½
Bailing hole.....	¾
Mixing mud.....	¾
Coring.....	30¾
Total time.....	92¾

Summary of work performed

	Feet		Feet
Drilled.....	2,063	Drilled per day.....	79.2
Reamed.....	890	Reamed per day.....	95.5
Cored.....	2,144	Cored per day.....	70.0

Total depth, 4,207 feet.

Total lapsed time from spudding to finishing coring, 88 days.

Average progress per day, 47.8 feet.

REAGENTS

The formations drilled in this well did not make any mud, as all of the shales were hard. To start drilling, 200 sacks of Aquagel were used to give a proper drilling mud with the density and viscosity desired. At one or two places in the hole, some mud was lost in the formations, but this was remedied by adding 2 bales of chopped cellophane and 1 bale of redwood bark, with some Impermex.

For coring the soluble salt sections, a special mud was mixed. This is the first time that a mud of this character has been mixed to use with a rotary drill. The hole was bailed dry and the new mud introduced. To start coring, 400 barrels of water were hauled, and to this were added 700 sacks (70,000 pounds) of magnesium chloride flake $MgCl_2 \cdot 6H_2O$, 20 sacks of Impermex (1,000 pounds), 60 sacks of Zeogel (4,800 pounds) and 3,000 pounds of salt (NaCl). This mud had a viscosity of 37 and weighed 10.5 pounds per gallon.

This mud was used until the first carnallite showed in the cores, then 476 sacks (47,600 pounds) of magnesium chloride flake were added, as well as 100 sacks of KCl (14,500 pounds), 23 sacks of Zeogel (1,840 pounds), and 16 sacks (800 pounds) of Impermex. This mud was used until the hole was finished. The viscosity ranged from 35 to 40 and the weight from 10.5 pounds to 11 pounds per gallon. The average viscosity was 37.9 and the average weight 10.85 pounds per gallon. The mud was not completely saturated with $MgCl_2$ but was saturated with $NaCl$ at all times. The salt cuttings from the well accumulated in large quantities in the mud pit.

The carnallite was so highly soluble that it was dissolved to a depth of about one-eighth inch in all cores.

SAMPLING

A very small, but highly efficient, sampler was used in taking samples of the formations drilled to the top of the salt. This sampler was invented and patented by C. C. Gilbert, the head driller on this operation. It consisted of an arrangement of paddles that continuously scooped samples of the material in the mud from the well and dumped them into a revolving screen. Clear water played on the screen so that a continuous stream of clean washed sample was discharged into a bucket while the drilling was in progress. Samples were caught and sacked representing every 10 feet of formation drilled. From these samples, the log of the well was made from the surface to 2,105 feet. The sacked samples were turned over to Ralph S. King of the Geological Survey for study.

Below 2,105 feet, no sludge samples were taken, as the well was cored from that point to the bottom. The cores were washed clean and placed in corrugated-paper core boxes 2 feet long and 14 inches wide and 2 $\frac{3}{4}$ inches deep, divided into five compartments and holding 10 feet of core. These boxes are made by the Love Box Co., of Wichita, Kans., and were very satisfactory for receiving, storing, and shipping the cores.

STRAIGHT-HOLE TESTS

At various depths in the hole during drilling and coring, a Technical Oil Tool Corporation drift recorder was run to ascertain the angle of the hole from vertical. The contract limited the contractor to 4° from the vertical.

In drilling very hard, steeply dipping formations, it is difficult to keep a hole vertical and make much footage per day. Ordinarily, in drilling hard formations, 6 to 12 points are carried on the weight indicator. One point on the indicator represents 2,200 pounds at the cutting face of bit. In drilling the formations which stood at an angle of 15 to 20° from the horizontal in the Reeder No. 1, two to four points only could be carried on the weight indicator to keep within the limits of deviation as specified on the contract. This slowed the drilling considerably.

Following is the record of the straight-hole test:

Date	Depth, feet	Inclination, degrees	Date	Depth, feet	Inclination, degrees
May 19, 1942	798	3	May 27, 1942	1,495	3 5
May 20, 1942	855	2.75	May 28, 1942	1,615	4 3
Do	925	2	May 30, 1942	1,680	4
May 21, 1942	974	2	May 31, 1942	1,765	4 2
May 22, 1942	1,045	2	June 2, 1942	1,808	4 6
May 23, 1942	1,218	3.75	June 3, 1942	1,896	4 2
Do	1,250	3.75	June 8, 1942	2,040	4 2
May 24, 1942	1,280	3.25	July 10, 1942	2,540	2.5
May 25, 1942	1,354	3	July 24, 1942	12,909	11.2
May 26, 1942	1,405	2.9			

¹ Hole at the time was 3,300 feet, but measuring line was only 2,900 feet long.

A rotary string of drill pipe tends to drill vertically in soft, homogeneous formations, so it is probable that from 3,200 to 4,200 feet, the hole is vertical. No tests were taken below 2,900 feet.

CORING

This is the first time that a large section of highly soluble salts has ever been cored with a rotary rig using a wire-line core barrel. There was considerable opposition to this method of coring, but it was finally decided to try it. The results were highly successful, both as to time and recovery (see figs. 4 and 5).

The wire-line core barrel is a barrel taking cores 2 $\frac{3}{4}$ inches in diameter and a maximum length of 10 feet 9 inches. The barrel is dropped from the surface inside the drill pipe and either floats or is pumped down to the bottom of the hole.

where it clicks into place in the coring bit. At 3,000 feet this takes about 5 minutes. Then the desired length of core is cut and the core band removed from the hole by lowering an overshot barrel on a wire line inside the drill pipe. The overshot barrel engages a dog on top of the core barrel, and both are hoisted to the surface. Lowering and removing the core barrel for each core seldom consume more than 15 minutes. By any other method—either the conventional-type rotary core barrel or with a diamond drill—all the rotary-drill pipe or the diamond-drill rods have to be removed from the hole after each core taken (see fig. 2) and at 3,000 feet, this operation is a matter of from 3 to 4 hours for a round trip against 15 minutes with a wire-line core barrel.

A further advantage of the wire-line core barrel is that the highly soluble salts are in contact with the mud solution in the hole only a brief time. Moreover, short cores a foot or so long can be taken quickly to ascertain why the recovery is poor or when feeling for the top of a pay section, or for many reasons when a short core is desired without delaying operations for hours.

Very often, as much as 120 feet of core were taken in a 24-hour period, with 90- to 100-percent recovery. During the drilling of the well up to the time the salt section was encountered, five cores were taken with the Type J Hughes conventional core barrel; of this, 59 feet were cut and 57 feet recovered as core.

A core was taken from 1,506 to 1,521 feet to determine the dip of the strata in the Mancos shales; 15 feet were cut and 15 feet recovered as core. At the top of the Dakota sand, two cores were taken to examine the sand for porosity and permeability. This comprised a 17-foot section with 100-percent recovery from 1,775 to 1,792 feet. To pick up a lower sand marked "Heavy water sand" in the Crescent Eagle well, a core was taken from 1,932 to 1,942 feet, and 8 feet were recovered. The sand was noted in the core at 1,939 feet and contained showings of oil but not water. At the top of the salt section, a core was taken to be sure the drill was in salt. This core was from 2,105 to 2,122 feet, and 17 feet of salt core were recovered.

After the 9 $\frac{5}{8}$ -inch casing was reamed and set and the lost slip fished from the hole, coring was started at 2,122 feet with the Reed B-R wire-line core barrel. From this point to 2,143 feet, difficulties were experienced in getting any cores. Short cores were attempted, but nothing was recovered. It finally developed that there was a half gallon of small pieces of iron, ball bearings, and roller bearings in the hole, which were successfully removed at 2,143 feet. In this 21-foot section from 2,122 to 2,143 feet only 3 feet of core were recovered. It might be said that coring without any interference started at 2,143 and progressed to 4,207 feet. In this salt section, 2,004 feet were cut and 1,882 feet recovered, showing a recovery of 91.17 percent. Taking all the coring in the entire well above the salt section, as well as in it, and including the section where the junk in the hole gave so much trouble, 2,144 feet were cored and 1,942 feet recovered, making an over-all recovery for both types of barrels of 90.6 percent.

Recoveries with the wire-line core barrel in the various types of formations between 2,143 and 4,207 feet were as follows:

Material	Cored, feet	Recovered, feet	Recovery, percent
Salt (halite).....	1,323	1,219.3	92.2
Carnallite section.....	220	204.5	93.0
Shale and sand sections.....	521	458.2	87.8

In coring from 2,105 to 4,207 feet, 425 cores were taken for an average of 4.95 feet per core. The shortest core taken was 1 foot and the longest 10 feet. The longest salt core removed from the barrel all in one piece (fig. 4) was 9 feet 2 $\frac{1}{2}$ inches.

ANALYSES OF CORES

The carnallite section of cores was cut in half, and then one-half was cut in two with a band saw. One-quarter was sent to the Bureau of Mines chemical laboratory at Salt Lake City, Utah, for analysis, one-quarter was saved for the Geological Survey, and one-half was left in the core boxes for future reference at the core house at the well. A box of cores was cut above and below the carnallite section to insure sampling of all the pay zone. The sampling extended from 3,305 feet to 3,548 feet 9 inches. A sylvite section was also cut and analyzed from 4,152 to 4,157.5 feet.

The table that follows gives the analyses of the cores.

Analyses of cores from Defense Plant Corporation magnesium test well near Crescent Junction, Utah

Sample No.	Depth		Length	Recovery	Analysis, percent ¹										Type of material	
	From—	To—			Mg	MgCl ₂	Carnallite	K ₂ O	SO ₄	CaO	Cl	Na	Insoluble	Acid insoluble		
119	3,305 0	3,310 0	Fl. In.	Fl. In.	0.025	0.10	0.39	1.32								Salt; some sylvite.
120	3,310 0	3,315 0	5 0	5 00	.075	.29	.85	2.46								Do.
1	3,315 0	3,318 11	3 11	3 11	.18	.71	2.60	2.16	2.20	1.20	58.5		0.42	0.10		Salt; may contain carnallite.
2	3,318 11	3,319 8 1/2	9 1/2	9 1/2	3.70	14.50	42.24	7.02	1.31	.80	50.9		.24	.13		Carnallite, some salt. First carnallite band.
3	3,319 8 1/2	3,321 9 1/2	2 1	2 1	.45	1.77	5.14	1.02	2.28	1.05	58.5		.30	.13		Salt.
4	3,321 9 1/2	3,322 6	8 1/2	8 1/2	3.45	13.52	39.02	7.20	1.66	.90	51.5		.24	.12		Carnallite streak.
5	3,322 6	3,324 5	1 11	1 11	.55	2.16	6.28	1.20	2.82	1.75	59.1		.72	.16		Do.
76	3,324 5	3,325 4 1/2	1 11 1/2	1 11 1/2	.40	1.57	4.57	1.72	1.41	1.20	52.5	27.6	.49	.11		Carnallite and salt.
14	3,326 4 1/2	3,328 0	1 7 1/2	1 6	2.95	11.57	33.70	6.18	1.08	1.10	51.2		.41	.20		Sawdust from sample 14.
23	3,328 0	3,330 6	2 6	2 6	3.70	14.52	42.30	7.32	.98	.60	43.8	9.75	.23	.07		Carnallite and salt; good core.
15	3,328 6	3,330 6	2 6	2 6	6.45	27.45	80.00	14.17	.77		44.1		.49	.17		Sawdust from sample 15.
27	3,330 6	3,332 0	1 6	8	.92	3.61	10.50	2.16		.45	56.9					8 inches of salt disks; large loss of core.
77	3,332 0	3,334 0	1 6	4	4.43	1.68	4.92	1.04		.50	56.9					Salt.
78	3,332 0	3,334 0	2 0	1 1	5.15	20.20	58.80	10.62	1.16	.60	46.75	18.3	1.13	.11		Carnallite and salt badly broken.
16	3,334 0	3,335 0	1 0	11	6.00	25.90	75.50	13.45	.97	.80	43.10		.87	.24		Sawdust from sample 16.
22	3,335 0	3,337 0	2 0	1 1	6.45	25.30	73.70	13.08	1.90	1.20	44.7		1.01	.08		Carnallite and salt.
17	3,337 0	3,337 0	2 0	1 1	6.10	23.91	69.75	13.08	2.12		43.7		1.13	.15		Sawdust from sample 17.
24	3,337 0	3,339 3	2 3	2 3	.36	1.40	4.12	2.28		.40	58.1					Salt.
79	3,339 3	3,342 0	2 9	11	.55	2.16	6.18	2.58		.20	58.5					Salt disks.
80	3,339 3	3,342 0	2 9	9	4.35	17.07	49.70	9.84	1.44	1.30	48.35	19.7	.98			Salt and carnallite disks.
18	3,342 0	3,343 6	1 6	9	4.50	17.65	51.40	9.84	1.33	1.05	48.9		.47	.13		Sawdust from sample 18.
25	3,343 6	3,345 0	1 6	9	2.15	8.44	23.55	9.78	2.18	1.30	53.9	28.2	.94	.10		Salt and carnallite disks.
19	3,345 0	3,347 0	2 0	1 7	6.20	24.35	70.80	12.72	.61	.50	44.70		.35	.06		Carnallite and salt disks.
20	3,345 0	3,347 0	2 0	9	4.10	16.06	64.55	9.54	1.67	1.00	48.0	23.2	2.58	.10		Carnallite and salt disks.
21	3,347 0	3,348 2	1 2	9	5.65	22.15	69.80	12.48	1.40	1.05	40.4		.84	.11		Sawdust from sample 21.
26	3,348 2	3,349 6	1 4	1 4	.85	3.33	9.72	3.48		.65	55.3					Solid salt core.
81	3,349 6	3,351 6	2 0	2 0	.83	3.25	9.48	1.20		.65	55.3					Salt.
82	3,349 6	3,351 6	2 0	2 0	.63	2.47	7.20	1.02		.90	56.5					Salt.
28	3,352 10	3,353 8	1 4	10	4.35	17.07	49.70	8.88	1.24	.40	48.6		1.37	.70		Carnallite and salt.
29	3,352 10	3,353 8	1 4	10	4.35	17.07	49.70	8.88	1.41	1.81	54.9		.20	.11		Carnallite.
45	3,373 1	3,374 1	1 0	1 0	2.00	7.84	22.84	4.14	1.81	1.0	50.6		1.50	.54		Salt; some carnallite.
46	3,374 1	3,375 11	1 11	11	1.55	6.08	17.70	3.26	1.39	.55	50.6		.37	.11		Salt and scattered carnallite.
47	3,375 11	3,375 11	1 11	11	4.40	17.25	60.24	9.00	1.96	.90	48.4		1.07	.50		Salt and pink and white carnallite.
48	3,375 11	3,378 10	2 1	2 1	2.05	8.04	25.41	4.20	1.57	.70	51.9		.17	.11		Do.
49	3,378 10	3,379 10	1 6	1 6	1.85	7.26	21.13	3.75	1.68	.70	54.9		.08	.06		Do.
50	3,379 10	3,380 4	1 6	6	5.50	21.56	62.81	10.86	1.69	.65	47.7					Red carnallite streak.

¹ All samples analyzed for lithium. It was found only in the 2 samples covered by footnotes 2 and 3.² Sample contained 0.94 percent lithium.

51	3,390	4	3,392	0	1	8	1	8	2.10	8.23	24.00	4.98	.....	.....	.....	.....	.....	.....	54.4	Salt and pink and white carnallite.
52	3,392	0	3,392	0	1	7	7	7	.025	.98	2.86	1.14	.....	.....	.....	.....	.....	.....	60.0	Salt.
53	3,392	7	3,393	5	1	10	10	10	2.20	8.53	25.13	4.08	.....	.....	.....	.....	.....	.....	55.0	Salt and carnallite.
54	3,393	5	3,395	5	1	11	11	11	.37	1.41	4.23	1.02	.....	.....	.....	.....	.....	.....	50.0	Salt and streak of carnallite.
55	3,395	4	3,397	4	2	0	2	0	.62	2.43	7.08	1.56	.....	.....	.....	.....	.....	.....	57.1	Do.
56	3,395	4	3,397	4	2	0	2	0	.53	2.08	6.05	1.32	.....	.....	.....	.....	.....	.....	57.8	Do.
57	3,396	4	3,398	5	2	4	2	4	1.85	7.25	21.13	4.62	.....	.....	.....	.....	.....	.....	55.1	Salt and streak of carnallite 1 foot 10 inches solid, 4-inch disks.
58	3,391	8	3,394	5	2	9	1	10	1.30	5.10	14.85	3.12	.....	.....	.....	.....	.....	.....	56.7	Salt chips; carnallite seemingly dissolved.
30	3,353	8	3,355	0	1	4	7	1.35	5.28	15.43	3.00	.....	.....	.....	.....	.....	.....	.....	54.0	Etched salt disks.
31	3,355	0	3,356	0	1	0	1	0	.38	1.49	4.34	1.44	.....	.....	.....	.....	.....	.....	56.9	Solid core, carnallite and salt.
32	3,356	4	3,358	4	2	4	2	4	6.70	26.25	76.51	13.32	.68	1.47	.....	.....	.....	.....	41	Core badly ground up.
33	3,358	4	3,359	8	1	8	8	8	5.70	22.35	65.09	11.04	.....	.89	.....	.....	.....	.....	.50	Solid carnallite and salt.
34	3,359	8	3,361	0	1	4	4	4	.70	2.75	8.00	1.98	.....	.....	.....	.....	.....	.....	.26	Salt; some carnallite.
35	3,359	8	3,361	3	2	3	2	3	4.15	16.25	47.39	7.98	1.34	.....	.....	.....	.....	.....	.07	Carnallite and salt.
36	3,363	37	3,363	10	1	7	1	0	.92	3.61	10.50	2.34	.....	.....	.....	.....	.....	.....	.85	Solid salt.
37	3,363	10	3,364	10	1	0	1	0	3.50	13.72	39.97	7.38	1.95	.....	.....	.....	.....	.....	.21	Carnallite and salt.
38	3,364	10	3,367	11	3	1	2	8	.60	2.35	6.86	1.08	.....	.....	.....	.....	.....	.....	.10	21 inches solid, 11 inches broken.
39	3,367	11	3,369	0	1	1	1	1	3.55	13.92	40.54	7.03	1.65	.....	.....	.....	.....	.....	.17	Do.
40	3,369	0	3,370	2	1	2	1	2	2.10	8.24	23.58	4.02	1.85	.....	.....	.....	.....	.....	.22	Carnallite and salt.
41	3,370	2	3,371	0	1	10	10	10	2.20	8.63	25.12	4.32	1.68	.....	.....	.....	.....	.....	.05	Do.
42	3,371	0	3,372	6	1	6	1	6	2.95	11.58	33.62	5.88	1.78	.....	.....	.....	.....	.....	.68	Do.
43	3,372	6	3,373	1	7	7	7	7	.70	2.75	8.00	1.92	.....	.....	.....	.....	.....	.....	.13	Salt disks badly dissolved.
83	3,394	5	3,399	1	4	8	4	8	.17	.62	1.94	.....	.....	.....	.....	.....	.....	.....	.....	Do.
84	3,399	1	3,404	0	1	4	11	4	1.08	2.74	1.08	.....	.....	.....	.....	.....	.....	.....	.....	Salt and carnallite.
59	3,404	8	3,405	11	1	3	1	3	1.15	4.52	13.15	2.64	.....	.....	.....	.....	.....	.....	.....	Salt and anhydrite.
60	3,404	8	3,406	8	1	3	1	3	1.57	4.57	1.02	.....	.....	.....	.....	.....	.....	.....	.....	Carnallite and salt.
61	3,405	11	3,406	8	1	9	9	9	5.35	21.00	61.15	.....	.....	.....	.....	.....	.....	.....	.....	Salt; some carnallite.
62	3,406	8	3,407	7	11	11	11	11	1.40	5.48	16.00	.....	.....	.....	.....	.....	.....	.....	.....	Pink carnallite and salt.
63	3,407	7	3,410	5	2	10	10	10	4.15	16.25	47.40	8.16	.....	.....	.....	.....	.....	.....	.....	Good full core carnallite and salt.
64	3,410	5	3,411	10	1	5	1	5	3.95	15.50	45.15	7.80	.....	.....	.....	.....	.....	.....	.....	Ground up—considerable loss.
65	3,411	10	3,414	0	2	2	2	2	6.15	24.15	70.25	12.12	.....	.....	.....	.....	.....	.....	.....	Carnallite, badly etched.
66	3,414	0	3,416	0	2	0	2	0	3.30	12.94	37.70	6.42	.....	.....	.....	.....	.....	.....	.....	Etched carnallite.
67	3,416	0	3,418	0	2	0	2	0	3.85	15.11	43.90	7.26	.....	.....	.....	.....	.....	.....	.....	Carnallite and salt.
68	3,418	0	3,419	5	1	5	1	5	4.25	16.68	48.55	8.58	.....	.....	.....	.....	.....	.....	.....	Salt, some sylvite.
85	3,419	5	3,422	3	2	10	10	10	.09	.35	1.03	9.18	.....	.....	.....	.....	.....	.....	.....	Pink and white sylvite.
86	3,422	3	3,426	0	3	9	3	9	.02	.39	1.14	.....	.....	.....	.....	.....	.....	.....	.....	Do.
87	3,426	0	3,429	4	3	4	3	4	1.14	32.90	.....	.....	.....	.....	.....	.....	.....	.....	.....	Salt; some sylvite.
88	3,429	4	3,431	0	1	8	1	8	.07	.27	.80	3.12	.....	.....	.....	.....	.....	.....	.....	Sylvite.
89	3,431	0	3,431	7	1	7	1	7	.22	.66	2.51	18.24	.....	.....	.....	.....	.....	.....	.....	Salt; some sylvite.
90	3,431	7	3,432	9	1	2	2	2	.18	.71	2.05	7.14	.....	.....	.....	.....	.....	.....	.....	Sylvite.
91	3,432	9	3,435	11	3	2	3	2	.075	.30	.86	10.40	.....	.....	.....	.....	.....	.....	.....	Salt; sylvite streaks.
92	3,435	11	3,438	4	2	5	2	5	0.065	.25	.74	6.84	.....	.....	.....	.....	.....	.....	.....	Salt.
93	3,438	4	3,443	3	4	11	4	11	.13	.51	1.48	.....	.....	.....	.....	.....	.....	.....	.....	Dense dark salt.
94	3,443	3	3,447	5	4	2	4	2	.125	.40	1.43	.....	.....	.....	.....	.....	.....	.....	.....	Salt; some sylvite.
95	3,447	5	3,449	0	1	7	1	7	.095	.37	1.09	.....	.....	.....	.....	.....	.....	.....	.....	Sylvite and salt.
96	3,449	0	3,451	9	2	9	2	9	.06	.23	.69	13.90	.....	.....	.....	.....	.....	.....	.....	Salt and sylvite.
97	3,451	9	3,455	9	4	0	4	0	.095	.35	1.09	6.30	.....	.....	.....	.....	.....	.....	.....	Do.
98	3,451	9	3,459	9	4	0	4	0	.09	.35	1.04	4.92	.....	.....	.....	.....	.....	.....	.....	Salt; some sylvite.
99	3,459	9	3,463	8	3	11	3	11	.09	.35	1.04	1.02	.....	.....	.....	.....	.....	.....	.....	Do.
100	3,463	8	3,467	8	4	0	4	0	.115	.45	1.31	.....	.....	.....	.....	.....	.....	.....	.....	Do.

Analysis of cores from Defense Plant Corporation magnesium test well near Crescent Junction, Utah—Continued

Sample No.	Depth		Length	Recovery	Analysis percent								Type of material		
	From—	To—			Mg	MgCl ₂	Carnallite	K ₂ O	SO ₄	CaO	Cl	Na		Insoluble	Acid insoluble
101	<i>Ft. In.</i>	<i>Ft. In.</i>	<i>Ft. In.</i>	<i>Ft. In.</i>	0.08	0.31	0.91	12.60			57.5			Salt: sylvite streaks.	
102	3,469 8	3,469 8	2 0	2 0	.085	.33	.97	12.48			55.6			Salt: some sylvite.	
103	3,473 8	3,473 8	4 0	4 0	.095	.37	1.09	12.10			48.8			Salt.	
104	3,477 7	3,477 7	3 11	3 11	.175	.69	2.00	.66			57.9			Do.	
105	3,482 7	3,482 7	5 0	5 0	.13	.51	1.48	3.18			57.6			Salt: some sylvite.	
106	3,485 11	3,485 11	3 4	3 4	.085	.33	.97	9.36			56.6			Salt and sylvite.	
107	3,489 0	3,489 0	3 1	3 1	.14	.55	1.60	8.10			56.2			Salt, anhydrite, and sylvite.	
108	3,491 2	3,491 2	2 2	2 2	.065	.25	.74	9.72			54.7			Salt and sylvite.	
109	3,495 2	3,495 2	4 4	4 4	.07	.27	.80	7.98			50.6			Sylvite and salt.	
110	3,499 7	3,501 5	1 10	1 10	.11	.43	1.25	13.20			61.6			Do.	
6	3,501 5	3,502 9	1 4	1 4	3.15	12.35	36.00	6.84	1.89	.90	52.15	26.5	0.19	Carnallite and salt.	
7	3,504 9	3,504 7	1 10	1 10	3.75	14.70	42.80	7.56	3.98	1.30	48.8	25.2	.88	Do.	
8	3,504 7	3,505 10	1 3	1 3	4.20	16.46	48.00	9.54	3.06	1.20	47.75	22.2	1.38	Do.	
9	3,505 10	3,507 7	1 0	1 0	4.55	17.85	52.00	8.10	4.66	1.10	46.2	21.0	1.52	Do.	
10	3,507 7	3,508 7	1 0	1 0	5.10	20.00	58.25	12.24	5.78	1.40	44.25	15.9	.71	Do.	
11	3,508 7	3,510 7	2 0	2 0	5.40	21.17	61.75	12.24	6.65	1.10	44.75	15.5	.24	Do.	
12	3,510 7	3,512 7	2 0	2 0	5.50	21.26	62.80	12.57	2.54	.90	45.55	13.1	.11	Do.	
13	3,512 7	3,513 11	1 4	1 4	4.95	19.40	56.53	10.75	3.70	1.20	48.00	16.6	.59	Do.	
111	3,513 11	3,516 7	2 8	2 8	.065	.25	.74	24.72			51.2			Good sylvite.	
112	3,516 7	3,518 0	1 5	1 5	.08	.23	.69	16.56			55.7			Salt: sylvite, and carnallite.	
113	3,518 0	3,519 9	1 9	1 9	.42	1.65	4.80	1.68			55.8			Salt: some sylvite.	
114	3,519 9	3,520 5½	2 8½	2 8½	.80	3.14	9.14	3.38			43.6			Solid carnallite.	
115	3,520 5½	3,523 2	3 5½	3 5½	1.05	4.12	12.00	6.84			56.2			Salt, some sylvite, and carnallite.	
116	3,523 2	3,526 7	2 5	2 5	.95	3.73	10.87	3.54			56.0			Salt, sylvite, and carnallite.	
69	3,526 7	3,529 0	2 5	2 5	.95	3.73	10.87	3.54			56.0			Salt, sylvite, and streaks of carnallite.	
70	3,529 0	3,530 0	1 0	1 0	5.85	22.95	68.80	12.24	.15	.40	46.1			Carnallite and salt.	
71	3,530 0	3,531 7	1 7	1 7	5.55	2.16	6.28	6.18	.60	.60	58.5			Salt: some carnallite.	
72	3,531 7	3,532 7	1 0	1 0	3.85	15.11	43.90	8.34	.40	.40	51.1			Carnallite and salt.	
73	3,532 7	3,535 0	2 5	2 5	3.98	15.50	45.15	7.08	.35	.35	39.3			Salt, carnallite, and sylvite—broken core and disks.	
74	3,535 0	3,536 1	1 1	1 1	.50	1.96	5.71	1.26		.85	58.3			Salt.	
75	3,536 1	3,538 9	2 8	2 8	3.05	11.97	34.80	6.90	.45	.45	52.5			Carnallite and salt.	
117	3,538 9	3,542 9	4 0	4 0	.12	.47	1.37	10.80			53.4			Salt: some carnallite.	
118	3,542 9	3,548 9	6 0	6 0	.016	.04	.12	.78			54.5			Salt.	
121	4,152 0	4,153 0	1 0	1 0	.01	.04	.11	7.08			52.4			Salt: some sylvite.	
122	4,153 0	4,155 1	2 1	2 1	.012	.05	.14	28.92			47.9			Sylvite and salt.	
123	4,155 1	4,157 6	2 5	2 5	.07	.27	.80	30.60			36.2			Do.	

Sample contained 0.45 percent lithium.

SUMMARY OF ANALYSES

The carnallite section, 3,318 to 3,539 feet, contains 91.6 feet of carnallite with an average assay of 39.5 percent carnallite. This is equivalent to 33.15 feet of solid carnallite; in other words, one-sixth of the entire carnallite-bearing section is carnallite.

There are two sylvite sections—(1) 3,419 to 3,518 feet; and (2) 4,152 to 4,157.5 feet. Section 1 contains 42 feet of sylvite with an average assay of 24.0 percent. This is equivalent to 10.1 feet of solid sylvite. Section 2 contains 55 feet of sylvite averaging 41.3 percent. This is equivalent to 2.28 feet of solid sylvite.

ORE ESTIMATES

The following table gives the thickness of the carnallite and sylvite sections and estimated quantities of contained magnesium and potash per acre:

Mineral content per acre

Section	Thick- ness, feet	Carnal- lite, tons	Magne- sium metal, pounds	Magne- sium chloride flake ($MgCl_2 \cdot 6H_2O$), tons	Sylvite (KCl), tons	Equiva- lent K_2O , tons
Carnallite.....	36.15	78,600	13,740,000	57,500	21,100	13,260
Sylvite.....	12.38				34,000	21,400
Total.....		78,600	13,740,000	57,500	55,100	34,660

The third column gives the tons of carnallite, the fourth column this tonnage expressed in pounds of magnesium metal if extracted, and the fifth column the amount of magnesium chloride flake in 78,600 tons of carnallite. The sixth column is the amount of sylvite (KCl) and the seventh column this same tonnage expressed in potash.

DRILLING COSTS

All the invoices for materials, labor, and other expenses on this operation are not complete, but a close estimate can be made on these. The well has cost about \$78,250. There are on hand considerable supplies of chemicals, rotary muds, cement, bits, and other materials that can be used on future wells or returned or sold for cash. These amount to about \$8,500 which should be credited on the cost of this well. With this credit, the total cost was \$69,750. The cost per foot for the 4,207 feet was \$16.58.

SOURCES OF POWER AND WATER

Two potential sources of power are offered in eastern Utah—a steam plant or a hydroelectric plant. The first could be erected at Green River, Utah, where water is available; and coal could be obtained from Seco, 35 miles east of Green River, or from the Price fields, 68 miles west of Green River. A second source would be the Dewey Dam power project planned at some future date on the Colorado River near the Colorado-Utah line.

Ample water for a steam plant or treatment plants is available from the Green River at the town of Green River, Utah, or from Floy Canyon.

SOLUTION TEST

If it is desired to use magnesium salts from the Thompson area at one of the existing plants or at a new plant, the methods of recovering the carnallite from the stratified layers should be investigated. If it is likely that this source of magnesium will be used, the Bureau of Mines will undertake to test solution methods for mining stratified layers. It is recommended that the solution testing be done in the near future, while the equipment and machinery of the Mack Drilling Co. are on the ground. The time for completion of this test is estimated at less than 90 days and the cost at \$35,000.

To make a solution test on the Reeder No. 1, it will be necessary to run a string of 7-inch O. D. casing to the top of the carnallite zone at 3,318 feet and cement it for 300 feet to give the pipe a good anchor in the shale zone at 3,186 to 3,234 feet and to shut off the oil and gas formations at 3,103 to 3,116 feet. If an appreciable amount of gas oil comes from the bottom of the hole, it will be necessary to cement the bottom of the hole to shut this off before the test is made.

For this test, some steel tankage must be provided and water hauled from Thompson or Green River. At the beginning, the hole will contain about 150 barrels, so the test could be started with 500 barrels for the first circulation and the quantity increased as the cavity below becomes larger.

The water should be pumped into the 7-inch casing and taken out through the tubing or drill pipe, whichever is used. The tubing should be set at the bottom of the carnallite section at 3,538 feet or for a limited test at the bottom of some rich carnallite bed. The water should be circulated continuously and samples of the brine taken every 2 hours and analyzed at the well to ascertain its magnesium chloride, potassium chloride, and sodium chloride content. From these analyses, the length of time to circulate would be determined. Eventually by continuous circulation a stable brine would result, which should contain about 26.44 percent $MgCl_2$, 1.68 percent KCl , and 0.87 percent $NaCl$. It might be advisable to remove the brine before such a solution results and retain a higher percentage of KCl for extraction.

When the first batch of water is sufficiently saturated, a second test should be started and the results observed. If tests are made over a period of about 20 days, a very good idea should be had of the kind of brine it will be possible to produce by the solution method.

POSSIBLE FUTURE DRILLING

If pumping from this single test well should prove unsuccessful, additional wells should be drilled about 400 feet from the present Reeder No. 1. The future drilling holes should be deviated from the perpendicular so that they would approach the cavity formed by leaching the present Reeder No. 1 well. This work, however, should be held in abeyance until testing from a single well is completed. The additional wells can be drilled at a cost of about \$60,000 each, and a single rig would drill one well in about 2½ months.

CONCLUSIONS

1. A deposit of magnesium- and potassium-bearing salts has been found in Grand County, Utah. These salts occur at a depth of 3,320 to 3,540 feet. The magnesium occurs as carnallite in a layer 92 feet thick, containing an average of 40 percent carnallite. The potassium occurs partly as carnallite and partly as sylvite. The sylvite occurs in two beds—one 47.5 feet thick containing 26 percent sylvite and the other 5.5 feet thick containing about 80 percent sylvite.

2. Correlation of this hole with two previous holes drilled in the region indicates that the magnesium-bearing layer extends over an area of at least 20 acres. Assuming uniform thickness over this area, the deposit will contain an equivalent of about 275,000 tons of magnesium metal and 693,000 tons of potash.

3. The salt beds consist chiefly of sodium chloride, carnallite, and potassium chloride, with small amounts of calcium and sulfate.

4. The exceptional thickness of the carnallite beds and other geological factors indicate that the carnallite probably extends over an area of at least 100 acres.

5. Assuming the deposit to extend over 100 acres, 1,375,000,000 pounds of magnesium metal could be produced from it, or sufficient to supply a plant having an annual capacity of 54,000,000 pounds for 25 years.

6. Because of the depth of these salt deposits and the presence of gas and oil in the surrounding formations, it will not be practical to mine them by underground methods.

7. Probably the best method of recovering these salts would be to remove them in aqueous solution by circulating water through a system of drill holes.

8. Adequate water for mining and chemical treatment plant is available within 15 miles of the deposit.

9. Enough coal and water are available for operating a steam power plant at Green River, Utah, having a capacity of 60,000 kilowatts. This power would permit production of 54,000,000 pounds of magnesium a year.

10. A second source of power would be the Dewey Dam power project proposed by the Bureau of Reclamation on the Colorado River near the Utah-Colorado line.

11. The gross cost of drilling the Defense Plant Corporation-Reeder No. 1 well to a depth of 4,207 feet was \$78,250 (minus an allowance of \$8,500 for excess supplies and equipment that can be returned or sold; the net cost was therefore \$69,750). It is estimated that additional wells would cost \$60,000 each.

12. The soluble-salt mining of stratified layers has not been tested. The Bureau of Mines will undertake to test one well if it is likely that the material will be used in the near future. The cost of this test is estimated at \$35,000. Additional funds are necessary if this work is to be done.

RECOMMENDATIONS

In consideration of the foregoing conclusions, the Bureau of Mines recommends:

1. That solution mining at the present Reeder No. 1 well be undertaken if material from the Thompson area is determined by the War Production Board to be needed at one of the present magnesium plants or at a plant to be built in the future. The cost of a test to determine its practicability is estimated at \$35,000.

2. That laboratory work be done to determine methods of segregating the magnesium either as pure oxide or chloride from the brine pumped from the well.

3. That, if and when a plan for production has been sufficiently organized to justify the expenditure, three or four more holes be drilled to extend the reserves further, test the pumping of several wells, and make the brine available more quickly.

APPENDIX

Sample log,² Defense Plant Corporation, No. 1 Reeder magnesium test well

<i>Depth, feet</i>	<i>Lithology</i>
0- 20	Shale, hard, brittle, grayish tan, some black; trace of gypsum; the few feet of very fine wind-blown surface sand seems to be unrepresented in the sample.
20- 40	Shale, as in preceding sample, 85 percent; gypsum, fibrous, 15 percent.
40- 80	Shale, hard, brittle, black and grayish tan.
80- 100	Shale; trace of red clay ironstone and yellowish calcite shell fragments.
	85 feet of 16-inch casing set and cemented from bottom to top.
100- 120	Shale, hard, brittle, grayish tan to light tan, and black.
120- 260	Shale, hard, brittle, flaky, black.
260- 280	Shale, trace of gypsum, fibrous, and calcite, clear crystalline.
280- 360	Shale, hard, brittle, flaky, black.
360- 380	Shale, trace of clear crystalline calcite.
380- 420	Shale, hard, brittle, flaky, black.
420- 440	Shale, trace of clear crystalline calcite.
440- 460	Shale, hard, brittle, flaky, black.
460- 480	Shale, some selenite.
480- 500	Shale, hard, brittle, flaky, black; some crystalline calcite. Probably crossed fault, as began to lose circulation.
500- 520	Shale, prismatic calcite. Losing circulation badly.
520- 540	Shale, as in preceding samples. (Reamer sample.)
540- 560	Shale (reamer sample).
560- 580	Shale, as in preceding samples.
580- 600	Shale, some fibrous calcite.
600- 620	Shale, hard, brittle, flaky, black.
620- 640	Shale, hard, brittle, flaky, black.
640- 660	Shale, hard, dark gray.
660- 680	Shale, some black.
680- 740	Shale, hard, brittle, flaky, black.
740- 780	Shale; some fibrous calcite.
780- 820	Shale; some crystalline calcite.
820- 840	Shale, hard, brittle, flaky, black.

² By Ralph H. King, geologist, Federal Geological Survey.

Depth, feet	Lithology
840- 860	Shale; sandstone, very fine, poorly sorted, very calcareous (porosity very slight), gelatinizes in HCl.
860- 980	Shale, hard, brittle, flaky, black.
980-1,000	Shale; some limestone, shaly, black, containing crystalline calcite. (Driller logs shell at 989-990.)
1,000-1,020	Shale, hard, brittle, flaky, black.
1,020-1,060	Shale; some fibrous calcite.
1,060-1,100	Shale; some shell fragments.
1,100-1,120	Shale, hard, brittle, flaky, black; some fibrous calcite.
1,120-1,160	Shale, as in preceding sample.
1,160-1,180	Shale; trace of gray shale.
1,180-1,200	Shale, hard, brittle, flaky, black; some fibrous calcite and fragments of shells (<i>Inoceramus</i>).
1,200-1,260	Shale, as in preceding sample.
1,260-1,280	Shale; some pyrite and calcite.
1,280-1,300	Shale; some bentonite, opalescent, sandy, pale greenish gray ground mass, grains (shards) mostly brown.
1,300-1,340	Shale, hard, brittle, flaky, black, pyritic (octahedrons).
1,340-1,440	Shale, hard, brittle, flaky, slightly pyritic, dark gray.
1,440-1,460	Shale, hard, brittle, flaky, black, containing some shell fragments.
1,460-1,480	Shale, abundant light-color iridescent and granular shell fragments.
1,480-1,500	Shale; some bentonite.
1,500-1,520	Shale, hard, brittle, flaky, dark gray; some calcite and shell fragments; some bentonite.
1,506-1,521 (Core)	Shale, hard, brittle, dark gray to black, thin bedded, petroliferous along joints. Very fossiliferous, especially in lower part, containing abundant <i>Inoceramus</i> and fish scales, and one <i>Prionocyclas wyomingensis</i> Meek (identified by J. B. Reeside, Jr., and by him correlated with Carlile zone of Mancos shale, approximately equal to Ferron sandstone of western Book Cliffs). Three 2- to 3-inch bands of bentonite at 1,512, 1,513, 1,514 feet. Bentonite contains abundant shards of brown glass. Bedding planes dip 15° from horizontal: $\pm 3^\circ$ deviation of hole from verticle.
1,520-1,540	Shale, hard, brittle, flaky, black, containing abundant calcite, brown to tan, some white, granular, probably shell fragments or fillings; some bentonite.
1,540-1,560	Shale, hard, brittle, flaky, black, pyritic, containing fish remains and some calcite; some bentonite, light to medium greenish gray or tan.
1,560-1,580	Shale, dark gray, pyritic; some calcite, crystalline, white to light brown.
1,580-1,600	Limestone, glauconitic, gray to dark gray, containing some bentonite and sand, gelatinizes in HCl. and shale, pyritic, glauconitic, dark gray to black; some bentonite.
1,600-1,620	Shale, as in preceding sample; some bentonite.
1,620-1,643	Shale, hard, pyritic, dark gray to black, slightly calcareous; some bentonite.
1,640-1,700 (Sic)	Shale, hard, pyritic, dark gray to black, slightly calcareous; some bentonite.
1,700-1,740	Shale, hard, dark gray, somewhat pyritic.
1,740-1,770	Shale, hard, somewhat pyritic, black.
1,770-1,774	Sandstone, moderately well sorted, fine, tightly cemented, pyritic, white to very light gray. (Driller logs sand 1,770-1,771, shale 1,771-1,772, sand 1,772-1,774.)
1,775-1,792	Sandstone, light gray, cross-bedded, cut by thin shale partings: thin shale band at 1,789 feet. From 1,775 to 1,781 is oily, rest is dry (Core) and shaly, from 1,790 to 1,792 very hard. Sand grains moderately well sorted, fine to medium, tightly cemented. (Recovery 18 feet 3 inches).
1,792-1,807	Sandstone, as in sample 1,770-1,774.
1,807-1,810	Shale, gray, moderately soft.
1,810-1,811	Shale, some waxy shale.
1,811-1,812	Shale, gray to dark gray, waxy; traces of chalcedony and jasper.

<i>Depth, feet</i>	<i>Lithology</i>
1, 810-1, 820	Shale, gray to dark gray, waxy; some chalcedony and jasper.
(Sic)	
1, 820-1, 825	Shale, gray to greenish, waxy; trace of chalcedony and flint.
1, 825-1, 845	Shale, grayish green, soapy.
1, 845-1, 850	Shale, some sandstone.
1, 850-1, 855	Shale (driller logs sandstone 1,849-1,853).
1, 855-1, 860	Shale, grayish green, soapy.
1, 860-1, 865	Shale, pyritic.
1, 865-1, 870	Shale, mottled with some black.
1, 870-1, 875	Shale, light gray.
1, 875-1, 890	Shale, somewhat sandy.
1890-1905	Shale, bluish green, waxy, slightly pyritic.
1905-1915	Shale, light to greenish gray; stringers of calcite.
1915-1920	Limestone, dense, light gray to gray, and shale.
	(Driller logs limestone 1913-1917.)
1920-1925	Shale and limestone, as in preceding sample; some dense crystalline calcite. (Driller logs limestone 1921-1923.)
1925-1930	Shale, green and gray, somewhat waxy.
1930-1932	Missing. (Driller logs shale.)
1932-1942	(Recovery 7 feet 8 inches or 80 percent.) Upper 2 feet 6 inches sandy green shale; next 3 feet hard dense sandstone containing 3 inches oily band near top; bottom 2 feet 2 inches hard broken sandstone, somewhat oil, cut by shale streaks. Sand is medium grain, not well sorted, firmly cemented with silica. Grains pull out of matrix. Color of sand is white to light gray speckled with black; of shale, gray to grayish green.
(core)	
1940-1945	Sandstone, hard, subquartzitic, medium grain, poorly sorted, white to light gray speckled with black. No porosity.
1945-1950	Missing.
1950-1955	Sandstone, as in example 1940-45.
1955-1960	Missing.
1960-1965	Sandstone, fine to medium, tightly cemented, white and pinkish tan.
1965-1970	Sandstone, fine to medium, tightly cemented, white.
1970-1975	Sandstone, and some shale, reddish brown.
1975-1980	Missing.
1980-1985	Sandstone, white, and shale, reddish brown, brittle.
1985-1990	Sandstone, reddish brown.
1990-1995	Missing.
1995-2000	Sandstone, fine, well-cemented, white to light gray.
2000-2010	Sandstone, some gray.
2010-2015	Sandstone, conglomeratic, siliceous pebbles cemented with silica, white to light gray, glassy to chalky cement.
2015-2020	Sandstone, some shale. (Driller logs shale 2019-2022.)
2020-2025	Shale, gray green, waxy, and sandstone, white and gray.
2025-2035	Sandstone, as in preceding samples, but somewhat finer, more brown.
2035-2040	Sandstone, very fine, light gray, cemented very tight with silica.
2040-2050	Sandstone, but darker gray.
2050-2055	Shale, gray, brittle, but soft; some violet brown, brittle.
2055-2060	Shale, medium to light gray, less brittle than higher shales.
2060-2070	Shale, stringers of calcite.
2070-2085	Shale, and some soft limestone stringers, white to light gray.
2085-2091	Shale, gray, calcareous, and limestone, shaly, dark gray to black, containing stringers of white calcite.

Core log—Defense Plant Corporation—Reeder No. 1 well

	<i>Feet</i>
Salt (halite)-----	2091-2165
Hard sand and sandy shale. Fractures filled with salt-----	2165-2201
Hard black shale; some salt-----	2201-2209
Sand and sandy shale-----	2209-2214
Salt-----	2214-2240

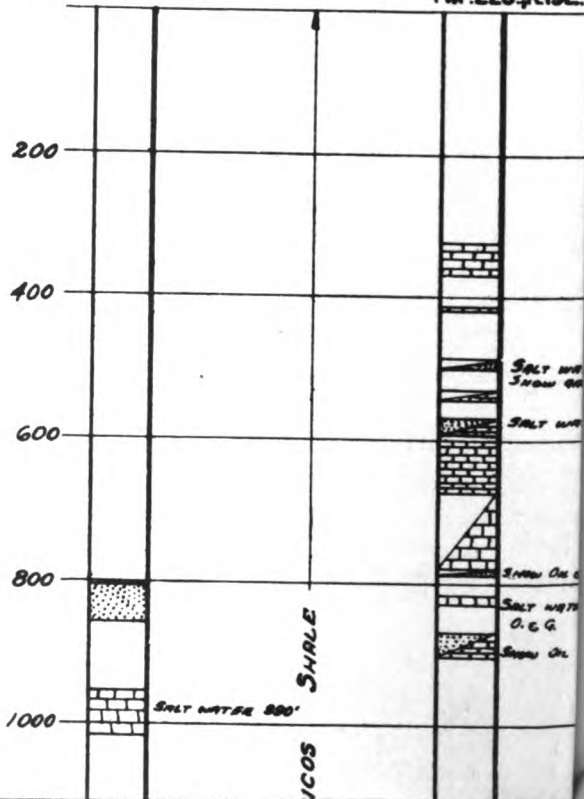
Core log—Defense Plant Corporation—Reeder No. 1 well—Continued

	<i>Feet</i>
Brecciated sandstone, shale and salt.....	2240-2250
Salt.....	2250-2318
Shale.....	2318-2336
Salt.....	2336-2145
Hard black shale fractures filled with salt.....	2445-2487
Sandy shale and hard sandstone. Fractures filled with salt.....	2487-2512
Salt.....	2512-2521
Hard sandstone with salt in fractures.....	2521-2551
Sandy shale.....	2551-2556
Hard compact sandstone with salt in fractures.....	2556-2575
Hard black shale and sand with salt in fractures.....	2575-2627
Salt.....	2627-2630
Black shale.....	2630-2639
Salt.....	2639-2655
Hard broken shale and sandstone with salt in fractures.....	2655-2666
Salt.....	2666-2663
Hard sandstone with salt streaks.....	2663-2673
Salt.....	2673-2677
Sandstone, salt in fractures. Bedding planes dip 45°.....	2677-2718
Broken shale, some salt and sand. Little gas.....	2718-2733
Salt.....	2733-2769
Shale and salt seams.....	2769-2782
Salt.....	2782-2826
Sandstone and shale. Bedding planes dip 30°.....	2826-2852
Salt and anhydrite.....	2852-2863
Salt.....	2863-2879
Anhydrite.....	2879-2881
Salt.....	2881-2884
Shale and anhydrite.....	2884-2886
Salt.....	2886-2895
Salt; anhydrite with shale streaks.....	2895-2900
Salt.....	2900-2934
Anhydrite and salt.....	2934-2939
Dense solid salt with traces of anhydrite.....	2939-2968
Salt.....	2968-3077
Salt and anhydrite layers. Oil in salt crystals.....	3077-3103
Shale and sandy shale; some sylvite—very gassy.....	3103-3111
Shale, strong oil and gas smell.....	3111-3116
Salt.....	3116-3129
Shale.....	3129-3134
Salt. Gas blow-out at 3160. Blew mud 40 feet up derrick.....	3134-3166
Pink salt and anhydrite.....	3166-3186
Oily sand.....	3186-3197
Clay, mud, salt, and anhydrite.....	3197-3234
Salt.....	3234-3285
Salt and anhydrite with shale streaks.....	3285-3305
Salt, banded shale, anhydrite and pink streaks sylvite.....	3305-3315
Salt, some sylvite and carnallite. First carnallite at 3318 feet 50 inches.....	3315-3320
Salt and carnallite.....	3320-3326
Carnallite and salt.....	3326-3337
Salt and carnallite streaks.....	3337-3353
Carnallite and salt streaks.....	3353-3365
Salt and carnallite.....	3365-3394
Salt.....	3394-3400
Salt and carnallite about 50/50.....	3400-3414
Carnallite and salt.....	3414-3424
Salt and sylvite.....	3424-3429
Sylvite.....	3429-3431
Salt and sylvite about 50/50.....	3431-3444
Salt.....	3444-3451

CORRELATION OF WELL LOG

BRENDELL OIL & GAS CO.
NO. 1.
NW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SEC. 9.
TWP. 22S., R. 19E.

CRESCENT EAGLE
NO. 1.
SE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SEC. 9.
TWP. 22S., R. 19E.



LEGEND

- SHALE
- LIME
- CARNALLITE & SYL

Core log—Defense Plant Corporation—Reeder No. 1 well—Continued

	<i>Feet</i>
Salt and sylvite mixed.....	3451-3461
Salt.....	3461-3466
Salt and sylvite.....	3466-3501
Carnallite, salt, and sylvite.....	3501-3513
Salt, carnallite, sylvite, and anhydrite.....	3513-3540
Salt.....	3540-3783
Salt with streaks of anhydrite.....	3783-3804
Anhydrite, smelly shale, and sand.....	3804-3810
Shale with seams of salt.....	3810-3813
Dolomite, anhydrite, and salt.....	3813-3817
Dolomite and oil muck.....	3817-3832
Gray silty sand with salt in fractures.....	3832-3846
Black sandy shale.....	3846-3851
Dense hard anhydrite.....	3851-3856
Salt.....	3856-4152
Salt and sylvite.....	4152-4157
Salt.....	4157-4173
Shale and clay, stringers of salt.....	4173-4194
Black shale and shaly sand—shows oil and gas.....	4194-4207

Senator McCARRAN. You said this morning that—

since late 1940 other factors seem to have conspired to prevent development of this rich section of the public domain. On September 20, 1940, 7 months before the plans for a magnesium plant at Las Vegas, Nev., were first considered by the War Production Board on April 18, 1941, I wrote Mr. Donald Nelson regarding this deposit.

Have you a copy of that letter?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. May we have it for the record?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. You will furnish that this afternoon to us, please?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. "It was again brought to his attention in February 1941, by Mr. Thurman Arnold, then Assistant Attorney General." Have you a copy of that letter?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. May we have a copy of your copy for the record, please?

Mr. McCARTHY. As a matter of fact, you may have a copy of anything I have pertaining to it.

Senator MURDOCK. Senator McCarran, may I at this time interrupt to ask the witness: How did Thurman Arnold know anything about this section?

Mr. McCARTHY. I wrote him about it, the peculiar circumstances in that connection.

Senator MURDOCK. I don't want to interfere with the Senator's examination.

Mr. McCARTHY. I would like to explain that here.

Senator McCARRAN. That is all right.

Mr. McCARTHY. In 1935 Mr. Reeder and I decided that in order something done we would have to go out and look for it. Mr. Reeder went to Pittsburgh trying to interest people. He did succeed in interesting quite a number of people in the business.

I want to say this, further, that we have never tried to promote this thing locally by the sale of stock and things of that kind. The Crescent Eagle Oil Co. is an incorporated company, and its stock is listed; but insofar as our efforts were concerned, we took this property to people of ample means, people in the business, people who had available experts to go and examine it, and find out what they were doing and what they were getting, afforded by every facility to know just what they were getting into. Then if they wanted to go ahead they were the people we wanted.

So Mr. Reeder went east and did interest a number of people. They all asked him the question: "Why did Brendel quit?"

He invariably told them: "There is your telephone, ask him."

After they had talked with him they lost interest.

In Mr. Brendel's office he encountered a man, a casual acquaintance. They got pretty well acquainted. He was an oil driller. This driller knew a lot of people that would be interested and would be willing to help Reeder. Finally this man came out here.

Senator McCARRAN. Who?

Mr. McCARTHY. This driller I speak of that Reeder got acquainted with. Shortly after he came out we succeeded in interesting some California people who came in to drill. We were told that this driller was one of the best in the United States, that there were no better than he was. So Reeder insisted upon putting him in charge of the work for these California people. That was done. They started to deepen the Brendel well, cleaned it out, and drilled it. Before long we lost a thousand feet of cable by this driller. He twice nearly run the tools through the crown block. He twice started the engine with men at work on it. Reeder finally fired him.

Reeder went into town one night to get a telegram. As he crossed the street something hit him. He thought at first it was an automobile. It was this driller. My own opinion is that there was a deliberate attempt at murder, to get Reeder off that ground. Well, he recovered.

Senator McCARRAN. You say you think there was a direct attempt at murder?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. Do you suspicion someone?

Mr. McCARTHY. Yes, sir; I certainly do.

Senator McCARRAN. Who is it?

Mr. McCARTHY. The driller, and maybe somebody behind him. I don't know that. That is merely a suspicion.

Senator McCARRAN. Have you any idea who would be behind it?

Well, no, I should not say that. But another peculiar feature of that, is this: The water tanks used in drilling that well are open at the top. A few days later, having a little trouble with the boiler, they examined these tanks, and there in the bottom was a lot of paper that had been shredded up and thrown into that water tank, to be sucked into the flues of the boiler.

A search of the cabin in which this man lived, in Thompson, developed a piece of a railroad claw-bar, about 2 feet long, that had been sawed off diagonally. Our idea is that the intention was to drop that into the well. If it got in there nobody would ever fish it out. That well would have been finished. That is one of the things that

leads us to believe that somebody did not want that territory developed.

The oil has been coming out of that ground every day since 1924. It is coming today from the Defense Plant well, rich, fine, 45 $\frac{1}{2}$ ° gravity oil, but in small quantities. It is coming from the Brendel well today.

Senator McCARRAN. When you say "the Defense Plant well," what well do you refer to?

Mr. McCARTHY. That is the well drilled by the Defense Plant Corporation, on the 3d of August 1942.

Senator McCARRAN. What is the depth attained in that well?

Mr. McCARTHY. I think that was 4,207 feet, as I recall it.

Senator McCARRAN. Were they in the same vicinity as your first well?

Mr. McCARTHY. The Brendel is 400 feet from the Crescent, I think, and the Defense Plant well is about—oh, approximately 200 feet in the other direction from the Crescent well.

Senator McCARRAN. They had the advantage of the log of your well?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. When they passed through the stratum where your well became a gusher or a flower, what was the result in their well?

Mr. McCARTHY. I would not attempt to say, off-hand, Senator; but I suggest that Mr. Severy, who was in charge of the drilling of that well, for the Defense Plant Corporation, is in the room, and could answer that, without doubt.

Senator McCARRAN. Mr. Severy, can you answer my question?

STATEMENT OF C. L. SEVERY, BUREAU OF MINES, SALT LAKE CITY, UTAH

Mr. SEVERY. What was the question?

Senator McCARRAN. Did the Defense Plant Corporation well have the advantage of the log and the history of the first well, which I choose to term the McCarthy well?

Mr. SEVERY. Yes, sir.

Senator McCARRAN. If so, what was the result when the Defense Plant Corporation well went through the stratum or formation where the McCarthy well became a gusher?

Mr. SEVERY. We went through a sandy shale at about 3,300 feet, and it had a strong petroleum odor. We were running a rotary. In running the drill you have a hole full of mud; but the gas came up through the mud. We had not passed that more than 60 feet and the gas pressure put the mud about 40 feet from the derrick.

Senator McCARRAN. Was there oil then?

Mr. SEVERY. There was some oil there; but it showed about 41.96 light gravity Pennsylvania crude oil; about 42 gravity.

Senator McCARRAN. You had a flower, then?

Mr. SEVERY. Sir?

Senator McCARRAN. The oil was flowing?

Mr. SEVERY. No; the oil never flowed. It came up through the 4,200 feet of mud, 10-pound mud; and when the well was shut in there was a pressure on top of the mud, about 800 pounds.

Senator McCARRAN. Why didn't you make the test for oil at that point?

Mr. SEVERY. They would not let me.

Senator McCARRAN. Who would not let you?

Mr. SEVERY. The War Production Board, or the Defense Plant. I made a report directly to the Defense Plant. We should have made drill stem tests of the one at 3,300, and the one at 4,200. That should have been done. After the well was completed, we tried to get them to allow us to make stem tests; and they would not do it.

Senator McCARRAN. Let me get that last statement.

(Last part of answer read, as follows: "After the well was completed, we tried to get them to allow us to make stem tests; and they would not do it".)

Senator McCARRAN. When the well was completed, the Bureau tried to get the War Production Board, or the Defense Plant Corporation—

Mr. SEVERY. The Defense Plant Corporation.

Senator McCARRAN (continuing). To permit you to make stem tests. Is that it?

Mr. SEVERY. Yes, to make some drill stem tests on the oil showing.

Senator McCARRAN. What was the outcome of that?

Mr. SEVERY. They were all through. They did not allow us to do any more work.

Senator McCARRAN. That is, the Defense Plant Corporation was through?

Mr. SEVERY. Yes, sir.

Senator McCARRAN. You got that direct statement, that they were through, and they did not want you to do any more work?

Mr. SEVERY. I got all my orders from the Defense Plant Corporation, out of Washington.

Senator MURDOCK. Who was that?

Mr. SEVERY. The name was Faulkner.

Senator MURDOCK. I think you should state, for the record, your position.

Mr. SEVERY. My position?

Senator MURDOCK. Yes.

Mr. SEVERY. Mining engineer, Bureau of Mines.

Senator MURDOCK. Mining engineer, Bureau of Mines?

