

**HEARINGS HELD BEFORE THE
COMMITTEE ON THE PUBLIC
LANDS OF THE HOUSE OF
REPRESENTATIVES, APRIL 29 AND
MAY 1, 1908, ON H.R. 21412**

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Hearings held before the Committee on the Public Lands of the House of Representatives, April 29 and May 1, 1908, on H.R. 21412 by Various

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HEARINGS

4-5.
HELD BEFORE THE COMMITTEE ON THE PUBLIC LANDS
OF THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 1908

ON

H. R. 16277

TO PROVIDE FOR THE SALE OF LARGE-GROWTH
AND MATURED TIMBER ON LANDS HERETOFORE
GRANTED TO THE TERRITORY OF NEW MEXICO,
AND FOR OTHER PURPOSES

WASHINGTON
GOVERNMENT PRINTING OFFICE
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SALE OF TIMBER. TERRITORY OF NEW MEXICO.

COMMITTEE ON PUBLIC LANDS,
Saturday, February 8, 1908.

Committee called to order, Hon. F. W. Mondell in the chair.

**STATEMENT OF HON. GEORGE CURRY, GOVERNOR OF THE
TERRITORY OF NEW MEXICO.**

The CHAIRMAN. Gentlemen, we have Governor Curry, of New Mexico, with us this morning, accompanied by other gentlemen from that Territory, who desire a hearing upon the bill (H. R. 16277) to provide for the sale of large-growth and matured timber on lands heretofore granted to the Territory of New Mexico.

Before we proceed, I would like to read to the committee a letter, under date of February 6, 1908, from the Secretary of the Interior, bearing upon this bill. (Reads:)

DEPARTMENT OF THE INTERIOR,
Washington, D. C., February 6, 1908.

SIR: I am in receipt of your letter of February 5, 1908, transmitting copy of H. R. 16277, and requesting an early report thereon.

The purpose of the bill is to permit the Territory of New Mexico to sell the large-growth and matured timber on any of the lands granted to the Territory by the act of June 21, 1898 (30 Stat. L., 484), and to afford relief to those who have heretofore acquired by contract, or attempted purchase from the Territory, some colorable right or title in or to the lands.

Under the provisions of the act of June 21, 1898, the lands granted to the Territory for schools and the two townships granted for university purposes, can not be sold by the Territory, but can be leased in tracts not exceeding one section to any one person, corporation, or association of persons, but it is "unlawful to cut, remove, or appropriate in any way any timber growing upon the lands released." The remaining lands granted to the Territory under the act are subject to sale by the Territory but not more than one quarter section of land can be sold to any one person, corporation, or association of persons.

The Territory has selected and had approved to it large areas of lands chiefly valuable for their timber, which have since been included in national forests, and under a supposed or claimed right the officers of the Territory have granted four contracts for the cutting of the large growth and matured timber thereon at the price of \$2.50 per acre. These tracts are all in excess of the area that can legally be leased or sold to any one person, corporation, or association of persons, and some embrace school and university lands, the timber of which constitutes a part of the realty and can not be sold (31 L. D., 188).

Sales have also been made in numerous instances to applicants for tracts for 160 acres each, the applicants appearing in the interests of corporations that actually paid the Territory for the land and immediately took over the applicant's interests.

Suits have been filed by the United States to annul all of these contracts and sales, and are now pending in the United States courts of the several districts of New Mexico.

The Department recognizes the necessity for legislation that will permit, under suitable restrictions, the sale of the large-growth and matured timber on the lands granted the Territory in tracts exceeding 100 acres; otherwise, the land chiefly valuable for its timber will be of no practicable benefit to the institutions for which it was selected, and legislation to that end is urged, as all of the Territorial institutions are in need of the revenue that can be derived from that source.

In granting to the Territory the right to dispose of its timbered lands as provided, I think it eminently proper to afford relief to those who have hitherto been operating under contracts with the Territory, even though the Territorial authorities had no legal authority to make the contracts. An examination of these lands in the field convinces me that the timber on the lands at the time these contracts were made was reasonably worth \$3 per acre, and the institutions should receive that amount before the contracts are ratified.

