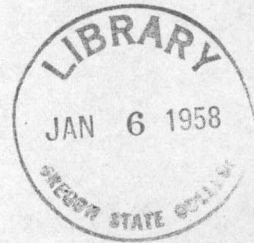


AN ANALYSIS OF THE HERRICK TIMBER SALE
BEAR VALLEY UNIT OF THE MALHEUR
NATIONAL FOREST, OREGON

by

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Introduction

It has been the policy of the United States Forest Service to make large timber sales only when, among other things, they are necessary for the development of local communities, which would otherwise not have an opportunity for further progress unless the sale is made. Grant County, Oregon, within which this timber sale area is located, lies in the west-central part of Oregon. Harney County, where the sawmill was to be located and most of the railroad construction work done, lies south of Grant County and extends to the southern boundary of Oregon. Until the time that this sale was made in 1923 there was no railroad transportation into that part of the country, and these two counties were very much in need of some activity large enough to justify the construction of a railroad which would give the resources of this region a very definite value and encourage their development.

The fact that both Harney and Grant Counties were isolated and that the timber provided practically the

only possible means of inducing someone to build a railroad which would open up that part of the state was undoubtedly the underlying reason for the decision by the Forest Service to sell some of the yellow pine timber that was growing on the national forest in these two counties. The sale was made in 1923 to Mr. Fred Herrick of Saint Maries, Idaho.

The people of these two counties were especially interested in this sale, and because so much depended upon the success of the venture, their interest was more vital than it probably would have been in most other cases. Until this time the people had been almost wholly dependent upon stock raising for their livelihood. When the markets of the country were especially low for cattle after the World War, the people were practically at a stalemate with their main source of income all but obliterated; consequently, this timber sale held within it the hopes and fears of many people.

The interest in this case lies primarily in the fact political pressure was employed in the efforts to have the timber advertised for sale originally, to oppose extensions of time for completion of the contract, and later to bring about an investigation by the United States Senate of the circumstances surrounding the sale.

It furnishes an example of how a few people with influence can sway the administration of any government business, and although those in charge of the administration of this sale denied that they had been influenced by public sentiment, it remains a fact that the timber in all probability would never have been advertised for sale or the investigation made by the Committee on Public Lands and Surveys if pressure had not been brought to bear where it would accomplish the desired results.

Objective

This analysis was undertaken in an effort to determine principally how politics may be employed to bring about desired action in a governmental body, how effective political influences are in this connection, why it is necessary or desirable to bring pressure to bear, the intensity of pressure necessary to cause a reaction, and to what extent the political influences must be recognized by a government administrator.

Many of the perplexing problems encountered by a public official in managing a public business are brought out quite vividly by the Senate investigation that was conducted for the purpose of determining the truth in the many accusations made by different people of Grant and Harney Counties. These accusations were made against both the United States Forest Service and Mr. Herrick. The problems encountered were so many and the factors effecting them of such a varied nature that the decisions to be made were much more involved than they appeared. With everything running smoothly, the bottom dropped out of the lumber market, several influential people had their feelings hurt, other difficulties arose and the troubles of the administrators kept mounting higher until their hands were forced.

History of the Case

The timbered area in Grant and Harney Counties was withdrawn from sale or other disposal under the public land laws in 1902, and later the withdrawal was made permanent and the Malheur National Forest was established. This act hemmed in and made practically valueless the timber in private ownership, because within itself it was not sufficient in quantity to justify the building of a railroad for its removal.

In 1916 plans were made to build a railroad from Crane, Oregon at the end of the Union Pacific Railroad to Burns, Oregon, but the enterprise was not completed. Then in 1919, Mr. E. W. Barnes entered the picture at Burns. He immediately saw the value of both the quantity and quality of the virgin timber in this region and started to work. After securing a county cruise of the privately owned timber and estimating the amount of timber on the national forest that was tributary to Burns, he went east to try to interest some large operator in the proposition. He was successful in his efforts, but in 1920 the company decided to abandon the enterprise, and the people were again disappointed.

In 1922 Mr. Barnes was sent to Washington, D. C. by the people of Burns with a petition signed by many people of Grant and Harney Counties to the Secretary of Agriculture asking for the cooperation of the Forest Service in the matter. Supported by the Oregon delegation

in Congress, the general manager of the Portland Chamber of Commerce, and other influential people, Mr. Barnes was successful in getting the Land Exchange Act of 1922 passed which authorized the exchange of private lands within the exterior boundaries of a national forest, and he secured a promise from Colonel Greeley, Chief Forester of the United States, that the timber would be appraised preparatory to offering it for sale.

