

FIVE HUNDRED MEN BECOME ACTIVE

(Continued From Page One.)

tion and control of the work, and the co-ordination of rail and river transportation. The engineering difficulties may be larger than any we have yet solved. The adjustment of opposite demands between conflicting interests and localities, and other questions of large reach, and often of great legal complexity, will tax the powers of the best men we have. No part of the work will require greater temperance, wisdom, and foresight than certain questions of policy and law.

I have observed in the course of some experience that difficulties originating with the law are peculiarly apt to foster misconceptions. It happens that the service with which I have the honor to be connected supplies just now a typical example.

Certain newspapers have said of late that the forest service has gone beyond the law in carrying out its work. This assertion has been repeated so persistently that there is danger that it may be believed. The friends of conservation must not be led to think that the forest service can proceed legally with its present work all the hazards and compromises of new legislation must be faced.

Absolutely False.

Fortunately, the charge of illegal action is absolutely false. The forest service has had ample legal authority for everything it has done. Not since it was created has any charge of illegality, despite the most searching investigation and the bitterest attack, ever led to reversal or reproof by either house of congress or by any congressional committee. Since the creation of the forest service the expenditure of more than \$11,000,000 has passed successfully the scrutiny of the treasury of the United States. Most significant of all, not once has the forest service been defeated as to any vital legal principle underlying its work in any court or administrative tribunal of last resort. Thus those who make the law and those who interpret it seem to agree that our work has been legal.

But it is not enough to say that the forest service has kept within the law. Other qualifications go to make efficiency in a government bureau. A bureau may keep within the law and yet fail to get results.

When action is needed for the public good there are two opposite points of view regarding the duty of an administrative officer. One point of view is that there are no express and specific laws authorizing or directing such action; and having thus sought and found none, nothing is done. The other asks, "Is there any justification in law for doing this desirable thing?" and having thus sought and found a legal justification, what the public good demands is done. I hold it to be the first duty of a public officer to obey the law. But I hold it to be his second duty, and a close second, to do everything the law will let him do for the public good, and not merely what the law compels or directs him to do.

Right and Duty.

It is the right as well as the duty of a public officer to be zealous in the public service. That is why the public service is worthy while. To every public officer the law should be not a goal to drive him to his duty, but a tool to help him in his work. And I maintain that it is likewise his right and duty to seek by every proper means from the legal authorities set over him such interpretations of the law as will best help him to serve the country.

Let the public officer take every lawful chance to use the law for the public good. The better use he makes of it the better public servant he becomes. One man with a jack-knife will build a ladder. Another with a full tool chest cannot make a foot-stool. The man with the jack-knife will often reach the higher level. I am for the man with the jack-knife. I believe in the man who does all he can, and the best he can, with the means at his command. That is precisely what the forest service has been trying to do with the law, and the law congress has placed in its hands.

President Taft's recent utterances in favor of conservation have gone far to increase the public appreciation of its national importance. Every public officer responsible for any part of the conservation of natural resources is a trustee of the public property. If conservation is vital to the welfare of this nation now and hereafter, as the president has so wisely declared, then few positions of public trust are so important, and few opportunities for constructive work so large. Such officers, which have come before this nation since the civil war. They may ever hope to serve the nation as few men ever can. Their care for our forests, waters, lands, and minerals is often the only

thing that stands between the public good and the something-for-nothing men, who, like the daughters of the horse leech, are forever crying, give, give. The intelligence, initiative, and steadfastness that can withstand the unrelenting pressure of the special interests are worth having, and I am proud to belong to a service which has given proof of all three. But we need the counter pressure from the people in their own interest far more often than we get it.

In Old Ruts.

The public welfare cannot be subserved merely by walking blindly in the old ruts. Times change, and the public needs change with them. The man who would serve the public to the level of its needs must look ahead and one of his most difficult problems will be to make old tools answer new uses—some of which at least were never imagined when the tools were made. That is one reason why constructive foresight is one of the great constant needs of every growing nation.

