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"Politics" of Public Land Management

It is always a tough assignment to substitute for Stewart Udall. To be asked to do so in his own State borders on cruel and unusual punishment.

I am nevertheless delighted to have this opportunity. The subject matter of your deliberations is one that has consumed a large part of my time and energy over the past five years and in which I have had a deep interest for most of my adult life. It is gratifying to be able to join with this distinguished group of private citizens whose credentials as public citizens is certified by their willingness to contribute three days of their own time in becoming better acquainted with important public issues.

After something like a hundred speeches on one or another aspect of the subject of your session, I have evolved the very strong feeling that the public land policy issues of our day are public issues in the broadest sense. They should not and must not be left for decision by the technical experts, whether lawyers, economists, technicians or administrators. These issues have such serious implications for the future of our society that the whole public should have a voice. But it requires study and evaluation to arrive at informed judgments. You are engaged in that process and I congratulate you.

Our discussion of these issues is most timely, for, as your background research report points out, the national government is on the verge of an investigation in depth into the effectiveness of its public land policies. The Public Land Law Review Commission is undertaking this highly complex task.

Under the chairmanship of Wayne Aspinall, the Commission is structured to accommodate the complexity of the subject and interests in it, and it will operate in public. The Commission members know that the public rarely speaks with one voice and that it is critically important that all segments of interested, responsible and informed opinion be heard. I can think of no community that should be better prepared to make a constructive contribution to the Commission's work than the Town Hall institution.
The Town Hall institution represents, indeed, a highly sophisticated form of public enlightenment in this day and age of mass communication, pat answers and dogmatic solutions. I do not often yearn for a return to the life our forefathers led, but I am sure all of us harbor some feeling of envy for the relative leisure they had in deliberating public issues of their era. This assembly seems to me to have taken the best of the past as a mechanism for sorting out the problems of the present.

Despite what I have said about the seriousness and the immediacy of the questions before you this week, I would take the liberty of indulging in one admonition. Don't be too hasty about reaching the kind of consensus that binds participants to a particular kind of solution or recommendation. In that direction lies fixity of position and the stifling of further thought in an area where change is rapid and flexibility essential.

The dangers of "locked-in", stereotyped positions on public issues was dramatized in a recent commencement address at a small Illinois college. The speaker, a Cook County Judge and a woman, told the graduates that if they felt a need to serve their civic or social conscience, but were lazy about it, they could join an extremist group. In this manner, she said, one is free to turn off his thought processes and be carried forward by the "movement"—whether its proclivities be left or right.

The bitter irony of this commentary has real pertinence to the subject of this seminar. Natural resources issues have economic and social, as well as purely physical, overtones. They are, therefore, political in character.

As in almost any endeavor that touches a socio-economic or political nerve, we have extremists on natural resources issues—those who oppose new dams under any conditions at all times, those who oppose range fencing at any time for any purpose, those who oppose scenic preservation if a nickel of expenditure is involved, those who regard public land retention as a great waste through lack of exploitation and failure to pay taxes. You can, if you wish, find movements which will think for you along any of these lines—and speak for you with strident voices.

But our Illinois judge offered an alternative: the infinitely more difficult and demanding process of rejecting stereotypes in favor of a dedication to careful, objective individual analysis—even of fundamental assumptions commonly taken for granted. She warned that this choice is not the way to intellectual comfort. The group or the movement will rarely concede the possibility of error; for the individual there is always the nagging suspicion that your facts or premises were wrong or that faulty reasoning led to erroneous conclusions.

Justice Holmes voiced this hazard when he said that the test of a truly civilized man was his ability to doubt his own first principles. Walt Whitman took it to be an ideal of national character that we could tolerate differences among men and as a community from one time to another when he wrote:
Do I contradict myself?

Yes, I contradict myself.

I am large. I contain multitudes.

This group is capable of generating multitudinous ideas. Your discussions will, if they are to be productive, lead to conclusions. Conclusions are the basis of action, whether individual or collective. But let your conclusions preserve as many options as possible. Consider that conditions may change. Do not fear modification when new facts or better reasoning dictate. A free society has no fear of revisionism. The tradition of the Town Hall—whether in old New England or youthful Arizona—serves the ideals of freedom and disavows extremist dogma.

Let me start by voicing a mild criticism of the agenda for this meeting which contains the possible implication that there is some sort of a clear cleavage between the administrative and the user points of view on Federal public land management. My long-time friend, Ed Clyde, who speaks tomorrow, shares with me more areas of agreement than disagreement on this issue, I think, and we both believe that there is a common interest between Federal landlord and private user in the conservation of the resources of the land. Your discussions today probably brought out that the gap of philosophical differences is narrowing.

I especially commend your Research Committee for the background report so ably assembled by Dr. Bingham. The study is an excellent compendium of the factual situation we face, and it does a fine job of sifting the significant from the confused mass of history, law and precedent. In sum, the report represents the kind of a job that the Public Land Law Review Commission must undertake in expanded and formal fashion before the Commission can begin to operate effectively.

For your purposes the study quite properly emphasizes the part played by the Federal lands in Arizona's affairs. There are probably at least a dozen people in this room who can elaborate on that phenomenon much better than I. Moreover, if there is a "Federal" viewpoint on this subject, it cannot be expressed accurately within the strictures of any one State's boundaries. Our duty is to maintain a national perspective of the subject, but with due regard to the particular conditions and needs of the local communities and the economic impact of our activities on them.

Partly, for this reason, and to give you a national overview, let me summarize in statistical terms the history of our Federal public domain. I exclude Alaska because it remains in about 98 or 99 percent Federal ownership and therefore tends to distort the historical trend and Hawaii because it was never, in the true sense, a public land factor.