Mr. SEVERY. Yes, sir.

Senator MURDOCK. Your full name is?

Mr. SEVERY. C. L. Severy.

Senator MURDOCK. You were in charge of the well?

Mr. SEVERY. In charge of the well.

Senator McCARRAN. You pulled your tools out of the hole and left the hole?

Mr. SEVERY. We left the hole full of mud.

Senator McCARRAN. You left the hole full of mud?

Mr. SEVERY. Yes.

Senator McCARRAN. You never shot for oil?

Mr. SEVERY. We never made any tests.

Senator McCARRAN. You made no tests whatever?

Mr. SEVERY. No.

Senator McCARRAN. What did you find, with reference to magnesium?

Mr. SEVERY. We found a very thick bed of carnallite and sylvite.

Senator McCARRAN. At what depth?

Mr. SEVERY. 3318 to 3538.

Senator McCARRAN. That is over 200 feet?

Mr. SEVERY. Yes.

Senator McCARRAN. What did you do?

Mr. SEVERY. We cored the whole well, from the time we hit the salt, to the bottom. We took cores about $2\frac{3}{8}$ inches in diameter.

Senator McCARRAN. Was it solid?

Mr. SEVERY. Yes.

Senator McCARRAN. It was not brine?

Mr. SEVERY. Not a brine; no. You can look at it. We recovered 91.17 percent recovery.

Senator McCARRAN. About how thick was it?

Mr. SEVERY. How thick was what?

Senator McCARRAN. The depth of your stratum in which these cores were taken, in which you found magnesium.

Mr. SEVERY. We cored 2,100 feet altogether, and the carnallite section was from 3,318 to 3,538—220 feet; but we had beds of various grades. Some of it would be 10 percent carnallite and 90 percent salt. Some of it would be 80 percent carnallite and 20 percent salt. It is a mixture of carnallite and sylvite.

Senator McCARRAN. You found that stratum below the stratum in which oil had been found before. In other words, oil came in at about 3,000?

Mr. SEVERY. Yes, about 3,100.

Senator McCARRAN. And you found this deeper?

Mr. SEVERY. Yes, this is below that oil showing.

Senator McCARRAN. What were you drilling for?

Mr. SEVERY. We were drilling for carnallite.

Senator McCARRAN. So you were not interested in the production of oil, nor the finding of oil?

Mr. SEVERY. No; and that is probably the prime reason that there was no money spent on drill stem tests.

Senator McCARRAN. You are still with the Bureau of Mines?

Mr. SEVERY. Yes, sir.

Senator McCARRAN. In your judgment, as an engineer, was there oil in commercial quantities in that region? That is a pretty tough question.

Mr. SEVERY. Yes, that is a tough question. The one thing that is characteristic of that whole district is the fact that the sandstones are very hard. There is very little permeability. You do get these flashy showings of oil and gas, when you are drilling with cable tools. Sometimes the tools come out of the hole and knock the crown block out, and then in 2 or 3 days it is gone.

Senator McCARRAN. That is gas?

Mr. SEVERY. That is gas, yes. Now, without making the drill stem test, it is hard to say whether those were commercial or not.

Senator McCARRAN. In other words, you might get a flow today, such as referred to by Mr. McCarthy, that had a large volume of gas behind it?

Mr. SEVERY. Yes.

Senator McCARRAN. That might fade out very promptly?

Mr. SEVERY. That is it; and, without properly testing it, you can't say whether there is any commercial oil in that well, or not.

Senator McCARRAN. But there is no doubt about the carnallite?

Mr. SEVERY. There is no doubt about the carnallite.

Senator McCARRAN. Where is that log of your drilling?

Mr. SEVERY. It is in my report.

Senator McCARRAN. Have you a copy of that report available?

Mr. SEVERY. I have, at the office.

Senator McCARRAN. I wonder if the committee might have it.

Mr. BROWN. I have a copy of it in my office, Senator.

Senator McCARRAN. All right, so long as we get a copy for the files of this committee.

Senator MURDOCK. Is the report you speak of the original report you made to the Bureau of Mines, or is it the report after it had been edited by the Bureau of Mines, and published?

Mr. SEVERY. All our reports are edited before they are printed.

Senator MURDOCK. Do you have a copy of your original report?

Mr. SEVERY. Yes.

Senator McCARRAN. Could we have that?

Mr. SEVERY. I don't know.

Mr. BROWN. I have two, I think, so I will let you take one of them.

Senator McCARRAN. Of his original report?

Mr. BROWN. I have Mr. Severy's original report, a photostatic copy of that. I will let you take either one you want.

Senator MURDOCK. I think, Mr. Chairman—if I may call you that again—that we should have the original report made by Mr. Severy, that is, a copy of it, made a part of this record. I don't think it would be proper to print the whole thing in the record, but certainly it should comprise a part of the files in our case.

Mr. SEVERY. There is very little difference, except in the way the summary is put together.

Senator MURDOCK. There is enough difference; I would like to have the difference made a part of our file. I have seen your original report. I think the original is what we want in our file.

Mr. BROWN. May I ask Mr. Severy a question?

Senator McCARRAN. Yes.

Mr. BROWN. Mr. Severy, as I understand it, your original report was copied, and the copy is practically the same as the one finally published, except where you calculated the values of the land by so much per acre; and they got an idea you were trying to pay off the national debt, or something of that kind, and they eliminated that. Isn't that about right?

Mr. SEVERY. That is correct.

Mr. BROWN. Your figures were correct; nobody questioned them; but they thought they should not have been there. They probably thought it was not a good idea to publish anything of that value, because there might be a wild rush. They did not take into account the fact that it takes a big, long pocketbook to get it out.

Senator MURDOCK. I would like to ask a question, Mr. Severy.

The purpose the defense plant had in mind in drilling the well was to ascertain the extent and the richness of the magnesium deposit, was it not?

Mr. SEVERY. That is right.

Senator MURDOCK. You were not disappointed, as an engineer, in what you found?

Mr. SEVERY. No; absolutely not.

Senator MURDOCK. In fact, this is not an exaggerated statement, is it, to say that you found the magnesium much richer, and of a much greater extent, than you expected?

Mr. SEVERY. Yes; that is right.

Senator MURDOCK. Is that true, also of the sylvite?

Mr. SEVERY. Yes.

Senator MURDOCK. You recommended to the defense plant that—as I remember the figure—either \$12,000 or \$17,000 of additional money be allotted to determine the best means of mining the magnesium?

Mr. SEVERY. Yes.

Senator MURDOCK. What happened to that request?

Mr. SEVERY. I wanted to make what we call a solution test, on the well.

Senator MURDOCK. Just explain what you mean by that?

Mr. SEVERY. By that, I mean to extract the carnallite and sylvite from the deposit by circulation of water; then circulate the water down the well, and when it comes out, there would be a degree of saturation, magnesium chloride and potassium chloride; then the process to separate them, which is in use now. It has all been worked out. They are easily separated—the magnesium from the potassium, in the form of chloride. That is what I wanted to do, and that is what I recommended to do.

Senator MURDOCK. That would have really given you some very valuable information; would it not?

Mr. SEVERY. Yes, sir.

Senator MURDOCK. In connection with the magnesium and the sylvite?

Mr. SEVERY. Yes, sir.

Senator MURDOCK. And the expense of doing that was very meager was it not?

Mr. SEVERY. Yes, sir.

Senator MURDOCK. Compared to the investment you had already made in drilling the well?

Mr. SEVERY. Yes; I had about \$30,000 left.

Senator McCARRAN. What became of that?

Mr. SEVERY. That goes back to the Government.

Senator MURDOCK. That goes back to the Defense Plant Corporation?

Mr. SEVERY. Yes; that is a part of the original appropriation that was not used.

Senator MURDOCK. From some source or other you were told that the Government was no longer interested in the thing, and to move on. Is that right?

Mr. SEVERY. Yes; there were plenty of sources of magnesium.

Senator MURDOCK. Notwithstanding the fact that, just a few months before, they were searching for magnesium to the extent that they allotted you \$100,000?

Mr. SEVERY. Yes.

Senator MURDOCK. To drill?

Mr. SEVERY. Yes.

Senator MURDOCK. And, then, after you discovered a vast quantity of rich magnesium, somebody in the Government decides that they are not interested at all. Is that the story?

Mr. SEVERY. That is the way it looks.

Senator McCARRAN. How long after you pulled out was it that anyone else appeared to move in—using general terms?

Mr. SEVERY. We finished the well on October 3, and I waited about a month, holding the contractor there, to see if they would let us make these tests for oil, and also the solution test on the salt, and then we got orders to close the thing up.

Senator McCARRAN. Whom did the orders come from?

Mr. SEVERY. I think those were from—that is, I got them from the Defense Plant Corporation.

Senator McCARRAN. Have you that communication?

Mr. SEVERY. I don't know whether it is in the file or not.

Senator MURDOCK. May I say, Senator McCarran, that I immediately asked Mr. Husbands, of the Defense Plant, why they did not allow the Bureau of Mines to proceed, under their direction, and I was told directly that he had received word from Mr. Bunker that they were no longer interested, and that they wanted the machinery and everything moved away, and the well abandoned. That came directly from Mr. Husbands to me.

Mr. SEVERY. To answer your question, it was right around the 1st of January.

Senator McCARRAN. What year?

Mr. SEVERY. When the Potash Co. of America made their deal.

Senator McCARRAN. What was the next thing that was done, after you pulled out, that you know anything about?

Mr. SEVERY. There was not anything done until the Potash Co. of America moved in.

Senator McCARRAN. How did you know the Potash Co. of America moved in?

Mr. SEVERY. How did I know the Potash Co. of America moved in?

Senator McCARRAN. Yes.

Mr. SEVERY. Oh, I read the papers, and hear things.

Senator McCARRAN. Were you down on the ground?

Mr. SEVERY. No.

Senator McCARRAN. Have you been on the ground since?

Mr. SEVERY. Yes.

Senator McCARRAN. When were you next on the ground, after you pulled out?

Mr. SEVERY. January 9.

Senator McCARRAN. You pulled out when? I am trying to get your dates?

Mr. SEVERY. I left there when I got my affairs straightened up—left there on the 13th of November.

Senator McCARRAN. Then, on January 9, you were down there again?

Mr. SEVERY. Yes.

Senator McCARRAN. Was this Potash Co. in there then?

Mr. SEVERY. No.

Senator McCARRAN. Anyone representing them?

Mr. SEVERY. They were in Salt Lake City.

Senator McCARRAN. Then what happened after that, to your knowledge?

Mr. SEVERY. I don't know when they actually started drilling. I think it was in February—right close to that.

Senator McCARRAN. Of '42?

Mr. SEVERY. Of '43.

Senator McCARRAN. Where did they start to drill with reference to where you put your well down?

Mr. SEVERY. They drilled their first well about 3,000 feet west.

Senator McCARRAN. How deep did they go with that, if you know?

Mr. SEVERY. I don't know.

Senator McCARRAN. Did you ever see the log of that well?

Mr. SEVERY. No.

Senator McCARRAN. Have you ever talked with those who were drilling that well?

Mr. SEVERY. All those wells have been drilled in what we call drill time; that is, no information is given out.

Senator McCARRAN. Who has the information, if you know?

Mr. SEVERY. The Potash Co. of America.

Senator McCARRAN. Where are they located?

Mr. SEVERY. Their main office is at Carlsbad, but they had an office out on the lease.

Senator McCARRAN. You say their "first well"; did they drill another well?

Mr. SEVERY. They drilled another well a little over a mile south.

Senator McCARRAN. Of your well?

Mr. SEVERY. Yes; of the McCarthy well—south and a little west.

Senator McCARRAN. What was the nature of the territory, as to ownership, on which these wells were drilled?

Mr. SEVERY. I don't know.

Senator McCARRAN. Public domain or privately owned land?

Mr. SEVERY. I have no knowledge of the title situation at all.

Senator MURDOCK. I think Mr. McCarthy can answer that.

Mr. McCARTHY. The Crescent Eagle well and the Defense Plant well are on patented ground.

Senator McCARRAN. Who holds the patent?

Mr. McCARTHY. Crescent Eagle Oil Co.

Senator McCARRAN. That is your own company?

Mr. McCARTHY. Yes; a locally owned company.

Senator McCARRAN. Did you have anything to do with the Potash Co. moving in and putting those wells down there?

Mr. McCARTHY. Nothing at all; no, sir.

Senator McCARRAN. Did they operate on your patented ground?

Mr. McCARTHY. Oh, yes.

Senator McCARRAN. How did they come to get in there?

Mr. McCARTHY. The Crescent Eagle Oil Co.—there are two companies—the Crescent Eagle Oil Co. and the Mountain States Development Co.—holding approximately 2,800 acres of land between them.

Senator McCARRAN. You are interested in both?

Mr. McCARTHY. Yes.

Senator McCARRAN. Are they subsidiaries, one of the other?

Mr. McCARTHY. No; they are entirely separate companies. I happen to be a stockholder in both.

Senator MURDOCK. They were both taken over by the Utah Magnesium?

Mr. McCARTHY. Yes; the two companies leased to the Utah Magnesium.

Senator McCARRAN. All of their holdings?

Mr. McCARTHY. At the time they leased to the Utah Magnesium Co. that company announced they would immediately spend a million and a half dollars on the ground. What caused them to change their mind, I don't know, but they went to Washington and tried to get money.

Senator McCARRAN. Most people do change their mind after they get to Washington.

Mr. McCARTHY. They tried to drill the United States Treasury, instead of the ground, and then they ran into trouble. Then is when they were advised to go to the Dow Chemical Co., and all these other subcontractors, and they finally made the deal.

Senator MURDOCK. When you say they went to Washington, you are referring now, are you not, to Mr. Sandberg and Mr. Wright, of the Utah Magnesium Co.?

Mr. McCARTHY. Yes.

Senator MURDOCK. I might say I introduced Mr. Sandberg and Mr. Wright, immediately on their arrival in Washington, to Mr. Bunker. I have regretted it ever since.

Senator McCARRAN. I don't want to get you tied in too tight.

Senator MURDOCK. I know the story from A to Z.

Mr. McCARTHY. That is where it commenced—right there.

Senator McCARRAN. I want to get back to this, the drilling by the Potash Co. of America, as I understand it, on privately owned ground which belonged to one of your concerns, which had been leased to the Utah Magnesium Co.

Mr. McCARTHY. Yes, sir. Pardon me a moment. Then the Potash Co. drilled a well on section 16, a State lease, which I personally held, from the State of Utah.

Senator McCARRAN. That is the first well?

Mr. McCARTHY. No; the second well.

Senator McCARRAN. The second well?

Mr. McCARTHY. Yes. They even went over on to the southeast quarter of section 4 of this same patented land—no, that is not patented; that is held by the Mountain States Development Co. They held it from the Mountain States Development Co., under a lease, and they drilled another well there.

Senator McCARRAN. We are getting a number of companies involved. We are getting two companies in which you were originally concerned, Mr. McCarthy, and then we get the lessee, the Utah Magnesium Co., and now we have the Mountain States?

Mr. McCARTHY. Well, the Mountain States and the Crescent Eagle leased to the Utah Magnesium; the Utah Magnesium to the Potash Co. of America, where the title now rests, and the work is being done.

Senator McCARRAN. The Utah Magnesium has leased to the Potash Co. of America?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. Under those leaseholds, these drillings have been carried on?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. Well, we are getting that straightened out.

Where does the open public domain of the United States come into this picture?

Mr. McCARTHY. I understand that the Potash Co. has filed application for a large acreage surrounding this other ground.

Senator McCARRAN. The Potash Co. of America?

Mr. McCARTHY. Yes.

Senator McCARRAN. Have filed application, according to your understanding, for a large acreage surrounding your deeded land? I call it "yours" for convenience.

Mr. McCARTHY. Yes.

Senator McCARRAN. Your deeded land?

Mr. McCARTHY. Yes.

Senator McCARRAN. They now hold—if I grasp this subject correctly—the Potash Co. of America now hold a leasehold on all of the lands of the Utah Magnesium Co.?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. Is that right?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. About 2,800 acres?

Mr. McCARTHY. Yes, sir.

Mr. BROWN. In addition, Senator, I might say, 4,000 acres of State land they have leased. That is, the Potash Co. of America.

Senator McCARRAN. That is four thousand and twenty-eight hundred—that is 6,800 acres?

Mr. BROWN. Yes, sir.

Senator McCARRAN. Now, can anyone give us direct advice on how much acreage of open public domain they have filed applications on?

STATEMENT OF N. G. MORGAN, JR., SALT LAKE CITY, UTAH

Mr. MORGAN. One hundred and five thousand acres.

Senator McCARRAN. That application has been filed on?

Mr. MORGAN. Yes.

Senator McCARRAN. What is your official position, Mr. Morgan?

Mr. MORGAN. Mining operator.

Senator McCARRAN. In private activity?

Mr. MORGAN. Yes.

Senator McCARRAN. What is the length of the life of these leases, if you know?

Mr. MORGAN. They have not been issued any leases. They have filed applications for potash permits. They are in the process of either being accepted or rejected. I don't know how they stand.

Senator McCARRAN. With reference to the date of this withdrawal order—dating it from the date of its making, and not from its publication in the Official Register; when were the applications of the Potash Co. of America filed, if anybody knows?

Mr. MORGAN. December 12 or 14, I am not sure which date.

Senator McCARRAN. That is on December 12 or 14—if any member of the Department has any record, please correct us. On December 12 or 14 the Potash Co. of America filed an application for leaseholds on the public domain?

Mr. MORGAN. That is, the Utah Magnesium filed the applications.

Senator MURDOCK. That was December of 1942.

Mr. MORGAN. That is correct.

Senator McCARRAN. I want to get this correctly: The Utah Magnesium filed these applications?

Mr. MORGAN. Yes, sir.

Senator McCARRAN. If anyone can tell us, how does the leasehold agreement between the Potash Co. of America and the Utah Magnesium affect the applications made by the Utah Magnesium?

Mr. MORGAN. It is understood they have an agreement with Utah Magnesium where they obtain the operating rights, when the leases are issued.

Senator McCARRAN. On everything that Utah Magnesium acquires?

Mr. MORGAN. Yes, sir.

Senator MURDOCK. I have seen the contract. They take over everything the Utah Magnesium had at that time, and anything on which application was filed, if granted.

Senator McCARRAN. Have we not come down to a point, if I apply this correctly, where not only the privately owned ground of the Utah Magnesium, under an agreement with the Potash Co. of America, but also the Federal domain affected by the applications of the Utah Magnesium, will become the seat of private operations of the Potash Co. of America? Doesn't it boil down to that?

Mr. MORGAN. If the permits are granted. The law requires you are only to be allowed to have—an individual or a corporation—you are only allowed to have 4,560 acres in a State; and they filed on considerably in excess of that. Nothing has been done, to my knowledge, in the issue of the permits.

Senator McCARRAN. How will this withdrawal affect those applications?

Mr. MORGAN. Not at all.

Senator McCARRAN. Why?

Mr. MORGAN. Because you are still allowed to file for mineral rights, for oil and gas rights, on public domain. The only difference is that you have to operate through a Government lease, rather than as a patented mining claim. Everything comes under the supervision of the Government, before you can operate under a patented mining claim. The catch is obtaining those potash permits.

Senator McCARRAN. Elaborate on that a little bit.

Mr. MORGAN. I, more or less, had a written article prepared. When Mr. McCarthy is through, I would rather give that.

Senator McCARRAN. All right. I am just trying to get the history of this the best I can, as we go along, for the reason that I fear we might overlook something.

Mr. MORGAN. I don't mean to withhold anything. The only thing is, I am trying to tie in the one act, withdrawing this land from the public domain. That is not only an act of Secretary Ickes, today, as he has tried to do in the past, to bring everything under Government order; but also conspired by the large monopolistic interests, and then again put up barriers to an individual obtaining these potash permits, which they have done, by requiring too many rigid performances of the individual.

Senator McCARRAN. I want to be fair here. I think fairness must predominate through all these hearings; otherwise we may get a warped idea. Up to date, if I am at all correct, up to date I fail to find Mr. Secretary Ickes in the picture. Now someone correct me on that.

Mr. MORGAN. It is his withdrawal order.

Senator MURDOCK. The order was signed, not by Ickes, but by his Under Secretary, Abe Fortas.

May I say, there is a barrier existing to the individual, who may have an individual lease. Do you have in mind the four conditions imposed?

Mr. MORGAN. I was not here all the time; but the four conditions I am aware of are the same ones we have read. I think those are the basis.

Senator McCARRAN. In your opinion, wouldn't that practice limit any new developments to a company that is already in the field?

Mr. MORGAN. Not exactly a company that is in the field; but I am in the process of trying to get permits from the Government, and I find it exceedingly hard to qualify, in view of the fact that they require that you have certain equipment. Keep in mind that you must have the War Production Board's authority to use that equipment. It practically eliminates you before you are started, unless you are associated with financial interests.

Senator McCARRAN. We had that picture presented to us at Albuquerque, N. Mex. It was presented to us very nicely, just exactly as you have said. I am sorry the Senator from Utah was not there; but we permitted it to go into the record, although we thought it was not a matter that addressed itself to our hearing. We removed it from our record, but directed that a copy of it be transmitted to Senator O'Mahoney, because he was chairman of another subcommittee of the Committee on Public Lands.¹

When were those filings made with the Secretary of the Interior?

Mr. MORGAN. Which filings?

Senator McCARRAN. I refer to their applications for open public domain leases.

Mr. MORGAN. By whom?

Senator McCARRAN. By the Utah Magnesium.

Mr. MORGAN. In December 1942.

Senator McCARRAN. And this order withdrawing this territory was dated in May following?

Mr. MORGAN. Yes.

Senator MURDOCK. After the Potash Co. had taken over the operating rights, the contract was entered into between the Utah Magnesium and the Potash Co. of America. Is that right?

Mr. MORGAN. Yes, sir.

Mr. KNOX PATTERSON. May I propose one question? I should like to know, Are you relying on your vested rights?

Senator MURDOCK. Who?

Mr. MORGAN. All these people that claim any interest in this land which is reserved under the bill.

Mr. PATTERSON. I am talking about vested rights in Mr. Morgan, who is an applicant.

Mr. MORGAN. That is correct. It gives me no vested rights.

Mr. PATTERSON. There are vested rights over here in the Utah Magnesium?

Mr. MORGAN. Not only on their patented land but on State sections.

¹ See testimony of D. S. Harroun before this subcommittee in the printed transcript of the hearings at Albuquerque, N. Mex., September 9, 1943 (pp. 3470-3481).

Mr. PATTERSON. That is right.

Mr. MORGAN. The potash applications are made subject to discovery; it could be held by the Secretary.

Senator McCARRAN. Are there any other questions?

Senator MURDOCK. I would like, Mr. McCarthy, please, will you point out on the map the location of the Crescent Eagle patented land, if you can designate it by township, range, and section.

Mr. McCARTHY. It is about here [indicating].

Senator McCARRAN. Give your political subdivision, please.

Mr. McCARTHY. 22-19, I think it is.

Senator McCARRAN. The section is what?

Mr. McCARTHY. Section 4—22 south, range 19 east.

Senator McCARRAN. Section 4?

Mr. McCARTHY. Yes.

Senator McCARRAN. Township 22 south?

Mr. McCARTHY. Yes.

Senator McCARRAN. And range 19 east?

Mr. McCARTHY. Yes.

Senator MURDOCK. May we have the map that is exhibited, Mr. Brown, as a part of the committee files?

Mr. BROWN. You may have it put in as an exhibit; yes.

Senator McCARRAN. I want to make an inquiry as to these State land holdings. How many sections of State land are involved, under lease, by either yourself or the Utah Magnesium?

Mr. McCARTHY. I hold two sections in that area, one of which is under lease to the Utah Magnesium Co.

Senator McCARRAN. And the other is in what condition?

Mr. McCARTHY. I hold it myself.

Senator McCARRAN. How near is that to the holes or wells that have been drilled?

Mr. McCARTHY. They have already drilled a well on one.

Senator McCARRAN. Who has?

Mr. McCARTHY. The Potash Co. of America. The other one has not been drilled, but it is adjoining on the north.

Senator McCARRAN. That one that has been leased to the Utah Magnesium, is that the one on which the drilling took place?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. The one that you hold individually has not been drilled?

Mr. McCARTHY. No; not yet.

Senator McCARRAN. I am interested in some further items here relating to your statement. Have you here, or is there available for this committee, the letter of Mr. Thurman Arnold, dated February 20, 1941, or thereabouts?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. May we have a copy of that for the record?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. The second letter to Mr. Nelson, on January 16, 1942, giving reference to three United States Geological Survey reports, an analysis of Utah brines, as proof of their richness, and one from Arthur Bunker. Have you that reply?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. Have you the letter that elicited that reply?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. May we have copies of both of them for the record?

Mr. McCARTHY. Senator, there are going to be so many of these I don't know whether I can remember them. If I may have a memorandum, I will see that you get them.

Senator MURDOCK. Was your correspondence so voluminous with Bunker and Arnold that you could not put them all in? We do not want to encumber the record too much, but I think probably they should be in the record.

Senator McCARRAN. I think all these letters from Mr. Bunker, and others in authority, should go into the record.

Senator MURDOCK. Why not put it that way—that you furnish, Mr. McCarthy, whatever is pertinent to the subject, in the way of correspondence with public officials.

Mr. McCARTHY. I will be very glad to do that.

(The letters are as follows:)

SALT LAKE CITY, UTAH, September 20, 1940.

Mr. DONALD M. NELSON,
*National Defense Advisory Commission,
Washington, D. C.*

DEAR SIR: After listening last evening to your clear and interesting address regarding activities of the National Defense Advisory Commission I am prompted to inquire if there is need for domestic development of magnesium, now that German sources of supply are closed.

Wells on a property in which I have a small interest produce brines containing appreciable quantities of potash, calcium chloride, bromine, and magnesium. Salts from these brines show magnesium content of 42.8 to 68.8 percent according to reports of analysis made by the United States Geological Survey.

Magazine articles state that because of the national defense program millions of dollars are being spent in recovery of one-tenth of 1 percent magnesium from sea water; yet, no producer to whom the factual data regarding our rich deposit has been presented seems to be in the least interested or disposed to investigate.

Will you please advise if the present supply of magnesium exceeds the current or prospective national need, and oblige?

Yours truly,

W. S. McCARTHY,
1451 Arlington Drive.

THE ADVISORY COMMISSION TO THE COUNCIL OF NATIONAL DEFENSE,
Washington, D. C., September 24, 1940.

Mr. W. S. McCARTHY,
Salt Lake City, Utah.

DEAR MR. McCARTHY: I am in receipt of your letter of September 20, and your inquiry as to whether or not there is a need for domestic development of magnesium.

I am referring your letter to Mr. Stettinius, whose organization is handling matters of that kind.

Thank you for your patriotic interest.

Sincerely yours,

DONALD M. NELSON,
Coordinator of National Defense Purchases.

THE ADVISORY COMMISSION TO THE COUNCIL OF NATIONAL DEFENSE,

Washington, D. C., October 2, 1940.

Mr. W. S. McCARTHY,
Salt Lake City, Utah.

DEAR MR. McCARTHY: Mr. Donald Nelson, Coordinator of National Defense Purchases, has forwarded me a copy of your letter to him of September 20, in connection with magnesium.

At the present time the supply of magnesium does not appear as though it would present an immediate bottleneck. However, additional facilities for producing magnesium are being contemplated; therefore, your letter is of particular interest to us at this time, and I am referring it to Mr. Marion Folsom, the division executive in the Industrial Materials Department for mining and mineral products.

Sincerely yours,

E. R. STETTINIUS, Jr.

SALT LAKE CITY, UTAH, February 3, 1941.

HON. THURMAN W. ARNOLD,
Assistant Attorney General,
Washington, D. C.

DEAR SIR: News items of January 31 reported a grand-jury indictment of six corporations and mine individuals charged with "conspiracy to restrict and stifle domestic production of magnesium." While the article did not so state, I assume that the investigation is being carried on under your direction and am therefore bringing certain circumstances to your attention in the hope that the information may be helpful.

In eastern Utah is located an underground body of salts which, in addition to high values in potash, calcium chloride, and other materials, contains what is believed to be the richest deposit of magnesium in the world. Analyses of samples personally taken by representatives of the United States Geological Survey show that these salts contain from 42.6 to 68.8 percent magnesium (Rept. Nos. P-591, November 11, 1932, and D-681, August 6, 1937).

Experience gained through years of unsuccessful effort to have the property developed long since convinced me that failure was due to the condition reflected in the recent indictments and that someone has been sufficiently interested in stifling production to commit murder, as was attempted, if necessary.

Please understand that I have not such proof as would withstand a court test but believe that an examination of my correspondence file and investigation of the known facts will point the way to development of evidence in support of the grand jury findings against certain defendants and help to break a bottleneck now hampering national defense.

If you are interested I will be glad to go into this matter with any properly accredited representative you may send.

Yours truly,

W. S. MCCARTHY.

DEPARTMENT OF JUSTICE,
Washington, D. C., February 25, 1941.

MR. W. S. MCCARTHY,
Salt Lake City, Utah.

DEAR SIR: Your letter of February 3, 1941, concerning the existence of magnesium, potash, and calcium-chloride salts in eastern Utah has been referred to the Advisory Commission to the Council of National Defense for attention.

Very truly yours,

THURMAN ARNOLD,
Assistant Attorney General.

SALT LAKE CITY, UTAH, November 6, 1941.

HON. ABE MURDOCK,
United States Senate,
Washington, D. C.

MY DEAR SENATOR: Yesterday's Salt Lake Tribune carries a lengthy article concerning your vigorous efforts to interest the Office of Production Management in the magnesium deposits of Grand County, Utah.

Apparently you are encountering the same subversive influences exercised during the long, effective fight you made for the development of Utah alunite and iron; interests which, if permitted to continue the strangulation of individual initiative, will surely bring upon this democracy the fate that befell France.

Not many months ago the aluminum, steel, and power interests assured us that there was an ample supply, if not a surplus, of their products. Very shortly thereafter it became necessary to send the Boy Scouts out to collect pots and skillets from housewives to meet an urgent need for aluminum. Now, in some sections, but for the wise foresight of Senator George Norris and the Congress, streets and theaters would be dark and candles again in demand because of the power shortage.

Iron? Plenty of it for all future needs. But today radio announces inauguration of a sustained, daily drive for collection of scrap iron and waste paper.

Magnesium? Huh. "Office of Production Management," the Tribune states, "has completed arrangements for the production of 400,000,000 pounds of metallic magnesium per year." What year? And, how soon will we be in dire need of it?

Newsweek, October 27, 1941, page 42, reports the placing by the Army of a "rush order for a large quantity of incendiary bombs. * * * Plant engineers discovered that, if they were to fill the entire order, they would need the entire United States output of magnesium, leaving none for the production of plane engines and the like."

In the same issue, page 39, is stated: "In recognition of the urgent need of magnesium the Office of Production Management several months ago set a production quota, to be reached by the end of 1942, 400,000,000 pounds annually." Of that amount 154,000,000 pounds will be supplied by existing plants while "most of the remainder of the expansion program will come from various Government plants to be built and operated by others."

The Office of Production Management spokesman thinks "that would meet defense needs as now understood." What if Hitler or Japan does something to change that understanding? Just think, if Britain and Russia can hold out; if Japan will keep quiet and let us alone for only 14 short months, our Army may commence to get that rush order for bombs, although the Office of Production Management spokesman is reported as saying that "Before recommending further magnesium development the Government would have to have a request from the Army and Navy for an increased supply of this light metal." But, if the predictions as to magnesium are not more reliable than those from quite as authoritative sources regarding aluminum, steel, and power, what then? Well, we will just smite the enemy with a recommendation from the National Academy of Sciences.

So, Office of Production Management suggests that Sandburg consult Dow to learn how, or whether, he may produce magnesium in Utah. Information brought out in legal proceedings during the year by that most efficient and valuable public official, Mr. Thurman Arnold, indicates that inquiry might more appropriately be made of Farbenindustrie of Germany, which it appears was, up to a year or so ago and still may be, the real authority on magnesium in the United States.

In view of the present attitude of the Office of Production Management officials, the question naturally arises as to whether or not, before approving expenditure of many millions of the taxpayer's money on the five projects mentioned on page 39 of Newsweek, October 27, they required investigation and report by the National Academy of Sciences. Were they also required to disclose their plans to Dow and get Dow's assent as a condition precedent to approval by the Office of Production Management? If not, why are such conditions now imposed upon a responsible Utah applicant?

We know that it is unnecessary to urge you to render assistance in this matter, being fully aware that you have been and are doing everything in your power to bring about this highly desirable development in order to quickly supply an acute national emergency need.

Yours truly,

W. S. McCARTHY.

SALT LAKE CITY, UTAH, January 16, 1942.

MR. DONALD M. NELSON,
Chairman, War Production Board.
Washington, D. C.

DEAR SIR: Noting the gratifying news of your recent appointment I am again bringing to your attention what is believed by competent authorities to be the world's largest and richest known deposit of magnesium.

For ready reference I am enclosing copy of my letter of September 20, 1940, to you and subsequent correspondence regarding the matter. Since October 2,

1940, no word of any kind has come to me from Mr. Marion Folsom or the Advisory Commission to the Council of National Defense.

For now over 3 months the Utah Magnesium Corporation has been negotiating with the Office of Production Management for financial help such as that given many other magnesium projects. Press reports state that the Office of Production Management advised the applicants to go to the Dow Chemical Co.

Thereafter, on November 4, 1941, press dispatches quoted an Office of Production Management official as saying, "We are considering asking the National Academy of Sciences to survey the deposit near Thompsons"; that the "Office of Production Management would make no move and make no recommendation until it received a report from the National Academy."

The same dispatch stated: "Two weeks ago Mr. Bunker told Senator Murdock he already had asked the Bureau of Mines to drill the Utah magnesium deposits, but, strangely, the Bureau of Mines says it never received such a request."

Twenty-four days later, on November 28, press reports said that the Office of Production Management has sent an expert to Utah to examine brines extracted from wells near Thompsons." Up to this time no investigator has appeared on the ground to take samples.

These suggested investigations imply a lack of confidence in the credibility of the United States Geological Survey reports (Nos. P-501, D-271, D-81). They also suggest a query, Did the Office of Production Management require a favorable report from the National Academy of Science before allotting \$100,000,000 of public funds for magnesium production to numerous other applicants whose facilities and production methods are not yet proven fully effective?

Also, Was their investigation sufficiently thorough to show that the safety of their investment and successful operation of one plant was to be dependent solely upon the services of one man, since reported in the custody of the Federal Bureau of Investigation?

Being without satisfactory answers to these queries the inescapable conclusion is that the Office of Production Management has been doing all possible to prevent development of the richest known deposit of magnesium in the interest of domestic producers, thought to be German-controlled, and without regard to the urgent need of our combat forces.

Such tactics wrecked France. Today's radio reports of the storm in Congress over motives and methods of some Office of Production Management officials indicates the dire need for a clean-up and that indictments for treason for obstructionist methods employed since December 7 would be in order.

Late reports state that "All existing plants, either built or under construction can produce only 382,000,000 of the 550,000,000 pounds (of magnesium) now wanted. Where are we to get it in time?

Four hundred and fifty-five days have passed since the matter was referred to Mr. Marion Folsom, over 90 days since it was laid in the lap of the Office of Production Management. Had the Office of Production Management acted promptly the much-needed magnesium might now be in production.

My purpose in now addressing you is, not to solicit aid in the financing above-referred to, for with that I have nothing whatever to do, but to present a specific case and, in the public interest to direct attention to a condition which undermines confidence and must retard preparedness in many directions; one which seems to cry aloud for correction.

Yours truly,

W. S. McCAETHY.

WAR PRODUCTION BOARD,
Washington, D. C., January 30, 1942.

DEAR MR. McCAETHY: Mr. Nelson has asked me to acknowledge your letter of January 16 relative to the drilling of magnesium deposits by the Utah Magnesium Corporation.

Your interest in this matter is appreciated, and I am bringing your letter to the attention of Mr. A. H. Bunker, Chief of the Magnesium Branch of the Materials Division, for consideration and review.

Sincerely yours,

D. L. ODELL,
Special Assistant to Mr. Nelson.

SALT LAKE CITY, UTAH, *February 5, 1942.*

Mr. D. L. ODELL,

War Production Board, Washington, D. C.

DEAR SIR: This will acknowledge receipt of yours of the 30th in reply to my letter of January 16 to Mr. Donald M. Nelson.

So ends another ride on the Washington Merry-Go-Round with Mr. Bunker.

You know Bret Harte said that "He whose father is Alcalde of his trial hath no fear."

Is it possible that Mr. Bunker may now sentence himself to electrocution? Unlikely. Electricity is too badly needed for other uses.

Will he order himself blown up with a bomb? Doubtful. Magnesium is too scarce. Our combat forces need it, but they can wait—*indefinitely*.

Of course he will not consent to being boiled in oil. Anyway, we can't spare it. The shortage, you know. Besides that would reduce efficiency. I. G. Farbenindustrie might not like that.

And so, the Army, Navy, and Air Forces must await the result of the National Academy of Science and other retarding investigations for an augmented, urgently needed, supply of magnesium.

Four hundred and seventy-five days wasted. Is this our boasted, highly publicized efficiency?

Again Bret Harte: "And be sure the count has reasons which will make his conduct clear."

Yours truly,

W. S. MCCARTHY.

WAR PRODUCTION BOARD,
Washington, D. C., February 6, 1942.

Mr. W. S. MCCARTHY,

Salt Lake City, Utah.

DEAR MR. MCCARTHY: Mr. Nelson has asked me to reply to your letter to him of January 16, in connection with the properties of the Utah Magnesium Corporation. The present difficulties in obtaining adequate amounts of magnesium are not due to lack of satisfactory raw materials, but rather to shortages of electric power, difficulties in obtaining electric equipment and other critical materials.

We have considered very carefully the possibility of developing the properties of the Utah Magnesium Corporation. The difficulties seem very real to us even if a plentiful supply of rich magnesium chloride brine should be developed. It may, however, be that some wells will be drilled in this district, although the problem of how best to convert any brines at that location into magnesium metal is a very difficult one to resolve.

I see in your letter that the quotation in reference to my statements to Senator Murdock is completely inaccurate; also the many suggestions in your letter to the effect that the Office of Production Management has been doing all possible to prevent the development of one of the deposits of magnesium and any other similar remarks that you have made are all completely unfounded and inappropriate.

Very truly yours,

A. H. BUNKER,
Chief, Aluminum and Magnesium Branch.

(See p. 2221, pt. 7, on S. Res. 71—par. 1, re Bunker on priorities.)

SALT LAKE CITY, UTAH, *February 15, 1942*

Mr. A. H. BUNKER,

*Chief, Aluminum and Magnesium Branch.**War Production Board, Washington, D. C.*

DEAR SIR: I have your letter of February 6, file 2003 R, in reference to mine of January 16, 1942, addressed to Mr. Donald M. Nelson.

Surely you cannot expect acceptance of the explanation offered.

Five hundred days have now passed since Mr. Stettinius referred my first communication to Mr. Marion Folsom. One hundred and forty-six days later Mr. Thurman Arnold again brought the matter to attention of the Advisory Commission to the Council of National Defense, where it appears to have died.

What became of the proposed National Academy of Science investigation or that of the expert reportedly sent on November 28, 1941, 78 days since, inasmuch as neither has yet appeared on the premises to investigate or check the findings of the United States Geological Survey, which you apparently discredit and reject.

According to press reports, the "plants now producing metallic magnesium together with all new magnesium plants that have been authorized and are now under construction, will produce only three-fifths of the requirements of the Army and Navy."

It is reported that we urgently need to produce 550,000,000 pounds; that we may expect to receive 382,000,000 pounds. Of that amount, we expect to receive 112,000,000 pounds from a plant under construction, to be completed months in the future, and 48,000,000 pounds from one which, news reports have stated, is dependent solely upon the services of an enemy alien in the custody of the Federal Bureau of Investigation.

Two weeks ago we expected to have a huge aircraft carrier or transport in war service very shortly. A tiny spark from a blow torch dashed that expectation and so, as has several times already occurred, might a hatful of air destroy sorely needed magnesium production facilities. That incident powerfully suggests the urgent need for foresight and prompt provision of increased production.

Is it any wonder that, as reported by radio, our Far Eastern forces, "fighting with incredible heroism," are "sick over indecision and lack of foresight at home" in view of the Army and Navy warning published on December 3, 1941, 4 days before Pearl Harbor, that "unless additional production (of magnesium) is authorized, the fighting forces will soon encounter a serious shortage."

That the rapidly rising tide of public indignation over procrastination and inefficiency is beginning to be noticed seems evident from the public statements of Mr. Nelson, reported yesterday, that "golden months have been wasted": that we "can win only with greatly expanded production"; that the "critical year in the existence of the United States is 1942." By Admiral Standley that "unless we put forth our entire effort we are liable to lose this war."

At this moment, without analysis, the reasons you offer for "present difficulties" sound reasonable but are absolutely without merit as they will not withstand even the most superficial examination.

For many months after this matter was presented to the Council of National Defense, leaders of big business were loudly assuring us that we had plenty, if not a surplus, of power, steel, aluminum, magnesium, and production facilities of all kinds.

Today, priorities can be invoked to provide for essential war needs, as in this case.

But for inexcusable procrastination and delay the admittedly necessary investigation could, and should, have been made months ago. Certainly shortage of electric power, equipment, or other now critical materials did not then prevent that. What did?

Mr. Thurman Arnold's annual report, recently released, seems to provide the answer.

Think of Pearl Harbor; a flotilla destroyed. MacArthur valiantly fighting with his back to the wall—Wake, Guam, Singapore. And now predictions that our own coasts will again soon be invaded. Our forces "sick over indecision and lack of foresight at home." The "golden months wasted." Small wonder, if this magnesium situation is typical of our total war effort.

Yours truly,

W. S. MCCARTHY.

SALT LAKE CITY, UTAH.

October 26, 1942.

Mr. A. H. BUNKER,

Aluminum and Magnesium Branch,

War Production Board, Washington, D. C.

DEAR SIR: Referring again to your letter of February 6, 1942, and my reply of February 15 (your file 2003 R), regarding the rich magnesium at Thompsons.

¹ October 28, 1943.—See hearings on S. Res. 71, investigation of the national-defense program, pt. 7, p. 2221, Mr. Arthur Bunker testifying: "The only thing I can say is that we are going to provide a department in the aluminum and magnesium section, and the minute orders come through needing priorities, we will be prepared to run them through for both aluminum and magnesium plants, to hasten every piece of equipment needed in those plants." See also Mr. Bunker's letter of February 6, 1942, file 2003 R.

Utah, concerning which I first wrote Mr. Donald Nelson on September 20, 1940, now over 2 years ago.

On February 14, 1942, over the Columbia network, Mr. Nelson gave the Nation's businessmen a new motto: "Act now, worry later."

He warned bluntly that unless business stops holding back because of fears about post-war conditions and concentrates on action now, there may be no future to observe. Two golden months have been wasted, he declared, "but the 10 silver months of 1942 remain."

Without doubt you have seen the Bureau of Mines report on results of recent drilling operations near Thompsons, Utah, which, according to Senator Murdock's published statement "show the deposit to be much richer than expected and of greater extent" and that "Bureau experts pronounced it the richest and largest known deposit of the mineral and the only known commercial deposit in the United States."

Nearly 3 "golden months" have elapsed since the defense plant well near Thompsons was shut down on August 3 and still no action.

Maybe the following dispatch from the Washington bureau of the Salt Lake Tribune, September 24, 1942, explains it:

"Senator Murdock carried proposals for developing the ores directly to Mr. Nelson, he said, only after he failed to get cooperation or encouragement from the aluminum and magnesium section of the War Production Board. The Senator charged that Arthur Bunker, head of the aluminum and magnesium section, opposes development in the field unless the individual project is approved by the National Academy of Science and favors fostering production efforts only through big established industries."

Apparently another 11 "golden months" have been wasted since November 4, 1941, when that same statement, from the same source, was published.

Read understandingly it is tantamount to a charge of sabotage in the interest of big business—made out in the open by a responsible United States Senator—without cloak of senatorial immunity.

The general public has had great faith in the ability, integrity, and good faith of Donald Nelson in his difficulty of advancing speedily all war objectives. That he is not getting completely loyal support within his organization seems clearly indicated by press and radio disclosures as to odoriferous conditions hampering production of synthetic rubber, sponge iron, magnesium, etc.

Until these widespread charges are publicly refuted or satisfactorily explained the conclusion must be that, instead of receiving the loyal support to which he is entitled, Mr. Nelson, the Army, Navy, aircraft industry, and the Nation have actually been double-crossed.

No doubt everyone interested in mining would be curious to know why you, a Government official, discredit and reject the findings of the United States Geological Survey and the Bureau of Mines, yet seek the opinion of an outside agency at the taxpayers' expense.

It would seem quite as sensible to ask a justice of the peace, whose income is derived from fees, to review decisions of our Supreme Court.

So the question arises as to the real worth or trustworthiness of National Academy recommendations which you appear to so highly prize, since reports indicate that we are actually getting less than 25 percent of the 550,000,000 pounds of magnesium required by the Army and Navy for 1942 and about 35 percent of the scheduled 382,000,000-pound production of six plants.

In the light of your present attitude is it possible, or even probable, that you put a hundred million dollars of taxpayers' money into those plants without a National Academy recommendation? Or did you?

So, to be consistent, you must impose the same conditions upon Utah but please do not wait another 11 months before acting.

Maybe our boys on the battlefields and seas of the world will find substitutes for much-needed supplies—or die trying—while waiting for you to act.

Why not release your brakes and help save democracy?

Yours truly,

W. S. McCAETHY.

(Above sent by U. S. mail, registered, No. 7273. Receipt dated Washington, Oct. 30, 1942, by (1) A. H. Bunker, (2) V. Lewis, addressee's agent.)

SALT LAKE CITY, UTAH,
June 7, 1943.

Mr. HARVEY A. ANDERSON,
Chief Conservation Division, War Production Board,
Washington, D. C.

DEAR SIR: On page 17 of the January 1943 issue of the magazine *Rotarian* is published an article naming 500 materials needed in the war effort. First in the list of those most critically needed is magnesium.

A news item published yesterday indicates that Basic Magnesium at Las Vegas, Nev., is having difficulty shipping its raw materials from Luning, Nev., pending possible extension of a rail line.

In view of that fact and the knowledge that some other plants are not producing up to their quota, is there still an urgent need for an augmented supply of raw material?

If so, I bring to your attention a property here in Utah as to which the Bureau of Mines, in War Minerals Report 12, page 2, says: "The deposit contains 78,000 tons of carnallite per acre. The possibilities are tremendous."

Since the issuance of that report further drilling has, it is believed, proved a very considerable extension of that deposit.

Should you be interested, I shall be glad to render any assistance possible in supplying information you may require.

Yours truly,

W. S. McCAETHY.

WAR PRODUCTION BOARD,
Washington, D. C., June 10, 1943.

Mr. W. S. McCAETHY,
Salt Lake City, Utah.

DEAR MR. McCAETHY: Please accept our sincere thanks for your letter of June 7 relative to the carnallite deposit in Utah and your offer to assist in securing further information about it. The magnesium situation has been improving for the past few months and the metal now is much less critical than it was some months ago. We believe that our present sources of raw materials will provide for the expected requirements and we understand that steps are being taken to correct the difficulties Basic Magnesium has had in transporting raw material to its plant. We will refer your offer of assistance to the Aluminum and Magnesium Division so that they can take advantage of it if they find it necessary in the future. For the present we don't believe it will be necessary to ask you to spend any time on the project.

Yours very truly,

HARVEY A. ANDERSON,
Deputy Director, Conservation Division.

SALT LAKE CITY, UTAH,
June 18, 1943.

Mr. HARVEY A. ANDERSON,
Deputy Director, Conservation Division, War Production Board,
Washington, D. C.

DEAR SIR: I have your letter of the 10th instant in reply to mine of June 7, and thank you for your prompt and courteous response to my request.

In view of the information developed by the United States Senate Special Committee Investigating the National Defense Program and the scathing denunciation of the Light Metals Section of the War Production Board, at page 4, Senate report No. 480, part 6, and also my own experience with the Light Metals Section, I could not conscientiously give them information regarding potential sources of raw material supply with any degree of confidence that it would be used in the public interest or furtherance of the war effort.

In my opinion, the taxpayer gets the "lemons"; private interests the "plum."

For the benefit of our combat forces I hope events will quickly justify your belief that expected requirements will be met. However, I recall that, in December 1941, when the Army and Navy were asking for 550,000,000 pounds of magnesium annually, an amount since largely increased, the Office of Production Management expected to provide 400,000,000 pounds in 1942. Production reported was about 130,000,000 pounds.

On January 16, last, broadcasting from Philadelphia, Mr. Donald Nelson announced that this year, 1943, we will produce 400,000,000 pounds, as against 6,700,000 pounds in 1939.

At least we are holding our own in the matter of predictions, even though actual production casts a dark shadow of doubt on their reliability and leaves our combat forces far short of their needs.

Yours truly,

W. S. McCARTHY.

Mr. McCARTHY. You asked a question, Senator, a while ago, that was not answered, as to how Mr. Thurman Arnold came into the picture.

Senator MURDOCK. I thought you brought him in.

Mr. McCARTHY. Calling attention at that time, there was under investigation, or indictment, charges of restricting or stifling production of magnesium. I wrote him with respect to that, in that letter. I called his attention to the analysis of samples personally taken by representatives of the United States Geological Survey, showing that these salts contain 42.6 to 68.8 percent magnesium. Report No. P 591, November 11, 1932, and D-681, August 6, 1937.

That is the letter that Mr. Arnold referred to the Advisory Commission of the Council of National Defense, which was then preceding the War Production Board.

Senator McCARRAN. Is there any correspondence in your file, or do you know of any correspondence from the national defense group, in reply to Arnold?

Mr. McCARTHY. No; there was nothing in that connection. I first wrote Mr. Donald Nelson about this on September 20, 1940. He very promptly answered, saying he had referred the letter to Mr. Stettinius. Mr. Stettinius answered just as promptly saying he, in turn, had referred the matter to Mr. Marion Folsom, who was in charge of the light metals.

Senator McCARRAN. Mr. Marion who?

Mr. McCARTHY. Folsom.

Senator McCARRAN. Have you those letters?

Mr. McCARTHY. I have two. I never heard a word from Mr. Folsom.

Senator McCARRAN. Did you write him?

Mr. McCARTHY. No. I thought if he paid no attention to Mr. Donald Nelson he would pay no attention to me.

Senator McCARRAN. Donald Nelson said he had referred the matter to Mr. Stettinius?

Mr. McCARTHY. Yes.

Senator McCARRAN. And Mr. Stettinius, in turn, said he had referred the matter to Mr. Folsom?

Mr. McCARTHY. Yes.

Senator McCARRAN. And there the matter seemed to stop?

Mr. McCARTHY. Yes. I later wrote Mr. Nelson, in January 1942, and to that letter receipt was acknowledged by Mr. O'Dell, who was a special assistant, I think, to Mr. Nelson. He advised me that he was referring my communication to Mr. Arthur Bunker.

Senator McCARRAN. All right, let us trace it back again, a little. You later wrote to Mr. O'Dell—no; you wrote to Donald Nelson again?

Mr. McCARTHY. I wrote to Donald Nelson.

Senator McCARRAN. And he, at that time, referred your communication to Mr. O'Dell?

Mr. McCARTHY. Yes.

Senator McCARRAN. Do you have copies of all that?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. Will you kindly furnish that for our record?

Mr. McCARTHY. I will be very glad to.

Senator McCARRAN. Then Mr. O'Dell wrote you that he was referring the matter to Arthur Bunker?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. You have copies of all those?

Mr. McCARTHY. Yes. Mr. Bunker then wrote me on the 6th of February and told me that the present difficulties in obtaining adequate amounts of magnesium are not due to lack of satisfactory raw materials but rather to shortages of electric power; difficulties in obtaining electrical equipment through the mills.

I could not quite take that, so I wrote Mr. Bunker, and I heard nothing from him since.

Senator McCARRAN. You wrote Mr. Bunker following that?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. What did you say to him?

Mr. McCARTHY. This letter is dated October 26, 1942. It was sent by registered mail to Mr. A. H. Bunker, Chief, Aluminum and Magnesium Branch, War Production Board, Washington, D. C.

DEAR SIR: Referring again to your letter of February 6, 1942, and my reply of February 15 (your file 2003-R) regarding the rich magnesium at Thompsons, Utah, concerning which I first wrote Mr. Donald Nelson on September 20, 1940—now over 2 years ago.

On February 14, 1942, over the Columbia network, Mr. Nelson gave the United States businessmen a new motto: "Act now. Worry later."

He warned bluntly that unless business stops holding back because of fears about post-war conditions, and concentrates on action now, there may be no future to observe. "Two golden months have been wasted," he declared, "but the 10 silver months of 1942 remain."

Without doubt you have seen the Bureau of Mines report on results of recent drilling operations near Thompsons, Utah, which, according to Senator Murdock's published statement "show deposits to be much richer than expected, and greater extent." And that Bureau experts pronounce it the richest and largest known deposit of the mineral and the "only known mineral deposit in the United States."

Nearly 3 "golden months" have elapsed since the Defense Plant well, near Thompsons, was shut down on August 3, and still no action.

Senator McCARRAN. They were shutting down on gold all over the country, in those days.

Mr. McCARTHY. Yes.

Maybe the following dispatch from the Washington Bureau of the Salt Lake Tribune, September 24, 1942, explains it:

Senator Murdock carried proposals for developing the ores directly to Mr. Nelson only after he failed to get cooperation or encouragement from the aluminum and magnesium section of the War Production Board.

The Senator charged that Arthur Bunker, head of the Aluminum and Magnesium Section opposes development in the field unless the individual project is approved by the National Academy of Science, and favors fostering production efforts only through big established industries.

Apparently another 11 golden months have been wasted since November 4, 1941, when that same statement from the same source was published. Read

understandingly, it is tantamount to a charge of sabotage in the interest of big business—made out in the open by a responsible United States Senator, without cloak of senatorial immunity.

The general public has had great confidence in the ability, integrity, and good faith of Donald Nelson in his difficult task of advancing speedily all war objectives. That he is not getting completely loyal support within his organization seems clearly indicated by press and radio disclosures as to odoriferous conditions hampering production of synthetic rubber, sponge iron, magnesium, etc.

Until these widespread charges are publicly refuted, or satisfactorily explained the conclusion must be that instead of receiving loyal support, to which he is entitled, Mr. Nelson, the Army, Navy, the aircraft industry, and the Nation have actually been double-crossed.

No doubt everyone interested in mining would be curious to know why you, a Government official, discredit and reject the findings of the United States Geological Survey and the Bureau of Mines, yet seek the opinion of an outside agency, at the taxpayers' expense.

It would seem quite as sensible to ask a justice of the peace, whose income is derived from fees, to review decisions of our Supreme Court.

So, the question arises as to the real worth or trustworthiness of National Academy recommendations which you appear to so highly prize, since the reports indicate that we are actually getting less than 25 percent of the 550,000,000 pounds of magnesium required by the Army and Navy for 1942, and about 35 percent of the scheduled 382,000,000 pounds production of six plants.

In the light of your present attitude, is it possible, or even probable, that you put \$100,000,000 of taxpayers' money into those plants without a National Academy recommendation, or did you?

So, to be consistent, you must impose the same conditions upon Utah, but please don't wait another 11 months before acting.

Maybe our boys on the battlefields and seas of the world will find substitutes for much needed supplies—or die trying—while waiting for you to act. Why not release your brakes and help save democracy?

Yours truly.

Senator MURDOCK. Any reply to that letter?

Mr. McCARTHY. No, sir.

Senator MURDOCK. But you do know that Bunker's company finally took over?

Mr. McCARTHY. I know that.

Senator MURDOCK. So you evidently sold him on your property?

Mr. McCARTHY. I know he got the letter, because it was registered.

Senator McCARRAN. Mr. McCarthy, in your statement today, you made reference to the National Academy of Science. Why, if you know, was the National Academy of Science brought into this picture?

Mr. McCARTHY. I haven't the remotest idea, Senator.

Senator McCARRAN. The National Academy of Science, if I am correctly advised—I hope someone will correct me if I am in error—is a research organization, is it not?

McCARTHY. That is my understanding.

Senator McCARRAN. Does anyone care to correct me on that?

Mr. BROWN. I will tell you, Senator, that one of the well-known Washington correspondents—I think it was Raymond Clapper—said that the National Academy of Science was composed of representatives of all the greatest monopolistic industries in the United States; and his words were, as I recollect them, that they were a collection of hatchet men before whom these projects were brought; that they waited until one or the other of them would kill them.

There is the Aluminum Co. of America, their representatives constitute the National Academy of Science.

Senator McCARRAN. I was trying to get his part in the picture. I have not gone into the statement, but it was to the effect that the advice of the National Academy of Science seemed to bear some weight before the U. S. Geological Survey or the Bureau of Mines. That is the inference I got from it.

Mr. McCARTHY. That is my understanding, and that is as it appears from the record.

Senator MURDOCK. It is fair to state, I believe, Senator McCarran, that in direct statements to me, both on magnesium and on aluminum. Mr. Bunker and the next man under him, Mr. Phil Wilson, rather ridiculed the work done by the Bureau of Mines. They have directly done that to me, and indicated to me that they took no stock at all in anything that the Bureau of Mines said on metallurgical processes, and that nothing but the Academy of Science would satisfy them.

I think the description of "hatchet men," that Mr. Brown referred to, is quite appropriately used.

Mr. McCARTHY. There is a feature of that to which I would like to call your attention, and that is the fact that these analyses, about which I wrote, were made 10 years ago, before magnesium was attracting attention. The Bureau of Mines or the U. S. Geological Survey had no reason whatever to report anything but the facts as they found them.

Senator McCARRAN. That is all I have to inquire right now.

Senator MURDOCK. We have a very long list of witnesses here; I am sure that we can't go through all of them.

Senator McCARRAN. Let me say to you, Senator, that, as I made the statement this morning, I venture the expression that 95 or 99 percent of the people of Utah would file protests against this withdrawal. That is quite natural. The protests that have come in here have come in from responsible people who apparently knew pretty much what they were talking about. Many of those protests are duplications.

I think in the last hour we have developed more real nutriment out of this than we did this morning, and if we could pursue this course, rather than merely the protests—I think anyone here will protest—that is just a thought I have.

Senator MURDOCK. I agree in it. I think the facts we have developed through Mr. McCarthy are an outstanding part of the testimony that has come before us.

I think we are through with Mr. McCarthy, unless someone in the audience wants to interrogate him.

I wonder if it would not be well, Senator McCarran, to call on Charles Redd, if he is in the audience. He comes from this locality.

Mr. MELICH. There are no representatives from Grand County, except Mr. Knox Patterson, a former resident, and Mr. Baldwin. We are on the tail end of the list. I wonder if we could not be heard to express the feeling of our people.

Senator MURDOCK. Are you ready?

Mr. MELICH. Yes; any time.

Senator MURDOCK. State your name.

