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FRANCIS E. WARREN AND THE

SEARCH FOR A GRAZING POLICY, 1890-1929

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degree of

Doctor of Philosophy

By

JAY RANDELL DEW
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FRUSTRATED FORTUNES:
FRANCIS E. WARREN AND THE
SEARCH FOR A GRAZING POLICY, 1890-1929

A DISSERTATION APPROVED FOR THE
DEPARTMENT OF HISTORY

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for my father,
Wilson T. Dew

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PREFACE

While conducting research for this dissertation, I had a curious conversation in the Reading Room of the American Heritage Center in Laramie, Wyoming. I made small talk with another researcher while I waited for ever more document boxes to be plucked from the shelves of the archives. She was a grandmotherly woman with bright eyes and a weathered face. As I recall, she was researching genealogical records. She asked me what subject brought me to Wyoming.

"Grazing policy," I replied.

Without missing a beat she rolled her eyes and said, "Humph. Taylor Act, I suppose," referring to the 1934 New Deal legislation that forever changed the relationship between ranchers on the public domain and the federal government with the creation of grazing districts.

"No, not really," I said. "The time before the Taylor Act."

In an instant, her judgmental expression lifted, replaced with a smile. "Oh! The good old days!"

I still wonder about that exchange. First, why the assumption that because I was studying grazing policy I

must be researching the Taylor Act? And why the nostalgia for the era before Taylor? To my regret I did not ask her to explain her reaction. Perhaps she had a living memory of the generation before her who knew life in Wyoming before the Great Depression, before the New Deal's reorganization of land policy, of a time when the public domain meant something entirely different from what most twentieth-century westerners came to know. Was her disdain for the Taylor Act merely a standard response to FDR in a solidly Republican state? Was she part of a family or a business that suffered financially from grazing policy changes? What would her reaction have been if I had said that I was also writing about Senator Francis Warren? (A conversation about Warren with another Wyoming resident ended with the words, "He's the person we love to hate.") She was a stranger, our archive boxes arrived, and our conversation ended. I will never know her story. But in many ways this study grows out of those same questions.

“And because it’s Wyomin it don’t seem so interestin to you?” Nikole’s grandfather drew a bottle from an inside pocket, unscrewed the cap.

“Yeah. I guess so.” The same grassy shadows, the same long wind, everlasting fence.

“Kid, let me tell you. Goddamn important things happened in this place.”

--Annie Proulx,
“The Governors of Wyoming,”
Close Range: Wyoming Stories

CHAPTER 1

GRAZING THE COMMONS: AN INTRODUCTION TO THE LIVESTOCK INDUSTRY AND FRANCIS E. WARREN

In June 1934, President Franklin Roosevelt signed into law the Taylor Grazing Act. By granting the federal government the power to regulate grazing, the law marked a fundamental change in the administration of the public domain. At the time, the law did not attract much attention; it was a "western issue" and just another item to tick off on the New Deal laundry list. Even the New York Times grouped the signing with other routine measures necessary for Roosevelt to "clear his desk" before taking a summer vacation. Roosevelt's White House issued a statement about the new law. The passage of the act, the statement said, marked "the culmination of years of effort to obtain from Congress express authority for Federal regulation of grazing on the public domain in the interests of national conservation and of the livestock industry."[1] Now the Secretary of the Interior would have sweeping powers to create grazing districts, as well as the authority to regulate and manage the number of livestock per range and the particular season of the year grazing would be permitted. As the Taylor Act was passed, the city

of Washington, D.C., baked under a summer heatwave. Only a month earlier dust storms from the Midwest had deposited Great Plains topsoil on the nation's capital, literally bringing the crisis of the West to the East.[2] In the midst of dust bowl and depression, the Taylor Act seemed to be just another New Deal program designed to provide a measure of relief and, more importantly, to regulate agriculture. What neither the Times nor the White House press statement commented on, however, was the wholesale change in American public land policy that the Taylor Act represented. In the context of regional drought and national depression, it was viewed as a conservation measure. Few noticed that it effectively ended the era of homesteading, to say nothing of the open range.[3]

Members of the Wyoming Stock Growers Association (WSGA) were not pleased with the new law. In the previous three years, ranchers had seen cattle prices drop by as much as fifty percent.[4] But even as they petitioned the Agricultural Adjustment Administration to classify the entire state of Wyoming as a drought area, the WSGA lashed out at Secretary of Agriculture Henry A. Wallace when he visited the state. Wallace bluntly told the cattlemen that their industry was "overproduced and their lands overgrazed," and that production and herd numbers must be

brought down. The WSGA members responded with harsh criticism of the Agriculture Department, especially the Taylor Grazing Bill. Wallace seemed to take the barbs in stride; he acknowledged that Wyoming cattlemen were "perhaps the greatest collection of rugged individualists I have met on this trip," but he did not back down from his concern with overproduction.[5] The United States was on the verge of a fundamental shift in its public land policy, with or without the Wyoming cattle interest.

This dissertation examines the long path toward the Taylor Act, especially as traveled by one powerful western politician, Senator Francis E. Warren of Wyoming. The four-decade career of Warren and the first few decades of Wyoming history coincide with the search for a national grazing policy, and thus provide not only personal and local history but important insights into national trends. This story of how one western politician interacted with a major issue such as grazing policy reveals much about American politics, the western economy, and the relationship of a state to the State (Wyoming to Washington, D.C.).

The conflict over grazing in the West was a classic example of a "tragedy of the commons" -- that is, a clash over the use of resources between individual interests and

the elusive common good. The phrase itself was first introduced in 1833 by William Forster Lloyd in a book on population. But ecologist Garrett Hardin popularized and reintroduced the concept in a 1968 essay in Science. Hardin illustrated the commons by imagining a hypothetical pasture shared by local grazers. "Picture a pasture open to all," he wrote. "It is to be expected that each herdsman will try to keep as many cattle as possible on the commons. Such an arrangement may work reasonably satisfactorily for centuries because tribal wars, poaching, and disease keep the numbers of both man and beast well below the carrying capacity of the land. Finally, however, comes the day of reckoning, that is, the day when the long-desired goal of social stability becomes a reality. At this point, the inherent logic of the commons remorselessly generates tragedy." The inherent logic of the commons, according to Hardin, culminated in the individual reaping all the rewards of pasturing while the commons itself was degraded.[6]

Hardin also linked the commons overtly to current events; the commons was not only a hypothetical grazing pasture, but also the Earth's atmosphere, oceans, rivers, forests, and so on. Increasingly, historians are following Hardin's lead in using the "commons" as a basis of analysis

in addition to the traditional paradigms of private property or the good-versus-evil moralizations of the Progressive Era. Louis S. Warren in The Hunter's Game, for example, has explored the social conflict that erupted as local hunting "commons" were transformed into a national commons via regulation. Similarly, Karl Jacoby, in Crimes Against Nature, shows how customary local uses of resources such as wild game hunting, fishing, and timber cutting turned rural resource users into "criminals" almost overnight as national parks were established. The conflict over public domain grazing also represents a changing commons. Local groups that traditionally viewed the open range as a resource to be used by all -- or, more cynically, those who maintained the power to do so -- saw in the development of a national grazing policy the erosion of their own commons. Western politicians often found themselves caught in the middle of this drawn out transformation of the grazing commons.[7]

The separate histories of the livestock industry, public lands and grazing, Wyoming, and Francis Warren intersect to reveal a larger portrait of the American political economy. This introductory chapter summarizes the development of the livestock industry, surveys the major issues confronted in the construction of a national

grazing policy, considers how historians have explored the issue over time, and offers a brief introduction to Warren's political career. This is not a biography of Warren, although there should be room for one on library shelves. In the same way that the historian Lewis Gould used Warren as a template to examine certain aspects of territorial Wyoming history -- so much that he subtitled his book A Political History -- Warren's experience can be used to illustrate a conflict over the commons that would not be resolved until the era of the Great Depression and the New Deal.[8]

Summary of the Post-Civil War Livestock Industry

Once "western history" almost seemed synonymous with the history of the range cattle industry, especially on the Great Plains. After Frederick Jackson Turner legitimized the history of the region as a subject worthy of professional study, generations of Turnerians and other writers filled library shelves with one account after another chronicling western ranching.[9] Farming and ranching stood as two pillars of the western economy, and the exploits of stock raisers drew the most attention.

But over time the livestock industry gave way to other voices competing for room in the textbooks. By the end of

the twentieth century, its story was distilled into a familiar but flawed formula: “Cattlemen pour north from Texas, speculate wildly, overstock the Plains, and emerge from the dreadful winter of 1887 a chastened, shaken-down set of businessmen who will henceforth raise their cattle with rational methods.”[10] For most textbooks, and for many historians teaching the American history survey course to this day, the lesson ended here. It was convenient to follow this Turnerian interpretation of the American West. As Patricia Nelson Limerick argues, however, this narrative omits “crucial stories in environmental history.” This “end of the West” textbook model, for example, renders the Taylor Grazing Act of 1934 all but invisible. As Limerick has noted, “with the cattle business apparently tamed and off the public lands by the 1890s, there is no imaginable reason for the Taylor Grazing Act in 1934 or for the continued, bitter, sometimes violent conflicts over grazing on Western public lands.”[11]

Although this dissertation focuses on the American livestock industry and grazing issues, it is worth a brief summary of the global history of the subject. The contribution of Texas to the cattle industry was substantial, but it overshadowed the larger context of ranching in North America, and indeed the world. The

western range of the late nineteenth and early twentieth centuries was not merely a few decades old, as many early Anglo-Texan histories maintain, but was in fact part of a long line of stock raising innovations and adaptations. The North American cattle frontier was a product of over three centuries of African and European influences that followed lines of colonization. By the American Civil War, the traditions and techniques of raising and moving livestock on the open range were well established. Geographer Terry C. Jordan, in his comprehensive North American Cattle-Ranching Frontiers, correctly argues that the role of the Anglo-Texan cattle system is "overemphasized" and "absurdly mythologized."[12]

In the United States, the end of the Civil War opened the way to a flurry of entrepreneurship on the Great Plains. As one historian of the range cattle industry eloquently put it, "The Western range cattle industry rose like a phoenix from the ashes of the Civil War." Supply and demand met through the railroad. Markets responded, and "the northern migration of longhorns, beginning in 1866, marked the initial expansion of the business that was to dominate the economic life of the Great Plains for a quarter of a century" and beyond.[13]

A combination of circumstances set the stage for a

twenty-year boom in the cattle industry. The livestock industry in the North and East was not prepared to meet growing demands; Walter Prescott Webb shows that in the East stock-farming was largely a family affair. Cattle raising on the Great Plains, on the other hand, was distinctive because of the enormity of scale and the use of the horse.[14] Other factors contributed to the rise of the western livestock industry as well, including the near extinction of the buffalo and the forced concentration of Plains tribes onto reservations. In addition, the advance of the railroad kept the cattle industry ahead of the ever marching line of settlement and provided efficient means for shipping livestock to slaughterhouses. These factors, some social and some technological, encouraged the range industry. The brief but celebrated era of the long trail followed. Familiar names such as Goodnight-Loving, Chisolm, or Stimson, as well as less personal geographic names such as the Eastern or Western Trail, became assigned to customary routes streaming out of Texas and the southwest to northern ranges or markets. In all, from the end of the Civil War to 1890, upward of 10 million head of cattle were moved and marketed. The enterprise was vast.

By the mid-1880s, however, beef prices began to drop

as a result of oversupply. A fatal combination of events brought an end to the cattle boom. Overproduction resulted in diminishing returns to investors; increasing debt led to tight credit, which in turn limited day-to-day operating expenses. Finally, a few years of unseasonably wet weather fooled an already optimistic industry into believing that expansion was the cure to a temporary slump. Wet years turned dry, with drought in the summers and unusually bitter winters from 1885 to 1887. Ill-prepared and helpless, ranchers stood by helpless as stock died by the thousands from exposure and starvation.

The boom of the industry had gone bust, but this did not mark the end of the industry, only its redefinition. Indeed, the range cattle industry followed the larger trends of American business in this era: consolidation, "rationalization" through scientific management, and regulation. Technological advances in feed and range medicine moved the industry to rely on new and stronger breeds. Accelerating federal regulation over the industry introduced new challenges, especially in an era of new "conservationist" sensibilities.

Wyoming and the Emergence of Stock Associations as Quasi-governments

An important but overlooked element in the federal regulation of public land can be found in the history of livestock associations. These associations grew quickly in size and power in the late nineteenth century. Early associations emerged ad hoc in response to particular problems or issues such as cattle theft, confusion over roundup practices, or poorly defined and thus disputed grazing areas. Livestock associations were especially effective at maintaining brand records and in organizing quarantines to combat periodic disease outbreaks such as "Texas fever," a quickly spreading epidemic that threatened the entire industry. Livestock associations, then, grew out of unique environments and responded to specific needs of the industry; in this sense, they "rationalized" the business. As they expanded from localized, pragmatic organizations to the quasi-governments they would become, however, their role and reputation changed greatly. As quasi-governments, stock associations "administered" the grazing lands. Their presence established chronological priority that could be used to justify land claims. In fact, the customs of the range and the informal practice of western stock associations were the grazing policy of the west.

Livestock associations were not invented in the

American West, however. Indeed, the earliest form of agricultural unions can be traced to medieval Spain with the Mesta, an association of sheep holders who wielded considerable power. The Mesta emerged in Mexico in the sixteenth century, yet another influence on the North American range industry. Likewise, American historians have found parallels between livestock organizations and eastern manufacturing associations. Accordingly, both followed similar paths toward antagonistic labor and owner relationships. In the West, cattle associations almost exclusively grew to reflect the interests of capital (owners) over labor (the cowboy) and thus stratified a class system on the plains.[15]

Livestock associations became entrenched political interest groups. Territorial or state boundaries did not necessarily define membership. It was not uncommon for members of one association to hail from an adjacent region; for example, the mostly Texan members of the Panhandle and Southwestern Stockmen's Association often met in Oklahoma, and owners in the Dakota Territory could pick and choose between the Montana Stock Growers' Association or the Wyoming Stock Growers' Association, depending on their interests. Livestock associations were both a cause and a symbol of the regimentation of the western economy and,

given the class distinctions, western society itself.

Although ranch interests in Colorado formed an association as early as 1867, a virtual explosion of associations occurred in the 1870s. The first group to organize in Wyoming gathered in 1871 and formed the Stock Graziers' Association. Two years later, a larger group formed calling itself the Stock Association of Laramie. By 1879 it changed its name to the more encompassing Wyoming Stock Growers' Association. By the mid 1880s, this group represented over four hundred members who owned over two million head of cattle. Over time, the WSGA would work to limit access to the open range to its members, using both legal and extra-legal means.[16]

The day-to-day function of the Wyoming association was typical of such organizations -- the oversight of branding, transportation, roundup organizing, etc. Its role in "fighting crime" on the range was especially notable. The "Johnson County War" of 1892, though not the subject of this study, bears some consideration inasmuch as it highlighted the tension between large and small owners. In the spring of 1892, after the annual WSGA meeting, a trainload of over forty Association-connected vigilantes (alternately dubbed "invaders" or "regulators," depending on one's perspective) set out to hunt down suspected cattle

thieves and rustlers. Chaos erupted in Johnson County. Local officials and a two hundred-strong posse demanded that the vigilantes be held for trial in Buffalo, but Senators Francis E. Warren and Joseph M. Carey, along with the persuasive abilities of attorney Willis Van Devanter, later a justice of the U.S. Supreme Court, engineered an intervention by the U.S. Cavalry. The political impact of the incident was a public relations disaster for the big owners and much of Wyoming's political establishment, including Warren (an issue addressed in greater detail in a later chapter). The full impact of the Johnson County War is best left to other writers; for our purposes, however, it illustrates the long reach of a cattleman's association into arenas usually reserved for representative government.[17]

Indeed, the WSGA was so powerful that one early historian identified it as the de facto governing power in early Wyoming, renaming the territory as "a cattleman's commonwealth."[18] Such power did not emerge overnight, but a great deal of it can be traced to the passing of the so-called Maverick Law in 1884. This sweeping law handed to the WSGA control over essentially all activities related to the roundup of cattle. The WSGA and the territorial legislature became intermingled and even interchangeable in

the Wyoming power structure. As one historian of the organization concluded, "the association was thus to become a quasi-official institution with legal control over the stock industry and the power to enforce its will." The passing of the Maverick Law signaled a "merger of the territorial government and the [WSGA] for the regulation of the range."[19] Although the territorial years saw the height of the WSGA's power in Wyoming, even after statehood the overlapping of association members and political leaders ensured that the organization was a quasi-political force to be dealt with.

Indeed, in Wyoming the range ruled. As one student of Wyoming put it, "In none of the other regions of the Great Plains environment was the cattle business of such paramount importance as was the case with Wyoming. It was here that the cattle baron reached his zenith in wealth and importance."[20] And another authority wrote more bluntly that the livestock business in Wyoming experienced "a spectacular boom . . . and an equally spectacular bust."[21] Because of the centrality of the livestock industry, Wyoming was effectively a monoculture. Like much of the West, it was vulnerable to the whims of markets and nature.

Major Issues in Grazing Prior to the Taylor Act

Livestock grazing on the public domain prior to the Taylor Act can be divided into three stages: from the "open range" of the post Civil War homestead era to the period of the fenced range in the 1880s and 1890s, the experimentation of regulated grazing in forest reserves beginning in the 1890s, and finally the era of conservation from the turn of the century on. But these stages are by no means discrete and self-contained.

Until the 1880s, the livestock industry had a more or less free reign in grazing on public land. It was not quite "first come, first serve," but custom regularly trumped the letter of the law. The tide of settlement encouraged by the Homestead Act and the removal of Native Americans to a reservation system, however, soon transformed the open range into countless units of land ringed by barbed wire. The technology of cheap wire fencing appealed to many owners as a more affordable method of control than the expensive and sometimes volatile human labor of the cowhand.[22]

The emergence of economical barbed wire fencing in the late 1870s quickly transformed the previously unfenced public domain. The General Land Office began to note an increase in complaints from homesteading settlers. Range

fences crisscrossed public lands with little regard or respect for section or new community boundaries. Fear and tension between farmers and ranching interests accompanied the ribboned wire. As one historian put it: “The settlers reported that there were hundreds of miles of fence on government land, on land suitable for farming, but that the settlers needed to be bullet proof.” Hibbard saved his harshest criticisms for the fencing of the public domain: “All told, it was the most unmistakable, wholesale shameless instance of land grabbing that had yet been practiced in America.”[23] The issue of fencing looms large in the Western imagination, but, like the open range cattle industry itself, it really only existed for a brief period. By 1885, Congress responded to the situation and prohibited enclosures on the public domain; by 1890, many of the most egregious cases of illegal fencing on public lands had been addressed and corrected. By the turn of the century, however, fencing problems would return, greatly frustrating the Roosevelt administration. Indeed, Francis Warren endured a fencing scandal of his own.[24]

Congress appointed a Public Lands Commission in 1904 to investigate and summarize the problems facing public land policy and grazing. The commission’s findings were remarkably frank about the situation: “The public lands are

theoretically open commons, free to all citizens; but as a matter of fact a large proportion has been parceled out among the various interests. These tacit agreements are continually being violated. Violence and homicide frequently follow, after which new adjustments are made and matters quiet down for a time." The report assessed the environmental and economic impact of the grazing situation, in addition to the social consequences. The lack of control over public grazing lands resulted, "naturally and inevitably in over-grazing and the ruin of millions of acres of otherwise valuable grazing territory. Lands useful for grazing are losing their only capacity for productiveness."[25]

The recommended remedy, proposed by the commission, was to lease grazing lands by assigned districts. The commission suggested that the president be authorized to set aside public land specifically for grazing districts. The Department of Agriculture would then appraise the value of the lands and appoint officers to administer the grazing districts, as well as charge a fee for grazing permits. These were merely recommendations; no one rushed to overturn the entire public land system of the United States overnight.

Theodore Roosevelt's administration echoed the

suggestion for grazing districts, but added a noticeable emphasis on local control. Roosevelt was caught in a political bind. He wanted a grazing policy but also depended on the political support of western Republicans such as Warren. The administration favored a grazing district approach, but included several qualifications. It insisted on local control by those familiar with stock raising. The administration wanted to ensure that such a local approach fostered cooperation between government and business to avoid an antagonistic relationship. Fees for grazing permits must be affordable, low, or even a token amount; the goal was not to use grazing policy to produce revenue for the federal treasury, but to bring some semblance of order and control to manage the land efficiently. Finally, any grazing policy should encourage more settlement and homesteading and not prevent it; clearly, the hold of the homestead era was still significant.[26]

Whether from lack of leadership from the White House, or from the inertia of American land policy, neither the 1904 nor 1907 proposals were acted upon fully. Again, Roosevelt had to deal with western politicians, and he did not want to alienate New Mexico and Arizona, soon to enter the union, and thus lose potential Republican states.

Bills to lease the public domain were introduced into Congress, but they inevitably failed. Why? There was no method provided to distinguish grazing land from farm land; the old problem of a monolithic conception of public land persisted. Other objections surfaced: the idea of charging fees, however small, for previously "free" land was not well received; a general resistence to consolidation; and fears that a lease system would not only allow larger owners to overpower smaller owners, but also lock in all present owners, thus tying up the range to prevent any new entrepreneurs from entering the business.

Grazing history took a different path in the forest reserves, however, than was seen in the general public domain. The forest reserves were first created in 1891, but the 1897 Forest Management Act, sometimes called the Organic Act, truly established a national forest system. Occupancy and use of forest resources was regulated. The same year, a botanist in the Department of Agriculture, Frederick Coville, offered a detailed assessment of grazing in the West. Coville recommended a regulated approach to grazing on public land that would protect the forest resources while simultaneously permitting use of grazing resources. According to historian William D. Rowley, Coville's "special tract permit system . . . provided the

foundation for future grazing policies, both those of the Department of the Interior and, later, those of the Forest Service."[27]

To many historians, the leasing of grazing lands in national forest reserves was a success story. Even a naysayer wrote that forest service grazing was "the redeeming feature of the general mismanagement of the grazing lands."[28] In a 1915 report, the Secretary of Agriculture wrote of forest service grazing success and laid the groundwork for a similar approach to be attempted with other public lands. "When the regulated system was established," the report said, "the forest ranges, like the open public lands today, rapidly were being impaired." The report claimed that regulated policies restored productivity, stabilized the industry, reduced range violence, and increased ranch value. The secretary even claimed that stockmen were "urging that a similar system of range regulation be extended to the unreserved public lands."[29]

This is not to say that forest service grazing was unopposed. On the contrary, over time many non-western state congressmen and officials grew critical of grazing fees that were too low; cheap forest grazing seemed to be still more of a land give-away, even though it was

potentially an opportunity to increase federal revenue. Throughout the 1910s, grazing fees increased, much to the protest of western stock interests. Even so, the enlarging of the land unit through grazing leases and the increase in demand due to World War I provided a respite for ranchers. Always sympathetic to the cattle industry, Walter Webb put it this way: "It was not until 1916 that Congress recognized in its land legislation that such a class as cattlemen existed in the West."[30] But in the 1920s the clamor to increase grazing fees returned and remained constant until the depression of the 1930s, and westerners resisted all the while.[31]

Policies toward grazing revealed much about national attitudes toward conservation, the meaning of public lands, and the role of the federal government in regulating business, and the debate over public land grazing revealed much about the changing attitudes toward property, nature, and government intervention. Should grazing be free or by permit? If free grazing was to be discontinued on the public lands, what implications did that have for the nature of "public" land itself? And if fees were to be charged, should they be token fees to cover administrative costs, or could they be a genuine source of revenue for the government? At what level should grazing be administered,

local, federal, state, or some combination of all three? In the landscape of conservation, was public land to be held in "trust" or to be used by capitalists for personal profit? These questions and more sprang up in the years between the closing of the frontier and the closing of the public range. Western politicians wrestled with them, often at their peril. One politician who faced such issues, and sometimes walked away in defeat, was Wyoming's Francis E. Warren.

Francis E. Warren and Western Politics

Who was Francis Emory Warren?[32] A few months before his death in November 1929, the Denver News called the Senator from Wyoming "the West's great patronage dispenser."[33] Indeed, Warren was especially adroit at funneling federal appropriations into his home state. But Warren did more than bring home the bacon in an era of pork-barrel politics. He identified the gaps in the Wyoming economy that could not be filled by the Union Pacific Railroad or the Wyoming Stock Growers Association, the dominant economic players. To fill those gaps, Warren created a political machine designed to use the federal government as an "indispensable prop of local enterprise in the arid West."[34] This was Warren's great skill: creating

and operating his own business empire and political machine to the advantage of a constituent economy -- and himself, of course.

Like many in the American West, Francis E. Warren came from someplace else. He was born in Hinsdale, Massachusetts in 1844. He served in the Union Army during the Civil War and was awarded the Congressional Medal of Honor “for gallantry on the battlefield” at the siege of Port Hudson, Louisiana. After the war he moved to Wyoming and entered business and politics. By the 1880s Warren owned or controlled several companies, including the Warren Mercantile Company and the Warren Live Stock Company, as well as significant interest in the Cheyenne and Northern Railroad and the Brush-Swan Electric Company, which brought Cheyenne into the electric age.

As he constructed this business empire, probably making him the first millionaire in Wyoming, Warren became politically active. He served in offices ranging from Cheyenne city council and mayor to the territorial treasurer and chairman of Wyoming’s Republican Central Committee. In 1885, President Chester A. Arthur appointed Warren territorial governor of Wyoming. Warren lost this position during the first term of Grover Cleveland, a Democrat, but regained it when Republicans recaptured power

with the election of Benjamin Harrison. When Wyoming entered the Union in 1890, Warren became the state's first governor. He held that office for only about six weeks, however, as the new state's legislature quickly elected him to the United States Senate. Except for a brief period surrounding the Johnson County War, Warren remained in the Senate until his death in 1929, a thirty-seven year record tenure not broken until the 1960s. A New York Times obituary dubbed Warren the "dean of the Senate" and noted that he was "probably the State's largest owner of real estate, both urban and rural, and [was] the largest live stock owner [in] a State in which live stock raising is the fundamental industry."[35]

During that thirty-seven year career, Warren amassed seniority and influence. As chairman of the Military Affairs Committee he ensured Wyoming's cut of the budget through forts or posts. He also assisted the military career of his son-in-law, John J. Pershing. One of Warren's aides, Willis Van Devanter, later served as a justice on the United States Supreme Court. As head of the Senate Appropriation Committee, Warren stood in a unique position to secure Wyoming's share of reclamation projects and other public-funded endeavors.

Warren figured prominently in what historians would

identify as "western state mercantilism."[36] In the race for economic prosperity and state promotion, Warren frequently sided with protectionists, especially as public policy affected the Wyoming wool and hide industries. No wonder, then, that Warren played more than a cameo role in the crafting of the Dingley Tariff of 1897 and the Payne-Aldrich Tariff of 1909. Whether straddling the free silver issue, which benefitted the mining states, or opposing national forests to the delight of timber and grazing interests, Warren earned a reputation as an "intellectual leader of the anti-conservation forces in Congress."[37] Warren had not been in the Senate long before he called for unconditional cession of public lands to the states. He believed cession would draw more settlers (especially to his sparsely populated state) and also provide some relief to the livestock industry that had been stagnant through the 1890s.

The literature on Warren is surprisingly limited. Two University of Wyoming graduate students produced M.A. theses in the 1940s. These early surveys covered portions of Warren's congressional career, but they fell short of a comprehensive study.[38] The most sustained study given to Warren is in Lewis L. Gould's Wyoming: A Political History, 1868-1896, published in 1968. While not a biography per

se, Gould's book examines Wyoming history using a slice of Warren's career. The book ends with the 1896 election, leaving further study of Warren to others. Gould's book was reissued in 1989 under a new title, Wyoming from Territory to Statehood. The new title and publisher's new market classification (under curious subject headings such as "suffrage," "travel," and "local history") further removed emphasis from Warren.

Since Gould's 1968 political biography, historians have addressed Warren primarily in the context of turn-of-the-century reclamation issues or his rivalry with Joseph Carey. For example, Warren appears in Limerick's Legacy of Conquest. Where Gould chose to emphasize Warren's ability to "exploit the intimate financial connection between Washington and the West to benefit both his state and his own career," Limerick uses Warren as yet another example of the western penchant for economic exploitation and neglect of larger social problems.[39] Similarly, Warren receives a few token paragraphs in a twentieth century history of the American West as a "guardian of the right" and an enemy of progressive reform.[40] Historian Donald J. Pisani has noted that "too many environmental historians have looked at the past as a morality play in which the champions of the 'public good' battled against the 'plunderers of

nature.'"[41] Whether Warren is portrayed as a hero or a villain, there can be no doubt that he was an important figure in the development of Wyoming and public policy toward the West, and for this reason merits closer scrutiny.

Francis E. Warren, among the most powerful of senators in his day but now little remembered outside of Wyoming, had opportunities to alter fundamentally the land policies of the United States as they affected the livestock grazing industry. But he was unable to bring about such a change largely because other western states became more powerful than Wyoming. The grazing states, let alone the West as a whole, were not united. It took the Great Depression and the New Deal to achieve a grazing policy. The New Deal and the Taylor Act accomplished in a couple of years what Warren could not in decades of political life.

Outline of Chapters

This dissertation follows a generally chronological approach in its exploration of Warren and his role in the conflict over grazing policies. This introductory chapter outlined the historiographical context of the livestock industry and the political environment in which Warren operated. Chapter 2 presents Warren's efforts from 1890-

1898 to cede all public lands directly to the states as his first attempt to win a workable grazing policy for the West. Chapter 3 follows the grazing debate into the national forests with Frederick V. Coville's 1898–1906 call for regulated, managed grazing. Warren's hope for land cession had collapsed. Grazing policy as practiced in the forest reserves would define policy for years to come. Chapter 4, then, examines the tense political situation Warren faced as Coville's system was implemented. Chapter 5 continues that discussion through 1920 and finds Warren in his most turbulent years, a period marked by personal tragedy, political scandal, and regional rivalries that diminished Warren's will to do little more than maintain his hold on power. Chapter 6 explores Warren's final years, from 1920 to his death in 1929. Warren died within a month of the stock market crash; both events signaled the end of one era and the beginning of a new search for solutions to the grazing problem.

ENDNOTES

1. New York Times, June 29, 1934.

2. Donald Worster, Dust Bowl: The Southern Plains in the 1930s (Oxford: Oxford University Press, 1979), p. 13.

3. The Taylor Grazing Act, and especially the administration of it, has received much attention from scholars. See Karen R. Merrill, Public Lands and Political Meaning: Ranchers, the Government, and the Property Between Them (Berkeley: University of California Press, 2002); Christopher McGrory Klyza, Who Controls Public Lands? Mining, Forestry, and Grazing Policies, 1870-1990 (Chapel Hill: University of North Carolina Press, 1996); R. McGreggor Cawley, Federal Land, Western Anger: The Sagebrush Rebellion and Environmental Politics (Lawrence: University of Kansas Press, 1993), primarily covers late twentieth century issues, but is still worthy of consideration; Philip O. Foss, ed., Federal Lands Policy (New York: Greenwood Press, 1987); Marian Clawson, The Federal Lands Revisited (Baltimore: Johns Hopkins Press, 1983), like most work by Clawson, is a valuable institutional history of the Bureau of Land Management; William Voight, Public Grazing Lands: Use and Misuse by Industry and Government (New Brunswick, NJ: Rutgers University Press, 1976); again Marian Clawson, The Bureau of Land Management (New York: Praeger, 1971); Joe A. Stout, "Cattlemen, Conservationists, and the Taylor Grazing Act," New Mexico Historical Review 45 (1970): pp. 311-332; Joseph A. Stout, "The Influence of Public Opinion on the Drafting of the Taylor Grazing Act of 1934," M.A. thesis, Texas A&M University, 1968; Robert Birdwell, "The Taylor Grazing Act," M.A. thesis, University of Oklahoma, 1966; Philip O. Foss, Politics and Grass: The Administration of Grazing on the Public Domain (Seattle: University of Washington press, 1960); and Wesley Calef, Private Grazing and Public Lands: Studies of the Local Management of the Taylor Act (New York: Arno, 1979, a reprint of a 1960 dissertation), among others. Most of these studies, however, cover the Taylor Act in practice more than the road to it.

4. Paul Wallace Gates, History of Public Land Law Development (Washington, D.C.: U.S. Government Printing Office, 1968), p. 607.

5. New York Times, June 10, 1934.

6. Garrett Hardin, "The Tragedy of the Commons," Science 162, No. 3859 (December 13, 1968), pp. 1243-1248.

7. Louis S. Warren, The Hunter's Game: Poachers and Conservationists in Twentieth-Century America (New Haven: Yale University Press, 1997); Karl Jacoby, Crimes Against Nature: Squatters, Poachers, Thieves, and the Hidden History of American Conservation (Berkeley: University of California Press, 2001).