The timber was appraised and advertised for sale for six months, starting in August, 1922 at two dollars and seventy-five cents per thousand board feet. There were no bids, however, and it was readvertised at two dollars per thousand for thirty days, starting in March 1923. Mr. Herrick's bid of two dollars and eighty cents per thousand was high, and he received the contract after producing proof of his financial ability to carry out his obligations in the contract.

The contract provided essentially for the construction of a common carrier railroad from Crane to Seneca, Oregon; that cutting and removal of private or government timber should be started by April 1, 1925; that at least sixty million board feet of timber should be cut by June 1, 1928; that extensions of time would be granted by the Secretary of Agriculture upon written request of the purchaser; that the sale was for the timber (approximately 890,000,000 board feet) on 57,000 acres of land; and that the contract was to expire on November 30, 1945.

Shortly after Mr. Herrick had complied with the stipulations necessary to secure the contract and had been granted it, the market price of lumber started down and continued dropping. Certain people began opposing him for various reasons, and together this opposition and low prices for timber products, which he was endeavoring to sell to finance this venture at Burns, made it very difficult for him to speed up construction as much as the contract and the people demanded. He asked for and was granted extensions of time twice, each time for a period of one year.

Under the leadership of Mr. Barnes, who had failed to secure the contract for a company he was representing, the opposition soon gained support and influence. They "railroaded" a memorial to Congress requesting an investigation of the contract through the Oregon Legislature, and the investigation was authorized by Congress early in 1927.

This investigation proved nothing except that Mr. Herrick had been negligent in meeting his obligations, and it undoubtedly made his securing a bond issue to complete the project more difficult. In December, 1927, with lumber prices still falling, Mr. Herrick was unable to comply satisfactorily, and the contract was cancelled, all of his rights being forfeited. The contract was relet to the Edward Hines Lumber Company, and it is still in their hands.

ANALYSIS

INTERESTED PARTIES AND THEIR VIEWPOINTS

The Citizens of Grant and Harney Counties

Many of the people of these two counties had waited forty years for a development of this kind to open that part of the country by the construction of a railroad, which would bring about agricultural improvement by making markets more accessible and irrigation more feasible. Likewise, their stock could be shipped directly to markets without the necessity of driving them a long distance to a shipping point. Before this time they had not considered the timber as a possible means to this end, but when this possibility was shown them they grasped it quickly. They were in such a deplorable condition that they would have tried nearly anything to alleviate their suffering.

There seemed to be a natural division of sentiment practically from the time the contract was let. One group was firmly behind the Forest Service and Mr. Herrick, and the other group continually opposed Mr. Herrick and his endeavors. The latter group although not very active at first, soon gained enough influence to make a difficult proposition very much more so for the parties to this contract. They made it difficult for Mr. Herrick to acquire a mill site and rights-of-way for railroad construction and to borrow money when he needed it. They opposed any extensions of time by the

Forest Service and forced an investigation of the case by the Government.

There is no doubt that those opposing the operation had ample reason to complain and make demands of Mr. Herrick and the Forest Service. In the investigation sworn statements were produced to the effect that Mr. Herrick's employees let contracts for construction work to irresponsible contractors who, because they held these contracts, were given credit by business men. Some of the contractors defaulted, and the business men lost money. However, these losses could not have been so great or widespread, because all of the business men of Burns but eight signed a statement that they were in favor of the action by the Forest Service in granting extensions of time to Mr. Herrick.

There were many delays, whether justifiable or not, which caused people to doubt the sincerity of Mr. Herrick, who maintained the attitude continually that it was none of the people's business what he did or when he did it. He very seldom appeared at Burns where most of the development work was centered, and he never denied the various rumors that were being circulated about his intentions. He never made any attempt to explain to anyone outside of his company why it was four months after the contract was signed before he started work. This was undoubtedly one of the first reasons for active opposition against him.

Another grievance fed by the agitators was that the Forest Service intended to modify the common carrier clause of the contract in such a manner as to make the compliance with it optional with Mr. Herrick. This type of opposition has all the ear-marks of propaganda, however, because no one ever took the trouble to ask Colonel Greeley whether this clause was to be modified. They failed to recognize the fact that this part of the contract was not compulsory as far as the Forest Service was concerned, and the Forest Service was not bound in any way to include the clause in the original contract. It was put in with the primary idea of helping the people. Besides this, by forcing Mr. Herrick to condemn rights-of-way for railroad construction, the railroad became, ipso facto, a common carrier. A copy of the contract with its modifications was on file at John Day, Oregon or Portland, and was available at all times if anyone had cared to look at it carefully. This was an argument which gained much support because, if Mr. Herrick were not to construct the railroad as a common carrier, he could bottle up that territory and prevent any private logs, cattle, or other freight being shipped out over it.