The total land and inland water area of our continental mass is just
short of two billion acres. Of this, 476 million acres were in private or other non-Federal ownership upon coming under American control. Thus, nearly 1-1/2 billion acres have held public domain status at one time or another since 1871. Today, the residual Federal ownership over original public domain amounts to 352 million acres—less than a fourth of our common land heritage. The balance has been disbursed to settlers, as a dowry to newly created States, as grants to subsidize a railroad network, as a homeland for the displaced native Indian population and through the other devices described in your background volume.

But an even smaller land area remains in technical public domain status, that is, the vacant and unreserved land base not allocated on a permanent basis to any other Federal use. Out of the 352 million acres remaining in Federal ownership more than half, 179 million acres, has been set aside for national forest purposes, national parks and wildlife refuges, defense installations, reclamation projects and a variety of highly intensive governmental uses (hospitals, prisons, test areas, navigational facilities and the like).

So when we talk about the public domain in its technical legal sense, or in the realistic sense of that which can be made available without particular consideration for an existing special use, we are really concerned with about 173 million acres. In sum, this is perhaps one-ninth of the original landed birthright of the Nation, or, stated in the reverse, we have either conveyed away or allocated to other specific public uses eight-ninths of the land that was once thought by Jefferson, for example, to be growing room for a future of thousands of years.

A very high proportion of this remaining public domain acreage consists of arid and alkaline desert, non-productive mountain tops and rough canyon country. We are not dealing with a boundless resource. In fact, compared to the original base and the needs of our developing society, even under the wisest of policies for management or disposition it would be an extremely narrow hedge against the inflation that comes with land scarcity.

In blunt terms, our generation knows that we have not completed 88 percent of our national growth. When the Taylor Act was passed a generation ago, the true answer was given. Although in 1935 they were less concerned, and perhaps did not worry so much about population projections, they did realize that the public land represented a national responsibility.

We may be on the threshold of social policies and community mores that will short-circuit historical patterns of growth, but my view is that as prudent husbandmen we must act on the assumption that living space and food and fiber for 300 million people must be provided within the lifetime of many in this room.

At this point you may argue that I have set up a straw man, that the basic issue is not limited to the 173 million acres of disposable public domain but includes the uses and the management policies applicable to all of the Federal land holdings in all of the States. I cannot disagree—but I must differentiate.
Through a process not unlike that of peeling back the leaves of an artichoke, I have reduced our public domain to a relatively small area. But I have identified an equal area of the original Federal ownership which is dedicated to specific national programs. To this must be added another 51 million acres of Federal holdings outside of Alaska and Hawaii that have been acquired, largely through purchase, for equally specific Federal missions, principally for national forests and parks, defense, flood control and water development purposes in the East. So, in this broader context, we are really talking about a total Federal interest in 403 million acres—only a little less than 20 percent of the continental land mass.

Concededly, the land demands of our maturing society dictate that the totality of Federal holdings be subjected to close scrutiny as to need, uses and management policies. I would only emphasize that while public domain policies are open to fundamental reexamination in a relatively free forum, the other areas (179 million acres of reserved public domain and 51 million acres of acquired lands) are in a distinctly different category. These have already been allocated to their specialized public uses by conscious public policy decisions. If you conclude that Grand Canyon National Park should be reduced in size or opened to other uses or that the Reclamation withdrawals along the Colorado are excessive, then the burden falls more particularly upon you to demonstrate a case for that conclusion.

Putting it another way, while public domain issues can be treated in a general way, each area of reserved or acquired Federal land must be considered on its own merits as an individual case. And the principles of use and management insisted upon for Federal holdings must be applied with equal force to State and local and even private land resources.

It seems to me highly significant that the Federal Government is entering upon a reexamination of its public land policies on a very broad base. The charter of the Public Land Law Review Commission is not restricted to the legislative base of the public land system—although that must be its chief and ultimate target. On the contrary, the Commission is expressly directed to "study existing statutes and regulations" and to "review the policies and practices of the Federal Agencies." Thus the administrative implementation and the decisional encrustations upon the law are open to scrutiny. This extended jurisdiction was not eagerly welcomed by some elements of the Executive Branch; but I for one do welcome it. Any study of the law which does not include its administration would be academic in the extreme.

Likewise, there were those who wished to exclude certain laws affecting public lands, such as the mining laws, or to confine the Commission's jurisdiction to a narrowly defined category of public lands—in effect, to exclude those set aside for special purposes. Except for a few categories covered by individual Congressional authorizations (primarily national parks) my Department urged the broadest possible coverage. In fact, we recommended language changes, adopted by the Congress, making it clear that the inquiry encompassed the resources of the Outer Continental Shelf and retained interests, such as mineral and reversionary rights. The final enactment adopts this broad definition.
establishment hopes to put its house in order to meet the resource needs of our society. Its inquiry and recommendations will include both substantive and procedural matters. Its interest is the public interest. We must create a framework in which the individual dealing with his government is assured of due process of law.

Public land transactions constitute but a small segment of the total Federal administrative process. But they have great meaning for the individual citizen and significance for the comfort and prosperity of future generations. What we do in this area may fabricate a shield for our liberties and our security. Failure can forge the sword of their destruction.

The hour grows late here on the rim of a great natural wonder. The hour also grows late for America to make its decisions on the kind of society we are creating for the future. Shall our children be free men with resources adequate to their social and material aspiration—or landless serfs to be manipulated as units of production? If the latter condition evolves, can democratic ideals and institutions survive anywhere in the world?

I give you only questions. The answers must evolve from the kind of cerebration which an institution like this is designed to stimulate.