8. Lewis L. Gould, Wyoming: A Political History, 1868-1896 (New Haven: Yale University Press, 1963).

9. The literature on the range cattle industry is staggering, varying in quality, and as Terry Jordan put it, "mind numbing." The standard works include, Ernest Staples Osgood, The Day of the Cattleman (Minneapolis: University of Minnesota Press, 1929) as the first academic treatment of the ranching industry, focused especially on Wyoming and Montana; Edward E. Dale, The Range Cattle Industry: Ranching on the Great Plains from 1865 to 1925 (Norman: University of Oklahoma Press, 1930); Walter Prescott Webb, The Great Plains: A Study of Institutions and Environment (Boston: Ginn, 1931), esp. Ch. VI; Louis Pelzer, The Cattleman's Frontier: A Record of the Trans-Mississippi Cattle Industry from Oxen Trains to Pooling Companies, 1840-1890 (New York: Russell and Russell, 1936); John K. Rollinson, Wyoming Cattle Trails: History of the Migration of Oregon-raised Herds to Mid-Western Markets (Caldwell, Idaho: Caxton, 1948); Marian Clawson, The Western Range Livestock Industry (New York: McGraw-Hill, 1950); Maurice Frink, W. Turrentine Jackson, and Agnes Wright Spring, When Grass Was King: Contributions to the Western Range Cattle Industry (Boulder: University of Colorado Press, 1956); Lewis Atherton, The Cattle Kings (Bloomington: Indiana University Press, 1961); John T. Schlebecker, Cattle Raising on the Plains, 1900-1961 (Lincoln: University of Nebraska Press, 1963); Jimmy M. Skaggs, The Cattle Trailing Industry: Between Supply and Demand, 1866-1890 (Lawrence: University of Kansas Press, 1973); James A. Young, Cattle in the Cold Desert (Logan: Utah State University Press, 1985); Jimmy M. Skaggs, Prime Cut: Livestock Raising and Meatpacking in the United States, 1607-1983 (College Station: Texas A&M University Press, 1986); and Terry G. Jordan, North American Cattle-Ranching Frontiers: Origins, Diffusion, and Differentiation (Albuquerque: University of New Mexico Press, 1993).

10. Patricia Nelson Limerick, Something in the Soil: Legacies and Reckonings in the New West (New York: W.W. Norton and Co., 2000), p. 96.

11. Limerick, Something in the Soil, p. 103.

12. Jordan, North American Cattle-Ranching Frontiers, p. 416 and throughout.

13. William W. Savage, Jr., The Cherokee Strip Live Stock Association: Federal Regulation and the Cattleman's Last Frontier (Columbia: University of Missouri Press, 1973), p. 15.

14. Webb, The Great Plains, Ch. 6.

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16. Agnes Wright Spring, Seventy Years: A Panoramic History of the Wyoming Stock Growers Association: Interwoven with Data Relative to the Cattle Industry in Wyoming (Cheyenne: Wyoming Stock Growers Association, 1943), and Maurice Fink, Cow Country Cavalcade: Eighty Years of the Wyoming Stock Growers Association (Denver: Old West Publishing Co., 1954), are both "vanity" histories, published by the WSGA on anniversary occasions, and as such as self-serving and celebratory; even so, they offer much information on individual members, as well as a glimpse into the priorities of the association; the same is true of Robert Home Burns, Andrew Springs Gillespie, and Willing Gay Richardson, Wyoming's Pioneer Ranches (Laramie: Top of the World Press, 1955).

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unimportant by some social historians, was recently addressed anew in Daniel Belgrad, "'Power's Larger Meaning': The Johnson County War as Political Violence in an Environmental Context," Western Historical Quarterly 33 (Summer 2002): pp. 159-177. Belgrad argues that the violence was a symptom of a crisis of an "ecological mode" and should be seen not as a morality play, as usually presented, but as a "breakdown in the hegemony encompassing a particular set of social and environmental relations."

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20. George W. Rollins, The Struggle of the Cattleman, Sheepman, and Settler for Control of Lands in Wyoming, 1867-1910 (New York: Arno Press, 1979), pp. ii-iii.

21. T.A. Larson, History of Wyoming (Lincoln: University of Nebraska Press, 1978), p. 163.

22. Webb, Great Plains, Ch. VII offers a fascinating summary of barbed wire and fencing; Hibbard, p. 476.

23. Sen. Doc. 48 Cong., 1 Session, No. 127; Hibbard, pp. 476-477.

24. U.S. Stat. At Large, XXIII, p. 321; see also Hibbard pp. 478-479.

25. Sen. Doc., 58 Cong., 3 Sess., No. 189, "Report of the Public Lands Commission," p. xxi.

26. Sen. Doc., 59 Cong., 2 Sess., No. 310, passim.

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29. Yearbook, United States Department of Agriculture, 1915, pp. 63-64, emphasis added.

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32. Unless cited otherwise, essential biographical information about Warren is taken from Guide to Francis E. Warren Papers, 1868-1974, the finding aid for the Warren papers held at the American Heritage Center, University of Wyoming. A microfilm version of the collection resides at the Bizzell Library, University of Oklahoma.

33. Denver News, June 1929, as quoted in Larson, History of Wyoming, p. 448.

34. Lewis L. Gould, "Francis Emory Warren," in The Reader's Encyclopedia of the American West ed. Howard R. Lamar (New York: Harper and Row, 1977), p. 1238. See also, Phil Roberts, "Francis E. Warren," in Encyclopedia of the American West ed. Charles Phillips and Alan Axelrod (New York: Macmillan, 1996), p. 1710.

35. New York Times, November 25, 1929.

36. Donald J. Pisani, To Reclaim a Divided West: Water, Law, and Public Policy, 1848-1902 (Albuquerque: University of New Mexico Press, 1992), pp. 170-174.

37. Gould, "Francis Emory Warren," p. 1238; Lewis L. Gould, Wyoming: A Political History, pp. 212, 249.

38. Anne Carolyn Hansen, "The Congressional Career of Francis E. Warren from 1890 to 1902," M.A. thesis, University of Wyoming, 1942; Wesley D. Bowen, "The Congressional Career of Francis E. Warren, 1912-1920," M.A. thesis, University of Wyoming, 1942.

39. Gould, "Francis Emory Warren," 1238; Patricia Nelson Limerick, Legacy of Conquest: The Unbroken Past of the American West (New York: Norton, 1987), pp. 86-87.

40. Michael P. Malone and Richard W. Etulain, The American West: A Twentieth-Century History (Lincoln: University of Nebraska Press, 1989), pp. 60, 72.

41. Donald J. Pisani, Water, Land, and Law in the West: The Limits of Public Policy, 1850-1920 (Lawrence:

University Press of Kansas, 1996), p. 198.

CHAPTER 2

INSIDE WARREN'S DRIVE FOR ARID LAND CESSION AND STATE CONTROLLED GRAZING POLICY, 1890-1898

> I have been of the opinion for some years that inasmuch as the state owns the waters within it by the terms of our law of admission, the state should also own the lands . . . . In this way the people and the state would grow rich together.[1]

A potential settler wrote from Philadelphia, Pennsylvania to Senator Francis E. Warren of Wyoming, inquiring about the availability of public land in Wyoming and the opportunities one might find there. Warren responded with a terse appraisal of United States land policy in the early 1890s. "Every citizen is entitled to 160 acres without price," he wrote, "except land officer's fees, providing he makes the same his homestead and lives upon it five years. Land can also be taken under the Desert Act [of 1877] subject to irrigation and reclamation by the claimant and upon the payment to the Government of $1.25 per acre."[2] One might have expected more enthusiastic promotion from a senator of a sparsely populated state.

The harsh reality, as Warren well knew, was that the land policy of the nation was ill suited to the grazing, irrigation, or general agricultural needs of the arid West.

A patchwork of laws and loopholes defined land policy after the Civil War, but for Warren and many westerners there was a straightforward solution to all their problems: the unconditional cession of all public lands to the states. Cession was not the only solution to the West's problems. The Wright Act, passed in 1887 by the California legislature to create irrigation districts, opened the door to a wave of irrigation projects and created an economic boom. Wyoming did not have the resources -- water, population, or dollars -- of California, so irrigation projects alone were of limited appeal to Warren. Wyoming had an abundance of public land, however, and Warren wanted the grazing industry to control it.[3] Throughout the 1890s, Warren believed cession to be the ultimate prescription to relieve the West's land problems; he repeatedly attempted but failed to change the fundamental land policy of the United States.

Wyoming achieved statehood in 1890. It had been a long and, toward the end, unorthodox struggle. As early as 1869, when Wyoming was first organized as a territory, there was talk of statehood. The issue gained momentum in the 1880s in no small part due to Francis E. Warren. In 1888 the territorial legislature petitioned the United

States Congress for admission into the Union. Bills to enable statehood passed neither the House nor the Senate. Warren and others in the tightly-knit territorial power structure forged ahead, however, acting as if there were an enabling act when in fact none existed. In the summer of 1889, Wyoming territory elected delegates and held its own self-styled "Constitutional Convention." By November of that year, Wyoming voters overwhelmingly approved a "state" constitution 6,272 to 1,923. Voter turnout was "disappointingly low," and winning margins in some counties -- Johnson in particular -- could be counted in the dozens. A politically insignificant minority of Democrats opposed statehood on the grounds that it would lead to "ruinous taxation." The next month new bills for Wyoming statehood began working their way through the Senate and the House. By the spring of 1890, Congress had passed Wyoming's statehood bill and President Benjamin Harrison quickly signed it into law, making Wyoming the 44th state.[4]

Statehood was a victory for Republicans, but the high times of the range industry were quickly becoming the stuff of nostalgia. Although the 1870s were, as T. A. Larson put it, a "troubled decade" marked by confrontation with Native Americans, dominance of the Union Pacific Railroad that treated the territory as a personal coal box, and

immigration dropping to a trickle in spite of groundbreaking liberal suffrage laws, the 1880s had been even worse because of disastrous winters and drought-filled summers. Indeed, the day after the signing of the statehood bill, the Cheyenne Daily Leader cautioned: "Don't expect too much." As Larson concluded, this was a "timely warning, for many people appear to have been carried away by notions that statehood would solve most of their problems. This was not to be the case; harsh realities would dispel the aura of optimism." Wyoming's population was low--only about 60,000, and that first census figure did not count Native Americans living on reservations. Low voter turnout also embarassed the new state. The center of Wyoming's economy, the cattle industry, reeled from an overstocked and abused grazing range, falling prices, and the harsh combination of droughts and blizzards from the "white winters" of the late 1880s. A sense of unease spread through the new state, and even entrenched interests such as the Wyoming Stock Growers' Association declined in power and influence. This was the political and economic context that Warren faced and sought to remedy through land cession.[5]

The Wyoming legislature promptly sent Warren and Joseph M. Carey to Washington as the first senators from

the Equality State. Clearly, Warren was no stranger to political life, but even he felt overwhelmed by the duties of the office. His priorities included securing a new road from Fort Washakie to Yellowstone Park. He then wrestled a number of demands for post offices and postal appointments in Wyoming, all the while conducting personal business interests that ranged from selling cattle to pianos.[6] Writing to his friend Edward Slack, editor of the Cheyenne Sun, Warren once confessed, "I get awfully discouraged sometimes . . . . I hate to work like a turk during the prime of my life, for more than a score of years, to help out in business and in other ways, a lot of fellows who are continually following me, and either yelping at my heels or kicking my 'beam end' at every turn in the road. . . . Seriously, I am about fagged out with this business, almighty tired of it, [and] considerably disgusted."[7]

Warren was also discouraged with his own business ventures in Wyoming. The Warren Livestock Company was the largest in the state -- a "miniature empire" that stretched across southeastern Wyoming and into western Nebraska and northern Colorado -- but by the mid-1890s it was in debt about $200,000. In the summer of 1894 the company went into receivership. The senator's other company, the Warren Mercantile Company, avoided bankruptcy but still felt the

effects of the ranching depression throughout the decade. (Both companies survived, of course, so much that Warren left an estate of about $6.7 million to his heirs.) Wyoming Democrats pounced on Warren's motivation for land cession as little more than an attempt to grab more grazing land for himself to turn his business fortunes around.[8]

Despite the fatigue and criticism, Warren found the energy to propose a bold change to the public land structure of the nation. He did not work alone, however. Warren befriended Elwood Mead, Wyoming's chief engineer who soon became Warren's right-hand-man on matters of land and water legislation. Mead was an academic who had gone west from Purdue University in his home state of Indiana to become a math and physics professor at Colorado State Agricultural College in Fort Collins. Mead resigned the Colorado teaching job after less than a year, however, to return to school himself. He quickly acquired additional degrees in engineering and science. He returned to Colorado in 1885 to work for the state engineer and by 1888 moved to Wyoming to take the territorial engineer position there. Mead's politics were revealed in the policies he advocated. He was first a technocrat who saw the answer to the West's problems in engineered solutions. This is not to say that Mead was apolitical, however. Indeed, he was

skeptical that centralized, federal planning could ever adapt to the unique situations of the western states. At least at this point in his career, Mead saw the state government as the best lever to correct land and water problems. But states such as Wyoming were overwhelmingly public land states; that is, their vast lands were not taxable and largely out of the purview of state governments. Warren's drive for land cession to the states was a natural fit for Mead. Together the two men crafted legislation they hoped would revolutionize local control in the West. Mead rose over the years to loftier posts, ultimately serving as the head of the Bureau of Reclamation until his death in 1936. He oversaw some of the most complex reclamation projects ever undertaken, including the construction of the Hoover, Grand Coulee, and Owyhee dams, and his name is enshrined by the reservoir created by Hoover Dam: Lake Mead, between Nevada and Arizona, the largest man-made lake and reservoir in the United States. Like future Supreme Court Justice Willis Van Devanter, Mead was another official with close ties to Francis Warren who prospered well beyond his time in Wyoming.[9]

Elwood Mead's career began in partnership with Warren in Wyoming, however. On February 16, 1891, Warren introduced into the Senate a bill, crafted with Mead's

help, that would "cede the arid lands to the States and Territories wherein they situate, and to provide for irrigation and the utilization of pasturage lands and the protection of forest lands, and for other purposes."[10] If enacted, the United States would hand over millions of acres to state governments in the West to do with as they saw fit. The Preemption and Homestead Acts -- and, more importantly, their inherent flaws vis-à-vis the arid lands -- would be relegated to history, and a new era of local control would begin. Warren's bill, S. 5087, was referred to the Committee on Public Lands, where it languished. The Senate, rarely in a rush about anything, was not in a hurry to give away the West. The Senate and the 51st Congress as a whole adjourned for the session on March 3. Warren's late arrival in the Senate did not allow much time to propose legislation.

But at least the idea of land cession had been laid on the table. This was part of Warren's larger political strategy. "I knew when introducing my bill at the last session that it could not get through in that term for lack of time . . . but desired to get the subject before the people," he wrote later that summer. Warren preferred a slow and deliberate political style to a forceful and fiery approach. One of his oft-repeated mottos summed it up:

"Never hunt ducks with a brass band." The optimal technique of partisan persuasion was behind the scenes; "the best way to build up the Republican party," Warren said, "is to keep very quietly sticking in a peg here and there in our work and knocking out one here and there in the works of the enemy." This philosophy applied to his desire for land cession. After the first lukewarm attempt to introduce a bill, Warren regrouped and prepared for another attempt. "There is considerable sentiment built up in favor of ceding the lands to the states by the Government," he wrote, but went on to admit, "also considerable opposition. I am giving more attention to an endeavor to quietly overcome the latter than to force the former just at the present time."[11]

Warren wanted more land to graze, but opponents feared cession would set off a wave of reckless land speculation. Regional tensions over cession were as old as the nation itself. As one historian summed up the opposition to cession, the policy change "threatened to depopulate the Atlantic states, drive down the value of eastern farms, encourage speculation, contribute to the growth of land monopolies, cheat those who had purchased land from the government at the minimum price, and undermine nationalism by making the states far less dependent on the central

government."[12] Although these general objections to cession were in the political air, Warren's own troubles in promoting the land reform had causes closer to home and out of his control. In the crusade for land cession, time was not on his side, largely for reasons he could not anticipate.

The idea of ceding public lands to the states did not originate with Francis E. Warren. A brief summary of the history of cession is thus in order. From the earliest days of the Republic, as Paul Wallace Gates has shown, "the public land states began to exhibit disenchantment" and clamored for full cession--that is, more lands under state control. It particularly chafed that all states had entered the Union "'on equal footing' . . . yet were denied ownership of the ungranted land within their boundaries, whereas Massachusetts and all others of the Original Thirteen had retained the ungranted lands within their boundaries."[13] As the nation endured its growing pains, a myriad of next-best-thing land measures emerged, from funding school and agricultural college land grants to focused land cession for the purposes of constructing roads and eventually major land grants to the transcontinental railroads in the mid-nineteenth century. The states

quickly "found [ways] of gaining land ownership of a portion of the public lands."[14]

Ironically, the more adept the states became at acquiring land short of full cession, the less crucial the need for cession became. Partial cession was common; full cession became intertwined with the losing antebellum argument of states' rights and the meaning of the Constitution.[15] By the time of the Civil War, federal power was obviously solidifying. The Homestead Act, with its enormously popular appeal, put another nail in the coffin for full cession to the states. The dream of cession did not disappear, however. As the inadequacies of the Homestead Act became glaringly apparent in the arid West, the expansive public land states again called for cession and would continue to do so through the Herbert Hoover administration in the late 1920s.[16]

A resurgence of support for cession occurred in the 1880s in the context of drought and rising expectations for irrigation and reclamation. As Donald J. Pisani notes in his history of public water policy, "In the late 1880s, Colorado provided the greatest popular support for cession, but during the 1890s the most effective congressional leadership came from Wyoming."[17] And so we return to Francis E. Warren and his renewed effort to secure public

lands for the states.

Through the land cession issue Warren made many allies of other western politicians. He established a good relationship with Thomas Carter, the Commissioner of the General Land Office. Warren knew that Carter had many interests and audiences to placate, but he still counted him as a comrade in the general cause of cession. Carter was a fellow westerner, from Montana. Writing freely to Edward Slack in Cheyenne, Warren said of Carter, "He is disposed to do something in our direction, but I am inclined to think he will not want to embody in his report the exact doctrine that we wish preached. But whatever he does will be far in advance of anything his predecessors have offered." Months later, shortly before he again introduced his cession bill, Warren registered even more confidence in Carter. "In every conversation I have had with Carter and in every request," Warren said, "he has shown a disposition to do as near what I wanted as possible and I make no complaint against him. He is a dandy."[18] Again, Warren worked slowly but steadily to build up support.

At this stage in the drive for cession, Warren was careful to connect irrigation and grazing. State control of one but not the other seemed pointless. "I included not

only the forest lands . . . but the pasture lands also, as it is necessary for the state to control these in order to make the water supply sure in one case and the lands valuable for stock farming on the other," Warren wrote of the construction of his bill. "By renting pasture lands from the state, which abut on the water," he went on, "the farmer and the stock grower could spend his summer in raising his little crop and saving hay for hard weather in the winter, while his live stock could graze back in the mountains in summer and down nearer his settlement in the winter."[19]

Once his first fragmented congressional term was concluded, Warren could spend the time needed to muster support for his cession bill. The legislature of his home state of Wyoming, of course, unanimously memorialized Congress in favor of cession for the arid states. Localities from Green River, Wyoming to Converse County likewise sent cession petitions to Congress.[20]

Other state legislatures followed similar paths, including Idaho and Montana. In January 1891, Governor Toole of Montana addressed his legislature on behalf of land cession and reclamation, generally supporting the idea of state control of public lands. "If we are to receive any substantial or speedy benefits from our arid lands,"

Toole said, “I believe the State must first acquire a title to them, and then undertake by appropriate legislation to reclaim and dispose of them.”[21]

Over time Montana abandoned Warren’s plan, however. Mounting allegations of corruption and collusion with the railroad industry pulled Montana away from supporting cession altogether, preferring instead that the federal government simply sell the public lands and just give the money to the states. Opponents feared that ceded lands would fall into the hands of railroad companies. In Wyoming, the Union Pacific Railroad was the only industry to rival the cattle business, but Warren had a cozy relationship with the U.P. all the same. On more than one occasion he had mercilessly sided with management against striking workers.[22]

The Montana challenge irritated Warren, and he attributed it to personal slights. “I am sorry that the disappointment of a colleague over not getting some coveted place on a committee should cause him to make grave charges against me. The statement that I have any interest with any railroad corporation regarding the Arid Lands or for cession to the states is absolutely without the slightest foundation.”[23] Even so, the Montana split was a hint of things to come.

Warren sought and gathered support for his arid lands bill from a variety of newspapers, both western and eastern. Close to home, Cheyenne's Daily Sun, edited by Warren's confidant Edward Slack, made a restrained, common sense argument for simplified control of public lands to benefit the grazing industry: "the [federal] Government really gives up nothing, but it simply allows the land and the water to come under one jurisdiction, which is the only way the same can be properly disposed of."[24] Cheyenne's other major paper, the Daily Leader, also supported the cession of public land to the states and local control of the lands. Unconditional cession was the key: "if the arid lands are ceded to the several states, the General Government should cede them unconditionally, leaving to the individual states the solution of the problem of their reclamation." The Leader said the public lands in their current state were "white elephants . . . of no value to the government, the states or the people." Public grazing land, given wholly over to the states, would "set the State up for business, drawing hither settlers who would be assured a living from the start."[25] One would expect Warren's home editors to support a bill that promised so much to their state. As events over the next few months transpired, however, even the base editorial support would

wane.

Other western press outlets pressed the cession cause. The Rocky Mountain News of Denver, always a proponent of land cession, was more blunt than its Wyoming neighbors. The federal government, it said, "lacks the promptness, the zeal and the practical intelligence" of the states where grazing mattered most.[26] The Denver Sun echoed this sentiment: "There is little chance that this work of reclamation can be done except through the cession of the lands to the States. It would be an unfamiliar and difficult task to the nation, but a familiar and easy one to the States."[27] Finally, the Denver Republican, unabashedly partisan, was optimistic about the passage of a comprehensive cession bill. "It will be a notable year in the history of the arid regions," its editorial proclaimed, "if Congress . . . grants the arid lands to the States and Territories. Fortunately the prospect for such legislation is good." Not only was cession the "reasonable" thing to do, the Republican maintained, but it would in the long run save the federal government money. It would also alleviate sectional tensions: "the Eastern farmers would not be able to say that they were taxed to raise up competition against themselves."[28] In Omaha, Nebraska, the Bee said that if reclamation were left to the federal government it would

mean more delay and “perhaps will never be done.” The Bee was more blunt about opposition from the South than most papers, holding that “there is a very strong sentiment in the country, particularly in the East and South, hostile to the General Government having anything to do with irrigation beyond making surveys for reservoir sites.” It went on to lament that “it will be a long time before this can be overcome, if it can ever be.”[29] Warren visited Omaha and offered a brief speech in which he connected the interests of Nebraska with the frontier spirit of development and prosperity.[30] In this Nebraska speech, Warren emphasized cooperation and played down the specifics of land cession. In more private, personal political venues, Warren was more aggressive about his cause. “We must agitate this question of arid lands and how to reclaim them,” he wrote, “for it is the burning question in the west and a problem that must be solved sooner or later.”[31]

Warren even secured an endorsement from a southern newspaper, the New Orleans Times-Democrat. The Louisiana paper connected the arid lands of the West to the fertile South and suggested that the West would benefit from reclamation. The paper wrote that “a far better solution . . . is that the United States donate to the several States and Territories all the public lands within their

respective areas . . . a very similar gift was made to Louisiana, Mississippi, Arkansas, and Florida nearly half a century ago." Although cession would meet opposition from the South, for the moment, at least, arid and (some) humid lands seemed to agree on the need to change federal land policy.[32]

When they discussed the West at all, eastern newspapers came around cautiously, Warren noticed; "so far, they are a little slow east in taking up articles favoring the ceding of arid lands, except those of a brief nature; but, as interest grows, I believe they will be glad to give place to more exhaustive articles."[33] To that end, Warren referred eastern inquiries to writers such as F. J. Stanton, a professor, geologist, and mining engineer in Wyoming. Stanton wrote a paper with a clumsy but effective title: "The Public Domain: The People of the States, the Rightful Owners; Give the Waste Lands to those who Reclaim Them." Stanton's argument began with the English colonists, the collapse of the "Divine Right of Kings" and the end of feudalism as a way of structuring land ownership. He then took a circuitous route through the "western march of empire" to show that the force of history was pushing toward land cession. He concluded with language at last more appealing to editorialists. "We ask

that the East shall concede to the West at least the Arid Waste Lands within our borders," he argued, and "give them free and unrestricted to the various State Governments, so that by a system of economy and industrial thrift, we can keep our money here at home and add additional wealth to our enterprising, hard fisted yeomen, who have conquered the empire."[34] The style of Stanton's prose reappeared often in Warren's comments on the Senate floor.

Of the eastern press, the Hartford, Connecticut Post was the most forthright in highlighting the inadequacies of the current land laws. The solution was for the federal government to "let go" of the lands "now useless and for which it declines to appropriate sufficient development money" and instead allow the individual states to determine their own future.[35]

The New York Tribune also conceded that "the time is approaching when the Federal Government should at least give settlers a free hand."[36] The New York Times, though supportive, was the most reserved about the potential change in land policy. It reported, "The proposal to transfer to the States and Territories the arid public lands within their respective limits was broached in the last Congress, and has probably gained adherents since that time, even if only as a choice in a dilemma." The Times

was suspicious of a land grab, but even this lukewarm support was good enough for Warren's cause.[37]

When the Republican party held its national convention in Minneapolis, it included land cession in the party platform. Whether this ultimately helped or hurt the cession cause is debatable, but it clearly politicized the issue and the party identified with it. The party plank on cession acknowledged the weaknesses of the current laws as they applied to the West: "The grazing lands are now of no direct benefit to the General Government and can not be sold, because, under the laws, no one can acquire over 160 acres, and such a small area is of no value. Under State ownership they would be allotted or leased." The revenue generated by the allocation or leasing of public grazing lands, the plank argued, would be enough to ensure the protection and administration of both pastures and forests, resulting in a self-sufficient system that did not require federal intervention. As to the fear of corruption at the local level, the party emphasized a sense of ownership and responsibility: "Each citizen of the state would have an intimate personal interest in its proceedings, and would watch it as if it were his own. The shape of his pocketbook would be affected by their work. Is it probable that corruption could creep in where there were so many

interested eyes upon the watch?" To suggest otherwise was to doubt the very nature of democracy itself: "It would seem like questioning the ability of our people to govern themselves, to question their ability to administer the waters, lands, and forests upon which their livelihood depends."[38] This may have been disingenuous, but Republicans knew how to play the rhetorical game of democracy well.

In the 1890s, a variety of so-called irrigation congresses met throughout the West to promote land cession and large-scale irrigation projects. These meetings were usually attended, as historian Paul Wallace Gates reports, by "representatives of land grant railroads, other real estate groups, state land commissioners and land boards, irrigation companies, lawyers, journalists, civil engineers and businessmen -- stockmen and farmers were noticeably absent."[39] Despite the lack of a direct grazing interest in these groups, Warren nonetheless managed to secure a variety of irrigation congresses to support land cession. He counted endorsements from the Western Commercial Congress in Kansas City, and the Transmississippi Commercial Congress, which met a number of times in Galveston, Denver, Omaha, and Las Vegas, New Mexico. Perhaps the most influential of all was the Salt Lake City

Irrigation Congress held in 1891. An irrigation convention held in Montana took different positions on the ceding of public lands to the states, but it nonetheless shared the fundamental belief that the federal government had a role to play in the reclaiming of arid land. Almost universally, these interest groups favored cession to the states, believing the federal government to be unable to administer the public lands to the benefit of westerners.

Warren's own campaign for cession was impressive. In February 1892, in a speech before the Committee Republican Club, Warren spoke on the topic of "The Great and Growing West." He began with a party-serving reminiscence that must have made the Republicans in the room feel pride in their role in the nation's history. A Civil War veteran, Warren had been awarded the Congressional Medal of Honor. He spoke of "Republican Principles . . . the ardent defense [of which] on the sanguinary plains of Kansas . . . did much to make us free." After reminding the group of their shared partisan heritage Warren moved on to discuss the modern West. He made light of the reputation of the region as lawless: "We went west for more elbow room, aiming to retain all our virtues and leave our faults behind us. Possibly at times we have fallen from grace. We may have extinguished an occasional Indian or have seemed to approve

of the summary hanging of a horse thief. . . . But these were the backslidings of our youth." Returning to a theme of national unity, he proclaimed, "the West is but the East transplanted to broader fields and richer soil," overlooking the generally infertile soil of Wyoming. Rich soil, perhaps, but dry soil for certain. Warren hinted at land cession for the western states, not stating it overtly but it was clearly on his agenda; "the arid region," he said, "has had to provide for its own internal improvements . . . we are a long suffering people . . . yet we do not complain." Rather than wearing out his welcome on the specifics of his cession bill, Warren then returned to appeals to partisan loyalty and assured his audience that the West was solidly Republican.[40]

Warren continued to make a case for arid land cession in a prepared "article" distributed to the press. Essentially a press release, the article was composed in the style of an interview with the senator, recently chosen to head the now standing committee on irrigation and arid lands. "The selection of Senator Warren is everywhere regarded as most appropriate," his own office wrote. Peppering Warren with easy questions in the "interview," the article asked: "Why should the lands be ceded to the states?" Warren's stock response summed up his views on

land policy and the need for change. He answered, “the present federal land laws are defective and inapplicable to the arid region, each state can best frame the laws suited to its peculiar conditions.” After listing several expected benefits of cession, Warren turned the questioning around, “The question is,” he asked, “which can best be entrusted with the work, the state or the national authorities?” His answer, not surprisingly, held that “the state government is the proper agency.”[41]

Of all the endorsements, speeches and quasi-interviews, the most revealing insights into Warren’s drive for land cession could be found in a document that has the markings of a speech but little details regarding its presentation. In this undated but signed typescript, Warren presented his arguments for land cession, a summary of a general discontent with the current land system, and touches on larger issues of federalism. Inasmuch as this document summarized Warren’s ideology, it is worth a dip into its details. Next to Warren’s remarks on the floor of the Senate, no better explanation of his policy can be found.

“The United States should cede the Arid Lands under proper restrictions to the states and territories wherein they situate,” the text began with a punch reflecting the

lanuage of his bill. It quickly moved to criticize the current public land policy. The land laws of the West created "continuous unrest and discontent." Warren's solution of land cession would thus enable "the States to frame land laws suitable to their peculiar conditions," or farming for the plains, and grazing for Wyoming.[42]

Again Warren joined the issue of state controlled grazing districts to the need for reclamation. Irrigated lands, he said, would of course increase in value, as would the grazing lands associated with them. "To attain the best results," he said, "these must be made an adjunct to the irrigable lands along the streams. Every occupier and cultivator of the irrigated lands should have a proportional interest of control in the grazing lands." This was the key to prosperity in perpetuity; "it is only in this way that the value of our grazing areas can be perpetuated and the greatest benefit from the irrigated areas secured."[43]

In addition to the reservation of adjacent lands for grazing purposes, Warren went on to outline a rental system. Owners and users of irrigated tracts along streams could "by means of community fences or in some other manner" protect their contiguous grazing lands. Warren claimed that this would give grazing lands "four-fold the

value they now possess." Warren pointed to the existing system of grazing, such as it was, which essentially provided no methods of regulating the use of the land beyond custom. Under current practices, the land was "being surely but slowly destroyed." Warren believed a system based on regulated grazing districts and rental fees would return money to the irrigation project at hand, benefitting both the grazers and the true, local users of irrigation.[44] The assurance of adjacent grazing lands, administered under a system to be devised by the states according to need, was in Warren's view an essential ingredient in any success that might come from the ceding of arid lands for irrigation.

In concluding his argument, Warren half-heartedly acknowledged one concern of those who opposed land cession. To those who feared a "football of speculation" Warren only replied, "This fear should not be entertained." In a biting final statement, Warren expressed great faith in the state governments and at the same time disparaged Congress. "The state government is the proper agency" to manage grazing lands, he maintained. He trusted state legislatures "because nearly every member would understand from practical knowledge and experience the subject with which he was dealing. <u>It cannot be so in Congress</u>."[45]

On July 21, 1892, Warren took the floor of the Senate on behalf of his arid lands bill calling for cession. He presented the bill and spoke at length, backed by a mountain of evidence and testimony supporting his cause. Where his first abortive bill had been titled "to cede the public lands," this latest approach focused on irrigation as harbinger of prosperity. Like most astute politicians, Warren knew the persuasive power of language and euphemism; once in giving assistance to a student assigned to give a presentation on the subject, Warren said, "'arid land' may be a dry subject, yet 'irrigation' is a suggestive one and [the speaker] may be able to hold his hearers to the subject especially if the weather is hot." In the well of the Senate -- hot and stuffy in the summertime -- Warren began his own presentation with the premise that irrigation was crucial to the success of agriculture. It followed that the arid lands should be reclaimed as soon as possible. "The present land laws," he pointed out to his fellow senators, "are inapplicable to that section and the importance of prompt legislation cannot be overestimated."[46] His cession bill, now numbered S. 2529, would solve that.

Because Warren devoted more time and energy to S. 2529 than he had to any cession bill to date, a close

examination of the provisions of the bill is in order.[47] Warren's bill, designed to irrigate and reclaim the arid lands "for the protection of forests and utilization of pasturage" made irrigation, general agriculture, and the rationalized grazing of live stock inseparable; this was a connection not made by many future, and more successful, reclamation bills.

