

# POLICY OF SERVICE AS TO MINING CLAIMS AND DEVELOPMENT IS DEFINED

### Ford Pinchot, Chief Forester, Explains Department's Attitude in Long Letter to W. G. M. Stone, President of Colorado Association—Epistle's Full Text.

It would be impossible to define the policy of the forest service in regard to mining claims and mining development within the national forests in clearer terms than has Gifford Pinchot, the head of the department, in a recent letter. The letter was addressed to W. G. M. Stone, president of the Colorado State Forestry association. The letter in full is printed below: United States Department of Agriculture, Forest Service, Washington.

Office of the Forester, January 9, 1909. Mr. W. G. M. Stone, president, Colorado State Forestry Assn., Denver, Colo.

My Dear Mr. Stone:

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

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

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

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

On October 25 Judge Richards wrote me as follows: "I have received from the executive committee of the American Mining congress the suggestion that I appoint the following names on the committee in compliance with your suggestion contained in your letter of the 10th inst.: Col. G. Brownlee, Judge E. A. Colburn, George J. Bancroft, Wm. P. Daniels and W. F. R. Mills. In selecting these men I took into consideration the necessity of having these men so situated as to residence that a meeting could be secured without too much inconvenience."

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

"Trusting that you will find this committee of service to you and that I may have the pleasure of meeting you at Pittsburgh, I remain, Very sincerely yours, (Signed) 'J. H. RICHARDS'."

I have since been informed by Mr. Smith Riley, district forester of the forest service stationed at Denver, that it is the plan of this committee,

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

While I regret that any points of conflict should have arisen, I must point out that the forest service has been forced to take cognizance of various matters connected with mining claims in national forests. With the real miner I am thoroughly in sympathy—and when I say this I am not making a profession which is unrelated to acts. I want and intend that every right which the miner has under the laws of the United States shall be enjoyed by him, within national forests exactly as elsewhere on the public domain. If he is now being harassed or impeded in the exercise of those rights by forest officers, I want to know it. I regard it as a part of my business to see that he gets those rights, and I thankfully welcome the assistance of any one who will help me carry out this purpose by bringing to my attention cases in which injustice seems to have been done any man. I wish to inquire into any and every case of action on the part of the forestry officers which is thought to deny or abridge the rights of prospectors and miners, as defined by law.

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

I wish to make my position clear with the utmost definiteness, so that if anyone of forest service officers fail to square with that position the responsibility may be placed upon me and I may take steps to right the wrong. The rights of miners are defined by law. For the law itself I am not responsible. I can not go back of it, and so far as it concerns the acquiring of title I do not execute it. But I do not wish to stop with the letter of the law, in the sense of giving the miner just what the law gives him and no more. I will go just as far to help legitimate miners as I can without doing injustice to the rights of the public. To the extent of my power I will see to it, and am seeing to it, that he has preserved for him the timber which he will need to develop his mine, and that he gets it at a fair price, not a monopoly price. If he needs the grass on his claim for his own work animals, if he is outside of a national forest and in a state which has a fence law he can not protect it without fencing, but within a national forest the necessary grass is assured him without charge.

On the other hand, no man may, if I can prevent him by making the facts known, initiate or patent mining or other claims in national forests in order to obtain, by the sale of timber or grass or the control of water or the land itself, a return which the law did not intend to give.

There are many things, it is right to claim within national forests that should be examined by forest officers before they go to patent, or when the land appears to be held improperly, in a way to interfere with national forest administration. In the case of mining claims, so far as the resources of the forest service have permitted all examining claims upon unreserved domain and geologists. It must be borne in mind, however, that under no circumstances does or can the forest service or any employe of the forest service decide whether a claim is good or not. That rests with the land office. The forest service simply states the facts, as it finds them, and reports its conclusion on those facts. The land office applies the law to the case, and decides whether, in view of the facts as presented, a hearing should be ordered

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before the claim is allowed to go to patent. If the statement of the facts is wrong, the claimant has every opportunity to show at the hearing that it is wrong. In other words, the forest service appears merely to bring out the facts. It can never be the judge in the case.