The forest service proposes to use the tools—obey the law—made by the representatives of the people. But the law cannot give specific directions in advance to meet every need and detail of administration. The law cannot make brains nor supply conscience. Therefore, the forest service proposes also to serve the people by the intelligent and purposeful use of the law and every lawful means at its command for the public good. And for that intention it makes no apology.

Fortunately, the forest service, the point of view which is worked out for itself under the pressure of its responsibilities was found to be that of the supreme court.

In the case of the United States vs. MacDaniel (7 Pet., 13-14), involving the administrative powers of the head of a department, the supreme court of the United States said:

"He is limited in the exercise of his powers by the law; but it does not follow that he must show statutory provision for everything he does. No government could be administered on such principles. To attempt to regulate, by law, the minute movements of every part of the complicated machinery of government would evince a most unparagonable ignorance on the subject. While the great outlines of its movements may be marked out, and limitations imposed on the exercise of its powers, there are numberless things which must be done that can neither be anticipated nor defined, and which are essential to the proper action of the government."

Specific Task.

Congress has given to the secretary of agriculture, acting through the forest service, the specific task of administering the national forests, with full power to perform it, and has provided that he "may make such rules and regulations, and establish such service as shall insure the objects of their occupancy, and use and to preserve the forests thereon from destruction." Every exercise of the powers granted to the secretary of agriculture by statute has been in accordance with the principles laid down by Chief Justice Marshall ninety years ago in the case of McCulloch vs. Maryland (4 Wheat., 421), when he said to powers delegated by the federal constitution to congress:

"Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional."

After the transfer of the national forests from the interior department to the forest service, in 1905, some things were done that had never been done before, such as initiating government control over water power monopoly in the national forests, giving preference to the public over commercial corporations in the use of the forests, and trying to help the small man to make a living, rather than the big man to make a profit (but always with the effort to be just to both). Always and everywhere we have set the public welfare above the advantage of the special interests.

Because it did these things, the forest service has made enemies, of some of whom it is justly proud. It has been easy for these enemies to raise the cry of illegality, novelty and excess of zeal. But in every instance the service is fortified either by express statutes or by decisions of the supreme court and other courts, of the secretary of the interior, of the comptroller or the attorney general, or by general principles of law which are beyond dispute. If there is novelty, it consists simply in the way these statutes, decisions and principles have been used to protect the public. The law officers of the forest service have the nation for their client, and they are proud to work as zealously for the public as they would in private practice for a fee.

Laid at Rest.

So I think the ghost of illegality in the forest service may fairly be laid at rest. But it is not the only one which is clouding the issues of conservation in the public mind. Another misconception is that the friends of conservation are trying to prevent the development of water power by private capital. Nothing could be farther from the truth. The friends of conservation were the first to call public attention to the enormous savings to the nation, which follows the substitution of the

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power of falling water, which is constantly renewed, for our coal, which can never be renewed. They favor development by private capital and not by the government, but they also favor attaching such reasonable conditions to the right to develop as will protect the public and control water power monopoly in the public interest, while at the same time giving to enterprising capital its just and full reward. They believe that to grant rights to water power in perpetuity is a wrongful mortgage of the welfare of our descendants, and to grant them without insisting on some return for value received is to rob ourselves.

I believe in dividends for the people as well as taxes. Fifty years ago long enough for the certainty of profitable investment in water power, and to fix on the amount of return that will be fair to the public and the corporation is not impossible. What city does not regret some ill-considered franchise? And why should not the nation profit by the experience of its citizens?

No Reason.

There is no reason why the water power interests should be given the people's property freely and forever, except that they would like to have it that way. I suspect that the mere wishes of the special interests, although they have been the mainspring of much public action for many years, have begun to lose their compelling power. A good way to begin to regulate corporations would be to stop them from regulating us.