Warren's bill ceded all public lands not already in use to the states and territories in which they were located, with five conditions. First, the states were required to divide their new land into self-governing irrigation districts and to work continuously to reclaim, in good faith, "the whole area capable thereof." Second, after ten years the president could reclaim the title of any land he deemed not improved as a result of good faith reclamation work. This measure, however, was not quite an open door for the federal government to take back land. It could only take back the land if it agreed to continue irrigate it using federal dollars. In addition, any lands "useful for only pastoral purposes shall remain with . . . the adjacent reclaimed lands." In effect, the grazing lands would remain with the states regardless of the status of any irrigation project on them. This caveat, Warren knew, was offered as a compromise to those most suspicious

of land cession, even as he knew that it was unlikely that any resumption of federal lands would take place. "If the land is ceded," he wrote, "and we are not able to reclaim it we will certainly be no worse off."[48] Third, the lands once ceded to the states could be borrowed against or even sold outright by the states, provided the proceeds were used toward reclamation. Fourth, land sold to individual settlers would be limited to 160 acres per person of irrigable lands, with as much as 320 acres of nonirrigable land as a potential addition.

The fifth provision of Warren's arid land cession bill held much promise in the direction of a national grazing policy. Any land not under reclamation and not already in use by homesteaders would be available for grazing leases. Individual state legislatures, according to Warren's bill, would be given room to set prices and boundaries of grazing districts. The bill did require, however, that preference be given to the proximity of the lessee -- i.e., "each settler shall be entitled to rent the pasture lands which lie nearer to the lands of such settler than to those of any other settler." The recognition of grazing lands and inclusion of their use as part of the overall cession of public lands was a crucial point to Warren. Grazing districts, as a priority, would fall away from future

reclamation bills.

As Warren continued his remarks on the floor of the Senate, he reached far back into antiquity. Citing the work of George Perkins Marsh, Warren listed numerous examples of ancient civilizations "that have risen and flourished in arid regions where irrigation was practiced." He quoted many passages from the Bible to draw a questionable conclusion that the Garden of Eden was irrigated: "In the description of the Garden of Eden in the first book, we are told that 'A river went out of Eden to water the garden.' Therefore, the first system of irrigation was in the Garden of Eden."[49] Warren rarely attended church; he was certainly no theologian. He cribbed this Biblical justification for irrigation from something he heard at the Salt Lake City Irrigation Convention, and he had appealed to Reverend A. A. Johnson, the president of the University of Wyoming. "Kindly look at the second chapter of Genesis, 10th verse," he asked of Johnson, "and tell me if it is a good text from which to argue that the Garden of Eden required irrigation, that it was naturally arid land, but reclaimed as we reclaim our deserts, etc. If we cannot go this far, how far can we go . . . ? I would like a little brief on this subject, which I can use in my 'business' of educating people."[50]

Similarly, Warren introduced a map that outlined the extent of the arid lands. Writing to William Ellsworth Smythe, Warren said "the map is a great educator to people who do not understand arid land matters. I find nearly all eastern people must commence with the 'kindergarten' . . . therefore the map is the strongest feature."[51]

He discussed the more recent history of the United States as well, tracing the development of land policy in the United States to imply that disposal of federal lands was a large trend in the emergence of local democracy; "the very foundation of our National Government," he argued, "is based upon the wise administration of local affairs"; local ownership and control of land was positively Jeffersonian.[52]

And yet, for all the march of progress, the public land laws worked against the common man, Warren said. The very success of western settlement had thwarted the new rancher or settler, who was "compelled to seek a home in the arid land, if he desires to enter upon the public domain, and under very great disadvantages. Warren concluded that relief of the arid lands inequity was a moral obligation: "The Government owes it to the youngest sons of the nation that they be given some of the benefits accorded to their fathers."[53]

On the subject of grazing, Warren had much to say. Continuing with the Jeffersonian theme of the self-sufficient farmer, he demonstrated how irrigation and grazing walked hand in hand. "The large intervening or adjoining tracts of land will be utilized for grazing," he said, "while the irrigated farms will furnish the small grains, vegetables, and fruits required for local consumption." He also emphasized the locality of agriculture, returning to the criticisms he faced in Omaha on the potential for the balance of regional competition to be pushed off center. Thus, while irrigation may turn the arid lands into a new Garden of Eden, at the same time "there need be no fear that the productions of the arid region will be so great" as to threaten established agricultural markets in other parts of the country. This was significant. In statements before Congress, Warren had to appeal to senators from other agricultural states that had suffered from declining prices.[54]

The addition of grazing lands to the cession argument was central to Warren's thinking. Much of the West's grazing lands, he believed, "can never be made the self-supporting habitation of man, because they are too elevated [to be reached by gravity canals] and too vast in extent to be irrigated; but they furnish a valuable complement to the

lands reclaimed, the first supplying the summer's and the second the winter's food supply." Warren rightly maintained that Congress had never truly grappled with a land policy that specifically addressed the unique environment and needs of the western states. As an added bonus, by folding grazing districts in with irrigated lands, Warren's approach would encourage settlement. By offering grazing lands adjacent to reclaimed lands, "it will make more valuable the irrigable areas and supply the settler with an important source of income by adding the business of stock-raising to that of the farmer." Warren summed up his argument on grazing with a choice quote from the National Irrigation Congress's stance, an argument that made different elements of the public lands argument part of the same cession package: "The State should own the forest lands and hold them, that it may preserve the forests . . . from destruction and the water supply from becoming intermittent and useless. The State should own the grazing lands and hold them that they may be made valuable, and that the revenue from them may be available to pay the expense of protecting the forests." Finally, "the State should own the irrigable lands, that it may obtain a revenue from their sale with which to regulate and distribute the water supply for their irrigation as to

produce the greatest benefit to the commonwealth and the individual irrigator."[55] Full cession of the arid lands to the states would accomplish these goals. Warren concluded his lengthy presentation, professing confidence and optimism.

Despite the effort Warren put into his cession bill, however, it was doomed for reasons he could not have anticipated. As a Senate priority, the bill was far down on the calendar. But events beyond the control of Warren proved more devastating than the slow pace of the Senate.

In the spring of 1892, the so-called Johnson County War, sometimes called the War on Powder River, exploded into the headlines of the nation. On April 5, over forty vigilantes, or self-described "regulators," crowded into a train at Cheyenne and set out to track down, arrest, or even assassinate as many names as possible from a Wyoming Stock Growers' Association hit-list of supposed rustlers. Two names from the list had been eliminated before the tables turned on the vigilantes. The sheriff and citizens of Johnson County confronted the hired guns. The governor of Wyoming, Amos Barber, with assistance from Senators Carey and Warren, appealed to the federal government for army intervention to calm the situation. The violence quickly subsided, only to be replaced by months of

courtroom controversy. The Johnson County War was a classic example of class conflict -- large owners with means versus small ranchers with limited power -- brought to the point of violence, and it would become a major political issue in the fall 1892 election. Although Senator Carey was far more connected to the vigilante "invasion," it was Warren--as the junior senator facing reelection--who bore the brunt of the backlash.

In addition to rousing the president at night to enlist the aid of cavalry troops, Warren watched the affair unfold with great concern. The political implications were disastrous. At first, he hoped that the controversy would be short-lived. Writing to Cheyenne journalist I. S. Bartlett, Warren tried to remain optimistic; "the cattle controversy disturbs me exceedingly and we are just now obtaining a very unenviable notoriety," he said, "but as everything has its day and finally comes to an end, I suppose we will get through it."[56]

Writing to his personal secretary, Warren was more frank about his concern. "The cattle war is in every newspaper in the east," he lamented, adding that he was "bothered to death over it." But more than the personal distraction from being associated with such backward frontier violence, he feared the political consequences.

"Such things always hurt the party in power, and almost surely the Republican party, whether in power or not, as the Democrats have a way of catching all of the excitable and disgruntled ones."[57] In this, Warren was prescient.

As the days passed, the Johnson County affair consumed all discussion of Wyoming. Warren's quiet and steady efforts to win support for his cession bill seemed passe in the face of such sensational news from the "wild west." To his friend and rising jurist Willis Van Devanter, Warren confided, "It seems to me a very unfortunate affair all around. . . . As misfortunes never come singly, I assume the present season is to be a red-hot, mean one all around." Not only did Warren worry about his own political future, he also sincerely regretted the sullying of Wyoming's reputation. The state was barely two years old, obviously not off to a good start as a member of the Union. "I am mortified and saddened beyond expression," he wrote, "that our young state must suffer such reverses at a time when she can so illy [sic] endure them."[58]

Although Warren frequently said that he served at the pleasure of the people of Wyoming, and that lacking their confidence he would be happy to return to Cheyenne to carry on his private businesses, he knew well the political consequences of the Johnson County fiasco.[59] Anticipating

the coming season of vicious campaigning, he held that it was "a dirty piece of business for either party to undertake to pander to the lower element of society and to court with thieves and vagabonds for the sake of temporary party supremacy." Worst of all, he believed, "Wyoming can never grow and thrive under that kind of depraved politics."[60]

Responding to a message of support in the wake of the Johnson County situation, Warren was appreciative but replied with a startling prediction of his own political fate. "I venture to say . . . that should some black hearted political corruptionist come along and say that Warren had some slight acquaintance with, or had sometime been a friend of a cattle baron, or should say that the arid land bill was for the purpose of killing off all small settlers and poor people, either charge would be believed and I would be 'in the soup' again."[61]

The Johnson County War not only undermined Warren's work on land cession; it cost him his seat in Congress. When Warren and Carey were sworn in as United States senators on December 1, 1890, they drew numbers, according to the rules of the Senate, to determine the staggering of terms. By the luck of the draw, Warren pulled the short term number; he would face reelection in two years.[62] As a

result, Warren had to face the Wyoming legislature at the height of the Johnson County War trial and under a growing Populist assault. Warren was not reelected, and the divided Wyoming legislature could not settle on a replacement; for a period, the newborn state of Wyoming could only count one senator in Washington. Although Warren endured numerous political attacks in the wake of the Johnson County War, such vindictiveness would have been hurled at anyone; had Carey drawn the low number that December day, he would have faced the same situation. (Indeed, Carey's days in Congress were numbered as well; he would be turned out mid-decade, largely for his unpopular stance on the silver issue.) Warren's worst fears came true; his name, and the cession of arid lands movement, became associated with the war on the Powder River.

Warren had been warned that the land cession issue could be costly. But he brushed it off in a breathless run-on sentence: "I am pretty tired of politics I can tell you and if my good endeavors may be enlisted by the enemy as to 'turn me down' there will doubtless be somebody rise in my place to carry on the work and I will probably feel that my greatest success personally is my political misfortune." He went on to say that the present land laws were "a misfit for our country entirely" and needed reform

by someone.[63]

Even so, as the spring wore on and the trouble did not abate, Warren grew more worried, especially as his arid lands bill became tarnished by the civil strife. "It would be laughable to me," he said, "if not so ridiculous, the manner in which a few papers first lied about and misrepresented the provisions of the bill, and then manufactured bugaboos about the danger." Ever more frustrated that his work was being sacrificed to scandal, Warren lamented, "I wish every man that has a theory about the arid lands would give me the benefit of his work in drawing a bill complete from A. to Z. And then he would know more what he was talking about."[64] By the summer he was very concerned about the political consequences of the troubled spring. "This cattle business ought not to enter into the campaign at all as between Republicans and Democrats," he said. He then turned on his heel and politicized the issue himself: "Of course, the attacking party of cattle men taken altogether were 3/4 Democrats. The herds they represent and the money interest in them is 2/3 or 3/4 Democrats."[65]

With Warren out of office on March 4, 1893, and his reputation tainted, the already uphill battle for arid land cession ground to a halt. Warren's rival, Joseph Maull

Carey, would fill that vacuum with a reclamation bill of his own. Passed in 1894, the Carey Act stopped far short of the unconditional cession that Warren believe so crucial to the West. The Carey Act was a case study in political compromise.[66] In essence, the Carey Act granted to the arid states up to one million acres of public land each, provided that the land be reclaimed by the state or sold in lots of 160 acres to individual settlers. A ten year time limit attached to the bill underscored its experimental and tentative nature. In constructing the bill Carey carefully avoided the criticisms of other arid land bills, including Warren's much bolder call for total cession of public lands, to say nothing of the adjacent grazing lands. As such, it was adopted into law in 1894 with little fanfare or national attention.

The subsequent history of the Carey Act proved to be disappointing, if not surprising. Wyoming was the first state to seek lands under the Carey Act, but the general economic slump of the 1890s prevented most states from investing heavily in complicated reclamation projects. William Ellsworth Smythe, editor of Irrigation Age and a close correspondent of Francis Warren, was lukewarm about the Carey Act, stating that it helped "neither one side nor the other of the old controversy between those who favored

and those who opposed the absolute control of the public lands by the several states."[67] The Carey Act was an attempted solution to an irrigation problem, but it stopped short of a wholesale restructuring of the public land policy. Where Warren's cession bill linked water, land, forest and grazing districts as the sine qua non of ceding public lands to the states, the Carey Act was essentially just another patch on the quilt of land laws. Indeed, Carey specifically avoided the grazing district issue altogether in order to placate the populist and anti-monopoly voices that had cost Warren his seat in Congress. The sharp limitation on acreage available for settlement seemed to ignore the lessons of the failed 1877 Desert Land Act. That this latest law was sometimes referred to as the Carey Desert Land Act only added insult to injury. Despite the flaws of the Carey Act, elements of it remained in force through the twentieth century. It proved enormously successful in Idaho, for example. In the context of examining Warren's attempt to fashion for the first time a coherent grazing policy, the Carey Act was partly responsible for killing the movement for full land cession in the West.

After spending a few years at home in Wyoming, tending to business and mending political fences, Warren found

favor again with the Wyoming political establishment and was returned to Washington in 1895. He was busier than ever, and more fatigued, too. Warren suffered a variety of health problems, including an eye injury that temporarily blinded him and caused him to miss many of the opening ceremonies of Congress.[68]

Even so, Warren soon returned to the business of Wyoming and the West in the Senate. He continued to have a hand in irrigation legislation, sometimes forcefully. For example, Warren piggybacked Wyoming and much of the West onto a river and harbor appropriation bill that originated out of New England. (Warren offered a last minute amendment that set in motion a flurry of western additions to the bill, effectively changing the measure's original meaning.)[69] Any discussion of land cession was sharply limited to the routine introductions of petitions and memorials from the Wyoming legislature or small measures to add lands to the Shoshone and Arapaho reservations.[70] The grand plans of full cession were, for the moment, a distant memory. For the time being, Warren resorted to piecemeal legislation, the very thing he believed his sweeping cession movement would have avoided. In an angry letter to the American Agriculturist, Warren justified his river and harbor piggyback legislation with a critical assessment of

the arid land situation. "As to what Congress has failed to do . . . there is much indeed. The laws already passed are fragmentary." With great emphasis, he went on: "Over one-fourth of the United States is arid grazing land and from past experience and present prospects must always remain such. <u>There is not a law in our statutes which recognizes its existence or provides for its management or disposal</u>."[71] Writing to Mead on the river and harbor bill, he said, "Please think of it <u>hard</u> from now until next December and tell me under what plan we can get in to this river and harbor or some other appropriation bill. My motto is, we either want money for improvement or we want the lands."[72]

Frustrating Warren even more, the Populists upset the balance in the Senate, prompting Warren to say, "it is a bad season in Congress . . . The Republicans have less than a majority, the Democrats ditto, the Populists holding the balance of power when it comes to a vote upon any question."[73] The Populist irritation threatened more than miscellaneous patronage bills. A presidential election loomed on the horizon. "We seem to be running wild with the throttle wide open having no political power," he confided to his private attorneys. "Excuse this tirade," he apologized, "but I think 'Damn' so often that I have to

vent once in a while."[74] Moving into the election season, Warren was further distracted from land policy by his need to keep the Wyoming Republican machine together for the autumn.[75] Given all this, Warren was forced to drop cession as a priority. "I had thought it best," he wrote to an aptly named Mr. Wantland, "to wait a little myself about pushing the cession of the arid lands because of the prominent part I had taken in the Senate before."[76]

By 1897, however, Warren was edging closer to action again. In February he introduced several petitions from the Wyoming legislature calling for the cession of the public domain, but still no bill.[77] On February 6, he wrote to George Maxwell with some optimism for reintroducing the 1892 bill. Warren, still a little burned from the experience, looked to the House of Representatives "to take some interest and make some move in the matter. I find there is a rapidly growing interest there and I believe the time will soon arrive."[78] But the time had not yet arrived. The West was still better represented in the Senate than the House. News of the death of Elwood Mead's wife reached Warren days later. Mead was Warren's right-hand man on irrigation and engineering matters, and the chief architect of much of Warren's legislation. Now he was left a widower with young children.[79]

Later, though, Warren notified Mead of his most recent measures to further the acquisition of public land. Warren introduced a variety of schemes, from land ceded based on congressional representation, 60,000 acres for a Soldiers Home, and 50,000 acres for a Montana institution for the blind and deaf. Warren would grab any opportunity to cede lands to the states.[80]

On March 2, 1898, Warren introduced S. 4016 and S. 4017, irrigation and land cession bills, respectively. These bills were reworkings of the 1892 cession bill into which Warren had put so much effort. But it was too late for any real hope of adoption. By now Warren served on many Senate committees and found his priorities scattered, from the tariff issue to the looming war with Spain over Cuba. Too much had changed since the early decade. Warren had weathered the heavy storms of accusation from the Johnson County War and had outlasted the Populist bubble. But because of the Carey Act and the numerous small scale irrigation moves Warren had made in the interim, full cession stood less of a chance in 1898 than it had in 1892.

Irrigation had its own momentum apart from the creation of a national grazing policy. By the late 1890s, as one historian put it, Warren was “torn between home rule

and states' rights on the one hand, and the glittering prospect of federal construction of dams and canals on the other."[81] Only a few days after reintroducing the cession bill, Warren himself wrote as much to Mead, stating that the "cession of lands [will] have to follow along a little on the rear."[82] Moreover, the Wyoming economy -- already wounded by the droughts and blizzards of the 1880s -- suffered still more in the nationwide depression of the mid-1890s. Western states such as Wyoming seemed less enthusiastic about the prospect of administering their own public lands, and though they were reluctant to admit it, the federal treasury was a more stable and appealing source to finance development. The passing of the Carey Act stole the thunder of those who called for full land cession. Finally, cession failed because of internal western divisions as much as from any outside opposition. States such as Wyoming or Montana relied on grazing far more than more irrigable states such as California or Oregon. Warren struggled unsuccessfully to forge a coalition behind his cession plans. In Congress, the West could not maintain a united front.[83]

Land cession that included a grazing policy saw its best chance for success, and it was a small one at that, in the early 1890s. Warren's solution to the West's land

problems began dying in the bad press of the Johnson County War. By its final gasp in 1898, any chance of progress toward a national grazing policy would have to come from elsewhere. In the late 1890s, the first steps toward a regulated grazing policy were being taken in the national forests, promoted not so much by Western politicians but by technocrats with a new, rational view of land use. And so we turn to Frederick Coville's experiment with grazing districts in the national forest system, and the way Warren had to respond to a grazing solution apart from full land cession. Warren's role as a driver of the grazing issue was beginning to change.

ENDNOTES

1. Francis E. Warren to F. E. Winchester, April 19, 1897, Reel 8, Box 2, Folder 5, p. 280, Francis E. Warren Papers, 1868–1974, Accession Number 13, American Heritage Center, University of Wyoming, Laramie, Wyoming, hereafter cited as Warren Papers or WP. A note on this massive archive: Most of the collection consists of documents gathered into large letterbooks, each holding between five hundred and one thousand numbered pages. A page number in a citation here indicates the location of a document in a letterbook. This facilitates an easier location of documents, where one "folder" may in reality contain a thousand pages. A citation of a reel number refers to the microfilmed copy of the archive, where the entire Warren Collection is duplicated in nearly three hundred reels. This citation format thus allows a researcher to locate a document either in the original archive in Laramie or through the microfilm copy.

2. Warren to John W. Keaveney, March 29, 1892, Reel 3, Box 1, Folder 5, p. 471, Warren Papers.

3. For more on the Wright Act, see Donald J. Pisani, From Family Farm to Agribusiness: The Irrigation Crusade in California and the West, 1850–1931 (Berkeley: University of California Press, 1984), and Pisani, To Reclaim a Divided West, esp. pp. 102–103.

4. For an overview of Wyoming history in general and the path to statehood in particular, see T. A. Larson, History of Wyoming (Lincoln: University of Nebraska Press, 1978), esp. Ch. 9; Lewis L. Gould, Wyoming: A Political History, 1868–1896 (New Haven: Yale University Press, 1968), Ch. 5; Cheyenne Daily Leader, October 19, 1888.

5. Larson, History of Wyoming, p. 262; Gould, Wyoming: A Political History, pp. 108–136; W. Turrentine Jackson, "The Wyoming Stock Growers' Association: Political Power in Wyoming Territory, 1873–1890," Mississippi Valley Historical Review 33 (1947): pp. 571–594.

6. The piano business was a constant irritation to Warren, to say nothing of a losing venture. After a long and frustrating experience, by 1892 Warren was ready to jettison the entire enterprise. See this amusing exchange: "I am exceedingly sorry we ever went west with the piano

business. . . . Shut up our store; arrange for our collections; settle up with everybody, etc. . . . Now I mean quit, with a big Q, and close up quickly, with another big Q"; Warren to W. P. Gannett, April 3, 1892, Reel 3, Box 1, Folder 6, pp. 47-57.

7. Warren to E. A. Slack, August 15, 1891, Reel 2, Box 1, Folder 3, pp. 134-139, Warren Papers. Warren's exchanges with Slack contained a candor not often found with other correspondents. For example, in this same letter, Warren commented on his fellow senator Carey, long a rival: "I note my left-handed friend Carey, who never misses an opportunity to do me injury by word if not deed, has had a fine opportunity to get his auger in" and "I am getting a large amount of bitterness piled up inside me in spite of myself, and I am inclined to think the day may not be far distant when some of the bile must be thrown overboard."

8. Gould, Wyoming: A Political History, pp. 169-170, 216; New York Times, December 11, 1929.

9. For biographical information on Mead, see James R. Kluger, Turning on Water with a Shovel: The Career of Elwood Mead (Albuquerque: University of New Mexico Press, 1992); see also, Robert E. Rook, "An American in Palestine: Elwood Mead and Zionist Water Resource Planning, 1923-1936," Arab Studies Quarterly 22 (March 2000): pp. 71-89.

10. Congress, Senate, To Cede the Arid Lands to the States and Territories, 51st Cong., 2nd sess., S. 5087, Congressional Record, vol. 22, no. 3, p. 2721.

11. Warren to Frank W. Gallaher, June 26, 1891, Reel 2, Box 1, Folder 3, p. 43; Warren to A. C. Fisk, June 26, 1891, Reel 2, Box 1, Folder 3, p. 44; Warren to G. R. Palmer, March 14, 1892, Reel 3, Box 1, Folder 5, pp. 275-278; and Warren to F. B. Mills, February 8, 1892, Reel 2, Box 1, Folder 4, p. 410, Warren Papers.

12. Donald J. Pisani, To Reclaim a Divided West: Water, Law, and Public Policy, 1848-1902 (Albuquerque: University of New Mexico Press, 1992), p. 231.

13. Paul Wallace Gates, History of Public Land Law Development (Washington, D. C.: U. S. Government Printing Office, 1968), p. 766.

14. Gates, History of Public Land Law Development, p. 766.

15. Benjamin Horace Hibbard, A History of the Public Land Policies (New York: Macmillan, 1924), pp. 192–194.

16. R. M. Robbins, Our Landed Heritage: The Public Domain, 1776–1936 (Lincoln: University of Nebraska Press, 1942), pp. 327–328; for the Hoover plan to cede the western lands to the states, see Ray Lyman Wilbur, "What About Our Public Lands?" Review of Reviews (December 1929): pp. 56–57.

17. Pisani, To Reclaim a Divided West, p. 233.

18. Warren to E. A. Slack, August 15, 1891, Reel 2, Box 1, Folder 3, p. 134; Warren to W. A. Richards, March 14, 1892, Reel 3, Box 1, Folder 5, pp. 271–273.

19. Warren to Frank W. Gallaher, June 26, 1891, Reel 2, Box 1, Folder 3, p. 43, and Warren to A. C. Fisk, June 26, 1891, Reel 2, Box 1, Folder 3, p. 44, Warren Papers.

20. Cong. Record, 52nd Cong., 1st sess., vol. 23, pp. 1128, 1534, and 3403.

21. Toole as quoted in Cong. Record, 52nd Cong., 1st sess., vol 23., p. 6500.

22. Gould, Wyoming: A Political History, p. 213.

23. Warren to W. A. Clark, January 23, 1892, Reel 2, Box 1, Folder 4, pp. 230–231. Warren also maintains in this letter that "it is entirely untrue that I have any personal, private, or individual interest in the cession of the Arid Lands except as it may benefit Wyoming and the West in general." This charge, and Warren's response, foreshadowed the months of controversy that lay ahead.

24. Cheyenne Daily Sun, February 24, 1891.

25. Cheyenne Daily Leader, March 18, 1892.

26. Rocky Mountain News (Denver), September 18, 1891.

27. Denver Sun, March 5, 1892.

28. Denver Republican, February 5, 1891.

29. Omaha Bee, May 20, 1891.

30. Omaha Bee, May 20, 1891; untitled manuscript, undated, circa 1891–92, Reel 2, Box 1, Folder 4, pp. 114–

115, Warren Papers.

31. Warren to James Stephenson (Omaha), March 21, 1892, Reel 3, Box 1, Folder 5, p. 390, Warren Papers.

32. New Orleans Times-Democrat, December 25, 1891.

33. Warren to F. J. Stanton, August 29, 1891, Reel 2, Box 1, Folder 3, p. 258;

34. F. J. Stanton, "The Public Domain," undated paper, circa 1891-1892, Reel 2, Box 1, Folder 4, pp. 41-58.

35. Hartford Post, undated, as quoted in Cong. Record, 52nd Cong., 1st sess., Vol. 23, p. 6503.

36. New York Tribune, September 16, 1891.

37. New York Times, January 3, 1892.

38. Cong. Record, 52nd Cong., 1st sess., Vol. 23, p. 6502.

39. Gates, History of Public Land Law Development, pp. 647-648.

40. Warren speech text, February 11, 1892, Reel 2, Box 1, Folder 4, pp. 421-428, Warren Papers.

41. statement, undated, circa 1891-1892, Reel 2, Box 1, Folder 4, pp. 81-85, Warren Papers.

42. manuscript, undated, circa 1891, Reel 2, Box 1, Folder 3, pp. 103-109, Warren Papers.

43. manuscript, undated, circa 1891, Reel 2, Box 1, Folder 3, p. 107, Warren Papers.

44. manuscript, undated, circa 1891, Reel 2, Box 1, Folder 3, p. 107, Warren Papers.

45. manuscript, undated, circa 1891, Reel 2, Box 1, Folder 3, p. 109, Warren Papers, emphasis added.

46. Congr. Record, 52nd Cong., 1st sess., Vol. 23, p. 6485.

47. See Congr. Record, 52nd Cong., 1st sess., Vol. 23, pp. 6485-6506 for all quotes from bill provisions.

48. Warren to E. A. Slack, February 3, 1892, Reel 2, Box 1, Folder 4, pp. 358-360, Warren Papers.

49. Congr. Record, 52nd Cong., 1st sess., Vol. 23, p. 6487.

50. Warren to A.A. Johnson, December 20, 1891, Reel 2, Box 1, Folder 4, p. 148, Warren Papers.

51. Warren to Smythe, July 26, 1892, Reel 4, Box 1, Folder 7, p. 400, Warren Papers.

52. Congr. Record, 52nd Cong., 1st sess., Vol. 23, p. 6504.

53. Congr. Record, 52nd Cong., 1st sess., Vol. 23, pp. 6490 -6491.

54. Congr. Record, 52nd Cong., 1st sess., Vol. 23, p. 6489.

55. Congr. Record, 52nd Cong., 1st sess., Vol. 23, p. 6502.

56. Warren to I. S. Bartlett, April 15, 1892, Reel 3, Box 1, Folder 6, p. 196, Warren Papers. Bartlett would gravitate toward the Populist cause as the election of 1892 approached, one among many that threatened Warren's political future.

57. Warren to S. B. Tuttle, April 25, 1892, Reel 3, Box 1, Folder 6, pp. 290-294, Warren Papers.

58. Warren to Willis Van Devanter, May 7, 1892, Reel 3, Box 1, Folder 6, p. 406, Warren Papers.

59. This is a recurring theme in Warren's correspondence, often accompanied by a "woe is me" tone. Consider this missive to be typical: "I entertain a quite general regret that I am not spending my time at home trying to make a little money out of my private business, rather than to be absent from home spending money in attempting to do something for Cheyenne and Wyoming and the entire western country", Warren to D. C. Bridges, March 12, 1892, Reel 3, Box 1, Folder 5, p. 388.

60. Warren to G. R. Palmer, May 7, 1892, Reel 3, Box 1, Folder 6, pp. 408-409.

61. Warren to Frank Clark, May 17, 1892, Reel 3, Box 1, Folder 6, p. 464.

62. Congr. Record, 51st Cong., 2nd sess., Vol. 22, pp. 1-2.

63. Warren to A. A. Johnson, February 26, 1892, Reel 3, Box 1, Folder 5, p. 72, Warren Papers.

64. Warren to A. J. Parshall, April 5, 1892, Reel 3, Box 1, Folder 6, pp. 86-88, Warren Papers.

65. Warren to Alex T. Butler, July 8, 1892, Reel 4, Box 1, Folder 7, loose sheets section, Warren Papers.

66. See Donald J. Pisani, To Reclaim a Divided West: Water, Law, and Public Policy, 1848-1902 (Albuquerque: University of New Mexico Press, 1992), pp. 251-265, for a detailed discussion of the origins and ultimate destiny of the Carey Act in the context of a larger campaign for national reclamation. See also, Paul Wallace Gates, History of Public Land Law Development (Washington, D.C.: U.S. Government Printing Office, 1968), pp. 647-651.

67. Smthye as quoted in Pisani, To Reclaim a Divided West, p. 265.

68. "An accident wherein I got broken glass or plastering in my eyes laid me up for repairs and I only got the bandages off and was permitted to see and read a little yesterday", Warren to Wm. Sturgis, December 3, 1895, Reel 5, Box 2, Folder 2, p. 193; see also Warren to V. H. Miller, December 4, 1895, Reel 5, Box 2, Folder 1, p. 84, Warren Papers. Throughout this period Warren's correspondence reveals a variety of health troubles. Warren spent some time in a hospital for hemorrhoid surgery, and to complicate matters began suffering from an enlarged prostate, all of which he spoke of in excruciating detail in letters to doctors and others. One can only imagine the poor soul struggling to take Warren's dictation, dutifully recording such clinical details.

69. Cong. Record, 54th Cong., 1st sess., Vol. 28, pp. 5115-5118.

70. Congr. Record, 54th Cong., 1st sess., Vol. 28, p. 58.

71. Warren to American Agriculturist, July 17, 1896, Reel 7, Box 2, Folder 4, pp. 466-472, Warren Papers, emphasis in original.

72. Warren to Mead, May 12, 1896, Reel 7, Box 2, Folder 3, p. 31, Warren Papers.

73. Warren to Daniel T. Wells, January 9, 1896, Reel 6, Box 2, Folder 3, p. 31, Warren Papers.

74. Warren to Dewey, Gould, and Col., February 6, 1896, Reel 6, Box 2, Folder 3, p. 274, Warren Papers.

75. Warren to Mark Hanna, April 8, 1896, Reel 5, Box 2, Folder 1, p. 234, Warren Papers.

76. Warren to C. E. Wantland, February 14, 1896, Reel 5, Box 2, Folder 1, p. 234, Warren Papers.

77. Congr. Record, 55th Cong., 2nd sess., Vol. 29, p. 1915.

78. Warren to George Maxwell, February 6, 1897, Reel 7, Box 2, Folder 4, p. 798, Warren Papers.

79. Warren to Mead, February 25, 1897, Reel 7, Box 2, Folder 4, p. 982. From Warren's condolence letter: "My Dear Friend, I am very, very, very sorry to have occasion to offer my condolences to you on so great a loss as the one you have been called to suffer."

80. Warren to Mead, May 12, 1897, Reel 8, Box 2, Folder 5, p. 409; see also Warren to W. A. Richards, June 6, 1897, Reel 10, Box 2, Folder 7, pp. 33-34, Warren Papers.

81. Pisani, To Reclaim a Divided West, p. 270.

82. Warren to Mead, March 20, 1898, Reel 11, Box 3, Folder 1, p. 170, Warren Papers.

83. Pisani, To Reclaim a Divided West, p. 272.

CHAPTER 3

EXTERNAL PRESSURE: FREDERICK V. COVILLE AND THE GENESIS OF MANAGED GRAZING

Warren's movement to cede federal lands to the states had stalled, if not failed completely. But the need for more grazing land remained. Grazing in the national forests drew the attention of stock owners, politicians, and a new interest emerging on the scene, conservationists. Forests were especially crucial to Wyoming cattle graziers. By the time the first grazing fees were instituted in the mid-1900s, the state could claim upward of eight million acres of forest land, and that figure did not include Yellowstone National Park.[1] Francis Warren and other western politicians were caught in a balancing act between the realities of an overgrazed range in need of repair and the protests of stock owners accustomed to a laissez-faire system of public land policy. At the turn of a new century, a fee-based grazing system took shape in the national forests that would become the template for decades of regulation.

