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REPORT
of
STATE LAND COMMISSION
of Arizona

To the Governor of Arizona and the First State Legislature

February 1, 1913.

Mulford Winsor,	Chairman
Cy Byrne,	Secretary,
Wm. A. Moody,	Member.

Members Ex-Officio:

Geo. W. P. Hunt,	Governor,
Geo. Purdy Bullard,	Attorney-General,
Lamar Cobb,	State Engineer.

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Hon. Geo. W. P. Hunt,
Governor of Arizona,
Phoenix, Arizona.

Sir:

In compliance with law, the State Land Commission has the honor to submit this report, containing a summary of all previous reports of the Commission, a brief statement of the work performed to date, and such recommendations regarding needed or advisable legislation affecting the administration, disposition and selection of school and State lands as the Commission deems timely, expedient and wise.

ORGANIZATION

The State Land Commission, appointed by the Governor, under the authority of Chapter 79, Session Laws of 1912, on June 3, 1912, and confirmed by the Senate on June 4, is composed of

Mulford Winsor, of Yuma Valley, Yuma county, chairman;
Cyril Byrne, of Pinedale, Navajo county, secretary;
Wm. A. Moody, of Thatcher, Graham county, member.

E. J. Trippel, of Tucson, Pima county, is chief clerk.

Governor Geo. W. P. Hunt, Attorney-General Geo. Purdy Bullard, and State Engineer Lamar Cobb, are members ex-officio.

Originally located in Room 307, third floor of the Capitol, the Commission is now quartered in Rooms 210-12, second floor.

DUTIES

The Commission's duties, as prescribed by law, are:

(a) To ascertain the character and value of the various bodies of public lands within the State, and to recommend to the Governor such of them as might be deemed advisable for selection in satisfaction of the grants of Congress for the benefit of certain institutions.

(b) To make personal examination of an d detailed report on all school lands.

(c) To determine the character and value of improvements on school lands held under lease prior to Statehood.

(d) To grant permits for the occupancy, until otherwise provided by law, of school and University lands held under lease prior to Statehood.

In addition to these duties, might be named the equally important one of establishing the office records necessary to render available the data required by law, and essential to the systematic, accurate and economical handling of the State's land business.

PROGRESS

As will be noted by reference to the reports submitted from time to time, the Commission has traveled over approximately one-third of the State, and has made examination of the public and school lands in Apache, Navajo, Gila, Graham and Cochise counties. Detailed reports covering these examinations are on file in the Commission's office, together with reports covering all surveyed Sections 16 and 36 lying within National Forests, and the University timber lands in Coconino county. The essential facts contained, and deductions gathered from these reports may be learned by reference to the Commission's report of February 1.

In making its investigations and examinations the Commission has been in the field almost uninterruptedly since August 1, 1912, and has traveled about 7,000 miles. Its work has been done thoroughly, accurately, and with as great haste as the importance and the arduous nature thereof would permit. The term "personal examination" has meant nothing less, as the Commission holds that the proper handling,

management or disposal of the State's school and other lands depends upon the most intimate knowledge and complete record of every subdivision thereof, and of all the conditions affecting them. It is the Commission's intention and belief that when the work of examination shall have been completed, Arizona's land department records will constitute the most substantial and reliable foundation, upon which to build a State-land system, possessed by any State in the Union.

That as much general information as possible might be acquired, and the ideas and views of Arizona's citizens heard, numerous public meetings were held, as well as meetings with Boards of Supervisors. They were found to be very helpful, and will, in addition to aiding in the preparation of accurate reports concerning the value and adaptability of the State's lands, prove of great worth in the Commission's deliberations, and assist in arriving at wise and well-considered recommendations.

RECORDS

Following is a statement of the records established in the Commission's office:

1. Records pertaining to lands are controlled by a card index, alphabetical and by tract designations, the latter graded from townships to the smallest legal sub-divisions. These cards carry briefings sufficient to constitute a running record of all transactions whether with individuals or with lands; references to the different record books and their pagings; to the field reports of the Commissioners, and other important data.

2. Applications for Permits, sub-divided into school and University lands divisions, are filed numerically. All correspondence and other data connected with same is placed in individual folders in order that each case may be complete in itself.

3. The information carried upon the application blanks, prepared for the use of school land lessees, and containing the lessee's sworn

statement of his holdings and the impprovements thereon, is abstracted into a Register of School Land Permits, so designed as to show in each case the tract applied for, acreage, name and address of applicant, number and date of permit, date and cause of rejection, character of land, rentals fixed by County Supervisors, and net amounts transmitted to the Commission; and complete detailed information of improvements and values as sworn to by the applicants. Also the findings reported by the Commission, from personal examination in the field, of said improvements and valuations, being in columnar form, totals and aggregations are easily ascertainable.

4. A Permit Register, arranged numerically, gives ready information concerning the details attending the issuance and delivery of all Permits.

5. Topographical plats in duplicate are compiled from the records of the Surveyor-General, it being the intention to eventually include in the files plats of every surveydd township in the State. As rapidly as completed, they are abstrated from the files of the Land Office, thus indicating clearly the character of every intact entry, whether original or final, with name of entryman, date of entry, date of patent, etc. Of 1144 surveyed townships in Arizona--many of which, however, are within National Forests and Indian Reservations--312 not included in any forest or other reservation, have been platted and abstracted. The original plats are kept in the office files and the duplicates are used by the Commission, in the field.