STATEMENT OF MITCHELL MELICH, MOAB, UTAH

Mr. MELICH. I am Mitchell Melich, State senator from the twelfth district.

Senator McCARRAN. Where are you from?

Mr. MELICH. Moab.

Senator McCARRAN. Moapa, Nev.?

Mr. MELICH. No; Utah.

Senator McCARRAN. I was trying to claim you for a citizen.

Senator MURDOCK. We don't want you to claim these Utah people for Nevada. You come right from the section involved?

Mr. MELICH. Yes. My home is in Moab.

Senator MURDOCK. You may proceed in your own way.

Mr. MELICH. I am a representative of San Juan County in the State senate.

Senator McCarran wanted some information about that area that has been withdrawn. For his information I am advised that about 125,000 to 130,000 sheep spend about 7 months of the year in that area, and 10,000 to 12,000 cattle graze there during the 7-month winter season.

Not only does that area take care of a lot of livestock but I think that the only known large deposits of vanadium ore are found in southeastern Utah and western Colorado.

This area here—I did not realize it was so large until I looked at that map—I don't know why the Secretary of the Interior did not take all of Grand County when he started. He probably could have set up one of these Tugwell towns and administered it out of Washington.

Since the Jackson Hole controversy arose in Wyoming considerable has been written and said about Executive orders creating national monuments and withdrawing large areas of Federal land from location, sale, and entry. The time has come when some action by the people must be taken to prevent the setting aside of large tracts of land by mere Executive orders, without giving the people an opportunity to express their views beforehand.

The condition as to the withdrawal of approximately 3,000,000 acres of public land, under Public Land Order 130, in Grand and San Juan Counties, Utah, is no different than the Jackson Hole issue.

In Wyoming the self-named protector of the people's rights, by a scratch of the pen, attempted to cripple an industry so important in American life. Now, this same individual, probably with the same pen in hand, withdraws a mere 3,000,000 acres of land in Utah.

The only difference in the two withdrawals is that in Wyoming the persons affected are fighting to prevent the wiping out of existing rights, while in Utah we are opposed to the withdrawal for the reason that we desire to protect the right of the individual American to develop through his own initiative the resources of a large undeveloped area without interference by Government bureaus and other unnecessary governmental controls.

Grand and San Juan Counties offer unlimited opportunity to the individual interested in mining and agriculture.

The withdrawal of these public lands under order 130 does not seem to affect the right of the individual to explore, discover, and occupy public lands containing metalliferous minerals. This is due to the specific exclusion of metalliferous minerals in the act under which order No. 130 was issued.

I feel reasonably certain in saying that Public Land Order 130 would have prevented the old prospector from further continuing his life among the rocks were it not for the specific exclusion in the act.

To compel the average individual to comply with the order of the Secretary of the Interior as to classification, prospecting, and development of this large area under the mineral leasing laws is to retard its development.

The average person interested in the development of these resources locates a claim because he contemplates some gain to himself, and, having made a discovery, he attempts to develop the property, or else he sells or leases to others who make an effort to develop it; and in most instances he reserves some right in the property to himself. In any event, the discovery has been made which, in a number of cases, has led to the development of important and valuable natural resources. But you stop this type of development by withdrawal orders, and you stop American initiative, which needs a boost today, and not a handicap.

Senator McCARRAN. I would like to interrupt you. Perhaps the question does not properly address itself to this part of your statement.

You are going on the assumption that, because of certain language in the withdrawal order, a prospector for metalliferous ores may go in and prospect and explore. Isn't that your theory?

Mr. MELICH. He must, or course, discover.

Senator McCARRAN. In other words, the lode mining laws apply?

Mr. MELICH. Yes; they are not affected by this withdrawal.

Senator McCARRAN. Supposing a certificate is issued, or a right of development is granted, from the Interior Department to those who have made application, doesn't that, in itself, give absolute sovereignty and control to the party in whose favor the certificate or privilege is recorded?

Mr. MELICH. Yes, Senator McCarran; but the difficulty is this, that the minute that withdrawal goes in the land must be classified, under that order. These departmental regulations are so set up—Senator Murdock was referring to the order there—those restrictions are so difficult to meet that the average individual can't meet them.

Senator McCARRAN. I think I have not made myself clear.

Mr. MELICH. Certainly he gets the permit, but it is the effort to getting it.

Senator McCARRAN. What I am trying to evolve here—doesn't it, regardless of the language in this Executive order, which language would appear to exempt the metalliferous prospector and miner and locator—doesn't it, in fact, nevertheless, exclude him, because the sovereignty, over the domain that is granted to the applicant, gives him absolute dominance over the area that is given to him in the certificate?

In other words, suppose John Doe is accorded a certificate from the Interior Department, giving him the right to go forward in the development and production of magnesium or potash, or whatever it may be, carnallite, or anything else, can I go in there as a prospector

and locate a metalliferous lode? Certainly I can. So the language does not mean anything.

Mr. MELICH. That is true. That is why we are here objecting. We want to find out what that order 130 does mean, and what the effect of it will be upon the development of that area.

While we are on that, Senator McCarran, I would mention to you a little incident which just happened recently, under section—I think it is section 8—of the Taylor Grazing Act, which permits the classification of lands which are more suitable for agricultural purposes, being open for entry.

We have, just outside of Moab, an area there which a local stockman thought was more suitable for agricultural purposes, a tract of about 640 acres, with a very good water right on it. He filed, recently, an application to have that set aside, so that it could be made open to entry, and he would go ahead and graze his stock upon it. The papers were prepared and sent in, and, lo and behold, order 130 was staring him in the face. They said:

There is not a thing we can do with it till we find out what order 130 will do.

There is a very recent example, which will affect that area as to the livestock industry.

When I say order 130, I don't think it would affect section 7 or section 8 of the Taylor Grazing Act.

Senator MURDOCK. Do you think applications like that, Senator, are made quite frequently?

Mr. MELICH. Yes; in our area.

Senator MURDOCK. For entry under the land law?

Mr. MELICH. Certainly. I think Mr. Leech can tell you that they have a number of those applications in his office.

Mr. HAVELL. Senator, I anticipated that question. I asked our register here, Mr. Stewart, to give me this morning the record of the past 3 years, for settlement claims, such as homestead applications and applications for exchange, that were filed in the office. The figures are these:

From January 1 to December 31, 1941, there were nine homestead applications and three applications for exchange.

January 1 to December 31, 1942, there were five homestead applications and one application for exchange.

From January 1 to June 30, 1943—which is practically up to date, because that is the end of the fiscal year—we had but one homestead application and one application to exchange.

So that there has not been much activity in this area, so far as settlement claims, or the like, are concerned.

While I am on my feet, perhaps I might refer to Senator McCarran's question of a minute ago—that, had the Secretary of the Interior wanted to, he could have made this withdrawal 130 under the broad authority of the President, which would have stopped metalliferous mining claims; but he did not see fit to do that. He thought that that would be unnecessary. So that the Secretary chose to put the Executive order under the act of June 25, 1910, so that metalliferous mining claims could go forward.

Senator MCCARRAN. But, I am at a loss to know, Mr. Havell, how a metalliferous prospect or claim can be located, after the request has been complied with, by the Utah Magnesium. In other words, I did not get that.

Supposing the request of the Utah concern is complied with, it would give them dominance over something like 100,000 acres, as testified here by Mr. Morgan and Mr. McCarthy. Do you mean to say that a prospector could go in on that territory and locate a lode location?

Mr. HAVELL. No, sir; he could not.

Senator McCARRAN. All right, then, what does this language mean, when you say that this does not apply nor exempt?

Mr. HAVELL. The potash or magnesium, and not metalliferous mining claims, such as gold, silver, and those metals.

Senator McCARRAN. That is right.

Mr. HAVELL. They are located, or made, without reference to the Secretary of the Interior.

The Secretary of the Interior has no information as to the initiation of such claims, because the certificates of location are filed in the county recorder's office, and not in any branch of the General Land Office.

Senator McCARRAN. That is what I am trying to bring out. Now, assuming that the request of the Utah concern is complied with, they are given the 100,000 acres. That is withdrawn or given to them, or in their favor, by the Interior Department, under their application. Could I, as a prospector, go in and make a valid lode location in that territory accorded to them?

Mr. HAVELL. Under the lode laws you can.

Senator McCARRAN. Yes.

Mr. HAVELL. He could not, nor can you, under any area covered by any allowed application under the Mineral Leasing Act.

Senator McCARRAN. So the language in the withdrawal order, which seems to favor metalliferous lode locations, means nothing. It does not give the lode locator anything different.

Mr. MORGAN. That was even true before the withdrawal order.

Senator McCARRAN. Unless he was in there before the withdrawal order with what the Department will term a valid lode location.

Mr. MORGAN. Speaking in behalf of the Department, of which I am an attorney, before this order was given, you could go in there and obtain a lease, an oil or gas lease, and that would exclude anyone else coming in for metalliferous mining.

Senator McCARRAN. That is right.

Mr. MORGAN. So this order 130 did not really add anything to that.

Senator MURDOCK. Conditions are exactly the same on that?

Mr. MORGAN. They are.

Senator MURDOCK. Whenever an application is issued, whether we have the withdrawal order or not, for the territory involved, it excludes any location under the placer law?

Mr. MORGAN. That is correct.

Senator McCARRAN. So the language in the withdrawal order, which seems to favor the prosecution of metalliferous mining, would, at first glance, if construed in that direction, mean absolutely nothing. Do you take issue with that?

Mr. TRAUERMAN. May I ask the judge a question?

Senator MURDOCK. Which judge?

Mr. TRAUERMAN. This gentleman?

Senator MURDOCK. He is the Commissioner of the General Land Office—Mr. Havell.

Mr. TRAUERMAN. I do not remember the exemptions, but is it just generally metalliferous mines? Why wouldn't magnesium come

under that? What right would they have to give a lease under the law, the metalliferous mining law?

Mr. HAVELL. Because Congress has made certain minerals locatable under the mineral leasing law only; so potash, and associated minerals, thereafter, since the passing of that act, could be developed only under the leasing system, and no longer under the lode or placer law.

Mr. MORGAN. You can make a location on magnesium under the mining laws.

Mr. HAVELL. Yes.

Mr. MORGAN. That is on the surface?

Mr. HAVELL. It does not make any difference whether it is on the surface or 4 miles under.

Mr. MELICH. In the area included within this withdrawal, there was a well drilled there in which they found considerable brine, or magnesium; and on the strength of that discovery a number of lode claims have been located in that area.

Senator McCARRAN. For magnesium?

Mr. MELICH. For magnesium. Those claims are filed in the recorder's office of Grand County.

Now, there is some question as to how valid those notices of location are, but that was prior to the withdrawal order.

Senator MURDOCK. You say the magnesium appears on the surface?

Mr. MELICH. No; it was found while they were drilling for oil.

Senator MURDOCK. So there is nothing showing on the surface?

Mr. MELICH. Except they made the discovery by drilling.

Senator MURDOCK. The locations were made as lode claims?

Mr. MELICH. Yes, sir; that appears of record.

Mr. MORGAN. By what right did they drill on the land?

Mr. MELICH. They had a permit from the Federal Government.

Mr. MORGAN. Where they located the mining claims, was there oil and gas or potash permits filed, applications filed, in the local land office, prior to that?

Mr. MELICH. I think they had filed applications for potash permits, and after that they also filed lode locations. They pursued both courses.

Mr. KNOX PATTERSON. That was the geological end of it?

Mr. MELICH. That is the Seven Mile area. It is quite a complicated condition.

Senator McCARRAN. I guess we will not ask who owns the Apex, will we?

Senator MURDOCK. I was about to ask that.

Wherever you have a written statement, as our time is getting short, it may be understood that your written statement may be filed for the record, if you will just high-light it.

Mr. MELICH. Yes; I will brush through this, and hand it to the reporter.

Public Land Order 130, on its face, appears to be a harmless little instrument, but if permitted to remain, it is loaded with dynamite. The land withdrawn will probably be classified, and rules and regulations set up as to the terms and conditions under which permits will issue and leases be granted. These regulations will no doubt be similar to what are now in effect in similar cases. They will require performance bonds and other conditions which the average individual finds difficult to meet.

I cite for your information a case within my own knowledge, coming under the regulations pertaining to oil development on public lands. A few years ago arrangements were made for the drilling of a wild-cat oil well in Grand County, by some of the local people. Funds were very limited, and would only cover the cost of drilling the well to a certain depth; however, before operations could start, persons in charge were required by an agency of the Federal Government to furnish a surety bond of \$5,000. To obtain such a bond, collateral in the form of cash or Government bonds had to be given the surety company. This could not be done, because these individuals had only enough funds with which to complete the well.

Why could not our Federal Government have encouraged such a development, rather than set-up rules and regulations which prevented it?

What is to follow from this Public Land Order 130, is what I am more concerned about. In my opinion it will retard the development of our natural resources, in the area involved, rather than encourage them.

The present development at the Crescent field, in Grand County, for magnesium, potassium, and oil would not, in my opinion, have been brought about today had it not been for the efforts of a number of men—particularly one individual—believing in the future of that area.

The claims were located a number of years ago, without inquiring of the Secretary of the Interior, on every turn. These claims were held, as allowed by law, for many years without a great deal of development; and now we in Utah and the entire Nation may, in a short period of time, realize the efforts of the initiative and determination of those individuals.

Knowing one of the men interested in this particular development as I do, I am certain that he would not have spent one hour of his time, nor a cent of his money, attempting to develop natural resources at Crescent with an order like 130 to contend with.

The possible effect of Public Land Order 130 on sections 7 and 8 of the Taylor Grazing Act should be of some concern to the livestock industry of this State. Section 7 in the act provides for the classification of lands, within grazing districts, which are more valuable and suitable for the production of crops. The lands can be made open to homestead entry, and patent will eventually issue to the entryman.

Section 8 allows the Secretary of the Interior to accept privately owned land within a grazing district in exchange for public land of equal value. Order 130 provides that the public lands are withdrawn "from settlements, location, sale, and entry."

Does not the existence of Public Land Order 130 nullify the usefulness of sections 7 and 8 of the Taylor Grazing Act? The land withdrawn cannot be entered nor settled upon nor sold nor located.

We have, in Grand and San Juan Counties, two large grazing districts, functioning under the provisions of the Taylor Grazing Act. It is the practice among stockmen to exchange lands under section 8. Such exchanges are, in most cases, made for the best interests of the livestock industry. Stockmen are able, through these exchanges, to group their lands and operate in a unit rather than upon scattered and isolated tracts of land.

Under section 7 of the Taylor Grazing Act land can be reclassified and opened to entry, if found more suitable to raise crops.

It must be admitted that within the 3,000,000 acres withdrawn there are a number of tracts of land which should be reclassified and opened to entry. Certainly this area has not reached a point where we have all of the agricultural land we need, unless, of course, we accept the plowing under and scarcity theory of Vice President Wallace; but even he has now changed to the theory of abundance. I don't know if Senator McCarran has ever been through Grand and San Juan Counties, but if he hasn't, I am certain Senator Murdock can inform him of the acres upon acres of barren land located there and that we would be pleased to see a few green pastures scattered through the desert country.

You must realize that Grand County has only about 2,000 people and San Juan County about 4,000 people, which, I believe, includes the Indian population. So, with that small population, you could not expect a great deal to go into the Department requesting applications for land. The stock industry is so concentrated that it is only a certain number of individuals who own stock, and they are the ones interested in this reclassification of land.

Senator MURDOCK. Will you answer that, with reference to section 7?

Mr. HAVELL. Section 7 of the Taylor Grazing Act provided that lands that had been withdrawn in the two general withdrawal orders—November 26, 1934, and February 5, 1935, for lands in the grazing district—could be applied for under any public land law, if under classification they were found to be suitable. Congress wrote that after the President had withdrawn all of the public lands under the two orders, thus indicating that Congress wanted the public land laws to be applicable in grazing districts but provided they must be classified and found suitable to the use to which they were to be put.

Congress also authorized the Secretary of the Interior to withdraw public lands for water-power purposes, or for classification for any other public purpose, to be announced in the order. It was in the exercise of that authority that the Secretary made this withdrawal No. 130, so that I see no clash there.

It is a fact that with the lands withdrawn from homestead entry or other appropriation, under the surface laws, that all public land laws, excepting the metalliferous mining law and the mineral leasing laws are suspended; but Congress gave that authority to the Secretary.

Mr. MELICH. You say, then, that the 3,000,000 acres of land at the present time, by virtue of that order, is suspended, and nothing can be done about it?

Mr. HAVELL. No homestead entry, or exchange or surface entry, will be allowed so long as this order remains in effect.

Mr. MELICH. Until it is classified.

Mr. HAVELL. We would not make a move to classify it, because the order stops surface disposals.

Mr. MELICH. Doesn't it nullify those two sections 7 and 8 of the Taylor Grazing Act?

Mr. HAVELL. It has the effect that no more homestead entries will be allowed.

I would like to say this, Mr. Chairman—I did not say it this morning—that this withdrawal order 130 provides for a classification. It

says "temporary." No matter what we may think of the word "temporary," I am satisfied that the Department of the Interior, upon a showing that any particular area in this withdrawn area, any particular tract within this withdrawn area, is not valuable for magnesium or potash, the Department of the Interior, I believe, would be very willing to consider that and make an examination, and, if possible, have a classification made, showing that it was not valuable for potash and magnesium. I believe the Secretary would remove that particular tract from the withdrawal. I am saying that on my own responsibility, but I think I can speak for the Department to that extent.

Senator McCARRAN. Of course, Mr. Havell, if you would get to the point that you have to go through all the labyrinth to determine whether or not magnesium exists in all of this tract, it is going to be a long time before you would get to a decision on that subject. I take it. In other words, somebody might claim that all of that section down there is underlain with magnesite or magnesium, or what is this other—potash. So far as development, it stands that way.

Mr. MELICH. As Senator McCarran has stated, the only chance that I see for anyone complying with these Government regulations is to drill a well of about 3,000 or 4,000 feet, and find it. But everybody can't do that. I think that something must be left open to the people down there. I don't believe that there is a section in the entire West that is so open to development as the southeastern end of this State; and if we are going to withdraw that land and place all these suspension orders on it, no one is ever going in there. I don't believe Bill Reeder and his friend McCarthy, there, would ever have gone into Crescent Junction if we had had these restrictions placed on them 25 or 30 years ago. But the result of their effort, if they were under these old laws, if it were set up today, we look forward possibly to one of the largest developments in the magnesium field anywhere in the world. But that development would not have come about if we had had to comply with so many restrictions as they are placing upon us today.

Here we have an act of Congress, the Taylor Grazing Act; you suspend that by merely an order, signed by an Under Secretary of the Interior, who, I understand, is in India on leave of some sort. I think we are going in the wrong direction, and it is time to stop.

I call to your attention the effect of this order 130, in the event of construction of the Dewey Dam in Grand County. This dam would provide hydroelectric power and would no doubt furnish portions of Grand County with water for irrigation. If order 130 is permitted to remain, would it not prevent the agricultural development within the county? The order prevents the land withdrawn from being settled, located, sold, and entered. Some of the land which could be served with water from the dam is included in the withdrawal order. The answer to the inquiry would, no doubt, be that "we will take care of such a problem at the proper time." But this cannot be the answer; for what assurance have we that exceptions will be made? Past experience teaches us that once these orders are issued no force is able to remove them, let alone Congress and the people.

In Wyoming the stockmen had to resort to carrying their rifles with them in driving their livestock to their accustomed ranges in fear that their own Government would take from them their constitutional

rights of owning and protecting their property. The withdrawal order in Wyoming still stands of record, no matter what the protests have been.

I was interested in the statement of Senator McCarran, how difficult it is to pass legislation when there is such opposition against you. I appreciate that.

It is my understanding that this order was issued for the preservation of our natural resources, and to prevent their exploitation by a few selfish interests. This is the same story we continuously hear and read about. In my opinion, order No. 130 places these large selfish financial interests in a preferred class as to any future development in this area. They can comply with the mineral leasing laws; they are able to employ competent assistance and easily obtain the necessary permits required. But what of that prospector, who has been the lifeblood of the mining industry in the West? He has limited resources; he cannot be bothered with red tape; and, as a result, he steps out and is forgotten. Our resources should and must be open to all who desire to develop them. But this equality of opportunity cannot and will not exist where orders are issued which, by their very nature, create a preferred class among those having political and financial influence.

It is regrettable that sometimes our own Members in Congress are not interested enough in the welfare of their State that they accept as true the reason given by the Secretary of the Interior for issuing such orders without making inquiry of their own.

I have a recent letter, dated October 25, 1943, addressed to me by Utah's senior Senator, Elbert D. Thomas, in answer to my letter objecting to the issuance of this order 130.

It seems to me that the statement Mr. Brown read here, coming from some other Department, contained the exact words the senior Senator uses in the letter to me. Maybe the same person is writing all these letters. I don't know. I dislike bringing this in, as Senator Thomas is not here to reply, but it tends to show the lack of interest to determine the facts before passing on an opinion. I quote from his letters:

It is believed that if this order had not been issued, opportunity to contribute important leasing minerals to the winning of the war from these public domain lands within the State might have been frustrated by the filing of locations for nonmetalliferous surface minerals of relatively little value compared to the strategic leasing minerals which are believed to occur at a substantial depth. The effect of the order is to encourage and promote the development of these minerals without interference by persons who might attempt to locate unimportant nonmetalliferous minerals under the mining laws.

I assume that the important leasing minerals, referred to by Senator Thomas, are the purported magnesium and potassium deposits at the Crescent Field in Grand County. The Senator should know that this field is in the early stages of development and that there is no production from it at present and probably will be none for at least some time. If the war should end in the next year or two, it is doubtful if that area will have furnished any of these important undeveloped resources toward the winning of the war.

The habit of blaming everything on the war is a good excuse when you can't justify yourself otherwise. I ask, In what way will order 130 encourage and permit the development of minerals, as suggested by Senator Thomas? Every person I have talked to in Grand and San

Juan Counties who prospects for minerals and seeks to develop them is discouraged about this order. They believe the Government is making it more difficult for them each day.

The General Land Office also uses the present war as an excuse for this order, according to its memorandum issued under date of September 21, 1943, No. 1949759, a copy of which memorandum was furnished to me by Senator Murdock. From this memorandum it appears that the General Land Office has received certain undisclosed information to justify the issuance of the order. What is this information? By whom was it furnished? Are we not entitled to this information? Are not the people in the affected area allowed to express their opinion? I doubt if any county or city official, or, for that matter, the ordinary citizen of either Grand or San Juan Counties, were consulted about the propriety of issuing such an order at this time.

Just why, as has been brought out here today, should we suffer the effect of these orders without anybody knowing anything about them or without knowing what is going to happen?

As the gentleman said, suppose we had known this order was coming out. He said a mad scramble would have resulted. Let me remind you that when the magnesium development started there was not a mad scramble into San Juan County. The Crescent Eagle was at their property, the California interests came in, and others came into Grand County on private land. I did not see any great scramble for all of this property.

I noticed, in the last week or so, that the granting of the construction of the tunnel in Leadville—the minute that was granted the Secretary was fearful that the American people would take everything into their hands and he withdrew a large area up in the Leadville district.

Somehow they are afraid we will find something and develop it for our own good.

If Congress does not take some action to prevent the issuance of such orders in the future, I predict that the next thing to happen in Utah will be the withdrawal of the huge area known as the Escalante area, extending along the Colorado River within Grand County through to the Arizona line, a distance of approximately 150 miles in length, and about 22 miles wide. Such action would destroy the lifeblood of that section of the State. It would wipe out important grazing rights and may result in what is going on among the stockmen in Wyoming.

It is this constant fear of what is to happen that disturbs our people. We wake up and read in the morning papers of these executive withdrawals. Who is forewarned about them? Certainly legislation could and should be enacted to require the holding of hearings before local people prior to any definite action being taken. The only safeguard against these encroachments upon the people's rights is sound legislation.

Congress, in passing the act of June 25, 1910 (ch. 421, 36 Stat. 847, as amended by the act of August 24, 1912, ch. 369, 37 Stat. 497 U. S. title 43, secs. 141-143), took no chance that a President would withdraw public lands and prevent location and discovery of metalliferous minerals on such lands. Congress placed this specific exemption in the act itself, where it is now safe and not subject to the changing whims of any President who follows the suggestions of a department in such matters.

In conclusion, it is my opinion that the act, under which public land order 130 was issued should be amended so that no public lands can be withdrawn by the President without the consent and concurrence therein by the United States Senate. Such an amendment would allow the Senators from the States where any land is sought to be withdrawn to confer with their constituents on the proposed withdrawal, and, after proper hearings have been had, before the local people concerned, the entire Senate could be advised, and final action taken. This is the orderly procedure to follow, rather than being taken by surprise, as most of us were by the issuance of public land order 130. Such legislation is necessary, if the trend of control by Executive orders is to stop. It can be stopped only by the people, through their duly elected representatives in Congress. That is the only way it can be stopped, if we ever stop it.

I believe that I express the sentiment of the majority of the people of Grand and San Juan Counties on this important matter. The order should be rescinded; and we ask your efforts in having this accomplished.

I was called last night by the fish and game people down there, asking that I object to the order, because they were fearful that it might have some effect upon the hunting in that area. There is an area in there in which there is a considerable amount of deer hunting. So I am going to object on that ground. I don't know what this order does, or what it will amount to; but when one of the Departments gets control of a large section, we don't know what they will do with it. We don't want them to take away our hunting rights, even though we have to go to a lot of trouble for permits for potash and magnesium development.

It seems to me, if Congress does not do something soon, this State of Utah of ours, which has so much public land, will be a mere administration agency of the Government, and we will just have to look to Washington for whatever we do. So I ask for consideration, on behalf of our people down in southeastern Utah. I know that 95 percent of them are opposed to this order, because we think that everyone who wants to go in there should be given some encouragement to develop it. It can be developed, if that encouragement is given.

I recall, not so long ago, a very prominent official of the Department of the Interior speaking at Moab. He said that the departments of the Government were interested in what the local people want and that they will not withdraw or take any lands from the people if the people do not want them withdrawn, but I see that public-land order 130 comes out without anyone in Grand County—unless someone had some inside “dope”—knowing anything about it. I think we should have some opportunity to express ourselves before these things come out, not only in southeastern Utah but in other parts of the country.

Senator MURDOCK. Senator, do you consider that what we are doing here today is very proper?

Mr. MELICH. Yes; I do.

Senator MURDOCK. In effect, you, as a State senator and an attorney from that locality, have had an opportunity to state freely, and without any restraint at all, your opinion, and everybody in the room, so far as we will be able to hear from them, will be given that opportunity.

I think that any criticism of a public official is entirely proper, but I hope that you will bear this in mind—and I am sure you do, and the

other people here—that this order, coming out from the Secretary of the Interior, was just as much a surprise to the Utah Members of Congress as it was to yourselves.

I can say this, in defense of my colleague, the Honorable Elbert D. Thomas, that when a constituent writes about an order of this kind, about the only thing that he can do, presently, is to submit the letter to the department issuing the order. I am sure that Senator Thomas did that, and that, in all probability, the information which was transmitted to you was furnished by the General Land Office.

Of course, I agree fully with you that, after we are apprised of the situation, then we should leave no stones unturned to rectify it. I might assure you, at this time, that, so far as I am concerned—and I am sure that Senator Thomas will join me—we will leave no stones unturned until this thing is rectified.

While it is true, as Senator McCarran said this morning, that once an order is made, and you attempt to repeal it by legislation, you are up against a considerable barrier. But there is a remedy. Of course, it would not be so effective in this case, but it was resorted to, in connection with the withdrawal in Wyoming, and that was to deprive the department of any moneys whatsoever in the administration of the order. Senator O'Mahoney resorted to that, in that case.

Senator McCARRAN. I don't know about his success.

Senator MURDOCK. I have Senator O'Mahoney's word for it that he thinks it will work out all right. But there are remedies in Congress, and I am sure the people of Utah can depend on us that we will not stop till this thing is remedied.

I think I would be derelict if I did not mention those facts, inasmuch as Senator Thomas was mentioned here.

I will say this to Senator Melich, however, that he has a right to criticize Senator Thomas, or Senator Murdock, or anyone else. If people do not like criticism they should not be in public life.

Mr. MELICH. I appreciate your statement about Senator Thomas, but that does not do away with the fact that he overlooked looking into this thing. The letter he wrote to me was over his own signature. I think at least one should find out before committing himself.

Senator MURDOCK. We are very much indebted to you, Senator, for your statement.

Does anybody have a question for Senator Melich?

Mr. KNOX PATTERSON. I would like to supplement what he said.

Mr. BREWSTER. This morning, in the very intricate description of how the order got lost, that is in the category of the question: "Who stole the lock?" Now it is, "Who lost the order?"

Senator MURDOCK. Do you care to answer that?

Mr. HAVELL. It was mislaid from a desk in my branch of the General Land Office.

Senator MURDOCK. You assume responsibility?

Mr. HAVELL. It was done by people working under me. It was an accident. We handle thousands and thousands of papers. The fact that one of them gets mislaid from a desk, or gets misfiled, is a regrettable thing; but we are not 100 percent perfect.

Mr. BREWSTER. An accident of 3,000,000 acres.

Mr. HAVELL. No, sir—of papers from the desk

Mr. BREWSTER. And I say, it was an accident dealing with 3,000,000 acres.

Mr. HAVELL. It was not published in the Federal Register for 2 months. That did not injure anybody, but was to their advantage.

Senator MURDOCK. I think we have a representative of the Geological Survey here who is anxious to get away.

Mr. Woolley, are you still in the room?

Mr. WOOLLEY. Yes, sir.

Senator MURDOCK. Will you come forward and please state your name and your position?

**STATEMENT OF RALPH R. WOOLLEY, HYDRAULIC ENGINEER,
UNITED STATES GEOLOGICAL SURVEY, SALT LAKE CITY, UTAH**

Mr. WOOLLEY. Ralph R. Woolley, hydraulic engineer, Geological Survey.

Senator MURDOCK. The question we would like to have you clear up for us is: Who initiated this withdrawal order? Indications are that it was initiated by the Geological Survey. Can you tell us anything about that?

Mr. WOOLLEY. I am sorry, I can't. I sat here listening to the discussion for the last hour. I wondered just why I was here, because the first thing that I knew about the order was when I saw it in the newspaper. I never had anything to do with it. I don't know that any of the men in the Survey did.

Senator McCARRAN. Are you in charge of the office here?

Mr. WOOLLEY. Only one division.

Senator McCARRAN. Who is in charge of the other division?

Mr. WOOLLEY. The Survey here is divided up into the Water Resources Branch, the Geologic Branch, and the Conservation Branch; three different branches are represented here.

Senator McCARRAN. The Water Resources Branch is yours?

Mr. WOOLLEY. The Water Resources Branch; I act as spokesman for that branch.

The Conservation Branch has the Mineral Leasing and Oil and Gas Leasing Divisions. The Mineral Leasing Division is handled by Mr. Dyer, and the Oil and Gas by Mr. Hubble. The Geologic Branch is represented by Mr. Laskey.

Senator McCARRAN. The Geologic Branch would be the matter of exploration, development, or research?

Mr. WOOLLEY. Yes. The Geologic Branch is working primarily at this time on strategic mineral explorations and research.

Senator McCARRAN. Who is in charge of that branch?

Mr. WOOLLEY. Mr. Sam Laskey.

Senator McCARRAN. Is he here in town?

Mr. WOOLLEY. I don't know whether he is in town today or not.

Senator McCARRAN. I take it that you, in your branch, according to your statement, would have nothing to do whatever with the exploration or development or research, as regards either metalliferous deposits or nonmetalliferous valuable deposits?

Mr. WOOLLEY. That is correct. I have done a lot of work in connection with power-site withdrawals, but this thing has never come in that category.

Senator MURDOCK. Mr. Woolley, doesn't the withdrawal of water involve both the Green River and the Grand River; that is, the land lying along those rivers?

Mr. WOOLLEY. I assume so, from the map there.

Senator MURDOCK. The greatest potential water resources, or water developments, in the State of Utah are located, are they not, in that section of the country?

Mr. WOOLLEY. That is right.

Senator MURDOCK. So that water resources are involved, are they not?

Mr. WOOLLEY. Yes, sir; they are involved to that extent.

Senator MURDOCK. And you, at the head of that particular agency of the Geological Survey were not contacted at all as to this withdrawal order; isn't that true?

Mr. WOOLLEY. That is right.

Senator MURDOCK. So that you know nothing about it?

Mr. WOOLLEY. I know nothing about it.

Senator MURDOCK. Nothing was referred to you, and you knew nothing about it until it was published in the Federal Register?

Mr. WOOLLEY. That is the first notice I had of it.

Senator McCARRAN. Mr. Chairman, I am going to ask that the head of the other branch be requested to come before the committee. I would like to have Mr. Haskell make an effort at once to have him come. What is his name?

Mr. WOOLLEY. Mr. Dyer is not here, but Mr. Hauptman is present.

Senator MURDOCK. Will you state your name.

STATEMENT OF C. A. HAUPTMAN, PETROLEUM ENGINEER, CONSERVATION BRANCH, UNITED STATES GEOLOGICAL SURVEY, SALT LAKE CITY, UTAH

Mr. HAUPTMAN. C. A. Hauptman.

Senator MURDOCK. What is your position?

Mr. HAUPTMAN. Petroleum engineer, Conservation Branch of the Geological Survey.

Senator MURDOCK. Can you tell us anything about withdrawal order No. 130, Mr. Hauptman, that involves the territory depicted on the map?

Mr. HAUPTMAN. As stated by Mr. Woolley, the announcement of the withdrawal was entirely a surprise to me. I had no knowledge of anything like that until it was announced publicly.

Senator MURDOCK. You head the department of the Geological Survey here that has to do with oils?

Mr. HAUPTMAN. It is the branch of the division of the Conservation Branch which has to do with the supervision of oil and gas leasing, under the Leasing Act.

Senator MURDOCK. This is one of the potential oil areas of the State of Utah?

Mr. HAUPTMAN. We have been attempting to discover oil in this area. That is, the Potash Co. of America is now drilling in the area on oil and gas leases.

Senator MURDOCK. Was anything ever referred to you—

Mr. HAUPTMAN. Nothing.

Senator MURDOCK (continuing). In reference to this withdrawal order, prior to the time of its promulgation?

Mr. HAUPTMAN. Nothing that I have any knowledge of.

Senator MURDOCK. You knew nothing about it?

Mr. HAUPTMAN. I did not.

Senator McCARRAN. When did your branch initiate any exploration in that particular area, if at all?

Mr. HAUPTMAN. There have been oil and gas leases issued in the area, prior to my assignment to this district engineer's office.

Senator McCARRAN. How long have you been here?

Mr. HAUPTMAN. Three years.

Senator McCARRAN. During the 3 years, have you been doing anything in the way of research or development, as to oil in that region?

Mr. HAUPTMAN. The first active drilling for oil and gas in the region was done by the Defense Plant Corporation, on the Defense Plant well, which was not under my supervision, but under the Bureau of Mines.

Senator McCARRAN. Did you do any drilling, or see any drilling done, under your supervision, or any other type of exploration?

Mr. HAUPTMAN. Not until the Potash Co. initiated their work. That is a year and a half ago.

Senator McCARRAN. So we are to understand that your branch of the Geological Survey did nothing whatever in the way of research or study, since you have been in charge of the branch here, to disclose whether there was oil in that region, or not?

Mr. HAUPTMAN. If I understand your question correctly, the Geologic Branch—I cannot speak for the Geologic Branch.

Senator McCARRAN. Your own branch of the Geological Survey?

Mr. HAUPTMAN. The Oil and Gas Division, under the Leasing Act, had no activities there, and my duties carried me there only as to the development work of the Potash Co. of America.

Senator McCARRAN. When, if at all, in this locality, did you make any report to either the Interior Department or the Secretary of the Interior, or any other agency, with reference to the existence of minerals or oil in that locality?

Mr. HAUPTMAN. The reports have gone in prior to my assignment on this job, on oil shown in the area.

Senator McCARRAN. Did you, since you took over here, make any reports?

Mr. HAUPTMAN. Of new developments on oil?

Senator McCARRAN. New or old.

Mr. HAUPTMAN. New or old?

Senator McCARRAN. Yes.

Mr. HAUPTMAN. None are new, and as far as the record showed, there was no necessity for making any reports on the former.

Senator McCARRAN. Did you receive any communication, either from the Secretary of the Interior, or the Secretary's office, or anyone connected with the Secretary's office, did you receive any communication relative to the existence of oil on that locality?

Mr. HAUPTMAN. No, I don't have any recollection of it.

Senator McCARRAN. Your files, then, reflect no communication from anyone in the Interior Department, with reference to whether or not there was, in your judgment, commercial oil in that locality?

Mr. HAUPTMAN. No.

Senator McCARRAN. Your answer is that your files have no such record?

Mr. HAUPTMAN. Our files have records prior to my time there.

Senator McCARRAN. I mean since you have been in charge?

Mr. HAUPTMAN. None since I have been here.

Senator McCARRAN. None since you have been here?

Mr. HAUPTMAN. That is correct. There was no action on my part.

Senator McCARRAN. I did not ask you for any action on your part. I asked you if you received any communication from anyone in the Interior Department on the subject of oil in that locality?

Mr. HAUPTMAN. No, sir.

Senator McCARRAN. As I understand it now, there are three branches of the Geological Survey?

Mr. HAUPTMAN. Yes.

Senator McCARRAN. There is the branch having to do with power, and there is the branch having to do with the letting of oil and gas leases, and the branch which I choose to term the exploratory branch or the branch having to do with the mining?

Mr. HAUPTMAN. The Geologic Branch.

Senator McCARRAN. The Geologic Branch?

Mr. HAUPTMAN. Yes, the Geologic Branch, the Conservation Branch, and the Water Resources Branch. The Conservation Branch has the two offices here, of the Oil and Gas, and Mineral Division, of which Mr. Dyer is the supervisor.

Senator McCARRAN. And the Geologic Branch?

Mr. HAUPTMAN. The Geologic Branch is Mr. Laskey.

Senator McCARRAN. Where is he?

Mr. HAUPTMAN. He is on the fifth floor. I don't know the number of the room.

Senator McCARRAN. Is Mr. Laskey present?

(No response.)

Senator McCARRAN. Is there any position of superiority between those branches?

Mr. HAUPTMAN. We are all under the Director of the Geological Survey.

Senator McCARRAN. But, as between yourselves here, there is no one in either branch that is superior to the other?

Mr. HAUPTMAN. No.

Senator McCARRAN. In other words, the whole office is not in charge of one individual?

Mr. HAUPTMAN. No. Our chief is in Washington.

Senator McCARRAN. Each branch is in charge of a particular individual?

Mr. HAUPTMAN. Yes, sir.

Senator McCARRAN. You say you knew nothing about any movement toward the withdrawal, or an Executive order, or departmental order, looking to a withdrawal of that territory?

Mr. HAUPTMAN. That is correct.

Senator McCARRAN. And you knew nothing about it till you saw it in the Federal Register?

Mr. HAUPTMAN. That is right.

Senator McCARRAN. You at no time recommended it?

Mr. HAUPTMAN. No, sir.

Senator McCARRAN. Did you discuss with anyone from the War Production Board, or the Defense Plant Corporation, anything with

reference to the existence of either oil or any other mineral in that locality?

Mr. HAUPTMAN. I visited the operation, at the time the defense plant was drilling, under the supervision of the Bureau of Mines. I visited the operation, and discussed the operation, but had no authority on the operation.

Senator McCARRAN. All right.

Senator MURDOCK. Mr. Hauptman, does it come within your functions to keep in touch with drillings, such as have been carried on by the Potash Co. of America out in this vicinity.

Mr. HAUPTMAN. That is correct.

Senator MURDOCK. Have you done that?

Mr. HAUPTMAN. I have.

Senator MURDOCK. Do they furnish you a log of their drilling operations?

Mr. HAUPTMAN. The Potash Co. of America?

Senator MURDOCK. Yes.

Mr. HAUPTMAN. Yes, sir.

Senator MURDOCK. They do?

Mr. HAUPTMAN. Yes, sir.

Senator MURDOCK. Have you those logs available now?

Mr. HAUPTMAN. They are a public record; yes, sir.

Senator MURDOCK. In your agency?

Mr. HAUPTMAN. In the files over here.

Senator MURDOCK. How often have you visited the property out there since the drillings began by the Potash Co. of America?

Mr. HAUPTMAN. That has been my duty, to visit it very frequently.

Senator MURDOCK. Have you done that?

Mr. HAUPTMAN. I have attempted to do so.

Senator MURDOCK. How often?

Mr. HAUPTMAN. At least once a month.

Senator MURDOCK. Are you sure you are getting an exact copy of their log as they proceed with their drillings?

Mr. HAUPTMAN. I am doing everything I can to check on it. I feel certain that I am getting a correct copy of the formation as it is penetrated.

Senator MURDOCK. You are confident that nothing is being held back, and that as the logs are made, you are furnished with an exact copy?

Mr. HAUPTMAN. I am confident that the operator, which is the Potash Co. of America, is furnishing a true copy of the formations as they drill.

Senator MURDOCK. They have cooperated at all times in letting you have information?

Mr. HAUPTMAN. They have not refused me anything I have requested.

Senator MURDOCK. I think that is all. Any other questions?

Mr. BROWN. I would like to ask one question, if I may, Senator.

Senator MURDOCK. Yes.

Mr. BROWN. Who was it in your department that made a statement that was quoted in the paper, classing that area as the first proven oil field in Utah?

Mr. HAUPTMAN. I don't know, sir.

Mr. BROWN. It was so published in the paper, as the first proven oil field in Utah. You remember it, Mr. Brewster?

Mr. BREWSTER. That was an official release from the Department of the Interior.

Mr. BROWN. I thought it came from the United States Geological Survey.

Mr. HAUPTMAN. It may have come from Washington, not from the field.

Mr. BROWN. You would not say it was a proven oil field, would you?

Mr. HAUPTMAN. No, sir.

Senator MURDOCK. Mr. Hauptman, does the copy of the log of the drillings that you get contain an analysis of the cores that are produced?

Mr. HAUPTMAN. Not the log that I get. Mine has to do with oil and gas; but Mr. Dyer's office, the Mineral Division, has the information on the mineral, other than the oil and gas, as the well is drilled.

Senator MCCARRAN. What is the depth of that well, now?

Mr. HAUPTMAN. Which well?

Senator MCCARRAN. The well drilled by the Potash Co. of America?

Mr. HAUPTMAN. They are now drilling two wells.

Senator MCCARRAN. What are the respective depths?

Mr. HAUPTMAN. One of them, the third well that they have drilled, is now in the neighborhood of 4,400—the third well that they have drilled is in the neighborhood of—I can't recall offhand what it is. No; it is completed; it is 5,000.

Senator MCCARRAN. It is completed to 5,000?

Mr. HAUPTMAN. It is completed to 5,000, the third well, correct.

Senator MCCARRAN. Do these wells, each of them, reflect the existence of this carnallite body, testified to here this morning, or maybe you did not hear the testimony?

Mr. HAUPTMAN. I was not present.

Senator MCCARRAN. My recollection is that it was somewhere between 2,800 and 3,000 feet; somewhere in there. It was reflected to have been a body of carnallite through which the drills passed. Does the log which you have received from the Potash Co. of America reflect that?

Mr. HAUPTMAN. The oil and gas log does not show that.

Senator MCCARRAN. You did not take cores, then, that reflected anything of that kind?

Mr. HAUPTMAN. The cores were taken, but they were the determination of the nature of the content of the salt. That was the duty of another representative of the Geological Survey.

Senator MCCARRAN. Where is he?

Mr. HAUPTMAN. He is at the location at the present time.

Senator MURDOCK. Is that Mr. Dyer?

Mr. HAUPTMAN. Dr. Bailey. He is under Mr. Dyer's direction.

Senator MURDOCK. As I understand it, one of Mr. Dyer's assistants is here in the room.

Mr. HAUPTMAN. No.

Senator MURDOCK. We have the information that one of Mr. Dyer's assistants is here in the audience. If he is, I wonder if he would kindly arise.

Mr. HAUPTMAN. I don't believe there is.

Senator MURDOCK. Do you know of any such man being here?

Mr. HAUPTMAN. I think Mr. Karrick is, but he is not connected with this.

Senator McCARRAN. Who would have the log or the record that would show whether or not these wells passed through this body of carnallite ore, or whatever it is?

Mr. HAUPTMAN. That is on record in Mr. Dyer's office.

Senator McCARRAN. Mr. Dyer is not here?

Mr. HAUPTMAN. He is out of the city.

Senator McCARRAN. Who is next in control in that office?

Mr. HAUPTMAN. There are three representatives. All three of them are out of the city.

Senator McCARRAN. They are not available to you?

Mr. HAUPTMAN. They are not available to me.

Senator McCARRAN. They are not available to anyone that you know of right now?

Mr. HAUPTMAN. Not that I know of.

Senator MURDOCK. Give us the names—Mr. Dyer's full name and the names of his assistants.

Mr. HAUPTMAN. Bert W. Dyer is the supervisor, and Mr. Lindeman, Mr. Beers, and Mr. Bywater.

Senator McCARRAN. Does anyone here know, first-handedly, from authentic first-hand information? May I have an answer to my question: first, what does the log show, with reference to the existence of this carnallite?

STATEMENT OF W. S. McCARTHY, SALT LAKE CITY, UTAH

Mr. McCARTHY. In what particular wells?

Senator McCARRAN. In the wells that have been drilled by the Potash Co. of America.

Mr. McCARTHY. My understanding is that, in what was designated as the Wright No. 1, the showing was quite as rich, if not richer, than in the Defense Plant well.

Senator McCARRAN. Mr. McCarthy, I would take it now—this is an assumption on my part—you are directly, and perhaps indirectly, interested in the production of those wells?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. And I take it that, by reason of your interest, you have attempted to follow, with some considerable care, the log?

Mr. McCARTHY. Yes, sir. I experienced considerable difficulty in getting the information, but finally got it, as to the two wells.

Senator McCARRAN. And the existence of that body of carnallite still persists?

Mr. McCARTHY. Yes, sir.

Senator McCARRAN. We are going to get this information somewhere. I don't know how we are going to get it, but we will get it; I will tell you that.

Senator MURDOCK. I am interested in the difficulty you encountered, and from whom. Tell us about it.

Mr. McCARTHY. My contract was directly with the Utah Magnesium Co. Of course, I looked to them for fulfillment of that con-

tract. I tried, for 7 months, to get a log of the well drilling on my ground, without success.

Senator MURDOCK. You mean through the Magnesium Co.?

Mr. McCARTHY. Yes. They indicated they were unable to get it. I finally went directly to the Potash Co., and succeeded in getting the log.

Senator MURDOCK. The reason for my question was to ascertain whether you were having any difficulty with officials from the United States Government, in getting the information they had. Have you attempted that?

Mr. McCARTHY. No, I have never had any difficulty in that direction, at all.

Senator MURDOCK. None at all?

Mr. McCARTHY. None whatever.

Senator MURDOCK. Have you ever looked at the logs which are in the possession of Mr. Dyer or Mr. Hauptman, or copies of the logs?

Mr. McCARTHY. No; not as to their wells.

Senator MURDOCK. As I understand you, your contacts with the officials here of the Geological Survey have been all right?

Mr. McCARTHY. Oh, absolutely. Cooperative in every way.

Senator MURDOCK. That is the point I wanted to develop.

Is Mr. Taylor, of Moab, here?

(No response.)

Senator MURDOCK. Is Mr. Montgomery here?

Mr. MONTGOMERY. Yes, sir.

Senator MURDOCK. Will you take the stand?

State your name and position?

STATEMENT OF L. C. MONTGOMERY, PRESIDENT, UTAH CATTLE AND HORSE GROWERS ASSOCIATION, HEBER CITY, UTAH

Mr. MONTGOMERY. My name is L. C. Montgomery, from Heber City, Utah. I am president of the Utah State Cattle and Horse Growers Association. I came here under the impression that, in some way, grazing on the surface of the lands involved within this withdrawal order would be adversely affected by the order. Perhaps that assumption is wrong, and perhaps I am out of place in rendering a protest against a condition that perhaps does not exist. I will say that we got this impression, perhaps, from the fact that the Jackson Hole withdrawal order did affect grazing, and we were afraid that this withdrawal order might in some way affect grazing, and if it did, and if it does, or if it will, we want to render a protest against the order.

Perhaps the full import of the order is not fully understood. I am sure it isn't understood by me. I did not know and had never read the order until I came here today.

I had a statement prepared in protest that I now see is somewhat beside the point. I do, however, desire to protest the method of granting this order in this: That if an order of this kind and of this importance can be issued and made, affecting the vast area that it affects, with no more formality that was gone through in the issuance of this order, perhaps a similar order by some Government official, with or without Presidential sanction, could be made, eliminating the grazing on this area at some time in the future. If that can be done, we protest it.

Senator McCARRAN. May I ask Mr. Leech? Mr. Leech, do you feel that the grazing under your jurisdiction is now, or is liable to be, or may be, affected by this order?

Mr. LEECH. Senator McCarran, the way we look at this order is that it has no effect whatever on the grazing or the permits or licenses in there. There are some 153 people to 15,000 head of cattle, anywhere from 90,000 to 115,000 head of sheep, and they use it about 7 months.

Senator McCARRAN. Let me draw your attention, and see if there is any analogy here; we have had it up in a number of places; I think you have testified about it yourself. I think you have made mention of it, rather somebody made mention of it in Denver the other day, and my recollection is that at Fredonia, Ariz., and some other places, perhaps at Albuquerque, N. Mex., it was mentioned, and it had to do also with some parts of Utah. Within your grazing district, your permittees came to you and made known to you the existence of a large tract of land that was held by placer locations. Do you recall, the other day at Denver, it was related that in one instance about 100,000 acres—that was one tract?

Mr. LEECH. Yes, sir.

Senator McCARRAN. And about 20,000 acres in another tract?

Mr. LEECH. Yes.

Senator McCARRAN. Then, you recall the testimony of the stock-raiser whose concern controlled the 100,000-acre tract. His testimony was to the effect that his concern did the annual assessment work for the claim holders?

Mr. LEECH. Yes.

Senator McCARRAN. Now, supposing that this territory were covered, or a part of it covered, by leases or oil locations, placer locations, I should say, would that not affect your grazing?

Mr. LEECH. It is our position, Senator, that in these placer locations, the surface can be used for grazing. That has been our position at all times; and, of course, under the leases granted under the Leasing Act, those are grazed by livestock. There are lots of them in other places.

Senator McCARRAN. You don't attempt to control the surface of placer locations for grazing?

Mr. LEECH. Yes; we have attempted that, Senator.

Senator McCARRAN. But you have not succeeded?

Mr. LEECH. We have not succeeded too well, in some places.

Senator McCARRAN. In other words, the owner of a placer location considers himself the owner of the surface to the extent of excluding trespassers of all kinds?

Mr. LEECH. Yes, sir.

Senator McCARRAN. So you do not attempt to say that your jurisdiction overrides that ownership?

Mr. LEECH. We have attempted to utilize the surface of those claims for grazing, those unpatented claims, except just that part, immediately before the filing of operations.

Senator McCARRAN. You recall that cattle concern in Colorado paid rental, and you did not govern that territory over which they paid rental, in addition to their grazing fees?

Mr. LEECH. On that one lease, I believe, he pays both the grazing fees and also a rental to the locators of the oil shale plant.

Senator McCARRAN. I don't understand, and I don't think you do either, Mr. Leech, that you have control over those placer locations?

Mr. LEECH. That is something that we would like to know more about, Senator.

Senator McCARRAN. I know you would like it. You like it so well, you know you haven't got it. Isn't that so. [Laughter in the audience.]

Mr. MONTGOMERY. That is the whole point. We want to know, from somebody in authority, that this withdrawal does not affect grazing land. If it is going to affect grazing—I think you might all know that grazing in this State is very precious, and we feel that, if this in any way interferes with grazing, it is not a good thing.

That is the only statement I have.

Senator MURDOCK. Are there any further questions?

Mr. PLUMHOF. I would like to ask a question.

Mr. Montgomery, in view of what took place in Wyoming, in withdrawing lands, if that same action should occur in Utah, wouldn't that terminate all grazing of livestock?

Mr. MONTGOMERY. That is exactly what I said. If this order can be made as it has been made, perhaps just a supplementary order, if that can be made, excluding grazing from it—you have excluded this land from sale, from homestead, from various mining activities; and now couldn't you exclude grazing by the stroke of a pen?

Mr. PLUMHOF. If that were done we would be without any grazing privileges.

Mr. MONTGOMERY. That is the very thing we are afraid of.

Senator MURDOCK. Mr. Havell, do you care to comment on the suggestions of Mr. Montgomery?

Mr. HAVELL. No. I was passing through my mind a provision of the Taylor Grazing Act. Perhaps Mr. Leech can advise us. There is in that act authority with respect to the burden of overgrazing. Isn't that correct?

Mr. LEECH. Yes; that is provided for.

Mr. HAVELL. That bears on it.

Mr. MONTGOMERY. Let me ask you a question. This act says: "Subject to existing rights, the following lands are withdrawn." Is grazing one of those rights that this is subject to?

Mr. HAVELL. The withdrawal is from entry or disposal. The grazing area is neither an entry nor disposal. I feel, I am sure that this order does not in any respect affect grazing.

Mr. MONTGOMERY. I wish it said so, is all I can say. I wish there were something in there that would say grazing shall not be affected.

Mr. HAVELL. Perhaps a letter to the Secretary of the Interior, asking that question, would bring forth the same answer I have given you. I suggest you take that course.

Mr. PATTERSON. Do you understand now that this area that is withdrawn is going to be leased out for mining purposes?

Mr. MONTGOMERY. No; I did not know that.

Mr. PATTERSON. If a man has leased an area, he has control of it, do you understand that?

Mr. MONTGOMERY. I did not understand that.

Mr. PATTERSON. If a lease is given to a man, it is given to him to control the area?

Mr. MONTGOMERY. Yes, sir.

Mr. PATTERSON. That would manifestly affect the grazing?

Mr. MONTGOMERY. Yes, sir.

Senator MURDOCK. Mr. Havell, I would like to ask a question: Is there anything in the language of the Leasing Act which would protect the grazing privileges in existence at the time the lease was made?

Mr. HAVELL. I don't recall anything in the act, Senator; but I can tell you the policy with the Geological Survey, that as a rule oil and gas areas covered by leases are subject also to grazing use, unless, in the opinion of the Geological Survey there would be danger to the oil developments, such as pull rods in a highly developed field, where it would be proper to keep the livestock out. But mineral lands included in oil and gas areas are subject to grazing use.

Mr. BROWN. I would like to ask Mr. Havell a question: Say, over in that area around Moab, which is so picturesque, if it were suddenly made into a national monument or a national park, what would become of grazing?

Mr. HAVELL. You should not ask me that question.

Mr. BROWN. I don't think it is necessary; I think you know; I think we all know.

Mr. A. E. BLACKNER. Inasmuch as this act provides it shall be sold to the highest bidder, would it not be possible for one who bought the property to fence it. That would automatically preclude ranging.

Senator MURDOCK. Mr. Havell, can you answer that question? I would not attempt to.

Mr. HAVELL. I am afraid not, Senator. First of all, I am not sure that I know what the gentleman intended by his question. I don't know what he means by being sold to the highest bidder.

Mr. BLACKNER. Leased to the highest bidder—however they are acquired.

Mr. HAVELL. The potash in the General Leasing Act, it provides for the use of prospecting permits, granted to the first applicant who qualifies. There is no bidding. It is only where we have known producing structures that there is a bid. There were some oil leases over in Wyoming that went to the highest bidder, but in the oil leases they proceed first with the prospecting lease, which is, as stated, to the first qualified applicant.

Senator MURDOCK. I think the further question of Mr. Blackner was this:

After a prospecting permit is issued, covering a certain area, suppose the permittee would then fence the area; would he have a right to do that?

Mr. HAVELL. No. The Leasing Act authorizes the use of so much of the surface as is necessary for the mining operation.

Senator MURDOCK. In your opinion, could he fence that area?

Mr. HAVELL. You can conceive of a condition where the whole area was needed for the mining operation; but the Leasing Act provides for the use of so much of the surface as is necessary to carry out the enterprise.

Mr. PATTERSON. Under the Leasing Act?

Mr. HAVELL. Yes.

Mr. PATTERSON. Do you have the Leasing Act?

Mr. HAVELL. I have it here. I think it is the same as the General Leasing Act.

Mr. MORGAN. The Potash Leasing Act, and the oil and gas are the same.

Mr. HAVELL. I can't answer the question, Senator, without looking it up; but under the Leasing Act the Department has issued the regulations governing the leasing of potash, and the regulation, of course, followed the act. A copy of the regulations will be furnished to the committee.

Senator McCARRAN. I think that would be all right.

Senator MURDOCK. Do you consider your question has been answered, with reference to fencing?

Mr. BLACKNER. No; I don't. I think a man has a right to fence a property when he acquires it. He has a right to control it, and that is up to him. He is spending his money to develop it. I think, under the 1923 act, it says he controls that lease. It is not discretionary.

Senator MURDOCK. Mr. Havell has answered as well as he can, have you not?

Mr. HAVELL. That is the best I can say at the moment, Senator. I have in my hands the regulations of the Potash Leasing Act, but I am not able to put my finger on anything that covers that particular point.

Mr. PATTERSON. Mr. Chairman, may I interpose this query: We are not dealing solely with potash or potash regulations. We are dealing with the whole territory, the principal product of which is vanadium.

Senator MURDOCK. Is vanadium in any way affected, Mr. Havell, by this withdrawal order?

Mr. HAVELL. I don't understand it to be so.

Senator MURDOCK. Isn't vanadium located under the lode laws, ordinarily, Mr. Patterson?

Mr. PATTERSON. Yes; it is located under the lode laws, but I can say this does affect us. We have the Navajo Reservation as a pattern before us, how it is controlled; and are they leasing that?

Senator MURDOCK. Mr. Havell has answered that, so far as metaliferous claims are concerned, they are not affected by this withdrawal order. Whether they are or not I do not assume to say, but that is the answer he gave.

Mr. HAVELL. Answering the question more directly, Mr. Blackner, section D of the potash lease form provides that the Government reserves the right to dispose of the surface of the land embraced therein, under existing law or laws hereinafter enacted, insofar as said surface is not necessary for the use of the lessee in extracting or removing the deposit therefrom.

That is not in the law, but that is in the standard lease form; the Government reserves the right to dispose of the surface, except the part that the lessee needs for the extraction of the potash.

Senator McCARRAN. The lessee has the right.

Mr. HAVELL. No; the Department has the right to dispose of the surface of the lands embraced therein, under existing law, so far as the said surface is not necessary for the use of the lessee.

Senator MURDOCK. Then I take it, from your statement, that the control of the surface on the part of the lessee is not as great under a prospecting permit as it is under a lode or a placer location?

Mr. HAVELL. That is right, Senator; you are absolutely correct.

Mr. PATTERSON. May I ask a question:

The only way, Mr. Havell, that you could use the surface of it would be by homestead or the land-law entry. That is what that means, exactly, doesn't it?