Although often overshadowed in popular memory by Theodore Roosevelt and Gifford Pinchot, it was a botanist with the Department of Agriculture who planted the seeds of the grazing policy that would be implemented. Frederick

Coville first made a name for himself with an 1897 study of grazing in the Cascade Mountain Forest Reserve in Oregon, "probably the first scientific range investigation in America."[2] Coville was a pragmatic conservationist. He did not advocate the exclusion of livestock or the walled off preservation of public lands. Instead, he promoted a rational use of natural resources, administered by the government and regulated in the interest of preserving the resource for all. Despite this contribution, Coville is often a mere footnote in the story of American forests.[3] This chapter seeks to remedy that oversight by examining the history of an idea and the man who nurtured it. Coville's story is central to Warren's search for a grazing policy because forest grazing set the tone of the debate. Where Warren was once a primary actor in the cession debate, with forest grazing he was forced into a reactive role. No longer driving the issue, Warren had to manage it in response to Coville's reforms.

The establishment of national forest reserves in the 1890s marked a significant shift in the federal government's approach to the public domain. This is not to say that an ethic of conservation did not exist prior to the 1890s, however; Yellowstone National Park had been created in 1872, for example. But the idea of maintaining

permanent federal control over forests was taking hold.

The Forest Reserves were created by the Forest Reserve Act of 1891, then called the General Land Law Revision Act or, more often, simply the Creative Act. The law granted power to the president to set aside, or reserve, forested lands from the public domain. Historian Harold K. Steen has shown that Section 24 of the act -- the section which granted essentially unchecked presidential power to create forest reserves -- was an "eleventh hour" measure and that to a great extent "Congress passed this most important bill without being aware of its content." Even so, President Harrison quickly seized the moment and within two years set aside over thirteen million acres as forest reserves, beginning with Yellowstone. President Cleveland added another five million acres to the reserves and then paused until Congress had provided the means and method of actually protecting the reserves. The pause lasted until the final days of Cleveland's term, when he surprised everyone with the so-called Washington's Birthday Reserves -- an additional twenty-one million acres set aside on February 22, 1897. Cleveland's last act angered many in Congress; the new reserves encompassed a great deal of farmland and even some existing cities and towns. Some in Congress wanted to repeal the declaration altogether, but a

compromise was reached that granted the president the authority to alter reserve boundaries appropriately. When President McKinley took office, Congress finally passed legislation to protect and administer the forest reserves.[4]

Biographical information on Coville is limited. Coville was born in 1867 in Preston, New York. He attended Cornell University and graduated with a degree in botany in 1887. Upon graduation he joined several expeditions to conduct fieldwork, from a geological survey in Arkansas in 1888 to further research in the Death Valley in 1891. In 1899 he joined railroad magnate E. H. Harriman's expedition to explore the flora and fauna of Alaska. Coville was most associated with the United States Department of Agriculture, where he served as chief botanist from 1893 to his death in 1937. Of particular note was Coville's service in directing the National Herbarium, a part of the Smithsonian Institution transferred to the USDA in 1868 and then back to the Smithsonian in 1896. In addition to his administrative duties, Coville maintained a lively pursuit of personal research; he shared credit with another scientist in domesticating the wild blueberry, for example.

The best summary of Coville's contributions came from

Gifford Pinchot. When Coville died in 1937, Pinchot eulogized Coville in words worth noting: "[He] laid down the essentials of a sound and far-sighted grazing policy." Historian Samuel P. Hays echoed this sentiment when he concluded that Coville "deserves special notice . . . in formulating the scientific basis for a range conservation policy." And yet no historian, not even Hays, explored Coville's life and career at length.[5]

As early as 1897, Coville was convinced of the importance of the public forest lands and the need to administer grazing rationally and systematically. He followed a two-front strategy, arguing both within the government and in a series of articles and opinion pieces in a variety of popular periodicals. This would be Coville's pattern of persuasion over the next few years, and it proved to be effective.

In April 1897 Coville submitted a short editorial to Outlook, seeking to disarm the fear that the national forests would be imposed on the West without regard to local circumstances. "A new impulse has been given to the old movement for an administration of our public forest lands," he began. "Heretofore the plea for a forest administration law has come chiefly from students of forestry matters," he continued, adding that now the demand

was coming "from the western people themselves and in no uncertain terms." Coville called attention to Senator Richard F. Pettigrew of South Dakota, "whose people were seriously affected by the Black Hills [Forest] Reserve." Pettigrew had introduced an amendment to the Sundry Civil Bill to open the forest reserves to prospecting and mining, to survey and segregate viable agricultural land, and to regulate the sale of timber for local use. Coville supported Pettigrew's move as "admirable from every standpoint" and said that it "ought to pass without opposition." From the beginning, then, Coville viewed the forest reserves as valuable natural resources that could and should be used by westerners, albeit with a rational plan to manage them.[6]

In 1898, Coville secured a position as an editor of The Forester, the official publication of the American Forestry Association. This was in addition to his regular government job. The mission of the AFA and The Forester included all aspects of forestry, from the scientific to the political. As editor, Coville cultivated respectful relationships with western ranchers and stock owners. He often solicited and published the opinions of those who would be affected the most by any reforms to grazing policy. Writing to one stock owner, Coville recalled,

"When I was at your ranch [last summer] I remember that you expressed the opinion that the rules and regulations relating to the forest reserves were entirely inadequate to satisfy the demands of western communities." Coville went on to ask for a short article "giving your views on the inadequacy of these rules. Such an article would be widely read among people interested in our forest policy." Coville sweetened the proposal by noting that this particular rancher's suggestion to name P. monticola with the common moniker "Silver Pine" was soon to be adopted by the Department of Agriculture and would in all likelihood "come into general use." As a botanist, Coville's delight seemed sincere.[7]

Even at this early stage, however, Coville received words of concern from graziers. One rancher inquired about the changing policies of the General Land Office. Coville replied that the policy was "apparently . . . in the direction of the recommendations in my sheep report which possibly you may not have read." Coville enclosed a copy of his report, just in case, lectured the rancher that "so far as forest protection is concerned [the goal] was to secure fuller control of the sheepmen" with the "hope of placing responsibility [for fires and overgrazing] where it belongs."[8]

Regaining focus on the goal for a grazing policy in the forest reserves, Coville again proffered in the public sphere an article outlining the need for reform. In the early summer of 1898, he wrote an article on public grazing lands for The Forum. In his cover letter, Coville made the case for his piece. "There are fully half a dozen bills pending in the House and Senate," he said, each "referring in one way or another to our grazing lands and none of these bills, which fortunately appear to be making little progress, is, in my opinion, aimed in the right direction, so I trust that this paper, if accepted by The Forum and published, may do something toward calling attention toward a wise method of dealing with our public grazing lands." The periodical accepted the submission and published "Our Public Grazing Lands" in the September 1898 issue. The appearance of Coville's article was a milestone in the path toward a national grazing policy. It was a short article of only about ten pages, but any understanding of grazing policy into the twentieth century demands a close inspection of Coville's argument. This article was the ideological alarm bell that those seeking to reform grazing policy would follow for decades.[9]

Coville opened with a sensational quote from a September 12, 1894 Rocky Mountain News account of a

conflict between cattle and sheep ranchers that ended in a murderous stampede of nearly 4,000 sheep. "When the posse reached the foot of the cliffs it came upon the carcasses. . . . The sight was most sickening, as the frightful fall had burst them open, and bloody entrails, brains, and shattered bones were scattered in every direction." Coville's opening narrative choice was deliberate. But Coville was not penning a cheap dime novel western. On the surface such a conflict "appears to be only another illustration of the Western man's reputed disregard for law and the constituted authorities." Coville spared no one: "In reality, it is the inevitable result of a lack of law, for which the Eastern man is fully as responsible as the Western. Incidents such as the one above described happen on the public lands, and are the outcome of the present public-land laws, which Congress has made and which Congress alone can unmake."[10]

Coville's article quickly moved from the sensational to the statistical, citing the growth of the livestock industry in the West after the Civil War and the overgrazing that followed. Using Wyoming as a primary example, Coville presented a table showing the changing numbers and value of cattle and sheep. Pointing to 1886 as the peak of the cattle industry, he then charted the

decline of cattle and ascent of sheep, which could graze on a wider variety of ranges; curiously, Coville neglected any mention of the brutal winters of that decade. He emphasized the lack of policy as the root of the grazing problem. “These statistics,” he concluded, “merely show in mathematical form the facts already so well known,” namely that the rangelands of the West were overgrazed and in trouble.[11]

Coville saw the origin of the problem in the land laws of the United States. Social conflicts in the West were directly related to the economic situation, which in turn was defined by land policy. In one striking paragraph, Coville states: “I do not wish, for the mere purposes of supporting an argument, to draw too black a picture of the decadence of Western grazing-lands; but I do wish to assert as strongly as possible my belief, that <u>if the laws governing our arid lands remain unchanged, lawlessness will continue, the destruction of private property and human life will go on, the prosperity of communities will be lessened, and one of the rich resources of the nation will be wasted</u> [emphasis as in original].” According to Coville, the current grazing practices of the West were unsustainable and even a pathway to desolation.[12]

Having pronounced doomsday, however, Coville offered a

surprisingly simple solution. He called for fencing the range. (Simple, perhaps, but complications would arise with questions of who got access to the fenced range land.) Fencing would allow grasslands to rebound in just a few seasons. Fencing was of course nothing new, but it had not been applied systematically with an aim toward restoration of the grass. More often, fencing was an illegal land-grab, a way of making public land effectively private, irrespective of the law. But Coville's fencing plan was not centered around private property. "The conclusion might be hastily drawn that the proper remedy for present difficulties would be to transfer the public grazing-lands from Governmental to private ownership," he said. "To this course, however, there are two objections -- a moral and an economic one."[13]

Coville's moral objection to privatizing the grazing lands rested in the inadequate size of homesteads offered under present land laws. The 160 acre limit was inappropriate to the land needs of the arid West. Even if the land grant size were altered, Coville saw an unstoppable slide toward monopolization. "Enormous tracts of land in the most thinly settled portions of the West would inevitably come into the possession -- perpetual and absolute -- of a few men." At the dawn of progressivism,

there should be no room for monopoly.[14]

The economic objection to the disposal of public lands was less clear. Essentially, Coville argued against privatization of the public lands because of a "lack of knowledge of the real value of those lands." Some parts of the West were better suited to irrigation and agriculture than others, and it would be a mistake to sign those lands away to grazing purposes without knowing more about them. Coville also addressed the proposal to cede the public lands to the states, mentioning Warren's moves in Wyoming specifically as a grazing state in favor of land cession. Coville pointed to the failures of the cession movement in Congress as evidence of "wide-spread distrust among the people of the West of the State, as opposed to Federal management of the public land." Finally, Coville dismissed the pro-cession argument as unrealistic, saying that "it seems extremely doubtful whether any effective action in this direction will ever take place." Coville opposed cession of the public lands to the states, but at the same time knew that it was a dying cause.[15]

The best remedy for the grazing problem, Coville suggested, was a plan to limit stock foraging. He continued to outline his proposal: "I am convinced that the Grazing-land Problem will be solved more easily by a system

of leasing than by any other plan." Leasing would promote a direct interest in the land by the lessee, the next best thing to land ownership while still remaining a part of a larger directed system. Coville did not presume to be the originator of the idea of leasing. Indeed, he pointed to examples where leasing had been successful: the state of Texas, which did not have to surrender its public lands upon annexation, unlike the rest of the western states; the Northern Pacific Railroad, which faced an overgrazing problem on its land and solved it through a managed leasing system; and even Australia, which instituted its own version of managed grazing.[16]

Coville's Forum article left room for the specifics of a leasing plan to be worked out later. The purpose of the piece was to illustrate the need for reform and to spark a discussion about the details. But he did conclude with a few points that he believed should be considered when creating the system. First, a "prior lease-right" should be acknowledged, allowing the small rancher to graze close to his ranch. Second, homestead entry or irrigation needs should take precedence over grazing needs; if this were to change over time, the grazier should be compensated for the loss of land. Third, reimbursement for fencing or other improvements should be provided to the lessee if or when he

surrenders the lease. Finally, the government should retain the right to revoke a lease at any time if evidence of overgrazing or other mismanagement surfaced; this ability to terminate leases, Coville argued, would guard against land speculation.[17]

Coville's study and proposal caught the attention of Gifford Pinchot, then head of the Division of Forestry under the U.S. Department of Agriculture, the forerunner of the U.S. Forest Service. In a brief note "on some forest problems" published in the USDA's Yearbook for 1898, Pinchot addressed the grazing problem in general and Coville in particular. "The question of grazing has aroused more opposition to the forest reserves than perhaps any other single issue," Pinchot declared. The specific complaint of sheep grazers in the Cascade Range Forest Reserve in Oregon symbolized the conflicted expectations of the grazing industry. On the one hand, sheep grazers were fully dependent on the free use of the land. It was in the industry's interest to have the lands regulated, especially to prevent forest fires, which both reduced grazable land and hurt wool prices when sheep rubbed against charred vegetation, charcoal-staining the wool. On the other hand, sheep grazers needed the clearings created by fires; "whether it was to the interest of the owner or not,"

Pinchot wrote, “the sheep herders, carelessly or by intention, have frequently set fire to the forest.” This ad hoc “management” of the forest was destructive to the land and the industry.[18]

Pinchot also praised Coville for taking on the challenge and said that his findings were to be trusted. Coville’s conclusion, as Pinchot summarized, was that while some forests should be closed to grazing completely, “to regulate pasturage, if it is rightly done, is usually far better than to prohibit it altogether.” Writing in 1898, Pinchot knew that regulation of the forest reserves would be a challenge, practically and politically. “The meaning of the word ‘forestry’ changes in the public mind from decade to decade,” he said, although he was optimistic that “forestry is gradually winning a better standing and a larger place in the consideration of the people.”[19]

Ultimately, Coville’s proposition was an experiment. “The leasing system is not proposed as a permanent system,” he wrote. “But it promises to be a satisfactory temporary expedient for protecting our grazing-lands until we discover their real value and how they may be disposed of.” He then suggested a generation-long experiment with leasing. After thirty or so years the system could be reevaluated to determine if leasing should continue or if

in fact that lands should be disposed to the states or privately. It would, in fact, take about thirty years before the United States settled on a comprehensive grazing policy.[20]

Although Coville's article was important in the realm of public opinion, he knew that any development toward an actual grazing policy would come from the political arena. He knew that his position in the Department of Agriculture was limited in its ability to promote legislation. But Coville was astute and knew how to redirect political momentum. A letter marked "personal" reveals Coville's savvy. He had recently conversed with the Secretary of Agriculture, James Wilson. Wilson agreed that a grazing law was needed but also said that "it would be neither altogether proper nor politic for the Department to push legislation at its own instance." To be effective the issue must originate with western congressmen or senators. Coville then recommended that his Forum article be referenced or even copied in all constituent correspondence with lawmakers. Coville also extended a hand to John Wesley Powell. "I have been very much interested recently in the question of the management and disposition of the public grazing lands," he wrote to the major. "In looking up the literature bearing on this subject I find that you

have been over the same ground. . . . I would very much like some time the opportunity of talking the matter over with you." The botanist who regularly published articles in National Geographic Magazine and responded to children's inquiries about class projects also knew how to work the corridors of power.[21]

In the aftermath of the Forum article, Coville continued soliciting advice and building intellectual bridges to other thinkers on the subject of grazing and public lands. After a National Irrigation Congress meeting in the summer of 1898, Coville noted with interest other papers on the topic. In sending away for papers presented at the conference, he observed that grazing was "one of the most important public questions in the west." His Forum article even attracted the attention of George H. Maxwell, "the leading Pacific coast advocate of improvement of our irrigation system"; Coville was pleased to grant permission to Maxwell to republish his article in the National Advocate.[22]

By the next year, the idea of leased grazing began moving out of the realm of the hypothetical and into the reality of proposed legislation. Together with George Maxwell and Elwood Mead, Warren's ally, Coville drafted a bill to create a leasing system on the public lands. Their

proposal purposely avoided funding issues at the national level. Coville wanted to prevent the emergence of a "cumbersome and inefficient" bureaucracy in Washington, intending instead for authority to flow through the Secretary of the Interior at first and then quickly pass down to the individual states. By the time Interior Secretary E. A. Hitchcock transmitted a draft of the bill to Congress in the spring of 1900, however, much of the soft language had hardened. The draft bill was simple -- "to authorize the Secretary of the Interior to make a charge for grazing within the forest reserves" -- but Hitchcock's letter accompanying it was not friendly to the grazing industry. "There is no good reason why the live-stock men should enjoy the resources of the reserves free of charge," he grumbled. This language was unnecessary and overshadowed the sense of rational use and planning beneficial to all that Coville had emphasized. Even Pinchot's language hardened, accusing grazers of being one of the "chief enemies of the forest" in his Primer of Forestry.[23]

Indeed, Coville admitted that his idea was proceeding from drawing board to implementation more quickly than he expected, perhaps too quickly. "It seemed to me that the evils incident to the present system would culminate in a

movement for legislation on the subject. Such a movement has come about even more rapidly than I anticipated." He continued to seek advice and counsel, especially from those in the West.[24]

Coville's desire to slow down coincided with an increase in concern and even protest.* Some questioned the objectivity of his earlier study of the Cascade range. Washington's Senator George Turner, of the "Silver Republican" fusion ticket and later a true Democrat, entered into the Congressional Record testimony that cast doubt on Coville's visit to the Cascades. One writer from North Yakima alleged that "an expert is regarded here as a sheep pimp. They come here and are met by sheepmen [and] entertained by sheepmen. . . . I attempted for nearly one whole day to have an interview with Coville when he was here, but the sheepmen kept him away from everybody not favorable to that industry. The whole thing is a perfect farce and humbug from start to finish." Another man confirmed this event, albeit with more diplomatic language. "Frederick V. Coville, an expert from the Department of Agriculture, recently made a tour of investigation through this country for the alleged purpose of learning facts

*Chapter 4 explores in detail the resistence to Coville's plan and regulated forest grazing.

concerning grazing conditions. He was met at the Hotel Yakima by a delegation of sheepmen, who gave him the desired information. The Times correspondent attempted to interview him, but he was spirited away."[25]

Beginning in January 1900 Coville himself began to receive letters and clippings opposing his plan, often forwarded to him by George Maxwell. Coville's measured response to each criticism helped him both to refine his argument and revealed the nature of the opposition. A typical exchange indicated the fear small stock holders had of a regulated grazing system. Coville assured his correspondent, Paris Gibson from Montana, that a prior lease right would be preserved for the small settler. He then concluded by referring Mr. Gibson to his article in The Forum; Coville did not, oddly enough, enclose a copy. No one in Congress had as yet introduced the bill Coville, Maxwell, and Mead had crafted, though there was another bill floating through the Senate that came close. Coville told Gibson that the Foster Bill, Senate Bill No. 1947, would with minor modification "benefit your whole country." Coville even provided the necessary changes to make the bill comply with the goals he set forth in his Forum article, namely the preference for agricultural or irrigation use over grazing and a prior-lease right for

individual settlers.[26]

But Paris Gibson was not satisfied with Coville's answer. Gibson was concerned because at that moment his region of Montana was undergoing a settlement boom. Closing off the lands seemed counterintuitive when more people needed them. Coville dismissed the Montana case as "exceptional" and maintained that "under a proper lease law there will be no retardation of settlement in your region." Coville confessed to his ignorance on the specifics of Montana land, but quickly moved to find common ground with Gibson. "I agree with you in being opposed to state cession, and I believe that state leasing is dangerous." But in the end, Coville acknowledged that he had "more confidence than you, I think, in the administration of a carefully drawn lease law by the Department of Agriculture." Compared with the protests that would follow in the coming years, the exchange between Coville and Gibson was a gentlemanly conversation.[27]

Coville pressed on with the Foster Bill as his best hope. He defended it against accusations that its introduction was secured by his department. "So far as I am aware," he wrote, "the Secretary has not committed himself to any particular leasing bill but has stated in his annual report that a leasing system seems necessary if

we are to maintain the productiveness of our public grazing lands and provide a basis for their care and improvement." Coville was either being modest or playing it safe politically; the idea of leased grazing literally had his name on it.[28] But the Foster Bill would not survive and no comprehensive grazing policy would be established yet.

The momentum for land reform subsided, though it never disappeared entirely. Pinchot kept it alive, for example, in his ongoing discussion of the need to counteract forest destruction, though here grazing was not presented as the culprit that it once was. In a report submitted to the Smithsonian Institution's Board of Regents in June of 1901, Pinchot discussed forest destruction at length, focusing on fire and water run-off as the primary threats to forests. Indeed, grazing was barely mentioned at all, a remarkable turnabout from Pinchot's earlier writing. Likewise, the Commissioner of the General Land Office, Binger Hermann, also seemed less interested in grazing than other matters. "A national forest policy calls for a national irrigation policy," he wrote, notably leaving out grazing matters aside from a few comments on the new regulations in the Cascade Range. Grazing was not unimportant, but comprehensive reform was not the priority at the moment. Indeed, another report said, "Practically no changes have

been made in the rules and regulations governing grazing in the forest reserves." By 1903 this would begin to change. Interior Secretary Hitchcock again drafted a bill to control grazing in forest reserves. The emphasis in this bill was on punishment -- through a fine of up to one thousand dollars or as much as a year imprisonment -- of those caught grazing in the reserves without a permit. Regulated grazing was becoming serious again.[29]

The pressure for a national grazing policy resurfaced with a new vigor. The Transfer Act of 1905 reorganized the administration of the forest reserves from the Department of the Interior to the Department of Agriculture. In the same year, the Bureau of Forestry became the U.S. Forest Service. And Frederick Coville once again was a major voice in the chorus calling for a managed grazing system.

On October 23, 1903, President Theodore Roosevelt charged a Public Lands Commission "to report upon the condition, operation, and effect of the present land laws, and to recommend such changes as are needed" to promote the greatest good for the greatest number of actual settlers, as well as "to secure in permanence the fullest and most effective use of the resources of the public lands." The Commission worked from December 1903 through March 1904 primarily in the office of the Commissioner of the General

Land Office. It was an open meeting, with testimony from Senators and Representatives, among others impacted by the subject. Members of the Commission, including Gifford Pinchot and F. H. Newell traveled in January 1904 to attend and participate in the meetings of the National Livestock Association and the National Woolgrowers' Association. After the industry meetings, Pinchot and Newell visited many major western cities, from Sacramento, California to Cheyenne, Wyoming to confer with state government officials and interested citizens.[30]

To measure public opinion throughout the West in general and within the stock industry in particular, the Commission prepared an extensive questionnaire. The circular distributed to stock holders asked questions regarding the use of the public lands. It also sought the opinions of stock holders on "the most practical method of improving their condition and insuring their permanent utility for grazing purposes." In the final report, the findings of the survey were gathered, analyzed, and presented by Albert Potter, a Forest Inspector with the Forest Service, now under the Department of Agriculture. The information gathered, while not exhaustive, paints a good portrait of the grazing industry at the time.[31]

Over fourteen hundred surveys were returned from

various western states. By far the most responses came from Wyoming (216), followed by Colorado (163), Montana (158), New Mexico (130), Utah (121), Idaho (112), California (104), Oregon (88), Arizona (74), Nebraska (55), South Dakota (55), Nevada (35), North Dakota (30), Kansas (26), and Oklahoma Territory (10). The proportion of population and relative size of the livestock industry within each state accounts for some of these figures, but it is striking that one of the least populated states in the country, Wyoming, stood out as the most vocal.[32]

Other interesting revelations from the survey followed. In order of importance, perceived causes of an increase in pasturing capacity, or carrying capacity, were attributed to fencing, irrigation, increased rainfall, securing control of adjacent pastures, and even forest reserve regulations. Perceived causes of a decrease in carrying capacity, again in order of importance, included overstocked ranges, drought, “excessive sheep grazing,” poor handling of stock by labor, premature grazing, and finally settlement. Suggestions for improvement on the public range included, in order of priority, exclusive use of individual pastures, limiting the grazing season, increased irrigation, reseeding depleted ranges, increasing the size of homesteads from 160 to 640 acres, and finally,

selling the grazing lands outright to the stock holder. Again, these findings were neither exhaustive nor comprehensive, as the survey relied on those willing to participate and only addressed active stock holders. But the results do offer a glimpse into the mind of the stock holder at the beginning of the century. The conclusion that "the large majority of stockmen consider the present condition unsatisfactory, and desire the enactment of some form of legislation which will place the ranges under better control and encourage their improvement" seemed a sound reflection of the times.[33]

The magnitude of the public lands of the United States, at the time encompassing one-third of the country, presented an enormous challenge to the Commission. From the outset, the Commission knew it could not please everyone in every place. Accordingly, it sought the "broad middle ground" between two extremes -- those who insisted on no alterations to the public lands laws whatsoever, and those who called for a complete repeal. From any perspective, Roosevelt's Commission was treading in politically dangerous waters.[34]

Even so, the Commission took as a starting point the consensus that the present land laws were antiquated with regard to the remaining public lands. "Most of these laws

. . . were framed to suit the lands of the humid region." In order of priority, the Commission listed the forest lands first, as they were the most valuable remaining in the public domain. Next it addressed the repeal of the Timber and Stone act of 1878. Finally, the Commission approached the desert-land law, but was "not at present prepared to suggest radical changes" to it. In this first, partial report the Commission recommended little in the way of grazing policy, other than to suggest a survey of the forest lands to distinguish land better suited to agricultural and irrigation purposes from mere grazing use.[35]

By the submission of the second partial report in February 1905, the Commission addressed the issue of grazing in greater depth. It opposed to the immediate application of any "rigid system" to all grazing lands. Instead, the Commission recommended two "flexible" measures. First, it recommended that authority to create grazing districts should be given to the president. Second, the secretary of agriculture should be given authority to classify and appraise the lands set aside by presidential proclamation. The Department of Agriculture should then be authorized to appoint officers to administer each grazing district and collect a "moderate fee" for

grazing permits. Even here, though, the old homestead value of "bringing about the largest permanent occupation of the country by actual settlers and home seekers" prevailed.[36]

The second partial report offered a detailed assessment of the grazing lands. The majority of the public lands in the West, it argued, were unsuitable for agriculture. These lands were estimated to be 300,000,000 acres, or fully one-fifth of the United States. All agreed that the chief value for most of this land lay in grazing. But the Commission addressed the problem of whether grazing was positive for the country's development or negative and the cause of abuse. The conclusions echoed Coville's argument. "At present the vacant public lands are theoretically open commons, free to all citizens; but as a matter of fact a large proportion have been parceled out by more or less definite compacts or agreements among the various interests." Worse yet, those agreements were continually violated. Grazing interests were in frequent collision because of incursions upon each other's domain" -- domain, one should not forget, that was supposed to be public. Social conflict erupted from this collision; "violence and homicide frequently follow, after which new adjustments are made and matters quiet down for a time."

The lawlessness of the public domain made for a precarious living; “an agreement made today may be broken tomorrow by changing conditions of shifting interests.” Environmental damage -- and thus economic ruin -- paralleled social conflict, though perhaps over a longer period of time. Overgrazing was ruining millions of acres. Like Coville, the Commission’s findings offered hope. Careful management could spur environmental recovery. But after decades of abuse, there was little time to spare: “Prompt and effective action must be taken, however, if the value of very much of the remaining public domain is not to be totally lost.”[37]

Finally, the Report spoke to the economic stratification that the current land policy had created in the West. In recognizing class divisions and inequitable distribution of wealth, the Commission challenged the American myth of a classless society and condemned the Social Darwinism that some used to justify their power. “There exists and is spreading in the West a tenant or hired-labor system,” it claimed. Such statements were politically risky, as future administrations would appreciate when accused of socialism or even communism as they pursued their grazing policies.[38]

The Report of the Public Lands Commission was the

culmination of Coville's long struggle to apply a rational and comprehensive system of managed grazing to the public lands. Coville himself was a major contributor to the Commission, as seen in his extensive article in the appendix, "A Report on Systems of Leasing Large Areas of Grazing Land, Together with an Outline of a Proposed System for the Regulation of Grazing on the Public Lands of the United States." Coville's task in this article was to explore how a new system of range management might increase the carrying capacity of the public grazing lands. To accomplish this, Coville examined in greater depth the examples he had written about before, namely the grazing system in Texas and on Northern Pacific Railway lands in Washington state, as well as an additional discussion of a smaller-scale grazing plan in Wyoming. Coville focused on the Texas grazing experience because "it was in Texas that a method was first worked out by which to break away from the free-range system."[39]

Coville's Commission article was far more exhaustive and thoroughly researched than his previous editorials, but it generally followed the same line of thought. Over half of the article examined the development of a grazing system in Texas. Coville briefly traced the history of early Anglo agricultural settlement in Texas, beginning with The

Austin family in the 1820s. In the original plan for land distribution, Stephen F. Austin proposed to the Mexican government homestead allotments of 640 acres, plus 320 acres for a wife, 160 acres for each child, and 80 acres for each slave held. The Mexican government, still reeling and reorganizing from its recent independence from Spain, was reluctant to follow Austin's proposal. Even so, under the Mexican land system, the Anglo colonists fared well. The Mexican system was based on a unit of measurement known as a vara, or about thirty-three and a third inches; a labor was a square of land measuring 1,000 varas on a side, or about 177 acres; 5,000 varas constituted a league; one square league was a sitio, or about 4,428 acres. To add to the confusion, a square league was often still called a league, so that "league" could refer to two different increments. The net result, however, was that most of Austin's colonists took a labor of land for farming and an additional league of land for stock raising. In total, Texas colonists "instead of receiving the 640 acres originally promised by Austin received about 4,600 acres." As Texas entered its own independence movement, the American system of land surveying replaced the Mexican approach. By 1836, this was a step backward for Texan homesteaders; volunteers in the Texas army were granted 640

acres. Coville's diversion into the intricacies of the Mexican land system was not a mere exercise; it illustrated the point that the public lands were being distributed in bigger and more practical units than in the United States. Having a larger land unit from the beginning avoided many of the problems that plagued the U.S. system in the late nineteenth century, or so Coville claimed. His decision to hold up the Mexican land system was naive at best or duplicitous at worst. Mexico was wracked by conflict between small landholders and massive estate powers. Texas, too, suffered from monopolistic land ownership at the expense of the individual. But Coville was not an objective historian. He was an advocate who selectively used evidence to further his case.[40]

Coville examined other aspects of the Texas public land system in detail. Generous provisions existed for the funding of county schools, universities, and asylums from the leasing public lands. These precedents were set during the sovereign period of the Republic of Texas and persisted when it was annexed by the United States. Subsequent lease laws in 1883 and 1887 refined the Texas system into a model that Coville believed greatly promoted the common good for both the people and the environment of the state. At the conclusion of his examination, Coville listed fourteen

benefits of the Texas grazing system. It would be tedious to list all here, but a few stand out. First, the "closed range" of a grazing system, as opposed to an open range free-for-all, encouraged responsible grazing on the part of the stock holder; leased lands were akin to owned lands, fostering a personal stake in their well being. It followed that deliberate overgrazing was discouraged. Stock theft and violent social conflict declined as well; because of the well-defined and clear presence of the rule of law, Coville maintained that "the use of fear, threat, and open violence as a means of controlling portions of public land for range purposes has almost disappeared in Texas." Because of more efficient grazing, carrying capacity increased range productivity. Revenue from leased lands benefited the public at large through education and health funding. Finally, "one of the most notable results of the Texas lease law was its stimulation of settlement." Taken together, these apparent benefits of the Texas system fit nicely with the charge to the Commission to promote both productive use of the land and to increase settlement.[41]

From the experience of the Northen Pacific Railroad Company Coville also offered a case study in grazing done correctly. The railroad acquired large areas of public

land in Washington state commonly referred to as “scab lands,” or lands so rough that plowing was not possible. Like much of the arid West, the railroad’s land was valuable only for grazing. After years of grazing without restriction or fee, the land had become so abused that the company faced losing its value altogether. As a remedy the railroad instituted a leasing system. At first “coercive measures” were used, as stock holders had been so accustomed to grazing freely on the land that they balked at suddenly facing a fee. With the aid of state law to enforce trespass and the benefit of time, grazers finally changed their ways and acquiesced to the railroad’s fee system. Coville noted that the railroad’s goal was not a permanent leasing system or anything so grand as a new land law; rather, it dealt pragmatically with an environment in decline. Coville concluded that the Northen Pacific Railroad Company’s grazing experiment was a small-scale success in reversing the problems of overgrazing and even easing the tensions between sheep and cattle interests.[42]

A final example that Coville enlisted in his cause was that of the Wyoming system of grazing lands. By the turn of the century, five-sixths of Wyoming’s 62 million acres were federal public land. Only about 4 million acres was controlled by the state government, so the example was

limited in scale. The administration of the state lands rested in a board comprised of the governor, the secretary of state, the state treasurer, and the state school superintendent. The state instituted a leasing system with minimal costs to the lessee; one dollar for the application fee and grazing fees of mere pennies per acre. Coville likened the Wyoming state grazing system to that of Texas in its success, but of course acknowledged that "these advantages have not, however, been so sweeping in Wyoming, from the fact that only a small part of the lands in Wyoming are at the disposal of the state." In reality the Wyoming state lands were dwarfed by the size of the federal public domain. But for Coville's purposes the Wyoming case indicated the potential for the administration of a grazing system that would be accepted by stock holders and beneficial to the land.[43]

Coville concluded his contribution to the Report of the Public Lands with an outline of a proposed grazing system for the United States. Coville stressed that the administrator of the proposed system must be "a man of unquestioned integrity" who was intimately familiar with the problems and environment of the West. He then listed other requirements, all of which Coville himself matched. Though there is no direct evidence that Coville ever sought

the job, the thought must have crossed his mind.