The Forest Service and Mr. Herrick were accused of fraud because Mr. Herrick had in his employ two former Forest Service employees, one of whom was very

instrumental in getting him to bid on the timber. However, it is a common occurrence for the Forest Service to have men hired from its forces by private operators, and little attention was paid to this complaint.

In a like manner it was theoretically possible for Mr. Herrick to cut the maximum allowable amount of timber for three years and close down the operation for five or six years had he so desired. This was true because the possible maximum cut for three years amounted to more than the minimum cut for five or six years. Of course, if this were to happen it would mean unemployment, and the people wanted a continuous income. However, with an investment of from three to five million dollars this was a pretty remote possibility. He would lose more by closing down than he would by operating, even considering very poor markets.

Many of the people, particularly those opposing Mr. Herrick, seemed to think that they were the ones who should be protected in the contract and not the contractor. They owned the timber, according to their reasoning, and they thought that their rights were being ignored; furthermore, they should have been consulted about changes in the contract. These people in all probability never would have thought much about their rights if someone with a special reason had not pointed these things out to them. The ordinary individual does not pick out technical points of compliance and protest

them, because he generally is not interested enough to check up on the terms of the contract. If he does notice some point that might be rightfully protested, he feels that it is none of his business. The people had more money in general, they had received a favorable report on a proposed irrigation project by the reclamation engineers, and as a rule they were satisfied and in a better state of affairs than they had been for forty years. There was no disposition on the part of the people generally to criticize and hinder Mr. Herrick. Too many of them were benefitting by the money he was spending, even though he was not spending as much as they thought he should.

There was a substantial element of people who, although disappointed because the work had not gone ahead faster, were in favor of the action taken by the Forest Service because they realized that in a project of that kind and magnitude the economic conditions could not be disregarded. A lawyer in Burns wrote to the Forest Service and told them that most of the influential people of that town were in favor of Mr. Herrick. Later, petitions were sent to the Forest Service requesting consideration of Mr. Herrick's interests and expressing confidence in his ability to complete the contract. There were more people who signed a petition against Mr. Herrick than there were who signed the one in his favor, but those who circulated the petition against him made several false statements in order to get people to sign it.

They stated that he had applied for extensions of time of two years (before the time that they were asked to sign the petition), that he was holding the contract merely as a speculation, and that he was trying to prevent a responsible operator's putting the project through. None of these statements were true, but they apparently served a purpose very admirably.

That the opposition to Mr. Herrick and the Forest Service was pretty well organized is shown by the fact that they had gotten the resolution through the Oregon Legislature to memorialize Congress in an attempt to have the circumstances surrounding the letting of the contract and its extensions investigated before anyone could oppose their actions. The editor of the Burns Times-Herald was not aware that the resolution had been passed until he read a notification of it in the Morning Oregonian the next day. Most of the opposition came from Grant County, and Harney county was not even represented when the resolution was passed. Burns, as a community, was never allowed to express its opinion about this memorial to the Oregon delegation in Congress until after the memorial was sent. One of those who were opposing Mr. Herrick was associated in a land enterprise at Burns with Mr. Barnes and was a member of the Oregon Legislature from Grant County.

The United States Forest Service

The Forest Service was in a difficult position in this case, and their problems started before the contract was let to Mr. Herrick. The agitation for this sale came, quite naturally, during a period in which general economic conditions were unfavorable. As long as the people in this community had an income from their cattle, they were not interested in the timber. Their demand for the sale of the timber came when the market price of both cattle and lumber was low, and this was undoubtedly a reason why no bids were received when the timber was advertised the first time, necessitating a second advertisement at a lower price per thousand.

The timber was put on the market at the request of many people in Oregon and the Oregon delegation in Congress. There was so much pressure brought to bear by the people through the petitions and the influence of certain individuals that the Forest Service decided it would be good business to readvertise the timber at two dollars per thousand. This was not a reversal of their regulation that no timber be advertised at a price that is less than the appraised price per thousand. It was simply a new appraised price set by the officials because the former one was considered too high. Colonel Greeley stated that the sale was not the result of effort on the part of the Oregon delegation in Congress to influence the action of the Forest Service, and that

it was not appraised by the Forest Service as a matter of political expediency. This statement is undoubtedly true strictly speaking, but it was much more convenient and much more commendable strategy on the part of the Forest Service for them to agree to sell the timber at this time.