Senator McCARRAN. No.

Mr. PATTERSON. It may be subject to location under the land laws, provided you are given advantage of classification, and you have never given us that classification. Isn't that true?

Mr. HAVELL. I would not say that is correct, Mr. Patterson. The question was the right of the lessee to the surface.

Senator MURDOCK. That is right, and the question arose, as I understood it, from Mr. Montgomery's suggestion that the grazing rights might be eliminated by a supplemental order. I think the whole discussion originated from his suggestion.

Mr. LEECH. I know in Wyoming there are oil and gas leases, and right on top of that lease you have a grazing lease.

Senator MURDOCK. I think what Mr. Havell has in mind is that the Department, in disposing of the surface rights, could continue the jurisdiction of the grazing surface, so that they could issue permits, the same as if no lease had been made, except as it may conflict with the actual mining or exploring of the ground.

Mr. HAVELL. Senator Murdock, that is correct.

Mr. BLACKNER. In speaking of Wyoming, I have an 800-acre tract of land, situated in a producing oil field there. The reason I brought up the question is as to the fencing of that property. I have been offered some money for that purpose, provided I would give them permission to fence it.

Senator MURDOCK. You mean you were offered money for the grazing purposes?

Mr. BLACKNER. Yes; if they were permitted to fence it. Who is going to determine that? If I take a lease, I take the lease with one thought in mind, that I need that lease, a 100-acre lease. I am not filing on 10 acres. Somebody might come along and say, "You are using only 10 acres." Who will determine that?

Senator MURDOCK. The representative of the Department advises us that the control of the surface, except as it is presently needed for mining or drilling or extraction of the minerals, is in possession of the lessee, to protect the grazing of the surface. I don't know whether that is right or not, but that is his answer.

Mr. BLACKNER. Is that a law or an order?

Senator MURDOCK. Of course, we can't undertake here, Mr. Blackner, to settle all these questions. I am sure we don't want to change anybody's mind. You have a right to your opinion. Mr. Havell tells us what his understanding and construction of the law and regulations is.

Mr. HAVELL. The mineral lease, for a particular leasing mineral, is for the development of that mineral. It is not a lease for the general use of the land. Therefore, a man who has a lease for oil and gas does not have authority to use the land for any other purpose than for the development of oil and gas.

Mr. MONTGOMERY. The question I had—I don't know that I have got it sufficiently answered—here is my question: If this were subject to valid existing rights, the following-described areas are temporarily withdrawn from settlement, grazing, removal of timber, location,

sale, and so forth. Suppose it had read that way. Where would we be at? Grazing would be out. The point I raised is this: Can a supplemental order add the removal of timber, exclusion of grazing, and so forth, from this area and put these livestock men out of business in that particular area?

You say they will not do it. I wish you would show us something in this law that would give them the guaranty that it would not be done, and that it has not been done. I don't think that grazing is such an existing right that they can claim anything. It is not a right; it is a franchise, a privilege.

Mr. HAVELL. The term "valid existing rights" is a term that has been defined in the decisions of the Department and the courts. I think the meaning is clear that it relates to rights that have been initiated under the public land laws, such as the valid settlement right, or some other right initiated and validly maintained. It is not intended to refer to grazing permits or licenses. The order does not withdraw the land from grazing permits or licenses. It withdraws the land from settlement, location, sale, and entry; and a grazing permit, for the grazing of the surface, is none of those.

There is no question in my mind. I don't hesitate to answer your question, categorically. It does not in the least affect the grazing use of the lands that are now in the grazing district, and all these lands are in the grazing district.

Mr. MONTGOMERY. All right.

Mr. MURDOCK. Thank you, Mr. Montgomery.

Mr. BROWN. Mr. Chairman, we have had many intimations and direct statements that the Department of the Interior was intending to make a recreational area, a national park or monument, of a great part of this land in San Juan County. If that were done, then grazing would be eliminated, wouldn't it?

Senator MURDOCK. I know that we have been confronted with that situation for a number of years, but I am inclined to think that it has largely been abandoned. I can give you this assurance, that, as long as I am back there, my protest will be in the Interior Department against any such withdrawal; I can say that, and I am joined in that by the other three Congressmen from Utah.

Mr. Laskey is now in the audience. I wonder if he would step forward.

Mr. MONTGOMERY. I want to be sure that the reporter got that last statement by Mr. Havell, that this withdrawal does not affect grazing. (Last statement by Mr. Havell read by the reporter.)

Senator MURDOCK. Mr. Laskey, will you state your name and your official position?

STATEMENT OF F. G. LASKEY, REGIONAL GEOLOGIST, UNITED STATES GEOLOGICAL SURVEY, SALT LAKE CITY, UTAH

Mr. LASKEY. F. G. Laskey, regional geologist of the Geological Survey.

Senator MURDOCK. Will you tell us now what your duties are, Mr. Laskey, particularly with reference to this magnesium area that we have been talking about this afternoon.

Mr. LASKEY. I have no duties connected with the magnesium area. My functions are to supervise that part of the Geological Survey of the

Bureau of Mines. I haven't had anything to do with the magnesium area.

Senator MURDOCK. Do you know anything about it?

Mr. LASKEY. Just casually, as a geologist. I know the stuff is down there.

Senator MURDOCK. You are not connected with the Department of the Geological Survey which has to do with that?

Mr. LASKEY. Let me state this: I belong to the Geologic Branch, which will have to do with geologic studies.

Senator MURDOCK. Are you under Mr. Dyer?

Mr. LASKEY. No. They are coordinate offices, the Regional, the Geologic, the Geological Branch and the Conservation Branch.

They are largely engineers, I think.

Senator MURDOCK. Did you know anything about Withdrawal Order No. 130?

Mr. LASKEY. No.

Senator MURDOCK. Are you familiar with it now?

Mr. LASKEY. Except what I gathered this afternoon since I came in. What I know about it is this, or what I have gathered, that there has been a withdrawal order that withdraws certain lands in Utah from settlement, location, and such things as that; that there has been discussion as to whether or not it affects grazing.

Likewise, there has been discussion as to what potash or oil may have been shown by oil drilling in that area.

Senator MURDOCK. So that all you know about it is what you have gathered here in the room?

Mr. LASKEY. Yes.

Senator MURDOCK. You were not contacted at all prior to the issuance of the order?

Mr. LASKEY. No. I saw the notice in this morning's paper. I did not come over here because it was a separate branch of the Survey.

Senator MURDOCK. Do you have any questions?

Senator McCARRAN. No suggestion went to the Secretary of the Interior, or to any bureau or member of any bureau, from you or from the division of the Geological Survey in which you are employed, suggesting the withdrawal of the land in controversy or in question here?

Mr. LASKEY. I can only speak for myself. No word came from my office. I would not be in a position to know what word came from Washington to any other office.

Senator McCARRAN. Have you any correspondence in your office, or in the files of your office, from any department in Washington, with reference to this withdrawal?

Mr. LASKEY. No, sir.

Senator McCARRAN. So your files are entirely devoid of any reference to this order of withdrawal or to the lands involved?

Mr. LASKEY. Yes, sir.

Senator McCARRAN. Of that you are quite certain?

Mr. LASKEY. Unless something came in while I was on field trips. It would be foreign to our function to have such correspondence.

Senator McCARRAN. The statement was made here this morning that as a rule withdrawals of this kind came by the initiative of the United States Geological Survey. Do you conform to that statement, if it was made?

Mr. LASKEY. I don't know.

Senator McCARRAN. So far as you know, nothing was initiated from your branch of the Geological office?

Mr. LASKEY. I don't know.

Senator McCARRAN. You don't know what, please?

Mr. LASKEY. I haven't any information as to whether or not—if I gather your wording right—so far as I know, no order came from my branch of the Geological Survey.

Senator McCARRAN. No recommendation?

Mr. LASKEY. No recommendation. So far as I know, none has come from there. None of my duties or functions ever brought me in touch with this problem. I don't know how they are handled, I haven't the vaguest idea.

Senator McCARRAN. Does your branch of the office have anything to do with observation or study of the log of the well being drilled there?

Mr. LASKEY. When I got here a year ago last summer that D. P. lease well was being drilled down there under the supervision of the Bureau of Mines. Mr. Bailey, the chemist, who was mentioned, and a geologist of the Survey was down there at that time. Our files may have a copy of the log of that well. Offhand I could not tell you if a copy is there. It could be easy enough to furnish the committee with a copy of it.

Senator McCARRAN. I don't know whether this matter has been cleared up or not, but I would like to make a request on the United States Geological Survey to furnish to the committee a copy of any log or history of the drilling that has taken place down there either by the Defense Plant Corporation, the Bureau of Mines, or any other agency, a study of which has been made by the United States Geological Survey.

Mr. LASKEY. If I might suggest it, Senator, if you have any other stops in this hearing, that a telegram to the Director over your name would probably get a copy of it to you at your next stop.

From what has been said I gather there were records of recent drillings of the wells, the D. P. C. wells. If that were true, and the Survey had the logs, they would be filed in Washington.

Senator MURDOCK. The log of the D. P. C. wells is contained in the Bureau of Mines report, isn't it?

Mr. LASKEY. Yes; I presume you have it already. If I have any logs, that would be the only one I would have over there.

Senator McCARRAN. It would be the log of the well that is being drilled by the Potash Co. of America?

Mr. LASKEY. If the Geological Survey has those records, I would guess—strictly a guess—they would be in Mr. Dyer's office.

Senator McCARRAN. Was Mr. Dyer here this week?

Mr. LASKEY. I don't know. The last I saw him was last week. I have been gone 2 days. The last I saw of him was the last of last week.

Senator MURDOCK. You don't know where he is now, do you?

Mr. LASKEY. No.

Senator MURDOCK. Does anyone here in this group know where Mr. Dyer is now?

Mr. BROWN. Do you know, Mr. Hauptman?

Mr. HAUPTMAN. He is in Denver at a conference of the Conservation Branch.

Senator McCARRAN. All right.

Senator MURDOCK. That is all, Mr. Laskey.

Is Mr. Ross Leonard here, the State fish and game commissioner?
(No response.)

Senator MURDOCK. Mr. Morgan.

STATEMENT BY N. G. MORGAN, JR., SALT LAKE CITY, UTAH

Senator MURDOCK. State your name, please.

Mr. MORGAN. N. G. Morgan, Jr.

Senator MURDOCK. That is "Nick" Morgan?

Mr. MORGAN. That is right.

Senator MURDOCK. You may proceed.

Mr. MORGAN. I have a little article that will take just a minute. It appears that the only effect of this departmental order is to bring magnesium and potash under a new right.

Senator MURDOCK. Did you state whether you represent any group?

Mr. MORGAN. I represent a group in this area. We have oil and gas leases, I and my associates, immediately adjoining the Potash Co. of America's holdings down there, and also prior potash applications which are now pending.

Senator McCARRAN. Do they affect the same ground on which application is now made by the Potash Co.?

Mr. MORGAN. There might be small acreage in conflict, but that is not the point at the present time.

In my appearance before your investigating committee, I desire to bring to your attention what appears to me to be a concerted effort, on the part of certain large financial interests and the Secretary of the Interior, to accomplish two definite purposes, in the initiation by the Secretary of the Interior of recent Withdrawal Order No. 914, withdrawing 3,000,000 acres of land in southeastern Utah from public entry, as follows:

Senator McCARRAN. You refer to the order with reference to the land depicted on the map?

Mr. MORGAN. That is correct. Withdrawing 3,000,000 acres of land in southeastern Utah from public entry, as follows:

1. The accomplishment of the desire of the Secretary of the Interior to bring under his control all mining lands which have previously been open to mining location.

2. To bring under monopolistic control and the elimination of all other competition the development of the great natural mineral resources found in certain sections of the Government-owned lands in southeastern Utah.

If this order is allowed to stand it will eliminate the prospecting of the area by individuals for minerals of commercial value. I am aware that this order technically does not eliminate a citizen or corporation from acquiring prospecting rights to the lands through the Interior Department, but the requirements so imposed by the Department in order for an applicant to obtain mining rights on same, are of such nature that it is absolutely impossible for any citizen to succeed in

qualifying for a permit to prospect for potash and magnesium under the Potash Leasing Act of 1927, unless he is associated with large financial interests.

It is true that the withdrawal leaves the prospector the right to make application for a permit to prospect for the mineral or mineral salts to be found there, but the Department has made studied efforts to make it almost impossible for an applicant to secure these rights.

My short appearance before you will be to cite to you a case or two wherein either I, or my associates, have been endeavoring to obtain rights to explore these lands, and to date have not been successful. My associates have been trying to get potash permits. I could relate the facts about the delay, the indecision, and the way that they have gone around it, beating around the bush, you might say, in respect to issuing this permit.

Senator McCARRAN. How long have you been applying for a permit?

Mr. MORGAN. One particular permit I am referring to was—application was made in January 1942.

Senator McCARRAN. Has any permit yet issued?

Mr. MORGAN. No, there has not been a permit issued; and it carries a priority right, so far as being the first application. We also control the oil and gas lease on that same land. They denied us permission on the basis they were not allowing diamond drilling to be used on magnesium land.

Of recent date, another case was when an associate of mine, W. P. Whisnant of Los Angeles, Calif., who has private lands under lease, made application to the War Production Board for the right to use a diamond drill that was available, and not in use, to prospect for potash and magnesium salts. I refer to a copy of the telegram that was sent to Mr. Whisnant from the War Production Board, denying him this right.

(The telegrams are as follows:)

MAY 13, 1943.

WAR PRODUCTION BOARD,
Mining Equipment Division,
Washington, D. C.

I desire to engage Boyles Bros. Drilling Co., Salt Lake City, Utah, to core drill for magnesium and other mineral salts and for oil and gas on properties. I have leased in section 21, township 22 south, range 16 east, Salt Lake Meridian, Emery County, Utah. Serial number of drill W. P. B. number C. D. 4-2. Boyles Bros. No. C-2. Please wire necessary permission.

W. P. WHISNANT,
8360 Hollywood Boulevard, Los Angeles.

WASHINGTON, D. C.

W. P. WHISNANT,
8360 Hollywood Boulevard

Reurtel Boyles Bros. serialized core drills cannot grant permission on basis of magnesium. Suggest contacting Gulf Refining Co., Los Angeles, Continental Oil Co., Denver, to ascertain if they have inactive equipment for which arrangements might be made.

ROBERT F. IMBT.
Chief, Serial Number Section,
War Production Board.

Mr. MORGAN. At the present time, when an applicant applies for a potash and magnesium permit to prospect, his application is im-

mediately denied, subject to his right within the following 30 days to appeal to the Secretary of the Interior. In appealing, the applicant has to advise his finances at hand, his experience, the equipment that is available, and by what rights he can expect to obtain other necessary equipment, in view of the fact that he will have to first obtain this permission from the War Production Board, and further prove that there is an economic need for potash and magnesium and associated salts.

The Department has made such extraordinary and ridiculous requirements of the applicant that it is entirely impossible for a citizen or company, other than large interests, to secure the right to prospect and develop these lands.

What proof do we have that the Secretary of the Interior will not again, as he did in 1935, issue an order refusing to grant permits to prospect on any of the lands at any time.

This is exemplified in the order of 1935, which has resulted in the Department, from this time until now, not issuing a single permit to prospect for potash, magnesium or associated salts in the State of Utah.

Recently in the magazine entitled "The Mining Journal" there appeared an article prepared by the General Land Office, part of which reads as follows:

That officials of the General Land Office propose to extend the present Leasing Act to include all mineral deposits. In support of this proposal the General Land Office presents a 20-year record of the Federal administration of the Leasing Act of 1920. In the two decades following its passage, they state that more than 110,000 applications for permits and leases were filed, and on June 30, 1940, more than 5,000 leases were issued.

By their own admission, they state that less than 5 percent of all applications made have been granted.

It is quite obvious that Secretary Ickes is trying to accomplish, by executive fiat, what he has long tried to get Congress to do. That is, to repeal the existing mining laws and to require that all mining in the future be permitted only under the Leasing Act, allowing the Department of the Interior to determine by permit just who is and who is not allowed to explore for minerals.

The great mining industry of Utah has been made possible, very largely, through the individual initiative of the common prospector.

The act of the Secretary in withdrawing these lands makes prospecting in Utah past history, and places in the hands of the great vested interests of this country the full and complete control to the immensely rich mineral resources found in this section of the State.

Finally, I feel that it is vital to the State of Utah, and to the mining interests of this State, that the present policy of the Department of the Interior be frustrated and that the mineral resources of this State be developed in the future as they have been in the past by the individual initiative of the citizenry of this State; that the great magnesium deposits of southeastern Utah be developed now, as rapidly as possible, to the end that when the present war emergency is over that the great magnesium plant at Las Vegas will have available the raw material necessary that will enable it to compete with the Dow Chemical Plant in Midland, Mich., and its great sea-water plant in Texas.

Senator McCARRAN. How far is this particular territory from Las Vegas?

Mr. MORGAN. About 500 miles.

Senator MURDOCK. Can you tell us this, Mr. Morgan—as I understand the situation at the basic magnesium plant in Las Vegas they first have to convert, do they not, the brucite to magnesium chloride, a process in the plant, whereas here we have the magnesium chloride in its natural state?

Mr. MORGAN. That is correct. I was advised that it would take a change from the present orders to handle the chloride from southeastern Utah.

I might mention this with respect to the Las Vegas plant: According to a statement made by Mr. Dyer of the United States Geological Survey office here, he said that the Las Vegas plant could handle the raw material we have here in Utah.

In the event this is not done, the basic magnesium plant, I am advised, under its present method of making magnesium metal will have to cease operation because of the excessive cost thereof in producing same, which will result in that great manufacturing establishment died a-borning.

If the remarks made here today by me have been interpreted to mean that a national airing of the control held by monopolistic interests in the light metals field is needed, be it so interpreted.

Senator McCARRAN. I think you have been somewhat misadvised as to recent conditions. The cost of production has been materially, very materially reduced.

Mr. MORGAN. Isn't it still costing more to produce a pound of magnesium?

Senator McCARRAN. I could not answer that question; I am not sufficiently familiar with the matter; but the cost of production, of treatments, has been materially reduced in many ways, as, for instance, peat is no longer used, and many other improvements to the method that was first set up.

Mr. MORGAN. All the articles that come out in technical magazines refer to the fact that, unless something is done, that the end of the war will see the end of the Government plant at Las Vegas.

Senator McCARRAN. I think they exaggerate.

Mr. MORGAN. Nevertheless, it would be a good thing to know that you would have a source of material.

Senator MURDOCK. We will ask Senator McCarran to keep the Utah deposit in mind.

Mr. MORGAN. That is all.

Senator MURDOCK. Any questions from anybody in the audience?

Mr. MELICH. Mr. Balsley, one of the principal operators in vanadium, and also in oil, at Moab, is here.

Senator MURDOCK. Is Mr. Frank Martinez, from Richfield, in the audience? Mr. Martinez comes next on the list. He indicated to me that he knew something about the initiation of this withdrawal order.

(No response.)

Senator MURDOCK. All right, Mr. Balsley.

Senator MURDOCK. State your name, Mr. Balsley?

STATEMENT OF H. W. BALSLEY, MOAB, UTAH

Mr. BALSLEY. My name is H. W. Balsley, and I reside at Moab, Grand County, Utah, in the heart of this newly withdrawn area.

While I am vitally interested, directly or indirectly, in the development of mining, and every other industry affected by this withdrawal, I am appearing primarily upon the suggestion, and in behalf of, a large number of prospectors and small vanadium-uranium mine operators within the area, one of whom I happen to be.

It might appear, on its face, that this withdrawal order will not affect present existing mining claims or the claimants, but I am not so sure that this is the case. This order will be subjected to rules and regulations, promulgated by the Secretary of the Interior; and who can say how those rules and regulations may affect present owners or operators within this area?

The best information we can get from attorneys, and various others I have had an opportunity to contact, is that this will very definitely affect the vanadium and uranium industry. Vanadium and uranium, if I am correctly informed, are not metalliferous minerals. I am very sure that they come in this withdrawal order.

Senator MURDOCK. May I interrupt you there to ask how are they located? How do you locate the uranium and vanadium?

Mr. BALSLEY. Lode locations.

Senator MURDOCK. Do they occur in well defined lodes?

Mr. BALSLEY. No, sir. There has always been a question whether it is a true lode or not. Some people, in order to fully protect themselves, locate both by lode and placer, because this ore is laid down in what we call lenticular pocketty forms; so there are no continuous or well defined veins.

This order will be subjected to rules and regulations, promulgated by the Secretary of the Interior. I think none of us are in a position to judge as to what these regulations may be, or how they will affect us.

Senator MURDOCK. Let us interrupt you there. Mr. Havell, is there any rule or regulation contemplated under the withdrawal order?

Mr. HAVELL. None that I know of, Senator.

Mr. BALSLEY. Certainly they would have to have something to proceed under.

Senator MURDOCK. I don't know that. Under the withdrawal order itself, I can't conceive, myself, why such a withdrawal order would not need rules and regulations.

Mr. BALSLEY. Who is going to say whether it affects us or not? We don't know whether we are affected or not. We think we are. I do know that every prospector, who has been making a living by prospecting, has ceased to prospect since this order came up.

Senator MURDOCK. Can you answer that, Mr. Havell?

Mr. HAVELL. No.

Senator MURDOCK. Aren't the present operators in the vanadium and uranium claims there fully protected by the vested right clause in the withdrawal order?

Mr. HAVELL. Those who had vested rights when the order went into effect are protected. The order so states. But I am unable to answer here as to whether, after the date of the order, any particular claim

is a metalliferous or nonmetalliferous claim. If it is metalliferous, it is excepted from the order. If it is nonmetalliferous, it is under the order.

Mr. BALSLEY. I am quite sure it can be substantiated that vanadium and uranium are not classified as metalliferous areas.

Within the last year and a half the Government has expended \$3,000,000 in southeastern Utah, adjacent to this immediate territory and over into Colorado, in the operation of vanadium mines and the extraction of the ore, both of which minerals are very essential strategic minerals.

We are very much concerned, of course, we who did have claims. If we are exempt, then we have no kick coming. There have been found new deposits of this ore, and we are very much concerned as to what regulations may affect us.

I do know that this order has had the immediate effect of stopping all prospecting for ore within this area by men who make prospecting their business.

As to what may be prescribed by the rules and regulations which will be laid down by the Secretary for the development and operation of mining claims located within this area, I would like to submit a certain Notice of Mineral Lease, covering lands located on the Navajo Indian Reservation. This notice is dated at Window Rock, Ariz., July 21, 1943. The tract of land affected is located in Apache County, Ariz.

This notice goes on to recite the minimum prices for which the vanadium content of the ores mined can be disposed. But I want to call attention to the fact that no mention whatever is made of any pay to the Government, or the Indians, for the uranium content of these ores. As you may know, in carnotite ore, as this ore is, vanadium and uranium are constantly associated. I submit to you that ore having a value of several hundred dollars per ton for its uranium content alone, regardless of the vanadium values it contains, is being mined and removed from these lands, under lease, by the operating companies on the Navajo Reservation, without the payment of one cent for the uranium content of such ore. One wonders where those who are charged with protecting the interests of the Government were while that was being put over. When they bid for vanadium they pay nothing for uranium.

It may be felt that the terms of this instrument has no direct bearing on the case in point, but I submit that the rules and regulations to be promulgated by the Secretary, under this new order, may contain practically the identical terms contained in this notice. I was present at the Indian tribal council meeting, at Window Rock, Ariz., less than 3 years ago, when the amendment to the rules mentioned in this notice was submitted to the Indians by a representative of the Interior Department. And I do know that a great many of the members of the tribal council did not, and do not now, approve of it.

Here are some of the terms of this notice (rear section noted). Now, just as to this bond. In order to furnish a bond suitable to the Government, under this notice, one is required to either furnish a surety bond for \$15,000, which has to be backed up by a like amount of cash or Government bonds, deposited with the bonding company, or by cash or Government bonds directly put up with the Government. Just how could a small operator comply with this very first requirement?

We are excluded, if any such regulation as that is promulgated for the handling of this land.

The result of this procedure on the Navajo Reservation has been that not a single lease has been granted, during the past 3 years, I am reliably informed, by an independent individual or small operator not directly affiliated with one or the other of the two large dominant corporations in the vanadium industry.

These Indian lands are not far removed from a lot of this latest withdrawn area, and the occurrence of ore, mining methods, and so forth, are practically identical.

Hundreds of prospectors and small operators have been making their living out of the vanadium-uranium ores which they find, develop, and produce within this area. What is to happen to them, if they are subjected to such conditions as those now in effect on the Indian reservation; and, in my humble judgment, that is just about what we will be up against.

Senator MURDOCK. Are there any comments or questions? Mr. Havell.

Mr. HAVELL. Senator Murdock, the gentleman referred to a mineral prospect on the Indian reservation, which has no bearing on this problem, as I see it. It is not governed by the general mining laws of the United States. That is purely an Indian matter, handled by the Indian Service for the benefit of the Indians. I see no connection between that and the problem we have here.

Mr. BALSLEY. There is a very definite connection, because we have been through the same thing down there; because this law went into effect and we went in there and tried to mine this ore and the first thing we had to do was to put up a \$15,000 bond. Why should he do it on the reservation if he would not do it on this land? The conditions are the same.

Senator MURDOCK. I don't think, Mr. Balsley, that it in any way changes the rules and regulations under your Mining and Leasing Act.

Mr. HAVELL. That is correct, Senator.

Mr. BALSLEY. Doesn't the Secretary have the right to promulgate such rules and regulations as he sees fit for the handling of the land withdrawn?

Senator MURDOCK. As I stated before, I don't think there is any authority vested in the Secretary of the Interior to promulgate rules and regulations under this withdrawal order. I think that he might modify or change the rules and regulations under the Leasing Act. That, of course, would be possible; but I don't think it could be predicated on this withdrawal order. I am quite sure on that. I don't know whether Mr. Havell agrees with that statement or not.

Mr. HAVELL. I concur with the Senator, entirely.

Senator MURDOCK. I would like to make this statement, Mr. Balsley, that I hope no rules and regulations will be made, or any amendments or modifications, which will be any more stringent or difficult to meet than those already in existence.

Mr. BALSLEY. What are we to do in the meantime? Go ahead and prospect for this ore that is vitally needed by the Government or shall we quit?

Senator MURDOCK. I was a little surprised at your readiness to concede that vanadium and uranium were not metalliferous ores. It

seems that everyone has considered them as such, up to this time, due to the fact that they have been located under the mining laws. It is my hope that what has been the practice in the past will be the practice in the future; but your own statement, of course, to the effect that they are not metalliferous—

Mr. HAUPTMAN. Who said they were not metalliferous?

Senator MURDOCK. Mr. Balsley said that. I was surprised at that statement.

Mr. HAUPTMAN. That magnesium is not a metalliferous ore?

Senator MURDOCK. Yes. I had understood nobody considers it a metalliferous ore.

Mr. HAUPTMAN. I have always considered it a metalliferous ore. I don't know why not.

Mr. BALSLEY. It comes under this order.

Mr. HAUPTMAN. What is there to indicate that? Where do they describe the different metals, saying that vanadium is not a metalliferous ore?

Senator MURDOCK. I think it is quite definitely understood—if I have understood Mr. Havell correctly—that magnesium is excluded from location by either lode or placer.

Mr. HAVELL. Vanadium?

Senator MURDOCK. No, magnesium.

Mr. HAVELL. Under the lode or placer laws, because when it appears in association with potash it comes under the Leasing Act. There are some nice points about associated minerals that I am not expert enough to go into here. We would have to get one of our geologists to go into that.

Senator MURDOCK. I fully agree with you, Mr. Balsley, that the rights that are already vested there should be, and I think they are, protected under this act. It is my hope that there will be nothing promulgated in the future, by way of rules or regulations, that will interfere with your operation. If such are promulgated I hope, if I am in the Senate at the time, that you will immediately contact me and my services will be available to protect you in any way that I can.

Mr. BALSLEY. Thank you.

Senator MURDOCK. State your name.

STATEMENT OF F. J. FJELDSTED, SECRETARY, CHAMBER OF COMMERCE, OGDEN, UTAH

Mr. FJELDSTED. My name is E. J. Fjeldsted, secretary of the Chamber of Commerce at Ogden, Utah.

In the interest of time, I am presenting this brief statement prepared by Mr. Frederick P. Champ, who is a director of the United States Chamber of Commerce. He is unable to be here in person. He asked me to file this statement with the committee today. It reflects the stand of the United States Chamber of Commerce on this question. I doubt that it is necessary to read it. It can be placed in the record as such. If there is no demand for its being read, I think, in the interest of time, Senator, we might just as well file it.

Senator MURDOCK. In the interest of time it may be received for inclusion in the record.

We are very much indebted to you, Mr. Fjeldsted, for coming down, and also to Mr. Champ, who is one of our prominent civic-minded citizens, for the position he has taken in this matter.

(The statement above referred to is in words and figures, as follows:)

**STATEMENT OF FREDERICK P. CHAMP, DIRECTOR, UNITED STATES
CHAMBER OF COMMERCE, LOGAN, UTAH**

**BEFORE UNITED STATES SENATE SUBCOMMITTEE ON PUBLIC LANDS AND SURVEYS AT
SALT LAKE CITY, UTAH, FRIDAY, NOVEMBER 19, 1943**

Senator McCarran and members of the committee, my name is Frederick P. Champ and my residence is Logan, Utah. I am appearing here as a director of the Chamber of Commerce of the United States of America and as a member of the natural resources department committee of the chamber to report its policies on the questions involved and also to make some observations on my own responsibility. The natural resources department is concerned with industries which may well be called the extractive industries—those that first recover—such natural resources as coal, oil, and gas, the metalliferous minerals, lumber, and water power.

Since it is my understanding that the principal purpose of your hearing in Salt Lake City at this time is to consider the effect of the withdrawal of substantial areas of public lands in this State from prospecting, I shall confine my observations and brief statement to the effect which such withdrawals have upon the economy of this State and the region and the questions of public policy involved in making such withdrawals by Executive order without the consent of Congress and frequently over the protest of the people in the area immediately concerned.

The membership of the Chamber of Commerce of the United States has approved a pronouncement initiated by its natural resources committee relating to mineral resources which declares that "the long established public land policy based on discovery, location, and patent which has encouraged development should be continued. The tax methods now applied to mining should be continued as appropriate for the conditions and hazards of the industry."

I am informed that the withdrawal of approximately 3,000,000 acres of land in southern Utah will prevent prospecting of any kind on said lands except by permit and under special conditions specified by the Secretary of the Interior. In effect, the mining laws which have prevailed for many years and which have encouraged prospecting, would be abrogated by the operation of this order and withdrawal.

Certainly we should conserve our resources, both renewable and nonrenewable. I hold no brief for the waster of resources nor for the servative prospector who may attempt to circumvent the privileges properly accorded him under the law. We must recognize, however, that the legitimate prospector has been our greatest discoverer of new minerals and new mines. Utah, and southern Utah in particular, has tremendous potentialities as a source for the continued discovery of many minerals, metallic and nonmetallic substances. The need for the initiative of private enterprise is nowhere more apparent than in the exploration and development of our mineral resources. It is essential to the proper development of our western economy that the way be kept open for the legitimate prospector, unregimented by the unreasonable dictates of executive departments or bureaus which have the effect of destroying his initiative and retarding the exploration of the mineral resources of our public lands. At the same time, he should have the continued guidance and assistance of the Bureau of Mines and the Geological Survey, which bureaus should, of course, be maintained at a high state of efficiency in order to continue their assistance to the industry by appropriate investigation and experiments.

As I was privileged to say before members of the Senate and House Committees on Public Lands at Jackson, Wyo., in August, the land ownership basis of Federal control is ever present as an argument for Federal ownership and control of the resources themselves. It is no longer so much a question as to whether the Government shall continue to control our public lands and natural resources as it is a question as to the manner in which this control is to be exercised. As in the case of the recent unwarranted creation of the Jackson Hole National Monument

we are confronted in this instance with Government by Executive order functioning in the disposition of productive resources which, under conservative use, may be vital to the economy of the region concerned. The impression is given that the Government no longer seems to be satisfied to function as a Government and to administer these resources as a sacred trust for the benefit of the people on the theory that these resources are dedicated to the productive use and enjoyment of its citizens. This new policy apparently contemplates the Government possessing these resources, not strictly in an administrative capacity but as a sort of superindividual controlling them as proprietary owner. Such a policy cannot be pursued without encroaching upon human rights and on an established phase of American life which has had an important part in the upbuilding of the West and which can continue to develop it under appropriate regulations and within a conservative pattern.

The action under consideration here, as in the case of the Jackson Hole National Monument, also involves the broad question of States' rights. The interests of the States in their natural resources should be preserved. Under withdrawals by Executive order or the creation of reservations involving the resources of the public lands by similar procedure, the rights of the States are invaded without opportunity for representation or review. Our opposition to Federal regional authorities which disregard State lines and control the vital resources of these areas, is based upon the same premise. State and local responsibility should be preserved against impairment by Federal action in any of its forms. This protection can only be afforded effectively by legislative process.

I therefore believe it is imperative that the laws of the United States be so amended as to prevent any further withdrawals by Executive order or by any other procedure except by and with the full knowledge and approval of the Congress and then only with the full understanding and approval of the executives and legislatures of the States concerned.

Finally, may I thank you for the privilege of entering in the record of this hearing this brief statement which I believe reflects not only the opinion of the national chamber, but the opinion of the majority of the people of this State and the West on one question before you at this time. Your interest in this, and other pressing problems involving the public lands of the West as evidenced by the holding of this and numerous other hearings in the States concerned, is deeply appreciated by every citizen who is concerned with the preservation of free enterprise and the continued productive development of our western public lands States.

Respectfully submitted.

FREDERICK P. CHAMP.

Senator MURDOCK. I understand Mr. Ross Leonard, of the fish and game department of Utah, is here.

I would like to state that Senator McCarran had to leave in order to meet his train schedule. He stayed just as long as he could. I am sure that everyone who has been here has noted his very intense interest. He has a comprehensive grasp of the problems presented.

Senator MURDOCK. State your name, please.

STATEMENT OF ROSS LEONARD, DIRECTOR, FISH AND GAME DEPARTMENT, SALT LAKE CITY, UTAH

Mr. LEONARD. Ross Leonard, director of the fish and game department. I am here primarily representing the Utah Fish and Game Commission, as well as the sportsmen of the State.

We were very much interested this morning in Mr. Brown's summary of the situation that these lands were being withdrawn for classification. If these lands are going to be classified in the national parks or national monuments, we of the fish and game department are vitally affected, because that would mean that the wildlife resources of that area would automatically be withdrawn from the supervision and control of the State and not be placed in a position

for hunting by the people of the State of Utah. There would be no hunting allowed, if they follow the precedent that has been set up in the control of wildlife and game.

We have a very bad situation in Zion Park right at the present time. We are in the process of harvesting some 300 head of deer in that area. They are suffering from malnutrition, and they have to be removed for the good of the wildlife in that section. This condition has arisen in the handling of wildlife in that vicinity. If that situation should arise in the area here involved, we would be faced with similar problems.

On behalf of the sportsmen and the Utah Fish and Game Commission, I wish to express a protest against this type of activity and this Executive order, withdrawing lands that the people of the various States are desperately interested in.

Thank you.

Senator MURDOCK. Mr. Leonard, while you are on the stand, due to the fact that our committee gave considerable consideration to S. 1152, which has to do with the giving to the Secretary of the Interior some say and some jurisdiction over the wildlife of the State, do you wish to say anything about that at this time?

Mr. LEONARD. Yes. Our commission has gone on record as being definitely opposed to that type of legislation.

In the first place, it places all the control of the wildlife of the State of Utah in the hands of the Federal agency involved. We have different Federal agencies, such as the Grazing Service, the Forest Service, and so on. We would have diversified administration there. That would not make for good administration of wildlife in Utah. Furthermore, it would provide for the commercialization of wildlife, the selling of licenses by Federal agencies, and would break down all of the present sportsmanship that has been set up.

We do not need any such bill as Senate bill 1152, because we have a bill in Utah that has been a model for other States. We have our board of big game control, of five members, representing, one, the cattle interests, one the Forest Service, one the Grazing Service, and one the Fish and Game Commission.

Under this set-up we have had more or less management of our natural resources.

With all of this public sentiment that has been expressed against big game throughout the Western States in the last year or two, we find there is a possibility that we are going too far in reduction in certain areas. It is time probably that we were calling a halt. But in all of the examples that have been held up by various people interested in the passage of Senator bill 1152, we find they are our States, such as Utah and Colorado.

For example, in Utah last year we harvested some 63,609 deer in the State. I don't know how any Federal agency could hope to harvest more game.

Senator MURDOCK. What was the figure?

Mr. LEONARD. Some 63,609 deer last year during our fall hunt. We do not have our figures compiled on our 1943 hunt.

Senator MURDOCK. What have you to say with reference to the present cooperation between the different Federal Government agencies, such as the Forest Service and the Grazing Service and the State fish and game administration, to rectify this rather bad situation?

Mr. LEONARD. I feel that if there was a cooperative feeling between the administrators of the various departments these problems of surplus game crops could be worked out satisfactorily to all concerned.

Senator MURDOCK. What would you say is the present attitude of the various services? Do they feel that they are getting the right kind of cooperation from the State fish and game department?

Mr. LEONARD. I don't think that they do. We have administered the board of big game controls and disposition of surpluses as effectively as possible, but there has been some feeling of friction between the fish and game department of the State and the various services.

Senator MURDOCK. Is that friction becoming less or greater?

Mr. LEONARD. It remains practically about static.

Senator MURDOCK. In your opinion, the State fish and game department is doing a fairly good job in the harvesting of our deer to the end that our surplus crop will be eventually eliminated?

Mr. LEONARD. Yes. In our fall hunting season this year, for example, our board of big game control extended the season on the Fish Lake National Forest. Our regular season was from October 16 to 26. This season that was extended from October 16 to November 7. There were 16,000 doe permits; allocated on that one forest alone there were approximately 12,000 or 13,000. We do not have the complete figures available. Twelve thousand or thirteen thousand of those doe permits were sold. That was this year. Last year we killed, during this extended season, some 30,000 deer on the Fish Lake Forest alone.

Last fall, in the LaSal area—we have a more congested area down there, and the season was extended for a total of 1 month, from October 16 to November 16. The purpose of these extended seasons and does grants were simply to take care of the surplus game crop that we have there. We feel that we are doing that in practically every area of the State. We have our game problem under control in Utah.

Senator MURDOCK. Are there any questions by anyone in the audience to propound to the fish and game commissioner?

Mr. Kneipp, do you have any?

Mr. KNEIPP. All I can say, Senator, is this: I did know, from earlier talks, there has been some difference of opinion between the Forest Service and the State fish and game commission as to the degree to which there have been surplus deer populations in certain parts of the State, and as to the amount of damage which was resulting, and as to the losses to deer which have occurred. I do not believe all the disagreement has been entirely reconciled, but I am not sufficiently familiar with all the details to discuss it. We have Mr. Olson here of the regional office at Ogden. He has been dealing with that situation. He might be able to offer some statement, or question Mr. Leonard.

Senator MURDOCK. Did you hear Mr. Leonard's statement, Mr. Olson?

Mr. OLSON. Unfortunately, I did not.

Senator MURDOCK. Then you are not in a position to interrogate him at this time. Is that right? Or do you want to ask him some questions? For your information, Mr. Olson, he was discussing S. 1152, with which you are very familiar, are you not?

Mr. OLSON. Yes, sir.

Senator MURDOCK. Do you care to make any brief statement on that bill, Mr. Olson, or in connection with the surplus deer or elk here in the State of Utah?

Mr. OLSON. I think our regional forester, Mr. Woods has already made that quite clear. It is a matter of record, the attitude with reference to the bill itself.

Now, as to the losses which have occurred in the region, due to overpopulation of game, I could make some statements in a rather general way. I haven't the exact figures with me, but for the past 10 years there has been quite a high mortality among our deer on overpopulated ranges in—I will not say in particularly hard winters but in moderate winters.

As a matter of fact, up at Logan, I think it was in 1936, we estimated we had 1,500 head of deer die from malnutrition. Losses since then have not been so heavy. However, last winter, which was not a severe winter, the mortality there was around 300 or 400 head, as I remember.

A year ago, the past winter, just east of Salt Lake City, I think the fish and game department figures show that out of about 3,000 deer, approximately 800 died that winter.

Down on the Fish Lake Forest, which is one of the most heavily populated area of deer that we have, losses have been going on there intermittently for the past 10 years.

We made intensive surveys on certain areas 5 or 6 years ago. The mortality ran on the most heavily populated, denuded areas as high as 102 per section, with an average of 41 per section, for the area around Cove Mountain and in there. It was proportionately less in other places. So we have had a high mortality among our deer, due to overpopulation and malnutrition, overgrazing of the ranges.

Senator MURDOCK. Don't you consider that the killing of does, in the last few years, has and will have a very material effect on this overproduction?

Mr. OLSON. That is correct, Senator. I will say, a year ago, when some—I have forgotten exactly how many—does were taken off the forest; a year ago some 63,000 deer were taken in the State, and that has reduced the deer in certain areas—Fillmore, Konosh, somewhat at Beaver, and no doubt also to some extent over in Salina Canyon. I do not agree however, that the herds have been unnecessarily reduced. I don't know whether the problem has been entirely cured or not. The range itself would have to determine that.

Senator MURDOCK. But you do consider that the fish and game department, at least in the last couple or 3 years, has been cooperating to the end of decreasing our overpopulation of deer?

Mr. OLSON. Yes.

Senator MURDOCK. And that if that policy is continued it will—in all probability—end that problem?

Mr. OLSON. I don't think there is any question but what the problem can be worked out and remedied. In some places, perhaps, it has already been cured. Certainly, it has taken off the current increase. Progress has been made throughout the State, with the cooperation of the State fish and game department.

Senator MURDOCK. I am satisfied that in the introduction of S. 1152, by Senator McCarran, it was introduced primarily, in my opinion, for the purpose of bringing to the front this very vital question.

From what has been said here this afternoon, and what was said over at the Denver hearing, the 2 days we were there, and at the previous hearing at Glenwood Springs, and also at Salt Lake City,

I am satisfied that the bill has accomplished the only purpose in a full discussion of the question.

I am inclined to oppose the bill; and I have concluded that for the present there is no need for it. But I do think that it has served a purpose; and I think that the end will be a satisfactory solution of this question; but I am really opposed to what appears to me to be an invitation to the Secretary of the Interior, and the different agencies to come in and control the wildlife of the State, which, in my opinion, is being handled rather efficiently at the present time by the State fish and game department.

Mr. OLSON. Personally, I feel that the problems can be worked out under the present set-up, with the present State fish and game laws, and our understanding of the regulations.

Senator MURDOCK. I am very happy to have you make that statement.

Are there any further questions of Mr. Leonard?

Mr. KNEIPP. I might remark that the purpose of the Forest Service and of Mr. Leonard seem to be identical. The only apparent difference, or lack of cooperation, has been, sometimes in the past, as to the degree to which control was necessary.

I might also say that the Secretary of Agriculture, in a report on S. 1152, or at least the report as prepared for signature, advocates a continuation under W-2 instead of legislation.

Mr. LEONARD. I wish to take this opportunity, as a matter of record, to express the appreciation of the Utah Fish and Game Department to the Grazing Service for the fine spirit of cooperation and the way they have worked with our department. They have been very cooperative. They have consulted our department before any drastic moves affecting the wildlife in the State of Utah have been taken. Thank you.

Senator MURDOCK. I want to make this opportunity of complimenting, also, Mr. Leonard, for his expressed desire to cooperate with the Forest Service, the Forestry Department, under the Department of Agriculture. I am quite sure that the three services will cooperate now and that probably we will not need additional legislation.

We have quite a list of names here yet, of people that we desire to hear from.

Mr. TAYLOR. May I ask one question?

Senator MURDOCK. State your name.

STATEMENT OF ELI F. TAYLOR, SALT LAKE CITY, UTAH

Mr. TAYLOR. Eli F. Taylor. I would like to ask if the withdrawal order precludes exchanges under section 8 of the Taylor Grazing Act.

Senator MURDOCK. Mr. Havell, can you answer that question?

Mr. HAVELL. Yes.

Senator MURDOCK. It will preclude it?

Mr. HAVELL. Yes.

Mr. TAYLOR. If it does preclude exchanges under the Taylor Grazing Act, one of the most important items affecting the State of Utah has been entirely overlooked at this hearing, and that is the exchange and grouping of State lands, and the rights of the individual land-owners and stockmen to group their holdings within the district.

From the map which has been exhibited on the wall, and under the procedure of the Department, and the regulations requiring that the State make its selections of groupings within the individual districts, you will note from the map that practically every bit of surveyed lands is covered by this withdrawal. That means that several thousand of acres of land of the State of Utah, upon which there has been an agreement with the Grazing Service, and I understand it has been worked out for the exchange and grouping of the State lands that will be immediately stopped.

I think that is a matter which should require a modification of this existing order. In fact, I think that the order of withdrawal that was made by the Secretary, shortly after the passage of the act for classification of lands, would probably be sufficient, under which this exchange arrangement could be worked out. I take it that the interpretation of this order would determine entirely whether or not that could be done. There is nothing in the order that says an exchange can be made, or a trade perfected or initiated, and I think that probably an interpretation of the order, by the Secretary, would permit the consummation of those exchanges.

Mr. HAVELL. Perhaps I had better qualify my answer to your question by saying this, that it will unquestionably prevent the taking of any lands in this area through the process of exchange; but it would not prevent the giving up by the State of lands in this area and selecting lands elsewhere.

Mr. TAYLOR. Mr. Havell, may I not ask this: Do not the amended act, and the regulations thereunder, preclude the State from grouping from one district to another district?

Mr. HAVELL. The Taylor Grazing Act requires that the selected lands and the offered lands must be in the same grazing district.

Mr. TAYLOR. All right; if that is true, I would like the Grazing Service, or yourself, to tell me where the State can get these lands. The lands must be first surveyed. There are no surveyed lands left in the district where the State can make its selection. That is the point that I want to make.

Mr. HAVELL. I don't know as to the status of that. This has not been brought into the record as yet—between one-third and one-half of this withdrawn area is unsurveyed, and, therefore, no claims, such as homestead entry, or the like, could be initiated anyhow.

Mr. TAYLOR. I think, Senator, that the matter of this hearing, if that is the interpretation that is going to be put on this, should be left open, so that the State of Utah might file its protest, and be heard in the matter of this particular withdrawal or some action taken for modification.

I am not acting in any way for the State, but only as a citizen, realizing what this is going to mean in that program.

Senator MURDOCK. The committee thoroughly appreciates, Mr. Taylor, the statement you have made, and thanks you for calling it to our attention.

I might say this, that if there is any virtue in the withdrawal order at all I personally have been unable to see it up to this time.

Mr. TAYLOR. I will agree with that.

Senator MURDOCK. Mr. Plumbhof, of the Publicity and Industrial Development Commission of Utah, has a statement.

There is a long list of people here yet to be heard from. So far as I am concerned, I will remain here until every person who wants to be heard is heard from.

Senator MURDOCK. State your name.

STATEMENT OF H. J. PLUMHOF, COMMISSIONER, DEPARTMENT OF PUBLICITY AND INDUSTRIAL DEVELOPMENT, STATE OF UTAH, SALT LAKE CITY, UTAH

Mr. PLUMHOF. My name is H. J. Plumhof. I am a member of the commission of the Department of Publicity and Industrial Development of the State of Utah.

This department was created in 1941 by the legislature, and charged with the responsibility of publicizing and industrializing the State, and to look after the welfare of our wage earners.

Contained in the 2,977,700-acre land withdrawal area in Grand and San Juan Counties, Utah, is some of the Nation's most outstanding and distinctive scenery. These attractions are totally unlike anything else found in North America, and if not withdrawn from free use by the citizens of those counties in particular, and the vacationing public in general, offer an excellent means of increasing the earning opportunities of the residents of that area.

Beyond a few mining properties, and some sheep and cattle enterprises, sparsely populated Grand and San Juan Counties have little to fall back upon to give a living to their citizens. Yet, on all sides, is a profusion of scenic grandeur, awaiting a flood of post-war travelers, who will spend freely for food, shelter, transportation, and supplies. Such expenditures, naturally, will fall directly into the hands of the established business people of the area, forming the nucleus of a sound and deserved prosperity, based on the one great natural resource of the region.

Should the scenic attractions of Grand and San Juan Counties fall under the restraining hand of the land withdrawal order, such as in the recent case of Jackson Hole, Wyo., there would be created, either a number of smaller national parks and monuments, or one huge project, blanketing a large portion of the area. There are already four scenic districts, in the two counties, administered by the National Parks Service. They are Arches National Monument, Grand County, and Hovenweep National Monument, Natural Bridges National Monument, and Rainbow Bridge National Monument, San Juan County.

Citizens of Grand and San Juan Counties know only too well the restrictions placed on grazing, water, mineral, and oil activities, by the existence of this national park administration of such areas.

In recent months, the Utah Department of Publicity and Industrial Development has made valuable contacts with the motion-picture industry, in Hollywood, and has succeeded in bringing several important filming projects to this State, with a value to Utah business people of many hundreds of thousands of dollars. Without exception, as these motion-picture executives extend their knowledge of Utah, their attention and interest becomes ever more firmly focused on the photographic splendor of these two counties, much of which is covered by the 3,000,000-acre land withdrawal.

Under the provisions of the Department of Interior Order No. 1472, regarding the filming of motion pictures on lands under the jurisdic-

tion of the National Park Service, a prohibitive fee of \$500 per day is placed on each company. Even though the film companies could well afford to pay such a fee, on a \$1,000,000 to \$3,000,000 budget picture, it is their policy to remain well away from any such arrangement, which they consider high-handed and unfair.

Now, as to the actual loss, to our citizens and taxpayers, through any land withdrawal move which would exclude the motion-picture industry from specific areas, let us refer to expenditure records of recent date.

Twentieth Century-Fox, which made the technicolor film *Buffalo Bill* in Kane County this summer spent with trades-people, labor, and services, nearly \$300,000. Almost all of this sum was placed directly in the hands of Kane County citizens. Total cost to the studio for the Utah work, over a period of several weeks, was approximately \$30,000 a day.

Many other pictures made in Utah have left in excess of \$100,000 directly in the hands of the citizens of the counties in which the films were made.

Several studios have discussed the possibility of constructing studio facilities in or near the more spectacular scenic areas of Utah to enable them to extend their working season throughout several months of the year.

Other organizations are planning two or more pictures in succession, in which they would utilize the natural picture settings of the southern and southeastern counties of Utah. The widely increased use of color film makes the colorful countryside of this region ever more attractive to the picture industry.

A land withdrawal, which would endanger the free use of Utah's scenic resources beyond the present 12 national parks and monuments, which are already forbidden property, would nip in the bud a highly lucrative industry and deny to millions the thrill of seeing on the motion-picture screens of the world this magnificent and unspoiled country.

As to the many individual attractions, such as cliff-dweller communities, geological wonders and historical sites, contained within the 3,000,000 acres under discussion, the Utah Department of Publicity and Industrial Development, which is charged with the creation of a system of State parks in Utah, will carry on that obligation. Where protection from the elements or vandals may be required, we hope to obtain funds for such requirements. We proposed to designate certain scenic areas as State parks, but at the same time leave them unspoiled by administration buildings, and other man-made additions, which will add nothing to the charm of the attractions of nature. We hope to see grazing, water development, and the like continue with no ironclad rules to exclude valuable natural resources from the free use of the citizens of this State and Nation.

In this connection, Senator, I would like to call attention to the fact that Chairman Brown, of our commission, communicated with you, and asked your assistance in connection with the charge now made by the motion-picture industry; and under date of March 30, 1943, you received a letter from Abe Fortas, which you passed to Mr. Brown. With this information I made a trip to Los Angeles and during that trip I interviewed the eight principal producers of the

motion-picture industry, and three of them made serious protests about this charge.

I also took the matter up with the National Parks Service, and under date of May 14, 1943, I received a communication from Mr. Hillory A. Tolson, Acting Director of the United States Department of the Interior, National Park Service, Chicago, Ill.

I am going to file copies of these two communications for the record. I think an examination of them will show that apparently, when appeals are made to the Secretary of the Department of the Interior, that they have a blueprint answer that they hand out to all of us, which are supposed to satisfy our protests as citizens of Utah.

As a citizen of the United States, I would like to say that I recognize that the National Park Service has built up a system of parks and monuments that will stand as an asset to posterity. I think, in many respects, they have done a very splendid job.

I think the men who are serving in these governmental bodies—such as the Grazing Service and the National Park Service and the Forest Service, and these other bodies that we have occasion to contact—that they are splendid public servants. They are entitled to the confidence and the good will and respect of all right-thinking citizens; but I do respectfully submit that in many instances the administrators—for instance, the Secretary of the Interior and his organization—that they perhaps have gone a little far afield, and they have forgotten that there are certain interests lodged within these various States that are vitally interested economically in what they do. It seems to me that there should be the closest type of cooperation between the gentlemen administering these various national activities and our own legislative representatives in Washington and the representatives within the State of Utah and its citizens.

Mr. MURDOCK. I concur fully with that statement.

(The letters referred to in the preceding statement are as follows:)

THE SECRETARY OF THE INTERIOR,
Washington, March 30, 1943.

Hon. ABE MURDOCK,
United States Senate.

MY DEAR SENATOR MURDOCK: I have received your letter to Secretary Ickes, enclosing a telegram received by you from Mr. A. S. Brown, of the Department of Publicity and Industrial Development of Utah, with reference to the requirements of this department for the filming of commercial pictures in the national parks.

The established policy of this Department governing the taking of motion pictures in the national parks and other areas under its jurisdiction is set forth in order No. 1472, a copy of which is attached. In conformity with that policy and after a careful analysis of motion-picture productions in the areas administered by this Department, it is deemed advisable and in the interest of the Federal Government that where the national parks are used for filming scenes of a strictly commercial nature for distribution and exhibition where an admission charge is made by the motion-picture industry, the Federal Government should realize a fair remuneration for the use of its areas, administered by this Department. It is my understanding that charges also are made for the use of certain State, county, and municipal park areas for the taking of motion pictures thereon. The city of Los Angeles, Calif., for instance, has established a schedule of fees for the use of its park areas by motion-picture companies.

This Department is appreciative of the desire of localities in proximity to national park and monument areas to profit from the money expended in those areas in motion-picture undertakings. If, however, the national parks in Utah

were eliminated from the operation of order No. 1472, or the existing fees modified for that State, this Department in all fairness would be obliged to give favorable consideration to similar requests in connection with areas situated elsewhere, with the ultimate result that all parks and monuments might be withdrawn from the operation of the enclosed order. Such an eventuality would, in my opinion, be an unwarranted step toward the defeat of the policy of making, so far as possible, the national parks and monuments self-sustaining.

Mr. Brown's telegram is being returned herewith.

Sincerely yours,

ABE FORTAS,
Acting Secretary of the Interior.

UNITED STATES DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE,
Chicago, Ill., May 14, 1943.

Mr. H. J. PLUMHOF,
*Commissioner, State Department of Publicity and Industrial Development,
Dooly Building, Salt Lake City, Utah.*

DEAR MR. PLUMHOF: I have received your letter of May 6 to Director Drury with reference to the filming of commercial pictures in the national parks.

The established policy of the Department of the Interior governing the filming of motion pictures in the national parks and other areas under its jurisdiction is set forth in order No. 1472, a copy of which is attached. In conformity with that policy and after a careful analysis of motion-picture productions in the areas administered by the Department, it has been deemed advisable by the Department and in the interest of the Federal Government that where the national parks are used for filming scenes of a strictly commercial nature for distribution and exhibition where an admission charge is made by the motion-picture industry, the Federal Government should realize a fair remuneration for the use of the areas. It is my understanding that charges also are made for the use of certain State, county, and municipal park areas for the taking of motion pictures thereof. The city of Los Angeles, Calif., for instance, has established a schedule of fees for the use of its park areas by motion-picture companies.

The Department of the Interior is appreciative of the desire of localities in proximity to national park and monument areas to profit from the money expended in those areas in motion-picture undertakings. If, however, the national parks of Utah were eliminated from the operation of the enclosed order, or the existing fees modified for that State, the Department in all fairness would be obliged to give favorable consideration to similar requests in connection with areas situated elsewhere, with the ultimate result that all parks and monuments might be withdrawn from the operation of the order. Such an eventuality would be an unwarranted step toward the defeat of the policy of making, so far as possible, the national parks and monuments self-sustaining.

Sincerely yours,

HILLORY A. TOLSON, *Acting Director.*

Mr. PLUMHOF. It seems to me that one constructive step that might be taken, if I am correctly informed, is that this Antiquities Act is very well named. It has served its purpose, and ought to be removed from the statute books of the Nation.

Senator MURDOCK. Are there any questions to be asked of Mr. Plumhof?

I wonder, now, if we can ask everyone remaining in the audience who still want to make a statement to hold up their hands, so we can determine whether a night session is necessary.

Evidently we only have two persons left. I think we might just as well let you go on right now.

Mr. PATTERSON. I would like to make my statement right now.

Senator MURDOCK. All right, Mr. Patterson.

STATEMENT OF KNOX PATTERSON, ATTORNEY AT LAW, SALT LAKE CITY, UTAH

Senator MURDOCK. State your name.

Mr. PATTERSON. Knox Patterson. I have listened all the afternoon to the various theories advanced as to why this order originated, Senator, and I don't think we have touched upon any part of it.

I am sorry the map has gone. Two years ago, or a little more than 2 years ago, the Government made the withdrawal of the Navajo Reservation. Anyway, you can see, from the bottom of the map, you go down to the end of San Juan County. Two years ago, the Government made a withdrawal of the area below the south end of San Juan County. Why? Because of the vanadium deposits. There can be no question about that.

Now then, of the area withdrawn, we have been talking about magnesium and potassium and all of those things, all afternoon. In my opinion, they have nothing to do with the situation. The reason the Government made this withdrawal was on account of the vanadium deposits. Why? Because the Government has expended—by the way, I represent the Vanadium Corporation of America—I know that they expended something like \$1,750,000. We are trying to get the money. All of this country, Senator, you know it, from the Book Mountains clear down south, extending beyond the border of Utah, is vanadium area. This area was withdrawn because of the vanadium production, not because of magnesium or any of these things, for this simple reason, Senator—it is just as simple as falling off a log; every possible acre that can produce magnesium or phosphate has already been taken up—just scores and scores of acres of that land, that can never be utilized. That has all been taken up.

If there is anything to this proposition of a withdrawal, subject to vested rights—I don't think there is, insofar as Secretary Ickes is concerned, not a thing—but if there is anything to it, they have initiated their title to that property under the laws of the Government that prevailed at this time, before the withdrawal. So, there is nothing to protect, so far as magnesium is concerned.