As the culmination of so much work, and as the blueprint for grazing policy for years to come, the details of Coville's proposed plan should be noted. First and foremost, any grazing on public lands henceforth required a permit; this effectively closed the range. The grazing permit system, naturally, would only apply to those lands declared by presidential authority to be grazing districts, and prior to that the plan required a thorough survey to identify and segregate irrigable agricultural lands from the grazing system. Coville called for grazing permits to be issued to individuals, thus ensuring exclusive pasturing rights; he recognized, however, that there may be a need for "community pasture." Grazing permits were to be finite and subject to review, termination, or reclassification. Coville also inserted a "prior lease" right into his plan, ensuring that "a bona fide settler [should] have the preference to a grazing permit for lands within one mile" of the homestead. Likewise, preference would be given to a homestead for grazing lands adjacent to the homestead. As to the cost and funding of the system, Coville suggested annual payments in advance for permits; the amount for each fee would be determined by appraisal, though Coville desired that "the payment be not less than one-half cent

nor more than five cents per annum, or, when the permit is granted on a per capita basis, not less than five cents per head per season for small stock or 25 cents for large stock." The revenues generated by grazing permits would fund the administration of the system, and aid road construction and maintenance within the districts. When grazing fees were established in 1906, they ranged from twenty to thirty-five cents per head of cattle in the summer season, and from thirty-five to fifty cents per head for year-round grazing.[44]

In 1906 the recommendations found in the Report of the Public Lands Commission were implemented, bringing a new public land policy to the West. Frederick V. Coville was central to the history of this idea. As the idea became reality, however, the subject of managed grazing was out of his hands and into the realm of politicians and interests. Some stock owners welcomed the new plan. Others protested it. Still others vacillated like Hamlet, calling for a grazing policy managed by the government on one hand and crying "Let us alone!" on the other. Francis Warren was caught in the middle of this debate. This chapter charted the history of an idea, from a botanist's observations in the Cascade Mountains to recommendations for a sweeping new land policy. The next chapter examines in detail the

ambivalent response to that idea and how Warren and grazing interests wrestled with it in the reality of the West.

ENDNOTES

1. Larson, History of Wyoming, p. 378.

2. Frederick V. Coville, "Forest Growth and Sheep Grazing in the Cascade Mountains of Oregon," United States Department of Agriculture, Division of Forestry, Bulletin No. 15 (Washington, D.C.: Government Printing Office, 1898); L. A. Stoddart, "Range Management", in Fifty Years of Forestry in the U.S.A., ed. Robert K. Winters (Washington, D.C.: Society of American Foresters, 1950), p. 117.

3. On Coville's status as a "footnote," see, for example, Harold K. Steen, The U.S. Forest Service: A History (Seattle: University of Washington Press, 1976), p. 44.

4. The literature on the history of the national forests is vast. Begin with Harold K. Steen, The U.S. Forest Service: A History (Seattle: University of Washington Press, 1976), pp. 27-38; Samuel Trask Dana and Sally K. Fairfax, Forest and Range Policy: Its Development in the United States (New York: McGraw-Hill, 1956), esp. Ch. 2; William D. Rowley, U.S. Forest Service Grazing and Rangelands: A History (College Station: Texas A&M University Press, 1985); Harold K. Steen, ed., Origins of the National Forests: A Centennial Symposium (Durham, N.C.: Forest History Society, 1992); Thomas R. Cox, Robert S. Maxwell, Phillip Drennon Thomas, and Joseph J. Malone, This Well-Wooded Land: Americans and Their Forests from Colonial Times to the Present (Lincoln: University of Nebraska Press, 1985), esp. Part Three; William G. Robbins, American Forestry: A History of National, State, and Private Cooperation (Lincoln: University of Nebraska Press, 1985), Ch. 1.

5. William R. Maxon, "Frederick Vernon Coville," Science 85, no. 2203 (March 19, 1937), pp. 280-281. See also Gifford Pinchot, The Conservation Diaries of Gifford Pinchot, ed. Harold K. Steen (Durham, N.C.: Forest History Society, 2001), p. 212; Samuel P. Hays, Conservation and the Gospel of Efficiency: The Progressive Conservation Movement, 1890-1920 (Cambridge: Harvard University Press, 1959), pp. 55-56.

6. Coville to The Outlook Publishing Co., April 12, 1897, Frederick V. Coville Collection, Accession Number 3507, Box 1, Letterbook, pp. 82-84, American Heritage

Center, University of Wyoming, hereafter cited as Coville Papers. Most of the Coville collection covers his scientific career, but the letterbook preserves his general and political correspondence.

7. Coville to J.N. Williamson, January 4, 1898, and Coville to Pengra, January 4, 1898, Coville Papers, pp. 198-199.

8. Coville to E.S. Curtis, January 6, 1898, Coville Papers, p. 310.

9. Coville to J.M. Rice, June 20, 1898, Coville Papers, p. 260.

10. Frederick V. Coville, "Our Public Grazing Lands," The Forum 26 (September 1898), pp. 108-109.

11. Coville, "Our Public Grazing Lands," p. 110.

12. Coville, "Our Public Grazing Lands," p. 111.

13. Coville, "Our Public Grazing Lands," p. 111; Coville, with Arthur Sampson, would revisit the concept of replenishing overgrazed lands in "The Reseeding of Depleted Grazing Lands to Cultivate Forage Plants," Washington, D.C.: U.S. Department of Agriculture, Bulletin No. 4, 1913.

14. Coville, "Our Public Grazing Lands," p. 112.

15. Coville, "Our Public Grazing Lands," p. 113.

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CHAPTER 4

AFTER CESSION, THE NEXT BEST THING?: WARREN AND THE POLITICS OF MANAGED FOREST GRAZING, 1899-1906

With the collapse of the land cession movement in the late 1890s, those in search of a solution to the West's grazing problems were forced to look elsewhere. Although hope for total cession of the arid lands to the states lingered on and occasionally surfaced in perfunctory bills, the political reality of the perceived western land grab was that cession was a lost cause. A new movement was taking shape, however, to promote the leasing of grazing lands in the public forests. The previous chapter addressed the intellectual development of leased grazing through the story of the leading technocrat behind it. This chapter examines the tense political situation in which Coville's idea emerged.[1] While technocrats such as Coville struggled to implement a grazing policy, a variety of competing interests rose to challenge any move toward land use reform. These interests were hardly monolithic or unified in their opposition; indeed, opposition to Forest Service grazing policies split along lines that pitted small owners against large operations, sheep grazers against cattle ranchers, and a general resentment

westerners had of “outsiders.” As a senator from a western state dependent on grazing the vast public domain, Francis E. Warren had to negotiate both the protests against and promotion of leased grazing.

Positions were not static. As William D. Rowley suggests, the conservation/anticonservation method of analysis “suggests a seething reaction in the West” when “more thorough study [shows] favorable reception” from some western grazing interests. Although Francis Warren opposed forest reserves when pressured, he also came to support regulated grazing. In this sense, historian G. Michael McCarthy, writing in Hour of Trial, was correct in identifying Warren as a “main figure in the anticonservation coalition” at one point and then later as a “conservationist” himself. This chapter follows Warren’s transformation, and even that of the livestock industry itself.[2] In the same way that Coville’s grazing system defined future models, Warren’s experience with on-again, off-again calls for regulation also anticipated the political conflict that would mark future decades. How did Francis Warren and the disparate members of the grazing industry respond to the growing movement to regulate the public lands?

At an 1899 meeting of the newly formed National Live Stock Association, industry members were treated to a debate on the idea of grazing livestock in government forest reserves. The “debate” was noticeably lopsided. The speaker arguing against forest grazing spoke briefly and in platitudes, while the proponent went on at length, using up the allotted time with loud calls of “Go on!” from the audience. However stacked the deck may have been, the arguments offered insight into the opinions of stock holders at the turn of the century, opinions that policy makers such as Warren were forced to acknowledge if not accept.[3]

An opponent of forest grazing regulation, John Mackay, represented the sheep industry and clearly felt outnumbered by cattle interests. The sheep industry, especially in Wyoming, had grown in prominence in the late 1880s. The slow rise of the sheep industry was quite different from the boom-and-bust of the cattle business. Sheep could graze on lands that cattle could not reach, and sheep were often better supervised by handlers and thus faced fewer losses to predators or inclement weather. Enmity between the cowboy and sheepherder provided western storytellers with endless plot devices. Each needed the same public land. The sheep industry rose at the very time the cattle

industry was declining; animosity between the two groups was hardly surprising. As historian George W. Rollins concluded in his study of the struggle for control of public land in Wyoming, "the failure of the Federal government to provide a land policy which took cognizance of the exigencies of [the cattleman and sheepman] was a powerful contributing factor to the struggle waged by the rival interests for control of lands."[4]

In an attempt to win favor with the National Live Stock Association, sheepman Mackay railed against Washington bureaucracy and argued that to allow forest grazing regulation would usher in an era of uninformed "eastern" policy that was ignorant of life in the West. He claimed that forest reserves had been established in the West with little consultation with those affected. Furthermore, Mackay continued in a conspiritorial tone to suggest that forest policy was controlled by a few active members of the American Forestry Association. Mackay attacked the motives of those calling for regulated forest grazing: "It seems as though they would like to establish a feudal system in America . . . so that some idealist, scientific expert or privileged person might view dame nature in its primitive state." Moreover, Mackay cast the debate as an us-against-them, westerner versus easterner

issue. “Our eastern neighbors,” he said, “should not try to rivet upon us something which is a great detriment and injury to us.”[5]

This fear of a “feudal system” or “eastern control” in the West was a common theme among those who opposed conservation policies. In his case study of Colorado as an example of opposition to conservation, G. Michael McCarthy identified this period as an “hour of trial” for the West. Would “insurgents” prevail in their adherence to maximum land use, to be determined by local interests, or would conservation forces win out in forcing scientific resource management ostensibly to protect the West for all? Ultimately, as McCarthy demonstrated, the conservationists won the argument largely because of the fragmentation of western interests.[6]

At the 1899 meeting of the National Live Stock Association, therefore, the argument presented in favor of forest grazing was much better received than Mackay’s arguments against it. A. R. King refuted Mackay’s points about the lack of representation in the federal government. He attacked sheep graziers for overgrazing and, especially, preventing the regrowth of land damaged by forest fires. “If you want to establish a feudal system, turn over the headwaters of the streams either to the sheep barons or the

cattle kings of the country, and we will have a feudal system, where every small man is the slave of the large man." He finished his statement to great applause and, bordering on the dramatic, the striking up of the convention band. Over the course of the meeting, resolutions were introduced that were anti-sheep and even called for the total exclusion of sheep from the forest reserves. By the end of the meeting, however, the resolution actually adopted was mild: "Resolved, that all live stock shall be allowed to graze upon government forest reserves." In the end, the "official" stance of the National Live Stock Association implied a degree of unity among types of stock holders, but the record of the meeting betrayed the truth. This exchange among stock holders illustrated the tension between opposing elements of the industry at the turn of the century, and would signal more conflict to come.[7]

Francis Warren had yet to become embroiled in such contentious grazing controversy in 1899, although that soon changed. In the aftermath of his failed land cession bills, he turned his attention to irrigation and general patronage for the state of Wyoming. Warren continued the piecemeal approach of attachments to river and harbor legislation. Frequently he faced opposition from western

colleagues as well as eastern politicians. Irrigation was Warren's main concern at the moment, though grazing matters were intertwined with many projects; in one proposed amendment, for example, Warren inserted a small grazing use clause into a reservoir construction survey. But as the winter weather turned unusually harsh in Wyoming, Warren's river and harbor machinations also faced jeopardy. Warren's cession failure was compounded by this latest defeat.[8]

Worse, a stream of inquiries about forest grazing began to trickle into Warren's office. Some questions arrived regarding the Interior Department's proposal to expand the use of timber reserves in Yellowstone. Warren generally favored such a move and dismissed objections as "raw head and bloody bones" stories. He received word from his ranch manager that the harsh winter had been devastating to his own stock, so an expansion of grazing opportunity would be potentially beneficial to Warren's own financial interests. Expansion of the Medicine Bow forest reserve was also in the works, an issue in which Warren took a keen interest. At that point the Medicine Bow forest encompassed parts of Wyoming and Colorado. Warren worked to place a Wyoming man to oversee the reserve, though it was an uphill battle; he was "pressing hard for

Wyoming, although according to the records we have a little more than our share already." Another planned reserve near the headwaters of the Green River in the western part of the state offered still more opportunities for Wyoming patronage in the system.[9]

In January 1899, Francis Warren dutifully presented a memorial from the Wyoming legislature that was an anxiety-filled response to the idea of forest reserve grazing regulation. The memorial prayed for any regulation "to allow the unrestricted grazing of live stock on such reservations . . . in the future as in the past." Wyoming offered the Teton Forest Range as a reserve that could be off-limits to grazing in exchange for the use of other forests in the state. This was an easy compromise, however, as the Teton Forest was already closed to grazing.[10]

More vigorous opposition to leasing came from Montana, where U.S. Senator Thomas Carter opposed leasing on the grounds that it undermined settlement and promoted monopoly, "[turning] the remains of the public domain into cattle ranches under barbed-wire fences, with a monopoly of land and water in the hands of a few individuals." The debate that ensued revealed that a leasing bill, for the moment, had little hope of surviving the Committee on

Agriculture and Forestry, much less passing the full Senate.[11]

Warren began to take note of the growing controversy about grazing in the forest reserves, especially the hostility toward the sheep industry. "There is a world of people here and all over the United States," he wrote, "continually protesting against grazing sheep in the Forest Reservations, many of them demanding most importunately their strict exclusion." Warren's own livestock company held sheep, and these protests began to force Warren's hand. In April 1899 he sent the Secretary of the Interior a veiled threat to withhold support for the Medicine Bow forest if grazing were restricted. Warren parroted the sheep industry's assertion that sheep actually reduced the threat of forest fires by consuming "rank growth" in the reserves. Later in the year, Warren criticized the recent delay in the issuing of grazing leases and permits. Warren assured his constituents that he was agitating on behalf of Wyoming stock interests. Furthermore, he reassured the rancher that he was "in favor, most heartily and emphatically of insisting upon live stock ranging in the open parks and prairie embraced in timber reserves." To another Wyoming resident, Warren wrote about the Medicine Bow situation: "I have never opposed the establishment of

the Medicine Bow Forest Reserve, nor any other, providing that they include in the reserve only forest lands, or second that they give reasonable permits . . . to be used for grazing." Warren went on with this reassurance: "I am willing to proclaim it from the house-tops that I want either one of two things, forest reserves that shall include only forestry, or forest reserves that include incidentally grazing lands." By the end of the year, Warren was also working to secure grazing in the Big Horn forest reserve in northern Wyoming to please the cattle interests there.[12]

In January 1900, the National Live Stock Association met in Fort Worth, Texas and again took up the issue of public land grazing. Among the items on the agenda was a lengthy discussion about a leasing plan. Proponents of leasing argued that to oppose any reform was to ensure the continuation of a broken system. In previous years the Association had called for opening the public domain to grazing; by 1900 this was a given, with a new emphasis squarely on leasing those lands to the cattle industry.[13]

The smaller voice against grazing leases again came from John Mackay of Utah. Mackay argued that the leasing of the forest reserves would terminate homesteading in the West once and for all. He also maintained that "great

corporations within a few years will own the major part of this grazing land." Even if antitrust measures were taken, Mackay believed "the corporations would get inside, and also . . . injure some of the best citizens." In vain, Mackay attempted to unify the interests of sheep and cattle owners, but his presentation was so brief and so lukewarmly received that it seemed half-hearted. If the National Live Stock Association reflected the opinion of the industry, then the industry favored leasing.[14]

Warren increasingly found himself a victim of guilt-by-association, or at least that is how he perceived it. Where the live stock industry seemed to be moving toward leased grazing, Warren's own sheep interests connected his name with "land grabbing." Newspapers such as the Denver News and others all but accused Warren of being a tool of the industry. This put him in an awkward position, for he had introduced many bills in previous years that sought to lease lands in Wyoming.[15] The attacks on Warren fatigued him. In a candid, personal letter, he confessed that he was "getting tired of keeping in the fore front when I am the target for everybody and everything."[16]

Increasingly Warren attributed this deluge to political divisions within Wyoming. Although his woe-is-me correspondence often bordered on the paranoid, these

complaints from his home state were not entirely the products of Warren's imagination. Even as he built the "Warren Machine," as it was frequently called, he stepped on enough toes in Wyoming to ensure that while he might have been powerful he was not necessarily popular. The most devastating charge since the Johnson County War -- namely, an illegal fencing scandal -- was still several years away, but Warren primed the pump of political favoritism well in the 1900s. T. A. Larson, the dean of Wyoming historians, offers a damning list of Warren's political offenses: "Warren was accused of carrying two men on the Claims Committee payroll while they were residing in Cheyenne and doing private work for him; carrying his son Fred on the government payroll as a folder in the Senate folding room while Fred was attending Harvard; improperly leasing his buildings in Cheyenne to the government; using his influence as chairman of the Military Affairs Committee to secure a contract for his electric-light company to furnish electricity to Fort Russell; and violating the law against enclosing the public domain." The most visible example of Warren's "patronage" for Wyoming was Fort D. A. Russell, an obsolete outpost that, once Warren took the chair of the Senate Military Affairs Committee, suddenly tripled in size and housed a full brigade. One historian

called Fort D. A. Russell “a monument to the pork barrel.”[17]

Eventually Warren began to succumb to the pressure from the sheep industry, despite the personal conflict associated with it, and became more vocal in opposing leased grazing if it made no provision for sheep. In February 1900 he acknowledged the receipt of a growing number of petitions from Wyoming citizens entitled, “We Don’t Want It.” To one constituent he wrote, “So far as I am concerned I shall support no leasing or other land bill which will effect what you fear.” This was just what the constituent wanted to hear. Warren left an escape clause for himself, however. “I think however it is possible to have legislation that will provide for some disposition of a portion of the lands without doing injustice to anybody and which shall provide for helping the smaller ranchmen and settlers.” Privately, Warren still maintained that total land cession to the states was the answer.[18] But he knew this was a small hope. The movement toward a leasing system was gaining momentum, and the live stock “industry” of cattle and sheep interests lacked consistent unity on a position. By the spring of 1900 Warren noted with relief “the excitement having passed away.” He also noted that the National Live Stock Association “endorsed the leasing

of land, and later that the Colorado Association declared against leasing or cession -- and so it goes; they back and fill over it entirely too much."[19]

In the Senate, Warren generally remained reticent, content to let the issue take its course. A notable exception to Warren's silence occurred in March 1901. Senator Richard Pettigrew of South Dakota was railing against sheep grazing as a destructive force in the forests. Warren rose to offer a "clarification," or mild objection. Warren pointed out that sheep were only a threat to certain, young forests, and that generalizations about sheep grazing in the entire forest system should be avoided. "On some of these forest reserves," he said, "a man may ride all day without seeing a tree." He added, as a nod to his home industry, that Wyoming contained no forests "of such character that they would be injured by the pasturage of sheep." Pettigrew did not respond, and the Senate moved on to other business. Warren had made his point, standing up on behalf of an industry close to both his state and his own business interests.[20]

A consensus was forming within the livestock industry, for the moment at least. At the fourth annual meeting of the National Live Stock Association, held in Salt Lake City, members were treated to the by now usual resolutions

in favor of grazing and the usual unbalanced debate against it. In addition to the routine focus on American grazing policy, the industry group published a paper on the land laws of Australia. The secretary of the association studied land policy in New South Wales, a region heavily devoted to live stock raising in the manner of the American West. He found that prior to 1884 the land laws in Australia were "in a very crude state." Early stock raisers had claimed "pre-emption" and effectively monopolized that land to the detriment of the small farmer or stock holder. The Australian government imposed a grazing tax, but it was so small that the big interests easily absorbed the cost and continued as before. In 1884, a wholesale revision of land policy took effect, and the grazing fees were revised according to a scale of land use and improvement. In addition, the Australian system provided for the outright purchase of public land by individuals if certain conditions were met. The National Live Stock Association held up the Australian system as a model of grazing success.[21]

With a new administration in the White House, the movement toward a national grazing policy accelerated. In December 1901, Gifford Pinchot addressed another gathering of the National Live Stock Association at its meeting in

Chicago. Pinchot spoke with candor, opening with remarks on the conflict between cattle and sheep interests. The function of the government, he reminded the audience, was to wiegh opposing claims and advance the greatest good. "Any just solution will almost inevitably fail to meet entirely the views of either party," he said. Pinchot then presented several points that the Secretary of the Interior wished him to make on the subject of grazing in the forest reserves.[22]

First and foremost, any new policy must address and bring to resolution the conflict between sheep and cattle interests. Only the government could establish the boundaries between sheep and cattle ranges satisfactorily. Such a move, Pinchot argued, would "transfer the struggle between sheep men and cattle men . . . to the government officers, who should be just and impartial judges in the premises." This, he believed, would put an end to the violence and "armed strife" of the range.[23]

Next, a new role for local organizations and associations would be found in the administration process, in consultation with the government and just under the forest officers. Here disputes and problems could be worked out, thus giving graziers a stake in the process rather than simply being renters of the land. Pinchot also

discussed the importance of segregation on the range, both for sheep and cattle. Together with grazing permits that lasted for five years, exclusive use of the range would "create at once an interest . . . in the condition of the range and make it worth [the holder's] while to protect and improve it." In short, Pinchot proclaimed, "Here is a plan which gives the individual a powerful interest in the protection of his range and turns his energy toward range improvement instead of toward range destruction." Pinchot suggested that the foraging of the forests be looked upon as a form of agriculture; "forage," he said, "is a crop regularly and abundantly produced by the forest reserves and as a rule it should be regularly harvested." The record of the address indicates that Pinchot concluded to applause, which was more than could be said for Mackay in his debate positions.[24]

By 1902, the cattle industry was pushing even harder for leased grazing. A colorful speech by Frank Benton of Wyoming to the American Cattle Growers' Association in Denver revealed much about the mind of the industry. "One of the most vital questions of interest before the cattleman of today is the leasing of the public lands," Benton began. "I cannot understand how a cattleman can see two sides to this question," he went on, "and yet some

cattlemen have been so fortunately situated so far as to object to leasing." Benton divided those opposed to leasing into three groups. The first group secured its grazing land through brute force, intimidating others with threats and violence. The second class of cattlemen to oppose leasing, Benton said, were those who illegally fenced in the public land but lived a "let us alone" way of life. The third class was a group of freeloaders who could barely call themselves cattlemen, so neglected did they allow their stock and ranges to become.[25]

Benton, having raised cattle for over thirty years, knew that the free range was a thing of the past, and the only solution was "to have a lease law and lease as much government land as you can." The move to a lease law, Benton maintained, would end conflict on the range; "have your cowboys raising hay in place of raising hell," he said. Time was running out, too: "What is everybody's is nobody's, and at the present rate of killing out the grass it is only a few years until there will not be any grass that even a sheep can live on, let alone a steer." Finally, Benton concluded by saying that he was "satisfied to let the United States government manage the lease system."[26]

At the same meeting, John Irish of California also

spoke on the subject of land leasing. His speech was considerably longer and less folksy than Benton's, but it still made largely the same points in favor of leasing the public lands for grazing. Indeed, he complimented Benton on his speech. Irish praised Theodore Roosevelt, "in heart and spirit a western man." Irish outlined the situation of the public domain, calling for irrigation where possible and grazing for the remaining land. He said that it was the duty of the government to protect the 400 million acres of its grazing land for use. Like the National Live Stock Association, Irish pointed to Australia as a model. Like Coville, he considered the Texan grazing system a success. In short, Irish called for the managed regulation of the public domain. Racing toward a rousing conclusion and great applause, Irish said that a grazing policy in the United States would ensure "the richest, the best and most permanent live stock range in the world, eclipsing Australia, better than the pampas of the Argentines, and pouring into our own country a stream of wealth that will flow as steadily as the fabled Pactolus, the river of gold," in which Midas washed.[27]

By 1903 Warren himself addressed the live stock industry on the subject of grazing more directly than ever before. In January at the meeting of the National Live

Stock Association in Kansas City, Warren gave a speech entitled, “What Congress Should Do for the Live Stock Industry.” After opening with a long joke, the contextual humor of which is lost to history, Warren settled in to address the topic. “What should Congress do?” he asked. “It should do everything that Congress could do for any great industry.” Warren went on to discuss leasing the public domain. Congress, the President, and the Secretary of the Interior wanted to do something, but were hampered by small representation of western interests in Congress. “This grazing country is small when compared to the United States, and the population of the arid country is still smaller in comparison,” he pointed out. Warren also attributed the lack of progress to internal political divisions in the West itself, where “the conditions are different in every state.”[28]

Warren then recounted an exchange he had with President Roosevelt -- who, he reminded the audience, “is one of us” -- that served to remind the audience of the importance of changing the land laws.

> He said to me, “Warren, when you people know what you want about the public range, let me know.” I said to him, “What did you mean in your message about the repeal of the land laws?” He said, “It is this way: We have a great many subjects under consideration. It is a fact that all the people east,

> west, north and south agree that the present land laws are a misfit," and, he added, "that calls for some legislation." He said, "These complaints come to me and I see only one side of the question, and it is for you and Congress to handle this matter."

Warren received applause at this and then went on to discuss the fact that the sheep industry stood opposed to a leasing law. He claimed that he had "not been in consultation with those representing the sheep industry," although this was stretching the truth. He spoke a few platitudes about the "highest legislative body in the world" before only offering this solid statement on the cattle and sheep split on grazing: "Sooner or later, legislation will have to be made settling this question in states where we have public lands before we can have peace and harmony." For the rest of the speech, the only other point where Warren acknowledged the tension between sheep and cattle interests was not in relation to public policy but in regard to membership in the Association itself. Someone questioned Warren on whether sheep owners should leave the Association altogether. Warren replied that they should not. Although Warren's remark brought forth applause, it belied the reality of the tension between the two groups and masked his own interests as a sheep owner.

No one questioned Warren's motivations openly, but many in the room must have been thinking about it.[29]

E. A. Harris of Iowa rose to speak on behalf of the small stock holder and the homesteader. He disagreed with the direction the Association was going toward calls for leasing and regulation of the public domain, especially as it might affect the sheep industry. But Harris seemed resigned to this development; "this thing," he said, "has been so thoroughly manipulated by this Association that there is now practically only one side to it . . . I am satisfied the die is cast." Harris claimed that proponents of leased grazing frequently gained favor with the members simply by dropping Theodore Roosevelt's name. Warm, nostalgic feelings toward T.R., Harris said, masked the lack of accountability in the use of so-called "experts" in the formulation and administration of a grazing policy. Harris's voice was drowned out, however, by subsequent speakers who once again called for disposal of the public domain in grazing districts.[30]

Although Warren dismissed charges that he was in "consultation" with the sheep industry, he was in fact in contact with it. A month after the National Live Stock Association meeting, Warren wrote to the president of the Natrona County Wool Growers' Association in Casper,

Wyoming. Sheep grazing had recently been banned in the Big Horn forest reserve, and Warren responded to his constituent's concern. He introduced a resolution "providing for a careful inquiry and report upon western land, timber, and grazing matters." Increasingly, Warren was forced to address the grazing situation in more than simple platitudes.[31]

Warren's stance on a leasing system would grow to reflect the administration's. In the autumn of 1904, Warren toured Wyoming and several major cities throughout the West. His notes for the speeches delivered on that tour reveal a variety of changing and changed opinion on the subject of forest grazing. First Warren established the importance of the forest reserve system; "forest preservation," he argued, "is as much a necessity for the welfare of Wyoming as is the conservation of the water of its streams." Warren pointed to the recent creation of the Medicine Bow forest reserve as an example of the Interior Department responding to and working with localities in a positive manner. Likewise, the Yellowstone reserve was managed by Wyoming men with a connection to the land and personal interest in its well being. Above all, Warren attempted to educate his constituents on the meaning and goal of the forest reserve system; "the land and products

in forest reserves are not reserved from use but for use," he maintained. The entire Wyoming live stock industry depended on grazing in the public domain. Warren concluded with a vote of confidence in the Roosevelt administration and the forest system it directed. Warren even broke the news of his own changed opinion to the wool industry. "My own opinion," he wrote to the National Association of Wool Manufacturers, "is that it would very largely increase the production of the public domain if a leasing system could be established, in addition to forest reserves, and portions of the range could be re-seeded occasionally."[32]

By December 1904 Warren prepared a speech entitled, "The Necessity of Using the Forest Reserves for Grazing Purposes." To be delivered at the upcoming American Forest Congress, it was the most comprehensive outline of Warren's thought on the grazing problem. He began the speech with several paragraphs reviewing land policy and the creation of the forests reserves in 1891; "if the law authorizing the creation of forest reserves had been enacted half a century earlier," Warren said, "the people of the United States would today be richer than they are by billions of dollars." He then spoke about forest fires and general protection of the forests before finally arriving at the subject of grazing, the most pressing issue of the day.

“The most serious complaint [was against the restriction] of live stock grazing on the reserves.”[33]

Warren’s speech did not shy away from discussing the at times vicious relationship between sheep and cattle interests, though he elicited some sympathy for the sheep holder. “The first attempt to put a sheepman out of business was when Cain slew his brother Abel, who ‘was a keeper of sheep.’” Warren went on to argue that this prejudice had become enshrined in policy based on ignorance and faulty science. “It took many years for the Western stockman to convince the officials in Washington that sheep do not climb trees and do not eat coniferous plan or tree growth.” Politically astute, Warren made exceptions for the current Commissioner of the General Land Office and the Chief Forester of the Department of Agriculture, “enlightened men both.”[34]

Warren’s speech offered selective examples of expanded grazing and increased carrying capacity. But he called for more. “More liberality could be shown in granting grazing privileges without detriment.” Finally he returned to the case of Wyoming as metaphor for the entire West and offered five suggestions for policy change.[35]

First, Warren called for thorough and intelligent land surveys to segregate land best suited for grazing as

opposed to agriculture. This would put the homesteading farmer's mind at ease. Second, adequate trails or roads should be made across the reserves so that live stock could be moved throughout the pastures or to market with a minimum of disruption to other forest users. Third, local officials should determine the grazing capacity of the reserves and open them as fully as possible at the appropriate times of the year. Fourth, all administrators of the grazing system should be drawn from the local area whenever possible; Warren did not provide details on how to accomplish this. Even so, this was a nod to states' rights and local control. And fifth, grazing privileges would be limited to taxpayers and ranch owners in the state in which the reserve was located only to prevent absentee ownership problems. This would prevent the emergence of the much-feared "feudal system" in the West.[36]

Warren's plan for regulated grazing echoed many of the points that Coville had been pushing for years. Indeed, there was little in Warren's speech that Coville would have disagreed with, though Coville might have been more impartial about the sheep versus cattle division. Warren concluded his remarks by supporting the current direction of grazing policy. "I am satisfied," he said, "that the inclination of the present officers of the government in

charge of the forestry service is favorable to the granting of these several necessities of the grazing interests."[37]

In 1905, as Pinchot, Coville, and the Public Lands Commission prepared to present their findings and recommendations, the National Live Stock Association also pushed a policy of leased grazing. One paper presented at the annual meeting argued for "Control of the Public Grazing Lands through the Department of Agriculture." The author, J. M. Wilson of Wyoming, began with an assumption that a grazing plan was necessary: "Something must be done to regulate or control grazing." But this was a new era, one after the frontier had "passed away," and grazing practices must reflect that. Wilson argued that a grazing policy would best be administered under the Department of Agriculture.[38]

In another paper, C. E. Wantland of Denver -- Warren's old correspondent -- revisited an Association resolution from five years prior that called for leased grazing. "Five Years After" the right idea and five years squandered, he argued. Wantland referred to the current Public Land Commission and endorsed its mission and expected findings. "They are friends of the West," he said. Wantland cautioned the stock owners of the Association not to make the same mistake of five years earlier. His

colloquial statement summed up the problems of a West divided against itself. "Unless you pull together and insist upon being in the game from start to finish, you will certainly get partially lost in the shuffle." Warren himself put in an appearance at the 1905 meeting, though he offered only a few comments and suggestions in the wording of resolutions, and none of any consequence. His presence alone was a form of endorsement.[39]

Throughout 1905, Warren made the case for a grazing lease policy more than ever before, though he was distracted by the marriage of his daughter Frances to Captain John J. Pershing. In an interview with the Cheyenne State Leader in January 1905, Warren again listed the five goals of a grazing policy that he first outlined in his Forest Congress speech. When asked by the Wyoming Tribune about opposition from stock holders to a new leasing policy, the paper reported that while some Wyoming stockmen were opposed, most would, in Warren's opinion, prefer to go along rather than be deprived entirely of the right to the reserves. The Wyoming Industrial Journal reprinted Warren's Forest Congress speech. Warren had prepared an additional speech on "The Patrol of the Forest Reserves," but Senate business pulled him away from the platform. The speech was later published in St. Louis

Lumberman. The text had little to do with grazing specifically, its subject being of course about the protection and policing of the forests. But it still contributed to Warren's growing interest in regulating the reserves.[40]

In April 1905, Warren made a far more important speech to members of the wool industry, represented by the Wyoming Board of Sheep Commissioners. The ongoing Public Land Commission, he said, "took cognizance of what we had to say." Warren was playing both sides of the fence here; "we" to the audience at the moment probably meant "we sheepmen," but Warren was in truth referring to the meeting of the National Live Stock Association in Denver, where sheep interests were certainly present but, as discussed above, often overshadowed by cattle interests.