6. In the Register of "Occupied, Reserved and Mineralized School Lands", for which lieu lands may be selected, the status of every legal sub-division of Sections 2, 16, 32 and 36, whether vacant or in some manner appropriated, reserved, interdicted, or disposed of by the United States, is duly entered. This record is of great importance because the basis, upon which lieu selections of government lands must be made by the State, is clearly and specifically shown, thus providing the essential information requisite when formulating Lieu Land Lists.

7. Fortifying the foregoing is the Register of "State School Lands personally examined by the State Land Commission". This record contains abstracts from the field reports and sets forth the date of examination, improvements (if any), and valuations, topography, occupancy(if under lease),irrigation possibilities, including reservoir and power-sites and artesian indications, value of land per acre, character of land, whether agricultural, grazing, timbered or mineralized, and detailed information as to the quality of soil and its suitability for raising various products. This record is designed to supply the information necessary for standardizing and fixing values for leasing or other purposes.

8. Similar in many respects to the foregoing is the Register of "Open Federal lands examined by the State Land Commission". It contains practically the same information but in addition includes the recommendations of the Commission, whether for selection or rejection, or for survey by the United States. From this Register, all the facts

essential to the making of proper land selections are gathered.

9. The office has been equipped with numerous maps covering the forest reserves, geological conditions of the State, and much other valuable data. Maps showing the surveys in progress, the various stages being followed from their inception to their approval, have been made for office use.

10. The financial books, blanks for Commission's field reports, and all other records, are so designed as to harmonize with the books mentioned herein.

SELECTION OF GRANT LANDS

The Act of Congress approved June 20, 1912, commonly known as the Enabling Act, in addition to setting aside Sections 2, 16, 32 and 36 for the benefit of the common schools of Arizona, made the following special grants:

For University purposes	200,000	acres
For legislative, executive and judicial public buildings	100,000	"
For penitentiaries	100,000	"
For insane asylums	100,000	"
For school and asylums for the deaf, dumb and blind	100,000	"
For miners' hospital	50,000	"
For normal schools	200,000	"
For State charitable, penal and reformatory institutions	100,000	"
For agricultural and mechanical colleges	150,000	"
For school of mines	150,000	"
For military institutes	100,000	"
For payment of Maricopa, Pima, Yavapai and Coconino county bonds	1,000,000	"
	2,350,000	"

This land is to be selected from the "surveyed, unreserved, unappropriated, and non-mineral public lands of the United States within the limits of said State, by a commission composed of the Governor, Surveyor-General or other officer exercising the functions of a Surveyor-General, and the Attorney-General of the said State."

Chapter 79, of the Session Laws of 1912, clothed the chairman

of the State Land Commission with the powers of a Surveyor-General; and imposed upon the State Land Commission, created by that Act, the duty of making investigation of the unappropriated public lands of the State and of recommending to the commission named by the Enabling Act, such portions as in the opinion of the State Land Commission are suitable for selection in satisfaction of the Congressional grants.

This is, at the present time, the Commission's most urgent and most vital duty, and is receiving the most particular attention. The enormity of the task is evidenced, not so much by the fact that nearly two and one-half million acres of land, certainly an immense amount, is to be selected, as by the fact that it is to be selected out of nearly seventy-five million acres, an area about 400 miles square, and containing thousands of valleys and mesas, possessing the widest possible range of physical and climatic characteristics. This vast area must be examined with care, if the State is to receive the fullest benefit from its land selections, a truth which will be better appreciated when it is understood that the range of land values--lands from which these selections may be made--is from practical worthlessness to easily fifty dollars per acre.

Though the Commission has heard the view frequently expressed that no lands susceptible of home-making should be taken by the State, but rather left for location under the Government land laws, while the inferior lands, suitable for no higher purpose than grazing, should be employed in satisfaction of the Congressional grants, the Commission does not share that view, and has therefore adopted and

outlined and is carrying out the policy of securing for the State the choicest unappropriated, unreserved, non-mineral public lands to be had.

Although at the date of this report a comparatively small amount of land has been formally selected, and application therefor filed in the land office, examinations have been perfected and are in progress which will result in considerable additions at an early date. As stated elsewhere in this report, the Commission has made careful and critical examination of approximately one-third of the State's area; but in addition to this much data has been secured from various sources, which will facilitate the Commission's work of recommending lands for selection.

At the present time formal application has been made by the Governor, Attorney-General and Chairman of the State Land Commission, for 22,177.64 acres, in partial satisfaction of the following grants:

For the University .....12,783.03 acres,
For normal schools ..... 9,394.61 "

This acreage represents a body of choice agricultural land.

Other applications, the extent of which, and the location of the lands to be selected, the Commission does not deem it expedient to divulge, are in course of preparation.

Application has been made for the survey of 276,120 acres, thus establishing to this extent, the State's prior right of selection, and other applications of a similar character will shortly follow.

It would be unwise, for reasons seemingly obvious, but which will nevertheless be touched upon, to make public a detailed statement of the Commission's preparation and plans to further the State's interest

in the matter of grant land selections; but it is believed that the results thereof, if legislative sympathy and co-operation may be had, will prove satisfactory.

The Commission wishes to say that its examinations show that the supply of highly valuable land in the State has been by no means exhausted by appropriation, nor is there imminent danger of that occurring, although many settlers are coming into the State and active search for available lands, for speculative and other purposes, is the order of the day. While these new-comers, and particularly that portion of them represented by actual home-makers, are settling up and reclaiming many of the hitherto waste places--a circumstance which of itself should occasion congratulation--the Commission feels confident of its ability to satisfy the State's claim for grant lands in a manner fully commensurate with the opportunity afforded.