As to the lands that were acquired through intermediary applicants, the title should clearly be reinvested in the Territory for the use of the institutions for which they were granted. In view of the fact that the present holders of the record title have paid to the Territory, if permitted to cut the timber thereon, I believe that equitable consideration of their case justifies, and the best interests of the Territory demand, such adjudication, rather than prolonged litigation that will disturb material interests of the Territory.

The acreage of lands embraced in the contracts and sales is, approximately, 100,000 acres, of which about 90,000 acres are within established national forests.

The conditions under which the timber has heretofore been harvested and the situation of the lands renders them peculiarly valuable for forest purposes, and where practicable they should be made a part of the national forests.

The bill, as a whole, meets my approval, and, in the interests of the Territory, I recommend its early enactment.

Very respectfully,

(Signed)

JAMES RUDOLPH GARFIELD,
Secretary.

Hon. F. W. MONDELL,
*Chairman Public Lands Committee,
House of Representatives.*

Governor CURRY. Mr. Chairman and gentlemen, my predecessor in office, and the land board of the Territory, having advised with the Attorney-General, were of the opinion that the Territory had a right to sell timber of this kind that had been conveyed in trust for the uses of the educational institutions of the Territory; but the Interior Department had an investigation made, and the matter was referred to the Department of Justice. The Department of Justice decided that it was illegal, that the Territorial officials had exceeded their authority, and they had instituted several suits to recover the title to land, and also for an accounting upon the timber. That was also accompanied by some injunctions against the further cutting of the timber. That action, of course, has caused our lumber sawmills to shut down, throwing a good many laborers out of employment. We are very anxious that these mills shall resume operations as soon as possible. After discussing the matter with the Secretary of the Interior, and after a conference here at Washington between all the parties interested in these land transactions, this bill is the result. The Attorney-General will not dismiss the proceedings unless we get some legislation through Congress, as he holds that there has been a violation of law, and that it had become his duty to institute proceedings, and to continue the prosecutions unless we can get some relief from Congress. I think that the bill amply protects the interests of the Territory.

The CHAIRMAN. As I understand the bill, it provides for an additional payment of 50 cents per acre by those who made the leases in each case?

Governor CURRY. Yes.

The CHAIRMAN. It also provides that where the lands were sold they shall be reconveyed to the Territory, the parties who purchased being allowed to take the timber from the land, so that the Territory in each case shall obtain \$3 per acre for the timber.

Governor CURRY. For the timber cut; yes, sir.

The CHAIRMAN. That is considered a fair price for that timber?

Governor CURRY. Yes; \$3 per acre is considered a fair price.

The CHAIRMAN. The timber in your Territory is similar to the lodge-pole pine and spruce of the Rocky Mountain country generally and is not a heavy and valuable timber such as they have on the Pacific coast?

Governor CURRY. Oh, no; there is no comparison between our timber and the timber of the Pacific coast. Our timber is similar to that in other sections of the Rocky Mountain region. We call about 3,000 feet to the acre a very good timber cut, but I suppose that would be a small cut in a timber country like the Pacific coast.

Mr. SMITH, of California. What is the size of the largest trees?

Mr. KELLY. Occasionally we find a tree that will cut as high as a couple of thousand feet.

Mr. SMITH, of California. What is the diameter of the tree near the ground?

Mr. KELLY. Three feet to 3½ feet.

The CHAIRMAN. But those trees are nothing like as tall as a tree of the same diameter on the Pacific coast?

Mr. KELLY. Oh, no.

The CHAIRMAN. A tree of that diameter on the Pacific coast would be a very good-sized tree.

Mr. KELLY. Yes.

The CHAIRMAN. But in your country, as in mine, a tree of that diameter would not cut many 16-foot logs?

Mr. KELLY. Oh, no. I should think that the average of the timber on the tract of land that I have purchased from the Territory would be probably 18 or 20 inches.

The CHAIRMAN. And what would you say would be about the amount of board measure per acre?