After Mr. Herrick had furnished proof of his financial ability at that time to carry out the terms of the contract, there was no reason for their refusing to give it to him. He was not required to show that he possessed the cash to complete the contract but only that his assets amounted to a certain specified sum. And the contract contained nothing to the effect that he was to finance this venture from the earnings of his other operations. If it had, Mr. Herrick's argument that his failure to comply was due to the lack of earnings from these other enterprises would have been given more consideration.

The purpose of the Forest Service in handling all of the phases of this sale was to give Harney and Grant Counties a common-carrier railroad and to bring about the earliest possible development of the Government timber. From the Government standpoint alone it was essential that the big volume of timber in this region should not be dependent upon a private railroad for access to the markets. The Forest Service went into matters of specific construction in dealing with this case

more completely and thoroughly than they had in any other in order to put the proposition in such a state that Mr. Herrick would have to go ahead without delay in the construction of the mill and railroad which the local people wanted.

In making all of their decisions pertaining to the execution of this contract, the Forest Service was guided by three considerations. These were the interests of the government, the interests of the local community, and the equity due the contractor. At practically all stages of this matter the Forest Service had received letters of protest and approval, but they did not act upon these recommendations because the decisions could not be left up to the people. When the decisions were made the officials were concerned with the welfare of the citizens of these two counties, and they refused to cancel the contract and have the whole thing thrown into a stalemate with Mr. Herrick owning the land, some other person having the contract for the timber, and the Federal courts in a position to step in and tie up the whole thing for three or four years. They wanted to avoid delay.

The case was a perplexing and difficult one to handle. Mr. Herrick was not carrying out the provisions of the contract as they should have been, but he was making very substantial investments in the enterprise.

His attitude all along appeared to be sincere enough, and he seemed serious in his intention to go through with the contract; however, he wanted the proposition to be carried out in a manner that was convenient for himself.

When it became evident that the terms of the contract could not, or would not, be met as promptly as they were supposed to be, the Forest Service added specific modifications to it in an effort to persuade Mr. Herrick to meet his obligations more promptly. Later they exacted a fine of fifty thousand dollars, not for any specific loss incurred, but as liquidated damages. Upon the request of the Oregon delegation in Congress the Forest Service sent a representative from Washington, D. C. to Burns in an effort to determine the cause or causes of the trouble. The primary reason for all of the trouble was the unwillingness or inability of Mr. Herrick to handle his financial affairs so that the money would be available for the work.

There were several very sound reasons why the Forest Service did not want to cancel the contract besides the fact that lumber prices were low. Two years was not a sufficient length of time to enable Mr. Herrick to make the necessary preparations for starting the operation. The appraised price of the timber was based partially upon the assumption that the Union Pacific would build the railroad from Crane to Burns, and the calculations

of costs and investments were started at Burns. Mr. Herrick had some difficulty in reaching an agreement with the Union Pacific and had to build the railroad himself. The investments he was making couldn't be ignored even though they amounted only to about one-half as much as the contract called for. If they were to have cancelled the contract, the Forest Service would have had no control over the improvements made by Mr. Herrick, and upon reselling the timber the purchaser would have to acquire Mr. Herrick's interests or duplicate them. A resale would necessarily have involved an indefinite delay, and the case might have been taken into Federal courts to enjoin the Secretary of Agriculture from selling the timber. The officials of the Forest Service could see no advantage to the people or to the government in cancellation at that time, and they were not sure that they could get as good a price for the timber if it were resold.

The Forest Service always receives protests from private operators when government timber is sold. From the standpoint of the private lumberman, if the Forest Service were to be censored at all in this case, it should be for putting the timber on an already overloaded market while advocating conservation. Because the industry was equipped at this time to produce much more lumber than was necessary to satisfy the demand, it would have been a crime for an operation of this size to

have started functioning during that period. For these reasons the Forest Service should have granted reasonable extensions of time.

Mr. Fred Herrick

There were several reasons why Mr. Herrick was considered to be one of the men most capable of making a success of this project by those who knew him and were familiar with the nature of the problems that had to be solved before the business could be put on a paying basis. He had always been a builder and never a speculator. He was a very substantial operator with properties in Idaho and Mississippi, which were estimated to have been worth at that time between eight and nine million dollars. He was the first private operator in the white pine region of northern Idaho to practice piling and burning of logging slash as a precaution against fire, and for this reason he was considered an excellent operator for the Forest Service to have in this yellow pine contract. He was the only one of the persons considered by the appraiser as possible purchasers who was thought to have had enough nerve to attempt to build a railroad eighty miles long.