With very few exceptions the people of Arizona exhibit an eagerness that the best lands suceptible of selection by the State, in satisfaction of Congressional grants, may be secured, and the Commission has received valuable and gratuitous assistance in the performance of its work from many public-spirited citizens; but in at least one interested quarter there is no sympathy with the State's activities in this regard. Reference is made to the owners of certain large issues of cheap land scrip, and the brokers engaged in flooding the market with this particular form of evidence of the federal government's unwisdom. A considerable issue of this scrip, known as "Navajo Base", has recently been authorized. It represents, and is issued in lieu of Santa Fe Railroad grant lands on the Navajo Indian Reservation, and may be applied on any surveyed, unappropriated,

unreserved public lands of the United States within the State, of character and value similar to its base. The lands that might be covered by this scrip, and other issues, are naturally restricted by such selections as the State may make. For that reason, the State's efforts toward the satisfaction of its own claims are not viewed with favor, and unusual activity is being manifested by the Santa Fe land department officials, by scrip dealers, and by large purchasers of scrip for speculative purposes. It is a natural and entirely legitimate business activity, which may neither be prohibited nor condemned, but to the extent that it may interfere with the State's selection of choice lands it must be met with equal activity and enthusiasm.

The Commission deems it the business and duty of the State to exercise precautions to prevent the "plastering" of this scrip on lands of a higher character and value than its base, and will, if properly equipped to do so, take steps looking to such protection.

Assuming that fraudulent applications of this cheap scrip are not attempted, or if attempted can be prevented, it follows that its application to unappropriated public land within the State will not interfere, to anything like the extent of its acreage, with the State's selections.

It is not likely that a very great proportion of the lands susceptible of being so covered will prove to be of sufficient value to have justified selection on the State's behalf, and it is therefore mainly essential that the use of the scrip be confined to its legitimate sphere.

LAND "WILD-CATTING"

Scores of homestead and desert filings are being made each day in the local land office, a circumstance which, while affording, as an evidence of the State's upbuilding, gratification to the Commission, has also occasioned an investigation sufficient to convince the Commission that much of the land being filed upon is worthless, and many poor people are being defrauded by the false representations of unscrupulous "boomers", who induce the locators to believe that they can go on the land and make a living from the product of their efforts. The only one who is likely to make a living off of the transaction is the boomer, who receives a large fee for locating the too credulous home-seeker. This practice, so far as known, cannot be laid at the door of established and recognized land agents, whose vocation is both legitimate and necessary, but is the work of the irresponsible and frequently itinerant confidence men who are versed in this particular class of wild-catting. The situation, in the Commission's opinion, is deserving of most vigorous investigation, and discoveries of fraud should be visited, through the medium of salutary laws, with severe punishment.

Arizona has wise laws aimed at the prevention, suppression, and punishment of fraudulent and visionary mining enterprises--laws based not only upon the broad policy of protection to innocent investors, but also upon the policy of guarding the State's reputation, and as it were, its credit with the general public. Similar legislation should now be enacted to shield the State's name from disgrace, and innocent, honest, hard-working home-seekers from the hard-

ships, privations and ultimate ruin, which will too often result from the operations of conscienceless land boomers.

It is not meant, of course, that home-seekers should be discouraged from coming to Arizona. On the contrary, they should be afforded every legitimate encouragement, to the end that the State may be speedily populated and its latent resources developed. But it should be done strictly on the basis of accurate representation, and honest, energetic home-seekers, for whom thousands of splendid opportunities for successful effort exist in the State, should not be subjected to the wiles and blandishments of dishonorable get-rich-quick operators, or the disappointments and discouragements which follow in the wake of wasted money, time and toil.

The Commission is strongly of the belief that provision should be made by the Legislature for the dissemination of accurate and dependable information regarding the State's various sections and varied resources, as one means by which illegitimate land promotion schemes may be defeated, and the State settled and developed in substantial manner; and to that end recommends the addition of this duty to those already imposed upon the Commission. What, with the immense fund of data now possessed and being constantly gathered by the Commission in the performance of its present duties, this other important work could be carried forward at the slight additional expense of a competent clerk and whatever appropriation might be necessary for the printing and distribution of descriptive literature.

RECOMMENDATIONS

The Commission recommends that it be provided with an appropriation sufficient to enable it to make more rapid examinations of the public lands, with a view to satisfying the Congressional grants. In the best interest of the State, this work must be done carefully and methodically, and the Commission must not be asked to do it otherwise.

SCHOOL LAND CODE

The Commission recommends that the Legislature do not, at this time adopt a permanent policy affecting the administration or disposition of school and other State lands.

This recommendation is induced by the following facts:

It has been impossible for the Commission, in the limited time since its creation, to make such an examination of the school lands of the State, and investigation of the many conditions and considerations involved, as are comprehended by the law, and as, in its opinion, are essential to the formation of a fixed and definite policy, based, not upon theory, but facts. The work is being carried forward as rapidly as possible, but in view of the other urgent duties of the Commission, it is apparent that it cannot be concluded under eighteen months.

It is obvious that a wise and equitable scheme for determining the rights and satisfying the equitable claims of lessees occupying improved school lands under lease from the Territory, should be worked out, before other complications are permitted to arise, or other obligations, moral or financial, incurred by the State. As was foreseen by the Legislature, such a scheme must be founded upon definite knowledge of the various contentions of the lessees and careful investigation of their merit. This information will be acquired in the course of the

Commission's investigations.

It is pointed out, in this connection, that such loss as may be sustained by the State by reason of the lying idle temporarily of such proportion of the school land as has not heretofore been held under lease, will be insignificant as compared with the loss that might accrue from the adoption of an immature and erroneous system for handling them, or even from the premature adoption of a system that, if inaugurated in orderly and sequential manner, would prove wise.