I started out, Senator, in 1909, with 36 head of horses. I went down in the San Juan County, and with the first drilling outfit that ever came into Grand County. We drilled a well on the Klondyke Ridge, now named the Klondyke Gas Co. We discovered gas there; we discovered a lot of gas; but we did not analyze it. We did not know anything about that. We went on till the day the Leasing Act came into effect. We were standing at the depot at Thompsons, Utah, to find out exactly when the President was going to sign that bill, and when we got the word, when this bill went into effect, that he had signed it, we sent riders all over that country to stake this land, under the Leasing Act. There the Big Six Oil Co. was organized. I was the secretary of it.

The way we got the name of the Big Six Oil Co. was because I was sitting back in my swivel chair, and the picture of Christy Mathewson was hanging there. I said, "Let us call it the Big Six."

I will tell you, Senator, we owned the original rights—the Big Six Oil Co. Talk about the fellows that came in later—the Big Six Oil Co. brought \$5,000,000 into that territory, and we still own those rights.

That was in 1909, '10, or '11. As the time extended on—no, that was the Klondyke Oil Co. In 1910 or '11, the Big Six got into it.

As soon as the leasing bill passed, we had all this area. We had the Ohio Oil Co., the Utah Southern, the Utah Oil, and five major oil companies went in there to drill those wells.

We analyzed the water that came from those wells, and we discovered that it carried magnesium, phosphate, and all those things. It meant nothing to us. We did not know what it was all about; but we maintained our rights, and we paid out our money to maintain those rights.

So, I started with this proposition in 1909 and, by virtue of the discovery of the gas that we made in the Klondyke well, we brought the future developments. Everything in the country was staked. So it went, up to the time of this magnesium development. The Crescent Eagle came in there in the meantime. We had prospectors and promoters, believe me, Senator. I always said we had to have the promoters and prospectors. Without them we could not get capital. That is because of the fact that, while a lot of these fellows come in here and belittle these promoters and prospectors, you could get nothing without them. No major company will spend any money; but that is neither here nor there. I will go back to the question here.

This act was passed—I will tell you exactly why. Between 2 and 3 years ago they made this withdrawal on the Navajo Indian Reservation, which is a similar withdrawal to this, exactly; and God knows, you hear these fellows tell—with due respect to Mr. Havell here; he attempted to interpret this bill. He does not know, you do not know, Senator, nor does Senator McCarran, nor any other Senator, what the meaning of this law is. You don't know a thing about it; because they write rules and regulations to administer this law, and that has the force and effect of law. No one knows exactly what it means. I did not mean to say "exactly"—they can't even approximate what it means.

Take the Taylor Grazing Act—with due respect to Mr. Leech, and these fellows; I have done my best to humanize them, and they are going to be human beings; but if someone did not labor with them all the time, I don't know what the result might be.

They withdrew this area below the San Juan County line. Why did they cover this whole area? I will tell you the way they covered it. It is the area that produces vanadium and carnotite and that class of ore.

Down in Monticello I represent the Vanadium Co.; but I am not appearing for them. I am just appearing as Knox Patterson. But the Government has spent, I don't know how much it amounts to now—we started out with a million and a quarter; I think it amounts to two and a quarter millions of dollars up to this time.

We have two chief vanadium companies—the Vanadium Co. of America, and the United States Vanadium. Those are the two big institutions; until the Government came in and went to buying on their own accord.

These fellows are not in favor of this law; absolutely not. A lot of fellows tell you they are the same companies, but they are not; they are competitive interests.

When we come to the Navajo Reservation, I can tell you exactly what occurred down there, and that will continue to occur. The Government very readily saw that, from the amount of production from vanadium, that this area was going to be a great source of revenue. It will be. Senator, you would be surprised if you went down to Monticello. In a mile there they have from 300 to 400 people working; they are all getting good wages. They are even unionized, and they are all getting good wages.

The way the vanadium is developed in this area—all the deposits come under the Dakota sandstone where it breaks off. It breaks from the desert into canyons and ledges and little plateaus standing there. Mr. Brown, you can see that sandstone everywhere over that country where you find vanadium. Some places there is vanadium, and other places there is no vanadium; but it takes a prospector to develop that; and no vanadium company wants that burden thrown upon their shoulders. Why? Because they have an exclusive market. There is competition between these two people; but neither one of them wants this bill. As the V. C. A. said, they have dumped this law in our lap. So, when they withdrew the Navajo Reservation down there this year, there was more revenue than all this magnesium. I don't care how much they claim it is worth, but the vanadium and uranium and the byproducts will furnish more revenue to the Government than all the magnesium you have ever heard of. I am like Mr. Havell—you will have to take my word for that.

What form of lease did they propose? They are going to withdraw it. They are going to put it out under the Leasing Act. We have a pattern. We think they are going to follow the pattern of the prospector that went down there.

Senator MURDOCK. Do you take the position that vanadium and uranium are not metalliferous ores?

Mr. PATTERSON. I take the position they are.

Senator MURDOCK. They are excepted.

Mr. PATTERSON. That exception amounts to nothing, Senator. Let me show you why.

Senator MURDOCK. All right.

Mr. PATTERSON. It is my opinion, because it comes out as a metal. That is my idea of it. I am not posted on metals. You can't examine me on the character of metals, because I know nothing about that. But here are the bids they put out to mine the Navajo Indian Reservation, since this withdrawal [reading]:

Sealed bids will be received at the Navajo Indian Agency, Window Rock, Ariz. until 2 p. m. August 3, 1943, for an exploratory mining lease for carnotite and related minerals on the following described Navajo Indian tribal lands.

This is somewhat of a diversion, Senator. These Navajo Indians are the poorest people on earth. This contract prescribes that they shall employ Navajo Indians; but the Navajo Indian tribes, so far as I know, are the only Indians in all the world that the Government has apparently deserted. That is why I will gamble a million to one that the Navajo Indians never get a penny out of it.

Now, again, for what purpose? Let us see for what purpose. "For an exploratory mining lease for carnotite and related minerals." That means prospecting. That is what you have to do. I don't care what category you get it into; you first have to apply and get a lease.

Now, what are the provisions of that lease? You must pay a 10-percent royalty; but in the bid you must bid for the royalty plus the bonus. You must pay a bonus, and you must pay in 20 percent of the bonus. It gives the character or the grade of the material, and everything like that, and what they must do to qualify.

Senator. I want to tell you that the man who prepared this had no more idea of what it is about than the man in the moon. That is a fact.

Now we come over here—they deposit 20 percent of the bonus on the bid, and a filing fee of \$5 must accompany the bid, a certified bank check or draft on a solvent bank. I think they were all solvent in those days.

The lessee shall be required to furnish a \$15,000 bond. Does the prospector come in there, gentleman? This is an exploratory lease.

What has happened down in this reservation, down there? My company said: "They have dumped this in our lap;" and every other company would feel the same way, because, obviously, Senator, no big company can mine vanadium or uranium for the simple reason that it is a pockety ore. You would not know today whether you were going to employ three men on a mine or a dozen men on a mine; but I would vouchsafe this remark, that at no time have there been over 25 employed in any one mine over a period of 60 days. It is so uncertain. You go around under this sandstone ledge, and you find these deposits.

Let us see what further the bill provides [reading]:

It will be further provided in the lease that: "The lessee shall have expended by March 1"—

Now, remember, they are starting this in July, 1943—

It will be further provided in the lease that: "The lessee shall have expended by March 1, 1944, not less than \$1,000 on preliminary prospecting."

He can bid on that. Let us get down to that point:

Upon the completion of this prospecting the lessee may surrender the lease. If the lease is not so surrendered the lessee shall have expended by September 1, 1944, in prospecting and developing a total of not less than \$7,000.

Then it goes on to provide you must expend so much every month.

Now, we are going out to prospect for vanadium—a couple or three men. That is all that is required. We find a deposit. We dig in there, and it may broaden out. It may develop into a mine; but the chances are 10 to 1 that it pinches out. These "birds" know; and no else knows. The Secretary of the Interior does not know anything about the character of this ore. If it pinches out they must go on and explore another place, see how good a prospect it is, and go into that. You are developing the thing that has made the whole United States, or, at least, the West.

Senator MURDOCK. I am free to admit, from what you have said and read, and what Senator Melich said, that the regulations on the Indian Reservation, with reference to leasing these vanadium deposits, absolutely preclude the prospecting.

Mr. PATTERSON. It throws it out entirely.

Senator MURDOCK. That is conclusive, from what you have said; but I can't understand this: You say that the big vanadium companies do not want it.

Mr. PATTERSON. No, they don't want it. Why? Because they can't prospect it. But the area now in the Navajo Indian Reservation, the only indication I have ever seen where there was any community interest, the whole area is covered by the U. S. V. and the V. C. A. They have two leases down there. Neither one of them want it. Why? Because they would rather have the prospector to go there and develop his own prospect. They can't afford to mine it, and they will not mine it. They will not make the necessary exploratory work to develop it. That is the point.

Senator MURDOCK. I can't believe, Mr. Patterson, that regulations will be imposed on this land involved in this withdrawal order, similar to those under the Indian reservation. I just can't believe that.

Mr. PATTERSON. You must think that. We think of that all the time. I do.

I would like to answer Mr. Havell now, in reply to that suggestion as to the meaning of the withdrawal by the Secretary of the Interior.

What do we have in the Indian reservation? We have the Secretary of the Interior stepping out there and attempting to withdraw lands that they have no interest in, and then trading with the Grazing Division as to their rights in those lands. It never was intended.

Why does the sheepman come up here and pat himself on the back and say: "It is not going to affect the Grazing Service"?

Mr. Havell O. K.'s that, and I believe my friend Joe Leech O. K.'s that; but they know nothing about it, because no one knows anything about it except the Secretary of the Interior, at the time the question arises. That is right; they don't know what effect this will have. But if I step up here under this competitive bidding for a certain area, and I claim that under the mining laws of the State of Utah, as vouchsafed by the Government of the United States, that they control the surface area, I promise you now that neither Mr. Leech nor anyone else can lease to the Grazing Service or to any committee the surface grazing of a valid existing mining location.

Senator MURDOCK. I don't think anybody takes the position that they can. I think Mr. Havell very emphatically took the position, in discussing that feature today, that whoever locates a valid mining claim has the surface rights.

Mr. PATTERSON. I think that is right, but I am not sure that Mr. Leech agrees with that.

Senator MURDOCK. He very emphatically took the position here today that under the Mining and Leasing Act the grazing privileges did not pass, and that the Department has protected the grazing rights.

Mr. PATTERSON. Well, Senator, you and I know that the one with the mining claim has the surface right.

Senator MURDOCK. Yes; exactly. That is what I said.

Mr. PATTERSON. Now, in the mining claim, what do you have? You have to lease those rights.

Senator MURDOCK. Yes.

Mr. PATTERSON. Can't you extend that privilege? I was impressed with the statement by the secretary of the woolgrowers association, saying: "Thank God it does not control the grazing."

I think Mr. Havell and Joe Leech agree with him; but I am not sure that they know, because no one knows, till they write the rules and regulations. That may be such a departure from the law of the

case that no one will recognize it. We have that in connection with the Indian Department; but, Senator, we have passed that.

You promised these people here today that if there is any attempt to regulate the surface rights you will be on the job. Senator, you can't be on the job. You could not be on the job when this was enacted. Did you know anything about it? I will guarantee you did not.

Senator MURDOCK. I have tried to be on the job since.

Mr. PATTERSON. What chance have you to protect the people of the State of Utah against an order of the Secretary of the Interior? No Senator has. So now we come to the remedy. We are talking about something that is already put over. It is a past question. We have argued about a lot of things which are not pertinent here now. The pertinent thing here, now, is: "What is the remedy?" That is the only question before the Senate committee. That is the only question before you, Senator: How are we going to get out from under this thing? And now I have a remedy, I think, which will work.

Senator MURDOCK. I will be interested.

Mr. PATTERSON. Yes; you will be interested to know it will work; and we are trying to make it work. We are trying to get the State of Utah to try to take jurisdiction over the unwarranted acts of a Federal officer. That is what we are trying to do. The acts are unwarranted. Our State should have jurisdiction. There cannot be any question about it. They should have jurisdiction. It is a question as to whether they do; but our State should have jurisdiction on all of these matters.

Now, mind you, you are dealing with the great West, where the arm of democracy is extending day after day.

Senator MURDOCK. As I undersand it, the present witness has already commenced a suit involving this very custom.

Mr. PATTERSON. Yes, Your Honor.

Senator MURDOCK. You have caused a State court to take, at least, jurisdiction up to the point of issuing a temporary restraining order.

Mr. PATTERSON. We have that. When I walk back to my office this evening I will get a writ of certiorari to certify my case to the Federal court. I don't know what will be the result. We are trying to proceed under the supreme court decision of Nevada, which went on up to the Supreme Court of the United States. We are trying to establish the jurisdiction in the State courts; but we need the aid of legislation. We may lose that suit. Then what does it mean? On all of these questions that come up before any of these bureaus, what is the situation? You or your brother, your friend or your neighbor, owning a few head of cattle, a few head of sheep, trying to maintain his right to the public domain, most go to the courts of Washington, D. C., to get a hearing. That is unfair. It is contrary to the very thing that made us an independent nation—the right to be heard in our own forum. We must attack that in that way, and give the State jurisdiction over questions that arise affecting local people. They know we can't go to Washington, D. C., to litigate, because that is prohibitive.

Senator McCarran stated they had a bill introduced to cancel out or withdraw, so to speak, the creation of this Wyoming reserve. That is not more objectionable than the order with respect to the reserve that

they have withdraw down here. Did they mean that bill to include this reserve down here?

Senator MURDOCK. When you speak of "this reserve," what do you mean?

Mr. PATTERSON. This withdrawal.

Senator MURDOCK. You mean the withdrawal of the 3,000,000 acres!

Mr. PATTERSON. That is right. They introduced a bill to cancel that Wyoming withdrawal.

Senator MURDOCK. What they did was to repeal a section of the antiquities law, under which the Secretary acted. You can depend on this: Before that bill is ultimately passed, there will be amendments offered, in my opinion, to absolutely wipe out and nullify the withdrawal of lands by these executive officers.

Now, the question you raise as to this court action, about all this committee can do is to wish you luck.

Mr. PATTERSON. That is all you can do.

Senator MURDOCK. To wish you luck in the venture you have undertaken. If you are unsuccessful—I don't think the witness thinks he will be unsuccessful, but if he is, then, of course, the question of legislation will come up.

Mr. PATTERSON. Certainly if we lose, we must be aided by legislation. That is the way to totally destroy bureaucracy. We hear more criticism against bureaucracy than we do against the sands of Satan, but what are we doing about it? Just as you and Senator McCarran stated, it is tough to tackle. We don't know what to do, but we have to get going. We have to throw in all our forces to destroy it; that is all we have to do. We are opposed to bureaucracy here, because democracy and bureaucracy cannot exist in any republic.

Senator MURDOCK. May I interrupt? Mr. Havell has also made his plane reservation. I understand he has to leave by 6:30.

Mr. HAVELL. We are traveling, we have to get away soon.

Senator MURDOCK. Is there anybody here that wants to ask Mr. Havell any questions before he leaves?

Mr. PATTERSON. I would like to ask him this general question: how he knows this bill is not going to affect the Grazing Service? Isn't it a fact they may claim anything, and go along and write rules and regulations that will put your theory out entirely?

Mr. HAVELL. I have said I know of no regulation contemplated under this withdrawal order. I do not see the necessity for any. The withdrawal order does not affect grazing. I have explained that. It would be a repetition, if I went now into that matter. The withdrawal order does not affect grazing.

Mr. PATTERSON. That is your interpretation?

Mr. HAVELL. Yes.

Mr. PATTERSON. But, you do not deny the power of the Secretary of the Interior to, at any moment, write rules and regulations having the effect of law, that would entirely destroy your theory of it?

Mr. BROWN. Let me ask you one question, Mr. Patterson: Why is the Department of the Interior undertaking the control of vanadium deposits?

Mr. PATTERSON. Because it is a great source of revenue. That whole country is blanketed with that vanadium. It is a coming product. It means more resources to the Government than all of the magnesium.

Mr. BROWN. By putting it under Federal leasing?

Mr. PATTERSON. Yes.

Mr. PLUMHOF. May I ask you a question?

Mr. PATTERSON. Certainly.

Mr. PLUMHOF. You are quite a student of this novel situation. I wonder if you have any suspicion who put up to the Secretary of the Interior this withdrawal? That did not originate with him. It originated with some of these men around the development of this State, or some other State.

Mr. PATTERSON. There seems to be an implication it originated with some of these fellows dealing in phosphate, these rare metals; but in my opinion that is not the reason for it.

Mr. BROWN. Don't you mean "potash" when you say "phosphate"?

Mr. PATTERSON. Yes, I mean potash and magnesium. I don't see anything to it.

Let me tell you why the Secretary of the Interior would not promulgate this order, with reference to these products: because every acre of land, where it is possible to produce it, has already been taken; and if there is anything to this theory, the bill says: "Subject to existing rights."

No one knows what that means. I know, with the Secretary of the Interior, it means nothing; but, subject to the existing rights, there is no purpose in the withdrawal, because that land is already taken. Just multiply the applications. So it could not be for that reason.

That is a very small area that produces this magnesium and potash, or whatever it is. It extends up and down Salt Valley, then extends up and down the Colorado River. They could have made the withdrawal with one-half of one percent and covered the area, but instead, they withdrew the whole area from the south end of the Book Mountains clear to the Navajo Reservation. So the purpose was to place the control of magnesium under the Leasing Act. It could not have been otherwise; because any geologist knows, Mr. Brown knows, that all of this magnesium area—not magnesium, but potash and these other things, they lie on a structure like a secondary structure.

The way this development came up, is this: Back in 1909, with 36 head of horses, I went down to San Juan County and drilled the first well. Then after that the Big Six Oil Co. was organized, and we went down there and drilled. We happened to have a man there who analyzed this salt content, and he found there was magnesium there. It all sprang from that. It developed after that. It did not develop till the war came on, so you have to look for a little structure to get that product.

You know the old story at Moab. That is a biblical character. What is it, that story about the pillar of salt; they turned to a pillar of salt? All that country is underlain with a layer of salt. Where they find salt they find this magnesium. You could cover that by a cover on the Salt Valley and the Colorado River.

That is my story. I am sorry to take up your time.

Senator MURDOCK. That is all right, Mr. Patterson. Now, Mr. Blackner.

Mr. BLACKNER. There was one statement. I made reference to one this afternoon, and that was concerning the bidding. That is not clear in my mind yet. If I understand the bill that was put before

the Senate recently, in the original form it contained about this language—maybe I am not conversant with it, to put it verbatim, but it was to this effect, that this would be up to the highest bidder. That means an auction sale.

Senator MURDOCK. I think, Mr. Blackner, that Mr. Havell, quite in detail, explained that; but, could we ask you again, Mr. Havell, to explain that to Mr. Blackner?

Mr. HAVELL. The potash regulations?

Senator MURDOCK. Is it potash you refer to, or oil?

Mr. BLACKNER. I am referring to the withdrawal from this act here.

The reason I bring up this question, let me go further, is because I am concerned with properties in four States, and if it could exist here, it could affect the properties that I am concerned with in four States. If they can withdraw that land without notice to anyone, just arbitrarily withdraw it—that is the question.

Senator MURDOCK. I don't think there is any question but what they can do that. Whether they do it with proper legal authority is a question; but, in this instance it is already something that has been done.

Mr. BLACKNER. I realize that.

Senator MURDOCK. Now, as I understand your question, it is this: Under the laws that are now applicable to the withdrawal of territory, is there any custom of bidding?

Mr. BLACKNER. That is right.

Senator MURDOCK. Will you answer that question, Mr. Havell?

Mr. HAVELL. Senator, I was trying to get hold of the regulations here, the potash regulations.

Mr. BLACKNER. I am not asking for regulations, I am asking for the law. I am not asking for some rule or regulation laid down by the Department. I am asking for a specific law, passed by the Congress and Senate of the United States. I am not concerned with any department's rules and regulations. I want the law.

Mr. HAVELL. The potash regulations now govern, and the orders provide that, for the issuing of prospecting permits for potash, there is no bidding in connection with the securing of a prospecting permit for potash. On the discovery of potash a lease follows. There is no bidding for the lease that follows.

That is as specific and as definite as I can make the statement.

Mr. BLACKNER. I thank you.

Senator MURDOCK. Is there anyone else in the audience who desires to be heard? If not, it seems to the present chairman, or the acting chairman of the committee, that there is no necessity for an evening session, nor for a session tomorrow.

I think that we have accomplished something this afternoon in accumulating the facts on this very crucial question.

I want to thank everyone who has taken part as a witness, and everyone who has attended the hearings.

If there is no one else who desires to be heard this evening, we will close.

I may state this, however, that Chairman McCarran and myself decided, before he left, that Mr. Haskell, our investigator, will be left on the job here in Utah for a few days, to see what he can dig up for

us; and if, between now and the time we leave for Washington again, we decide that further hearings are necessary, it will be a reconvened session.

With that explanation, and again thanking all of you, and thanking Chairman Brown of the Publicity and Industrial Development Commission, and Mr. Leech, we will recess for the present.

Mr. PATTERSON. Just a minute. We want to thank Senator Murdock for fraternizing with us and doing all he can for us.

Senator MURDOCK. Thank you.

(The hearing was closed in Salt Lake City, Utah, at 6:37 p. m., November 19, 1943.)

×

ADMINISTRATION AND USE OF PUBLIC LANDS

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE
COMMITTEE ON PUBLIC LANDS AND SURVEYS
UNITED STATES SENATE
SEVENTY-EIGHTH CONGRESS

FIRST SESSION

PURSUANT TO

S. Res. 241

(76th Congress—Extended by S. Res. 39, 78th Congress)

RESOLUTIONS AUTHORIZING THE COMMITTEE ON
PUBLIC LANDS AND SURVEYS TO MAKE A FULL
AND COMPLETE INVESTIGATION WITH
RESPECT TO THE ADMINISTRATION
AND USE OF PUBLIC LANDS

PART 12

RENO, NEVADA

NOVEMBER 4, 1943

Printed for the use of the Committee on Public Lands and Surveys



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1944

COMMITTEE ON PUBLIC LANDS AND SURVEYS

CARL A. HATCH, New Mexico, *Chairman*

ROBERT F. WAGNER, New York
JOSEPH C. O'MAHONEY, Wyoming
JAMES E. MURRAY, Montana
PAT McCARRAN, Nevada
CHARLES O. ANDREWS, Florida
MON C. WALLGREN, Washington
ABE MURDOCK, Utah
EDWIN C. JOHNSON, Colorado

GERALD P. NYE, North Dakota
CHAN GURNEY, South Dakota
RUFUS C. HOLMAN, Oregon
JOHN THOMAS, Idaho
RAYMOND E. WILLIS, Indiana
EDWARD V. ROBERTSON, Wyoming

W. H. McMAINS, *Clerk*

N. D. MCSHERRY, *Assistant Clerk*

SUBCOMMITTEE ON SENATE RESOLUTION 241 (76TH CONG.)

PAT McCARRAN, Nevada, *Chairman*

CARL A. HATCH, New Mexico
JAMES E. MURRAY, Montana
CHARLES O. ANDREWS, Florida
MON C. WALLGREN, Washington
ABE MURDOCK, Utah

GERALD P. NYE, North Dakota
RUFUS C. HOLMAN, Oregon

E. S. HASKELL, *Chief Investigator*

ELIZABETH HICKMAN, *Secretary*

CONTENTS

Statement of—	Page
Ash, Fred A.	3665, 3680
Bay, W. O.	3704
Carter, Oliver J.	3706
Christensen, Victor F.	3664, 3677
Cronemiller, F. P.	3670
Curtis, R. E.	3726
Dangberg, J. B.	3698
Dierking, C. F.	3677, 3698
Dressler, W. F.	3663
Foster, Don C.	3694, 3705
Hall, P. S.	3683
Hansen, G. H.	3725
Havell, Thomas C.	2676, 3685, 3700
Hensley, Arthur L.	3726
Kirk, Jesse L.	3682
Kneipp, L. F.	3666, 3688, 3699, 3708, 3719, 3728
Lunsford, E. F.	3721
McAllaster, T.	3688
Miller, George P.	3679, 3724
Park, D. W.	3696, 3698
Phillips, E. J.	3702
Riordan, James.	3684
Settlemyer, E. A.	3681
Shoupe, Gene.	3703
Teglia, Roger.	3726
True, Gordon H., Jr.	3725
Wheeler, S. S.	3725
Williams, W. B.	3727

III

THE LIBRARY OF THE
APR 29 1944
UNIVERSITY OF ILLINOIS

THE
NEW
MUSEUM
OF
ART

ADMINISTRATION AND USE OF PUBLIC LANDS

THURSDAY, NOVEMBER 4, 1943

UNITED STATES SENATE,
SUBCOMMITTEE OF THE
COMMITTEE ON PUBLIC LANDS AND SURVEYS,
Reno, Nev.

The subcommittee met, pursuant to call, at 9:30 a. m., at Reno, Nev., Senator Pat McCarran presiding.

Present: Senator Pat McCarran, Nevada, chairman.

Also present: Mr. E. S. Haskell, special investigator.

The CHAIRMAN. This meeting will come to order. Those who are in attendance will kindly move forward, this way, so that you may be heard and may make expressions in any way that you see fit.

Let the record show that the Committee on Public Lands of the United States Senate, acting through a subcommittee authorized by Resolution 241, Seventy-sixth Congress, of the Senate of the United States, is conducting this hearing and is presenting to those who are interested the opportunity to express themselves on legislation, proposed legislation, or other matters pertaining to the open public domain of the United States.

In holding these hearings we regret that more members of the committee are unable to attend. The Senate of the United States consists of 96 Members, and each Member is a member of many committees, and they find themselves, from time to time, so tied up in conflict between the respective committees that they are unable to be present always at some of these hearings. We had hoped that the Senator from Oregon, Mr. Holman, and the Senator from Utah, Senator Murdock, would be present, but a wire late last night indicated that it was impossible for them to get away from other official duties, and, further, impossible for them to get reservations for transportation. The Members of the Senate have trouble in getting reservations just the same as everyone else; in fact, I think we have more.

There are a number of measures in which those who utilize or make use of the open public domain may be interested. The use of the open public domain of the United States has been augmented in recent years by several acts of Congress. It is the desire of this committee, being the Committee on Public Lands of the United States Senate, to bring the Government out to the people, because we realize that the people are unable to go to Washington and present their problems; and especially is that true of those who are engaged in agriculture throughout the country. Hence, we try as best we can to give an opportunity to everyone who utilizes the open public domain to express to the Senate of the United States and to Congress themselves as to problems that they have in the use of the open public domain, and as to what

Congress might do to make more facilitous the use of the open public domain along an economic line. We want you to be at ease in this hearing, as we have always urged you to be at ease in the various hearings we have held. We realize that men who are engaged in the stock business out on the open range do not, as a rule, participate to any great extent in public speaking; hence, we realize that sometimes they are very much disinclined to make their wants known. We wish, in attending this hearing, you would regard it just as though we were sitting out with you on your back-yard fence somewhere, discussing your problems with you. Just use your own ordinary way of expressing things. If you feel like swearing, we have a reporter who is entirely deaf and uses an asbestos ribbon, so you don't have to worry about that. Just tell us your problems, so that we may, in our limited way, try to be of assistance to you.

I do want to say this, that in the hearings that we have conducted during the past 3 years under this resolution—and I believe that the representatives of the Federal Government representing the various services will agree with the chairman of this committee—we have not only aided those who use the open public domain in solving their problems but we have aided those who administer the use of the open public domain in many respects. We have with us here representatives of the Grazing Service, duly designated by the Chief of the Grazing Service and by the Interior Department. Mr. Dierking sits here today as the representative of the Interior Department representing the Grazing Service.

We have with us here a representative of the Department of Agriculture, especially that branch of the Department of Agriculture having to do with the Forest Service. Mr. Kneipp is sitting here, authorized by his Department to represent the Department of Agriculture. We have Mr. Havell with us, representing the General Land Office; and we have Mr. Graham, Assistant Solicitor of the Department of the Interior. Mr. Waddell, of the General Land Office, is also here in company with Mr. Havell.

We attempted to hold this meeting at a time when it would be convenient for the greatest number of those who might be interested in wildlife in this country to be present. We have sent out special invitations and requests, both by public notice and by private invitations, for wildlife organizations and those interested in wildlife to come before this committee and discuss what is known as Senate bill 1152. We have tried to divide up the work, because we cannot remain here longer than 1 day. We have tried to divide up the work so that that which pertains to the use of the open public domain by the stockmen may come on this morning before noon, and those who desire to discuss S. 1152 may be heard this afternoon. We regret exceedingly that the chairman of this committee must leave here late this afternoon for Elko to be present at Elko tomorrow morning, and hence will not be able to remain longer than perhaps 4:30 or 5 o'clock. We think we can cover the work and the hearings within that time.

Any stockmen who wish to be heard with reference to S. 1152 will be heard this afternoon. In other words, we will devote as much of the afternoon's work to S. 1152 as may be necessary, as the interested parties may appear.

Those of you who utilize the forests in livestock operations may have had in the past brought to your attention what was known as the

Johnson bill, introduced by Senator Johnson of Colorado, which, in very brief expression, would provide for the election under the law of advisory boards about the same as advisory boards are now elected under the Grazing Service. It would also provide for doing away with the transfer cuts that take place in the Forest Administration, and also the distribution cuts that take place in the Forest Administration.

Now, if there are those here who care to be heard with reference to that bill, let me say the bill is not before the Congress now, because when the Congress adjourned in which the bill was introduced, the bill died with the passing of that Congress. But there is in the making and in the offing a bill of similar intent, and those who wish to discuss the correction of transfer cuts and distribution cuts and the question of the election of advisory boards in the Forest Service may be heard now, if you have any thoughts either for or against it. This committee wants to hear your thoughts.

Is there anyone here who has given any study to the subject of the use of the forest? I notice we have one or two representatives here from our neighboring State of California. We want them to feel at home here, and feel that we will be glad to have them give us their expression and advice on any matters.

Mr. Dressler, have you any matters which you desire to present to this committee?

STATEMENT OF W. F. DRESSLER, GARDNERVILLE, NEV.

Mr. DRESSLER. Mr. Senator, and gentlemen, I came here to listen. I don't know anything about any of these bills. I have heard about them, but I have nothing to offer. I am simply here to listen.

The CHAIRMAN. You utilize both the forest and the grazing territory, do you not?

Mr. DRESSLER. I do. I am very much interested in the Johnson bill that you mentioned. It strikes me that something like that would be very fine for the stockmen.

The CHAIRMAN. With reference to the election of advisory boards in the Forest Administration; have you given any thought to that?

Mr. DRESSLER. I think it would be a fine thing. I am just thinking about it now.

The CHAIRMAN. Let me say to you frankly that the hearings conducted by this committee have reflected expressions both for and against. In some sections, in some States, we found the stockmen not unanimous for the setting up of the election of advisory boards.

Mr. DRESSLER. I want to say, to express, if you understand what I am thinking about, I believe in getting closer. That is, I think that too much Government regulation is already here. We should kind of break it down. That is my thought. That is my reason for expressing it that way. I want to get away from too much Government control, which I have no objection to, but I think they are bending over too far and leaving us stockmen—sort of forgetting us, in a way.

The CHAIRMAN. Are you a member of the advisory board in the Grazing Service, Mr. Dressler?

Mr. DRESSLER. I am a member of the Taylor Grazing Service; yes, sir.

The CHAIRMAN. You approve of the election of the advisory board in that Service; do you not?

Mr. DRESSLER. I do.

The CHAIRMAN. Is there anyone who wishes to discuss that advisory board matter with reference to the Forest Service to any great extent?

STATEMENT OF VICTOR F. CHRISTENSEN, LIKELY, CALIF.

Mr. CHRISTENSEN. Senator, I think we should show you how well our Modoc men attended your meeting here. I would like to have the stockmen from Modoc rise, so that the Senator may see how many of us came down.

The CHAIRMAN. We are very glad to have you here.

Mr. CHRISTENSEN. Senator, some 3 years ago the Forest Service had quite a bit of trouble with our stockmen in Modoc County. The boys became very dissatisfied with the administration. I wouldn't say they were entirely right in all cases, but some of the reasons for complaint were justified; and at that time several of us who were much in the frame of mind that advisory boards might be a fine thing in the Forest Service, not only from the stockmen's point, but from the administrators' viewpoint; that they may be a buffer between the administrators and the stockmen; could possibly have it expressed in the way of complaints of the stockmen to the administrators better than the average man can express his complaints. So we urged the setting up of an advisory board for our Forest Service, similar to the advisory boards under the Taylor Grazing Act. At the present time, we have a system of electing advisers in our Modoc National Forest, which I think has helped a great lot, and I personally would be very pleased if that could become a part of your law, requiring the setting up of the advisory boards.

The CHAIRMAN. You recall, Mr. Christensen, that when the Taylor Grazing Act was first set up, the Department of the Interior voluntarily wrote in—not into the act itself, but into the regulations—that advisory boards would be selected to confer with the administrators of the law. Later, we amended the act by making the election of advisory boards compulsory under the law, under certain conditions and limitations, as it is now. That would be the spirit and intent of what is known as the Johnson Act, if it became a law.

Mr. CHRISTENSEN. I really believe that it would be the finest thing that could happen in the administering of the lands under the Forest Service. It would iron out many of the difficulties that now arise, and would be helpful to both the stockmen and to the administrators.

The CHAIRMAN. Let me bring to your attention, and to the attention of the group here, some objections that have been made in other sections of the country. We have had it presented to us rather vehemently, in some places, that even the advisory boards under the Taylor Grazing Act were not the best; and this argument has been presented, that the advisory boards are composed of individuals who utilize the open public domain in the Grazing Service, and they are rather inclined to look out for themselves, rather than for the other users of the open public domain. I make mention of that, because it has been put into our record in various places.

Mr. CHRISTENSEN. Senator, most of the men here today could express themselves as to whether they thought the advisory board in our county has been fair or not. We have some three hundred and eighty applicants in our district, and at the present time we only have one applicant, that I know of, that is not entirely satisfied with his share of the use of the range in Modoc and Lassen Counties, which comprise California Grazing District No. 2.

The CHAIRMAN. Let me ask you, is your section of the country part of a grazing district, part of which is in Nevada?

Mr. CHRISTENSEN. The regional office is in Reno.

The CHAIRMAN. Is that district No. 2?

Mr. CHRISTENSEN. No. 2.

The CHAIRMAN. Is there anyone else here who wants to discuss this matter of the election of advisory boards under the Forest Service? Will you please state your name for the record?

STATEMENT OF FRED A. ASH, FORT BIDWELL, CALIF.

Mr. ASH. I happen to be a member of the forest advisory board on the Modoc National Forest. I think we were first chosen by the Forest Service about 7 years ago, and for the first 2 or 3 years it seemed as though we weren't of much support to the Forest Service. We had meetings and gave some of our time for range surveys and made recommendations, but that is as far as they ever got, but 2 years ago we had a change in the personnel in that office, and we have had very fine cooperation. They have cooperated with the advisory board very finely since, and we have made three range surveys.

In the fall of the year the entire committee got together, and with private automobiles and automobiles furnished by the Forest Service we made a 3- or 4-day tour of the range, and any and all recommendations, almost, have been carried out that were recommended by the advisory board. The personnel there at the Modoc National Forest now seemed to be very glad to work with the board. I was in the office only last Saturday, and the supervisor wished us to call a meeting. He had some problems that seemed a little too much for them to handle, and they would like the advisory board to get together and assist them in handling those matters, as we have done before. You get permittees, sometimes, right out on the range, and you appoint a committee to get out there and thrash out their difficulties, right out on the range, and it has worked out very satisfactorily.

While the method of electing them has not been worked out—they simply have mailed out a questionnaire to the stockmen, asking them in each district to make a selection and send it back by a letter vote to the office. I think there ought to be some method set up of electing from the various districts, electing them under a system such as the grazing system—although the grazing system is all wrong, too; they require nominations from precincts, but they vote on them as a whole. I happen to graze in Oregon, California, and Nevada, living right close to the corner of the State of California. We graze more in Nevada No. 2, really, than the others, and in Oregon No. 2, and in California No. 2. I was able in the last year to get a resolution in each of the three States trying to get a change in the method of electing the advisory board members, and have them elected from the precincts.

The CHAIRMAN. Let me say to you that, throughout our hearings in the various sections of the public-lands States, we have been confronted with complaints just as you have presented here. In other words, that while the member of the advisory board is nominated from a precinct, the advisory-board members are elected by the district as a whole, and it has been conducive of considerable complaint.

I am not altogether certain that we can work it out, but I know the complaints have followed, just as you present it now. That was true in Arizona in particular.

Is there anyone else here from California who wishes to be heard on this subject? We have here mimeographed copies of the proposed new bill bearing on that subject. There are two versions of it. One has the tentative and unofficial approval of the Forest Service. The other has not. In the matter of advisory boards they are identical. These mimeographed copies will be passed out, through your membership here, so that you may see them; and if, during the day, you desire to make any further comments, we would be glad to hear them.

At this time I think it not out of place, in order that you may have a very full discussion of the subject, bearing on what we choose to term the Johnson Bill, we will impose on Mr. Kneipp, as we have in other places, to discuss the bill and discuss these two versions, if he will please do so, in brief, or otherwise, as he sees fit.

STATEMENT OF L. F. KNEIPP, ASSISTANT CHIEF FORESTER, UNITED STATES DEPARTMENT OF AGRICULTURE, WASHINGTON, D. C.

Mr. KNEIPP. The Johnson bill, so-called, S. 1030, divides itself into three phases. One part is to authorize the election of advisory boards; the second is to provide for the definition and prescription and publication of commensurability standards; and the third is to provide that no permanent permit, of anybody who had complied with the regulations, would be subject to any reduction by the Secretary of Agriculture, except for three, I think, specified purposes, none of which was to provide range for new applicants or for increases to small permittees.

The attitude of the Department of Agriculture, with regard to the bill, was this: With respect to advisory boards it pointed out that, practically, the advisory board concept originated with the Forest Service in 1905. I might correct that—the group of stockmen who came to Washington in 1905 to help the Secretary of Agriculture formulate the rules and regulations urged the advisory board principle and it was very promptly adopted; so that, from the very beginning, from 1906, the advisory board has been a definite and very valuable part of the Forest Service management of the range; and even right now, I think, there are almost 800 recognized advisory boards. So the attitude of the Department was, that while it saw no need for a Statute specifically providing for the establishment of advisory boards, since they have long been in existence, nevertheless it saw no objection to it and had none to offer.

As to the commensurability standard, one feature of the bill was that it would require the publication each year, by grazing districts, of all of the standards. The Department's opinion was that that was in large measure unnecessary; that the commensurability standards in each grazing district or forest were very well understood; they didn't

change from year to year, and consequently their annual publication in detail would serve no useful purpose.

Nevertheless, if it was the desire of the stockmen and the decision of Congress that that be the procedure, the Department had no objection to that.

When it came to the third aspect of the bill, there was a decided issue. I might say the Johnson bill did not forbid the transfer cuts. The stockmen have argued that inasmuch as the Forest Service has made very few distribution reductions since 1935 the bill would merely legalize the present policy. It is true that since 1936 the general policy has been to stabilize the grazing use, to try to get the poor range in better shape, in other words, not to modify allotment lines too much, to give the permittees the benefit of any care they have exercised in development of the range; not to regard surplus of grass as grounds for a cut in range areas; and, on the other hand, not to let a man abuse his range and then make up for it by changing his allotment at the expense of his neighbors. So it is true that there have not been very many distribution cuts since 1936. But one reason why that has been true has been that the needs in the critical cases, for a range for small permittees or for new applicants, have been met by the cuts on transfers. That principle has actually exempted the permittees who wished to continue to use the range from some reductions that might otherwise have been necessary. Nevertheless, the viewpoint of the Department is that current range use is not now so stable and so well defined as to justify leaving it unchanged.

Throughout the country there are many places where the present distribution is difficult of justification. For instance, at Phoenix we had three communities—Greer, Alpine, and Nutrioso—very ably represented by Judge Udall, where the whole structure of grazing use is out of balance, and the Forest Service and the United States generally cannot permanently justify a condition of that kind. At Albuquerque there were similar citations made of similar conditions in northern New Mexico. Now, the feeling of the Department is, where the whole complex of social and economic conditions makes it clearly to the public interest to effect redistribution, the hands of the Secretary of Agriculture should not be tied. It is not contemplated that there will be any wide-scale distribution or repeated and heavy cuts on the larger permittees, but it is realized here and there, and the places are quite numerous, there will be instances where sooner or later some adjustment is going to be necessary. For that reason the Department has quite strongly opposed that feature of the Johnson bill and, I think, will strongly continue to oppose it; and, I think, will be supported by general public opinion if the matter ever becomes an active issue.

The larger part of the national-forest range is occupied by a small proportion, relatively, of the national-forest permittees. The 64 percent of the permittees who hold permits for less than 100 head of cattle or 1,000 head of sheep graze much smaller proportions of the permitted stock and use much less of the range than do the 36 percent whose permits are in excess of those figures. That comparison is quite striking, and I have sometimes wondered whether the permittees were really smart in agitating the question, or bringing it to an issue.

Anyway, that is the attitude of the Department of Agriculture. It does dissent to that phase of the Johnson bill which restricts reductions in grazing preferences. It does agree to the other two features,

and the bill which we have suggested, as an alternative to the other bill that is being distributed to you, is a bill that the Department feels it could go along with. The merit of that bill would be that it would correct one deficiency in present law.

The stockmen have contended from the first that they have been behind the eight ball, as regards legislative recognition of their use of the national-forest range. Congress never has specified grazing as a statutory purpose, and the stockmen have felt that fact was a disadvantage, which it is. The bill which the Forest Service proposes would meet that condition. It would be an expression by Congress that in certain circumstances the use of the national forest forage by domestic livestock was a logical and desirable use. It would recognize the statutory position of advisory boards and would fix a general policy. One criticism of the Johnson bill is that while the stockmen contend that all they want is a declaration of policy, this bill actually, with regard to the cuts, is not proposing a declaration of policy but a rigid rule of law. The bill that the Department of Agriculture is willing to support would be a definite declaration of policy, and to that extent it would largely meet the past justified desire of the stockmen to have legal recognition of their place in the national forest scheme.

That is the way the matter stands. One bill, the Department goes along with; the other it feels it must oppose. I think that will very definitely continue to be the Department's attitude.

The CHAIRMAN. Are there any questions that anyone would care to propound to Mr. Kneipp?

Now, gentlemen, while you are here, and while we have the Federal officials in charge of an industry, and who affect an industry in which you are interested—we have them here that you might discuss matters with them, and that you might get advice and counsel and suggestions from them. Do not hesitate for a moment to propound questions to them and make known your own problems. If you do not, you will miss an opportunity that is afforded you by this committee meeting, and you may not have the opportunity again for some considerable time in the future. Now, it doesn't make any difference how you word your questions, or what your language is, or your method of expression; you know what your problem is. If you care to interrogate the gentlemen—for instance, Mr. Kneipp, Mr. Havell, Mr. Dierking, or others who are here—we would be glad to have you do so right now, or at any time during the day.

By the way, I apologize for having omitted to state that Mr. Robert Rose is here, officially representing the Park Service, designated and authorized by the Department of the Interior to represent that service.

Mr. Wardwell of Las Vegas and Mr. Hansen of Reno are both here, officially designated to represent the Fish and Wildlife Department of the Federal Government. We are glad to have them here.

Are there any questions that you wish to ask of Mr. Kneipp?

Mr. DRESSLER. I would like to ask a question in regard to this: He speaks of New Mexico and Arizona. Our conditions here are not the same as they are there. What is being done, how are you going to arrive at something that will fit all these different problems in these different States?

Now, the States of Nevada and California are kind of, that is, one. We have our forest permits, some of us that live in the State of Nevada;

some of us in California have Nevada permits; but I can't see any place but what there should be something where the stockmen would have something to say, and especially, not have to go to Washington for everything we want. I think there should be some regulations taken away and given to these different States, and give back the State's rights. For instance, New Mexico has their problems, Arizona has their problems, Nevada has their problems, and California their problems. How can you mess them all together and make one definite law to pass for all of them, and make it fit for all the different States? That is the point I am trying to get through my head.

The CHAIRMAN. Mr. Kneipp, we would be glad to hear from you.

Mr. KNEIPP. Well, I think the answer is this: All authority over the public domain rests in Congress. Congress has complete control of all the public lands and, of course, Congress cannot exercise that control in minute detail. It has to delegate it; so, by acts of Congress, it sets up certain basic laws, establishes certain basic principles and objectives, and delegates to the Secretary of Agriculture the authority to carry them out.

Now, those laws, of course, have got to be such as to meet the most extreme condition, but where extreme conditions don't exist, the provisions of law designed to meet them do not make any difference. Now, the Secretary himself does not try to handle all details of administration from Washington, nor does the Chief of the Forest Service, as you know. Ever since 1908 there have been districts or regions in charge of regional foresters, to each of whom is delegated largely the authorities of the Chief of the Forest Service, including those which he has received by delegation from the Secretary of Agriculture; and I should say that, offhand, probably 95 percent of all the grazing business is handled in the field; in this case in San Francisco, for California and western Nevada, or in Ogden for eastern Nevada. Only the major questions come to Washington for decision at all. As a matter of fact the regional forester does not try to handle all of the administrative work. He delegates a considerable part of his authority to the forest supervisors. So that is the general practice. Congress evolves or prescribes the policies, objectives, and limitations, and delegates to the Secretary the authority to execute them. He, in turn, delegates a great deal of it to the Chief of the Forest Service, who, in turn, delegates to the regional forester. So you do get a stepping down to the condition right on the ground, with power vested in the men on the ground to exercise a high degree of decision. I don't know how else you could do it. The trouble is if the statutes do not meet an extreme condition then it cannot be met administratively except by going back to Congress and asking for more laws.

Now, there are two sides to this thing. We want to establish stable and constructive range use. But the stockmen often don't realize if there are sore spots that keep building up there will be public resentment against the established order, and such public disapproval is apt to result in drastic changes in the established order. In other words, no matter what the Forest Service might think of conditions on the forest ranges, changes might be made anyhow if the people became convinced conditions were bad and expressed extreme disapproval. For that reason the Secretary feels that the Johnson Act, or the acts taking its place, ought not to be so narrow that really acute conditions cannot be met.

The CHAIRMAN. Are there any other questions that you would care to propound to Mr. Kneipp, bearing on any subject having to do with the forests?

I am simply drawing to your attention again the fact that if you have these questions, now is the time to present them and get a clear statement.

The chairman of this committee, who has offered a number of bills pertaining to the open public domain and its utilization, wishes to say that he personally favors the setting up of advisory boards for the Forest, as well as he favored the setting up of advisory boards by law for the Grazing Service. The reason for my views, in that respect, is to meet the very problem that Mr. Dressler presented. In other words, to try to get back into the hands of the people of the respective districts as much opportunity to govern themselves, within their respective districts, as was at all, or is at all, possible.

It is my theory that where the people of a district select their representatives, those who are engaged in the same line of business, to speak for them with the Federal Government, speaking through their representatives, that then we have the closest thing to a democracy that we can work into the administration of the open public domain. If cattlemen have a representative who sits around a table with the local grazier, who is the representative of the Interior Department; if sheepmen have a representative who sits around a table with the local grazier; they can speak in terms of what they know to be the needs of their particular districts, and try to work into it a general understanding, and set up the solution of the problems that present themselves in that particular district. That is why I favored the setting up of the advisory boards by law for the Grazing Service, and that is the reason now that I favor the setting up of advisory boards by law for the Forest Service.

In other words, it works into the administration the expressions and understandings of the fellows and the people who actually use the forest, and who use the open public domain. After all, there are nearly a billion acres of land in the United States in open public domain. To my mind it is the greatest asset that the Federal Government now has. Its administration and its use by the people, especially along agricultural lines—certainly there can be no higher use made of that great asset of the Government than along those lines; to encourage agriculture on the open public domain, to give encouragement to it seemed to be necessary; and it was necessary that the people who use the open public domain should be heard and understood. That is the theory on which we are proceeding in all of these matters.

Is there anyone else who wishes to discuss that subject?

STATEMENT OF F. P. CRONEMILLER, ASSISTANT REGIONAL FORESTER, SAN FRANCISCO, CALIF.

Mr. CRONEMILLER. My name is Fred Cronemiller, assistant regional Forester of the California region, United States Forest Service.

The CHAIRMAN. Where are you stationed?

Mr. CRONEMILLER. San Francisco. Before coming to the meeting I contacted the secretary of the California Wool Growers Association and the secretary of the California Cattle Growers Association, and there are so many things in connection with meat marketing, livestock, and so forth, that they were unable to be here. They were interested

in the curtailed use of public lands by military uses, and some of those problems, which, I understand, the wool-growers' association has presented to you, in connection with the Mojave.

The CHAIRMAN. In that regard may I say that we have here before us now a copy of a letter dated October 25, 1943, on the letterhead of the California Wool Growers Association, 595 Mission Street, San Francisco, Calif. We also have the original of the same letter which presents, as we understand it, the views of that association with reference to the taking of open public domain by the military authorities. This especially addresses itself to San Bernardino County. We had that San Bernardino problem presented to us at a meeting in Arizona. This letter and enclosure will go in the record at this point.

(The letter and enclosure are as follows:)

CALIFORNIA WOOL GROWERS ASSOCIATION,
San Francisco, Calif., October 25, 1943.

Senator PAT McCARRAN,
Chairman, Senate Subcommittee on Public Lands and Surveys,
United States Senate, Washington, D. C.

DEAR SENATOR McCARRAN: We shall appreciate the matter discussed in this letter relative to aerial gunnery range, Marine Corps Air Station, Mojave, Calif., being made a part of your hearing to be held on November 4 at Reno, Nev.

A group of members of our association, who are also members of one of our branch associations, the Kern County Wool Growers Association with headquarters at 531 Sumner Street, Bakersfield, Calif., have leased from the Southern Pacific Land Co., in San Bernardino County, on the Mojave Desert, for a number of years a portion of the land which is contained in this new firing range.

We are wondering if arrangements could be made to use some other area of the desert for an aerial gunner practice, using live ammunition, than the area mentioned above during the 2 months, March 15 to May 15 of each year while the 50,000 sheep are grazing on the area. If at that time of the year there was feed available in other districts we, of course, would not bring this matter to your attention. However, with some 200,000 sheep originating in Kern County each year it is necessary to find food for these sheep 12 months of the year. The lambs are fattened off of the Mojave Desert. During a portion of the year the sheep are on alfalfa pasture. Other seasons of the year they range up the Owens River Valley through Bishop to Mono Lake, and in the fall they are on vineyards. For over 80 years the Mojave Desert has been utilized for the spring period—March 15 to May 15.

While the sheepmen who utilize this desert feed only graze it for 2 months, they depend on it to fatten their lambs. Unless this seasonal utilization is possible, many feeder lambs and not fat lambs will result. These feeder lambs then must be shipped to the Middle West, utilizing long distance transportation en route, and grain in the Middle West which otherwise could be used for human food or other animal uses.

The fat lambs fattened on the Mojave Desert are marketed direct to Los Angeles by truck. Continued utilization of the Mojave Desert feed from March 15 to May 15 means a real contribution to the war effort in conserving transportation, meat, feed, and concentrates.

Sincerely yours,

W. P. WING, Secretary.

COMMANDANT'S OFFICE,
ELEVENTH NAVAL DISTRICT,
San Diego, Calif., October 13, 1943.

CALIFORNIA WOOL GROWERS ASSOCIATION,
San Francisco, Calif.

(Attention: W. P. Wing, Secretary.)

Subject: *United States v. Certain Parcels of Land in San Bernardino County California*, No. 3129-PH Civil. Aerial gunnery range, Marine Corps Air Station, Mojave, Calif.

GENTLEMEN: Your letter of September 27, 1943, has been referred to the undersigned for reply.

At the time the subject proceeding was commenced we did not have notice of your interest in the area and consequently you were not contacted. We enclose a copy of a form letter sent to the persons known to be interested in the subject area and also a copy of the order for possession made in the subject proceeding. They will be in part explanatory of what has transpired.

Please be assured that the difficulties of the situation explained by you are sincerely appreciated. The subject area, however was selected only after careful consideration of all possible areas and was determined also only after it had been concluded that it was the most logical site both from the standpoint of operations out of the Marine Corps Air Station, Mojave, and consideration of the effect such acquisition would have upon private interests.

There is no way by which the aerial gunnery operations could be transferred to any other area. For your information the use of the area for such gunnery practice would not be inconsistent with the use of the land for sheep grazing subject to the limitation that no individuals could be permitted upon the range during daylight hours. If the sheep can graze unattended it would still be possible, probably, to run the sheep during the portion of the year mentioned in your letter.

We shall appreciate hearing from you at your earliest convenience.

Very truly yours,

GEORGE A. LAZAR, Jr.,
Lieutenant, United States Navy Reserve.

SEPTEMBER 11, 1943.

Subject: *United States v. Certain Parcels of Land in San Bernadino County, California*, No. 3129-PH Civil. Aerial gunnery range, Marine Corps Air Station, Mojave, Calif.

DEAR SIR OR MADAM: The subject proceeding was filed September 2, 1943, to acquire a leasehold interest in the land described in the order for immediate possession made on the same day, of which a copy is enclosed. You may or may not have been requested heretofore to permit use of your land included therein.

To expedite payment of any compensation to which you may be entitled you are requested to furnish the following information in detail:

1. The exact description of the property in which you are interested, and the areas thereof.
2. Nature of your interest—ownership, lease, grazing permit, or what.
3. Full description of improvements and their location.
4. Taxes paid for 1942-43.
5. What annual compensation should you be paid?

(NOTE.—If your property is east and south of the Barstow-Goldstone Road, possession of your property is not presently required but you are requested to answer items 1, 2, and 3.)

Possession of the area described is required for aerial gunnery practice—namely, machine-gun firing from airplanes at high altitudes. This should not result in any damage to improvements on the ground but does make the area unsafe for humans. Should any improvement be damaged, proper adjustment will be made subsequently.

If you desire to remove any personal property, you may find out from the commanding officer, Marine Corps Air Station, Mojave, Calif., on what days gunnery practice will not be conducted. Any other questions should be directed to the undersigned, whose address is room 300, Public Works Department, Eleventh Naval District, San Diego, Calif.

The enclosed envelope requires no postage. A prompt reply is requested.

GEORGE A. LAZAR, Jr.,
Lieutenant (Jr. Gr.), United States Naval Reserve.

IN THE DISTRICT COURT OF THE UNITED STATES—SOUTHERN DISTRICT OF CALIFORNIA
CENTRAL DIVISION

No. 3129—PH Civil

ORDER FOR IMMEDIATE POSSESSION

UNITED STATES OF AMERICA, PLAINTIFF

v.

CERTAIN PARCELS OF LAND IN THE COUNTY OF SAN BERNARDINO, ETC., ROY J.
ALEXANDER, ET AL., DEFENDANTS

Upon a reading of the Complaint in the above-entitled action, and upon the affidavit of George A. Lazar, Jr., Lt. (Jg) U. S. N. R. and of Irl D. Brett, and upon application of counsel for plaintiff for an order granting immediate possession of the property described in said complaint, pursuant to the Second War Powers Act of 1942, approved March 27, 1942 (Public Law 507—77th Congress), and good cause appearing therefor:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that plaintiff United States of America is hereby granted immediate possession of all of the hereinafter described property.

The property affected by this order is described as follows:

That certain real property situated in the County of San Bernardino, State of California, and more particularly described as follows:

Beginning at a point on the North line of said San Bernardino County, said point also being the Northwest corner of Section 6, Township 25 South, Range 44 East, Mt. Diablo Base & Meridian; thence Easterly along said North line of San Bernardino County to its intersection with the San Bernardino Meridian; thence South along the San Bernardino Meridian to the Southeast corner of Section 34, Township 32 South, Range 47 East, Mt. Diablo Base & Meridian; thence Westerly along the South line of Township 32 South in Range 47 East, Range 46 East, Range 45 East, and Range 44 East, Mt. Diablo Base & Meridian, all Mt. Diablo to the Southwest corner of Section 31, Township 32 South, Range 44 East, Mt. Diablo Base & Meridian; thence Northerly along the East line of Range 44 East, said line being also the East line of Townships 32 South, 31 South, 30 South and Township 29 South in said Range 44 East, Mt. Diablo Base & Meridian to the Northwest corner of Section 6, Township 29 South, Range 44 East, Mt. Diablo Base & Meridian, thence Northerly approximately 16 miles across unsurveyed land to the Southwest corner of Section 31, Township 26 South, Range 44 East, Mt. Diablo Base & Meridian; thence continuing Northerly along the line separating Range 43 East and Range 44 East, Mt. Diablo Base & Meridian, said line also being the Easterly line of Township 26 South and Township 25 South in said Range 44 East, to the point of beginning.

DATED: September 2, 1943, at 3:45 o'clock P. M.

PEIRSON M. HALL,
United States District Judge.

Presented by: Irl D. Brett, Special Assistant to the Attorney General.

REUBEN ROSENWEIG,
Special Attorney, Lands Division.
By IRL D. BRETT,
Attorney for Plaintiff.

Mr. CRONEMILLER. The two State livestock associations, in annual conventions, have endorsed the Johnson bill form as of 2 years ago. However, among our national forest advisory boards we have 8 active, and if the Johnson bill is enacted so that by law the Secretary would set up advisory boards, upon the request of over 50 percent of the permittees, we probably won't have more than 12 in the 18 national forests of California.

Of the eight active association advisory boards, only one has expressed itself on the Johnson bill. It is hardly a problem in the

California region, in that practically all permits are protected by the various limits from reductions for distribution and so forth by the upper limit, or by special ones.

The CHAIRMAN. How about your transfer reductions?

Mr. CRONEMILLER. We have applied that, probably, in less than one-third of the cases; and I have used it only for protection of the range, in practically all cases—I wouldn't say 100 percent—but where the range was overstocked, we have used the transfer reduction for protection of the range. The grazing advisory board of the Sequoia National Forest did prepare a resolution opposing the Johnson bill in two respects; first, that they did see some monopoly in their local area that they did not believe was socially and economically the best for their community. The second point was that in the Sierras there is such heavy use by recreation, there is timber use, important watershed uses, and they feared, if legislation was enacted that would fix grazing privileges, that there would be pressure from reclamation and other groups, and strong pressure, that would lead to the exclusion of livestock from some large areas of national forests which have considerable recreational value.

If you please, Senator, I will present the original copy of that resolution to you.

The CHAIRMAN. It will go in the record at this point.

(The resolution is as follows:)

RESOLUTION

We, the grazing advisory board of the Sequoia National Forest, composed of the elected representatives of the 120 grazing permittees running cattle on the Sequoia National Forest, do hereby go on record as opposing the enactment of the Senate bill No. 1030, known as the Johnson bill, which has been presented to the Seventy-seventh Congress now in session.