Mr. Herrick's troubles began almost as soon as he had signed the contract. He had difficulties in acquiring a certificate of necessity and convenience from the State to build the railroad, and he could not come to an agreement with the Union Pacific in connection with that section of it between Crane and Burns. Some of the land owners did not want to let him build

across their land, making it necessary to condemn the rights-of-way. This all took time, and when the work was not started promptly certain individuals began opposing his actions. They thought he did not intend to develop the project as rapidly as it should have been.

On the other hand Mr. Herrick was known to be independent in a bull-headed manner. He wanted things arranged to suit his own convenience, regardless of what the people or the Forest Service thought. To the people he gave the impression of taking a "public be damned" attitude. He apparently never paid his bills until he could no longer delay, making some people cautious in dealing with him.

As is the general policy with lumbermen, Mr. Herrick intended to finance this new enterprise by liquidating his white pine stumpage in northern Idaho through the conversion of small pieces of property as he needed more money. He had always been adverse to mortgaging property and did not want to do so in this case. Everything would have worked out nicely if his plan to finance the enterprise had not failed, but the price of lumber started dropping in 1923 and kept going lower as long as he held the contract. He refused to put two million feet of lumber, that he had stored in lumber yards, on the market when he needed the money because it would have depressed prices even more than they were.

He was accused of delaying the work on this project in order to keep the Government timber off the market and thereby help his other interests, but the Forest Service did not recognize this as a legitimate reason for delay. That is, they did not accept his reasoning that it was for the best interests of the industry as a whole to delay the work on this enterprise, even though it may have been logical.

Mr. Herrick could have complied technically by taking motor trucks up to the timber and logging a few thousand feet of stumpage before the two years had expired, if he had been purposely stringing the operation along. He was offered a good price for his equity several times but consistently refused to sell, and he refused to speculate when approached on the subject by citizens of the community who were interested in developing a townsite near Burns. He was constantly putting money into the enterprise, although he never complied entirely with the terms of the contract.

This project was Mr. Herrick's hobby, and he always acted in good faith in the matter. He intended to further the reforestation cause, make the operation permanent, and leave it as a monument to himself. All of the construction work that was done was of the highest type. He even agreed to run special trains for the convenience of those who had cattle to ship, and he ordered a special gasoline car to be used for passenger

and mail service between Burns and Seneca. Another item which he made arrangements for and which had nothing to do with the contract was the buying of equipment capable of furnishing twenty-five thousand people within a radius of forty miles all the electricity they could use. However, he wanted to do the thing his own way and when he felt so inclined.

The contract as originally drawn up contained no specific clauses compelling Mr. Herrick to build a sawmill or to construct a common-carrier railroad by any specified time. The Forest Service added these stipulations in an effort to speed up the work. The original contract stated essentially that there was to be a common-carrier railroad built and that he was to start cutting either Government or private timber by April 1, 1925. It was understood that he would build a sawmill.

Mr. E. W. Barnes

Mr. Barnes' occupation was that of a buyer and seller of timber under a real estate dealer's license. He went to Burns in 1916, and immediately perceived the value of the quality and quantity of the western yellow pine timber if it were made accessible by the construction of transportation facilities. He cruised some of the Government timber himself and had a county cruise made of the private timber. While doing this he bought options on approximately one-hundred million board feet of private stumpage. Likewise, he had a preliminary survey made of the approximate railroad route into that section from Crane at the end of the Union Pacific line and secured options on the land at places around which it would be almost impossible to construct a railroad. He bought the only two possible mill sites, and he and his associates bought approximately two thousand acres of land between Burns and the mill site on both sides of the highway and railroad route. Thus they were prepared for the development which would result from the sale of the timber.

The first operator, Mr. Barnes succeeded in interesting in the development, soon dropped it as a bad proposition. It was at this time that ten businessmen of Burns formed a committee to finance Mr. Barnes and help him sell the timber. With his first effort to interest private capital ~~was~~ a failure, he decided to try to get

the Forest Service to sell part of the timber on the Malheur National Forest as an added incentive to that offered in the private stumpage. This he was successful in doing with the assistance of the Oregon delegation in Congress, several petitions, and telegrams. However, everything did not materialize as he had expected, and Mr. Herrick was awarded the contract instead of the company Mr. Barnes was representing. This, quite naturally, did not suit his plans, because he had been offered two dollars per thousand for his stumpage by the firm he was connected with in promoting the deal and had no such agreement with Mr. Herrick. In fact he had never heard of Mr. Herrick before this time.

The first thing Mr. Barnes did when he found that Mr. Herrick had submitted the highest bid for the timber was to offer Mr. Herrick's representative twenty-five thousand dollars in an effort to bribe him to take the bid and leave the Portland offices of the Forest Service. When he was not successful in having the bid withdrawn, he attempted to have the Forest Service officials reject it; however, they refused to do this, and he was forced to accept the situation as it was and make the best of it.