Not a little eagerness exists on the part of many residents of the State, and in many quarters, for legislation which will permit the securing of school lands by lease or purchase, but in the opinion of the Commission, the natural legislative temptation to requite this eagerness, should not, in the interest of the State, at this time be yielded to.

REVISED CODE

The Commission recommends, however, a revision of the school land code, to conform to present needs, so constructed, mainly for temporary purposes, as to assist in the work of placing the State's land business on a systematic basis, and to enable the Commission to enforce its proper requirements and regulations. A bill, or bills, covering this recommendation and comprehending all others the Commission may offer, will be presented for legislative consideration.

HOLDERS OF SCHOOL LANDS

As may be noted in the summary of the Commission's records contained in the report of February 1, out of a total of 1117 Territorial school land lessees, 407 have failed to make application, in accordance with the terms of Chapter 79, Session Laws of 1912, for permits

to continue the occupancy of the lands held by them, prior to Statehood, or to pay rental therefor. The Commission has exercised the utmost diligence in acquainting lessees with the law's requirements, and in endeavoring to secure universal compliance with it, since it is necessary, if the work of eliminating existing complications is to be successful, that such compliance be had. It is clear to the Commission that a considerable percentage of those who have not yet complied with the law have failed to do so through ignorance or neglect, but there are some whose refusal has been wilfull; and it is obvious, what with the continuous efforts made to inform everyone interested, that a sufficient and liberal allowance has been made both for ignorance and neglect, and that no further extraordinary consideration should be extended to lessees who deliberately refuse to observe the law.

The Commission therefore recommends that the authorization to grant permits be so amended as to require compliance within a certain specified time, and payment of such rental as may be fixed by the Board of Supervisors, under penalty of the addition of interest to the amount due, and of forfeiture of any equity in land or improvements that the delinquent lessee may have.

SURVEYS REQUIRED

Carelessness on the part of Boards of Supervisors has caused many complications and confusing circumstances which the Commission will endeavor, if extended authority therefor, to reconcile. Among these may be mentioned, prominently, the practice of granting leases on tracts of land indefinitely and imperfectly described, as for instance, "five acres of land in Section 36", of any given township and

range. There are instances in which twenty or more lessees occupy a section, and few of them have an accurate description of their holdings. Under the circumstances it is impossible to fairly appraise the improvements of each, or to arrive at the measure of their respective rights. The Commission should be authorized and directed to cause such sections, or parts of sections, to be surveyed and platted, to arbitrate any and all conflicting claims of lessees as to lines and improvements, and to cause the boundaries of each tract leased to be marked in substantial manner. A penalty should be provided for the removal or injury of any such mark. The cost of such surveys should come out of the funds derived from the leasing of school lands.

LAND FOR STATE PURPOSES

Instances have arisen wherein the State, for the benefit of its institutions, desires to secure the use of certain school lands. At present there is no authority of law for the Commission to grant a lease or permit to the State, or to any individual other than the holder of a Territorial lease. A means should be provided whereby the State can secure a permit covering the use of school lands not at present occupied, or in the case of occupied lands, whereby, at the expiration of any period for which a lease or permit may have been granted, the improvements thereon may be condemned and appraised, and the right to occupy such land transferred to the State, or to an assignee of the State, on the same terms as the land would be leased to any private individual, and for a period not longer than the lease or permit periods applying in the case of other school lands.

INTESTATE LESSEES

There should be appropriate legislation covering the case of

lessees who have died intestate since Arizona's admission to Statehood. In a particular instance a Territorial lessee died after having made application in regular form for a permit to occupy the school land held under lease prior to February 14, 1912, and at the time of the death action on the application was pending. There was no will, and so far as the Commission has been able to ascertain, no direct heirs. Neither has the estate been probated, or an administrator appointed. In the absence of legislation, therefore, the Commission has no authority to grant a permit for the occupancy of the land, either to any person claiming to be an heir of the deceased, or to anyone else.

PREVENTION OF TRESPASS

The Commission recommends the passage of stringent laws to prevent trespass on lands belonging to the State, and adequate provision for the prosecution and punishment of offenders. It was a defect of the Territorial lease law that no such protection was afforded, and known instances of trespass have of necessity been allowed to pass. At the present time, damages are being sustained by reason of valuable wood being cut from school sections, and there appears no legal method of effectively stopping it.

LIMITATION OF LEASE HOLDINGS

In technical violation of Paragraph 4044, Revised Statutes of 1901, and of Section 11, Article X, of the Constitution of Arizona, which prohibits the sale or lease to one individual, corporation or association, of more than one section of grazing land, there are several cases in which a single firm or individual--generally through the transfer of leases secured by others--holds an acreage consider-

ably in excess of the limit prescribed by law. The authority of the Commission, however, extends only to the granting of permits to those holding leases, and despite this conflict with the law, no effort has been made to disturb the condition existing. Nor does the Commission recommend that any steps be taken, pending the fixing of a permanent system for the administration of school and other lands, to enforce compliance with the letter of the law in this regard, since, so far as can be learned, no one is being injured or objecting.

This is a subject--this constitutional limitation of individual holdings of grazing lands--worthy of consideration; and it is one which will be given the careful attention of the Commission, with a view to reporting, at a later date, its findings and conclusions. The purpose of the limitation is meritorious, being to prevent the concentration of the range in the hands of monopolistic stockmen to the detriment of the man with a small herd; but there is a question as to whether the precaution--which is exceedingly difficult of enforcement--is necessary in the case of school sections, lying, not contiguous, and therefore not susceptible of being fenced together, but isolated. If some precaution is necessary--and that the Commission will endeavor to determine--it is not unlikely that regulations more effective than the present law might be formulated. On the other hand, there are evidences, as yet inconclusive, that in comparatively few instances is a single section of land sufficient for the purposes of or valuable to even the small stockman, unless other land can be secured adjacent or close at hand. If it should be determined that this is so, the present law imposes a hardship rather than a necessary

condition, and at the same time, adds very materially to the difficulty of, and in many cases will doubtless entirely preclude, the possibility of leasing land from which a revenue might be gained.