Whereas section 27 of this bill has evidently been designed to protect a few large preference holders of grazing privileges against reductions, it would in our minds, be discriminating against the bulk of the forest permittees who are trying to build up their herds so as to make a decent living, and would also prevent any new operator from getting a start regardless of how great his need may be, and

Whereas the distribution of grazing privileges in our area has been worked out to the advantage of the industry and to the Government in the past, we see no advantage to be gained through the enactment of specific legislation as set forth in section 27 of the above bill, and

Whereas the present distribution policy is for the most part satisfactory and is working toward the betterment of the industry, we feel the unstabilizing features of past policies have been eliminated, and

Whereas, should legislation of this type be passed, giving special protection to specific forest users such as the grazing men, it would most certainly lead to similar demands from other special groups which we feel would in turn place the livestock interests at a disadvantage.

Now therefore in the interest of proper administration of the forest lands within the Sequoia Forest which are used by cattlemen which we represent, be it—*Resolved*, That S. 1030, the Johnson bill, be not enacted.

Copies of this resolution are to be forwarded to our two Senators, the Honorable Hiram W. Johnson and Hon. Sheridan Downey, and also to Hon. Alfred J. Elliott of the House of Representatives, all of Washington, D. C.

JULE E. VILLARD,

Chairman, Grazing Advisory Board, Sequoia National Forest.

Resolution passed: May 1, 1941.

Mr. CRONEMILLER. One of the stockmen that hoped to be present today, one of the local stockmen who is interested in the general policy, this point of distribution under the Johnson bill, will not be able to

be here before about 3:30. Would you care to hear him then, or would you like a written statement?

The CHAIRMAN. We will try to hear him. We will be very glad to hear him; we want to hear anyone who goes to the pains of coming to this meeting. They are all very welcome, and we will be glad to hear from them, and will hear from everyone we can possibly call, within the hours that we can devote to the work.

Mr. CRONEMILLER. Thank you.

The CHAIRMAN. Thank you. Are there any questions that you gentlemen from California, or anyone else, would care to propound to Mr. Cronemiller as representing the Forest Service?

Mr. CRONEMILLER. I want to say that Mr. Clark, the Chief of the Division of Range Management, and I have been actively working on this advisory board situation on the national forests, and we do have a number of splendid boards that are working actively. It is a difficult job, with very diverse conditions, to get agreement on policies on individual forests, because we have east side hay producers and west side winter pastures, and that type of thing.

Another thing is, where the forest has but small numbers of livestock, there is not sufficient number of problems of mutual interest to justify their forming an advisory board, and one, and possibly two, because of that fact, have decided to adjourn for the duration, in the interests of saving gas, tires, and time.

The CHAIRMAN. That brings to mind especially the letter from the wool growers' association which came to the chairman of this committee, and which we have touched upon. It brings forward the subject of the taking of open public domain and the method of taking by the military authorities. The Southwest especially has had some very serious problems along that line. I am wondering what California has had in that respect. Can you state that, Mr. Cronemiller?

Mr. CRONEMILLER. I haven't the figures in mind of the acreage taken by the military in California. It is between four hundred and five hundred thousand acres, I believe.

The CHAIRMAN. Where?

Mr. CRONEMILLER. Starting at the Mexican border, there are three fair-sized military reservations; in San Diego one quite large one of some 57,000 acres.

The CHAIRMAN. How much of a displacement of livestock did that entail?

Mr. CRONEMILLER. In total it was—I figured a year ago it was the equivalent of 25,000 head of cattle, year long; quite serious. Camp Beale area, over in the Valley, has been quite a problem, because the 60 or 70 ranchers displaced there have been unable to lease or find other places on which to operate. They have national-forest permits, Southern Pacific leased lands, and are unable to secure winter pastures, and probably will not be able to continue. Recently the Army is allowing some leases in Monterey, San Diego, and San Luis Obispo Counties. That is to come before the Monterey Cattlemen's Association at a meeting on the 9th of this month. I will be present, and we are working with the Army in trying to work out a scheme where livestock may be grazed on military reservations; and possibly after that meeting the association might address you in regard to their problems. It doesn't appear that it is not going to be worked out entirely.

The CHAIRMAN. Let me say to you this: This is perhaps an individual thought, but I have seen some intimation which gave rise to the thought that these military withdrawals, or withdrawals for military purposes, may have a longer duration than the war. Military withdrawals, like other withdrawals, may have a greater degree of continuation or permanency, and, to my mind, that is one of the serious questions that this committee and the stock raisers of the country may have to deal with in the future. We may be confronted with conditions where, by reason of the way and manner in which this war may terminate—I say this frankly; I don't think this war will terminate as any other war has ever terminated; I think it will be an entirely different nature and termination—I think this country is destined to have an outstanding, and very large, armed force for many, many years to come. I don't think we will ever see our Army reduced to the numbers that it had prior to the outbreak of this war. That being true, the stock raisers of this country are now confronted, or may be confronted, with the condition whereby lands that have been taken away from them for what they thought was temporary use they may find it taken away for a use so long that they individually may not live to see the return of the territory to the open public domain. It is a problem that I think we are going to have to deal with, perhaps by legislation.

Mr. THOMAS C. HAVELL (General Land Office, Washington, D. C.) Mr. Chairman, as of March 5, 1943, there were withdrawn for military use connected with the prosecution of the war about 15,000,000 acres, and, in addition to that, there were 17,000,000 acres on which permits were granted for maneuvers. That is not a withdrawal but a use or occupation of the land permitted.

Concerning your last statement as to the duration of these withdrawals, except for some of the earlier withdrawals, we have written into every one of the orders setting land aside for military use, that the withdrawal shall be for the duration and 6 months thereafter; and we have done everything we can to see that the lands are returned, after the emergency and the 6-months period, to their former status.

I might say, in addition to that, that some time ago we entered into some correspondence with the War Department looking to an agreement whereby the War Department would not only return the public lands to their former status but would turn back with them whatever scattered tracts of privately owned lands that they had acquired for their military use. We have not worked that out as completely as we would like to, but it is a matter that we are giving attention to.

The CHAIRMAN. I am very, very glad to have that statement go into the record. It relieves the committee of some concern that the committee has had and has discussed.

With reference to your clause, "for the duration and 6 months thereafter," I am reminded of the two Negroes, who, after the last World War met over at a point of embarkation in Europe. One said to the other, "I enlisted for the duration of the war, and I's getting pretty tired, cause the war's over, and I want to go home." The other answered him and said, "Yes; the war am over, but that there duration, that am still going on."

I am wondering how long the "duration" may be going to continue.

Mr. CRONMILLER. In order to clarify the record, the land I referred

to is all of the land—mostly it has been acquired by the Army from private ownership in the State of California.

The CHAIRMAN. Yes; that is going to present the intricate part of the problem. I am glad to have Mr. Havell make the statement which he has made, that the Department is interested in having the Army, or military authorities, turn back the acquired lands which they bought and hold into private ownership, because those acquired lands will be the property of the respective military authorities. Just how rapidly they turn them over to the open public domain is quite an interesting question; and just how essential those sections are to the livestock industry, you can scarcely estimate, unless you would have sat with this committee in hearings that we have had in northern Arizona and in Phoenix, Ariz., and in New Mexico, where the committee itself went on record here just a few weeks ago, and over the signatures of the members of the committee, wired the military authorities, requesting that they do not take over certain tracts of land that it looked to us in New Mexico would almost destroy the livestock industry in a particular section.

Mr. CHRISTENSEN. I was wondering if the Johnson bill, or the other bill, providing for advisory boards in the forests, provided for a wildlife representative on these boards?

The CHAIRMAN. I am advised that the new draft would make such provision; something of that kind.

Mr. CHRISTENSEN. That has been one of the causes of concern with our district, with our board. We feel that the largest user of public lands in our district is the wildlife. We possibly have some 25,000 antelope and deer in our district. That is about correct, isn't it Mr. Dierking; is that right?

Mr. DIERKING. I think that is about the figure; yes.

Mr. CHRISTENSEN. So that is by far the largest permittee that we have; and we have been concerned with the lack of interest from the fish and game commission of California. We have a wildlife representative on the board, but he has not been active. We would like to have him more active from the board members' standpoint. I would say we would very much appreciate more cooperation from the fish and game commission in California from the interests of the wildlife.

After making quite an observation, a good deal of observation of wildlife ways of living, I think there has been a very definite change in wildlife habits. One outstanding change is their need of salt. They have learned to use salt that has been put out by the stock growers during the months that the livestock are on the range; and in the months when the livestock are not out the deer and antelope, the deer especially, will gather at the salt licks and salt boxes and eat the ground that the salt was placed on, which might have some flavor of salt from the evaporation and what not of the salt placed there during the grazing months. We feel that the fish and game commission of the State of California, which is definitely a heavy tax-gathering agency, should stand in with us for their game, providing salt.

We would like to have closer cooperation from the fish and game commission on the advisory boards. I hope Mr. Dierking will not feel that I am out of place in expressing the advisory board's opinion.

The CHAIRMAN. While you are on your feet, Mr. Christensen, how do you find the wildlife population and the carrying capacity of your

range with reference to wildlife population in your district, say, at the present time?

Mr. CHRISTENSEN. We have made quite a study of it with our district grazier and officials from the Grazing Service, and we have areas where quite a heavy percent of the forage is used by the wildlife; some places, possibly 75 percent of the forage in the higher mountains, is used in the summer, mostly by wildlife. There is not so much conflict of the feed in the summer months, but there is a very definite conflict in the winter. There would not be so much of a definite conflict if the wildlife habits would permit the wildlife to change their wintering places and move to new areas of feeding, which they do not seem to do. They concentrate in their old wintering spots; and we have many places in our district, or several, where the wildlife have crowded the domestic livestock out almost entirely. Very often that is the case on private lands. They stay in these concentrated areas to such an extent that they weaken the physical condition, and when we do have a severe winter here, which will happen—we haven't had one for 10 or 12 or more years—but then we can expect to lose many thousands of the 25,000 wildlife that we have in our district.

We definitely have overpopulated places; and we don't seem to get any recognition of that from our fish and game commission. We see very little of them. If you go into the cities and towns, you will see them. You can't go to Alturas but what you will see one or two fish and game wardens walking up and down the street with a revolver at their hip. I don't know why.

The CHAIRMAN. As the wildlife population has increased, Mr. Christensen, what have you noted as to the domestic livestock population?

Mr. CHRISTENSEN. I believe that the sheep population—and that is the part of the sheep that were run by people who had little or no adequate base property—they have been reduced to something like 40,000 sheep. Is that right, that have gone out of the district?

Mr. DIERKING. I believe so.

Mr. CHRISTENSEN. And the cattle numbers are possibly up some. Before we had administration in our district people without adequate base properties were using the public lands to such an extent that they were crowding the owners of these lands off the ranges. The cattlemen and people who had investments in ranch property were becoming weakened in cattle numbers. The owners of ranches, base property, have come back to a stronger financial position and the stronger position as to the numbers of livestock and their use of the ranges, so I think that our cattle numbers are possibly up 10 or 15 percent, or something like that.

Our sheep numbers are down, possibly 50 percent.

The CHAIRMAN. While my question was propounded to you, the record of the hearings of this committee had, in the various sections of the public lands States, disclosed in some sections that as the wildlife population increased, the domestic livestock population decreased. We have a very pronounced record in that respect. For instance, in Colorado and southern Utah, the increase of deer noted also reflects a decrease of domestic livestock.

Mr. CHRISTENSEN. I wouldn't say that that condition has been reached in our district at the present time; but with the steady increase

in numbers of wildlife, that soon will happen, especially with antelope. When I moved to Modoc County 20 years ago it was a rare thing for us to see an antelope; in fact, I think I lived there 2 years before I saw the first two antelope in Modoc County; and now the count by the Grazing Service and Fish and Game Commission reveals that we have some seven or eight thousand antelope. The stockmen feel that we might have as much as 15,000 antelope in that district—and they are very detrimental, especially to our small ranches that lie in isolated places where the isolated ranches are. Antelope cannot be kept out of the fields, eating the hay and grain, and the gardens.

The CHAIRMAN. Let me ask you, Mr. Christensen, is the antelope a browse-eating animal?

Mr. CHRISTENSEN. I think they eat grass most of the year.

The CHAIRMAN. Deer is largely a browse-eating animal?

**STATEMENT OF GEORGE P. MILLER, EXECUTIVE SECRETARY,
CALIFORNIA DIVISION OF FISH AND GAME, SAN FRANCISCO.
CALIF.**

Mr. MILLER. My name is George P. Miller, and I am executive secretary of the California Division of Fish and Game. I cannot let go unchanged the two or three statements made by my friend Mr. Christensen.

The division of fish and game is quite cognizant of the situation in the section of the country to which he refers. We have made competent surveys of it, not only over one year, but over a number of years. Each year before holding a special antelope season, we have taken a census of antelope in California, by the best and most approved method of doing it. Last year we took it by airplane, which we have done before. We have sent other biologists into the hills, and they are familiar with every foot of the ground. So we do have some knowledge of the country, and our estimates are not in agreement with those of the Grazing Service, nor necessarily the Forest Service. We estimated between five and six thousand head last year, cropped off about 400, and this year we took a number quite comparable to that.

For his information, at the present time the chief of the bureau of game conservation, with a representative of the Forest Service, is right today, riding over the Devil's Garden area making those surveys; so I don't like to let the statement go unchallenged for the record.

Another thing for the record, Mr. Christensen said that the division of fish and game was a great tax-gathering agency. I want to say that not 1 cent of the money collected by the division of fish and game comes out of the general funds of the State, or is paid for in any other way, by any other interest, than the sportsmen of the State of California.

The CHAIRMAN. Your antelope population, referred to by yourself and Mr. Christensen, has, as he stated, very materially increased in the last few years?

Mr. MILLER. I would say that the increase has been steady. I believe that at the time—I am speaking from memory, and somewhat hearsay—at the time the antelope hunt was closed in the State of California the present herd was down to less than 100 animals, and it had increased in California. There is a movement into Nevada and California of some of those animals common to both States. But in

making the survey—and at the time it was made, we accepted the border-line cases in our counts in California, in order to justify the cropping off of some of these animals. It is only in the last 2 years that we have had authority to do that; that a season has been opened in California. I may say that it is not too popular with the rank and file of the people, particularly the sportsmen in California.

The CHAIRMAN. Well, your territory, your region in which your antelope range is through part of California and part of Nevada?

Mr. MILLER. The problem is in Lassen and Modoc Counties.

The CHAIRMAN. Well, I think from what the committee has heard, and from the record that has been made, the problem is also in northern Washoe and some in Pershing counties. I think, if I am not mistaken, Nevada opened the season to taking antelope this year. Am I correct in that, Mr. Dierking?

Mr. DIERKING. That is correct.

The CHAIRMAN. And the statement has been made unofficially to members of the committee that the antelope were becoming no numerous in that country up there that it was going to be necessary to do something, in the not far distant future, to take care of the excessive antelope population.

Let me say, in that respect, that that information came to the chairman of this committee, not as a member of this committee, but when the Wildlife Department sought my assistance to get an appropriation, which we did put through in the Appropriations Committee of the Senate, and it is the law to purchase private holdings in northern Washoe and Pershing Counties for the antelope range. That was because the antelope, so we were advised, were taking possession of private property anyway, and they had to purchase it or else there would be trouble up there.

Mr. MILLER. Senator, the State of California is willing to help you in a small way. We have made arrangements to trap some of the antelope out of the Sheldon Refuge, and replant them in other parts of California.

The CHAIRMAN. All right, if you can get them to stay there.

Mr. CHRISTENSEN. I believe we have had several thousand transplanted in our district without trapping. The antelope is no respecter of State lines. I have heard that.

Mr. ASH. I have something to say along that line, but I thought probably we would take that up this afternoon under the Senate bill.

The CHAIRMAN. I think that would be better.

Mr. ASH. This refers to the grazing as well. I don't think that the fish and game commission are running their livestock in compliance with the Taylor Grazing Act. In Modoc County, on the Modoc National Forest they take approximately 1,600 four-point bucks out of there annually, and I believe the life of a deer is not to exceed about 10 years. If you take 1,600 bucks out of there each year, I would like to know what becomes of 1,600 does that naturally must have reached maturity and died.

Now, that was what brought about the passing of the Taylor Grazing Act, to see that we would care for our livestock, not run them hither and thither, and go out to some other men's desert in the winter and let the stock die. It is provided that we should have base property, and take care of that stock annually, and I don't believe that the fish and game are complying with the Grazing Act. I know they are

not, in the way Mr. Christensen referred to, in providing salt for them. We have borne down considerably in our country to try to get that done, but we haven't reached any place yet.

I would like for the gentleman from the fish and game commission to say what he would like to do about taking care of them in the winter. We have an area in the garden country, northwest of Alturas, 7 or 8 miles wide and 10 or 15 miles long, stripped of every vestige of browse they can reach. All the little twigs are eaten from the juniper trees. They got in there a few winters ago when the winter was severe, migrated from Oregon down there. There is another inconsistent thing; Oregon has open season on doe, and California hasn't, right there on the line where the deer population is about in the same balance.

The CHAIRMAN. Speaking of the juniper trees being browsed off as high as the deer could reach, I saw a cartoon some time ago in which a deer was standing on his hind legs reaching up to browse off the limbs of a tree, and the little deer said, "Dad, let me get on your shoulders, so I can get a little of that up there."

STATEMENT OF E. A. SETTLEMAYER, RENO, NEV.

Mr. SETTLEMAYER. Mr. Christensen mentioned that there has been a reduction of 40,000 head of sheep from his district. I am wondering what use is being made of the range that these sheep used before?

Mr. CHRISTENSEN. Mr. Settlemyer, that has pretty much gone back to a cattle use, and the area that was used by these sheep is used by cattlemen. I might also state that the cattlemen have been very, very grand in our district, to attempt to buy the little isolated tracts of land that the sheepmen had, that they were using as base property, so as to round out the base property; and it has brought the use of the range back to the people who owned adequate base property. In some cases the people that had the base property had it in scattered pieces of land.

Also, at the time of our Taylor grazing administration our district was almost denuded of grasses. It was just about worn out. Even the men using that country without adequate base property were not successfully operating, because they could go to the wintering areas and still were not getting along any too well. The owners of ranch lands didn't have a range to go to. I wouldn't say there was a hundred percent use of that range as there was then, but the use of the range was in line with the carrying capacity of the range, and the use of the range is coming back to where we may increase the number, so that we have a little left over. Maybe the reason the antelope didn't come 20 years ago was because we didn't have anything for them to come to.

The CHAIRMAN. Mr. Dierking, would you care to discuss any phase of this problem that is being presented here? We have gone over a little bit into the wildlife question. I have wanted to reserve that subject. If you would care to discuss it now, Mr. Dierking, or this afternoon, you may express your own preference.

Mr. DIERKING. Senator, I think the questions raised here have been pretty well covered this morning. I might state that our antelope census for California No. 2 district is 6,000 head on the tabulation here, which I think is quite close to the figure presented by Mr. Miller, of 5 to 6 thousand head; so I don't feel that we are too far off on the ante-

lope in the grazing district. I think that the question propounded by Mr. Settlemyer was answered by Mr. Christensen, that a portion of that was taken up as a result of former overuse; and the other remainder of it was taken up by cattle use that has increased; and unquestionably there has been some increased demand from the wildlife.

Mr. MILLER. I would like to know just from a technical standpoint, for the benefit of some of our biologists who are here, just how and when you made your census. We would like to compare them, because they are a good deal in agreement. When did you take your census, and what method did you use?

Mr. DIERKING. I will ask Mr. Kirk to answer that.

STATEMENT OF JESSE L. KIRK, DISTRICT GRAZIER, HONEY LAKE DISTRICT, CALIFORNIA, NO. 2, SUSANVILLE, CALIF.

Mr. KIRK. That is putting me on the spot here. I am district grazier up there, and I am between all these fellows here. I have got to satisfy them all; but I have gained my information through livestock men, board members, through the fish and wildlife, and some by observation myself in the field. I think that is the only way we can get it. He made the statement that they made their survey by airplane. I think that is one of the best for antelope, because they do bunch up, and you can get over them in an airplane and count them by photograph. I think that is the way they made theirs, which is a very good way to make the count of antelope; but my files, as I say, I have gained through different agencies, observations of our men in the field, and estimated counts in some areas. We set off an area, and count them in that area; take the best time to count them, which is in the fall of the year, when they are bunched up in big bunches.

The CHAIRMAN. Are they, at this time, threatening any of the areas in your region? What I mean, are they threatening to devastate the areas of the grazers?

Mr. KIRK. The antelope in one or two areas that we have fenced, under section 4 permits of the Taylor Act, there are 50 to 150 antelope who bother these men in the alfalfa fields. In another area, at Fort Bidwell, antelope have destroyed a lot of grain each year. The fellows have tried to herd them out, dog them out. The antelope eat all the grain.

The CHAIRMAN. How about the open public domain, are they threatening the cover on grazing there?

Mr. KIRK. I wouldn't say so, personally. The antelope aren't as destructive in our area as the deer, because they range over a wider area of country, and their concentration is in the open area in the winter, where sheep also winter. A great number of them migrate from Nevada. In Nevada antelope are not doing as much harm as the deer.

The CHAIRMAN. Are the deer threatening the cover of the open public domain?

Mr. KIRK. In the concentration winter areas; yes.

The CHAIRMAN. To what extent? I wish you would discuss that at length, in your own way, if you please.

Mr. KIRK. Of the areas to which I have reference here, I think Mr. Miller and Mr. True know, the worst is the Doyle area concentration. We appreciate the fact that due to the highway, the railroad and

power lines and fences, the deer congregate there, where normally, I imagine, they passed into Nevada. Another thing, I think, that holds them, within the last 4 or 5 years we have had a lot of good winters; the bitterbrush has made a good growth there, snow brush, sagebrush, willows, wild plum, a number of browns there, hold the deer in that area. It is granite soil, doesn't get too muddy. That is another thing that holds them in there. It is more or less a dumping ground for Lassen, part of Modoc and Plumas National Forests. Those deer migrate in there in the winter. We have made several checks there on the utilization, also deer counts, and we find they have killed a lot of browse, though a lot of it is by natural death. I think, this year you will find there are long stringers on the bitterbrush, which have made a wonderful growth this summer. This fall you are going to see it taken by the deer.

At the present time we licensed in there about 1,200 animal unit months. That use consists of cattle and sheep, spring and fall and summer use. The deer come in there in the fall, and stay there until late in the spring.

The area I am speaking of has been burned over; several parts of it have been burnt. The natural forage that was there had been killed but it was coming back. That particular area is going to be hard to work out. I don't see any reason why the fish and game and the Grazing Service, or the individual stockmen, or any sportsmen, should get up in arms at the other fellow. I think that is a condition that we can get out and eliminate, as neighbors.

The CHAIRMAN. This is a condition in there, is it not?

Mr. KIRK. Yes, sir.

The CHAIRMAN. Unless it is dealt with by some method of cooperation, I take it that you and other men in your position, as you have testified, can see a serious problem to be dealt with in the future?

Mr. KIRK. That is right.

The CHAIRMAN. Does anyone else wish to discuss either of these subjects that we have touched upon?

There are those who are here from the Fallon region, and from Churchill and Washoe Counties, that expressed themselves to the chairman of this committee as having some problems to solve here.

Mr. Ceresola, do you have a problem that you wish to present to the committee?

Mr. CERESOLA. Not at this time.

The CHAIRMAN. Is there anyone else here? The trouble is that I find you gentlemen meet the chairman on the street and tell him your troubles; and when we want you to come here and tell them, because the committee must read the record, and the Congress of the United States must have the record to go on, before we can solve these problems, you will not do it. We wish you would be more at ease, and more free to speak on your problems.

There are some stockmen here from the area just discussed by the regional grazier. Do any of you care to be heard?

STATEMENT OF P. S. HALL, DOYLE, CALIF.

Mr. HALL. Well, I don't believe there is much to add to what Mr. Christensen and Mr. Kirk have said. We have a very serious problem there that is going to continue to get worse, unless something is done.

The CHAIRMAN. That is the problem with reference to wildlife?

Mr. HALL. With reference to deer. We are right in that winter concentration of deer, and the bitterbrush, in my opinion, has only been able to stand this overuse, due to the good seasons we have had, so far as moisture is concerned.

The CHAIRMAN. Now, in that respect, it is your observation, as the committee has had presented to it elsewhere, that the deer is a browse animal; isn't he, largely speaking?

Mr. HALL. Largely, they are; but in the spring they eat considerable grass.

The CHAIRMAN. The bitterbrush is a browse brush?

Mr. HALL. Yes.

The CHAIRMAN. You find in your region that the bitterbrush is suffering by reason of overgrazing by the wildlife. Is that it?

Mr. HALL. I believe it is.

The CHAIRMAN. I may say to you I wish there was someone here from White Pine County. Is there anyone here from White Pine County?

Mr. JAMES RIORDAN. Yes, Senator.

The CHAIRMAN. I don't know whether you are familiar with this. Mr. Riordan, but are you familiar with what is known as the Duck Creek Reserve?

Mr. RIORDAN. That's right, Duck Creek Reserve. The sportsmen have been feeding their deer during the wintertime there, and last winter they had, at one time, over 600 head in one flock that they were feeding, and they come out in the spring very nicely. Of course, they run over the public range during the summertime, but I don't think that they have overstocked it. They have overstocked it to a certain extent this year. They have allowed them 200 does out of that district, and I think they are getting along very nice; but if it weren't for being winter fed, it would be a different proposition.

The CHAIRMAN. May I say to you, Mr. Riordan, that the chairman of this committee went out over that region with the regional supervisor, and we found there that you could stand on almost any hill and look as far as the eye could reach, and see the juniper and other browse brush browsed off about as high as a deer could stand on its hind legs. Then, in accordance with that, we noticed that the State of Nevada has had a very progressive statute. I think, at the last session, in which it made arrangements for the setting up of a committee in which it would call in a representative of the Grazing Service, a representative of the Forest Service, a representative of the Park Service, and a representative of the Wildlife Service, to act in cooperation with the State authorities wherever there was an overpopulation of wildlife, to eliminate or reduce the population.

Mr. RIORDAN. I think they are very right.

The CHAIRMAN. Here is what happened when we held the hearing at Ely. It was disclosed that that group had already arrived at the conclusion that the population in the Duck Creek Reserve must be reduced, by the number of 500; and they were going in to reduce that population by at least 500, because it was overpopulated. Undoubtedly, an observation of the district would prove that to anyone.

Mr. RIORDAN. That is right; and give the hunters 200 does to kill this year. I think they are getting along very well. I have heard very little complaint from the stockmen in regard to the summer range. Of course, the winter range, the stock all goes out, but the wildlife has

fed those deer there during the winter. I think maybe you know that yourself.

The CHAIRMAN. Yes; otherwise the territory would not sustain the population.

Mr. RIORDAN. Oh, no; it would not begin to.

The CHAIRMAN. That is true in that district.

Thank you, Mr. Riordan.

Mr. RIORDAN. Very well.

The CHAIRMAN. In view of the fact that the committee is really anxious to hold this subject of wildlife down until all of the sportsmen who desire to be present here this afternoon can be present, it may be well to go into another subject right now. That is the subject that is very vital to the State of Nevada, especially, and to the agricultural interests of the State.

There is present here at this hearing the representative of the land department of the Southern Pacific, Mr. McAllaster.

There is also here, Mr. Havell, of the General Land Office.

There is what is known as the Transportation Act of 1940, that involves, in one way or another, the restoration, or the possible restoration, of the checkerboard land to the Government, the checkerboard land being the land that was granted to the Central Pacific, now Southern Pacific Railroad, at the inception of that railroad.

The question of how that land should return, if it does return, to the Federal Government; the question of its control and supervision and dominance thereafter; as to whether or not the transfer would take place; what notions are on foot; it does seem to this committee to be a vital question, especially to the tax structure of the State through which his checkerboard belt passes.

Now, if Mr. Havell, of the General Land Office, would care to discuss this matter, for the enlightenment of those who are present here, the committee would be exceedingly pleased to have him discuss it, in his own way, and just so much as he cares to be committed to. He may limit himself to what he cares to state. We will appreciate his discussion of the subject in general.

STATEMENT OF THOMAS C. HAVELL, GENERAL LAND OFFICE, WASHINGTON, D. C.

Mr. HAVELL. Mr. Chairman, when the land grants were made to the railroad companies, as inducements to the construction of the lines, there was imposed a condition that the Government would have the benefit of a reduced rate for the freight, for troops, and for mail.

In 1940 Congress felt that the railroad companies were perhaps entitled to some relief from this burden, so they passed what is known as the Transportation Act of 1940, which enabled the railroad companies to charge the full commercial rate, the same as any citizen would be required to pay; but added a section to the act which provided that the increased freight rates would not go into effect until the railroad companies had released to the Federal Government all of their claims to lands under the grant. There were three exceptions to the requirement as to this claim to lands. The first did not require the companies to release any lands that had been patented to them. Second, it did not require the release of any lands sold by the companies to bona fide purchasers; and third, it did not require the release of any lands, the

selection of which had progressed to the point where the companies were entitled to their patents.

The act, however, failed to state what would be the status of these released lands. Unlike many of the other public-land statutes, where title to lands was taken back in exchange and other methods, wherein Congress usually stated that the lands should become public lands, or become a part of whatever reservation they may be within, it merely stated that the railroad companies would release these lands to the Federal Government.

We, in the Land Office, felt that since they were originally public lands, and since the lands had not been patented to the railroad companies, although admittedly as to the lands in the primary limits, titles had vested in the railroad companies, though without the evidence of a patent, nevertheless, the lands came back to the Federal Government as public lands. There was some uncertainty, however, as to that; and in order to remove the uncertainty, the Secretary of the Interior submitted to Congress a bill designed to remove the uncertainty of these lands that had been released to the Government. It was a very simple bill, so stated that the land would become public land of the United States, and be affected by whatever reservation they may be within; that is, if part of the lands were within national forests, they would become a part of the national forest; if in an Indian reservation, they could become a part of an Indian reservation, and so on. We felt perhaps that was necessary for another reason. Congress has prohibited the adding of any lands to Indian reservations, to the national forests, with the exception of three States, and to the national parks; and so that in order that there be no question as to these lands becoming a part of the reservation of that category, we felt that the legislation would clarify that subject. The bill was drafted and submitted to the Congress, with a favorable report from the Secretary of the Interior. I think that bill is H. R. 838.

When the bill was under consideration by the Public Lands Committee of the Senate it was amended by an added provision that the lands be granted to the States, and if they fell within the boundaries of any reservation, then the State would be entitled to the selection of other lands for those that were within the reservation. I am not sure as to what prompted the Senate to add those two sections to the bill. I think that the tax problem was part of the reason because we understood that at least the lands within the present primary limits that had been released to the Federal Government had been paying taxes to the counties and to the States. I think that was so stated at our Phoenix meeting, as far as the Santa Fe is concerned.

Mr. McALLASTER. That is correct—surveyed primary lands were taxed.

Mr. HAVELL. In the surveyed primary land, the titles of which were vested in the companies, though the patents were not actually issued. I don't know at the present time whether the Secretary has reported on the amended bill, S. 978 and companion bill, H. R. 2785. However, I believe I am safe in saying that if the report has not been submitted it will be favorable as to that part of the bill that would legislate these lands to be public lands of the United States, or, shall I say, remove any doubt as to whether they are public lands of the United States.

The CHAIRMAN. I think, Mr. Havell, right there, it may as well be brought to your attention that the Senate committee had presented to

it the question of whether or not certain departments, when the land was returned to the open public domain, would immediately seize the lands as being a part of the land of the respective departments. I think we had in mind at that time the question of how much of this would be claimed by the Indian Service, as belonging to Indian reservations, under Indian jurisdiction, and how much under other departments. We sought to try to direct that the land returned would go back into the open public domain, without any claim from any department whatever.

It is not a matter of secrecy at all; we have certain departments that are forever and always reaching out to grab more of this land and put it under their respective jurisdictions, and the chief one in that respect is the Indian Bureau. There is no hiding that because it is true.

Mr. HAVELL. Senator, perhaps I should have touched upon that feature because I do know, of course, the situation in Arizona in connection with the Hualpai Reservation, where half the lands were claimed by the railroad companies; and if released, and they have been released, the question as to whether they are to be enjoyed as being part of the Indian reservation, or being a part of the open public domain. I perhaps should have touched upon that as another reason why, perhaps, the bill was amended in the Senate. The Department submitted the original bill, with favorable recommendations as to the status of the lands, and to their being affected by whatever reservation may be involved.

I am not sure that the Department has submitted a report on the amended bill, but I am quite confident that it will be adverse because I don't believe there is any reason why the land should be granted to the States as public lands. Public lands are the property of all the people, not the property of the people in the State in which they may be located.

Furthermore, Congress has made very large grants of lands to the States for educational or other purposes. I think the total grant to the States amounts to over 200,000,000 acres; and in addition to that, if these lands come back as part of the public lands, they will contribute to the State treasuries. If the lands contain leasing minerals, 37½ percent of the revenue from the Mineral Leasing Act will go to the State. If they become part of grazing districts, 50 percent of the proceeds will go to the States, and so they will not fail to contribute to the States, but that is a long way from a grant. It is also different from the reasons why the lands themselves should be granted to the States.

As to the tax problem, the Public Lands Committee of the House is now studying that problem, not only with reference to these lands, but to all lands that have been taken off the tax rolls. The tax problem is one perhaps much larger than we will have time to discuss here, but the tax element is an important factor.

The CHAIRMAN. The tax element is an exceedingly important factor, especially in our own State here, because of the belt 40 miles wide, running clear across the State, with every odd section belonging to the railroad, most of which is now taxed to the railroad, and the taxes paid by the railroad. The question, in many respects, is one of what will be the effect on the tax structure on some of our smaller counties, and, indeed, on some of our larger counties. It is a very serious problem.

I wanted to ask you, Mr. Havell, how far has the matter proceeded? Is that as far as it has proceeded? In other words, the bill is now pending, is it not, before the Congress?

Mr. HAVELL. The bill—

The CHAIRMAN. In other words, under the first bill?

Mr. HAVELL. The bill is before the Congress, unless something has happened since I checked on it last. It is before the Senate in its amended form. It is before the House Public Lands Committee. They have not had any real formal hearings on it. I was before the House Public Lands Committee twice, and they still have the bill in the committee.

The CHAIRMAN. That is the bill which the Secretary of the Interior set up to clarify the Transportation Act of 1940?

Mr. HAVELL. That is the bill and, of course, coupled with it now is the new bill.

The CHAIRMAN. Mr. Kneipp, do you have any observations on that?

Mr. KNEIPP. To a certain degree, Senator. Actually, as I understood that Transportation Act, it would not apply in the belt to which you are referring, those lands which have been patented to the railroad company. My understanding has been that the large part of the acreages was released merely from unsatisfied claims to acreage. So far as the national forests are concerned, we know of only about 360,000 acres which actually was relinquished. That was land in Montana and Washington which the Supreme Court found the Northern Pacific Railroad Co. should have been given patents to and which they had not received. That was specifically identified land. As to the remainder, we are not aware of it affecting the national forests very markedly, and for that reason, our attitude has been merely one of awaiting the action of Congress. But we believe that where interests in lands consisted only of unsatisfied claims, which never have been taxed, never have been classed as railroad lands within the national forests, but where their status, up to this time, has been that of national forest lands, that status should be continued.

The CHAIRMAN. Mr. McAllaster, representing the Southern Pacific, we would be very glad to have you give us your views on this whole matter.

STATEMENT OF T. McALLASTER, LAND COMMISSIONER, SOUTHERN PACIFIC CO., SAN FRANCISCO, CALIF.

Mr. McALLASTER. Mr. Chairman, insofar as the lands relinquished to the United States under the Transportation Act of 1940 are concerned, in the States of California and Nevada and Utah, those owned by the Southern Pacific interests, I don't think that the matters have any material interest, as to whether these lands remain under the jurisdiction of the Federal Government, or whether they are relinquished to the State. There was a very small acreage that was relinquished. At the time that act was passed there were unpatented lands, within the primary limits of the grants, to which the company may have asserted a claim, of about 136,000 acres, which is a small acreage. There was less than a thousand acres of that that was on the tax rolls. The bulk was unsurveyed, or land which the company

had voluntarily relinquished, as being mineral in character, and therefore not patented. There was a claim to land in one of the grants, on account of losses in primary limits, of something over a million and a half acres, for which there was practically no indemnity available to make selection. If we had selected all the indemnity, which we could not do at the time, because it was either unsurveyed or within forest reserves, there would still have been in excess of 1,500,000 acres for which there was no land to satisfy the losses. I don't have the amount of taxes that the company was paying, in the last years before the relinquishments were made, but I can give you those figures this afternoon. I don't think it is of material interest, insofar as California, Nevada, and Utah are concerned.

The CHAIRMAN. How much does the company now hold, or own, within the checkerboard belt; that is, the company property at the present time?

Mr. McALLASTER. In the three States?

The CHAIRMAN. In the State of Nevada?

Mr. McALLASTER. Approximately 4,000,000 acres.

The CHAIRMAN. How much does the Southern Pacific Co. pay to the State of Nevada in taxes for the land?

Mr. McALLASTER. For that 4,000,000 acres, Senator, I can't give you those figures. I'll try and have them this afternoon.

The CHAIRMAN. Could you give us a pretty good guess at it?

Mr. McALLASTER. I think it is about \$140,000 in the State of Nevada.

The CHAIRMAN. That is in toto?

Mr. McALLASTER. Yes.

The CHAIRMAN. That of course is paid into the respective counties through which the belt runs?

Mr. McALLASTER. That is correct.

The CHAIRMAN. How much of the land that was originally granted in the checkerboard belt has been released, by either contract or out and out conveyance, from the company to private individuals or concerns? About what percentage would you say?

Mr. McALLASTER. Oh, I would say between 50 and 60 percent.

The CHAIRMAN. And you now have about 4,000,000 acres?

Mr. McALLASTER. That is correct.

The CHAIRMAN. So you have disposed of, in round numbers, approximately 4,000,000 acres?

Mr. McALLASTER. In Nevada; yes.

Mr. HAVELL. Senator, I might supplement that statement. We submitted to your committee recently a tabulation of these released lands in Nevada. It was 139,929 acres. That maximum could be affected by a release. While I am on my feet, may I read from the Transportation Act the language under which the releases were made? It dovetails with what Mr. Kneipp said a few moments ago: "Release of any claim it may have against the United States to lands, interests in lands, compensation or reimbursement on account of lands or interest in lands which have been granted claim to, have been granted, or which it is claimed should have been granted to such carrier, or any such predecessor in interest—" and so on.

You can see from the language of that section of the act dealing with the release, that it was not merely lands that were the subject of release, but it covered the matter that Mr. McAllaster just spoke

about, the deficiencies that might have been the basis of the claim of the railroad company, the unsatisfied deficiencies, so that the release went beyond the question of lands——

Mr. McALLASTER. Mr. Havell, may I ask one question? You said about 130,000 acres in Nevada?

Mr. HAVELL. 139,929.

Mr. McALLASTER. I have a total in Nevada of 65,222.89. I think your figures must include the claimed land based on the right of the company to select lieu land for lands which should have been patented to the company, but which were erroneously patented by the General Land Office to individuals, after the rights of the company had attached. We had an area of 65 or 70 thousand acres in Nevada in that class, which would be in the claimed lieu land.

Mr. HAVELL. There must be filtered out, those lands sold by the company to bona fide purchasers or lands the companies are entitled to patent under section 2 of the act——

Mr. McALLASTER. Where some areas that had been sold to a bona fide purchaser.

Mr. HAVELL. We are processing those now. I should be able to find a tabulation of the lands that were released to the Government, and I would be very happy to submit it for the record if you would care to have it.

The CHAIRMAN. We would like to have it in the record.

(The tabulation is as follows:)

Railroad grant land claims released by railroad companies to the United States pursuant to the Transportation Act of 1940
[In acres]

BY OVERLYING RESERVATION

Overlying reservation	Primary limits			Indemnity limits			Mineral indemnity (surveyed)	Total
	Surveyed	Unsurveyed	Total	Surveyed	Unsurveyed	Total		
Air navigation sites.....	41.60		41.60	560.00		560.00		601.60
Classification withdrawals.....				825.01		825.01	82.33	907.34
Grazing districts.....	36,195.59	740.00	36,935.59	125,305.92		125,305.92		162,281.51
Indian reservations.....	403,555.21	392,078.92	795,634.13	809,624.27	446,179.90	1,255,804.17	22,801.93	2,074,240.23
Military reservations.....				69,701.41	5,290.00	74,981.41		74,981.41
National forests.....	418,866.60	11,800.00	430,666.60	1,422,205.03	1,713,855.99	3,136,061.02	154,069.07	3,620,796.69
National parks and monuments.....	80.00		80.00	32,079.18	342,321.43	374,400.61	641.04	375,121.65
Petroleum reserves.....								998.44
Phosphate reserves.....	3.73		3.73	560.00		560.00		563.73
Power site reserves.....	3,676.70	1,385.00	5,061.70	23,417.12	4,080.00	27,497.12	312.55	32,871.37
Public water reserves.....				1,720.64		1,720.64		1,720.64
Reclamation withdrawals.....	57,998.06	99,280.00	157,278.06	59,514.88	119,282.50	178,797.38	17,720.00	353,795.44
Reservoir sites.....	240.00		240.00	110.00		110.00		350.00
State grants.....				1,591.53		1,591.53	2,067.85	3,659.38
State reserves.....	509.01		509.01					509.01
Stock driveways.....				17,846.82	320.00	18,166.82		18,166.82
Stream control reserves.....				40.00		40.00		40.00
Timber reserves.....					2,880.00	2,880.00		2,880.00
Townsite reserves.....				225.54		225.54		225.54
Wildlife refuges.....	1,614.13		1,614.13	1,660.18	14,090.30	15,750.48		17,364.61
None.....	70,452.90	536.97	70,989.87	938,075.45	554,640.51	1,492,715.96	14,664.84	1,578,370.67
Total.....	993,233.53	505,820.89	1,499,054.42	3,506,061.42	3,202,970.53	6,709,032.05	112,359.61	8,320,446.08

Footnotes at end of table.

Railroad grant land claims released by railroad companies to the United States pursuant to the Transportation Act of 1940—Continued

[In acres]
BY STATE

Overlying reservation	Primary limits			Indemnity limits			Mineral indemnity (surveyed)	Total
	Surveyed	Unsurveyed	Total	Surveyed	Unsurveyed	Total		
Arizona.....	401,642.46	478,574.71	878,217.17	680,501.35	911,215.32	1,591,716.67	6,873.42	2,476,907.26
California.....	126,883.27	6,880.00	133,763.27	1,163,876.98	460,247.05	1,624,124.03	---	1,759,802.30
Idaho.....	64,072.43	480.07	64,552.50	186,396.77	362,160.00	548,556.77	---	1,613,079.27
Minnesota.....	46.34	26.90	73.24	2,130.41	---	2,130.41	25,206.69	27,470.34
Montana.....	29,680.13	20,274.21	49,954.34	1,114,645.91	986,800.96	2,071,446.87	---	2,121,331.21
Nevada.....	57,100.19	960.00	58,060.19	41,461.63	22,687.56	64,149.19	17,720.00	139,926.38
New Mexico.....	735.10	---	735.10	83,372.38	50,137.13	143,509.51	383.00	144,628.21
North Dakota.....	54.48	---	54.48	75.75	---	75.75	---	55.23
Oregon.....	2.30	---	2.30	321.96	---	321.96	5,389.96	5,714.30
Utah.....	43.29	---	43.29	---	---	---	---	43.29
Washington.....	312,968.45	695.00	313,663.45	212,554.25	395,574.88	608,129.13	156,685.90	978,478.38
Wisconsin.....	---	---	---	410.25	---	410.25	40.14	450.39
Wyoming.....	---	---	---	8,418.79	44,147.73	52,566.52	---	52,566.52
Total.....	993,233.53	505,820.89	1,499,054.42	3,506,061.42	3,202,970.63	6,709,032.05	112,359.61	8,320,446.08

¹ Includes 49,874.22 acres unsurveyed.

² Includes 160.00 acres unsurveyed.

³ Includes 50,034.22 acres unsurveyed.

The CHAIRMAN. Are there any taxpayers here who would care to say anything? Anything that affects the taxpayers of Nevada is a very vital question as is everything that affects your taxable property, for the taxable property is exceedingly limited. Are there any questions from anyone else? Is the matter clear to you at this time, as to what the effects will be if the grants are turned back to the Federal Government?

Mr. McAllaster, how would the complete return of these lands to the Federal Government, so much of them as would be returned—how would it affect the amount of taxes which your company has been paying to the State of Nevada?

Mr. McALLASTER. Well, Senator, we are now paying to the State of Nevada in taxes on all patented lands, and the patented lands are not affected by this legislation. I will have the figures for you this afternoon showing the taxes we were paying on those unpatented lands.

The CHAIRMAN. That is, the tax that would be affected?

Mr. McALLASTER. We haven't paid those taxes since 1940.

The CHAIRMAN. You expected them to be turned back?

Mr. McALLASTER. We relinquished them; have no further claim. We relinquished them to the United States.

Mr. HAVELL. There is no question but what the lands have already been turned back; releases have been filed by every land-grant railroad for all their interests or claims to lands, pursuant to the Transportation Act, so that the title of the land now is with the Federal Government. It is a question of whereabouts, what branch of the Federal Government has the jurisdiction.

Mr. DRESSLER. You say the patented lands, and the unpatented. What becomes of the patented lands?

Mr. McALLASTER. The patented lands are still owned by the company.

The CHAIRMAN. They are not affected by this legislation.

Mr. DRESSLER. They will hold them and pay the taxes on them?

The CHAIRMAN. Or turn them over to some other poor devil, who will have to pay the taxes.

We have arrived at a quarter after 12. The chairman of the committee has been approached by a number of people who want to see him on various matters, and we are going to devote the noon recess to seeing those who have come in here to see us on other matters. I think it would be well if we would recess now until quarter of 2.

(Recess until 1:45 p. m.)

AFTERNOON SESSION

The CHAIRMAN. The meeting will come to order.

The chairman regrets exceedingly that Governor Carville is unable to be with us and to participate in this hearing. A letter from Governor Carville explaining that he has been unable to cancel appointments previously made, will be made a part of the record.

The letter is as follows:

STATE OF NEVADA,
EXECUTIVE CHAMBER,
Carson City, November 3, 1943.

HON. PAT MCCARRAN,
United States Senator, Reno, Nev.

MY DEAR SENATOR: I have tried to arrange to be at the meeting being held by you in Reno tomorrow but I have not been able to cancel the appointments I had

made as I thought I might be able to do. I shall have a member of the Nevada Fish and Game Commission present to take part in the meeting.

Thanking you and with my kindest regards, I am,

Sincerely yours,

E. P. CARVILLE, Governor.

During the morning hours certain matters were referred to, and there were those who wished to put matters into the record. Mr. McAllaster, of the Southern Pacific land department, who has done us the courtesy to be here, had some data that he wished to put in the record that the chairman called for.

Mr. McAllaster, if you will, kindly put that in the record now.

Mr. McALLASTER. Thank you, Senator.

The taxes assessed to the land relinquished by the railroad company under the Transportation Act of 1940, the last year for which they were paid, for the year 1940, on the lands in Nevada amounted to \$1,075.62; and on the lands in California the taxes amounted to \$2,099.48. The total taxes on the patented unsold lands owned by the company in Nevada for the year 1942 amounted to \$130,299.33.

The CHAIRMAN. Just one question; I think I know the answer to it, but I want to clear it for the record. The taxes on the patented lands will remain practically as they are?

Mr. McALLASTER. That is correct, Senator.

The CHAIRMAN. The taxes on the unpatented lands, which you recede to the Government, so to speak, would not be paid by the company?

Mr. McALLASTER. The taxes on the unpatented lands have not been paid since 1940.

The CHAIRMAN. That is because of the Transportation Act of 1940?

Mr. McALLASTER. Because of the Transportation Act of 1940, and the relinquishment by the company of all the claims to the unpatented lands.

The CHAIRMAN. Are there any questions that anyone here who is interested in the tax side of this matter would care to propound to Mr. McAllaster? Mr. McAllaster is the representative for the Southern Pacific land department, and if I may say so, he is a very worthy and very able and very capable representative.

Mr. McALLASTER. Thank you, Senator.

The CHAIRMAN. Very well, thank you, Mr. McAllaster.

Now, at the conclusion of our morning session there was presented to the chairman of this committee a problem that involves a grazing district in Douglas, and perhaps a part of Mono County, Calif. It is the pine-nut region, in the vicinity of Coledale, in Douglas and Mono Counties. Mr. Dangberg and others are here, a representative of the Indian Service is here, Mr. Foster. We would like to have you three gentlemen come forward and make the statements, giving a full history of the situation, and any suggested solution of the problem. We would be glad to have it.

Will Mr. Foster, Mr. Dangberg, and Mr. Park come forward?

Our understanding of it, for the record, is that under the Indian allotment law certain allotments have been taken up by individual Indians in the pine-nut region in Douglas County, Nev., and part of it may be in Mono County, Calif.

Mr. DON C. FOSTER (superintendent, Carson Indian Agency, Stewart, Nev.). Could I correct you, Senator? It is Ormsby County and Douglas County; nothing in California.

The CHAIRMAN. Thank you for the correction. These allotments have been blocked in, as the record shows, and interspersed with these allotments are private holdings. In times past the stockmen in this region have leased these lands from the Indians. In most instances, the chairman is advised, the Indians are not using the lands at all but, nevertheless, they are in possession of the lands by reason of the allotment law. At this time, for one reason or another, the Indians either refuse to permit further grazing on these allotments or place the value of the grazing so high as to make grazing impossible. With that rather short statement of facts, as the chairman understands them, we would like very much to have Mr. Foster, of the Indian Service, make a full statement of the whole problem.

**STATEMENT OF DON C. FOSTER, SUPERINTENDENT, CARSON
INDIAN AGENCY, STEWART, NEV.**

Mr. FOSTER. Mr. Chairman, you covered the picture pretty well. It does create quite a problem, both for the livestock growers, operators, as well as for the Indian Service. It is not a one-sided picture at all. In handling these leases, the cost of the handling of the leases is more than what we can actually receive from the allotments.

The CHAIRMAN. Would it not be well to begin in this wise: How many Indian allotments are there involved in this problem? How much acreage is there involved?

Mr. FOSTER. Sixty-four thousand acres, in round numbers. These were 160-acre allotments; so you can see, that is about 400 allotments.

The CHAIRMAN. To what particular tribe, if it applies to a tribe, does this address itself?

Mr. FOSTER. Entirely to Washoes.

The CHAIRMAN. How many are there in the population of the Washoe Tribe, if you know?

Mr. FOSTER. Around 600.

The CHAIRMAN. How many allotments have they?

Mr. FOSTER. About 400.

The CHAIRMAN. Very well.

Mr. FOSTER. Now, we have a suggestion to make. Now, this is just my own personal suggestion, and I cannot commit the Department on that, neither can I commit the Indians on it, for the Indians own the allotments, but I think it could be done, that those lands either be sold, Senator, or a land exchange worked out to where that land could go back into the public-domain lands and be operated by the Taylor Grazing Service.

The CHAIRMAN. Go back a little bit to clarify it further. For a considerable number of years, as the chairman is advised, the stockmen of Douglas and Ormsby Counties have run their stock over these lands?

Mr. FOSTER. That is correct.

The CHAIRMAN. And they have paid certain rentals for the use of the lands?

Mr. FOSTER. Yes; running from 3½ cents per acre to 10 cents per acre.

The CHAIRMAN. For what length of time has that custom gone on?

Mr. FOSTER. At least 25 years.

The CHAIRMAN. So that some, what we might call established rights have been set in over those lands? It could scarcely be called "established rights," but custom?

Mr. FOSTER. Custom-usage rights.

The CHAIRMAN. That's right. Very well, go ahead.

Mr. FOSTER. Our suggestion would be, and we have discussed that with the members of the Livestock Growers Association, particularly Mr. Dangberg, Mr. Park, and Mr. Dressler, at one time, that either a land exchange be worked out to where these Indians would be given a solid block where there would be no white lands interspersed within them, or that the allotments be sold outright, and those funds be used to purchase some good agricultural lands for these Indians. I would not be in favor of the money going directly to the Indians, where it would probably be dissipated.

However, in that way you could work out a good grazing unit in there, and eliminate this continual and constant trouble of arranging leases for these boys, that leaves them up in the air every year.

The CHAIRMAN. What is the nature of the lands and the territory?

Mr. FOSTER. Just those pine-nut lands, that Pine Nut Range. It is a spring range, and I don't believe you get more than about 2 months on it every year.

Mr. D. W. PARK (Gardnerville, Nev.). That is about right, Mr. Foster.

The CHAIRMAN. Two months' grazing?

Mr. FOSTER. That is in the spring.

The CHAIRMAN. How many Indians are there actually living in or being subsisted by these lands?

Mr. FOSTER. Practically all those 600; with a net income ranging from 7 or 8 cents to not exceed \$30.

The CHAIRMAN. Seven or eight cents per year?

Mr. FOSTER. That's correct.

The CHAIRMAN. And not to exceed \$30 per year?

Mr. FOSTER. That is correct.

The CHAIRMAN. Go back to the question again, how many Indians actually live on these lands?

Mr. FOSTER. None.

The CHAIRMAN. The land, as I understand it, produces nut pines?

Mr. FOSTER. Pine nuts; yes, sir.

The CHAIRMAN. And the Indians, to some extent, harvest the pine nuts?

Mr. FOSTER. That's right, and get their wood there.

The CHAIRMAN. Their wood?

Mr. FOSTER. Yes.

The CHAIRMAN. Where do those Indians live, as a rule?

Mr. FOSTER. At Dresslerville; up around Markleeville, Calif.; and some down around Coleville. They are scattered around in various groups.

The CHAIRMAN. Is there any competition between groups of livestock raisers for the use of these lands?

Mr. FOSTER. We never had a competitive bid.

The CHAIRMAN. So there is no such thing as two groups, one bidding against the other?

Mr. FOSTER. No, sir.

The CHAIRMAN. At the present time, do you know any reason why the Indians are not leasing the grazing rights to the white livestock growers?

Mr. FOSTER. Now, the old people, Senator, the older Indians, are all perfectly willing to lease their lands. I think these boys will bear me out in that; but the younger fellows have interposed objections to it, feeling they could use it in connection with those ranches that they bought down there, which is absolutely out of the question under present conditions. They just can't do it.

The CHAIRMAN. Have the Indians, the Washoe Indians that have these allotments, any livestock of their own?

Mr. FOSTER. Yes.

The CHAIRMAN. About how many?

Mr. FOSTER. They have about 350 head of sheep now, and possibly about 40 head of Holstein cows, a few horses, and quite a number of hogs. No beef cattle.

The CHAIRMAN. Does the opposition to leasing the lands, as has been customary, does that opposition come by reason of the government of the tribal council, or anything of that kind?

Mr. FOSTER. I wouldn't say that. I think it is more an individual proposition, of certain individuals who have probably two primary motives. Some of those boys are plain, outright trouble makers, and others feel that probably they could use those allotments to a good advantage in connection and conjunction with the operation of the ranches. Well, they have 2 months' grazing there; no other grazing rights anywhere else.

The CHAIRMAN. Are there any questions? Does anyone here care to question Mr. Foster?

Mr. DRESSLER. I would like to ask a question. Isn't there another reason why the stockmen in there own practically all the springs and water rights, and the feed, and it just happens these allotments are all interwoven in there, and if you take the patented land that belongs to the stockmen out and the water rights, there wouldn't be any feed for anything there but a lizard; isn't that right?

Mr. FOSTER. There probably would be some feed there, Mr. Dressler, but there wouldn't be any water. I guess you know it as well as I do. When those lands were allotted they were allotted from a desk instead of the fields.

Mr. ASH. You are speaking of these allotments in this one particular area, are you not?

Mr. FOSTER. That's right.

Mr. ASH. It looks to me like the same thing would be applicable in all these allotments clear through.

Mr. FOSTER. Through Ormsby County, right across Douglas County, to the California line.

The CHAIRMAN. That is the problem that comes to the committee here, from the locality just south of where we are sitting, but I may say to you that this committee was confronted with this allotment problem in New Mexico, especially, and some in Arizona, and we know that it exists in the Northwest, to some extent. It is a problem that we must deal with, and deal with comprehensively. We hope, by some legislative solution, in the not far distant future, that we can solve it, because it affects the Indians and it affects the white stockraisers, as

well, and it very much affects the open public domain and its administration.

Mr. Park, we would be glad to hear from you. You are a stock-raiser in Douglas County.

Mr. PARK. I think, Mr. Chairman, Mr. Foster has pretty well covered it. These allotments are all interwoven with the Taylor grazing domain lands and privately owned lands, and I think when the bill was introduced, the Indians applied for their timber and their pine nuts. As far as the grazing area was concerned, I don't think it was considered in those days at all. Since then they took control of it, and they have been paid a certain amount, from time to time, per acre on the amount, 64,000 acres. There are portions of it that are alkali flats, adobe flats; those allotments are covered all over those flats, as well as their pine-nut trees and pine-nut lands.

The CHAIRMAN. Have you ever known of the Indians, or any of them, to live on any of these allotments?

Mr. PARK. Not unless it was temporary, going out there and cutting a little wood, probably.

The CHAIRMAN. In other words, they do not make a subsistence out of any of these allotments?

Mr. PARK. No.

The CHAIRMAN. And the picture that has been presented by the records here indicates that the land itself is not capable of making a subsistence for the Indians?

Mr. PARK. That is correct.

The CHAIRMAN. Is there anything further?

Mr. Dangberg, do you care to be heard?

Mr. DANGBERG. I think everything has been pretty well covered. I don't think there is much more to say. Of course, I feel that the white people that own those lands that are mingled in with the Indian land would be perfectly willing that the Indians could have all the pine nuts. I think it has got to be a kind of business now, as far as that is concerned. I don't know as there is much more to say. It is a very difficult thing for us to get our leases now, as long as the Indian council has so much to say. We have quite a good deal of trouble getting our leases every year. It takes a couple or 3 months to work the thing out.

The CHAIRMAN. The plan that Mr. Foster has suggested here, has anything been done to initiate that plan with the Department, or with any department?

Mr. FOSTER. No, Senator, it has not. It has been in a period of discussion with these boys of the livestock association.

The CHAIRMAN. Is there anything to prevent the initiation of the plan?

Mr. FOSTER. Not that I know of. You might ask Mr. Dierking over there.

The CHAIRMAN. Mr. Dierking, can you throw any light on this? We would be glad to have it.

STATEMENT OF C. F. DIERKING, REGIONAL GRAZIER, RENO, NEV.

Mr. DIERKING. There were two suggestions put forth by Mr. Foster. One was the outright purchase of those lands, which I presume would return them to the public domain, and they would be admin-

istered in connection with the grazing district, which would continue the livestock operations in that district, as they are now set up.

The second proposal, of an exchange, would have to be investigated and given thorough consideration for this reason: We have a certain area in which are located those lands, and in that area the range is used by the pine-nut association. Now, should the Indians desire to block their lands in another area, remote from the area in which they are now located, I can see where it would possibly result, and would probably result, in the dislocation of some of the users of the other lands.