The sober fact is that here is the imminent battle ground in the endless contest for the rights of the people. Nothing that can be said or done will suffice to postpone longer the active phases of this fight; and that is why I attach so great importance to the attitude of administrative officers in protecting the public welfare in the enforcement of the law.

From time to time a few strong leaders have tried to unite the people in the fight of the many for the equal opportunities to which they are entitled. But the people have only just begun to take this fight in earnest. They have not realized the far-reaching consequences of their own passive position.

Now that the fight is passing into an acute stage, it is easily seen that the special interests have used the period of public indifference to maneuver themselves into a position of exceeding strength. In the first place, the constitutional position of property in the United States is stronger than in any other nation. In the second place, it is well understood that the influence of the corporations in our law-making bodies is usually excessive, not seldom to the point of defeating the will of the people steadily and with a case. In the third place, cases are not unknown in which the special interests, not satisfied with making the laws, have assumed also to interpret them, through that worst of evils in the body politic, an unjust judge.

One Remedy.

When an interest or an enemy is entrenched in a position rendered impregnable against an expected mode of attack, there is but one remedy, to shift the ground and follow lines against which no preparation has been made. Fortunately for us, the special interests, with a blindness that naturally follows from their wholly commercialized point of view, have failed to see the essential fact in this great conflict. They do not understand that this is far more than an economic question, that in its essence and in every essential characteristic it is a moral question.

The present economic order, with its face turned away from equality of opportunity, involves a bitter moral wrong, which must be corrected with justice and firmness, but not bitterness, for that would be to lower the nation to the moral level of the evil which we have set ourselves to fight.

This is the doctrine of the square deal. It contains the germ of industrial liberty. Its partisans are the many; its opponents are the few. I am firm in the faith that the great majority of our people are square dealers.

Washington, Nov. 1.—In deciding the case of Reavis vs. Fianza favorably to the latter, the supreme court of the United States today, in effect, held the occupancy of land by a native of Philippine islands for a long number of years to be a superior basis for a claim to the land than settlement by an American. The property in controversy was a gold mine in Benguet province, which had been operated for 50 years by the Fianza family, who are Igorotes, without making any formal filing upon it. Reavis undertook to obtain a patent to the mine in 1901. The Philippine courts decided in favor of Fianza and today's decision sustained that finding.

EXPERT TELLS OF VALUE OF VALLEY

(Continued from Page One.)

"From all data I have been able to obtain, there are about 4,000,000 acres in the valley. This is a great deal of land, but consider its double and triple production. I was told today that probably 150,000 acres could be put to growing apples; I was today in an orchard, the owner of which said that he had realized a net return of \$1,200 an acre. This was a 5-year-old orchard. This, I take it, is a little unusual, but let us divide that return by six, surely a conservative basis, and say \$200 an acre. Suppose, then, that 150,000 acres are bearing apples. Why, it means a return of \$30,000,000 from apples. Of course, this is only one crop, but I hope the people of the valley will guard it well. By that I mean the exclusion of the pests that are hampering the orchard men of the east and middle west. The very best men should be kept in the field, for eternal vigilance is necessary.

The Dairy Industry.

"The Dairy Industry is about to become important in the Bitter Root. One would be compelled to go far before finding a place with more natural advantages in this line than the valley." The importance of the dairy industry, the turning of "hay into milk," was advocated and explained by Professor Shaw, who insists that "millions of dollars' worth of dairy products" could be obtained.

Professor Shaw quoted Professor Emil Sandsten, a University of Minnesota man formerly of the faculty of the University of Wisconsin, and now in the service of the Bitter Root Valley Irrigation company, as saying that there is enough of phosphate and nitrogen in the soil of the valley to last for 50 years, but counseled its tillers to be saving and to replenish the soil as it became advisable and before it became necessary. Before leaving the valley for a discussion of dry-farming lands, Professor Shaw took time to chide a certain class of Bitter Root ranchers and fruitgrowers for not keeping their properties in better condition, saying that the valley should be "a veritable Paradise of agriculture."