WATER RIGHTS ON SCHOOL LANDS

There should be a law authorizing the State to purchase water rights for agricultural school lands coming under any irrigiation project which may be hereafter consummated, and requiring individuals, corporations or associations appropriating flood waters or the water of streams, to sell to the State water rights for such school lands as may lie within the boundaries of the area to be reclaimed by such project. Without some such provision many sections of school lands, that with the application of water would become exceedingly valuable, will for all time be rendered worthless, by the appropriation and application of all the available water on surrounding lands held under private ownership or susceptible of being acquired from the Government.

As an instance of this sort, the Lyman Irrigation enterprise in Apache county may be cited. Approximately 15,000 acres of land are being reclaimed by this project, which takes its waters from a reservoir in the Little Colorado River near St. Johns. Much more than 15,000 acres of land could be irrigated if there were a sufficient supply of water, but there isn't. Consequently, the water rights in the project, sold to private parties, are exhausted on lands held in private ownership, while the school sections, being as fertile and as adaptable in every way to the purposes of the agriculturalist as the lands completely surrounding them, must lie idle and practically worthless. Had there been authority for the purchase by the State of

water rights for these school lands, and a requirement that the Company should sell the same to the State, the State's lands would have been made valuable and the Company would in no wise have been injured, since the State would have paid for the water rights its fair proportion of the cost of constructing the enterprise, with a just profit for the owners.

PARKER PROJECT

It may be well, in connection with this recommendation, to call attention to what is commonly known as the Parker Project, for the reclamation of the Colorado River Indian Reservation. It is proposed, under the authority of legislation pending in Congress, to throw this reservation open for settlement, and to reclaim it after the manner provided in what is known as the Carey Desert Land Acts, the provisions of which have been accepted by this State. These lands are very fertile, and upon the application of water will become exceedingly valuable. It is essential, therefore, that authority should be provided whereby the State can secure, upon terms identical with those to which individuals will be subject, water rights for its school lands. It is not unreasonable to estimate that the school lands coming under the Parker Project will, with water on them, be worth a million and a quarter dollars.

A number of smaller projects are now in course of construction or are contemplated, and the State's interests should be subserved by legislation of the character suggested.

RIGHT-OF-WAY OVER STATE LANDS

Applications have been made to the Commission for rights-of-way over lands belonging to the State, for the purpose of constructing

canals and reservoirs; but there is no provision of law for the granting or acquirement of such a right. Proper legislation should provide a method of securing rights-of-way for canals, and railroads, and for reservoir sites, on State lands.

UNSURVEYED SCHOOL LANDS

That two or three Boards of Supervisors in the State allowed the practice, under Territorial government, of leasing unsurveyed lands, represented by the applicants as being, or thought to be Sections 16 or 36, has been disclosed by the receipt of a number of applications for permits of this character. Careful investigation on the Commission's part was convincing that such leases were granted in error, and that the error should not be perpetuated. True to this conclusion the Commission has rejected all applications for permits to occupy unsurveyed lands.

The Act of Congress of February 24, 1863, granting Sections 16 and 36 to the Territory of Arizona for common school purposes, as amended by the Act of February 28, 1891, provides:

> "Where settlements with a view to pre-emption or homestead have been, or shall hereafter be made, before the survey of the land in the field, which are found to have been made on Sections 16 or 36, those sections shall be subject to the claims of such settlers."

It is obvious that the State's title to Sections 16 and 36 does not accrue until the survey of such sections, and is then subject to the rights that may have been established by settlers prior to survey. And it follows that the State cannot lease what it has no title to, and which a superior claim might prevent it from ever acquiring title to. To avoid complications, therefore, the Commission has declined to

permit the perpetuation of these leases erroneously granted.

LIEU SELECTIONS FOR FOREST HOMESTEADS

There have been brought to the Commission's attention some half-dozen cases--and there may be others--which in the interest of equity and justice should have the Legislature's consideration. In these cases it has happened that agricultural areas within National Forests, settled upon many years ago and highly improved, with a view to acquirement under the forest homestead Act, have since Statehood, and following the survey of the lands, been found to fall on school sections. The Forest Service officials have therefore found it necessary to reject the applications of these settlers for the listing of the lands under the forest homestead Act, although similar settlement prior to survey outside of a National Forest would have enabled the settlers to acquire title to the land they occupied. Their only relief, under the circumstances, is for the State to relinquish its claim on the particular school lands involved, and to select lieu lands therefor. The Commission recommends that it be given authority, after a full hearing of the facts in each case and a determination of its merits, to make such relinquishments as are essential to the doing of justice.

WATER RIGHTS UNDER GOVERNMENT PROJECTS

It is a well known fact that the United States reclamation law prohibits the sale of water for more than 160 acres of land, to any owner of land under a government irrigation project. Whatever determination may be had of the school land questions, and whatever policy may finally be adopted for its administration or disposition, this phase of the situation, as it affects the districts being irrigated from government projects, will have to be considered. And whatever

such final determination may be, it is very desirable, and under certain conditions quite necessary, that there should be a method of acquiring water rights for the school lands so situate. The Commission recommends that a memorial to Congress, praying for remedial legialation to that end, be adopted by the Legislature.