Mr. KELLY. Between 3,000 and 3,500 feet.

Governor CURRY. Under this bill we propose to make contracts with the parties as to the size of the timber that can be cut. Of course the matured timber only would be cut; the other would be left standing. And under the provisions of this bill the land in the forest reserve—the forest reserve that has already been established—we can select lieu land in other places for these institutions and turn those lands over to the forest reserve after the matured timber has been cut.

Mr. PARSONS. Who is going to supervise the cutting?

Governor CURRY. The officials of the Territory until such time as we select lieu lands, and after that it would be the officials of the Forestry Bureau.

Mr. PARSONS. Is this land all situated in one tract, or is it scattered over the Territory.

Governor CURRY. It is scattered over the Territory; it is in four different sections of the Territory.

Mr. BYRD. Is this Territory in need of funds to be realized from this unappropriated land?

Governor CURRY. Yes; our university is supported almost entirely by the revenues from it.

Mr. BYRD. In regard to the contracts made with these mill people, do you think it would be for the best interests of your institutions, taking into consideration the rapidity with which timber is being depleted in this country, to sell that timber? I do not have reference to that which has been contracted for in good faith, but I am referring to the other lands.

Governor CURRY. We will be in no great hurry to sell it.

Mr. BYRD. But do you not think it would be best to allow it to remain?

Governor CURRY. This bill simply gives us the authority to sell with the approval of the Secretary of the Interior.

Mr. BYRD. I would like to call the attention of the committee to one fact. We had university land in our State, and the legislature was asked, at one time, to sell it at \$1.25 an acre, but the bill did not pass. The land to-day is worth \$25 an acre. Of course I do not want to say anything against these men who in good faith contracted for this land, but so far as the other part of the land is concerned, I think it is a great mistake to sell it. Trees that will cut 2,000 feet will certainly be worth \$20 an acre twenty years from now, while it is now only selling for \$3 an acre.

Governor CURRY. But the Territory of New Mexico only owns a small amount of timber land. We own more agricultural land. Practically all of our timber land has already been included in forest reserves. The National Government, under certain conditions, has a right to and does sell matured timber, and holds that it is to their interest to sell matured timber and let the younger timber grow up.

Mr. GRONNA. How much of this land is now contracted for?

Governor CURRY. About 104,000 acres.

Mr. BYRD. If I understand, the school land has been put in the forest reserve. Does the Government hold that in trust for the schools, or has that act destroyed the title?

Governor CURRY. No; the Territory holds it in trust subject to legislation by the future State. The only thing we can do now is to lease it. We can not sell any school lands.

Mr. BYRD. I am referring to the timbered school lands in the forest reserves.

Governor CURRY. The same rule applies to that.

Mr. BYRD. That is being held by the General Government for the benefit of the schools?

Governor CURRY. Yes, sir.

Mr. BYRD. And none of the land sold is included in that?

Governor CURRY. No. This was a special donation for educational institutions.

The CHAIRMAN. Governor Curry, approximately, how many acres of land does New Mexico own? I am referring to timber land other than the land now under contract.

Governor CURRY. I think we own about 120,000 acres in addition to this.

The CHAIRMAN. Are the other lands which you own approximately of the same character as those now under contract?

Governor CURRY. The 120,000 acres is; yes, sir.

Mr. BYRD. This timber land, after the timber is taken from it, is suitable for homestead purposes, is it not?

Governor CURRY. Yes, in some places. In most of the places it is.

Mr. SMITH of California. Do you contemplate that it would re-timber itself?

Governor CURRY. Under our regulations we leave on the land all trees under 8 and 10 inches.

Mr. SMITH of California. And expect it to be devoted to the forest reserve and not to agriculture?

Governor CURRY. Yes.

The CHAIRMAN. In the entire Rocky Mountain region pine generally succeeds pine. It is a rather unusual phenomenon, because in many timbered regions an entirely new variety of timber grows when the original growth is cut off. But in your Territory, I assume, as in my State, when the pine is cut, if conditions are such that the tract has been seeded, the succeeding growth is pine of the same character as that cut?