Montana to Lead.

As to Montana, as a whole, Professor Shaw said that there was not another state in which the people outside its borders held such serious ideas. He told of a report he had made to the chairman of the board of directors of the Great Northern railroad, James J. Hill, after a trip throughout eastern Montana, saying that he had told the railroad magnate that 100 miles from the Canadian line and Dakota and between the mountains were 20,000,000 acres that could be put under the plow and made to yield good crops. The cultivation of this sort of land and its infinite possibilities furnished the burden of the concluding portions of Professor Shaw's address. After giving much practical instruction and suggestion, he ended by saying that it is "a foregone conclusion that Montana is to lead all of the states in the production of cereal grains—and some other things."

Professor Shaw finished a trip of two days through the Bitter Root yesterday, and what he said last evening was the result of the careful inspection of a man who is an expert agriculturist. With him during part of his trip was Professor Emil Sandsten. Today Professor Shaw leaves for eastern Montana. Later on he returns to his home in St. Paul, but comes back to Montana in a few weeks to assist in a series of farmers' institutes.

TRUMBULL INTIMATES A VERY DEEP PLOT

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New Haven, Conn., Nov. 1.—Professor George Trumbull Ladd of this city, for a time confidential adviser of the late Prince, in a statement today on the facts leading up to the assassination of the prince, pointed out that the assassin is probably a sub-editor of one of the native editions of the Korea Daily News, published at Seoul, which was suppressed. Professor Ladd said recent news from Seoul reported a plan on the part of certain Korean literati of assassinate Homer B. Hurlburt and that men have been hired for the purpose. The ground of revenge on Mr. Hurlburt is the charge that he persuaded the Korean emperor to dispatch an embassy to The Hague, and in so doing became, in the eyes of the literati, the "arch enemy of Korea." Those latter facts, Professor Ladd said, would explain how it is that certain parties in Seoul expect the assassination to bring about foreign intervention, especially from the United States.

CONSERVATIONISTS HOLD THEIR SESSION

(Continued from Page One.)

New Orleans, Nov. 1.—Incident to the Lakes-to-the-Gulf deep waterways convention the Southern Conservation congress held a session this afternoon and tonight. The feature was an address by Gifford Pinchot, chief forester, Governor Sanders of Louisiana, in responding to whose call the delegates gathered, declared that the great questions for settlement in the future would be economic and not political. Congressman J. E. Ransdell, president of the National Rivers and Harbors congress, and R. N. Baker, president of the National Conservation congress, also spoke.

At the night session, presided over by Gifford Pinchot, a number of brief speeches were made in discussing the question, "What is Conservation Doing in my state?"

WILL NOT STOP.

Cleveland, Nov. 1.—Football will not be stopped in Western Reserve university or Case School of Applied Sciences on account of the death of Cadet Byrne at West Point. President Charles S. Thomas of Western Reserve said tonight that when the game is played between well-balanced teams the percentage of serious accidents is slight.

IS BURNED TO DEATH.

Redding, Cal., Nov. 1.—Conductor Edward P. Richardson of Dunsmuir, Cal., was killed and brakeman Charles Neate of the same place was burned to death in the wreckage when the rear part of a freight train on the Southern Pacific was caught in a cave-in early today in a tunnel near Coran.

FATALLY INJURED.

Kokomo, Ind., Nov. 1.—In a football game between teams representing Kokomo and Noblesville today Ogle Senneker of Western Reserve was probably fatally injured. He was kicked in the back of the head and suffered a concussion of the brain.

MAXIMUM RATES.

Paris, Nov. 1.—Beginning today, the government is applying maximum rates on American imports covered by the tariff agreement between the two governments.

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FILIPINO SECURES COURT'S DECISION

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