UNIVERSITY LANDS

The Commission submits the following report on the University lands in the Coconino and Tusayan National Forests of Coconino county, and offers some suggestions regarding their administration in such manner as to produce the maximum revenue for the University:

By Act of Congress February 18, 1881, there were granted to Arizona "seventy-two entire sections of the unappropriated public lands" ..... "for the use and support of a University" when the Territory should be admitted as a State into the Union, conditioned that none of the funds created from the sale of such land should be used until the fund should reach the amount of $50,000, and then only the interest until the fund should amount to $100,000, after which the excess and interest might be devoted to the purposes named in the Act.

Under the provisions of this Act of Congress selections were made of 36,890.14 acres of timber land in Coconino county, constituting the basis of this report, which selections were approved by the Secretary of the Interior January 8, 1891, and by the President of the United States January 11, 1890.

By Act of Congress April 7, 1896, authority was granted to the Territorial officials to lease the lands so granted until the date of Arizona's admission to Statehood, and to devote the proceeds of such leases to the University fund. Under the provisions of an Act of the

Territorial Legislature, defining a policy for the administration of school and University lands in the various counties, the land has been administered by the Board of Supervisors of Coconino county, and the proceeds, insignificant in amount, applied as directed by the Act of Congress.

On May 20, 1912, the State Land Commission was, by Act of the First State Legislature, vested with authority to grant permits for the further occupancy of the University lands, to those holding leases on the same prior to Statehood, and such permits have been made effective to March 15, 1913.

With Arizona's admission to Statehood the title to these University lands vested absolutely in the State, and they can be disposed of or administered in such manner, subject to the conditions named in the grant by Congress, as the Legislature may deem wise and expedient.

Since the proper course to pursue must necessarily depend upon the value, condition and productivity of the property, a statement thereof should precede the Commission's suggestions:

DESCRIPTION

As stated, the land selected amounts to 36,890.14 acres, and lies in Coconino county, being embraced within the Coconino and Tusayan National Forests. It consists of alternate even-numbered sections (the odd-numbered sections being owned by the Atchison, Topeka & Santa Fe Railroad Company) and a few isolated sections, there being fifty-eight and one-half sections in all. The location of the land is on a rolling, rocky plateau between 6500 and 7800 feet in elevation. The soil for the most part is a clayey loam derived from disintegrated lava or limestone, and being generally covered by fragments or broken by outcroppings

of lava or limestone, is practically valueless for agriculture. Of the total area, probably 1000 acres may be suitable for agricultural purposes. What living springs are on any of the tracts are of little importance. There are a number of tanks on various sections, built by lessees, for the watering of stock being grazed thereon, or formed by railroad grades. There is permanent water on but one section. The greater part of the entire area is covered with an excellent stand of western yellow pine.

TIMBER ESTIMATES

Estimates obtained from cruising, by competent employees of the National Forest Service (to which department of the government this Commission acknowledges its obligation), indicate that there is at present a quarter of a billion feet of merchantable timber on these lands, and in addition about 4,000 cords of oak cordwood. If the tops and limbs of the western yellow pine were merchantable for cordwood, there would be at least ten to twenty thousand cords additional. A summary of the merchantable western yellow pine and oak cordwood, by townships, follows:

Township	Range	M. ft. B.M.	Cordwood
20 N.	5 E.	57,715	1,220
20 N.	6 E.	59,899	1,160
20 N.	7 E.	9,975	
21 N.	3 E.	4,090	
21 N.	5 E.	45,629	385
21 N.	6 E.	16,351	
21 N.	7 E.	21,014	
21 N.	8 E.	27,488	1,180
Grand Totals		242,161	3,945

This amounts to an average of approximately 6500 feet B.M. per acre for the entire tract.

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VALUE OF LAND

It has been stated that the land, with the exception of probably 1000 acres, is valueless for agriculture. Practically all of it has a distinct value for grazing, and under competent administration, can doubtless be made to produce a greater revenue from this source than it has produced up to the present time, but at best the return on the land, leased for grazing purposes, must be so insignificant as to amount to an interest return on a very small valuation--say three per cent on a valuation of a dollar per acre. The chief value of the land, therefore, lies in its suitability for the growing of timber, and this can be ascertained with reasonable accuracy by discounting the value of the product for 200 years--the length of time required in this section to bring western yellow pine to saw timber size. Assuming that 10,000 feet B.M. per acre can be produced in 200 years, and that a net price as great as $10 per 1000 feet--a prospective figure said by competent authorities to be not improbable--can be secured, the product of an acre discounted at three per cent would be worth $3. Add to this the value of the land for grazing, and it will be seen that even though it is not expected to return a higher rate of interest than three per cent its value as a permanent investment, disregarding the present stock of merchantable timber it contains, is not to exceed $4 per acre, and this estimate is considerably higher and more liberal than the estimates made by forestry experts who have been consulted.

These facts are set forth to indicate the inadvisability of selling the land itself, since whatever price therefor might be offered by a speculator or investor would, naturally and logically, exceed the above estimated value (or a lesser one) only by the amount the merchantable

timber standingon the land is worth, according to the ideas of the purchaser, as a speculation or investment; and for this purpose the timber, sold separately, is worth to the State probably more than it would be worth to the speculator, who would expect to realize a more or less attractive margin on his purchase, and who, in order to realize without unnecessary delay, would in all likelihood at once denude the land of all merchantable timber and destroy or greatly retard the continued growth and development which follows the application of modern methods of practical forestry and forest conservation.