Governor CURRY. I think so; yes, sir.

Mr. REYNOLDS. How far is this timber from transportation?

Governor CURRY. The timber that has been sold is reasonably close, because the parties who bought it built a railroad to it for the purpose of getting it. In the Sacramento Mountains our lands are reasonably close to the other—that is, we adjoin them, so that enhances the value of the lands that we retain ownership to.

Mr. REYNOLDS. What railroad is that that you refer to?

Governor CURRY. One of them is the connection of the Rock Island, and the other is the Santa Fe.

Mr. REYNOLDS. How far have they built in from the main line?

Governor CURRY. From Alamogordo to the sawmills is about 30 miles. On the other road it is 20 to 24 miles.

Mr. REYNOLDS. These branch roads are owned by the parties who acquired these titles, are they not; and the Territory has no interest in them under any of these contracts?

Governor CURRY. No, sir.

Mr. REYNOLDS. Then they have a right to remove their roads?

Governor CURRY. I think they have. In the case of the Alamogordo road they have not, but as to the other I think they have.

Mr. REYNOLDS. In what way would any other men have any right of use of any of these roads?

Governor CURRY. The Rock Island is a permanent road, and under their charter they have to maintain it.

Mr. REYNOLDS. And that would materially increase the value of these other lands?

Governor CURRY. Materially increase the value, yes. During my administration I have not sold any land. Our legislature passed a

bill at the last session, or the session before, prohibiting the sale of land of any character at less than \$3 per acre.

Mr. BYRD. Do you think, when this timber is cut off, under any sale that you might make under this bill, there would ever be in the future sufficient timber on the lands to justify the building of a sawmill?

Governor CURRY. A great many gentlemen figure out that there will be, though I do not.

Mr. BYRD. Then if you sell timber at \$3 an acre, that ends it?

Governor CURRY. That ends the value of it for thirty or forty years anyway, and probably longer.

The CHAIRMAN. Eventually this land, such as is not used for agricultural purposes, and not so taken, will reforest, will it not?

Governor CURRY. The plan is to turn these lands over to the Forestry Bureau to be reforested, and the Territory is to select lieu land at some other place.

The CHAIRMAN. I am talking now of the lands from which this bill authorizes you to sell the matured timber. As to all those lands, after the matured timber is cut, there is no question as to their reforestation in the course of time, is there?

Governor CURRY. Unless they should be taken for agricultural purposes. I personally believe that it would be more valuable for grazing purposes; still, at the same time, most people disagree with me. I am not an expert on timber; I know very little about it, but there are one or two gentlemen present here who can give you much more valuable information on this subject than I.

The CHAIRMAN. If the land were taken and plowed up, it of course would not reproduce timber, but as to such land that is covered with rock, gulches, draws, and canyons, as much of your timber lands is, they would gradually reforest, would they not?

Governor CURRY. I think so, but it would take a long time.

The CHAIRMAN. That is true of the Rocky Mountain region from the Canadian line to Mexico as I know it, although of course the tree growth is very slow indeed.

Mr. SMITH of California. What is the rainfall there?

Mr. HOLCOMBE. About 19 inches.

The CHAIRMAN. Isn't it a fact, Governor, that, as regarding matured timber on the lands owned by the Territory, if it is not cut within a reasonable time, a large portion of it will die?

Governor CURRY. Yes, sir.

The CHAIRMAN. And that having attained its growth, if the people of the Territory are to have any benefit from it, it must be cut when it has become matured?

Governor CURRY. Those parties who have given a study to forestry say that it ought to be cut, especially the matured timber, in order to allow the younger timber to grow up.

The CHAIRMAN. In my State the forests in reserves are being cut over to an extent that none of our lands were ever cut prior to the establishment of the forest reserves. It is the policy of the Forest Reserve Bureau of the Government to sell all matured timber as fast as there is a reasonable demand for it.

Governor CURRY. They are doing that in New Mexico also.

The CHAIRMAN. If your Territory has 120,000 acres of land containing matured pine timber, and you have no authority to sell