Now, what the possibilities would be of blocking off a portion of the pine-nut area proper and exchanging that with the Indians, I am not in a position to say; but that would cause the least disturbance in any livestock operations. However, even if that were done, it would still be removed from grazing use by the association; the 64,000 acres, assuming that the Indians would make use of that, if it was blocked in a certain area, that is to say.

I have discussed this informally with Mr. Foster, and asked that the possibilities of making an exchange be looked into, but the discussion phase is as far as it has ever gone. We would be very glad to work with them in connection with any proposal that might seem feasible.

The CHAIRMAN. Does any of that land, would it fall into the Forest Service jurisdiction if it were returned to the Federal Government?

Mr. DIERKING. Mr. Foster could answer that. I believe not.

Mr. FOSTER. No.

The CHAIRMAN. Mr. Kneipp?

Mr. KNEIPP. I think not, Senator. There was some discussion a number of years ago regarding this same Indian land, by some lady Indian agent who explored the idea of turning it over to the Forest Service for management, but nothing ever came of it. We understood that the Indian's primary interest in the lands is as a source of timber and piñon nuts. I heard some story about one of the leaders deliberately picking out land producing piñon nuts because with such land he would never go hungry, while on any other kind of land he would not be able to make a living. But the administration by the Forest Service was tentatively discussed only by the local agent.

The CHAIRMAN. Mr. Foster, it has been brought to the attention of the chairman of this committee, through the press, and otherwise, that the head of the Indian Service was in this locality in the not far distant past. Was the matter discussed with him at all while he was here?

Mr. FOSTER. Yes; it was. And I took him down and showed him the territory.

The CHAIRMAN. Did you make your suggestions to him at that time?

Mr. FOSTER. I did.

The CHAIRMAN. I won't ask you what his reaction was.

May I respectfully suggest, and this would be the committee's suggestion, that the Grazing Service, and the Indian Service, and the stock growers of that region cooperate as much as possible on this and see if a solution cannot be worked out. This committee will attempt to be of such service to you as is within our power.

Mr. HAVELL. Mr. Chairman, may I suggest, if exchanges are to be considered, in view of the fact that the exchange would have to be processed by the General Land Office, that a representative of the General Land Office be made a party to the problems, so that when it is all worked up, then it won't come to a stone wall and find some obstacle in the way of putting it through?

The CHAIRMAN. Thank you for that suggestion. It is, indeed, a proper suggestion, and we are very grateful for it. If while you are here, Mr. Havell, you would take it up with Mr. Dierking and others here, we would appreciate it.

Mr. HAVELL. Mr. Waddell will be available to Mr. Dierking at any time.

The CHAIRMAN. Thank you very much.

Are there any questions on the subject?

Are there any matters here now pertaining to the problem, grazing problem, either on the grazing land or on the Forest Service that anyone wishes to bring forward? We would be very glad to have your suggestions before we go into further matters.

Now, again I draw your attention to the fact that not all who are here have registered, and there will again be passed among you the cards for your registration, giving your name and post office address and your official position. The reason for that is that, unless you sign these cards, we will not be able to mail you printed copies of the hearings of this session, and it is natural that you would want those copies.

(Those who registered are as follows:)

PRESENT AT HEARING HELD AT RENO, NEV.

H. V. Agee, District Grazler, Grazing Service, Minden, Nev.
 Fred A. Ash, director, California Cattlemen's Association, Fort Bidwell, Calif.
 Henry W. Atcheson, Forest Service ranger, Wellington, Nev.
 Dr. Gordon C. Baldwin, 636 California Avenue, Boulder City, Nev.
 Charles E. Banfe, Colonial Apartments, Reno, Nev.
 W. O. Bay, director, Western States Federated Sportsmen (vice president, Washoe Fish and Game Association), Post Office Box 5, Reno, Nev.
 A. E. Bernard, deputy inspector of mines, Post Office Box 1078, East Ely, Nev.
 W. L. Blackwell, Coleville, Calif.
 Oliver J. Carter, State senator, fifth district, Redding, Calif. (representing Joint Interim Committee of Senate and Assembly of California Investigating Fish and Game Problems in California).
 Victor F. Christensen, chairman, California Grazing Board No. 2, Likely, Calif.
 G. M. Clark, Alturas, Calif.
 Lyle Cook, Cedarville, Calif.
 R. P. Conway, Mono Lake, Calif.
 Ressie W. Croxdale, Box 1323, Reno, Nev. (president, Coppereld Iron Mines, Inc., and Croxdale Coal Co.).
 F. P. Cronemiller, United States Forest Service, San Francisco, Calif.
 R. E. Curtis, refuge supervisor, California Division Fish and Game Commission, Berkeley, Calif.
 J. B. Dangberg, Minden, Nev.
 O. C. Dickinson, Box 2523, Reno, Nev.
 C. F. Dierking, Grazing Service, Box 751, Reno, Nev.
 Gilbert B. Doll, United States Forest Service, district forest ranger, Carson City, Nev.
 Paul E. Dorman, vice president, First National Bank of Nevada, 640 West First, Reno, Nev.
 Robert A. Drake, 450 Marsh Avenue, Reno, Nev.
 W. F. Dressler, Gardnerville, Nev.
 L. J. Fee, Fort Bidwell, Calif.
 Peter L. Ferguson, 73 Sierra Street, Reno, Nev. (president, Washoe Fish and Game Commission).

- Dr. W. F. Fisher**, Post Office Box 2522, Reno, Nev.
Harry S. Foote, Box 2401, Reno, Nev.
Don. C. Foster, Superintendent Carson Indian Agency, Stewart, Nev.
Ivy Freeman, Nevada State Journal, Reno, Nev.
Derrel S. Fulwider, district grazier, Pyramid district, region 3, Winnemucca, Nev.
Robert W. Gardner, United States Forest Service, Minden, Nev.
Leland O. Graham, assistant solicitor, Interior Department, Washington, D. C.
P. S. Hall, Doyle, Calif.
G. H. Hansen, United States Fish and Wildlife Service, Reno, Nev.
Thomas C. Havell, General Land Office, Department of the Interior, Washington, D. C.
Arthur L. Hensley, refuge supervisor, California State Division of Fish and Game, Ferry Building, San Francisco, Calif.
E. H. Herman, assistant secretary, Nevada Fish and Game Commission, Post Office Box 678, Reno, Nev.
Charles L. Hill, secretary, Associated General Contractors, Post Office Box 406, Reno, Nev.
Charles T. Hohenthal, field examiner, General Land Office, 355 Federal Building, Salt Lake City, Utah.
Bert Ithurburn, 1111 Arnold Street, Susanville, Calif.
William A. Justo, Morgan Hotel, Reno, Nev.
Stewart Kern, regional range examiner, Grazing Service, Reno, Nev.
Jesse L. Kirk, district grazier, Honey Lake district, California No. 2, Susanville, Calif.
L. F. Kneipp, Assistant Chief, Forest Service, Department of Agriculture, Washington, D. C.
Martin Lartirigoyen, Cedarville, Calif.
A. B. LeBlanc, Post Office Box 431, 69 Washington Street, Reno, Nev.
Paul A. Leonard, Reno Evening Gazette, Reno, Nev.
E. F. Lunsford, attorney at law, Reno, Nev.
Eugene C. Martin, Box 1712, Westwood, Calif.
T. McAllaster, Land Commissioner, 65 Market Street, San Francisco 5, Calif.
Jack J. McNutt, Acting Forest Supervisor, Toiyabe National Forest, Reno, Nev.
Harriet M. Metcalfe, Box 1949, Reno, Nev.
George P. Miller, executive secretary, California Division of Fish and Game, Ferry Building, San Francisco 11, Calif.
C. B. Morse, assistant regional forester, United States Forest Service, California-Nevada region, San Francisco, Calif.
Matt Murphy, State mine inspector, Carson City, Nev.
D. W. Park, Gardnerville, Nev.
E. J. Phillips, chairman, Nevada Fish and Game Commission, Post Office Box 678, Reno, Nev.
Charles H. Pefley, Commander of Thomas H. Barry Camp No. 7, Spanish War Veterans, Reno, Nev.
Roy Pizorno, 358 North Virginia Street, Reno, Nev.
F. G. Renner, Soil Conservation Service, Department of Agriculture, Washington, D. C.
James Riordan, 279 East Taylor Street, Reno, Nev.
Robert H. Rose, superintendent, Boulder Dam National Recreational Area, Boulder City, Nev.
C. C. Rowland, Doyle, Calif.
E. A. Settelmeyer, 204 South Center Street, Reno, Nev.
Gene Shoupe, 582 Walker Avenue, Reno, Nev. (director, Washoe Fish and Game Commission).
Roger Teglia, Post Office Box 33, Reno, Nev.
Gordon H. True, Jr., secretary, Western Association of State Game and Fish Commissioners, Ferry Building, San Francisco, Calif.
George M. Tierney, Cedarville, Calif.
Joe Ugalde, Gerlach, Nev.
N. F. Waddell, regional field examiner, General Land Office, Salt Lake City, Utah.
E. H. Walker, manager, Reno Chamber of Commerce, Reno, Nev.
G. E. Wardwell, Fish and Wildlife Service, Las Vegas, Nev.
S. S. Wheeler, 777 Forest Street (Reno Evening Gazette), Reno, Nev. (secretary-treasurer, Washoe Fish and Game Association).
W. B. Williams, member California Fish and Game Commission, Alturas, Calif.

The CHAIRMAN. We stated publicly and privately that we would, following 1:30 today, assign the time to the consideration of statements that might be made by those who are interested in Senate bill 1152, known as the wildlife bill. It has been widely dealt with, and we think it would be well for us to consider it now.

We would like to have come before the committee Mr. Gene Phillips, who has always been very active in wildlife matters, pertaining to our open public domain. Mr. Phillips is with us, and we would be very glad to hear from him.

Will you come forward, please, Mr. Phillips?

I have stated in your absence, Mr. Phillips, and I state this now for the benefit of all who may be here, that we ask you to be at ease in the making of your statements. We ask you to be frank in the making of your statements, and to be entirely impartial, to give this committee the best light that you have in your judgment, bearing on a very vital subject, which is the subject of the open public domain of the United States. You may proceed, Mr. Phillips.

STATEMENT OF E. J. PHILLIPS, CHAIRMAN, NEVADA FISH AND GAME COMMISSION, RENO, NEV.

Mr. PHILLIPS. Mr. Chairman, I am here to represent the Nevada Fish and Game Commission.

The CHAIRMAN. You are a member of that commission?

Mr. PHILLIPS. I am a member of that commission, and I am very sorry that it was not possible for all of our commissioners to be here; and I might state before I go on, that I have hoped that Mr. George Vargas, who has made a very thorough study of this Senate bill 1152, will be here sometime this afternoon, and we will then go into final detail respecting the bill. This is not an excuse on his part, it just happens that he had a jury case in Carson City today. He hopes to get through with it early enough to be with us here a little later.

You probably noticed the absence of Governor Carville, who telephoned to me yesterday afternoon that due to very important appointments, he would not be through until late this afternoon, so would not be able to attend this meeting.

There are a number of people here, representatives from the State of Nevada, representatives from the State of California, who have some very interesting discussions with respect to the bill mentioned. Among them will be Senator Carter of California, representing the subcommittee of the California Legislature; and, I believe, George Miller, who is executive secretary of the California Fish and Game Commission, and who has been delegated as a representative at this meeting of the Western Association of Game and Fish Commissioners.

There is also Mr. Gordon True, who is the economic biologist of the California Fish and Game Commission, and a number of representatives of the various sportsmen's organizations, and other organizations, of the State of Nevada.

Being identified with the Nevada Fish and Game Commission, my purpose in being here is to obtain a better understanding of Senate bill 1152, with which everyone here is, of course, more or less familiar; and I am also one of the audience who will be interested in listening to objections to the bill by those who are interested in its defeat, or possibly in asking the Senator not to go any further with it.

The body I represent is on record, and we are definitely opposed to Senate bill 1152, or an amended form that will take from the State of Nevada any of its present powers or rights in the administration of wildlife on public lands.

With further reference to conservation of wildlife on public lands in the State of Nevada, administered by the Nevada Fish and Game Commission, the commission has always attempted to give very careful consideration to its duty in that respect. The commission takes the stand that it has been successful, by reason of the fact that there has not been any criticism brought to its attention, or any substantial objection to its procedure respecting wildlife conservation.

While bill 1152 is of great concern to the Nevada Fish and Game Commission, there is also involved, and of much importance, the matter of States' rights that should be considered. By this bill, as our commission understands it, our State rights would be terminated. Do we then know what might follow in future attempts to take from Nevada, by reason of Federal control, other rights that our State now enjoys?

Our commission, however, does recognize the fact of the splendid cooperation that it has received, and is receiving, from the present Federal agencies located in Nevada, that have assisted us; and anything I may have said is not intended as a reflection upon that body.

Now, you can very well see that I have not gone into very much detail. I have given the facts, as our commission has requested me to give them to you, and I know there is very much more speaking to be done, or talking, by those who have more complete data than I have at the present time.

Senator McCarran did ask that we state our position, insofar as the commission was concerned. I have tried, to the best of my ability, to do so.

Thank you very much.

The CHAIRMAN. Are there any questions?

Mr. Kneipp, do you care to interrogate; or Mr. Dierking?

Mr. KNEIPP. No, sir; I do not.

Mr. DIERKING. I believe not, Senator.

The CHAIRMAN. Very well, thank you, Mr. Phillips.

STATEMENT OF GENE SHOUPÉ, DIRECTOR, WASHOE FISH AND GAME ASSOCIATION

Mr. SHOUPÉ. Senator McCarran, and gentlemen: I am representing the Washoe Fish and Game Association, and as director of that organization; while the bill is very obnoxious to me, as a member of that organization, I will carry on further where Gene Phillips left off, in that the bill strikes very vitally to us, as citizens of Nevada.

As Mr. Phillips has just stated, there has been no complaint from the various Government agencies of Nevada to the Fish and Game Commissions, as to the management of game upon the ranges and public lands. Nevada has machinery, which was enacted at the last legislature, which provides that at any time when there might be an overabundance of wildlife upon the public domain, it shall be taken care of, and that was no doubt brought out, that has been followed out during the present hunting season. We have in Nevada here opened our antelope season upon information gathered from the

various Government agencies, and those men who are closely contacted on the antelope question.

Also, it has applied to the deer situation in several of our counties where the doe problem is becoming acute. A certain number of these deer were killed, doe tags were issued, and the herds reduced; and the same thing applied to the antelope.

We have here in this audience men who range cattle in northern Washoe County, who are very familiar with our entire situation; but going back to the bill, there is something there so vital, that means so much to the citizens of Nevada, it is pugnacious to us all, the fact that a Government agency can, without any question to the people of a sovereign State, come in and reduce their herds and get by with it. That is beyond the thinking of any citizen of Nevada. The substitute for that bill practically is the same bill, or a little bit different wording, in my opinion. So, as a citizen of Nevada, and as a member of the Washoe Fish and Game Commission, I have nothing whatever to say in favor of this bill.

The CHAIRMAN. Are there any questions?

Thank you very much, Mr. Shoupe. Is Mr. Bill Bay here?

STATEMENT OF W. O. BAY, RENO, NEV., DIRECTOR, WESTERN STATES FEDERATED SPORTSMEN

Mr. BAY. Senator McCarran and members of the hearing, I travel around the State of Nevada and northern California, down as far as Inyo County, and up into part of Oregon; and one of the questions that is asked me almost all the time in these travels is—well, I fail to find anyone who believes that S. 1152 is anything but an encroachment on State's rights. Any time we stand by and allow our fish and game rights to be taken away from us, there is nothing to assure us that it will not be the beginning of the end of all State rights.

The question that is constantly asked me by persons interested in this bill is: Who drafted the bill; who sponsored the bill; and why did Senator McCarran introduced the bill? Frankly, I don't know the answer to this, although I have tried very hard to find out. Therefore, Senator, we would ask you to answer these questions, if you will, and ask you to enlighten us in these matters.

You are no doubt acquainted with section 66 of the Nevada Fish and Game laws, which gives ample means of taking care of these overpopulated areas, which leads the Nevada sportsmen to more than believe that S. 1152 is a direct encroachment on State's rights.

The title of this bill, "To Provide for the Conservation of Wildlife on Public Lands and Reservations of the United States," seems inaccurate, as it reads in part:

Wherever the head of a department or agency of the Government having supervision and control over any public lands or reservations of the United States shall determine that a reduction in the wildlife population of such lands or reservations is necessary to prevent injury to the soil, plant life, or to any wild or domestic animals dependent upon such lands or reservations for sustenance, he is authorized to request the appropriate officers of the State in which such lands are situated to take such action as he deems necessary and proper to bring about such reduction.

Now, should he be wrong in his demands, this bill will give him the absolute authority for his act, even though wrong.

It appears that this bill is mainly to give the Government the right to transport and sell intrastate, or interstate, these game animals, which could result in the animals taken in Nevada, Montana, and the Far Western States, ending up in the markets of New York and Boston, and so forth. Federal control of these big game animals would no doubt end up similar to the once wonderful Pyramid Lake spotted trout. Here is a good example of control by a Government agency. This agency stood by and allowed the lake to become void of fine fish; none of them have been seen for years; and it is now the opinion of everyone that they have become extinct. The sportsmen feel quite certain that would not have been the case, had the lake been under the State control.

The Sheldon Game Refuge is an example of the Federal agency. They wanted the antelope taken off the lands in northern Nevada. However, I am informed, they did not want to open the refuge to hunting to the extent of taking off the desired number to reduce the herd.

Mr. FOSTER. I happen to represent the agency which you said stood by and let these trout disappear. For your information, sir, we called in specialists from the State of California and from the Federal Government and took up this matter before it reached the crucial stage. We tried to protect those trout, perhaps more than others interested, as you are probably, as we were more interested because the means of subsistence of the Indians on the reservation depended on those trout.

If you have at your fingertips a remedy for that situation, we would appreciate having it.

Mr. BAY. The only thing I recall is that you will find in the records of 40 or 45 years ago that the sportsmen cried, took up with the agencies here the matter of stopping this spearing of trout, and to do something about putting a bypass, so that water could come out of the lake. If you are going to wait until the fish are gone, it would be impossible to take care of it. If that had been done years ago, and something had been done about the Pyramid Lake situation, it would have been one of the greatest western lakes today.

The CHAIRMAN. I may say to you that you have not brought in a point of history into the Pyramid Lake matter that is vital to that. In 1920 there was passed by the Congress of the United States at the behest of the arid and semiarid West what is known as the Newlands Reclamation Act. That reclamation act provided that the waters of the streams of the West might be impounded and diverted for the reclamation of the semiarid regions.

In 1930 the legislature of this State, by specific act and resolution, requested that the Newlands reclamation project in Churchill County be set up. Pursuant to that, the first reclamation project under the Newlands Reclamation Act was set up, which project contemplated the use of the waters of the Truckee and the Carson Rivers, to be impounded and diverted for the reclamation of the arid country. That took all of the surplus waters off, over and above the waters then appropriated in the Truckee River and the Carson River; and impounded them by direct act, and by court decree.

Later, they went into what is known as the Lahontan Lake which, of course, took the water out of its natural channels and reduced the level of the lake, Pyramid Lake, until at the present time it has become

so impregnated with soda that fish life cannot exist there, or will not exist there very long.

Now just remember when you are speaking of States' rights, that the States, especially the States of the West, have called upon the Federal Government time and time again for the use of the Government money to reclaim, or to build, or to improve, and when we reclaim the desert we have to use the water. There was little or no consideration given by the respective States to the matter of wildlife, because tame life and human life was the uppermost thing, and human life will be the uppermost thing in the years to come, because as we reclaim the desert land, we must use the waters, and in using the waters we will divert them from their natural course, and in diverting them from their natural course, we will reduce bodies of water such as Pyramid Lake. So you omit a chapter in legislative history and in western history that is quite vital in the consideration of the fish life of Pyramid Lake.

That is not an argument, nor do I offer it as an argument to the conditions prevailing in Pyramid Lake. I think that there are, and there have been, times when the floodwaters of the Truckee River could have been turned into Pyramid Lake to better maintain the level of that lake; but it has not been done. The natural thing under the Newlands Reclamation Act was to divert the water from a place where it would be absorbed by the sun, or by other agencies, to a place where it would sustain human life, and that has led to the very question of which you complain.

Thank you very much.

Mr. BAY. It might be appropriate at this time, if we continue, to have an answer to those three questions that I propounded. If you could give them to us, I think it would clarify in many of our minds exactly why this came about. I understand that the subcommittee had been considering this problem which led to 1152 for about 2 years.

The CHAIRMAN. Nearly 3 years.

Mr. BAY. I would like to know, and I think there are many of us here who would like to know, what brought that about, what caused it to finally find the form it was presented in. You must have had very good reason for introducing it.

The CHAIRMAN. I don't think you will have any trouble finding that out before the hearing ends.

The CHAIRMAN. Mr. Carter, will you come forward, please?

We are glad to see you here, Senator.

Mr. CARTER. I am happy to be here, Senator.

The CHAIRMAN. You may make any statement you desire to make with reference to this bill or any other bill.

STATEMENT OF OLIVER J. CARTER, REDDING, CALIF., STATE SENATOR, FIFTH DISTRICT OF CALIFORNIA

Mr. CARTER. I am here representing the joint interim committee of the Senate and Assembly of California, investigating the fish and game problems of the State of California during the interim of the sessions of the State legislature.

As a member of that committee I have been instructed by the committee to appear in opposition to Senate bill 1152. We base our opposition upon fundamental grounds that this bill, if it is enacted

and becomes a part of the Federal law, will be an invasion of the sovereign rights of the State of California; to administer and control the natural wildlife in the State of California also.

Now, the State of California controls its wildlife through an administrative agency known as the Fish and Game Commission of the State of California, subject, however, to the acts of the State legislature, vesting authority in that agency. We feel that specifically this legislation would lead to chaos in the administration of fish and game problems in the State of California.

As I understand the purpose of this bill, and also the purpose of the suggested alternative, is that wherever a certain governmental agency, Federal agency, determines that there is an overpopulation of wildlife in any particular area or section of the public lands within the various States of the United States, that that agency can then either direct the State or request the State to take care of that problem, or that agency itself can then administer taking care of that problem.

Well, in the State of California, approximately 40 percent of the second largest State of the Union is in public ownership; that is, is owned by the United States Government. That will create a tremendous problem in that State.

We have here the representatives of several different agencies—the Forest Service, a unit of the Department of Agriculture, the Public Lands Division of the Department of the Interior, the Indian Service, which is another division of the Department of Interior. If the heads of each and every one of these agencies could himself, through the agency, determine that a condition existed, and then force upon any of the States involved in the enforcement of this particular bill, his decision, you can see not only would there be confusion with the State authorities but there will be confusion between the Federal agencies themselves.

Facing that problem, I know that the Fish and Game Commission of California will be beset on both sides by the people of the State and by the Federal agencies involved.

Now, I come from a section of the State where a great portion of the land is owned, is in the public domain. My home county, Shasta County, has approximately 40 percent in public ownership. A portion of this is controlled by the Bureau of Reclamation of the Department of Interior, a portion by the United States Forest Service of the Department of Agriculture, and—no, there is none in the Indian Service, that is in the other county I represent, Trinity County. That county is 74 percent controlled by the United States Government; and not only do we have the Bureau of Reclamation, we also have the Forest Service and the Indian Service in control there. I can readily see the residents of Trinity County, if there happens to be an overpopulation of game, facing three different types of rules and regulations in taking its game; four, if the State of California is taken into consideration.

Now, gentlemen, it is my idea that the only way you can ever have proper administration of the wildlife in the State of California is to have it administered by one agency. That agency is already in the field; that is, the State of California recognizes that, because I come from a country where there are a great many stock raisers and a great many livestock owners. There are encroachments by the game, I

believe, true; but there are various and many reasons for that problem, depending upon the area of the country, the area of particularly my counties, that that problem arises.

Now, I know that in the eastern part of Shasta County, the range land that has formerly been accessible to the stock owners, that is, on the public domain, 30 percent of it has grown up with brush, so that it is not now available for stock-grazing purposes. A jack rabbit couldn't go through it and come out without scratches on him. That problem has been brought about by various reasons; as a consequence of the cutting off of the range land, not only for the livestock, but for the wildlife, you have driven your wildlife down to places where they now range that they would not ordinarily have ranged. That is one problem that we face.

You have the problem of the wildlife increasing, because of protection, and they should be harvested. Under our law, that is the law of the State of California, enacted by the 1941 session of the California State Legislature, the State fish and game commission now has the authority to provide for a means and method of harvesting an oversupply of wildlife; and, if the wildlife is doing damage, then it is, in my opinion, the duty of the citizens who are being damaged to come before the fish and game commission to have their problem remedied, if possible. We have also long had in our law a provision whereby permits could be issued for the landowner himself to correct any nuisance caused by wildlife. We believe there are sufficient provisions in our State law to cope with that problem; and we believe an imposition of rules and regulations from a number of Federal agencies will not tend to solve the problem, but will cause untold chaos and will lead to a destruction of the wildlife, and will cause difficulty among large stock owners themselves.

The CHAIRMAN. Very well, are there any questions?

Mr. KNEIPP. I would like to ask the Senator a question. These conditions you have described, you concede to exist only where there was an overpopulation of game. If that basic condition did not exist, then S. 1152 would not be applicable there, and there would be no confusion.

Then, why could not the State practically exempt itself from S. 1152 by merely taking appropriate steps; by keeping the game in balance?

Mr. CARTER. If the Federal Government will permit the State of California to do it, I assure you that it will be done.

Mr. KNEIPP. You say the State has complete authority now to do it.

Mr. CARTER. Since 1941.

Mr. KNEIPP. That is, on the national forest there is no restraint on the State; the State laws are wholly operative?

Mr. CARTER. Correct; and we want to keep it that way.

Mr. KNEIPP. All you have to do is bring the numbers of deer or antelope into balance, and the rest all fades out of the picture.

Mr. CARTER. I assure you plans are in process to do it in areas where we have overpopulation.

Mr. KNEIPP. You were discussing an area this morning, and conceded there were 6,000 antelope. I presume the rate of increase in antelope is about the same as deer, roughly, 30 percent a year, so, minus

what would be lost by disease and predators, you would assume from the herd of 6,000 antelope that you could take 2,000. Yet, the State is taking only 400. Now, that means, then, minus the natural loss, you have 1,600 added to the 6,000, so that in a few years you will have a definite problem.

Mr. CARTER. Yes; but if that problem becomes more pressing, then the State has authority, under the 1941 act of the legislature, which would take care of that problem.

Now, I have heard the various stockmen here from that country. There are very few antelope in my district. There are a few; but very few. They create no problem; but, as I understand it, the antelope is not the particular problem, although it may be in the future; and I think that is a problem for the State of California to handle, not a problem for some Government agency to direct from Washington, D. C.

The CHAIRMAN. If the State of California handled the problem, then S. 1152 would not come into effect in the State of California.

Mr. CARTER. In the opinion of the officials of the State of California—that, in my opinion, is where the determination of the question should be made, not by the director of the Department of Agriculture, or the Secretary of the Interior, or any agency acting under him. That is what Senate bill 1152 will do.

The CHAIRMAN. Who owns the public domain, Mr. Carter?

Mr. CARTER. Who owns it? Well, it is technically in the title of the United States Government.

The CHAIRMAN. It isn't technical at all. How did the open public domain come into existence in the State of California?

Mr. CARTER. It was opened at the time the State became a State.

The CHAIRMAN. How did it get to be in existence at the time the State became a State? How did it get to be in existence at the time California came into the Union?

Mr. CARTER. You are as familiar with that problem as I am. We were not a populated State at that time.

The CHAIRMAN. How did the public lands of Nevada, California, Utah, Idaho, Montana, Wyoming, parts of Colorado; how did they come to be lands of the United States Government at all? Now, you have made a study of this subject. Let's have some light on the subject.

Mr. CARTER. How did they become lands of the United States Government? It is because, at the time the States came into the Union, they were public domain at that time and have remained such ever since.

The CHAIRMAN. How did they become public domain, the property of the United States Government? You live in California; you were born and raised in California; you are a State senator in the State of California. How did the United States Government come into possession of those lands?

Mr. CARTER. Came into possession by the act creating the State.

The CHAIRMAN. Not at all. It came into possession of those lands by the Treaty of Guadalupe-Hidalgo, which settled the Mexican War. That is what distinguishes our States, your State and my State, from the Thirteen Original States that came in under the Constitution. They came in with all of their lands belonging to the

respective States. The State of Nevada and the State of California were carved out of lands that the Federal Government acquired by war; acquired by treaty; and they became the sole possession of the United States Government; and your State and my State were carved out of these federally owned lands.

From 83 to 86 percent of the land of the State of Nevada belongs now to the Federal Government. It never passed into the hands of the State of Nevada, nor to the ownership of the State. You say a certain percentage of the lands of the State of California belongs to the Federal Government, because they were the lands of the Federal Government when the State of California was set up. Now, you have got to distinguish between the lands sovereignly owned by sovereign States, and the lands owned by the Federal Government when the States were set up. I draw your attention to that, because it is a part of the answer to the very problems that you raised, Senator.

Mr. CARTER. Senator, that is true. It is the legal answer to the problem, and we do not question the authority.

The CHAIRMAN. It is the legal and the factual answer to it.

Mr. CARTER. Not the factual answer to the people of the State of California. They have a position to maintain, and it is not a factual answer to us. It is a legal answer.

The CHAIRMAN. You acknowledge it every day of your life; so do the people of the State of Nevada. The people of the State of California have asked the Federal Government to assist in the building of public roads. Now, by the ratio that the Federal Government owns public lands, the Federal Government contributes to the building of public roads. The State of Nevada has asked the Federal Government to build reclamation projects on the open public domain. Why? Because the Federal Government owned the open public domain. When we sit in the Appropriations Committee, making appropriations for the Interior Department, as I sit once or twice a year, if we were to fail to make an appropriation for the extermination of wildlife on the open public domain, the predators, both the Representatives of the State of California and the Representatives and the Senators from the State of Nevada would be crucified. If we did not make an appropriation for the eradication and elimination of wildlife, mind you! Be fair about this thing; and look at it candidly and frankly and fairly. After we have looked at it, let us, in place of saying, "Kick something out; destroy, do away with it," let's get our heads together.

You are a State senator. I am glad you are here, representing a sister State. You are making a study; you came here, by authority of your State legislature, to speak for this committee, and we are delighted to have you here. It is just your type of men that we want to come before us, to give us guidance, to the end that we may formulate legislation that will do the very thing that your State wants to do.

The State of Nevada has taken a very forward step; and it took that forward step long after the hearings, before this committee, were started, and became public. I want to read it to you now:

[Assembly Bill No. 59]

AN ACT To amend an act entitled "An act relating to and providing for the protection, propagation, restoration, domestication, introduction, purchase, and disposition of wild animals, wild birds, and fish; creating certain offices, providing the method of selecting the officers therefor, defining the powers and duties of certain officers, and other persons; defining certain terms; providing for the licensing of and regulating of hunting, trapping, game farming, and game fishing, authorizing the establishment, control, and regulation of private fish hatcheries, state recreation grounds, sanctuaries, and refuges, and the closing, opening, and shortening of hunting and fishing seasons; regulating the transportation and possession of wild animals, wild birds, and game fish; providing for the condemnation of property for certain purposes; providing for instruction in the game laws of this state in the public schools of this state; establishing certain funds and regulating expenditures therefrom, providing penalties for violation thereof, and repealing certain acts and parts of acts in conflict therewith, approved March 29, 1929, together with the acts amendatory thereof or supplemental thereto," approved March 28, 1941

The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 66 of the above-entitled act, being section 3100 N. C. L. 1929, is hereby amended to read as follows:

Section 66. It shall be unlawful to hunt deer at any time during the year other than during such forty-five (45) day period, to be known as the open season, between October 1 and December 1, of each year, as may hereafter be designated for the respective counties by the board of fish and game commissioners, under the provisions of this act: *provided*, that during such open season of each year it shall be unlawful to kill, catch, trap, wound, or pursue with the intent to catch, trap, injure, or destroy more than one deer, except under rules and regulations prescribed by the fish and game commissioners as hereinafter provided: *provided further*, that the open season for deer in district No. 1 shall extend between October 1 and December 31 of each year; *provided*, that the county commissioners of any county in the state, upon the application of any person, persons, organization, or governmental department may appoint a committee of one each, sportsmen, livestock, U. S. forest service, fish and wildlife service and grazing service to consider the advisability of reducing the number of deer, antelope, elk, and bighorn sheep in any district or specified portion of such county; and whenever in the judgment of said committee, big game have increased in numbers in any locality to such an extent that a surplus exists, or to such an extent that such animals are damaging public or private property, or are overgrazing their range, said committee shall make appropriate recommendations to the state fish and game commission as to the area or areas being damaged, the extent of damage, and the number and kind of deer, antelope, elk, or bighorn sheep to be removed; upon the recommendation of the committee, the commission may determine the area or areas within such county from which said deer, antelope, elk, or bighorn sheep shall be removed, the number of hunting licenses to be issued, the number of sex of deer, antelope, elk, or bighorn sheep that may be killed by each license holder, the special license fee to be paid to the county clerk, the hunting season, which may be separate from or concurrent with the regular open season, and prescribe such other rules and regulations necessary to properly conduct the hunt.

SEC. 2. All acts and parts of acts insofar as they conflict with the provisions of this act are hereby repealed.

SEC. 3. This act shall become effective from and after its passage and approval.

I draw your attention to the fact that, in the judgment of this committee, this is a far-sighted and appropriate step in legislation, and that step itself was started, was initiated into law, after this committee had held its hearings in various sections of this country; and that section itself, if carried out, if the spirit of it is carried out, you could enact S. 1152, 10,000 times over and it would not affect the State of Nevada, nor would it affect the State of California if a similar statute was enacted.

Mr. CARTER. I don't know whether you are familiar with section 39.1 of the California Fish and Game Code, which invests in the fish and game commission of the State of California practically the same authority.

The CHAIRMAN. There is no doubt about it. That brings you back to the question propounded to you by Mr. Kneipp. It is a perfectly appropriate question, and solvent of the whole situation, that if there be no overpopulated districts in any State, then any Federal legislation such as S. 1152 would not impinge. You would not be troubled with it at all. Your State fish and game commission would regulate the whole question, and the Federal agency would be out.

Mr. CARTER. That is true, just depending upon who makes the determination. I will read you the language of section 39.1 of the Fish and Game Code of the State of California.

39.1. Whenever after due investigation the commission shall find that big game animals and upland game birds have increased in numbers in any fish and game district or refuge to such an extent that such animals or birds are damaging public or private property, or are overgrazing their range, the said commission, with the approval of the director of the Department of Natural Resources and with the consent of the Governor, is hereby authorized and directed to provide for a special hunting season for such animals and birds, additional to, or concurrent with any open season specified by law; or to provide for increased bag limits; or to remove sex restrictions specified by law. The Fish and Game Commission may fix a license fee for special hunting, designate the number of special licenses to be issued, the area in which such hunting will be permitted, the number and sex of animals or birds that may be killed by each holder of special license, and the conditions and regulations to govern such hunting. The money received from the sale of such licenses shall be paid into the State Fish and Game Preservation Fund.

That is a statute of the State of California.

The CHAIRMAN. It looks like the State of California was almost keeping abreast with the State of Nevada. We are very glad to know that.

Mr. CARTER. I want to say one thing further. There is an additional problem that is arising in California. The public land holdings are not decreasing in the State of California, they are increasing. In other words, the situation that was present some time after this treaty was signed, and after the State came into the Union, of decreasing public lands had stopped, and acquisition of public lands is on the increase, so that the problem is going to become more acute, unless that tendency goes the other way. I say, and I am representing the State of California, that the joint interim committee of the State legislature—we all feel that the problem of the determination of whether or not any of these problems that exist, that have been mentioned, is a question that should be determined by the State of California. We agree that the State should, and I am sure that it is ready to, act in cooperation with any of the Federal agencies in the field.

The CHAIRMAN. Let me ask you a question. I don't mean to be captious, you understand?

Mr. CARTER. No.

The CHAIRMAN. Supposing you own in fee simple, 10,000 acres of land out here on the open public domain, and that you are grazing domestic livestock on that land, and someone else permitted his stock to graze over to the destruction of your land. Who should determine whether the number of stock running over your land was excessive or not, you or the fellow who owns the transgressing livestock?

Mr. CARTER. I'd say neither one of us.

The CHAIRMAN. Neither one? You would be the loser, wouldn't you?

MR. CARTER. No; we in America have a method to determine such disputes, Senator. If we follow that system, we are going to reach justice.

The **CHAIRMAN.** If you followed that system, you would lose all the grass on your land. That very matter that I have propounded to you here has been taken through the system that you refer to.

In the State of Montana, during the closed season on elk, the owner of a great ranch there sustaining a domestic livestock population, sent a wire to the Wildlife Commission of the State of Montana that read as follows: "We are killing elk on my ranch." The wildlife commissioner of the State of Montana came up. The owner of the ranch took him over to where the dead bodies were and showed him where he had killed the elk; showed him where the elk had grazed over his land and destroyed the cover of the land. He was arrested under the laws of Montana for killing elk out of season.

The case went through the courts, and the court of last resort of the State of Montana laid down that which many people have known was a fundamental principle of law, that he had a perfect right to remove trespassers that were destroying the grass that would sustain his own domestic animals.

So the question that I propounded to you in a simple way has been answered through the very agencies that you would refer it to, namely, the courts of the land. The court determined that those elk had no more right to run over and be trespassers on that land than private animals owned by some individual; and that the owner of the land had the right to protect his property from trespassers.

Now, who owns the open public domain of the United States? It belongs to the Federal Government unquestionably, without hesitation, without equivocation.

The stockmen of your State, Senator, have applied to the Federal Government to set up grazing districts, because they recognize the fact that the Federal Government owns the open public domain; and in order to have grazing rights on the open public domain, grazing districts must be set up. The stockmen of your State and the Stockmen of my State have recognized the sovereignty of the Federal Government over the open public domain; and they are recognizing it every year, when they pay a 5-cent-per-head-per-month fee for cattle to graze on the open public domain and 1 cent per head per month per sheep to graze on the open public domain.

If you were here this morning you heard the Johnson bill discussed. The Johnson bill has to do with the question of whether or not the Forest Service has the right to limit the number of livestock that will run on any particular area in the forest. The rights of the Forest Service to limit the number, the carrying capacity of any region of the forest, have been recognized by your people, by my people, by the people of every one of the public domain States. I refer always, Senator, to the public domain States, because the law applicable to the public domain States is different from the law of the Eastern States. Some of the propaganda that has come out with reference to legislation of this kind has emanated from the States where there was no public domain.

The State of Texas came into the Union following the Mexican War with an absolute declaration in its own constitution, and a provision in its enabling act, that held all of the land of the State of Texas to be

the property of the State of Texas. Such States are entirely different. Your State and mine, the Western States generally, are entirely different from the Eastern States as to the sovereignty over the open public domain; so we have to distinguish between the two.

Now, let me draw your attention—I want you to take this back to your State.

Mr. CARTER. I think they know it pretty well.

The CHAIRMAN. They are going to know it better. It is much better that they know it better, and to be able to solve the problem.

Mr. CARTER. Well, perhaps they feel a little more bitterly about it.

The CHAIRMAN. If you don't do something, you are going to feel a lot more bitterly. That is what we are trying to avoid.

What does S. 1152 do? It says:

that wherever the head of a department or agency of the Government, having supervision and control over any public lands—

Mr. CARTER. That is my first objection, right there.

* * * Having jurisdiction over any lands or reservations of the United States should determine that a reduction in the wildlife population of such lands or reservations is necessary—

for what?

* * * to prevent injury to the soil, plant life, or to any wild or domestic animals dependent upon such lands or reservations for subsistence.

That is the very first expression of the bill.

The CHAIRMAN. What is the law now, Senator? You know the law.

Mr. CARTER. What law?

The CHAIRMAN. What is the law now that gives the ownership in the Federal Government the right to protect the public land? What is the law?

Mr. CARTER. What is the law?

The CHAIRMAN. Yes, now?

Mr. CARTER. Right now?

The CHAIRMAN. Yes; right now.

Mr. CARTER. Well, it depends upon which agency has jurisdiction.

The CHAIRMAN. Not at all.

Mr. CARTER. They made their own rules and regulations. You have already stated the authority from which the power flows. That flows from the acquisition of the land under the treaty with Mexico.

The CHAIRMAN. But what is the law governing the right of the Federal Government to go in and reduce the wildlife on the open public domain? What is the law now? Forget 1152.

Mr. CARTER. There is none that I know of.

The CHAIRMAN. That is exactly what I thought.

Mr. CARTER. That is, there is none, other than we are not up against anything except rules and regulations that are laid down by the Department of Agriculture through the Forest Service or the Department of the Interior through its other agencies.

The CHAIRMAN. All right. You believe in the Federal Government?

Mr. CARTER. I believe in the American system of government.

The CHAIRMAN. All right. Then you believe in the judicial department of the United States as being the infallible, and the last word, in the interpretation of the law, don't you?

Mr. CARTER. I don't believe they—

The CHAIRMAN. The law says they are infallible, and you say you believe in the law.

Mr. CARTER. The law doesn't say they are infallible, and I don't believe in it.

The CHAIRMAN. Anything that has the supreme word is infallible.

Mr. CARTER. They are the final word.

The CHAIRMAN. Let me read you something, and see if you ever heard about it. I don't think you ever did.

Mr. CARTER. Well, if it is a law of the United States, there are so many of them——

The CHAIRMAN. This is only one.

Mr. CARTER. And I don't think, Senator, that you know all of them, either.

The CHAIRMAN. I don't know all of them. That is the reason I am here, to be advised.

Mr. CARTER. The State of California had 4,000 bills before it last year. Being a senator, I am frank to admit, I don't know much about any of them.

The CHAIRMAN. All right. Let me give you a little history. History is always a good thing to know, when you come to deal with the reason for a law.

There is, in northern Arizona, a great forest known as the Kaibab National Forest. It is in what is sometimes known as the Arizona Strip. It is that great territory lying between the north bank of the Colorado River and the north boundary of the State of Arizona. That territory was set up as a forest because it is in the public domain for the United States and is covered by a forest.

Some years ago the deer population in the Arizona Strip, or rather what is known as the Kaibab Forest, became so overpopulated that it was destroying the browse and underbrush, and destroying the forest, and destroying not only domestic life, in that it made the forest worthless for the grazing of domestic animals, but it was also destroying the wildlife itself, by starvation.

The United States Forest Service applied to the State of Arizona, drew the attention of the State of Arizona to the conditions that prevailed there. Nothing was done about it. The State of Arizona either could not do anything or refused to do anything. Conditions became such that the domestic animals were withdrawn, and of the wildlife, many of them died and hundreds upon hundreds of the bodies of dead deer were found each springtime. The Forest Service in charge of the Arizona Strip, or the Kaibab National Forest, employed Federal employees who went into the Kaibab National Forest and killed off the deer to reduce that population.

The Governor of the State of Arizona, Governor Hunt, threatened to arrest those who were in there killing off the deer during the closed season of the State of Arizona. Mr. Richard Rutledge, who is now in charge of the Grazing Service, was then in charge of the Forest Service in that region. He sued out an injunction to enjoin the Governor of the State of Arizona or its agents from interfering with the work of the Federal Government in reducing the deer population. That case was carried to the Supreme Court of the United States, and that case is the law now.

The decision in that case, by a unanimous Court, was written by Mr. Justice Sutherland, a resident and native of the State of Utah,

than whom there never was a more profound westerner, than whom there was never one more interested in wildlife, and than whom there never was a better jurist on the court of last resort.

Now, you say there is no law. I am going to read the law to you, so you may be enlightened. You will find this law in the 278 U. S. Supreme Court Report, beginning at page 96. It is a very short decision; it is by Mr. Justice Sutherland. He says:

The Kaibab National Forest and the Grand Canyon National Game Preserve, covering practically the same area, are situated north of the Colorado River in Arizona. They were created by proclamation of the President under authority of Congress. During the last few years deer on these reserves have increased in such large numbers that the forage is insufficient for their subsistence. The result has been that these deer have greatly injured the lands in the reserves by overbrowsing upon and killing valuable young trees, shrubs, bushes, and forage plants. Thousands of deer have died because of insufficient forage. Attempts were made under the direction of the Secretary of Agriculture to remove some of the deer from the reserves to other lands, but these entirely failed, as did other means. The district forester, acting under the direction of the Secretary of Agriculture, proceeded to kill large numbers of the deer and ship the carcasses outside the limits of the reserves. That this was necessary to protect the lands of the United States within the reserves from serious injury is made clear by the evidence. The direction given by the Secretary of Agriculture was within the authority conferred upon him by act of Congress. And the power of the United States to thus protect its lands and property does not admit of doubt (*Oamfield v. United States*, 167 U. S. 518, 525-526; *Utah Power & Light Co. v. United States*, 243 U. S. 389, 404; *McKelvey v. United States*, 260 U. S. 353; 359; *United States v. Alford*, 274 U. S. 264), the game laws or any other statute of the State to the contrary notwithstanding.

Appellants interfered with these acts of the United States officials and threatened to arrest and prosecute any person or persons attempting to kill or possess or transport such deer, under the claim that such officials were proceeding in violation of the game laws of the State of Arizona, the observance of which would have so restricted the number of deer to be killed as to render futile the attempt to protect the reserves. Three persons who have killed deer under authority of United States officials were actually arrested. Thereupon suit was brought to enjoin appellants from continuing or threatening such interference, arrest, or prosecution. The court below, after a trial, found for the United States and entered a decree in accordance with the prayer of the bill, with the limitation, however, that the decree should not be construed to permit the licensing of hunters to kill deer within said reserves in violation of the State game laws (19 F. (2d) 634).

While the Solicitor General does not concede the authority of the court to make this limitation, he is content to let the decree stand. We, therefore, pass the matter without consideration and accept the opinion and decree below, with the modification that all carcasses of deer and parts thereof shipped outside the boundaries of the reserves shall be plainly marked by tags or otherwise in such manner as the Secretary of Agriculture may by regulations prescribe, to show that the deer were killed under his authority within the limits of the reserves.

Do you doubt for a minute that the Federal Government under that law has a right to go into any public lands and reduce the deer population? Mr. Carter, doesn't that settle the question of law for you?

Mr. CARTER. If it does, there is no necessity for 1152, using the same argument that you would.

The CHAIRMAN. I read the language of 1152 to you because I wanted to draw to your attention that, under the Kaibab decision, the Federal Government could go in, without hindrance, to a State, and reduce the deer population; but 1152 says that before they can go in to reduce the wildlife population, they must first go to the sovereign State and bring their attention to it, and if the sovereign State does not do it, then, but not until then, can the Federal Government go in.

Now, do you want the law to remain as it is, with the right of Mr. Kneipp, or Mr. Dierking, or Mr. Whoever-it-may-be to say, "There are too many deer out here in White Pine County," and to go and hire hunters to go in and kill them off, without going to the Governor of the State, or to the wildlife commissioner of the State? Or, do you want the Federal Government to have, first, to come to the State and say, "Gentlemen, you have too many wildlife on a certain section out here; you should reduce it, because it is the open public domain of the United States, and we own the land, and the land is being destroyed?"

Now, you may have your choice. You may throw out 1152. I'll be frank with you that, under present conditions, I wouldn't vote for 1152, and I'm the author of it; but I have done one thing, Senator, I have brought the attention of the people of this country to a condition. I had to bring you here in order to tell you what the law was and is.

Mr. CARTER. That may be true.

The CHAIRMAN. I at least have done some good with 1152.

Mr. CARTER. Senator, if the law is as you have stated it, with 1152— isn't it still possible for any of the Federal agencies involved to go to the State, the particular State involved, and then, if the State doesn't, proceed to take care of the problem? They can do it under the present law, anyway.

The CHAIRMAN. I want it made mandatory that before they come into my State and destroy the life on the open public domain, they first must come to my Governor, or wildlife commission, and say, "Gentlemen, there is too much wildlife out there in some certain place. We would like to have you join with us in a process whereby we will eliminate a number of these wildlife overpopulated areas."

I think until we have enacted some law that will go along that line, we stand in a precarious position, where some Secretary of the Interior will say, "There are too much deer out there in Nevada. We own 84 percent of all the interior of the State of Nevada, and we are going to close the whole 84 percent of all of the interior of the State of Nevada, and I am going to send my Grazing Service in there to reduce the wildlife."

I don't want that to occur, and no public-lands State wants it to occur. I want the authority to be in the sovereign State as much as we can get it, but you cannot put it all in the sovereign States until the sovereign States own all the land. As long as somebody else owns the public domain, the sovereign State cannot go further.

Mr. CARTER. Well, I believe I have stated the position of our committee. I was in discussion with the director of natural resources of the State of California before I came to this meeting, and—

The CHAIRMAN. Did he bring to your attention the decision of the *Kaibab case*?

Mr. CARTER. He did not.

The CHAIRMAN. Had you ever heard of the *Kaibab case*?

Mr. CARTER. I have heard of the condition that existed down there, I have heard of the case; but I have never had either the necessity or the opportunity to read it. The problem has never presented itself to that extent in our territory.

The CHAIRMAN. I want to say to you, Senator, that in my judgment, the statute enacted in 1941 by the Legislature of the State of Nevada

will go a long way toward eliminating the necessity for Federal legislation, anything like S. 1152; but the hearings of this committee, Senator, have been exceedingly illuminating. We have been at it now for 3½ years, and we have sat in nearly all of the public-lands States. Mr. Kneipp, who sits here, and who represents the Forest Service, will check me as I go along in this statement.

We have here the records that were available to you from several States. There are at least 19 districts in the State of Colorado—I think it has been stated as 21, but for safety's sake, I will say 19—where the testimony coming before this committee is that the deer are not only running the domestic animals out of these districts by reason of overpopulation, but they are actually destroying themselves by starvation.

Let me illustrate to you: After the snows went off of one of these districts in Colorado last spring, 2,500 bodies of deer were found along the roads—not outside, where people don't go, but along the roads. They were dead deer, starved to death because of overpopulation and starvation. In one district in southern Utah about 40 dead deer to the square mile were found last spring, by reason of overpopulation and starvation. That is a condition that prevails on the open public lands of the United States. Where that condition prevails, they are undoubtedly crowding off domestic life.

I can tell you, first of all, that those in charge of those districts are not required to wait for an Executive order. They could have gone into those districts and reduced the deer population; but they did not do that. But the day is in the offing, and it is not very far in the offing, when Mr. Secretary Ickes, or Mr. Secretary Wickard, or some other Secretary of the Interior or of Agriculture, will walk up to the White House with an Executive order already prepared, and will receive the signature of the President, wherein it will direct that in these various areas a Government agency shall go in and kill off; and they won't even address themselves to the States. The Executive order will be made; and you won't even know that it is made, until you happen, by chance, to get hold of the Federal Register. That is the only place the thing is published.

I have just been requested to announce a hearing in the State of Utah, and we're going to try to request a hearing in the State of Utah in the next week or so, because of an Executive order that withdrew from the public domain of the State of Utah 3,000,000 acres of land. Even the congressional delegation of the State of Utah didn't know of it until they found it in the Federal Register some months thereafter.

We are doing business in this country largely by Executive order recently, and I am anxious, and you should be anxious, and everyone who is interested in wildlife should be anxious that we do something by legislation, through our chosen representatives, rather than by an Executive order coming from a department.

Let me draw your attention to something else. There is a regulation of the Forest Service, regulation W-2, I think it is. I think I can recite it in substance to you, without waiting for it.

Mr. CARTER. I am familiar somewhat with that.

The CHAIRMAN. That regulation provides that where there is an overabundance of wildlife in any particular district, the representa-

tives of the Forest Service may confer with the State authorities involved. I will read it, so we will have it right:

The Chief of the Forest Service, through his regional foresters and forest supervisors shall determine the extent to which national forests or portions thereof may be devoted to wildlife production in combination with other uses and services of the national forest.

You drew my attention to the fact that in 1152 one man determines it.

The Chief of the Forest Service shall determine—

This is a regulation, and this regulation, Senator, was, if I am not mistaken, and Mr. Kneipp will correct me if I am, promulgated after conferences with representatives of those who utilize and use the forests for grazing purposes. Am I correct in that, Mr. Kneipp?

Mr. KNEIPP. Yes; Senator. We had regulation G-20-A in effect in 1934, which was comparable to S. 1152. That was objected to strenuously; the wildlife interests and State conservation commissions objected; and in view of their objections, it was rescinded and this regulation was discussed with them, and was substituted.

The CHAIRMAN. Let me read it to you again:

COOPERATIVE WILDLIFE MANAGEMENT

Regulation W-2: The Chief of the Forest Service, through the regional foresters and forest supervisors, shall determine the extent to which national forests or portions thereof may be devoted to wildlife production in combination with other uses and services of the national forests and, in cooperation with the fish and game department or other constituted authority of the State concerned, he will formulate plans for securing and maintaining desirable populations of wildlife species, and he may enter into such general or specific cooperative agreements with appropriate State officials as are necessary and desirable for such purposes. Officials of the Forest Service will cooperate with State game officials in the planned and orderly removal in accordance with the requirements of State laws of the crop of game, fish, fur-bearers, and other wildlife on national forest lands.

OBJECTS OF THE REGULATION

Regulation W-2 is designed to provide a means of cooperative management of wildlife and of protecting the forest resources from damage from overpopulations of game. The States have assured the Forest Service of full cooperation, and it is expected that this cooperative approach will be fruitful. In case it is found after full investigation that the forest resources cannot be adequately protected from damage by overpopulations of game, such cases should be reported to the Chief of the Forest Service who will submit recommendations with supporting factual material to the Secretary of Agriculture for such action as may be necessary to safeguard the national forest property.

HOW APPLIED

The State Forest Service agreements now in effect or that may be developed in the different national-forest regions will specify in such detail as is appropriate the basis for such wildlife controls and management as may be required for the area involved. "Cooperative Managed Areas," discussed under that topic in another section of the wildlife manual, should be employed as rapidly as the State laws and regulatory provisions permit of progressive refinements in wildlife management. The Chief of the Forest Service will enter into such agreements.

Before a cooperative agreement is negotiated for a particular area, the regional law officer for the region in which the area is located, or the Office of the Solicitor, Washington, D. C., should be advised of the proposal so that a determination can be made, in each instance, as to whether the proposed cooperative agreement can be carried out under State laws or regulations having the force

and effect of laws, and if not what State action is necessary to supply the deficiency.

There again, we have the Chief of the Forest Service. That is a regulation.

What would 1152 do? I am not for 1152, excepting the fine thing that it did do. It brought you here, that we might discuss it as man to man. I think 1152 is entirely too drastic. I introduced 1152 after members of this committee had written to the Secretary of Agriculture and suggested that the Army be called in to reduce the wildlife population. I am going to read that to you in a minute.

Mr. CARTER. We are very familiar with the Army, over in California.

The CHAIRMAN. There were members of this committee who wrote to the Secretary of Agriculture and suggested that the Army go into the open public domain, in these overpopulated districts, and reduce the wildlife. One suggestion was that it would make better marksmen of our soldiers.

I am showing you to what extent the overpopulation of the districts in the public-lands States has impressed the members of this committee; and we are content that something must be done. What we are trying to do, Senator, is to have men who occupy the official place that you do, and others who have been heard from here, join with this committee, and with the Congress of the United States, and give us some thought looking to a law that will preserve, as much as possible, the sovereignty of the several States, and at the same time protect the grazing on the open public lands of the United States.

Mr. CARTER. We join with you in that statement.

The CHAIRMAN. This is not at all one-sided. It is a difficult law to draft, and the more difficult it is the better it is to study. I am bringing these things to you. I don't intend to unload the whole proposition; but your coming here from the State of California, occupying the position of prominence which you do, inspired me to bring your attention to the law as it now exists, which has no limitation on it whatever.

Mr. Kneipp can order his hunters to go in on the forests and reduce the deer population, whenever and wherever he sees fit, and there isn't a Governor in the United States that can dare interfere with him. Mr. Dierking or Mr. Rutledge could do the same on the grazing lands. Those are the conditions, that is the law, that is a problem that we have to deal with.

Why won't you fellows who represent the sportsmen of this country get in here, and in place of saying, "Kick S. 1152 out," let's get together; let's have your constructive thought on amendments to 1152, and your substitutes for 1152, so that wildlife may prosper and the public domain may prosper, and the sportsmen of the country may have the right to govern themselves as far as possible?

Mr. CARTER. As far as kicking 1152 out, Senator, is concerned—

The CHAIRMAN. Let me tell you something, Mr. Carter: I introduced 1152, and then I referred it to my own committee, and it is snuggling in this committee now. It will rest here until we can get constructive legislation, such as you want, and such as the authorities of the United States want.

Mr. CARTER. I will be happy to convey that message to our interim committee, and I might say we will make suggestions along that line.

We have some definite ideas as to that, and I might say that one of the members of our committee is a stockman himself and represents the interests of the stockmen. I represent a large group of stockmen, because stock raising is the principal industry. Livestock and mining are the principal industries of the country from which I come, and I know in Shasta County we have three or four Government agencies, Federal agencies, alongside of one another. I don't want to see three or four different sets of rules and regulations arise for the taking of wildlife.

The CHAIRMAN. You won't have rules or regulations. You will have each agency going into the open public domain and killing off, unless the deer are reduced. Your State is probably not affected. The State of Nevada is scarcely affected. But the State of Colorado is very much affected. The State of Utah is very much affected, and there are other States that are affected by reason of which evidence coming before this committee gave rise to this rather drastic proposed legislation.

Mr. CARTER. I think the problem is acute. I agree with you, and recognize it. We have it in our State, in isolated areas, isolated because it is a large State, and it covers large areas. In some places we have it, but I think that with the new legislation that the State legislature enacted, the Commission is given some authority to dispose of that problem.

Now, how far this Commission will go, I cannot say, but we are hopeful that a program will be laid down whereby all parties concerned will get together to solve the problem.

The CHAIRMAN. Yes, sir; and every State in the Union should go forward with the same method of legislation, and probably there would be no necessity of complaint for that.

Mr. E. F. LUNSFORD (attorney at law, Reno, Nev.). Senator McCarran, may I be heard?

The CHAIRMAN. Yes, Mr. Lunsford, we would be very glad to hear from you.

STATEMENT OF E. F. LUNSFORD, ATTORNEY AT LAW, RENO, NEV.

Mr. LUNSFORD. For the benefit of the record, my name is E. F. Lunsford, attorney at law.

Senator, and members of this committee, I have been very impressed indeed with the explanation which has been made by you, Senator, and, too, I might say, the motive for the introduction of this bill.

Since you have read the Kaibab decision, I take it that this bill has been introduced for the purpose of overcoming and meeting the effects of the Kaibab decision. According to that decision there exists in the Government at the present time, in the absence of contrary legislation, the right, power, and authority to do the very things which it is authorized to do as set forth in this Senate bill, No. 1152.