To the minds of the members of this Commission the wise course to pursue is to hold this land under State ownership, to administer it, through the legally constituted land authorities of the State, by a plan which will hereafter be set forth, in such manner, consistent with the principles of true conservation, as will yield the greatest continuous revenue for the fund to which it is dedicated.

This fund, almost at once, could be made of substantial magnitude. The State enters into the ownership of this land with the area well stocked with merchantable timber. It is not necessary to wait for the maturing of the timber to secure important returns. As shown by the estimate heretofore presented, the stand of merchantable timber is but little less than a quarter of a billion feet, including all that could be used as lumber, mine timbers, etc. About half of it is mature or over-mature, and is either standing still or deteriorating. It is increasing in value only as stumpage value increases, and the gain being thereby made is more than offset by the loss which accompanies the retarding of the younger growth. This mature and over-mature timber should, therefore, be cut at once or within the next few years, not only to yield the greatest financial returns, but to promote the development of the forest by giving

the younger and immature growth more light and room.

It is estimated that within the next few years about 135,000,000 feet B.M. of mature and over-mature timber can be cut, and it is not unreasonable to expect a return of $4 per 1000 feet B.M. therefor. Deducting the average cost of 30 cents per 1000 feet B.M. to mark the timber to be cut, scale the timber and to supervise the cutting and removal of timber and the disposal of the brush, it will be seen that approximately $500,000 can be realized for the University fund. This can be materially increased at frequent intervals by the sale of timber, not yet mature, but so nearly mature that it will soon be suitable for cutting.

DISPOSITION OF FUNDS

As before stated, the Act of Congress granting this land to the State for the benefit of a University, provides, after describing how the lands may be sold, that the fund created from their sale must be kept inviolate until it reaches $50,000, when the interest received from that amount may be used, and when the fund reaches $100,000, the excess and interest may be employed in the establishment or maintenance of a University. This condition of the grant does not, however, appear to apply to revenues received, not from the sale, but from the products or administration of the lands, and it is the opinion of this Commission that the Legislature may cause such disposition, for the benefit of the University, to be made of the revenue realized from the sale of timber, as it sees fit.

This being the case, the question to determine is what shall that disposition be, in order that the greatest good to the University and the State may accrue. Undoubtedly, in view of the Institution's pressing needs and the difficulty--by reason of the present necessarily high rate of taxation--of securing funds with which to meet them,

there will be a great tempation to use the principal of this fund, at least for improvement purposes. It appears to this Commission, however, that the opportunity which presents for the establishment of a permanent fund, which will provide an everlasting and ever-growing annuity for the support and maintenance of the University, is worthy of most serious consideration. Invested at four per cent, $500,000--the amount which may be readily realized from the sale of mature and over-mature timber--will produce an annual income of $20,000, and as has heretofore been pointed out, this sum may be regularly increased by either adding to the principal such sums as may be realized both from subsequent sales of timber or cordwood and from the leasing of the land for grazing or agricultural purposes, or by supplementing with these receipts the interest return on a fund which might be permanently fixed at $500,000.

The Commission therefore recommends that such a fund be established, and that the Commission be authorized and instructed to dispose of the mature and over-mature timber on the University lands, under such conditions and regulations as will sacrifice no principle of conservation and result in the achievement of the object for which this grant was intended.

ADMINISTRATION OF UNIVERSITY LANDS

It is highly important that early steps should be taken to insure the adequate administration of this valuable property, to the end that the forest may be protected from fire and against improper or illegal uses, and its grazing facilities utilized to the best advantage. This can be done most effectively, most economically and most

equitably through co-operation with the Forest Service, and the Commission recommends that it be authorized to enter into a favorable agreement with the United States Department of Agriculture looking to such protection. The form of agreement proposed will be incorporated in a bill to be presented for legislative consideration, and made a part of this report. The cost of the proposed administration is estimated at $1500 per year, which would be a proper charge against the University fund.

FOREST SERVICE vs. STATE ADMINISTRATION

The Congressional permission and Territorial statute, under which surveydd sections 16 and 36 lying within National Forests were administered prior to Statehood, were abrogated by the Enabling Act. Whereas the old system authorized Boards of Supervisors to lease forest school lands in like manner as school lands outside of the forests, the Enabling Act placed all such lands under Forest Service jurisdiction, in the following terms:

> "And provided further, That the grants of sections two, sixteen, thirty-two and thirty-six, 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 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."

This change of administration, and the consequent confusion in the minds of school land lessees who were affected, occasioned an agitation which for a time threatened to be serious; but through the Commission's efforts, as will appear in the report of

August 30, 1912, a happy solution of the misunderstanding was arrived at. Since the date on which a mutually satisfactory agreement between the Forest Service and the Land Commission was arrived at, many individual cases have been adjusted, and conditions with regard to the administration of school lands within the forests may be said to have become normal.

This is an opportune time, therefore, to discuss the respective merits of the old and new systems of administration--not because it is a subject for State legislation, for it is not, but for the dissemination of information and for the effect such information, if possessed by the general public, might have on possible Congressional action.

It is the Commission's well considered opinion that in all essential particulars Forest Service administration of forest school lands, especially as they are now scattered and isolated, is more efficient and more profitable than State administration could possibly be, and quite necessary if the fullest effect is to be given to the national effort toward the conservation of the Nation's resources. It is obvious that the State could not, without prohibitive expense, give attention to the school's valuable timber lands scattered throughout many hundreds of miles of great forests, nor apply the rules which have been found so effective in preserving and improving grazing conditions within the forests. Under Forest Service administration the State pays nothing toward the cost of administering the forests, receiving its pro rata of receipts from the gross. Aside from the broader and more important consideration of scientific and effective conservation, therefore, an important saving is made in the item of expense.

