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Preface

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PREFACE

This analysis is intended for those who express concern with the questions of the use and development of the public lands of the United States and the legislation and policies reflected in the public land law. In particular, it is for the investigators and legislators who are seeking means of formulating and adapting laws to the changing needs and patterns of public land use.

It is a necessary, but grateful duty to acknowledge the contributions of the many persons who made this analysis possible. The range of these people ran the gauntlet from the sponsors to the participants to the staff at Trail Lake Ranch, who looked after, with the greatest efficiency, the care and comfort of the participants. To all of these friends and fellow-workers, the editors express a great indebtedness for their indispensable contributions.

The symposium was sponsored because of the wide concern with public land law problems which are pervasive throughout the United States. As Congress saw fit to establish a Commission, charged with the duty of recommending general guidelines concerning public land law for the promotion of the use of these lands to most enhance the value of the lands for the nation's benefit, and the Commission discharged the mandate with the publication of its *Report* containing its specific recommendations after five years of intensive effort, the background was laid for inquiries such as this. The leading question arose, with the publication of this *Report*, as to what the Commission had recommended be done with the public lands and its recommended means of achieving these results and how these recommendations differed, if at all, from the current practices concerning the public lands. These questions served as ready points of departure in planning the symposium. But as everyone who has entered the public land law labyrinth will agree, they lead to others not easy to define or investigate. The paths lead to matters of fact and theory in law, economics, and human interrelationship reflecting logical and emotional policies and desires.

In view of the fact that Congress has pledged to act upon this public land law labyrinth by implementing specific legislation, this symposium attacked the problems presented in these areas in hopes of providing understanding and perhaps posing solutions to these complex questions.

The *Report* by the Public Land Law Review Commission attempts to encompass the wide range of the areas that can be found involved within the public land law spectrum. The task of analyzing all the areas of the *Report* would involve the expending of time and energy which would spread the discussion out so thin as to become superficial and which would not do justice of adequate analysis to any area. With this view in mind, the symposium explores only a few specific areas in the *Report*, but explores them in depth. The areas chosen were thought to be those of the most importance to the public at large and they represent a broad range of the topics covered in the *Report*.

The format employed to present the analysis of the *Report* was selected to provide an effective means of channeling in-depth analysis, investigation, and reporting of the various topics. The conference borrowed from the technological disciplines the format of having a discussant present the main paper concerning a specific topic in the *Report*, followed by two reviewers charged with the task of analyzing the discussant's paper and adding general comments of their own. At the conclusion of these papers, the floor was opened up to the entire assembly to question the discussant or reviewers specifically on their presentations or to air general criticisms or make general observations about the topic in question. On the last day of the Conference, time was set aside for a General Discussion of the entire previous three days' discussion and to the *Report* in general. This section is entitled: *General Discussion, Observations, and Criticisms*.

A word must be said about the men who participated in the Conference. In part the participants were invited so as to insure that all pertinent disciplines and backgrounds would be heard. The major emphasis of the Conference was that of

the legal implications of the *Report* and the goal of using the legal system as a means to solving some of the problems involved in the public lands, hence most of the participants have legal backgrounds. But within these backgrounds, the participants reflect various and numerous approaches and interests concerning public lands, including among others, mining, the oil and gas industries, the grazing industry, wild-life groups, and conservation and environmental foundation. This was not said for the purpose of typecasting any individual, but for the purpose of indicating that the Conference, from its inception, sought to gain diversified interests in order to assure that all groups would be given an opportunity to participate. The energetic give-and-take of the discussions showed that practitioners of different backgrounds give and gain much in a gathering of this kind, especially when a paper has set out issues and suggestive materials. Also, included in the composition of the Conference, were some of the members of the Commission and its Staff, including the Vice-Chairman, a Commissioner, the Director, and the General Counsel. These individuals provided a behind-the-scenes analysis of the purposes and reasoning of some of the Commission's recommendations.

The main lines of inquiry began with accounts of the purposes of the Commission's origin and goals it sought to achieve and the means chosen to accomplish these goals. From there, the discussion evolved to the specific topics chosen to be covered, for example, grazing area concerning the advantages and disadvantages of the present permit system; the water area with the problems involved in the reservation doctrine; and the revenue-sharing proposals in the planning and finance areas. These discussions were culminated in the concluding area of general discussion. The discussions were helped immensely by the contributions of those who had come fresh from work with study groups.

A cautionary note must be set out here to avoid any misunderstanding concerning the role the Trail Lake Conference sought to play and serve. Much of this problem concentrated itself in the *General Observation* area. The concern expressed

was that the reader of these proceedings may be misled into thinking that because of the critical approach taken in the analysis of that *Report*, everyone at the Conference disagreed with the *Report* and found nothing of value in it. The organizers of this Conference sought and suggested a critical analysis from its participants in the hopes that this method would promote and provoke the best and most efficient discourse of the areas of concern. It was not created to be a consensus group for the *Report*, either for or against its endorsement. The Conference's purpose was to explore what the *Report* said and to comment upon it by the method which would best promote these ends.

The symposium papers are reproduced below with an edited transcript of the discussion that they provoked. In his introductory essay, Mr. Pearl draws together the main threads of the symposium in relation to current problems and present knowledge of public land law. A final note, offered in the spirit of advice to the reader, is that each reader, before reading this proceeding, should obtain a copy of the Public Land Law Review Commission Report, published by the Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402. The *Report* provides significant background to these proceedings making them more meaningful to the reader.