It was necessary for Mr. Herrick to purchase at least some of the options Mr. Barnes held on the private stumpage because it was impossible to gain access to the Government timber without crossing privately owned lands.

Likewise, Mr. Herrick had to purchase railroad rights-of-way and the mill site from him. In selling these options Mr. Barnes wanted to safe-guard the communities interests as well as his own; therefore, he had provisions included in the deeds which were designed to force Mr. Herrick to meet his obligations in the contract. Some of these Mr. Herrick accepted, and others he did not.

As he often stated, Mr. Barnes may have been perfectly willing, in an attempt to help the people of that vicinity, to cooperate with Mr. Herrick until he saw that the project was not being developed as rapidly as it should have been. On the other hand, he could just as easily have cooperated until he had benefitted as much as possible and then begun his opposition. The evidence indicated that he was primarily interested in his own welfare and was not the public benefactor he attempted to simulate. Many of his options on timber and land were to expire in 1923, and it is little wonder he wanted the timber sold.

Mr. Barnes seemed to consider himself the representative of the public as long as he was benefitted by this attitude, and he apparently thought that Mr. Herrick owed him allegiance. He opposed both the Forest Service and Mr. Herrick. After granting rights-of-way through lands, the options on which he secured by telling the people that any large company would not undertake

the development if they had to deal with several private citizens, he instituted court proceedings in an effort to force Mr. Herrick to return the options to him, contending that Mr. Herrick had not complied with the considerations under which the right-of-way had been granted. The same thing was true of the mill site, which he had agreed to give, but would not deed, to Mr. Herrick until the Harney County Fair Association had deeded a tract of land to him. He made it impossible for Mr. Herrick to secure some of the rights-of-way without condemning the land. And he was demanding that Mr. Herrick go ahead with the development of the project while he was doing everything in his power to hinder the work and have the contract cancelled.

In his efforts to have the contract cancelled by the Forest Service Mr. Barnes made several trips to Washington, D. C., contacting the officials of the Forest Service and the Oregon delegation in Congress. He dictated telegrams protesting extensions of time for completion of the contract, which he had different people send to the Oregon congressmen. These telegrams were identically worded, merely being signed by the persons who sent them. While he was in Washington he decided that he would not gain much toward cancellation of the contract without a memorial from the Oregon Legislature; so he prepared one and sent it to his friends at Burns. They, without consulting the Committee of ten which was

backing Mr. Barnes and using all of its influence to help him, took the memorial to Salem and lobbied it through the State Legislature before anyone had an opportunity to oppose their actions. This memorial brought about the investigation of the contract by the Senate.

Mr. Barnes was defeating his own purpose, if this purpose was to have the country around Burns developed. He was developing an adverse sentiment toward Mr. Herrick that was making it difficult for him to borrow money when it was most needed to keep the project moving ahead. He was losing the good will of the people around Burns and of the Committee of ten because he wanted to speculate with his land holdings there. Very much of the opposition he developed against Mr. Herrick was from the people of Grant County. This was true probably because they were not benefitting as greatly as were the people of Harney County. He stated that he had Mr. Herrick bottled up in every draw that went into Bear Valley. He was just three jumps ahead of Mr. Herrick and intended to stay that way.

The Committee of Ten

This was a committee of ten businessmen of Burns that was formed soon after the Edward Hines Lumber Company stepped out of the picture in 1922 to finance Mr. Barnes in his efforts to sell the timber. These men used their influence with the Portland Chamber of Commerce, the Oregon State Legislature, and the Oregon delegation in Congress to help Mr. Barnes promote this enterprise and furnished him about ten thousand dollars for expenses. They allowed him many privileges, and he dominated the group; however, when he wanted them to incorporate with him in a land speculation project they refused because of their obligations to the rest of the townspeople, who would not have had the same opportunity.

In the later stages of this controversy the members of this committee were not even consulted by Mr. Barnes before he acted. They had apparently served their purpose, and he had no more use for their help, especially when he knew that he could not get it anyway because of his actions and selfish attitude after the contract had been signed.

The Grant County Stockgrowers' Association

The stockmen of the West were bitterly opposed to the regulation of grazing on the national forests by the Forest Service, and this may have been just another opportunity for retaliation on their part. The Grant County Stockgrowers' Association was interested in this development for this reason and also because the railroad would furnish an opportunity to ship their cattle to markets without the necessity of a long drive to a shipping point. Their resolution to Congress demanding an investigation of the contract may have been prompted further by Colonel Greeley's grazing policies, with this controversy thrown in as good measure. Regardless of their motives, they had influence and used it effectively.