More than this, from what information has been gathered and the data

at hand, it seems probable that a greater actual revenue is being realized than would be likely under State administration. It would not be a conclusive argument, in support of this statement, to merely point out that whereas under the old system, only $2,777.75 per annum was realized from the lease of forest school sections, while for the fiscal year ended June 30, 1912, the United States Treasurer remitted, as Arizona's share of the forest revenues, under the provision of the Enabling Act above quoted, $27,737.71; for there are now four sections where before were but two. But there seems no means by which the State could produce a revenue equal to this, unless by the early and indiscriminate sale of the timber on its lands. In many--in fact, most instances--this would prove impracticable, since the school sections are so scattered that sales of timber at desirable prices would be beset with many difficulties, and when made there would be danger of irreparable loss because of improper or inefficient supervision of the cutting. It must be borne in mind, also, that whereas the State is now receiving a share of the gross proceeds of the forest equal to all the school lands, whether surveyed or unsurveyed, under State administration its revenue would be restricted to the proceeds of surveyed sections.

There is only one other point to consider, and that is the question of service to the State's citizens residing upon or making use of lands within the forests. In the past there has been not a little criticism of Forest Service methods, and much complaint on the part of stockmen that the forest regulations entailed unfair and unnecessary hardships upon them. And while it appears that this has been true, to a greater or less extent, it now seems to be the general opinion among stockmen

that the conditions of early-day forest regulations are being rapidly eliminated, and a much better service enjoyed by stockmen than they could boast when the range was free to all. A member of the Commission attended the sessions recently held in Phoenix, of the Arizona Wool Growers' Association and the American National Live Stock Association, and there found that a very small percentage of stockmen, whatever their objections in the past, would exchange Forest Service supervision of the forests for State supervision, and still less, for no supervision at all.

The Forest Service officials have exhibited their entire willingness and desire to co-operate with the State and look to its interest in the management of the State's property; and it is the Commission's belief that such co-operation, coupled with the present form of administration, is far more satisfactory from every standpoint than State administration would prove.

It is perhaps not generally known that the State receives, directly and indirectly, forty-six per cent of the total gross receipts from all the National Forests within the State, all expense of administration being paid by the federal government. This revenue is divided as follows:

Under the Act of May 23, 1908 (authorizing the withdrawal of forest lands, and the creation of National Forests), 25 per cent of the gross receipts goes to the various counties, in proportion to the forest area in each, for the benefit of common schools and roads.

An amendment to the above Act, passed by Congress in 1912, provides that 10 per cent of the gross forest revenue shall be expended upon roads within the forests, under direction of the Secretary of Agriculture.

Add to these amounts 11 per cent, the school fund's income from the four school sections in each township, and a total of 46 per cent is the result.

CONCLUSION

The members of the Commission realize, and are thoroughly alive to the great importance of the work entrusted to them; perhaps more so than any other individual. The labors, travels, investigations and observations of the Commission have been many-sided, and it may be said that each step and turn has suggested a new direction, theretofore unthought of, in which the State's interests not only might be, but necessarily must be affected, requiring the most thoughtful and conscientious consideration to insure satisfactory results. The views of many people have been heard, and experience with existing laws, in Arizona and elsewhere, liberally debated--a course which has been productive of a fund of valuable information impractical of embodiment in the Commission's report. This experience has seemed to emphasize the Commission's consciousness of its responsibilities, and to cause those responsibilities to be regarded from the broadest viewpoint. Upon such a foundation the present recommendations are based, and upon it the Commission's further labors will be prosecuted.

If the Commission has failed in any way--and its members venture to believe that it has not--that failure consists of having placed upon the law creating it an interpretation more comprehensive than the exact wording of the text specifically requires, an interpretation which is amply justified by the pressing needs of the situation. Arizona is the beneficiary of an immense landed heritage, an heritage which, if regarded with partiotism and conserved with wisdom--the

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wisdom of facts honestly arrived at, and not of unproved theory or narrow prejudice--will bring inestimable benefits to the people in the way of reduced taxation and an enlarged development of the State. It is with eyes fixed upon such a result that the members of the Commission are working, and it is but just to say that a narrower interpretation of their duties, or a smaller conception of their responsibilities, would not interest them or claim their attention. The State Land Department is being organized and built up, not for today, but for all time, and upon the conviction rather than the hope that it will be the most perfect institution of its kind in the Union.

Intensely interested in the enactment of wise laws affecting the land questions and problems of the State, and the prevention of ill-timed or ill-advised statutes, the Commission will be glad to be represented at any legislative hearings on land subjects. Its experience, investigations and conclusions will be freely placed at the disposal of the Legislature, without hesitation or reservation.

Respectfully submitted,

STATE LAND COMMISSION,

by Mulford Winsor
Chairman

Cy Byers
Secretary

Wm A Moody
Member.

COUNTY OF MARICOPA)
) SS
STATE OF ARIZONA)

Before me, Chas. C. Bennett, a Notary Public in and for Maricopa county, State of Arizona, on this 20 day of February 1913, personally appeared Mulford Winsor, chairman, Cy Byrne, secretary, and Wm. A. Moody, member of the Arizona State Land Commission, known to me to be the persons who signed their names to the annexed "Report of the State Land Commission of Arizona, to the Governor of Arizona and the First State Legislature", and each for himself and not one for the other, swore that he was familiar with the contents of the said report and believed the statements and allegations therein contained to be true, to the best of his knowledge and belief.

Chas. C. Bennett
Notary Public

My commission expires My commission expires August 1st, 1916.

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