Warren then ticked off, accurately, the recommendations of the Commission, focusing especially on the creation of grazing districts to be leased by stock owners. Warren supported and promoted the Commission to his audience of sheep interests. "In this recommendation," he said, "we see a gleam of hope for the improvements we desire. The plan proposed may not be just what we want, but I believe it heads in the right direction." He predicted prosperity as a result of the new grazing plan. "The sheep

industry will witness as great an improvement in the coming decade as it has in the past."[41]

Even as the Commission's suggestions were coming to the forefront, however, Warren disengaged from the grazing discussion for several months. From July through November 1905, Warren was a member of the Secretary of War Taft's entourage touring East Asia. Warren's newlywed daughter was living in Japan with her husband, Pershing, who was stationed there. For the time being, the intricacies of grazing policy receded from the attention of Senator Warren in favor of family and overseas travel. It was just as well. Warren's office began to receive inquiries about the new grazing policy. Warren's staff responded with polite notes informing the writer of the Senator's absence, but reassuring them that upon his return he would give "those whose interests are affected by the proposed imposition of a grazing tax" his close attention. One wonders about the reaction nervous sheep graziers must have had upon learning that the entire grazing system was about to change while their senator was touring China and the Philippines.

Upon his return, Warren faced questions and concerns about the new system. He was scheduled to participate in a "grazing conference" in January 1906 in Denver. The invitation to the conference, sent to stock holders,

featured a message from Gifford Pinchot designed to calm their fears. "Now that the fee for grazing in the forest reserves has been established, with the full approval of the President (himself a stockman) . . . the interests of stockmen should be given the fullest consideration." This was a smart move by Pinchot, though it indicates that from the start the Commission knew its recommendations would not be well received by all.[42]

Warren's response to early inquiries about the grazing policy varied depending on the inquirer. He was all things to all people. To one constituent, he sounded skeptical of the new plan. "I am sticking as close to the Forestry Bureau as a Spanish fly blister," he said, "in the interest of preserving the range we have and getting more if we can." And to another constituent Warren claimed that he was "trying (first) to have the [grazing fee] withdrawn altogether, and (second) failing in this, to secure for Wyoming the lowest possible rate." Grazing fees could vary from twenty to fifty cents, depending on location and season. Warren would lobby for the lowest rate.[43]

In 1906 the Forest Service began implementing the new leasing system. The goal of technocrats such as Frederick Coville, interests such as the National Live Stock Association, and, by then, politicians such as Francis

Warren had been realized. At last, a comprehensive system of range management could be applied to the public domain. The Department of Agriculture went so far as to claim that "the regulation of grazing on the forest reserves meets with almost universal approval. Opposition to the fee is disappearing." These statements were optimistic at best, and naive at worst.[44]

While many people and groups had worked tirelessly to arrive at this point, it faced immediate opposition when put into practice. A river of protests flooded into Warren's office, most centering around the proposal for the new Sierra Madre forest reserve. Grazing reform was thought to be a panacea, the next best thing to total cession of the public domain to the states, but it would turn into a headache for Warren.

Warren began the year with high hopes that the new policy would be well received. He took great pleasure in noting, for example, that the Medicine Bow forest reserve "would not be diminished from last year's [grazing authorizations] but on the contrary will be increased." Writing to a sheep grazing constituent, Warren attempted to allay his fears. "I am assured by the officers of the Forest Service that sufficient stock will be admitted to the Medicine Bow and all other Wyoming reserves." As to

any hope of repealing the new plan in the near future, Warren reiterated that Roosevelt was “absolutely committed” to the new policy of charging for grazing privileges on the reserves. “The best we can do in this matter,” Warren said, “is to get the lowest possible rates for our Wyoming owners.”[45]

Even with this optimism, Warren knew to expect a bumpy road ahead. Writing to the State Engineer of Wyoming, Clarence Johnston, Warren said, “It is going to be no easy thing.” Politicians not directly impacted by the new land policy tended to hold a “you chose your own land” or “you have made your own bed, and now you must lie in it” attitude toward the West. Warren reported that Congress was more stingy and suspicious about public land matters than ever. Still, he joked with Johnston saying, “We may develop hypnotic influence enough to arrive at some point of success, and I am only too ready to open up the battle.”[46]

Warren’s jocularity aside, reactions to the new system began to roll in, first as questions, then concerns, and finally protests. A sampling of the protests Warren received and his response, or lack of it, speaks volumes. Sheep owners in Carbon and Sweetwater Counties carbon-copied Warren’s office with a petition they sent directly

to Gifford Pinchot protesting the organization of the Sierra Madre forest reserve. The Carbon County Woolgrowers' Association followed suit claiming that the new reserve would decrease the number of sheep owned in Carbon County by a quarter of a million head. "The sheep industry is the CHIEF INDUSTRY [sic] of this county," they wrote. Where Warren frequently pointed to the Medicine Bow reserve as a success, one protestor argued that this situation was entirely different, for the Sierra Madre area was "almost devoid of green timber" and contained a promising copper district and good grazing range for sheep. The writer made a slight jab at Warren personally: "It is well known that the Forestry Regulations are against the sheep business -- promises to the contrary notwithstanding."[47]

Over the month of February 1906, the protests continued to pour in to Warren's office. The mayor of Rawlins penned a respectful but disapproving note to Warren on the new reserves. Another resident said the Sierra Madre reserve, "while <u>helping only a few</u>, such as Forest Riders and Assistants and the 'healers', would diminish the revenue from the taxable property to the extent of $750,000 and would restrict business in all its branches and <u>injure the people of this county</u> [emphasis in original]." Still

another writer emphasized the importance of copper mining to the region and a surprising connection between sheep grazing and mining; “it is a well known fact,” he wrote, “that that famous Ferris-Haggarty copper mine, which occasioned the mineral activity in this region, was discovered by a sheepherder.”[48]

Some protests were addressed to Warren directly. Others were sent to the entire Wyoming Congressional delegation (which, it should be noted, only included three people). A self-declared “pioneer of southern Carbon County” demanded that the “so-called reserve be thrown open to the public and allow the sheep pasture as heretofore . . . without any restrictions whatever.” A county clerk wrote to “testify” to the devastating effect upon local revenue that would surely be caused by the new reserve, from the sheep business itself to tenable property and “upon every other class of business.” Most protests were coldly businesslike, but a few approached the subject with more emotion: “Stop and consider for a few moments what the crippling of such an immense industry such as the sheep business means, directly and indirectly, to every man, woman, and child in this county.” Such protests -- and these are but a sample of that found in Warren’s papers -- painted a bleak picture.[49]

The protests demanded a response. Warren quickly went to work and answered many but not all the concerns. To those who sent the petition, Warren wrote that he was forwarding it on to the Secretary of Agriculture for consideration, along with "others of like nature which I have filed." Warren offered a quote provided by the Agriculture Department: "The petitions and protests will be given the most careful consideration, and nothing will be recommended by the Forest Service to the injury of Wyoming interests." Warren added to the statement an assurance that it was his "intention to continue earnest efforts against the creation of any reserve likely to injure the business interests of the people of the state or any part of it."[50]

By May 1906 Warren moved from simply forwarding petitions and protests to an active campaign to influence and adjust the grazing fees. Warren had abandoned his hopes for land cession and state controlled public grazing land. Federally managed forest grazing was the new reality, and Warren had to live with it. Over the next fifteen years, Warren's devotion to the livestock industry would be tested and tempered by personal scandal, rising grazing fees, and falling prices. If anyone had believed the new leasing system would bring simplicity and

standardization to the public domain, he was mistaken.[51]

ENDNOTES

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CHAPTER 5

LIVING WITH IT: FEDERAL GRAZING, FENCING SCANDALS, AND FRANCIS E. WARREN, 1906-1920

With any hope for full public land cession to the states fading into distant memory and leased grazing in the national forests becoming more institutionalized, still more challenges loomed on the horizon for Senator Francis E. Warren. From 1906 to 1920, he was forced to temper his hitherto unfailing support for stock owners in the face of national priorities that increasingly favored farming. Personal tragedy, political scandal, and regional rivalries weakened Warren. As the nation revamped its public land policy in a series of measures that culminated in the Stock Raising Homestead Act of 1916, the senator from Wyoming -- a state with so much at stake -- was curiously uninvolved. Falling stock prices, rising grazing fees, and changing attitudes about public land made many in the livestock industry uneasy. The long reign of Republican political control endured the interregnum of the Woodrow Wilson administration. Warren survived the period bruised but intact, even as storm clouds of a greater depression billowed over the open range.

The flood of protests over forest grazing that Warren first received in 1906 soon slowed to a trickle. There

were always dissenting voices, but over time the grazing policy settled into place. Coville's vision of a rationalized range became a reality. Through specified allotments, grazing permits and fees, clearly defined grazing seasons, limits on herd sizes, the public domain was being transformed into what Gerald Nash called the "federal landscape."[1]

The Department of Agriculture, now in control of the national forests, began a campaign to placate, if not win over, the hearts and minds of western stock owners and the politicians representing them. When ranchers balked at the fee system, the forest service reminded them that the land values of public domain were calculated on average of a third the value of comparable private land. In the Yearbook of the Department of Agriculture, a publication that often featured articles and bulletins designed to inform and educate the agricultural producer, the federal bureaucracy outlined the situation in a small section titled, "Attitude of Stockmen Toward Restriction of Grazing." Here the department acknowledged the tension but chose to emphasize optimism over pessimism. "The regulation of grazing on the forest reserves meets with almost universal approval," it said, adding that "opposition to the fee is disappearing." This was an

overstatement, to be sure, but the new system produced positive results. Overgrazed ranges began to heal. Cattle and sheep enjoyed better grazing conditions under the administered range. Warren frequently sent copies of the Yearbook to concerned constituents.[2]

In the Senate, Warren defended the new grazing policy. In a discussion of grazing in the national forests, Senator Heyburn of Idaho criticized the measure as being unfairly beneficial toward a certain economic class--namely, stock raisers--at the expense of the individual homesteading farmer. As Heyburn's language strained with hyperbole, Warren rose to defend his constituents' interests. "I presume," Warren countered, "the Senator from Idaho does not wish the Senate to understand that the Government is renting its lands outside of forest reserves to cattlemen?" Heyburn acquiesced. Warren continued to emphasize that "the lands which are included in the forest reserves are those over which sheep and cattle had ranged before," and then added that the only thing truly new about the policy was that the stock raisers had to pay a fee now where none had been charged before. If that were true, Warren's motivation for land cession -- now abandoned -- was in fact a self-serving land grab. If anything, Warren argued, the stock raiser alone was paying for the new policy. Warren

concluded by calling Heyburn's bluff: "Does the Senator maintain that the creation of these forest reserves is for the purpose of giving control of the land to cattlemen and to sheep men?" "No," Heyburn replied.[3]

The transfer of the forest reserves to the Department of Agriculture, and the grazing fee policy that accompanied it, soon became a significant source of revenue for the government. Secretary of Agriculture James Wilson, in a report detailing the money collected from grazing fees and "lines of business upon forest reserves," said that a "very large portion" of departmental income would come from grazing fees. A table accompanying his report offers a suggestion as to why some states resisted the policy more than others. For 1906 total income from grazing fees was estimated at $73,183. Within that amount, $3,422 came from Idaho, while Wyoming only brought $644 to the table. Perhaps Warren was eager to defend the policy because it was not costing his state very much.[4]

In a private letter to his daughter, "Mrs. John J. Pershing," Warren spoke of recent politics, a rarity in his correspondence with her. "Did pretty well for Wyoming this term," he wrote, and then gave a tip to his son-in-law on a method of increasing his income thanks to a loophole in officer pay policy: "tell Jack he wants to study up the

Army Appropriation law . . .” In another letter to a constituent in Cody, Warren bragged about his work for the stock industry, specifically regarding a speech he gave toward the close of the session and his work on the tariff on hides. The specifics of grazing policy, at this point, worked in favor of Warren’s Wyoming interests. He kept his attention on the whole of the livestock industry.[5]

The speech in the Senate that Warren referred to was a long one on the livestock industry in general and the tariffs that affected it in particular. Warren offered a lengthy variety of statistics and platitudes about the importance of the independent stock raiser to America. The point he was driving home, however, was protection for the industry. “Farmers and cattlemen want protection,” he said, not only in the production phase but on the finished “product,” in this case hides. Privately, Warren did not expect any congressional action at the moment, but his speech anticipated a large tariff fight to come. “Protection can not be sectional and selfish,” he said. “It must be general and adequate. Such protection is now in force under the operation of the present law. It is the most perfect law known. We shall, as a matter of course, have to revise it some time, but not to-day. We are too busy, too well employed, too well paid for our labor, too

prosperous to think seriously of tariff revision in the year of our Lord 1906." Warren's speech was laying the groundwork for a future battle over protection. Grazing policy would be a major element in that debate, as free-traders accused the stock industry of already having enough aid from the government.[6]

Before the tariff issue completely grabbed Warren's attention, however, and despite the Secretary of Agriculture's pronouncement that all was well, many western ranchers were less optimistic about the new grazing policy. The National Live Stock Association, the umbrella organization for the industry formed in 1898, found that the grazing issue dominated its 1907 meeting in Denver. Several members from Wyoming spoke with passion on the subject. As usual, cattle interests overwhelmed sheep interests, and both railed against any perceived governmental threat to their grazing situation. Many feared losing the use of current grazing land. The State Association of Wool Growers, centered in Rock Springs, Wyoming, opposed leasing the public domain, fearing that cattle interests would literally run over those of the sheep graziers'. Carson Adams of Wyoming offered a most novel, if unworkable, solution to the entire affair. "The grazing land in Wyoming is all occupied," he said. "The

best way to handle the leasing of public lands or grazing privilege would be to make the state of Wyoming one grazing district." At first glance such a proposition seemed equitable, if not idealistic, but Adams soon tipped his hand and showed his motivation to favor large owners. Echoing the era's Social Darwinism, Adams said that stockmen would work out the details among themselves "as a hard winter will take care of any surplus." Local control was appealing, but it also tended toward monopolization and even violence, as Coville so aptly described in his articles a decade earlier. Some members called for the total repeal of the 1891 Forest Reserve Act. In the end, the only consensus that came out of the Denver meeting was that stock raisers were not happy with the new grazing system.[7]

Warren had to face this continued unrest over grazing policy. Worse, charges emerged that the Warren Live Stock Company was illegally fencing in government enclosures. The priority of removing illegal fences during the Cleveland administration had taken a back seat when Republicans regained power, and by the McKinley administration the open range was again crisscrossed with barbed wire, much of it strung illegally across public land. Beginning in 1905, Wyoming State Senator S. A. D.

Keister, a Democrat, called for an investigation of illegal fencing that specifically targeted Warren's company. The Wyoming legislature, solidly Republican and in much political debt to Warren, shrugged off the accusation and even castigated Keister for bringing it up. Even so, the squabble in Wyoming caught the attention of Secretary of the Interior E. A. Hitchcock, who promptly ordered an investigation. The resulting report alleged that the Warren Live Stock Company had illegally fenced in excess of 40,000 acres of government land for over twenty years. Would Warren and his company face prosecution? As T. A. Larson wrote, "Ordinarily, such a report would have led to court action, but this was not to be the case in this instance."[8] This much of the story is general knowledge in Wyoming history. What follows, however, is less well known.

A revealing letter to his business manager shows that Warren was distracted by the charges but not overly concerned. The senator had friends in the highest places. He wrote to President Roosevelt, denied the charges, and got quick results. "The Department was satisfied that they could not get any results from proceeding against our company," Warren wrote privately. His letter continues, describing a meeting with Roosevelt using language laced

with intrigue: “The President did not show me their report, but indicated what it was. Then he called on . . . his private letter-book, turned over, with his own hand, the pages until he found two different places and put in book-marks, then passed the book to me and asked me to read, in confidence, the two letters he had sent . . . concerning us and our matters. We were in his back private office at the time. He went out to pump-handle--shake-hands and say ‘dee-lighted,’ to the large crowd that had accumulated in the outside room of his office in the meantime, and I carefully read the letters. I did not have tme to copy any of the expressions, but the letters were ‘corkers’ . . . [they were] diplomatic . . . nevertheless, every sentence intended to cut like a razor.”[9] What “evidence” Warren may have seen remains a mystery, but it was enough to give him peace of mind about the fencing charges. The Republican-controlled Congress ensured that the scandal would not reach the pages of the Congressional Record--for the moment, at least.

Despite pulling strings for Warren, Roosevelt had strong opinions on fencing the range. Indeed, perhaps one reason that Roosevelt was willing to smooth things over was his view that the law regarding enclosures was ill-conceived and essentially forced stock raisers to violate

it. Warren wrote again to his manager emphasizing Roosevelt's position. "The President is exceedingly anxious to provide for leasing, by the government, all its grazing lands, but more particularly those which are within the fences." This letter marks one of the few times Warren discussed current politics or policy in direct connection with his personal business. The subject of fencing grabbed his attention in a way that other subjects did not.[10]

Roosevelt wrote to Warren following up on their meeting. The president emphasized the importance of local control in range management. He went on to emphasize the importance of a small grazing fee, even a token. "I am not anxious that the government should get a great revenue from grazing on the public range." Roosevelt's preference would not be realized; over time, as the grazing policies matured, fees from forest grazing became a top revenue earner for the Department of Agriculture. Roosevelt did not want the federal government to make money off the public domain, but that is precisely what happened. The Forest Service was motivated by grazing fee revenue, however. The more funds it could raise through services the less it had to depend on the whims of congressional budgets.[11]

For the moment there was little consensus in Wyoming

apart from general displeasure with the current situation. Warren continued to field requests and put out the small fires of competing interests. He was increasingly more candid about the discord, however. "In view of the widely divergent opinions of stockmen," he wrote in a familiar refrain, "it is quite certain that no legislation . . . will be enacted at this session of Congress."[12]

While industry interests struggled in vain to reach any agreement beyond "something must be done," discussion in the Senate required Warren to maintain a more unified appearance. In a contentious debate over the appropriations to be made to--and more importantly the income generated by--the national forests, some in Congress accused stock raisers of being the sole benefactors from the system, so much that they should pay more for the privilege. Warren responded to an argument about degree with the logic of absolutes. "I do not think anyone believes we ought to bar all the cattle and all the sheep . . . we ought to permit grazing."[13]

Warren was frustrated. "We have been having a devil of a time," he confided to W. E. Chaplin, a newspaper editor in Cheyenne. Most frustrating of all to Warren was the inability of western interests to unify. "There is a tremendous opposition . . . from Montana, Idaho, Colorado,

and I guess, Utah. There are two sides of the question, and people supporting both sides."[14]

The debate in the Senate continued. Senator Patterson of Colorado wanted to introduce an amendment to the agriculture appropriation bill that would, on the surface, prohibit the charging of fees for grazing in the national forests. But Warren saw in this a veiled attempt to close off the range to existing interests. His constituents -- and his own Warren Live Stock Company -- depended on access to forest grazing lands. Cattle interests generally favored leasing; sheep owners opposed it. Warren, both a sheep and cattle owner who benefitted from leasing as a large operator, found himself at odds with his own constituency in supporting leasing.[15]

Perhaps sensing that the debate was for the moment at an impasse, Warren reminded the Senate -- and his constituents -- that his heart was with local control and states' rights. "My early contention was that the States themselves should control the grazing lands. The first speech that I ever made here in the Senate was upon that side of the subject." But land cession was so far removed from the current tit-for-tat debate that Warren knew it was not a valid option. He called for the "urgent necessity of some kind of regulation for grazing lands" beyond the

existing system.[16]

To a voter in Sheriden, Wyoming, Warren outlined his priorities for grazing on the public domain beyond the national forests. Warren expected that federal regulation of the entire public domain was around the corner. Warren's desire was "to inflict the minimum of hardship upon western stockmen with the maximum of benefit," and reminded his constituent that this view was shared by President Roosevelt. Most importantly, Warren ticked off his main goals for a grazing policy. This list came straight out of his old pro-cession arguments. Any grazing policy should be locally controlled, implemented with a minimal fee, and give preference to small stockholders with adjacent land. Variations of this communication to inquiring constituents were common, and Warren was consistent in outlining his priorities.[17]

As Warren predicted, no consensus on leasing public lands emerged. It was "the difference of opinion among western members of Congress" that prevented any progress, he wrote to a man in Widdowfield, Wyoming. To another constituent he followed the same line, citing "such a wide divergence of opinion among western men on this subject." Warren took some of the opposition personally. "The opposition political newspapers of our State are branding

'Roosevelt and Warren' as tyrants, equaled only by the Czar of Russia."[18]

But Warren's old rival, Joseph Carey, found himself supporting leased grazing. Carey spoke at the 1908 meeting of the National Live Stock Association in a forum devoted to the grazing question. His statement was cleaned up, expanded, and later printed as a pamphlet under the title, "Stockmen Should Study Both Sides of Question: Great Problems Not Solved by Frantic Tirades and Personal Abuse." Carey admitted that he had been an opponent of leasing in the past, but he had since changed his mind. The question of range control was of "historical" importance, he said, and there had been no shortage of good ideas. From Powell to the present Roosevelt, recommendations for a just and beneficial range policy were ripe for the picking. The problem, Carey maintained, was division among westerners themselves.[19]

Carey summarized the priorities of a grazing policy as he saw it, reflecting in large part those of Warren. He called for an extremely low grazing fee--four cents an acre at most--to be controlled at the local level, continuation of homestead openings to attract population, and finally measures to ensure that the income generated by grazing leases be returned to the locality in the form of school

and road funding. Carey emphasized the need for action. "The next Presidential election," he cautioned, "is likely to be a battle royal, and no one can predict the result." But more than politics in Washington, the key to establishing a workable grazing policy rested in the hands of the industry itself. "There will be nothing done now unless [the stock owners] agree to a measure and request its enactment into a law. Their representatives in Congress would undoubtedly carry out their wishes."[20]

While Carey pleaded for unity among the industry, Warren continued to struggle with sectional disunity in the Senate. He engaged in a back-and-forth with Senator Heyburn of Idaho over very specific sections of public land that Wyoming and Idaho "shared." Heyburn accused Warren of pressuring of Forest Service officials to attend a convention as a sign that he was in the pocket of the industry. Warren defended himself. "The woolgrowers had invited them, and they wished me to use my influence to insure their attendance. . . . As my letterbooks will show, I have both received and written numerous letters along that line." Heyburn backed down, but his point was made. The larger point--that western politicians were at an impasse as to the policy they craved--could hardly be missed.[21]

By 1909, however, resistance to regulated grazing seemed to be waning. Two key resolutions passed at the National Live Stock Association meeting hinted at growing acceptance. One resolution supported measures to lease unappropriated public lands, especially a bill being pushed by Senator Charles Curtis of Kansas and his counterpart in the House, Representative Charles Scott. The trade group endorsed leased grazing as "a reasonable, just and equitable measure," which would do much to improve the stock raising industry of the West. Furthermore, following Carey's appeal for western unity, the resolution called upon its members to "vigorously urge upon Congress its early passage." The meetings of the National Live Stock Association frequently promoted such resolutions, but an even more specific resolution was agreed upon at the 1909 convention. Perhaps seeking to smooth over tensions between ranchers and bureaucrats, the association endorsed the Forest Service and, most notably, its chief Gifford Pinchot.[22]

Warren looked favorably upon these moves by the industry. Writing to Carey, he said, "The resolutions adopted, I think, should be satisfactory to live stock raisers and farmers generally." He then entered the resolutions into the record of the Senate.[23] As often the

case with pronouncements of compromise, however, these resolutions disguised a still very real undercurrent of dissatisfaction. While the final "resolutions" of the National Live Stock Association presented one face, the proceedings of the meeting revealed a continuing discussion on the matter of grazing.[24]

Warren received similar messages pressing for the reformed grazing policy. The Albany County Cattle and Horse Growers Association passed a resolution resembling that of the larger association. The Albany group, however, also focused more closely on the subject of fencing. The removal of fences caused "much hardship and loss upon people engaged in the cattle and horse industry." While Warren received such complaints, he continued to pull strings for constituents, even writing to Pinchot directly on behalf of at least one person in securing leasing permits. The desire for change was in the air, but not much was happening on the ground differently than before.[25]

On the floor of the Senate, Warren was well aware of partisanship. In one discussion, he reminisced about his long-lost land cession bill. The notion of ceding public lands to the states came up, though not as a serious measure. With a touch of humor, Warren said, "I may say that I thought so some years ago. I introduced a measure

here. I promptly went out of the Senate on that speech and upon the idea that the lands should be deeded to the States." Senator Joseph Bailey, a Democrat from Texas, quipped in response, "If the Senator had not made the speech, he might have passed his bill."[26] Warren wondered aloud if he could ever achieve cession "without getting retired."[27]

Warren's activity on the grazing issue and land policy in general in 1910 was minimal. He introduced an amendment to a sundry civil appropriation bill to improve the roads in Yellowstone. He also introduced a bill to extend the time homesteaders were allotted to establish residence upon their claims. But major grazing measures came from other politicians. Senator Joseph Bristow, a Republican from Kansas, introduced a measure to fix the sheep grazing fees in forests. This was a sign of the direction legislation over the next several years would take; in the absence of a complete overhaul of grazing policy, western politicians worked to limit fees, extend payment deadlines, and in general chip away at the current system.[28]

Livestock associations continued to press for grazing reform, however. The Wyoming Stock Growers Association supported what was by then called the Scott Grazing Bill (H.R. 22462) promoted by the Kansas delegation. The WSGA

passed perfunctory resolutions supporting new grazing policies, urging its members to "use every effort with our Senators and Representative," (only one for sparesly populated Wyoming) to enact the bill.[29]

Joseph Carey, now a judge in Wyoming and prominent member of the WSGA, took the lead in pursuing grazing policy reform. Carey supported the Kansans' grazing bill wholeheartedly. In removing himself from one WSGA committee to focus exclusively on the grazing issue, he commented, "A a proper leasing law . . . is the ultimate salvation of the cattle, sheep and horse business in this State . . . I believe I would favor almost any kind of leasing bill, rather than have no leasing system."[30]

If 1910 saw little major activity on grazing policy, 1911 saw even less. Warren was distracted from all political matters by his marriage to his second wife, Clara. (His first wife, Helen, had died years earlier.) Even so, his main attention to land policy was the continued work to secure extensions for homesteaders. He also bargained for "leaves of absences" for homesteaders. Indeed, among Warren's few legislative measures that session was a bill to accomplish precisely that, S. 3052. The motivation behind this move was to provide some relief for homesteaders in a year of drought. Establishing a

homestead in some regions was difficult enough; Warren did not see why homesteaders should be penalized by the climate.[31]

Beginning in 1912, however, Warren entered a new phase of his career, one marked by increasing uncertainty. From 1912 to 1919, a clamor to alter land policy arose. Warren was at the center of some of this discussion and curiously absent from the rest. The fencing scandal of the previous years returned to haunt Warren politically. Coinciding with that embarrassment was the ratification of the 17th Amendment, requiring the direct election of Senators. The inauguration of Woodrow Wilson as president in 1913 also saw the Republicans lose control of both houses of Congress for the first time since the Cleveland administration two decades earlier. The Great War enlarged, diverted, and enticed the stock raising industry prior to the falling prices that would mark the 1920s. Although Warren's political power in Wyoming was, in the end, never truly at risk, this changing political landscape was enough to make him uneasy. Warren contemplated retiring from politics altogether.

In January 1912, Warren criticized the general land policy of the United States in tones that seemed

reminiscent of his pro-cession land grab fervor of the 1890s. Warren could be counted on to defend the stock industry, but beginning in 1912, as one early writer put it, "he evinced an apparent interest in the development of the West through the medium of the 'new' farmer"--that is, the scientific dry-farmer. To accomplish this, homesteading had to be opened up and promoted with a vigor not seen in some time.[32]

In May 1912 Warren pushed an enlarged homestead bill for Wyoming. This bill would gain for his state approximately one million acres. If passed, Warren believed, the acquisition would "solve very many of the range problems and difficulties which now annoy farmers, ranchmen and stockmen." The bill caught unusual attention, however. Senator Heyburn accused Warren of a land grab for Wyoming. "I understand that bill is confined to those lands in Wyoming," Heyburn said, "or it is not of general application." Warren corrected him as best he could. The bill was not specifically addressed to Wyoming, but as a matter of fact it did apply only to certain arid lands which "happened" to be located in Wyoming. Warren was walking a fine line and knew it. His hopes for success were mixed. "I fear . . . that the chances for securing the passage of the bill during this session of Congress are

not very good," he confided to a correspondent. The Interior Department opposed Warren's bill, largely because it put land in control of the state and not the federal government. As usual, Warren blamed eastern opposition based on ignorance of the western situation. But, tellingly, he acknowledged that divisions within the West itself worked against changes in land policy. "Even from the West," he wrote, "our own members are not wholly unified on this question, some of them being opposed to leasing legislation in any form."[33]

By 1913, however, opinion within the industry, at least as reflected by the trade associations, was unifying. The National Live Stock Association declared in January that it supported the current administration of the national forests. Once icy relations continued to thaw. Moreover, the association passed a resolution calling for federal control and leasing of unappropriated grazing lands using language that echoed almost word for word Warren's wishes.[34] The Wyoming Stock Growers Association met and passed similar resolutions, prompting one columnist to note the striking change of opinion and attitude. "The ranchmen now want a lease law. I remember well when to a man they were against it."[35]

In 1913 Warren introduced a flurry of land-related

measures into the Senate: fine-tuning the enlarged homestead act, a bill to give a new right of homestead entry to former homestead owners, several exchanges of land upwards of two million acres, and expansion of the hunting and destruction of predatory animals within and adjacent to the national forests. But the change in majority control of the Senate meant that fewer of his measures would see the light of day. Concerned constituents wrote to Warren, worried about patronage positions and changes in executive department offices. Warren responded saying to "hold the line" as best as possible: "The President and his administration will certainly appoint men of their own party when vacancies occur, and to this we are no in a position to object." Warren's frustration boiled over in a smug response to an innocent inquiry about the Senate restaurant. It, too, was now in control of the Democrats, and the inquirer could find out "from them . . . what the changes are to be and who is to take charge."[36]

Warren had reason to be frustrated. Once the Democrats had recaptured both houses, the old charges of illegal fencing were trotted out once again, this time into the official record. What Warren thought was wrapped up in the secretive meeting with Theodore Roosevelt was now back in the news. As T. A. Larson recounts, "House Democrats

could not resist looking into the matter. They timed their probe so that their findings could be released to the press during the 1912 campaign. Then, in 1913, their final report was published as House Report No. 1135." It was actually House Report No. 1335, but Larson's account is otherwise sound. The "report" itself is little more than a repackaged version of the original 1906 report done by E. B. Linnen for the Interior Department. The accusations--twenty-odd years of illegal fencing by the Warren Live Stock Company--were the same. The House committee behind the report was composed of four Democrats and two Republicans, including Representative Frank Mondell of Wyoming. Predictably, the final assessment of the matter broke down party lines. The Democrats stood by the charges, and the Republicans stood by Warren. Mondell, friend to the senator, argued effectively that the report was "old news," drudged up to discredit Warren.[37]

But the political damage was done. Warren, already out of power along with his fellow Republicans, was sufficiently discredited as far as the House Democrats were concerned. An early student of Warren's congressional career, Wesley Donald Brown, looked at the making of the 1916 Stock Raising Homestead Act and wondered why Warren's name was not all over it. "Warren had been the stoutest

supporter and champion of similar legislation," Brown wrote, "yet, for some hidden reason, he remained completely in the background during the stormy sessions devoted to this bill."[38]

Writing less than twenty years after Warren's death, Brown can be forgiven for overlooking the fencing scandal completely. In retrospect, however, we can see that Warren's "conspicuous absence" from the major livestock legislation of the mid-1910s was the result first of Warren simply being in the minority party, and second the outcome of a specific attack on his credibility by Democrats once they had the chance. Additionally, and perhaps most of all, Warren's daughter and three grand-daughters were killed in a house fire near the Presidio in San Francisco in August 1915. Warren's papers reveal virtually nothing of this tragedy. But it makes sense he would be distracted if not depressed. Only his grandson, Warren, survived.[39]

The fencing scandal never would have returned to the forefront had the Democrats not captured the Congress. Ironically, the very fact that Warren was relegated to minority status probably minimized the damage the scandal could do to him in Congress. With the Democrats in power, Warren had no committee chair to step down from, no privileged legislation to be assaulted. To his

constituents in Wyoming, the scandal was old news. And Warren's service to the state in terms of patronage and pork was never in question.