Most of the people from Grant County who signed the petition against Mr. Herrick were stock growers. This was partially brought about by Mr. Herrick's proposing to have his railroad a common-carrier intrastate, instead of interstate so he could fix the freight rates himself. They thought the rates on their stock shipments would be higher under these conditions than they would have been with a through rate.

Influential Forces

The fundamental cause of all of the trouble seems to have been due to economic forces. The market price of lumber started dropping at about the same time that Mr. Herrick signed the contract. He had intended to finance the project through the liquidation of some of his other holdings, and when the price started down he naturally did not want to put more lumber on the market and force the price down further. Being adverse to mortgaging his property in order to raise money, he was unable to put as much money into this project as was necessary to comply completely with the stipulations of the contract in the time given him. Out of this situation grew all of his troubles. If he had been able or willing to comply more fully, nothing would have started the ball rolling which finally caused him to lose the contract.

Public opinion was an important factor in determining the outcome of this project because the people were so vitally interested in it. Success meant a new lease on life to them, the realization of a long-cherished hope, and an opportunity to develop their community and make it attractive to new enterprises. It meant employment for hundreds of people and security for many more. Failure of the project meant more years of waiting and wishing, depending upon stock raising for a rather meager livelihood. Consequently, it was not difficult for anyone who was so inclined to get action either in

favor of or against so large an enterprise..

Even though a number of persons may be interested in some undertaking, they will seldom take concerted action about it upon their own initiative. Undoubtedly, if Mr. Barnes had not led the opposition, it never would have been strong enough to demand any attention, and Mr. Herrick would have completed the development. Similarly, if anyone had so desired, he could have secured as much support for Mr. Herrick as Mr. Barnes did against him. Mr. Barnes, especially, played an important role as a leader, either because of personal reasons or because he did have the public good at heart.

Speculation came into the picture possibly before the contract was let. Mr. Barnes must have planned to speculate when he bought timber land and made other investments prior to any definite development in that region. His business was timber speculation, and he never would have put so much time and money into the proposition when he knew that he would not develop it himself if he had not expected to realize a profit by so doing.

Whenever the government enters a business it is practically impossible to keep politics from effecting it either directly or indirectly. Political force was employed to have the timber sold at first, to oppose extensions of time for completion of the contract, to

bring pressure to bear in an effort to make Mr. Herrick comply with the stipulations of the contract, and to bring about the investigation of the contract by the Senate sub-committee.

The administrative policies of the Forest Service influenced the decisions they made in this case, and therefore they must be considered as a factor which had a bearing on the outcome. The Forest Service had to consider the interests of the Government, the interests of the people, and the equity of the contractor in deciding the course of action that was taken. The officials were forced to act as best they knew how in an effort to bring about the greatest good to the greatest number of people.

Methods Used to Secure Action

The methods used by the several interested parties to get action were not new, but they were quite effective. However, the resulting action was not always that which was desired. The most direct method was that of submitting petitions signed by citizens of these two counties to the Oregon Legislature and to the Oregon delegation in Congress. Representatives of the people at the Oregon Legislature and at Washington, D. C., were influential in securing action. These resolutions and representatives were responsible for the memorialization of Congress in an effort to bring about an investigation of the case.

Results were secured indirectly through the press at Canyon City, Burns, and Portland, Oregon. Editorials were used in an effort to bring about active opposition of Mr. Herrick and the Forest Service. Certain individuals did all they could to prevent the parties to the contract fulfilling their obligations by refusing to cooperate in the enterprise and by actually obstructing the development. When, because of these reasons and poor economic conditions, Mr. Herrick could not meet his obligations, the Forest Service was forced to act. They attempted to get action by writing into the contract specific construction stipulations and by exacting a fine of fifty thousand dollars from Mr. Herrick as liquidated damages.

Certainly another factor of importance here was Mr. Herrick's apparent ignorance of the people's desires.

It mattered very little whether he was actually promoting the project for their interests or not. They were convinced by those opposing him that he was not sincere, and action was demanded. Mr. Herrick apparently did nothing in an effort to change their minds. He was too independent and egotistical.

Discussion

This contract was let at a very inopportune time from the standpoint of development. The market price of lumber was starting down, and as Mr. Herrick had intended to finance the enterprise from sales of timber products, he was immediately put at a disadvantage. He could not put money that he did not have into the project, and this resulted in the development of personal opposition to everything he tried to accomplish. The opposition grew as time went on because its results were cumulative. Each obstacle that Mr. Herrick failed to surmount made the situation just that much worse for him and equally better for his opponents.