Nevertheless, I realize that to subject claimants to the annoyance and expense of a hearing needlessly would be to harass and impede them in the exercise of their rights. The forest service must not show an obstructive, litigious, or unfriendly spirit towards those who are entitled to their claims. There appears to be a belief in some quarters that it is the policy of the forest service to make it as hard as possible for claimants to establish their rights to land within national forests, and that in pursuance of this policy it has sought to discourage claimants by forcing them to a contest, whether they have a good claim or not. This is not true. The large majority of claims examined are reported on favorably. If it shall appear that in any locality claims which prove to be good are being sent to hearing in any considerable numbers, this fact will in itself be evidence that the forest service has been over-zealous. Forest officers must be zealous and efficient in protecting the rights of the public, but they must not be so zealous as to impose unnecessary hardship on citizens who are acting in good faith and are within the law. Wherever it may prove that this has happened, I shall be ready to admit that the service has been in the wrong, and will immediately take action to correct the evil.

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

I have written thus fully about the relations of forest officers with the public because I believe that this is a subject of very great practical importance just at the present time to all who believe that the permanency of protection is in the public interest. If the forest service fails in point of fact, on the national forests themselves and in direct contract with users of the forests, to make it felt that it is really dealing squarely with the public, the cause of forestry itself will receive a severe setback. There are undoubtedly some lacking those who for selfish reasons would have it believed that the national forest administration is not serving the public interest, and who would gladly discredit it through misrepresentations and distortions of the truth. Unfortunately, also, persons of entirely honest intentions do not always present an unprejudiced statement of their own interests as adversely affected. A prudent man soon learns in this world that it is necessary to hear two sides of almost any case before judgment can safely be passed. There will always be a certain amount of friction between the forest service and individuals so long as human nature remains what it is. I hold it, however, as my earnest wish and purpose that the forest service may stand before the people as an example of a beneficent governmental policy efficiently carried out; and I welcome as co-operators with me all who will help in a spirit of honesty and fairness towards the perfecting of the national forest administration, by bringing to light the defects inevitable in so new a work.

One word more concerning the miners, and I have done. It is sometimes said that the willingness of a man to spend his time and money in making the development required by law should, if done in good faith, suffice to enable him to establish his claim, since even eminent geologists have often failed to recognize in the case of property which later proved highly valuable that a discovery such as would establish a right to patent had been made, and that therefore forest officers are incompetent to decide whether a claim is good or not. If forest officers were in point of fact called on to make any such decision, I should heartily agree with this contention. What the forest officer does, however, is simply to appear in defense of the title of the public when it appears probable that an in-

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

Very sincerely yours,  
(Signed) GIFFORD PINCHOT,  
Forester.

## DENIES ASSERTIONS OF RAINEY

### EX-PRESIDENT OBALDIA OF PANAMA ISSUES STATEMENT IN REPLY TO ACCUSATIONS.

Panama, Feb. 1.—The charges made in the American congress recently by Representative Henry L. Rainey of Illinois against Domingo Obaldia, ex-president of Panama, and others have brought out denials from the president and 16 members of the national assembly. The assemblymen have signed a statement asserting that they were present at a meeting in the president's office, where the contract for the exploitation of the timber industry along the Atlantic coast of Panama was discussed and during the meeting neither President Obaldia nor any one else said or implied that Charles P. Taft, William Nelson Cromwell or Roger L. Farnham had any direct or indirect participation in the business. Among those signing the statement are Dr. Pablo Arosemena, Julio Feregar and other prominent opposition leaders in the assembly.

Concerning some of the charges President Obaldia has given out the following statement for publication: "My attitude while in the Colombian congress of 1903 and my entire public life are beyond the reach of slanders. The Amador-Arias government was brought out denials from the president and 16 members of the national assembly. The assemblymen have signed a statement asserting that they were present at a meeting in the president's office, where the contract for the exploitation of the timber industry along the Atlantic coast of Panama was discussed and during the meeting neither President Obaldia nor any one else said or implied that Charles P. Taft, William Nelson Cromwell or Roger L. Farnham had any direct or indirect participation in the business. Among those signing the statement are Dr. Pablo Arosemena, Julio Feregar and other prominent opposition leaders in the assembly."