Although Warren had receded from the foreground on many land matters in the Senate -- thanks in large part to his new minority party status and the fencing scandal -- he continued to receive inquiries from constituents. Some asked for additional funding for the destruction of wild predatory animals on the range, a service particularly appreciated by the wool industry. Most, however, wrote to Warren about the grazing homestead act, often called the 640-acre homestead act. Warren dutifully reported that the measure was tied up in the Senate--by the majority party, he did not hesitate to add--and that he did not expect it to pass during the current session.[40]

In a revealing personal letter to a friend around this time, Warren mused on politics. He worried that "the drift of the Republican Party . . . in the last few years has been entirely along the line of disorganization." Warren had not used such pessimistic language or taken on a "woe is me" attitude to such a large degree since the 1890s. His papers from this era are sprinkled with ponderings of retirement.[41]

A few days later, however, the logjam of legislation

that had been holding up the discussion of the Stock-Raising Homestead Act in the Senate broke. On February 18, 1915, House bill 15799 finally made its way onto the floor of the Senate. The bill had seven brief sections, but the chief distinction was the change in the definition of "homestead." Previous homestead laws had required cultivation in the "improvement" of the land, a persistent Jeffersonian value. This bill, for the first time in American history, recognized the grazing industry specifically as an activity also worthy of using public land. Section Three was the key: "In lieu of cultivation, as required by the homestead laws, the entryman shall be required to make permanent improvements upon the lands . . . for agricultural and stock-raising purposes." If passed, this would signal a major change in the nation's land policy and the beginning of the end for the Homestead Act as a measure for the individual farmer. The bill had finally made it to the Senate, but Warren was correct in his prediction that it would not pass that session. But Warren was optimistic about the next session.[42]

In the absence of sweeping land policy reform, Warren continued the piecemeal approach to gaining lands for his state. The Wyoming legislature passed a memorial that called for the cession of public lands to the states, a

favorite but losing old cause of Warren's. He was realistic about the possibilities of land cession, and hoped the Wyoming legislature would be satisfied by his "bill pending proposing to cede a large acreage of public lands to the State for public-road purposes." Indeed, as the automobile began to change the American landscape, western politicians such as Warren used the issue of roads to their state's advantage. Warren's own Senate Bill 3572, introduced in 1913, attempted to grant public lands to the states for construction and maintenance of roads.[43]

The live stock industry began to embrace the move for a stock raising homestead act, however slowly. Perhaps it was just too early, but the meeting of the National Live Stock Association in 1915 barely discussed the homestead measure. Instead, it discussed the usual issues: protection, growing satisfaction with forest grazing, and a general call for federal control of the public grazing lands. Buried deep on the list of its resolutions, however, the association did discuss its support of the bill. "We strongly recommend the passage by Congress of a law providing for the federal classification and control of such land, under a just and reasonable method as will best utilize the same and preserve the grazing thereon, and as will provide for stock-raising homesteads upon such

portions as may be set aside by the government, after examination, as being of such character that 640 acres will reasonably support a family." If the National Live Stock Association reflected the industry, or at least the established part of it, there did not seem to be a clamor for a stock-raising bill at this point.[44]

By 1916, that began to change. The Wyoming Stock Growers Association adopted resolutions calling for stock-raising homesteads. "We believe the enlarged homestead," the WSGA held, "eventually means the better protection and fostering of the livestock industry, in that the grazing lands will pass to private ownership and thereby enable stockgrowers to protect and increase their livestock holdings by owning their pasture lands." A true homestead meant ownership, a step beyond leased grazing.[45]

The Department of Agriculture, however, was wary of such legislation. In the generally apolitical Annual Report, the department commented on what it saw as a negative impact on the forests from land legislation. "Measures of various kinds . . . if adopted, seriously would injure or even render ineffective the whole National Forest enterprise." Warren's hope of land cession, however, was no longer a threat to the department. "The proposal that the properties be turned over in their

entirety to the several States has a waning support and no longer needs to be taken seriously," the report said. The true danger to the forest system was the new stock-raising homestead. The passing of a stock-raising homestead law, from the perspective of the Secretary of Agriculture, would be an adjacent threat to the national forests and one that would have to be guarded against vigorously.[46]

As reported earlier, Warren was "curiously" absent from the drive forward on the enlarged homestead bill. Nevertheless, by December 1916 it was moving forward toward becoming a law. One of central managers of the bill in the House was Edward T. Taylor, a Democrat from Colorado. From 1916 on, grazing policy would frequently have Taylor's name attached to it. Apart from minor differences over implementation (especially over the definition of driveways, or the paths or trails of herding and transport within the homesteaded range), the House and Senate moved relatively quickly toward passage of the bill.[47]

Closing in on the holiday recess, the Senate moved to act on the bill on December 20 and 21, 1916. By the 21st, the Senate entered the final stage of discussion and debate. Warren was absent, but the other senator from Wyoming, Clarence Clark, took the lead in answering many questions. Before the end of the day, the Senate voted on

the bill and it passed. It was not a significant victory, however. Thirty-one yea votes versus twenty-five nays, with an amazing number -- forty -- of senators not voting at all. Warren was in this last group.[48]

The bill had passed Congress, however, and Warren seemed satisfied with the result when he reported to inquiring constituents. He assumed it would be signed into law, as it was, but he did not know how soon it would take effect on the range to the practical use of the industry.[49]

A flurry of interest in the new law came into Warren's office. Most communications were neither protests nor endorsements, but merely inquiries about the details of the law. Those details were still being ironed out, Warren said, and he would pass on information as it was made available. Warren's secretary wrote, "I believe everyone who can write . . . has written us for a copy. And why there should be such a grand rush over it is another queer thing, as it may be a long, long time before the areas are designated." Indeed, as Reed Smoot, Republican Senator from Utah, said on the floor of the Senate, there was such a demand upon all western senators that the law should be printed as a public document. Smoot's request was met with the printing of Senate Document No. 663.[50] Warren resisted giving advice to the many people inquiring about making a

stock-raising homestead.[51]

The year had barely begun and the Forest Service announced that it would be raising grazing fees in the national forests. Representative Carl Hayden of Arizona entered into the record a lengthy collection of protests from stock associations to individual owners. The Stock-Raising Homestead Act, though on its way to reality, was still an abstraction to most westerners. Forest grazing was the here and now. The Department of Agriculture justified the increasing fees for a variety of reasons. First, it pointed out, the net area of the national forests actually decreased from 1916 to 1917, and the number of forests dropped from 152 to 147, partially due to consolidation but also due to the whittling away that the secretary had warned about the previous year. Moreover, the entrance of the United States into the Great War had a significant impact on the administration of its forests, as many foresters and other officials were commissioned by the War Department as soldiers.[52]

Warren, meanwhile, continued on with his by now familiar routine of acquiring more public lands for Wyoming. A bill, S. 7894, for example, to exchange lands in Montana and Wyoming, drew, as Warren commented, “considerable sparring . . . on the part of Senator Chilton

[Democrat, of West Virginia] but he withdrew his objections after I had an opportunity to explain the situation to him."[53]

Another clue to Warren's lack of direct involvement with the Stock-Raising Act may lie in comments made by, of all people, Warren's rival Joseph Carey. Addressing the Wyoming Stock Growers Association, Carey did not oppose the enlarged homestead overtly, but he left no doubt as to what it would mean for the future of the industry. In short, the days of the open range were numbered. Carey believed all the public lands would be entered in a few years. He expected that the availability of land for grazing would be greatly reduced. "Some of the stockmen will take advantage of the conditions and will lease ranges in whole or in part from homesteaders. . . . The ranges hereafter will be of small size." For these reasons, Carey supported leasing policies as the only hope of fair and just grazing for the industry. Enlarging the homestead was "sure to change the condition of the live stock business in all of the remaining public land states." The wise stock owner would prepare for that immediately.[54]

Beginning in 1918, the situation the stock raisers faced began to worsen. A cruel combination of separate events worked against them, from the Great War to the

beginning of a three-year drought. The Stock-Raising Homestead Act, ostensibly designed to acknowledge a use of the land different than basic farming, came to be seen as a hindrance to the industry. Rising grazing fees in the national forests added to the concern. Warren was largely on the sidelines, offering the occasional measure to expand Wyoming lands or aid the burgeoning petroleum industry--including an area called Teapot Dome--but offering no solution to the stock raisers' problem and remarkably only perfunctory consolation.[55]

A signal of the bad times ahead can be found in the Department of Agriculture's Yearbook for 1918. While emphasizing the benefits of national forest grazing, the department contrasted the situation in private and the unregulated public lands. "The live-stock business is becoming precarious for owners who are dependent upon the open range." Grazing in the national forests, at least at this point, was still humming along smoothly.[56] In the more candid Annual Report of the Secretary of Agriculture, even the national forests were described as wearing thin. The drought affected these lands, to be sure, but at the root of the problem was the war.[57]

At the 1918 meeting of the National Live Stock Association, the industry was nervous. It called for

forest grazing fees to be frozen, if not lowered, and certainly not raised. It also demanded significant changes in how forest service grazing was administered. Among the industry's wish list: long-term permits, a move away from the 640 acre unit as a basis for permits, and grazing privileges to be based on "land and improvements, rather than upon live stock itself." As always, the association called for grazing jurisdiction over the nation's unoccupied public lands. It even called for grazing in the national parks as an "emergency war measure." Most remarkably, though, the National Live Stock Association also passed a resolution calling for the suspension of the Stock-Raising Homestead Act! The association believed the 640 acre land unit was "enticing many families away from comfortable homes" to lands where "they were utterly unable to make a living." Even more telling--and revealing of the industry's conservative tendency to protect existing owners against new competition--the resolution declared that the act "not only holds out false hopes, but also destroys existing range." The resolution called on suspension of the act entirely for the duration of the war.[58]

By 1919 the drought in the West was getting worse. The Department of Agriculture took credit for "acting promptly" and adjusted the movement of cattle within the

national forests. “At the time this movement [for relief] began,” the department boasted, “decided signs of panic were evident throughout the drought region. In a month’s time, however, they had entirely disappeared.” Perhaps, but this rationalized relief did not apply to the domain outside the forests.[59]

In 1919 the department contemplated raising grazing fees. Receipts were already at an all-time high ($4,358,414.86 that year alone) but the pressure of the war and the drought made forest service grazing a premium. In a sense, the federal government held the capital in a seller’s market. To make matters worse for the stock raisers, prices were falling throughout the year. The fall of 1918 saw good prices and an unusually gentle winter, leading many to think that their luck was changing. But it was not. The drought continued, especially harsh in Montana, Wyoming, Utah, and Idaho.[60]

When Warren noticed these declining prices and the general state of uncertainty in the livestock industry, he contacted his son, Fred, who was now running the Warren Live Stock Company. Until 1919, Warren’s papers kept political and business correspondence separate. That changed in the 1920s, however. The National Live Stock Association, meeting in 1919 to assess the dismal state of

the industry, called on politicians to rein in the rising grazing fees. At just the time the western senator was needed the most, however, he requested that he be removed from the Committee on Agriculture and Forestry. Why did Warren withdraw from a position so central to his state's issues? One can only speculate, but he was spending more and more time in Wyoming tending to his private business. Indeed, the official notice of his withdrawal from the Senate committee was sent by proxy; Warren was still in Wyoming when the session opened.[61]

As the decade drew to a close, the aging Warren withdrew into his business activities more and more. He continued to serve with vigor on many committees--Military Affairs was always a favorite--but the issues of land policy, grazing, and the livestock industry seemed to be an irritant more than anything else. As many parts of the nation moved into the "roaring twenties," American agriculture barely got a turn on the dance floor. Prices continued to fall, and the limits of land policy grew strained.

ENDNOTES

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4. Letter from the Secretary of Agriculture, Senate Doc. No. 315, 59th Cong., 1st sess., April 12, 1906, pp. 1–4.

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10. Theodore Roosevelt to the Senate and the House of Representatives, December 17, 1906, Senate Document No. 141, 59th Congr., 2nd sess., p. 4; Warren to W. W. Gleason, February 7, 1907, Warren Papers, Reel 36, Box 7, Folder 4, p. 879.

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12. Warren to E. J. Hulling, February 12, 1907, Warren Papers, Reel 36, Box 7, Folder 4, p. 936.

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14. Warren to W. E. Chaplin, February 21, 1907, Warren Papers, Reel 37 Box 7, Folder 5, pp. 5–6.

15. Congr. Record, 59th Cong., 2nd sess., vol. 41, p. 3517.

16. Congr. Record, 59th Cong., 2nd sess., vol. 41, p. 3542.

17. Warren to James H. [name illegible], February 22, 1907, Warren Papers, Reel 37, Box 7, Folder 5, p. 42. See also Warren to J. C. Underwood, February 25, 1907, Warren Papers, Reel 37, Box 7, Folder 5, p. 23.

18. Warren to William Richardson, February 27, 1907, Warren Papers, Reel 37, Box 7, Folder 5, p. 80; Warren to Arthur Marble, March 3, 1907, Warren Papers, Reel 37, Box 7, Folder 5, pp. 115–116.

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21. Congr. Record, 60th Cong., 1st sess., vol. 42, pp. 5723–5724, 5730–5731; Warren to Carey, May 7, 1908, Warren Papers, Reel 41, Box 8, Folder 4, p. 792.

22. Resolutions Adopted at the Twelfth Annual Convention of American National Live Stock Association, 1909, WSGA Papers, Box 216, Folder 3, p. 6.

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24. Proceedings of the American National Live Stock Association, 1909, WSGA Papers, Box 217, pp. 117–124.

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27. Congr. Record, 60th Cong., 2nd sess., vol. 43, p. 3231.

28. Congr. Record, 61st Cong., 2nd sess., vol 45, p. 2830; S. Bill 5010, Congr. Record, 61st Cong., 2nd sess., vol. 45, p. 459; Cong. Record, 61st Cong., 2nd sess., vol. 45, p. 2753.

29. To the Members of the Annual Meeting of the Wyoming Stock Growers Association, April 5, 1910, WSGA Papers, Box 82.

30. Proceedings of the Annual Meeting, April 5, 1910, WSGA Papers, Box 82.

31. Warren staff letter to J. C. Underwood, June 29, 1911, Warren Papers, Reel 53, Box 11, Folder 2, p. 237; Warren to S. A. Young, July 17, 1911, Warren Papers, Reel 53, Box 11, Folder 2, p. 506; Warren to W. C. Deming, July 17, 111, Warren Papers, Reel 53, Box 11, Folder 2, p. 508; Congr. Record, 62nd Cong., 1st sess., vol. 47, p. 3022.

32. Cong. Record, 62nd Cong., 2nd sess., vol. 48, p. 1018; Wesley Donald Brown, “The Congressional Career of Senator Francis E. Warren, 1912–1920,” M.A. Thesis, University of Wyoming, 1949, p. 50.

33. Congr. Record, 62nd Cong., 2nd sess., vol. 48, p. 6269; Warren to C. W. Marr, May 11, 1912, Warren Papers, Reel 57, Box 12, Folder 1, p. 805.

34. Resolutions Adopted at the Sixteenth Annual Convention of the American National Live Stock Association, January 14–15, WSGA Papers, Box 216, Folder 3, pp. 3–6.

35. Clay, Robertson, and Company's Live Stock Report, April 18, 1913, clipping found in WSGA Papers, Box 81, Folder 3.

36. Congr. Record., 63rd Cong., 1st sess., vol. 50, p. 53; Warren to A. P. Hansen, April 24, 1913, Warren Papers, Reel 61, Box 12, Folder 5, p. 978; Warren to Frank Campbell, April 25, 1913, Warren Papers, Reel 61, Box 12, Folder 5, p. 996; Warren to W. H. Brown, April 24, 1913, Warren Papers, Reel 61, Box 12, Folder 5.

37. Larson, History of Wyoming, p. 383. Being a comprehensive text on the history of the state and not a focused monograph, Larson treats the fencing scandal in barely a page or two. The fencing story, like so many regarding Warren, falls into a category of subjects scholars assume have been covered but have not. See the Gould "biography" as a further example of a work often cited as an authority on Warren's years in the Senate when in fact the book, fine as it is, does not cover Warren or Wyoming past statehood. For the House report, see "Report in the Matter of the Investigation of Charges that the Interior Department Permitted the Unlawful Fencing and Inclosure of Certain Lands of the Public Domain . . . by the Warren Live Stock Company," House Report no. 1335, 62nd Congr., 2nd sess. (Washington: Government Printing Office, 1913, pp. 1-64, Mondell's comments on p. 63.

38. Wesley Donald Brown, "The Congressional Career of Senator Francis E. Warren, 1912-1920," M.A. Thesis, University of Wyoming, 1949, pp. 62-63.

39. New York Times, August 28, 1915; see also Gene Smith, Until the Last Trumpet Sounds: The Life of General of the Armies John J. Pershing (New York: Wiley, 1998), esp. Ch. 10, and Frank Vandiver, Black Jack: The Life and Times of John J. Persing (College Station: Texas A&M University Press, 1977).

40. Warren to S. W. McClure, National Wool Growers Association, February 5, 1915, Warren Papers, Reel 67, Box 14, Folder 1; Warren to S. W. McClure, February 8, 1915, Warren Papers, Reel 67, Box 14, Folder 1; Warren to John Storrie, February 8, 1915, Warren Papers, Reel 67, Box 14, Folder 1; Warren to H. Carroll Kimball, February 9, 1915, Warren Papers, Reel 67, Box 14, Folder 1, p. 165.

41. Warren to W. H. Chaplin, February 14, 1915, Warren Papers, Reel 67, Box 14, Folder 1, pp. 232–235.

42. Congr. Record, 63rd Cong., 3 sess., vol. 52, pp. 3986–3990; Warren to Waldo Chown, March 5, 1915, Warren Papers, Reel 67, Box 14, Folder 1, p. 427.

43. Warren to Kendrick, March 10, 1915, Warren Papers, Reel 67, Box 14, Folder 1, p. 447; see also Brown, "Congressional Career," p. 54.

44. "Resolutions Adopted at the Eighteenth Annual Convention of the American National Live Stock Association," March 24–26, 1915, WSGA Papers, Box 216, Folder 3.

45. The Wyoming Tribune, April 17, 1916, WSGA Papers, Box 81, Folder 6.

46. Annual Report of the Department of Agriculture, 1916, House Document No. 1470, 64th Cong., 2nd sess. (Washington: Government Printing Office, 1917), pp. 41–42.

47. Congr. Record, 64th Cong., 2nd sess., vol. 54, pp. 490, 525–526.

48. Congr. Record, 64th Cong., 2nd sess., vol. 54, pp. 587, 639, and 642–647.

49. This language was standard in a number of letters Warren sent after the bill's passage. See, for example, Warren to Leo Noonan, December 26, 1916, Warren Papers, Reel 71, Box 14, Folder 6, p. 11; and Warren to E. T. Taylor (not the same Taylor from Colorado), December 27, 1916, Warren Papers, Reel 71, Box 14, Folder 6, p. 19.

50. Warren to Athon, January 5, 1917, Warren Papers, Reel 71, Box 14, Folder 6; Warren to Elwood Mead, January 5, 1917, Warren Papers, Reel 71, Box 14, Folder 6; staff to Arthur Piggott, January 6, 1917, Warren Papers, Reel 71, Box 14, Folder 6; Congr. Record, 64th Cong., 2nd sess., vol. 54, p. 829.

51. Warren to W. L. Horton, January 20, 1917, Warren Papers, Reel 71, Box 14, Folder 6; Warren to Canan, February 5, 1917, Warren Papers, Reel 71, Box 14, Folder 6, p. 417.

52. Yearbook of the United States Department of Agriculture, 1917, 65th Cong., 2nd sess., House Document No. [966? illegible] (Washington: Government Printing Office,

1918).

53. Warren to S. O. Hopkins, February 7, 1917, Warren Papers, Reel 71, Box 14, Folder 6, p. 447; Congr. Record, 64th Cong., 2nd sess., vol. 54, p. 2691–2692.

54. Cheyenne Daily Leader, April 14, 1917, WSGA Papers, Box 81, Folder 7.

55. Like proving a negative, it is difficult to document a politician's inaction on a subject. For Warren's involvement with the petroleum industry, however, see Warren Papers, Reel 74, Box 15, Folder 4, pp. 441–444. See also Congr. Record, 65th Cong., 2nd sess., vol. 56, p. 661.

56. Yearbook of the United States Department of Agriculture, 1918, 65th Cong., 3rd sess., House Document No. 1660 (Washington: Government Printing Office, 1919), pp. 29–30.

57. Annual Report of the Department of Agriculture, 1918, 65th Cong., 3rd sess., House Document No. 1612 (Washington: Government Printing Office, 1919), pp. 166, 183–186, 299–300.

58. "Resolutions Adopted at the Twenty-first Annual Convention of the American National Live Stock Association," January 12–16, 1918, WSGA Papers, Box 216, Folder 3.

59. George M. Rommel, "Live Stock Drought Relief Work in 1919," in Yearbook of the United States Department of Agriculture, 1919, 66th Cong., 2nd sess., House Document No. 728 (Washington: Government Printing Office, 1920), pp. 391–405.

60. Annual Report of the Department of Agriculture, 1919, 66th Cong., 2nd sess., House Document No. 438 (Washington: Government Printing Office, 1920), pp. 181–182, 190–193.

61. See, for a start, Warren to Fred Warren, January 21, 1919, Warren Papers, Reel 78, Box 16, Folder 3, p. 774. For the National Live Stock Association's demands, see "Resolutions Adopted at the Twenty-second Annual Convention of the American National Live Stock Association," January 21–23, 1919, WSGA Papers, Box 216, Folder 3. For Warren's absence from the Senate and withdrawal from the committee, see Congr. Record, 65 Congr., 3rd sess., vol. 57, p. 2192.

CHAPTER 6

WARREN'S FINAL YEARS AND DEADLOCKED SEARCH FOR A GRAZING POLICY, 1920-1929

The 1920s saw a renewed sense of urgency about the grazing problem. Agriculture in general missed out on the "roaring twenties" and instead wrestled with falling prices and depressed foreign and domestic markets. Warren's final years in the Senate, though, were custodial, marked not by bold moves to overhaul grazing policy but by piecemeal measures. The grazing debate moved ahead without Warren as a central voice. The aging senator was instead content to react to issues and problems as they arose; he left the search for a larger policy in the hands of others. Yet as a powerful politician, he was forced to interact with the day-to-day realities of grazing problems. Even in his declining years, he could not fully escape the issue.

The war was over, livestock prices were falling, and 1920 began a decade of unease for the stock raising industry. The wool market collapsed overnight, for example. Now even more dependent on national forest grazing, the industry found itself hemmed in by the regulations of forest grazing and the deteriorated conditions of the remaining open range. The Department of

Agriculture summarized the rancher's difficult situation regarding the national forests: "Much of the early opposition to the National Forests was based on the feeling that the system was un-American. It was held that private enterprise could develop to best advantage the great resources involved. On general principles, the average American has a healthy dislike of too much government." But by 1920, grazing in the national forests had become an expectation, even an entitlement for the industry. Especially when contrasted with the dubious conditions and administration of the open range, forest grazing had been a success.[1]

That sense of entitlement did not carry with it a blanket acceptance of all forest policy, however. Indeed, from 1915 to 1920 the grazing fees in the national forests had doubled, much to the chagrin of permit holders as the war increased demand. The National Live Stock Association, predictably, called for the lowering of grazing fees, or at the very least a moratorium on any increase. The group also reasserted its desire for federal control of the entire public domain, land outside the nation forests. Two hundred million acres of unallotted, unappropriated public land, "more valuable for grazing than for any other agricultural use, [was] now steadily deteriorating from

overgrazing, threatening its utter ruin." The association called on Congress to institute a grazing policy for such lands, to be directed by the Department of Agriculture. The industry would complain about specific fees and policies, but its reliance on the federal bureaucracy was fully entrenched by the 1920s.[2]

Warren, always a friend to the military, spent much of 1920 pushing a bill to give soldiers preferential treatment in claiming public land. As a measure of postwar appreciation, the measure sailed through with virtually no opposition. While Warren was racking up goodwill points from veterans for a move that could have been passed by virtually anyone, the real battle over grazing fees was taking place in the House. Congressmen Edward Taylor of Colorado and Carl Hayden of Arizona spoke at length about grazing fees in the national forests. Taylor, especially, had long held that public lands should be disposed into private hands, but he had accepted the idea of grazing control. Taylor would drive much of the future of grazing policy. Warren had little to say about the matter, and his work on land policy as it affected Wyoming centered around road construction, especially through the national parks.[3]

In a letter to his son, Fred, about the Warren Live Stock Company and the general state of the livestock

economy, Warren revealed his frustrations over falling prices. Profits were dismal, and Warren feared a forthcoming "shipwreck [of] the business . . . everybody will have to quit, eat less, and go naked." Warren also betrayed his contempt for the organized labor movement, however, something he was careful elsewhere to be diplomatic about. "There is one pleasure in that contemplation," he wrote, "and that is they will have a chance to get even with the A. F. of L. who have not got millions in their treasury and propose to run the world along all Bolshevik and Soviet lines." The 1920s were not off to an auspicious start for Warren and his private business.[4]

While much of the grazing debate continued in the House, Warren was not entirely uninvolved. In the Senate he followed an unauthored measure (originally introduced by the Committee on Agriculture and Forestry) that would require registration but no license for grazing use of certain public domain lands. Warren was not optimistic about the bill's future, but frequently mentioned it to inquiring constituents who wondered what he was doing in the matter of grazing. Additional measures regarding the leasing of grazing lands in Alaska also entered the discussion, though there was little disagreement about

grazing the territory so far away.[5]

Even the Department of Agriculture faced uncertainty as to the future of grazing fees in the national forests. The 1920 Annual Report was unusually revealing. The department admitted that regulated grazing had become "the principal source of money return to the Government from the national forests." Fees had doubled since 1915, and the department wondered about the wisdom of a continued increase of fees which might "add to the instability" of the industry. The report noted that existing leases were due to expire in 1923, and that care should be taken if the system were to be greatly altered at or before that time.[6]

Beginning in 1920, agricultural prices plummeted because of overproduction. By some estimates the price of food fell by 70 percent in the decade prior to the Great Depression, obviously resulting in hard times for farmers and stock raisers. Warren was receiving more and more complaints about the market in general and grazing fees in particular. "I am receiving much mail from bankers, stock growers, wheat growers, and others as to the deplorable conditions of the market," he wrote to the president of the Stockgrowers' Bank in Worland, Wyoming. Warren hinted at some action. "We are stirring up matters so that the Senators as they come in from the agricultural districts

may take a hand," Warren said, "and we ought to be able, it seems to me, with so many Members of Congress who must be interested and so many producers who are urging them along, to gain some relief." But he carefully refrained from promising anything specific: "Just what, and how soon, we are unable to state. In fact, we cannot state to a certainty that anything can be done, although we <u>believe</u> that something can be accomplished."[7]

To the editor of the <u>Sheep and Goat Raisers' Magazine</u>, Warren expressed similar sentiments, and even began a discussion of industry protection, however little hope there might have been for relief along that avenue. "Whether a protective tariff measure would be approved by a free-trade President is problematical," he admitted. "But I should like to see the members of the respective Committees on Ways and Means and on Finance try to engineer and bring to some sort of conclusion an amendment of the present tariff laws giving protection to these industries." Warren concluded his letter with a personal touch, reminding readers that he was in the same situation they were in: "As you may know, I am a raiser of sheep and wool, and have a personal as well as a public interest in such matters."[8]

But even on the matter of protection, Warren would not

take the lead. Instead he followed the path laid out by Senator Reed Smoot, Republican of Utah. Smoot never saw a tariff he did not love, and would be instrumental in the so-called Smoot-Hawley Tariff passed into law in 1930 that, many believe, only accelerated the nation's descent into economic depression. In 1920, Smoot introduced Senate bill 4557, a protective measure intended to provide relief for the wool industry. Warren said of this bill that it "seems to me to be the most practical" move on the subject, and assured constituents that they "many be sure that my efforts will be directed toward obtaining the relief desired." As always, however, Warren was cautious about the chances of the bill actually being passed in that session.[9]

Privately, Warren was very concerned over the wool market. The month of May was especially bad and the industry had seen little recovery since. Writing in December a personal letter to a friend in Colorado, Warren confessed that "the mercury in my system, especially as to finances, is way down in the bulb, and the bulb is not very full at that." He went on to recount the woes of the year. "In this year 1920 . . . we could not anticipate -- and I guess nobody living expected it, for certainly it is entirely without precedent -- that in the month of May, and

within almost a 24-hour period, the bottom would drop completely out of the wool market. And there has been no wool market since." As to whether tariff protection or some other political device could salvage the situation, Warren offered no comment. Warren later wrote to Fred outlining much the same situation, though discussing the tariff possibility. To his son he confided that the Smoot bill would probably pass the Senate but he had "the gravest doubts about it passing the House." The outlook was not optimistic.[10]

On top of everything else, Warren began receiving complaints from forest graziers about rumors that grazing fees were about to increase. Warren promptly wrote to the chief of the Forest Service to get answers. "Is it true that the Forest Service expects to raise the fees for grazing in the National Forests?" he asked. Warren, too, had seen statements in Wyoming newspapers to the effect that the fees were to be raised. The answer came quickly. "The Forest Service has no intention whatever of raising the grazing fees at the present time," Chief Forester W. B. Greeley wrote. It seemed that rumors began circulating after some members of the House Agricultural Committee had "expressed themselves very decidedly in favor of a radical increase in the fees," but the Forest Service itself, as

well as the Department of Agriculture, had no intention of raising fees. This was consistent with the account made by the Department in its annual report for that year. The Forest Service, Greeley wrote, considered itself in a "quasi-agreement" with the stock raisers not to raise or reduce fees until the end of the five-year period of the leases. By the mid-1920s, however, the situation would need to be reassessed.[11]

Warren quickly moved to quash the rumors of grazing fee increases, lest any of them cause a panic in the already nervous industry. He arranged to have portions of Greeley's letter published in newspapers throughout the state. Warren's office wrote the press release, and newspapers such as the Laramie Republican, Rawlins Republican, Basin Republican, Kemmerer Republican, and the Northern Wyoming Herald obliged by printing it word-for-word.[12]

Having put out that small fire, Warren was grateful to receive a letter from stock raisers in Nebraska that was not panicked. "Your letter is the first communication I have received," he wrote back, "[that] does not indicate a belief that the country is in a calamitous and deplorable condition." Warren went on to place his hope in the future president and a return to Republican control of the

government. “A courageous administration by President Harding will soon bring about improvements . . . . Criticism and kicking will avail nothing.” This exchange, however, stood out because it was such a rarity for Warren during this time.[13]

His day-to-day affairs soon returned to a steady issuing of reassurances that the forthcoming tariff would solve the stock industry’s problems. As quickly as the letters about rising grazing fees dropped off, inquiries about the tariff rose in equal measure. Warren responded in kind, generally sounding hopeful but pointing out that protection was slow in coming under the current administration and the best hope was if the Republicans could recapture the congress. To one constituent he was especially candid. “As you know, the Republican majority in the Senate is very small, and even if Southern Democrats would help us, contrary to their free-trade views, it is not believed that the President would sign a protective measure, and it is quite well understood that such legislation could not be enacted over his veto.” To another Wyoming constituent, he wrote simply, “All we can do now is watch, hope, and pray.” By the end of the year, he returned to Wyoming for the holidays and to handle business. His staff remained in Washington to continue

churning out a form letter that said the Senator was "using every effort possible to assist in bringing about favorable consideration of [Smoot's] bill."[14]

In 1921, the major development in the story of grazing was an effort to have grazing fees on national forests deferred. Assured that the fees would not go up or down, stock raisers hoped to delay payment in the face of a plummeting market. The National Live Stock Association said that its members were unable to sell their stock, pay required grazing fees, or receive any credit extensions from banks. The association requested that payment of grazing fees due on March 1 be allowed in two installments, one at the beginning of the summer and the other at the beginning of the autumn. In another, mid-year meeting, the association called not only for deferred grazing fees but for reducing them. Forest graziers said they had been purchasing their own feed to protect their stock, something in ordinary years they did not have to do. The forest bill was coming due, and they simply could not pay for it.[15]

Warren was quick to hop on this bandwagon. He secured the endorsement of deferred grazing from a local forester and reprinted the letter in newspapers statewide. A press release prepared for the Laramie Republican said that the senator urged that the fees for the grazing season of 1921

be reduced because of the “unfortunate condition of the live stock business.” Warren’s call for a grazing fee extension, the self-serving article said, would provide “a measure of relief” by postponing grazing fee deadlines until August 1. In conjunction with the press release, Warren contacted the secretary of agriculture, urging the same. Warren’s intercession on behalf of the grazing industry also included a harsh proposal that, after the proposed August 1 extension, any late payments be charged with interest. Graziers would gain some extra time to make their payments, but they faced charges of trespass and even cancellation of grazing privileges if late. Warren had to justify the grazing fee extension in terms, as he put it, of “broad public interest” and the stiff penalty insured him against charges of simply “giving away” grazing rights to his constituents.[16]

In the Congress, the main drive for the deferment of grazing fees, at least on the record, was in the House of Representatives. The House Committee of Agriculture recommended that grazing fees be postponed because of the “unusual financial distress” among the grazing industry using the national forests for grazing purposes the past year. The committee did even better for the industry than Warren had, pushing the payment deadline to September 1

instead of August as Warren had called for. The committee, however, addressed directly a problem with the deferment of grazing fees that the live stock associations and western politicians did not, namely the budgetary hardships that local governments would face as a result of the deferred fees. Construction and maintenance of roads and trails in the national forests, as well as local school district funding, were highly dependent on grazing fee revenue. To offset the problem, the House committee essentially rearranged the calendar of grazing fee permit issue, collection, and reallocation of funds to local entities. The committee justified this shell game in this way: "this adjustment was due to the local States and counties in order to carry out the intent of existing law relating to the use of national forest receipts." As Warren wrote privately, "Even though the government does need the money, the live stock growers need it more." While the House worked to extend grazing fee deadlines, on the other side of the capitol, the senator from Wyoming offered another measure to benefit certain members of the grazing industry. On April 3, 1921, he pushed through an amendment to the Homestead Act that expedited the "proving up" process for disabled veterans of the Great War. It was a small but symbolic measure. A veteran himself, and father-in law to