Mr. Barnes and his associates apparently had no intention of allowing such a golden opportunity as this situation offered to slip by them. Under the guise of being very public spirited individuals they secured the support of many people in Grant and Harney Counties in bringing the sale about, in opposing extensions of time under the contract, and in bringing about the investigation by the sub-committee of the Senate. This investigation, it might be said, put the finishing touches on an otherwise completed scheme to bring about the cancellation of the contract. Although Mr. Herrick did not lose the contract at the time of the investigation, it was less than a year later that the cancellation occurred.

The Forest Service officials were between the proverbial devil and the deep blue sea. They had to consider the substantial investments Mr. Herrick was making, even though the amounts he was putting into the enterprise were hardly half as great as the contract specified. And from shortly after the letting of the contract they had been receiving letters and telegrams in approval and protest of Mr. Herrick. The primary reason for their approval of the sale at this time was to bring about the development of that community; otherwise, the sale probably would not have been made because of economic conditions. They also had to consider the fact that there was the possibility of not being able to sell the timber to another person at as high a price as Mr. Herrick had agreed to pay for it. All of these considerations became more important as time went on and the protests became more insistent and frequent.

Mr. Herrick's troubles, aside from those directly responsible for his inability to invest his money in the project as rapidly as he had contracted to, came about as a result of a few influential people trying to protect their interests. Mr. Barnes and his associates were speculating in a land enterprise, and if this project were not successfully developed their investments would have been practically a total loss.

The people at Burns who were in business and familiar with the general economic conditions were the ones who favored the extension of time by the Forest Service to allow Mr. Herrick to complete the development. They realized that letting Mr. Herrick finish the project would probably be best for everyone concerned, if he could possibly do so. They knew that economic conditions could not be overlooked by anyone who controlled an investment of several million dollars.

On the other hand, those who opposed Mr. Herrick and the Forest Service seemed to do so because of personal reasons or because they were influenced by those who had personal reasons for ^{opposing} the parties to the contract. Most of the opposition came from people in Grant County whose animosity toward the Forest Service was the result of grazing controversies, or who were not in a position to benefit as much from the development as many in Harney County would. Those of the opposition who did not have a personal interest in the matter appeared to lack an understanding of the situation and accepted Mr. Barnes' word in explanation of it.

This case furnishes a very good example of many of the problems encountered by those in charge of a government business. Undoubtedly many of the phases of this case were new and demanded special consideration, even more so than is ordinarily necessary. The timber was

situated in a part of the country remote from any economical means of transportation, necessitating the construction of eighty miles of railroad before the operation could be started. There was more active opposition than is ordinarily encountered in developing a project of this size. Economic conditions were comparatively unfavorable. The general public was more vitally interested in this sale than is generally true. This was one of the largest timber sales ever made by the Government, and it brought bout more opposition by operators of private holdings.

Conclusions

As long as the Government remains in any business, politics will continue to play an important part in the control of that business. After all, the general public is just about limited to this means of exerting any influence over those who manage a government enterprise, and when action is necessary it is generally through political pressure that the attempt is made to secure the desired result. Otherwise there would be no method of control available with which to combat the graft which seems to be an inherent characteristic of most government-controlled businesses. And although graft appears much less frequently in the Forest Service than in many other lines of governmental activity because so few of the personnel are political appointees, political influence remains the most effective tool by which the head of the Forest Service can be influenced in making his decisions.

In this case when the small group of individuals decided that some action should be taken, they attempted at first to bring it about through the influence of a few prominent people and by sending delegates to Washington, D. C. Their requests were not treated favorably, coming from so few people and at the time they did. Not meeting with much success in their first trial, they drew up resolutions and had them signed by several hundred people. These, together with letters

and telegrams, were sent to the Forest Service and the Oregon delegation at Washington, D. C. These apparently had the desired result, because the timber was offered for sale soon afterward.

After the timber was sold and some of the people decided that Mr. Herrick should not be allowed to continue with the development at the rate he was doing the work, the same methods were used in attempts to prevent his getting extensions of time to finish the contract. When these were not too successful, they began demanding an investigation of the whole proposition. It was not until those opposing Mr. Herrick had lobbied a memorial to Congress through the Oregon Legislature that this point was gained. After the investigation it seemed to be merely a matter of time until Mr. Herrick lost the contract.

Although any public administrator cannot base his decisions on the recommendations of a few individuals who may or may not have ulterior motives behind their requests, there comes a time when the intensity of protests is such as to demand attention. This time would depend upon circumstances surrounding the special case under consideration when the decision had to be made.

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