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At the meeting in my office neither Mr. Ehrman nor any outsider were present, and no mention was made of Charles P. Taft, William Nelson Cromwell or Roger L. Farnham. The railway proposal was presented to the assembly by a Mr. Ward and was rejected. The assembly then enacted a law authorizing the construction of a railway with national funds to become national property. Mr. Ehrman's timber contract was also rejected by the assembly, where a bill is now being discussed regulating the foreign exploitation on the Atlantic coast between Concepcion and Costa Rica, including the entire Chagres valley."

President Obaldia has discharged a local government employe who published a pamphlet criticizing William Nelson Cromwell and President Roosevelt.

## A DARING ROBBERY.

Chicago, Feb. 1.—A daring daylight robbery was perpetrated in the downtown district today when a satchel containing nearly \$1,000 was stolen from behind the cashier's desk in a restaurant at 7 Randolph street. R. S. Swain, auditor and collector of the restaurant, who had the money in charge was eating, when a man seized the satchel and fled.

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## JOHNSON AND DREW OBSTINATE

### DECLARE THEIR INTENTIONS TO PRESS ANTI-JAP BILLS REGARDLESS OF OPPOSITION.

Sacramento, Cal., Feb. 1.—President Roosevelt's letter to Governor Gillett on the Japanese question, made public this morning, was eagerly read by members of the legislature. A. M. Drew, author of the bill prohibiting aliens to hold land in the state, said: "After a careful reading of the letter I am determined to stand for the bill as it has been amended. As to the president's views in this latest letter I take no exception, but I do believe that Secretary Root, in the letter enclosed by the president, takes an unwarranted stand against all legislation proposed against the Japanese. My object in introducing the land bill, I may frankly state, was to keep the Japanese from getting a foothold in California. They are not and should not be allowed to become citizens of this country, and they should not have the right to property ownership. We are confronted with a serious situation in this regard, and I shall make every effort to have my measure preventing all aliens from owning land passed through the legislature."

Grove L. Johnson, author of the bill prohibiting Japanese from becoming members of corporations and providing for their segregation, said: "The president's letter has no more effect on me than water on a duck's back. I have not changed my mind in the least about the wisdom of enacting anti-Japanese laws. As to the strength of this sentiment in the assembly, I have no idea, as I have not approached a single member on the question. I only know that I shall stand pat."

On motion of Johnson of Sacramento the rules were suspended and the Drew bill was received as an amended bill by the author and passed upon by the judiciary committee. The measure will be the special order of business on Wednesday.

Transue of Los Angeles made a motion to defeat the motion to suspend the rules. He declared that as Drew's bill had been so amended that it was practically a new measure it should take the regular course of a bill being pushed forward as an amended bill. Sixteen members voted with him. Louis M. Julliard, chairman of the assembly democratic caucus, stated this morning that the minority had not yet decided upon a course of action.

## TWO ARE ELECTROCUTED.

Tacoma, Feb. 1.—The crossing of a heavy power wire with the city light wires at a new building caused the death of Arthur W. Charlson, a blacksmith, and John R. Christensen, a shipping clerk, today. Death was instantaneous, about 2,200 volts passing through their bodies. Several other men received severe shocks.

## CLEVELANDITES PAY FIVE-CENT FARE NOW

Cleveland, Ohio, Feb. 1.—In accordance with instructions recently issued by Judge Taylor of the federal court to the receivers of the entire street railway system of this city, the rate of fare was increased, beginning this morning, on all lines except upon those where the franchise specifically provides a rate of not more than 3 cents. Approximately two-thirds of the street car patrons are now paying a straight 5-cent fare or 11 tickets for 50 cents. Patrons of the 3-cent lines are compelled to pay 2 cents for a transfer, while passengers paying the regular 5-cent fare are given free transportation to any line in the city.

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\$3.75 comforts, wool filled \$2.25  
\$2.00 comforts, silkline covered \$1.39  
\$3.75 extra fine comforts, sateen covered, sale price \$2.95  
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\$2.50 bedspreads \$1.95  
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Owing to the illness of Mr. Ed Levasseur and the failure of the substitute to put in an appearance, that part of last evening's entertainment was entirely eliminated from the program. Mr. Levasseur will resume his duties this evening.

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