The bill, in my opinion, in its present form, merely emphasizes that right which the Government now possesses. It in no way cooperates with the States, because instead of reading in effect that before this action should be taken, the permit to destroy the game is set forth in the act, and it can be done only by the terms of this act. In other words, the context of the act is that, wherever the head of a depart-

ment or agency of the Government, having supervision and control over any public lands or reservations of the United States, shall determine that a reduction in the wildlife population of such lands or reservation is necessary to prevent injury to the soil, plant life, or to any wild or domestic animals dependent upon such lands or reservations, he is authorized to draw this to the attention of the heads of the State departments, or to the Governor of the State, and if the State takes no action, then he may go ahead and take the action which he deems necessary.

At the moment, under the Kaibab decision, that authority does exist.

If the purpose of this bill, or the contemplated legislation, is to hear the State first upon the question, then the whole framework of Senate bill 1152 should be so changed as to make it prohibitive for the Government, through any of its agencies, to do these things until the State itself has failed to act. This present form of the bill does not, in my opinion, have such an effect.

I hope I am submitting this by way of something constructive, Senator. I take it from your remarks that it is your desire that the States be given more of a voice in this particular question than is now existent, as a result of the Kaibab decision. If that be true, then, it seems to me, that the legislation should be predicated upon the premise that this authority should not be exercised until the State is given the authority to act.

The CHAIRMAN. I want to say, Judge Lunsford, that we appreciate very much your criticism. We think it is a constructive criticism, just such a criticism as we have been asking for.

There are many other phases in the bill that are subject to constructive criticism. If we had introduced this bill so smooth and unobjectionable as to meet the approbation of Congress and the departments, the bill might have become a law before even the interested parties would have known about it. This bill has aroused magazine articles, editorials, public statements; it has even aroused some very eloquent luncheon speeches. It has been worth while, in that it has gone to men like yourself, and it has drawn the attention of men like yourself to the subject.

The author of this bill, acting by and for his committee, and not unmindful of the whole situation, has tried, from time to time to work out something that we thought would be a little more acceptable and a little more along the lines that you suggest. We have distributed about 500 mimeographed copies to those who are interested here in the last few days. I am not saying that that suggested substitute meets with my own approbation. In coming out on the train, having the matter very much in mind, I attempted to pencil out another draft that I thought might meet with general approbation, that the rights of the States could be preserved.

You have got to remember, Judge Lunsford, that, as we try to protect the rights of the States, we take from the now existent authorities of the Federal agencies. In other words, the Kaibab decision gives to the Federal agencies the right to go into the States and where they find the wildlife population excessive, reduce it. Now, every Federal agency, the Forest Service, the Grazing Service, the Park Service, the Wildlife Service, every Federal agency has filed an ad-

verse report to S. 1152. Why? Because 1152 in its present form reduces the present power of the Federal agencies. They don't want their power reduced.

Mr. LUNS福德. Isn't that so only by implication?

The CHAIRMAN. You can call it implication, or call it whatever you like. They read it in there, and it is there. There is no question in my mind but that it reduces their authority, and they see it as plainly as I do; and I think any court in construing the first sentence of the present existing 1152 would say that before they could go in, as they did in the *Kaibab case*, they should first go to the State.

You will note that in the *Kaibab case* Judge Sutherland said that. He recited as fact that the Forest Service first went to the State agencies and tried to get cooperation and were unable to do so. He undoubtedly took that into consideration. At least I construed that he did in writing his opinion.

Now, I have had mimeographed the penciled copies that I tried to work out on the train, and I am going to distribute those through the audience here, that they might be studied by those who are interested. Perhaps out of that we may get something worth while. However, remember this: We have two horns of this dilemma. The one is the Federal agency holding the land, sovereign in its ownership, and the other is the State, seeking to maintain control over the wildlife within its boundaries. The one is the agency that owns the real estate that is being trespassed upon, or might be trespassed upon. The other is the agency that would, by its police power, regulate the taking of the wildlife. So we have those two phases to pass through, in order to formulate legislation to meet the objections that would come out of the matter from the Federal agency and from the State. We must do this as best we can by language least offensive to the Federal agencies and at the same time protect the rights of the States.

I think your observation is well taken. I think the observations made here a moment ago by the Senator from California is exceedingly well taken. In other words, you might have an order by the Forest Service to go in and kill off in a certain area, and you might have an order from the Grazing Service not to kill off on an adjoining area. The wildlife population would run back into the forest, and they would continue to kill off; so you have conditions that are very difficult to deal with. However, dealing with a difficult problem makes an interesting study, especially when we are seeking all in the same direction.

Mr. LUNS福德. Senator, if I may make this observation, I think you and I agree that the rights and duties, in respect to public domain lying within the borders of the State, are reciprocal as between the State and the Government. I think you so held in the case of *Ex parte v. Crosby*. Do you recall that case, Senator?

The CHAIRMAN. That's right.

Mr. LUNS福德. You specifically held in that case that the State laws are operative upon Government reservations; and that is much stronger where the Government has specifically withheld from entry and set aside and dedicated a portion of land as a reservation? You so held that.

The CHAIRMAN. That is correct.

Mr. LUNS福德. So I think that there are reciprocal rights and duties, which I am quite satisfied this committee, in the formation of an act of this character, will recognize.

The CHAIRMAN. Of course, Judge Lunsford, the doctrine which I applied in considering the Crosby decision was scarcely recognized in the Kaibab decision. The Kaibab decision knocked that into a cocked hat.

Mr. LUNSFORD. I might say, Senator, you were not of counsel in the *Kaibab case*. It might have made a difference. Thank you very much.

The CHAIRMAN. Thank you, Judge.

Now, gentlemen, we will take these names as they come to us. We have no particular order. Is Mr. Arthur Hensley, from California, here?

**STATEMENT OF GEORGE P. MILLER, EXECUTIVE SECRETARY,
CALIFORNIA DIVISION OF FISH AND GAME, SAN FRANCISCO,
CALIF.**

Mr. MILLER. Senator, for the record, I am Mr. George Miller, the executive secretary of the California State Commission. I think, in the interests of time, before proceeding—I would like to renew the invitation that I made to you. I realize the press of time. You so graciously answered my letter, explaining that you would try to sneak in a day or two and hold a meeting of your committee in California, where the 700,000 sportsmen of the State may have an opportunity of personally coming before the committee and express their thoughts upon this bill.

The CHAIRMAN. I would be tickled to death to meet 700 or 700,000 of them.

Mr. MILLER. I also want to say that I have just come from the North, and my office has informed me since I left I have a letter from Mr. Kartchner, the president of the Western Association of State Game and Fish Commissioners, asking me to represent him here. I shall be very glad, upon my return, to furnish you a copy of the letter for your files.

The CHAIRMAN. All right. Thank you.

Mr. MILLER. I also want to say on behalf of the California Division of Fish and Game we subscribe to everything Senator Carter has said. We feel this is a particularly vicious piece of legislation in its present form, because it gives the State no opportunity to cooperate, or to have any say in the determination; no one but the heads of any Federal agencies having control of lands over the wildlife on that land.

I am not going into the legal aspects of the thing. I do not happen to be a lawyer; and I leave that to men like yourself and Senator Carter. But I will cite a very practical incident that is less than 24 hours old, as far as the division of fish and game and the Federal agencies are concerned. We have a law, in the State of California, setting a season for the taking of muskrat. This season is not satisfactory to a Federal agency. The agency in the past has asked us to extend the season. This year the same thing came in. As a matter of fact, they served notice on us that they would issue certain permits to take muskrats beyond the close of the regular California season, flaunting, in our opinion, the California law. We held a conference with some of these members, and we found the reason the law didn't suit them was that their ditchriders could work into the middle of

December, and in order to afford the ditch-riders additional remuneration, to make the job attractive for them, it was necessary to extend the California season some weeks after the mating season of these little animals had taken place, for their convenience.

Needless to say, we met the thing; and I am satisfied that, if that is the case, this time we shall have some recommendations to make to the Commission. That, if put into effect, would again act as a test for State's rights arising in the matter.

Let me point out, sir, that in California we have numerous Federal agencies. If the Director of the Veterans' Administration, under this law, felt that there were too many deer adjacent to the grounds, the grounds of the veterans' facilities in Alameda County, he could take them off. We feel that the wildlife of the West is held in trust for the citizens, and that we are the administering agency, as far as California is concerned, of those laws, and that they are paramount in this issue. We do not concede that even the decisions that have gone before are necessarily final, and they do require the invocation of certain legal action that would not be necessary in this case.

I am mindful, too, that in the Kaibab and some of the related cases the pressure of public opinion, let us say, caused the change of the very drastic G-20-A Regulation. I believe that is what we started out with; wasn't it, Mr. Kneipp?

Mr. KNEIPP. G-20-A. Now it is W-2.

Mr. MILLER. It was G-20-A that was rescinded, and W-2 that put the thing on a cooperative basis; came into being. We haven't any desire to refrain from cooperating with any Federal agency. We do cooperate with them, but when we do cooperate with them we want to feel that the matter of determination is one of mutual effort, and if they don't see eye to eye with us, that our case fails.

The CHAIRMAN. Very well, sir.

Mr. G. H. Hansen, district agent of predator-rodent control; does Mr. Hansen care to be heard? Mr. Hansen, you are of the Fish and Wildlife Service, are you not?

Mr. G. H. HANSEN, Reno, Nev. Yes, Senator. I don't have anything to say.

The CHAIRMAN. Mr. S. S. Wheeler, secretary-treasurer of the Washoe Fish and Game Association?

Mr. S. S. WHEELER, Reno, Nev. I have nothing to say.

The CHAIRMAN. Mr. Gordon True, Jr., secretary of the Western Association of State Game and Fish Commissioners.

STATEMENT OF GORDON TRUE, JR., SECRETARY, WESTERN ASSOCIATION OF STATE GAME AND FISH COMMISSIONERS, SAN FRANCISCO, CALIF.

Mr. TRUE. I believe the Senator already has a copy of the resolution adopted by the Western Association and its resolution committee last June. All I can do is reiterate our unalterable opposition to S. 1152, or any amended form thereof.

The CHAIRMAN. You would rather have an Executive order, I take it?

Mr. TRUE. We are not afraid of that, or afraid of any minor official of the Federal Government invoking the Kaibab decision, anyway.

The CHAIRMAN. Very well, I admire your courage, anyway.

Mr. Hensley, from California.

Mr. ARTHUR L. HENSLEY, San Francisco, Calif. I have nothing to say, Senator.

The CHAIRMAN. Let me say to you gentlemen that if any of you whose names we call here desires to file statements for the record, you may do so after the committee has adjourned, within a reasonable time. We would be very glad to have your statements, and hope that they will not be made too extensive but sufficiently extensive to cover the subject. We do hope that somewhere in the study, which is much more threatening than some of you believe, some of you will offer constructive suggestions for Federal legislation.

Mr. R. E. CURTIS, refuge supervisor, California Division of Fish and Game, Berkeley, Calif.

Mr. R. E. CURTIS, Berkeley, Calif. I think everything has been said by our Secretary, Mr. Miller.

Mr. MILLER. Senator, since those cards were made out, Mr. W. B. Williams, a member of the California Fish and Game Commission, has arrived here from Alturas.

The CHAIRMAN. We would be glad to have him come forward.

Mr. WILLIAMS. I have nothing to say at this time.

STATEMENT OF ROGER TEGLIA, RENO, NEV.

Mr. TEGLIA. I am representing the National Wildlife Federation.

The first remark I want to make, you have had a lot of criticism. and I think a bill of this kind has done a lot of good; and I also, in behalf of myself and some of the people that I do represent, we want to thank you for taking your time in coming before us and in letting us have a chance to oppose the bill, or clarify it, if it is possible. But a question that I would like to have answered: Is there a possible chance of the State—due to the fact that you stated this bill will die in committee—the State organizations and the State fish and game commissions, after studying these other acts that are in, entering into State's rights, that there is a possibility of drawing a bill, together with your committee, that might meet the sportsmen's requirements, and the Federal agencies, and the State commissions also?

The CHAIRMAN. That is exactly what the committee wants you to do; exactly what the committee wants you to do; but I don't want to lose this number, this "1152." It has become so famous now that I want to have it in a statute.

Mr. TEGLIA. I see that you like to either improve it or have more thought about it. As I say, you are to be commended, because in the past there have been very few Senators or Congressmen from our State that have gone ahead and drawn bills that interfered with State's rights, who have as much as given us a chance to oppose it, or agree with it. I think that you are to be commended in taking your time, in these hard times, to come to Reno to give all these sportsmen a chance to voice their opinions.

Mr. Shoemaker of the Wildlife Federation states that every State he has contacted is naturally opposed to this S. 1152. They have studied it, and it does not give the States any rights, or reason to cooperate with the Federal agencies in exterminating game off of some of the refuges.

The CHAIRMAN. You have made this a study, to your certain knowledge, for a long time?

Mr. TEGLIA. I certainly have.

The CHAIRMAN. Before today did you ever hear of the rule in the Kaibab decision?

Mr. TEGLIA. I certainly had; and I knew that the Government has a lot of rights, where they can step into the States, especially where it is publicly owned, and kill off game, at the present time, without any authority from the State or the Governor. I believe that is really a forward step in this bill, not in the manner that it is written, but in the manner it can be drafted in, to give the States some rights that they will be protected; because it seems like the Government has more of a tendency, each year, to grab into State's rights; so that today these rights are going to be exercised. I hope that, through 1152, it can be written in such a way that the Government will be required to cooperate with the States before ordering the killing of these game animals in any of their public domain.

I think there is a lot of food for thought; and it certainly must not be allowed to die, being that it has brought out a lot of criticism and comments, not only in Nevada but throughout the United States. I think that through this bill something can really be written that the State's rights will be protected. They are not protected at the present time. If you check the United States laws pertaining to forestry, Biological Survey, which is in the Forest Service, or the Agricultural Department, you will find they have lots of power, if they want to exercise it. We have been fortunate that some of the States do have the Federal agencies, as we have in Nevada, cooperate. But some day we may get someone not so cooperative, who may use his authority to go ahead and may do the right thing by some stockman or sheepman and forget the sportsmen altogether. I do hope that through this hearing it has enlightened or awakened us to the fact of what we have to confront in the future, as the game and hunters increase, and the stockmen's business, the feedmen's business increases. Naturally, there is going to be more and more dependence upon public domain by both sides.

I think we ought to thank Senator McCarran for coming to Reno to give us this hearing.

The CHAIRMAN. Thank you.

STATEMENT OF W. B. WILLIAMS, CALIFORNIA FISH AND GAME COMMISSION, ALTURAS, CALIF.

Mr. WILLIAMS. The California Fish and Game Commission have opposed the passage of your bill, and I would like to reiterate that we can handle the situation over there. We get along pretty good with the Forest Service and the Reclamation Service, as Mr. Miller has pointed out in a very recent case. Our problems are not so tough but what we feel like we can handle them in the State, under the existing rules and laws that we have; and we would be very happy if this bill did not become a law.

Thank you.

The CHAIRMAN. Very well, thank you.

Mr. ASH. Senator, this man is a particular friend of mine, and at lunch time I happened to meet him, and he said, "This is a day of

ceiling"; and then he said that the deer population in our country hadn't reached a ceiling yet, because he hadn't been able to kill one.

The CHAIRMAN. You'd better turn him over to the O. P. A. How would that be?

Are there any others here who care to be heard?

It might be gentlemen, that there are those who would care to be heard, who are deprived of the privilege of being here; but I want to say to you that the chairman of this committee, sitting here today, must be in Elko tomorrow morning early; and from there must go to other places. We are anxious to terminate these hearings.

Anyone who cares to may file a statement of reasonable length, with reference to this bill, and we will be very glad to have it inserted in the record. We would like very much to have all those who are interested in this proposed legislation read the record that has been made, before this committee, in the States of Utah, Colorado, Arizona, New Mexico, and Nevada. They are available to you. They are printed and will be sent to you free if you will send for them, and if you will read them. And if you do read them, you will be greatly enlightened, as this committee has been enlightened.

With that in mind, if there is no one else to be heard on any subject, any stockmen who wish to be heard on any subject, we are about to terminate the hearing. We regret very much that this meeting must be ended at this time.

There is one other thing before we terminate the hearing. Mr. Kneipp is here, the Forest Service representative, and he has made some interesting statements on 1152, in other sections of the country. I wonder if he would care to reiterate those statements? They are printed and available, but if Mr. Kneipp would care to make further statements on the wildlife situation, we would be glad to have it.

STATEMENT OF L. F. KNEIPP, ASSISTANT CHIEF, UNITED STATES FOREST SERVICE, WASHINGTON, D. C.

Mr. KNEIPP. Thank you, Senator. You have heard me make these statements for so long that you may want to take a recess while I make them once more.

The Forest Service is not opposed to game. At a time when game-law enforcement was very sketchy, strongly opposed in practice, the Forest Service, through its field organization, exerted every effort to enforce the game laws. It was a pioneer in working with the States in setting up State game refuges within the national forests, which finally reached an area of more than 20,000,000 acres. The Forest Service cooperated in transplanting the first elk in various parts of the country. Perhaps that ought to be kept a secret now, because it is not so popular as the idea was when it was first started.

The Forest Service has worked consistently to develop the wildlife resources, which, in 1905, were pretty sketchy, because of hunting, overgrazing, and other factors. Certainly the Forest Service recognizes the importance of the wildlife research in national forests, as a part of what the scientists call the biologic complex. The combination of animals, plant life, and soils, and everything else that goes to make up the forest. In later years it has been forced by painful necessity to suggest there were occasions upon which wildlife

might be reduced. It has not done so through prejudice, but only through the painful facts.

As time went on this wildlife revival was somewhat analogous to the forest movement itself. Earlier aspects had been largely sentimental and emotional, and the sentimental and emotional groups when once started are not always easy to stop. In connection with wildlife, for years it was preached that the females, for instance, ought not to be killed because they were so essential to the development of the resource. It was necessary to limit the numbers of game that could be taken because if people were allowed to have their own way too many others could not get their proper share. There was a very strong sentiment in support of wildlife conservation, developed largely by people whose interest was only sentimental, and who were not very fully conversant with all the facts.

Then there came a time when the situation changed in some places because the deer, for instance, will increase at the rate of 30 or 35 percent a year, and if all their natural enemies are destroyed—the mountain lions and coyotes and bobcats—and if they are safeguarded from hunting, and if the competition of domestic stock where it occurs is restricted, they multiply about as fast as sheep do. I guess you folks here don't have to be told how fast they multiply under favorable conditions. As a result, in time, problem areas began to develop throughout the country.

Stockmen complained that the ranges were going down; and while the deer and elk and antelope do not eat quite the same food as the sheep and cattle, nevertheless, the range condition was bad. The common assumption was that it was due largely to the domestic livestock, and very, very heavy reductions have been made over the years where this range damage occurred. However, even that did not stop the damage. The evidence of excess game was in increasing soil erosion, the trimming up of trees as high as the deer could reach, the destruction of aspen and other hardwood shoots, the nipping of buds of young trees and conifers. It became more and more apparent, even where domestic livestock had been considerably reduced, that the damage was going on.

It finally dawned upon the Forest Service that the excess number of game animals in these areas must be the cause, and that the only correction would be to hold them down to the numbers that could be properly supported. We came to the painful conclusion that too much of a good thing was as bad in relation to the wildlife as it was in anything else; where you had too few deer more were quite desirable; where you had too many, more were a catastrophe. Where these situations were developed, they were taken up with the States. The State commissions were not always free agents; the sentiment against any killing, the sentiment in favor of small bag limits, the sentiment against the killing of doe, the sentiment against permitting residents from other States to come in and share in the game, except upon payment of a very heavy license fee, was so strong that the State game commissions could not always do what their own experience and judgment told them ought to be done.

Instead of the conditions being corrected, they continued to grow worse, until finally, first in the Kaibab case, and more recently in the Pisgah case in North Carolina, there was no alternative to the loss of

these game herds and damage of their environment, except to authorize heavy shooting.

Now, as the Forest Service's attitude with regard to game, from the very first, was one of cooperation with the States, finally, where this condition developed that I have just described, and where State cooperation was not obtainable, the Secretary of Agriculture promulgated the much discussed regulation G-20-A, the conditions of which were not very different from S. 1152. That was a sore spot. All the State game officials and all the sportsmen, especially the State game officials, complained that we were a little bit inconsistent in pleading for cooperation, on the one hand and threatening coercion on the other. Regulation G-20-A did cause a stagnation of the cooperative spirit, there is no doubt about it. After it had been in effect for possibly 6 years, and after further and quite extended discussions with the State game interests generally, this new regulation that the Senator read to you was substituted. Under that new regulation there had been better cooperation, or I might say that in some States that regulation has been all that was needed. In other States it has been ineffective, there has not been cooperation.

In the meanwhile, this subcommittee has, for the past 3 years, been told in extended hearings throughout the West about this problem of excess game. At hearing after hearing spokesmen have gotten up and described the occurrence of these conditions.

Now, despite the very drastic reduction in the numbers of domestic livestock, there has nevertheless been a progressive deterioration of some of the ranges, so that winter feed, spring and fall feed is less and less available, and there is coincidentally tremendous waste of wildlife itself.

The carcasses of scores, of hundreds, or perhaps even thousands of deer are found dead on the ranges in the spring. Those are deer that should have furnished good sport and lots of valuable meat. There doesn't seem to be any point in allowing a 150-pound buck to die of starvation in January or February, when some hunter could have taken him home in November and made his family and friends quite happy with several messes of venison stew. This all came to the attention of the subcommittee at place after place, until in Glenwood Springs last November, it was possibly the highlight of the whole hearing, the 2-day hearing held there. As the Senator says, some of his committee were so impressed by the conditions recited that they have actually suggested rather drastic means of meeting the situation.

Now, I am not the author of this bill, 1152, nor, of course, the sponsor of the bill; but, when the bill did take legislative form the first reaction of the Forest Service was that it would provoke thought and stimulate a great deal of attention; it would bring into the picture a great many interests that had not been vocal on the subject in the past, and it would have the result of creating a broader and more comprehensive viewpoint, and that, after all, in those States which were cooperating and where there are no surpluses, or where surpluses are quickly curbed by State action, the bill will not make any difference, might just as well not be in the statute books. On the other hand, in those several States where the condition is still acute, the bill would have a valuable influence.

Nevertheless, considering all the agitation and criticism which the bill has inspired, when the Secretary of Agriculture finally had to

report on the bill, the gist of the report was, first, a recitation of the conditions that seemed to dictate some corrective action. The report referred to the past experience of the Department; and to the new approach under regulation W-2; to the desire to proceed by the co-operative method, and to the fact that partial success by that method had been achieved. The final conclusion was that after all this new cooperative regulation was of comparatively recent origin, it had only been in effect for about 2 years, so all things considered, the Secretary's judgment was that it would be better to work a little longer under W-2, to go ahead under the present method of cooperation, without new legislation, and see whether actually it would work. If it did, legislation would not be necessary. If cooperation under regulation W-2 prove finally not to meet the situation, then such legislation as is necessary should be enacted.

Now, the sole interest of the Forest Service is to bring about on the national forests the conditions for which the forests were created; that is, to minimize to the least practicable degree, the erosion of soils, to promote valuable vegetative covers that conserve the productivity and economy of the forest ranges, and otherwise to perpetuate the natural growth of trees. You can't do that, when you have thousands of deer eating all the young trees as fast as they appear above the ground, or destroying the ground cover to such an extent that the wind and rain is washing away the soil.

Now, there has been some question about the right of determination by the head of the executive department. After all, in relation to one of these reservations, he is charged by Congress with the accomplishment of certain public objectives. In the national forest he is charged with the responsibility of maintaining a given area of land in timber production and stabilized stream flow. That is his primary responsibility. If he finds some element or agency such as an excess of wildlife is making it impossible for him to redeem his responsibility, he really ought to have some voice in saying what ought to be done in regard to that element that is frustrating redemption of his obligation.

I don't contend that he should have the exclusive voice, and I don't believe that under this bill, actually, he would have the exclusive voice. I don't believe that it would be a matter of whim or caprice, or just personal judgment. I think in any case, the head of a department would have to definitely and convincingly demonstrate that the excess of deer or elk or antelope, whatever it might be necessary to eliminate, was so great that it was absolutely necessary to take the steps which he recommended. He cannot say, "I am so sick of looking at deer that I never want to see another one of the damned things," or anything of that kind. After all, he is a servant of the people. He would have to present some grounds for any action that he proposed, and do it convincingly.

That is the present position of the Forest Service, and that is the way by which we have arrived at that position.

The CHAIRMAN. Thank you, Mr. Kneipp.

At this point it might be well to insert in the record an exceptionally sane and informative magazine article dealing with the wildlife problem.

(The article is as follows:)

[From Harper's Magazine, August 1943. Reprinted by permission of Harper's Magazine and James C. Wilson]

DON'T WASTE THE GAME CROP!

(By James and Alice Wilson)

What would you think of a cattle rancher who harvested only half his annual beef crop year after year and kept the rest to increase until his herd destroyed the range and starved to death?

America is doing just that with much of its wild game. And lest you think the game crop is a mere drop in the bucket of our wartime meat shortage, consider that in 1942 American hunters harvested more than a quarter of a billion pounds (full dressed) of wild meat, most of it produced on forage which domestic animals don't eat, and harvested in people's spare time as a byproduct of their recreation. Hunters harvested almost a fifth as much food, by weight, as all the commercial fisheries of the United States and Alaska.

That harvest could have been increased, in many areas, from 50 to 500 percent with actual benefit to game herds and flocks, and this would have added at least 100,000,000 pounds to the Nation's dwindling meat supply.

Spectacular game surpluses—that is, unharvested crops of wild animals and birds—exist in almost every section of the United States. The species whose overcrowding has become a problem in spots include deer, elk, antelope, reindeer, ducks, pheasants, and rabbits. They innocently interfere with wartime food production in the most unlikely places. Virginia last year declared an open season on elk, which were damaging hay and forage. As for the Western and Lake States, they contain hundreds of problem areas where deer or elk exhaust their winter food supply, encroach on crops and livestock range, and finally die of starvation by thousands.

This state of things—combining as it does an appalling waste of food, destruction of a basic natural resource, and cruelty to animals—is intolerable and must be ended.

You may wonder where all the game has come from, for only yesterday everyone was saying: "Hunt with a camera instead of a gun." Most people still think all species of game are dying out. But they are about 10 years behind the facts.

During the last century, when American hunters were not restricted by game laws, they harvested not only the annual game crop but most of the breeding stock as well. Suddenly sportsmen realized that the game was almost gone. The passenger pigeon and heath hen had already just about disappeared for good. The bison in its wild state was gone. Of the bighorn sheep and mountain goat, only a few head remained. The antelope, which once had roamed the plains in seemingly inexhaustible herds, was practically extinct. In a few years even deer and elk would be gone.

And so the conservationists appeared—in the nick of time. The public was converted. Legislators passed game laws. We established refuges, killed off such predators as coyotes, mountain lions, and wolves, and restocked areas where game had been killed out. We spent millions of dollars to restore northern breeding grounds for ducks. Newspapers, magazines, clubs, schools, Boy Scouts, Izak Waltonites all preached the gospel of conservation: "No true sportsman ever kills a female."

Not only was the campaign successful; in recent years it has been so extra-successful that the chief topic of discussion among game administrators at the North American Wildlife Conference of 1943 was: "How on earth are we going to harvest all this game?" The big-game population of the United States has doubled about every 10 years since 1908, increasing from an estimated 500,000 head to six and one-half million head in 1943. (Of these, about 6,000,000 are deer.) Pheasants, introduced from China in 1881, last year supplied a harvest of 15,000,000 birds. The duck population of North America, which hit an all-time low of 27,000,000 in 1934-35, has bounced back up to 120,000,000 and is climbing at the rate of 10 to 20 percent a year.

Game is like domestic stock in one respect. There is an annual crop, and, if it isn't harvested, herds and flocks eventually outstrip their food supply. Drastic protection of all game everywhere was necessary to restore the depleted breeding stock. It isn't necessary any longer. Harvesting of crops is now just as important as protection of breeding stock in maintaining a balance between the game population and its food supply, despite the fact that a nation with a 50-year-old tradi-

tion of indiscriminate protection cannot bring itself to believe that there could possibly be too many deer in Michigan, too many elk in Jackson Hole, too many pheasants in South Dakota, or too many ducks in western Washington.

The problem has been serious enough during the past few years. Now that the war has brought a shortage of hunters, ammunition, and gasoline, it has become desperate indeed. For game won't stop breeding just because there's a war. Yet the conception of wild game as producing an annual crop that needs harvest is hard for the public to accept. For instance, a few years ago the people of Colorado discovered that deer and elk in certain areas were starving by thousands on the threadbare winter range. Unwilling to see the animals killed, they shouted: "Feed 'em hay." The State of Colorado has spent almost \$200,000 feeding them hay and concentrates. But the deer couldn't live on such fare, for a deer digests hay about as well as you do. His natural food is browse—shrubs, bark, twigs, and leaves. Pittman-Robertson studies indicate that a deer's digestive apparatus to function properly for any length of time needs a diet of 80 to 90 percent browse, an elk's about 50 percent.

This spring the Colorado Game Department burned the carcasses of 2,400 dead deer near the feed grounds in the Gunnison area alone. This loss was 40 to 50 percent of the deer that were fed. For several years, over Colorado as a whole, more deer have lost their lives during the winter than have been killed by hunters. Obviously you can't save them by feeding them. The only way to salvage the meat that is going to waste is for hunters to harvest it. If hunters don't, starvation and predators will.

But the public cannot yet believe that this is true. Popular demand still insists that other States follow Colorado's lead and spend tens of thousands of dollars feeding deer artificially.

There is no general surplus of game—yet. But there are hundreds of specific local surpluses which will develop into a general surplus if not harvested. Colorado alone has about 2 dozen perennial problem areas.

Our national forests contain some of the most crowded game "slums" in the world. For example, while the 1½ million acre Fishlake Forest in Utah will carry 30,000 deer through the winter, the present population is 60,000. Fishlake bucks are so thin you can "slit the hide and shake out the bones." Last year's winter loss on the Fishlake was 42 animals per square mile—about 4,000 pounds of meat, dressed—on 25 percent of the range. And this in a time of meat shortage!

In Malheur National Forest in eastern Oregon the deer range had been worn down to the fabric before Oregonians would agree that the herd should be cut. Even the presence of 1,200 dead fawns on 6 square miles wasn't evidence enough. The Forest Service sought relief from the State game commission, but it in turn had to wait for public support. If waited 4 years. Malheur Forest is still grossly overpopulated, despite repeated efforts to whittle down the herd.

Conditions are almost as bad in the Lake States. Even in the Allegheny and Pisgah National Forests of the East, says the Forest Service, the deer population "should be cut down somewhat."

The 1942 census of all our national forests showed a total of 2,000,000 deer and 165,000 elk. Under favorable conditions a deer herd will double in 2 to 3 years, an elk herd in 3 to 5. The annual national-forest crop is about 600,000 animals. Last year an estimated 300,000 died of malnutrition or were killed by predators; hunters took only 180,000. And still the big-game population increased by 120,000—all destined for future harvest by hunger and predators. Dr. H. L. Shantz, Chief of Game Management of the Forest Service, says: "A reasonable estimate would suggest that at least 600,000 deer and 30,000 elk should be harvested from the national forests by hunters, besides those taken by predators and starvation, to restore the balance between animal life and range."

Conditions are even worse in certain areas outside the national forests. In the West most national-forest land is high altitude summer range, of which there is plenty. The losses from starvation occur on low altitude winter range—mostly private, State, and other Federal lands—of which there is a much smaller acreage available to big game. Much of this lower range is preempted by domestic stock. Much of it is grass—unpalatable to game animals—instead of the shrubs and brush which they prefer. More important still, dry, dormant winter forage does not renew itself until spring.

Since 1927 hunters have harvested only about one-third of the annual deer crop and about two-thirds of the elk crop. If wartime conditions make an adequate harvest impossible next fall it is thought that almost half the deer and elk in the United States will face hunger and possible starvation next winter. Before they starve they will destroy the range for years to come. After the tragic loss

of seven-eighths of the Kaibab Forest deer herd from starvation in the twenties. It took 15 years before the range could again support a normal complement of game. It will never be as good as it was because many of the best forage plants were permanently killed out.

Yet the efforts of State and Federal authorities to control game herds have met with the bitterest kind of public opposition. Although artificially fed elk in Jackson Hole die of starvation at a rate of from 600 to 1,000 annually, local people have fought every effort to reduce this herd. A Wyoming sportsman quoted in the *Elks Magazine*, flatly accuses the Forest Service of lying, under pressure from "big livestock interests," when it reports that elk in the Bighorn National Forest have outstripped their food supply and are starving to death.

As a matter of fact, livestock interests are jealous guardians of the welfare of big game; every rancher knows that the best way to maintain a good cow range is to keep enough deer and elk to prevent the browse from crowding out the grass. But a rancher who loves 50 deer may hate 500.

Under normal conditions there is little competition between big game and domestic stock for food. In general, stock eats grass, while game prefers browse. Stock and game can eat happily at the same table, and should. But if there are too many deer—or elk, antelope, cattle, or sheep—on a range, the dominant species cannot select its diet, and has to rob other animals of food. If browse is gone, deer will turn to grass or anything else to postpone starvation. Starving cattle will eat browse. If the whole range is worn threadbare, famished animals will fight indiscriminately for whatever food is left.

It is where such conditions prevail that big game is damaging crops and livestock range. Fourteen States report deer damage to range, orchards, truck crops, corn, small grain, stacked hay, and gardens. Seven report damage by elk, four by antelope. Imagine the feelings of the rancher near Denver Mountain Parks who counted 845 elk on his ranch at one time, stripping the forage and tearing down haystacks. As for antelope, they were near extinction not so long ago, but recently 27,000 of them were counted in a Wyoming county which had been thought to have only 5,000.

Even ducks can make a farmer swear. In 1941 a quarter of a million mallards wintering on the Jumbo Reservoir in northeastern Colorado took about 50,000 bushels of corn on 15,000 acres—enough to fatten 1,200 steers. Last fall the ducks moved in again. An S O S to the Federal Government by the authors of this article brought Fish and Wildlife Service agents to scatter the flock with high-powered rifles, flares, skyrockets, searchlights, dynamite bombs, and tracer bullets. The farmers estimated that as a result \$20,000 worth of corn was saved.

Nobody claims there are too many ducks in all of North America—yet. But there are too many in spots, scattered over 12 Western and Midwestern States. As with big game, huge "cities" of ducks in underhunted areas, especially unregulated refuges, outstrip their winter food supply and settle down like a Biblical plague over forage and crops. In western Washington ducks all but took last season's cabbage crop. Many Sacramento Valley truck and rice farmers say they will have to move out if damage by ducks isn't controlled.

Of all upland game, rabbits and pheasants are the hardest to control; 23 States report damage to crops by rabbits; 17 report damage by pheasants. So fast have these birds multiplied in the United States that, although 15,000,000 were killed last year, that was not enough to stop the increase. Thousands of bushels of grain were eaten by pheasants that will probably die of natural causes. That corn would have made a lot of pork chops.

Please do not conclude from this evidence of game surpluses that all wildlife should be slaughtered indiscriminately to win the war. A few species, such as bighorn sheep and mountain goats, have not "come back" as yet, and still need drastic protection everywhere. Most native upland birds especially quail and grouse, will profit from wartime's partial moratorium on hunting. Even deer are scarce in some places. But more hunters by the thousands are needed this season to harvest the surplus game in the overcrowded areas.

The paradox of the situation is that, although our game authorities have plenty of power to deal with scarcities of game, many of them haven't the power (to say nothing of not having enough hunters) to control surpluses.

Authority to effect removal of excess domestic livestock from range that was being destroyed has enabled the United States Grazing Service to put the livestock industry, on Federal lands, on a permanent sustained-yield basis. Game authorities want to do the same thing with game. But they can't do it.

The main trouble is that the public and politicians, after choosing their game managers supposedly for expert knowledge and ability, insist on telling them

what to do and how to do it. Half the game commissions in the United States are hamstrung by meddling legislatures, ponderously meeting once in 2 years to pass inept, tardy, blunderbuss laws in a highly technical field they know nothing about.

The inflexibility of existing laws often leaves game managers powerless to cope with emergencies. California has 400,000 deer, cherished by a doe-loving legislature. Last year Army dim-out and fire-prevention regulations cut the hunting season short. Result: A paltry 17,000 bucks were harvested—only 4.3 percent of the herd. The harvest should have been at least five times as large. Seven and a half million pounds of meat wasted—enough to ration San Francisco for 6 weeks! A bigger bag limit would have saved the meat; a doe season would have checked the mounting surplus; a winter hunting season would have complied with Army orders. The game commission had authority to order none of these. (Since then, happily, the authority has been granted.)

This brings us to the sanctity of the doe. If there is one thing of which the uninformed public is sure, it is that does must never be killed. But every livestock raiser knows you can't control the breeding potential of a herd by harvesting males alone.

Game managers are at last beginning to persuade sportsmen, if not the general public, that this is true. When the New Mexico Commission, facing an acute surplus of deer in the Black Canyon area, first declared an open season on does, placards flamed from telephone poles and trees: "No sportsman ever shoots a doe!"—and no sportsman did. But now they do—educated by a persistent game commission.

Pennsylvania, long a bright spot in game management, has had 11 doe seasons since 1923, 2 for does only. Does are sanctified by the legislature in Michigan. With one-fifth less deer range than Michigan, and a herd about the same size, Pennsylvania has harvested in the past 11 years almost 300,000 more deer than Michigan, and has just as many left. That's more than 30,000,000 pounds of meat as a bonus for good management.

Game managers don't want to slaughter does. They just want to manage game. Is it good sense to accuse them of trying to wipe it out, when most of them depend on hunting-license revenue for their salaries?

Another legal obstacle to good management is the absolute inviolate type of refuge. It is not needed any longer. But we are still establishing new refuges of this type. In 1941 the Colorado Legislature created two. Presidential proclamation has just added 221,000 acres (one-third of the area of Rhode Island) to a Wyoming elk refuge which has been added to four times and still has starving elk!

Private preserves are a still harder nut to crack. Duck-hunting rights on Barr Lake, northeast of Denver, are leased by wealthy sportsmen. Neither the State nor the Federal Government can legally control these ducks without permission of the lessees. The only recourse of the farmers is to bring damage suits if the ducks ruin their crops. Damage suits against whom? Are the sportsmen liable for damage done by ducks which legally belong to the Federal Government? Is the Government liable, when it has no legal right to control the ducks?

Many administrators feel that individuals or clubs controlling exclusive hunting privileges in choice game resorts should be required to make use of those privileges—at least to the extent necessary to keep the game from damaging other people's property. There is a Scottish precedent for this: Anyone leasing grouse-hunting rights to a moor has to harvest a stated number of birds from that moor.

All of this adds up to one very simple thing—the need for more flexible control of game by experts competent to administer it.

Perched on a pyramid of inflexible policies a decade out of date, most game commissions have been left high and dry and forgotten by a public and lawmakers intent on phases of war winning more obvious than saving meat and range. Meanwhile a thousand changes requiring quick action have taken place overnight. A third of the hunters have gone to war or are too busy to hunt. Most of the rest cannot get gas and have to hunt near home. Ammunition is scarce. Military regulations have affected game control.

Part of the chronic confusion lies with a system which makes for hopeless division of authority between 6 independent Federal agencies and 48 States commissions—besides the legislatures and the public. Each agency determines its own policy, which is often at odds with that of another. They have never got together on a consistent program of management.

But we have muddled through with these chronic ills for years. The crisis of 1943 is caused by the scarcity of hunters, ammunition, gas, and guns.

As we write this, it appears that hunters are to be allotted no ammunition beyond what is already in dealers' hands. This despite Lieutenant General Somervell's statement of April 27 that, of all war goods, there is a reserve supply of only one, and that is ammunition. If hunters cannot go into the woods next fall millions of acres of range will be "scorched earth" by spring—not only for 1 year, but for years to come. The only remaining means of preventing this will be for State and Federal authorities to harvest surplus game—though conservationists bitterly oppose this except as a last resort.

To meet the present emergency and cure the chronic ills the authors of this article advise: (1) Release of as much ammunition to hunters as is consistent with military needs; (2) liberalization of seasons and bag limits in game-surplus areas, as far as present legislation permits; (3) repeal of statutory obstacle by legislatures that can meet; (4) a committee of game authorities, cooperating with the Food Administrator perhaps, to work out a unified wartime program for surplus game control and utilization which might be adopted by all agencies; (5) as a very last resort, harvest of surplus game by State and Federal authorities in areas where hunters cannot do the job. As a long-range measure we suggest also the eventual relinquishment of legislative authority to State game commissions.

Game, wisely handled, can help win the war, and better its own estate in the process. We need the meat desperately. We need the forage, grain, and gardens destroyed by surplus game animals. And we need the byproducts of hunting—hides, furs, fats, and feathers. We used to import a million deer hides a year, while American hunters threw away almost half that many, under State laws forbidding the sale of any wild game product. Salvage is a new word in our national economy. These laws should be modified accordingly.

So if you have given up hunting because you thought it was unpatriotic, forget your qualms. It is about the most patriotic fun you can have. But before you go, drop your game commission a card and ask them where the surpluses are. Go where they send you.

The CHAIRMAN. If there is nothing further to be said, and no one cares to be heard further, the meeting is now closed and adjourned.

We are very grateful to you all for coming here and discussing this matter frankly and fairly. It is the committee's desire to have constructive discussion of the problem that is on our hands. In closing, I will only say that this problem must be dealt with legislatively, or else it will be dealt with by an Executive order, wherein you will have no say; and then it will be too late to do anything legislatively.

Thank you all for your attendance.

(The following statement was issued by the chairman of the subcommittee at the close of the hearing:)

STATEMENT AT RENO HEARING BY SENATOR McCARRAN

The committee of the United States Senate having to do with public lands and surveys, acting through its subcommittee and by authority of the Senate, has been, for some 3 years now, investigating the administration of the open public domain of the United States. This subcommittee, chaired by the senior Senator from Nevada, has held hearings in many of the open public domain States. These hearings have resulted in proposed legislation covering many subjects having to do with the administration and use of the open public domain, as problems affecting public lands have come before the committee. The committee has sought, as was its duty under the resolution, to formulate and propose legislation in an attempt to solve the several problems.

At the outset, let it be remembered that the open public domain, sometimes called the Federal domain, sometimes called the public lands, is the property of the United States Government. The Federal Government exercises the same powers and rights over these lands as

would an individual landowner, in looking to the preservation, the protection, and the improvement of this vast domain, amounting to nearly 1,000,000,000 acres.

The ownership of this land is conceded to rest in the Government by the States within which the land exists, and by the people thereof. This recognition has been evidenced in many ways and by many acts. For instance, the people of the several States of the West have applied to the Federal Government to set up grazing districts within their respective borders. The agriculturalists of these States and those engaged in the livestock industry are paying the Federal Government for the use of the open public domain; that is, they are paying for the right to graze their livestock on the open lands. The public lands States, in recognition of the ownership of these lands in the Federal Government, have demanded, in times past, that the Federal Government should contribute to the building of public roads and highways and, indeed, were it not for the contribution of the Federal Government made on the basis of its ownership of the public lands, there are some States in the intermountain country where it is highly doubtful that public roads such as now exist could have been constructed. The several States and the people thereof have recognized the Federal Government as the owner of public lands in that all minerals taken from the public lands are pursuant to Federal statute. The right to remove minerals from the public lands is based entirely upon Federal statute. There are many other instances of recognition whereby and wherein the people and the several States have recognized the ownership of the public lands to be in the United States of America.

In dealing with the question of wildlife sustained in and upon the open public domain, the question of the ownership of the wildlife itself is of little or no importance. It may be conceded, for present purposes, to be in the States or the people. The committee of the Senate, in holding these hearings, has had presented to it the serious problem with reference to and having to do with the overpopulating of the Federal domain by wildlife, particularly deer and elk. In considering the wildlife problem on the open public domain, it is a condition and not a theory that confronts us.

The record of this committee, made in the several States at open public hearings, disclosed that in many areas in some States, deer have become so numerous on the open public domain as to be highly destructive of grazing, so much so that in many places the deer not only make grazing of domestic animals upon the public lands impossible, but become greatly weakened and diseased and actually destroy themselves by starvation. For instance, we find that in the Fishlake Forest in Utah the dead bodies of deer, following the last winter season, approximated 40 to the square mile. In one area in the State of Colorado, as last winter's snow melted away, some 2,500 dead bodies of deer were found along the roadways in this district alone. These bodies were piled up and burned, or otherwise destroyed, by the Colorado Game Department. Some 19 areas in the State of Colorado alone present serious problems by reason of an overpopulation of deer and other wildlife, and this number is increasing. The testimony before the Senate committee is to the effect that vegetation in these areas is being tramped out. Underbrush and browse is being devastated and killed

off, and the very food upon which the deer themselves subsist is being destroyed, even to the roots.

What pertains in certain sections of Colorado and Utah pertains also in other States. We may make reference to the fact that in White Pine County, Nev., a State reserve, or deer refuge, as it may be called, is admittedly so overpopulated with deer that at least 500 must be killed off or removed promptly.

Other States have similar problems existing within their boundaries on the open public domain, and the number of problems areas is rapidly increasing. The deplorable condition growing out of an overpopulation of wildlife on the open public domain in Colorado and southern Utah has been repeatedly brought to the attention of these States by the Federal Government.

It has been presented to this committee that efforts made by some of the respective States to remove the excess wildlife by the issuance of additional licenses and by the removal of restrictions have not brought adequate results. The overpopulation of deer in these areas of open public domain is going forward to the destruction of the open public domain and to the destruction, by disease and starvation, of the deer themselves.

These are some of the facts presented to this committee:

What is the law applicable to the right of the Federal Government to protect public lands from serious impairment or trespass, either by wild or domestic life? What is the law now? We think this inquiry is pertinent because it has been openly and unguardedly stated that S. 1152, introduced by the chairman of this committee, the senior Senator from Nevada, would bring about something new in the way of conferring authority upon the Federal Government to impose itself on the States and the people thereof.

S. 1152 is opposed by written statements filed in the record by both the Department of the Interior and the Department of Agriculture, and by the bureaus of those departments having to do with the open public domain. If S. 1152 would give greater powers to the Federal Government or to the agencies thereof than the Federal Government or its agencies have now, we should not expect the Federal Government to oppose this legislation.

The real truth of the matter is that the Federal Government has now, by law, powers greater than those which would be conferred upon the Government by S. 1152 if it became a law. S. 1152 curtails the present powers of the Federal Government.

The conditions that prevail with reference to the overpopulation of wildlife in the several States has been found to exist in the past in certain sections of the public land States as, for instance, in what is known as the Kaibab National Forest in northern Arizona. There the deer population so increased some years ago that the Forest Service called upon the State of Arizona to join and take steps to reduce this population, that the wildlife, and domestic life, as well, might continue to prosper within the Kaibab Forest. The State of Arizona either found itself unable to comply with the requests of the Federal Government or unwilling to join in the effort to reduce the deer population. Let it be remembered that the Kaibab Forest is a part of the open public domain, and the property of the United States Government, and is also a game reserve.

The United States Forest Service finally took definite steps, employed hunters, went into the Kaibab and proceeded to kill large numbers of the deer and shipped their carcasses outside the limits of the reserves. This was during the closed season fixed by the laws of Arizona. The State of Arizona threatened to arrest and prosecute any person or persons who might kill, or possess, or transport such deer. Action was brought by the Federal Government to enjoin the State of Arizona or its representatives from interfering with the acts of the Forest Service in killing off deer, and from arresting or prosecuting those engaged by the Federal Government in this pursuit.

Mr. Justice Sutherland wrote the opinion of a unanimous decision of the Supreme Court of the United States. The Court there laid down the law that now exists, and the law that prevails with reference to the right of the Federal Government to go into any State where public lands exist, and reduce wildlife population on those lands when it appears necessary to the Federal Government to protect the lands and possessions of the United States from serious injury resulting from overgrazing or devastation. The opinion and decision of the Supreme Court of the United States, which is a clear statement of the present existing law, is so brief and so clear and so emphatic that we quote it in full:

The Kaibab National Forest and the Grand Canyon National Game Preserve, covering practically the same area, are situated north of the Colorado River in Arizona. They were created by proclamations of the President under authority of Congress. During the last few years deer on these reserves have increased in such large numbers that the forage is insufficient for their subsistence. The result has been that these deer have greatly injured the lands in the reserves by overbrowsing upon and killing valuable young trees, shrubs, brushes, and forage plants. Thousands of deer have died because of insufficient forage. Attempts were made under the direction of the Secretary of Agriculture to remove some of the deer from the reserves to other lands, but these entirely failed, as did other means. The district forester, acting under the direction of the Secretary of Agriculture, proceeded to kill large numbers of the deer and ship the carcasses outside the limits of the reserves. That this was necessary to protect the lands of the United States within the reserves from serious injury is made clear by the evidence. The direction given by the Secretary of Agriculture was within the authority conferred upon him by act of Congress. And the power of the United States to thus protect its lands and property does not admit of doubt (*Camfield v. United States*, 167 U. S. 518, 525-526; *Utah Power & Light Co. v. United States*, 243 U. S. 389, 404; *McKelvey v. United States*, 260 U. S. 353, 359; *United States v. Alford*, 274 U. S. 264), the game laws or any other statute of the State to the contrary notwithstanding.

Appellants interfered with these acts of the United States officials and threatened to arrest and prosecute any person or persons attempting to kill or possess or transport such deer, under the claim that such officials were proceeding in violation of the game laws of the State of Arizona, the observance of which would have so restricted the number of deer to be killed as to render futile the attempt to protect the reserves. Three persons who have killed deer under authority of United States officials were actually arrested. Thereupon suit was brought to enjoin appellants from continuing or threatening such interference, arrest, or prosecution. The court below, after a trial, found for the United States and entered a decree in accordance with the prayer of the bill, with the limitation, however, that the decree should not be construed to permit the licensing of hunters to kill deer within said reserves in violation of the State game laws (19 F. (2d) 634).

While the Solicitor General does not concede the authority of the court to make this limitation, he is content to let the decree stand. We, therefore, pass the matter without consideration and accept the opinion and decree below, with the modification that all carcasses of deer and parts thereof shipped outside the boundaries of the reserves shall be plainly marked by tags or otherwise, in such

manner as the Secretary of Agriculture may by regulations prescribe, to show that the deer were killed under his authority within the limits of the reserves.

Hence, we find that the law now, as is stated by the Supreme Court of the United States, is that the Federal Government may, without let or hindrance from any State in which public lands of the United States exist, go in upon such public lands and remove or reduce the wildlife population.

Together with this existing law, the committee finds that in many areas of the public land States there now exists a destructive overpopulation of wildlife. So emphatically has this fact been presented to the committee that members of this committee have suggested, after hearings held at Glenwood Springs, in Colorado, that the problem of overpopulation of wildlife on the open public domain should be dealt with by having the Army given the job of killing off the excess deer. Senator Gurney, of South Dakota, after participating as a member of this committee at the Glenwood Springs hearing, wrote to the Secretary of Agriculture as follows:

DECEMBER 8, 1942.

MR. CLAUDE R. WICKARD,
Secretary of Agriculture, Washington, D. C.

DEAR MR. WICKARD: I attended a 2-day hearing of a Senate committee held at Glenwood Springs November 19 and 20. At that hearing information was obtained and there is an increasing population of wild deer and some elk. The livestock men of that territory feel that the numbers of big game should be cut down.

I am sure this could be in line with the program decided upon by the Forest Service. I am thinking that some sort of a plan could be worked out whereby the State fish and game commissions could cooperate with the Federal Government in a plan to kill off the surplus deer and elk now during wartime, when we are in need of extra meat.

My idea would be to make the arrangements with the several States that have excess wild-game population, and because the Army has men stationed now in nearly all of these States, the Army could be given the job of killing off the deer—one no one to be allowed to shoot except men in uniform who had been given the job to hunt through the forests. It would not only give the men a chance to try out their shooting eye but would also cut down on the amount of beef and other meat that it would be necessary for the Quartermaster Corps to purchase.

For your convenience I attach hereto a report by the United States Department of Agriculture, dated May 8, showing the excess deer in each of the States.

Sincerely yours,

CHAN GURNEY.

So aggravated has the problem become that Mr. Albert Day, the Assistant Director of the Fish and Wildlife Service, at the session of the committee held at Albuquerque on the 9th of September of this year, stated as follows:

In effect, it is felt that the Federal Government now has the authority to undertake reductions of wildlife in the States if the States fail to refuse to do so.
* * * The authority * * * does exist, as exemplified by the very famous *Kaibab deer case*. * * *

MR. RUTLEDGE. * * * What about Jackson Hole? Right now, young man, you have got somewhere about 30,000 head of elk. You fellows don't know what game congestion is. They come down on your refuge there to the extent of 10,000 head, and you can only feed 7,000 head. What are you going to do about that? That has been going on, to my knowledge, for the last 20 years, and no action has been taken on the reduction of that herd. Now, I think it is time we looked these things square in the face.

MR. DAY. We are. I have made several trips to Wyoming. Mr. Gatlin and I, in working with the game department—at that time we were at loggerheads, and even reached the point where at one time the newspapers said it was Federal domination; we were telling the State what they must do. We continued to work with them, and I insisted it was their right to reduce that herd; and the result was they paid out \$50,000 last year for feed; and they have taken the position that

they have to pay out again this year, unless they reduce the herd. I think they are going to reduce. However, if they don't, we still have the authority to go in and make the reduction ourselves.

Mr. RUTLEDGE. On what basis?

Mr. DAY. The Kaibab decision.

For the sake of a full understanding, we respectfully, at the hazard of repetition, state that the conditions presented to the committee are such that the Federal agencies are threatening to take definite action for the reduction of wildlife on the open public domain in certain sections of the public-lands States. That they have this right cannot be disputed. That the Federal agencies, under law, may do as they did in the *Kaibab Forest case*, appears to the committee to be imminent.

The introduction of S. 1152 by the subcommittee of the Public Lands Committee of the Senate, through its chairman, was for the purpose of bringing these facts, and the law applicable to the facts, to the attention of the Representatives of the several States and the people interested in the subject, to the end that some form of progressive future-looking legislation might be enacted, whereby the States in which public lands exist might retain the greatest degree of sovereignty, and at the same time, permit the Federal Government to protect its property within those States. If no legislation is enacted, then it is clear and manifest that for the protection and preservation of the open public domain, the property of the Government, the representatives of the Government can, acting under existing law, go into the several public-lands States where overpopulation of wildlife exists, and they can and will reduce the same. It is the duty of the Federal Government to protect its own property. If the representatives of the Federal Government in the several departments fail to protect the property of the Federal Government, the open public domain, then it is clear and manifest that an Executive order, emanating from the President, will direct action by the departments.

Those interested in the propagation and preservation of wildlife have an opportunity to render a great service by joining with this committee in the formulation of legislation that will obviate the necessity for legislation by Executive order. The committee realizes that S. 1152, in its present form, is exceedingly drastic. Were it not so, it would not have aroused the attention that it has aroused, out of which the committee hopes legislation may ensue by way of amendment or substitute to S. 1152, which will cope with the actual conditions to which we have made reference, and will, at the same time, insure to the public-lands States a reasonable measure of protective sovereignty over wildlife within their respective confines.

In conclusion, we state, a condition actually and undeniably exists that demands, for the protection of the open public domain, that wildlife population be reduced in certain regions of the public-lands States. We further state the law now to be as pronounced by the Supreme Court of the United States in the *Kaibab case*, that the Federal Government, the owner of the open public domain, has the right, and it is its duty, and the duty of the agencies, to protect the open public domain by reducing the wildlife population.

This committee would seek to deal, by legislation, with a problem involving a condition on the open public domain before the condition results in the promulgation of an Executive order. Such an order cannot be repealed or modified, by the people interested. S. 1152, now

being considered by this committee, should be and will be changed before it is at all approved by the committee, but those interested in the subject should make constructive suggestions, rather than indulging in mere unguarded expressions of condemnation.

(The following statement was released by the chairman on December 3, 1943:)

STATEMENT OF HON. PAT MCCARRAN

Because there is, apparently, still some misunderstanding concerning the reasons for the introduction of Senate bill 1152, and for the course which I have pursued in connection with the measure since its introduction, I have been asked to make a statement covering these points.

It should be understood that, prior to the introduction of this bill, uncontroverted evidence was presented to the Senate Committee on Public Lands that an overpopulation of wildlife existed in many areas in the public-land States.

This evidence came from numerous sources, including stockmen and other users of the open public domain, livestock associations, the Forest Service, and the United States Grazing Service. The facts were plainly stated. This overpopulation of wildlife, the existence of which everyone admitted, was having results of a serious nature. In some localities, thousands of deer starved to death for lack of forage. In one district in Colorado, 2,500 dead bodies of deer were found after the snow melted last spring. Overpopulations of deer and elk in several localities were accomplishing not only the destruction of plant life—graze and forage—but also beginning to present the threat of serious soil erosion by reason of the destruction of cover.

This situation was, on the one hand, obviously such as to call for corrective measures; on the other hand, it was being used as an argument for extension of Federal control over wildlife; and there was growing danger that it would be further used as an excuse for executive orders or other administrative directives expanding Federal jurisdiction over the public domain, or over wildlife, or otherwise interfering with State rights in this regard.

Indicative of the trend was the decision of the United States Supreme Court in the so-called *Kaibab Forest case* (*U. S. v. Hunt, Governor of Arizona, et al.* 19 Federal 634, May 16, 1927, affirmed, 278 U. S. 96, Nov. 19, 1928), which held that the Federal Government, acting through its agencies, had the right to go on the public domain and reduce the wildlife population by killing.

Senate bill 1152 was introduced to bring this decision and its implications to the attention of the people of the country; to bring to attention also the urgency of the problem presented by the existing overpopulation of wildlife; and, by arousing and focusing public opinion on the issue, to forestall any Executive action inimical to State interests.

Through the introduction of S. 1152, and the mature consideration which the bill has had, including a number of public hearings, several results have been accomplished. As demonstrated by testimony at recent hearings of the Public Lands Committee, these results include the following:

1. Public sentiment against increased Federal control of wildlife on the public domain has been aroused and concentrated to such an extent that it now seems unlikely that any Executive action along such lines will be taken.

2. Substantial cooperation between individual States and the Federal Government has been achieved. Some State legislation on the general subject has been enacted. More important, both State and Federal agencies have been led to a more rational consideration of the intricate problem of the proper use of the open public domain, particularly where excessive wildlife populations are concerned.

3. Largely as a result of the increased cooperation between State and Federal Governments, substantial reductions have been accomplished in the wildlife populations in areas where such populations were excessive. Literally thousands of deer have been removed from certain areas, by killing and otherwise, under State law and with Federal cooperation.

With the attainment of these results, the major purposes for which S. 1152 was introduced now have been achieved. There is therefore no longer necessity to persevere in the presentation of legislation looking to the reduction of wildlife. The law as announced by the Supreme Court in the *Kaibab* decision still prevails, but enlargement of this doctrine does not appear imminent.

With its purposes accomplished, S. 1152 will be tabled, and I do not plan introduction of any other or further legislation on this subject.

INOIS-URBANA



9744792



UNIVERSITY OF ILLINOIS-URBANA



3 0112 119744792