Pershing, Warren was always eager to aid the military. The vigorous debate over grazing fees raged in the House, however, and Warren was not reluctant to let Wyoming Representative Frank Mondell take the lead.[17]

Although his public record revealed little of it, Warren shared the same tension and unease that the livestock industry exhibited. In a letter to his private attorneys, he confided that when people asked him to share his thoughts on the wool business or the prospect of tariff protection, he "did not like to express too much anxiety." Indeed, Warren received numerous inquiries about the tariff issue that generally expressed a fear of losing support for protection. In responding to one nervous interest, the National Sheep and Wool Bureau of America, Warren attempted to assuage their fears. "Yes," he wrote, "the newspapers print all sorts of things about what Senate and House committees are going to do or not going to do. As a matter of fact, the Senate Finance Committee has made no plan whatsoever about suspending the tariff hearings." The 1921 tariff debate encompassed many industries and products, including beef and wool. Fearing the "foreign meat situation," especially, testimony from representatives of the National Live Stock Association figured prominently in the hearings. "We should place a tariff sufficiently high

on live stock and the products of live stock to cover the cost of production compared to that of foreign countries," one witness declared. "Plus a reasonable profit," he added. Nervous grazers especially feared competition from Mexico, Brazil, and Argentina, but also even Australia, New Zealand, and South Africa.[18]

In addition to quelling rumors about Senate inaction on the tariff, Warren also began receiving a steady stream of correspondence complaining about the proposed expansion of Yellowstone Park. In response to a query from members of the Wind River Live Stock Growers Association, for example, Warren claimed that he did not know "of anything that is being actively urged at the present time in either direction mentioned." The greatest fear the Wind River interests expressed rested in "possible restrictions of grazing privileges in the reserved lands of Wyoming." Warren assured the owners that he would "keep the best wishes of your Association in mind if anything develops in the future inimical to your interests." Industry resistance to national parks would grow. Indeed, the National Live Stock Growers Association soon passed a resolution protesting the creation of any additional national parks, especially those created for recreation. The industry argued that the national forests served "all

the needs of the public for recreation, hunting, and other purposes," while parks--walled off against grazing--"entailed upon the country economic loss."[19]

By the end of 1921, Warren's private correspondence with his son, Fred, increasingly revealed the fears and frustrations over the dismal state of the grazing industry. The unfolding of this father-son conversation spoke volumes about the growing anxiety that marked the decade and provided a private counterpoint to a politician's public declarations that progress was being made. "In my opinion," Warren first wrote, "no man can start in the sheep business and stock up a ranch with young sheep at present prices and expect to make anything, or even perhaps pay expenses."[20]

Another blow came in a July 1922 editorial in the New York Herald. The editorial criticized tariff legislation in the Senate, not for the reform itself but because so many members of the Senate were major players in the wool industry. Warren was listed second only to Senator Smoot; both headed a list of western senators in a "wool growing clique."[21]

Privately, in a letter to his son, he seethed at the editorial, especially coming from a publication "which is now supposed to be a Republican paper." Warren dissected

the article for motivation, eventually deducing that it was really an attack on the whole of the Senate, while the "wool men" were simply a gimmick to "point with alarm . . . and try to make it unpopular with the mass of voters because the western wool growers were few in number." Warren saw all of this as an omen for the grazing industry, especially his own personal stake in it. At the end of the several page letter, he arrived at a startling conclusion: "I am writing this, Fred, more to put you wise to the fact that we had better get out of the business as soon as we can." To a man who had built his fortune through a combination of grazing politics and practice, the future looked bleak indeed.[22]

Warren's dismay over the industry would only grow more profound. A few months later he confided to Fred that "the creeping sickness sails over me whenever I think of the cattle we have had to sell at the prices we have received." In another letter he wrote: "In this letter, Fred, I confess that I am more or less discouraged, disgusted, and blue, and have been growing more so for some months in relation to land and live stock matters . . . I would drop the whole landed business for what stands on our books." Warren strained to find a villain in the collapsing livestock prices. He said that the wartime pressure to eat

less beef “has gotten people into the habit of going without beef” altogether. Even deeper than consumer habits, Warren blamed “the profiteers--the middle men . . . particularly the retailer” for inflating prices and further discouraging people from buying beef. In a final display of conflating issues, Warren then ranted about the cost of a recent steak dinner, even as he railed against the market prices. In another letter, however, he regained his composure and actually offered a sound explanation for the industry’s situation. “We thought when the war commenced,” he wrote to Fred, “that there might be a dump and prices fall at the end of it, but very soon after that lull . . . we would have all the better of it, because Germany would be without cattle and wool; other nations in somewhat the same condition, but the trouble is they are all so poor they can scarcely buy anything, and in the meantime other countries not in the war, under the stimulation of high prices, increased their live stock and farm products so that we, instead of being exporters, are sort of sidetracked and we really have to buck against the world.” In the midst of his depression over the industry, Warren stumbled onto the realization of a globalizing economy.[23]

None of this made its way into the public record, however. It was all father and son conversation. In the

Senate, Warren busied himself with routine matters of validating public land entries for Wyoming constituents. He also shrewdly introduced documents to distance himself from the still recent and unfolding Teapot Dome scandal, first broken by the Wall Street Journal in April 1922. Indeed, Wyoming's other senator, John Kendrick, would lead the charge in the investigation that would eventually bring down Secretary of the Interior Albert Fall. Warren made it into the record on the right side of the developing story. Kendrick made a name for himself in the Senate investigation, but Warren soon had little to do with Teapot Dome at all. In 1923, Warren worked behind the scenes to have former Wyoming representative Frank Mondell installed as Fall's successor as Secretary of the Interior, but Warren's dream of having a Wyoming figure in such a high position never materialized. President Harding instead chose Hubert Work, a physician and former postmaster general, to fill the vacant spot in the Interior Department. Harding's administration was rocked by scandal; having a Wyoming man in Fall's place would only be a constant reminder of Teapot Dome, and was probably never a realistic choice.[24]

Instead, Warren continued to focus on Wyoming-related issues. Yellowstone National Park returned to the

forefront of his attention. Beginning in January 1923, Warren again received many inquiries and concerns about rumors of the southern boundary of the park being expanded. Warren expressed doubts that any expansion would occur soon, but ensured concerned constituents that he would monitor the "official" situation. Individuals contacted Warren in the hope of getting inside knowledge on the National Park Service's plans. Even the Cheyenne Chamber of Commerce, geographically on the opposite side of the state, sent inquiries.[25]

Some constituents feared that Montana interests were pushing the Park Service into expanding Yellowstone; moving the boundary further south would mean lost land for Wyoming. By the middle of January, as the early March dismissal of Congress approached, Warren was content enough to reply that the Montana interest "had subsided." By the end of the month, however, Warren's office was still receiving a steady stream of correspondence from Wyoming interests. Warren attempted to pacify anxieties. "So far as I know," he wrote to one constituent in the Teton Range, "there is no bill such as you describe pending before Congress."[26]

Other Wyoming interests saw great value in the expansion of the park through tourism. Warren received

scores of letters from people in the Jackson Hole region who were enthusiastic about the possibility of bringing Yellowstone closer to their property. As Warren put it when writing privately to a Wyoming state representatives, "quite a number of dude ranchers . . . would derive financial benefit from the enlargement of the park." Knowing that at this point the matter was essentially a swirling rumor and far from implemented policy, Warren played it safe and remained non-committal to both sides of the question. "I am familiar with both sides of the question," he wrote in a typical response, "and shall give it careful consideration."[27]

Dealing with the Yellowstone question or responding to inquiries about political philosophy could be an easy diversion when compared to the growing discontent found in all sectors of the agricultural industry, however. Warren expressed sympathy for the struggles of agriculture in the 1920s. He cast himself in the role of the Jeffersonian farmer, so important to American democracy. "I too was a dirt farmer all of my early life at the real work in the field, where I earned my living by the sweat of my brow and body," he wrote to one Wyoming farmer. Of course, Warren had not been a farmer since his early twenties. The recent downturn in the livestock business, though, gave him an

opportunity to commiserate with the struggling farmer.[28]

While Warren expressed comradery with the salt-of-the-earth farmer, he saddled up with the grazing industry and expressed disdain for organized labor more than ever before. He singled out Samuel Gompers and labor strikes as "the real meat of our troubles." Gompers was "a Democrat, a trickster, a man with a big salary that he believes he can receive only by keeping things in an uproar and inciting [his] members with the fear that Gompers must be followed in whatever he proposes or they will suffer accordingly." Organized labor, especially the threat of strikes, disrupted the natural market system, Warren believed, and was partially responsible for the falling prices that "pretty generally ruined" the farmer and rancher of the 1920s.[29]

Most Wyoming constituents, however, viewed Gompers and rallying labor as distant and unimportant to the day-to-day struggles of agriculture, a convenient scapegoat but not a serious target for policy. Livestock owners wanted protectionism and the fringe benefits of tariff legislation, especially provisions to fund the destruction of predatory animals. On the face of it, government hunting and trapping of wolves and coyotes seemed to have little to do with foreign competition, but western

politicians such as Warren were skilled at bundling a variety of benefits into their legislation.

Indeed, Warren was always responsive to livestock industry demands. In February 1923, he forwarded to the Internal Revenue Service an angry telegram from the Natrona County Wool Growers' Association, headquartered in Casper. Warren submitted the telegram as "one among many, many . . . complaints" he had received. In one angry paragraph, the telegram summarized the misfortunes of the grazing industry In short, except for a brief war-time period, business was bad. That Warren so dutifully forwarded such a message indicated the pressure he was under as a politician and, closer to home, as a businessman with a personal interest in the failing industry.[30]

And his personal interests were indeed suffering. Writing a few days later to his son, Warren said that their company was "more of a liability than an asset, for I can see little hope in the future for profit." Again, he contemplated selling it all. "You know, Fred, one thing is certain," he said. "It would seem better to beg the business, get out as soon as you can, and charge off the losses, and what capital you have left put into something that you know would bring money." But Warren was not quite ready to bail out on the business that he had nurtured for

so long. In the Senate, Warren placated the Wool Growers of Natrona County by pushing through unanimously a measure (S. 4146) to grant 640 acres to the county for "public park purposes."[31]

From the perspective of the Department of Agriculture, however, the bad times were described with less hyperbole. In summarizing the grazing industry for 1923, the Department of Agriculture admitted that the 640-acre grazing homestead act and tariff reduction had combined to deplete the wool industry, while the cattle industry had been growing. Even the cattle industry, though, suffered a setback after overextending itself during the war years. Credit was in jeopardy. Stock liquidation was rampant. The majority of livestock owners were now fully dependent on leasing their grazing lands, and increasingly "there is generally insufficient range for all." The only bright spot in the industry could be found with livestock owners who had the resources to supplement public land grazing with grain feeding in the final stages before leading the animals to market.[32]

These comments were found in the Department of Agriculture's Yearbook, a document designed with the agricultural user in mind. The Annual Report, aimed more precisely at Congress, expressed even more concern about

the need for a new grazing policy. It recommended raising grazing fees, or at least revamping them to reflect more accurately the true value of the land. "In other words," the report said, "the very stability which the livestock industry desires and should have in the use of the national-forest ranges demands that users pay the public fairly for value received." This statement was qualified with remarks that the government was not attempting to turn national forest grazing into a profit-making venture, but instead was seeking only to "require payment for the value of the public resources used . . . as determined reasonably and equitably on accepted business principles." These notions would not go unnoticed by the livestock industry for very long.[33]

But grazing was only one aspect of the national forest system; the federal government had to manage it appropriately with other uses, from timber to tourism. One solution was obvious: to increase the size and allocation of the public forests. While western politicians such as Warren worked tirelessly to acquire more land for their states, the federal government was moving in the opposite direction. This push-pull relationship was best summed up in a concluding statement in the 1923 report: "Since local as well as national welfare is at stake, every reasonable

encouragement should be given to the States to cooperate with the Federal Government in buying idle forest land which can be restored to productive use only through public ownership." The notion of what constituted "reasonable encouragement" would also soon come under question, if not attack, from grazing interests.[34]

By the spring of 1924, Warren began receiving another round of letters protesting grazing fees in general and expressing fear that fees would be raised. One cattle owner from Pinedale, Wyoming wrote that he was deeply in debt, had no chance at future credit, and would be unable to pay even the token fees necessary to graze in the nearby forest. "The only thing we can do," he said, "is to hang on and hope for better prices for our livestock." This man, accustomed to grazing public lands, requested that new users of the forest be kept "to a minimum or a free grazing permit be issued for this season." Another man, writing from Rock Springs, echoed the concern and blamed banks for the industry's woes. "It is pitiable the condition that the cattlemen of this nation are in to-day," he complained. "They have put up all the security they have; they have their ranches that they have been for thirty to fifty years building up; all their livestock, ranches, and all their property mortgaged up to its full limit. They have no way

to pay the grazing fees except the banks put up the money without any security." The situation was dire, "all of these cattlemen . . . down and out," and the writer appealed to Warren to do all he could to secure some relief. "Won't you be good enough to go to the Secretary of Agriculture and lay this matter before him?"[35]

Without delay, Warren did just that. He wrote directly to Henry Wallace, the secretary of agriculture, and relayed his troubled constituents' pleas for help. He asked Wallace to "extend some unusual relief." Warren then wrote back to the cattle owners to explain that he had carried out their wishes in the name of good public service. He also included copies of two bills currently lingering in the Senate that might offer some relief. Senator Phipps of Utah had introduced one bill, S. 2424, to reduce grazing fees and also a more radical bill, S. 2325, that would turn over all of the unreserved public domain to the development of the live stock industry. Warren was candid about his doubts that such bills would ever be implemented, having "received no encouragement up to the present time." Indeed, Warren informed his constituents that there was little chance that grazing fees would be reduced, or that an increase could be averted, "unless administrative power is taken away from the Secretary of

Agriculture." Warren's papers show no trace of a response from Wallace on the matter.[36]

Perhaps out of frustration, perhaps out of desire to be involved in less regional issues, Warren in the 1920s expressed increasingly less interest in actually drafting legislation in regard to the land policies affecting the West. Indeed, at the same time that he went to bat for struggling Wyoming ranchers, he deliberately declined a position on the Committee on Public Lands. In the provenance of his preserved papers, Warren kept a curious piece of hate mail. To what extent it is directly related to his lack of action on land policy, or merely the ravings of an unbalanced citizen, is unclear. But there it is: "You are a traitor to your party," the writer said, "a menace to your country. If Congress knew how it stood in the eyes of the majority of the people, it would adjourn and its members slink home." Warren dutifully offered a terse response: "Thank you--with kind regards, very truly yours, F. E. Warren." After decades in office, and having endured worse, Warren probably preserved the rant for a chuckle.[37]

Although no longer serving on the Committee on Public Lands, Warren and his office maintained a close relationship with the grazing industries. Not only did

Warren repeatedly relay the desire to have grazing fees reduced or deferred, he also pressured the Department of Agriculture to take other steps to provide relief for his state's chief industry. He wrote to Secretary Wallace with "creative" measures such as defraying the expenses of livestock inspection at various market centers. Such "relief" often fell upon deaf ears, with only a perfunctory response from Wallace if any at all, but Warren made sure his staff forwarded copies of his appeals to grazing interests back in Wyoming. At the very least, he maintained an appearance of action.[38]

Warren was not above intervening on behalf of a specific company either. In 1924 he went to considerable trouble to promote the business of the Leo Sheep Company in Rawlins, Wyoming. He introduced Senate Bill 3362 specifically to benefit the company. Like many other legislative proposals, the bill was a land exchange, conveying "certain lands" to the United States government for the purpose of "the improvement of the Medicine Bow National Forest." This bill was different, however, in that from its inception it authorized a specific company -- the Leo Sheep Company -- to sell part of its land and receive additional unappropriated lands in return. The federal government only sold the grazing rights, however, keeping

mining, mineral, and oil rights in its name. More than most national forests, the Medicine Bow was a fragmented, disjointed series of “islands” on the map and not a continuous swath of protected land. The Leo Sheep Company Bill, despite its name, was a step in unifying the Medicine Bow forest, or at least that was how Warren and members of the Public Lands committee promoted it. Warren’s office wrote to interests in Rawlins, Wyoming--the headquarters of the Leo Sheep Company--and reported that the outlook for the bill was “favorable.”[39]

The Leo Sheep Bill was symbolic of the path Warren took in the 1920s. No longer presenting sweeping proposals to alter radically the land system of the United States, the aging senator was content to react to issues one at a time as they arose, especially as they affected his home state. The grazing industry in Wyoming, however, still clamored for grand reforms. At the same time that Warren was pushing through the legislation to benefit the Leo Sheep Company, the Wyoming Stock Growers Association met to discuss the future of the industry.

The WSGA devoted considerable time to hear the comments of one Mr. Hatton, who had met with the secretary of agriculture and other officials in the Forest Service to ascertain the grazing situation. Carried by applause,

Hatton took his industry audience through a laundry list of the wounds to the industry. The Great War, he said, was the first body blow. Four years of the "greatest catastrophe the world has known could not be made good in a day." Out of the ashes of the world war, the grazing industry next faced severe credit problems, Hatton said, chiefly due to years of "recklessness and carelessness" in both the issuing and foreclosing of credit. Finally Hatton arrived at the most tangible cause for discontent, "the grazing fee question." Hatton singled out but did not name a few congressmen who "thought the present rates were too low and that they should be increased about three hundred percent." Hatton sympathized with the Forest Service and said that it only raised fees reluctantly; he cited the phasing in of fee raises and the locking in of fees as evidence that the Forest Service was not out to gouge the western rancher. Fresh from a meeting with federal officials and apparently wooed by their perspective, Hatton placed the blame for the lack of a grazing policy not on the Forest Service but on the fragmentation of politics itself.[40]

Hatton's diagnosis was correct. In the Senate, a variety of grazing discussion was underway, though with little unity or particular momentum in any direction.

Senator Duncan Fletcher, a Democrat from Florida, introduced a "plan for making the forest reserves productive." Fletcher's plan centered around a paper written by Martin Dodge, an official with a background in public road policy. The Dodge paper began with a cutting observation that drew on conservation. The paper declared: "A Japanese statesman recently said, 'The American cares for his country because he believes it belongs to him; a Japanese cares for his country because he believes he belongs to it.'" The paper went on to accuse the western states of greed that drove the "exhaustion" of the public lands. For all the bravado critical of western land policy, the solution Dodge offered -- and by extension considered by Fletcher -- was to offer an additional 160 acres to the homestead, hardly enough to make a significant difference in the vast ranges of the West and perhaps just enough to prolong the disproportionate land policy that had been in place for decades.[41]

Another piecemeal move in the Senate came from Ralph Cameron, a Republican senator from Arizona. Cameron entered into the record a desperate letter from a constituent rancher. John Hampton of Phoenix listed the by now familiar refrain of the grazing industry: years of drought and bad luck, credit woes, and the fear of rising

grazing fees that would outpace profit. Ranchers were cash poor and unable to pay taxes and grazing fees, he said, appealing that grazing fees be suspended for the next two years. In and of itself, the Hampton plea was nothing new; indeed, the records of various stock raising associations reflect resolution after resolution calling for the same measures. But Cameron was responding to the pressures of a major industry in his home state, as Warren had on countless occasions. Through the early 1920s, few politicians were calling for a complete overhaul of United States land policy, but most instead seemed content to mend the tattered garment with patches one resolution or bill at a time.[42]

That began to change in 1925. Both the House and the Senate held hearings on the grazing situation. The House hearing debated the reduction or suspension of grazing fees and also established a Board of Grazing Appeals as an attempt to give burdened ranchers a forum for airing their grievances -- apart from constant complaining to their representatives in Congress. The Senate primarily tackled the grazing issue in the context of the national forests. Warren's interaction with constituents on grazing paced on as always, though his on-the-record presence in the Senate was overshadowed by other westerners.

Where Senator Smoot of Utah began the year flooding the Congressional Record with memorials from his state's legislature calling for reduction, suspension, or any relief possible on national forest service grazing fees, Senator Warren dealt with grazing issues behind the scenes. Warren used his influence to secure a job with the Internal Revenue Service for a Wyoming constituent, a banker, who had lost it all when his bank failed. The credit woes of the 1920s, it seemed, not only affected ranchers, although few ranchers had a senator who would line up a second job for them.[43]

Warren's staff answered the increasing clamor for grazing reform, cautioning all correspondents against getting their hopes up; "I cannot imagine how it [a grazing bill] would have the ghost of a show to get through all of the legislative steps that would bring it to the President for approval during the present session," a typical answer read. Warren himself spent more effort on securing funding for a road from Yellowstone National Park to Cody, Wyoming and additional service roads for the recently completed Shoshone Dam. Warren did set aside time to answer a letter inquiring about business prospects in Wyoming. This letter was quite like the inquiring homesteader from Pennsylvania

in 1897.* Where Warren was guarded and matter-of-fact in his 1897 response, offering a summary of land laws in a token promotion of his state, his response nearly twenty years later was bluntly pessimistic. "I believe that no State in the Union was harder hit by the changed conditions that followed the cessation of the World War," he wrote of Wyoming. "Those who did not suffer the loss of everything in 1919 have had their burdens to bear during the succeeding years," he concluded. Warren's letter was hardly the promotion a chamber of commerce would have hoped for. Indeed, Warren discussed the failure of legislation to benefit Wyoming since the Great War; if Warren was trying to frighten away settlers, as some ranchers wished to do to limit competition, he probably succeeded.[44]

In late February 1926, the Senate began hearings on the conditions of the stock raising industry in general and grazing in the national forests in particular. Many senators took their place in the well. Senator Henry Ashurst of Arizona offered remarks under the heading "Injustices Practiced Upon Cattle Growers" and claimed that the range cattle industry was "about to be exterminated." Smoot offered comments as well, and Senator Ralph Cameron entered into the record pages of appeals sent to his office

*See Chapter 1.

calling for a grazing policy that westerners could live with. Warren was not present. Wyoming interests were represented instead by Senator Kendrick, who supported reducing grazing fees, but with reservations. First, Kendrick defended the Forest Service and the Department of Agriculture from attack, casting blame for raised grazing fees onto the House of Representatives. Second, Kendrick sympathized with the struggle of grazers to pay the forest fees but emphasized the need to keep those fees competitive with private lands, lest the national forests be overrun and injured from overgrazing. Warren's office issued perfunctory summaries of the debate and copies of proposed legislation to those who inquired, but the senator said little about the debate in either his personal or political correspondence.[45]

Where Warren's name did surface in connection with grazing was from his position on the Committee on Appropriations. A Deficiency Appropriation Bill, a standard bill following the House's general appropriation bill, worked in among many other items, direction and funding for a "joint commission for the investigation of the public domain." This commission would be made of up three senators, appointed by the President, and three representatives, chosen by the Speaker of the House. Their

task was to investigate the public domain and its administration, including grazing lands, and forest reserves. Although no time frame for the commission was assigned, it appeared that the land policy of the United States would again come under scrutiny and perhaps reevaluation. Again, Warren's association with this commission was limited. In the meantime, the House pressed on and actually waived grazing fees in drought-stricken parts of the West. Technically, the Congress authorized the secretary of agriculture to lower and waive fees "according to his discretion," but the meaning was clear. Some discussion of this measure followed on March 3, but Warren did not participate.[46]

Warren showed little involvement in grazing on the record, but behind the scenes, as always, he worked for constituents and Wyoming interests. He personally intervened on behalf of a Wyoming judge who had a side-business in the sheep industry near the Black Hills. Apparently the judge was having difficulty in securing a grazing permit; Warren's wrote directly to the Chief of the Forest service to expedite the matter. He also wrote to the judge, a resident of Sundance, Wyoming, to assure him that he had done his best but could not promise anything. Warren frequently hedged his bets in this way.[47]

Warren did submit to the Senate a few memorials from the Wyoming state legislature, including a message from the Wyoming state legislature that opposed the creation of grazing districts on public land; indeed, Wyoming said, "we urgently request that the Congress of the United States do not pass said bill." Warren offered no comment at this point other than to introduce these memorials into the record.[48]

By the summer of 1925, grazing matters quieted down, at least in Congress. The Commission was underway, the House had pressed for a reduction in grazing fees. Warren carried on as usual. When the Wyoming Stock Growers Association met in June, however, it seemed that little had changed. Warren's old rival Carey, now working for the industry, spoke to the group. Carey saw a solution in the works. It was possible that a Leasing Bill might emerge from Washington. But Carey guarded his optimism, recognizing the lack of a united front for the West. "It is unfortunate that we cannot agree amongst ourselves, and that consequently it is not possible to get legislation through Congress." In this rare moment, the range industry was telling itself that it was its greatest impediment, not the Congress or some federal department. By the end of the meeting, however, the Wyoming industry group stopped short

of calling for a new leasing system. The WSGA's 1925 meeting offered no resolution calling for -- or against, for that matter -- a leasing bill as Carey desired.[49]

The search for a grazing policy continued the following year with more hearings and debate. Several bills were introduced to address a variety of grazing issues, from specific bills to reduce grazing fees or provide for grazing in the territory of Alaska, to larger measures designed to overhaul public domain use in general. Many of these bills disappeared into the chasm of committees. Congress reflected the anxieties over grazing but enacted very little. A lively debate in the House even attempted to connect the need for a grazing policy with a strong national defense, recalling the old aphorism, "an army fights on its belly." For his part, Warren's interaction with the grazing issue was consistent with his recent past -- that is, responding to specific problems of constituents and industry interests. Even so, whatever renewed impetus there may have been for grazing reform, Warren was growing weary and increasingly less involved with the details of legislation.[50]

Even his desire to work on behalf of specific Wyoming industries waned. The 1925 bill, for example, to exchange Leo Sheep Company lands with the Medicine Bow National

Forest was favored by the Department of Agriculture but opposed by the Department of the Interior. Warren's office merely handed the matter to Wyoming's other senator, John Kendrick. Kendrick held a seat on the on Public Lands and Surveys committee and, Warren thought, stood a better chance at achieving a favorable result for the Rawlins company. Senator Robert Stanfield, a Republican from Oregon, had recently taken the chair of the powerful committee; Kendrick and Stanfield, both allies of Warren on many issues, could accomplish more than Warren might alone. At the very least, the matter was out of Warren's hands.[51]

Privately, Warren doubted that any general grazing policy would emerge from this Congress or any in the near future. Writing to a friend in Wyoming, Warren distilled the difficulty of managing the public domain down to its essence. "The whole subject," he said, minimizing intra-West disagreements over grazing, "is necessarily tied up with the conditions existing in other sections of the country . . . The difficulty lies in arriving at a general policy."[52]

Indeed, one form of this resistence to a grazing policy coming from those "other sections of the country" that Warren referred to was reflected in a memorial to Congress presented by Senator Hiram Bingham, a Republican

from Connecticut. Bingham entered into the record a statement from the Connecticut State Board of Fisheries and Game, opposing especially Senator Stanfield's bill to regulate grazing on the public domain. Stanfield held hearings in the summer of 1925 that offered a "sounding board" against the Forest Service. Stanfield's bill, S. 2584, was a comprehensive bill, covering both land in the public domain and in the forest reserves. Stanfield called for grazing districts to managed much like those in the forest system. Stanfield's bill did not pass, but it made it onto the floor--"the first bill in twenty-five years of attempts to have such legislation reported from committee," according to E. Louise Peffer. The bill did not pass because of prolonged disagreement over grazing fees, and perhaps the animosity stirred up by the hearings. Bingham and the Connecticut conservationists said that the bill, if enacted into law "purports to regulate grazing on the public domain" but would "actually make regulation impossible." The statement went on to condemn Stanfield's bill as "a most vicious attack upon our national conservation program" that would be a "great cause of game destruction and of deforestation."[53]

Closer to home, another type of conservationist -- the hunter -- opposed grazing in public forests for more

selfish reasons. The Teton Forest in the western half of the state, home to the sharpest and perhaps most striking peaks in all of Wyoming, had a robust industry in game hunting (a stepchild of tourism). The hunting industry opposed cattle and sheep grazing in the area for fear of disrupting the natural migrations of big game. Senators Warren and Kendrick felt pressure here from both sides and sought a middle ground. Kendrick personally toured the Teton range and discovered that big game did not occupy all of the territory and that cattle could not graze on the land because of the abundance of poisonweed. Warren saw in this observation an opportunity to benefit sheep graziers and appealed to the Forest Service to open the Teton forest to the wool industry. Although Warren received an amenable response from the Forest Service, no action was promised. Warren at least scored points with the Teton County Wool Growers Association for trying. He wrote to the director to say that the grazing question in the Teton Forest would not be answered until the boundary of Yellowstone had been fixed, and Yellowstone always seemed on the edge of expansion. Indeed, Warren's office was periodically flooded with concerned letters full of panic that some substantial change to Yellowstone was in the works; he dutifully inquired and reported that while bills to alter

Yellowstone were common, it was only through Public Lands Committee that any significant change would occur. "I have not learned that anything whatsoever is being done in the Public Lands and Surveys Committee with relation to the boundary of Yellowstone National Park," he said.[54]

While steps toward a grazing policy moved forward, Warren stepped away and increasingly relied on Kendrick to handle Wyoming matters. In the spring of 1926, Warren was even more distracted when his second wife, Clara, was hospitalized in Baltimore. When one Wyoming resident, concerned about progress on an irrigation project in Riverton, wrote to Warren, the senator replied and insisted that although they were of different parties, the matter was in good hands with Kendrick. "There is no jealousy nor trouble between Senator Kendrick and me," Warren said. "Speaking for myself," he went on, "my desire is that both of us . . . may do everything we can to help the State, forgetting, meanwhile, that we have a mixed Delegation." Indeed, Warren's correspondence with Kendrick indicates no ill will at all; this observation is all the more striking when placed alongside the life-long bad blood between Warren and fellow Republican Joseph Carey.[55]

Indeed, Warren's detachment from grazing and other legislative matters prompted some Wyoming residents to

complain. Warren's office dutifully defended the aging senator's absence. A man from Colony, a small community in the extreme northeastern corner of the state, complained to Warren's office that the senator had "forgotten" to introduce an unspecified bill that the constituent had wanted. Warren's secretary offered a tactful apology which insisted that the senator had not forgotten at all but there was merely a communication problem. Nevertheless, the secretary tipped her hand when she said, "I shall again call the matter to Senator Warren's attention and suggest that he go ahead with the introduction of the bill." In closing, she smoothed things over, saying, "I know that I do not have to defend Senator Warren to you because you are his friend and have always been so."[56]

Within a week or so, Warren's wife was recovering and he was back at work. George Cross of the Stockmen's and Ranchmen's Protective Association in Dubios, Wyoming inquired of Warren about the status of public land grazing in and adjacent to the national forests. Warren responded quickly this time, betraying his frustration at the lack of a grazing policy as he did so. "There is no law authorizing grazing on the Public Domain," he wrote to Cross, adding, "I am at a loss to know what you desired me to do."[57]

By the end of March 1926, a grazing bill emerged in the Senate. After years of minor legislation to reduce fees here or exchange lands there, Senate Bill 2584 represented a significant move toward establishing a coherent national grazing policy. It was Stanfield's bill, however, and Warren had little to do with it. The bill would also regulate the open public range, some 180,000,000 acres of unallotted and unreserved land. Of those lands, 130,000,000 acres were used primarily for grazing purposes and had been so overgrazed and unmanaged that to bring them under federal control could revive and sustain the livestock industry.[58]

The 1926 Grazing Act had the support not only of Secretary William Jardine and the Department of Agriculture, but also the Department of the Interior, the United States Forest Service, the American National Livestock Association, and the National Wool Growers' Association. Stanfield was especially proud to add to his list of supporters A. F. Potter, a familiar name to all in the grazing industry as he was head of the grazing office in the Forest Department. Potter commended Stanfield and the other members of the Public Lands Committee, saying that "you are all entitled not only to medals but to the everlasting gratitude of every stockman using the national

forest ranges."[59]

Warren's papers barely reflect an awareness of Stanfield's bill, though the Congressional Record indicates that Warren was at least present for some discussion on the bill. While the bill moved forward toward a vote, Warren's focus on grazing was more personal. Captured in the letterpress books of his political papers are a few documents indicating that while Senator Stanfield was passing grazing legislation, Senator Warren was shamelessly promoting his Warren Live Stock Company, sometimes in the oddest of venues. An executive with the Graham Brothers Trucks company appealed to Warren to provide an article of about 1400 words that outlined the development of the sheep industry and, naturally, "what influence the automotive industry has had on the sheep industry." Having recently purchased a Graham Brothers Truck himself, Warren obliged and sent back an article, though it was only half as long as the executive had requested. Warren's office provided free advertising copy for the truck company, but also managed to spread the word about his own business: "The Warren Livestock Company has found that the uses of the Dodge car and the Graham Brothers truck have helped materially." This is what occupied Warren's attention over the Stanfield grazing bill.[60]

Some people noticed. G. A. Brimmer of Rawlins, Wyoming wrote to Senator Warren expressing grave concern over the Stanfield bill. The bill, it seemed, did not include public lands in Wyoming. Warren took no responsibility for the omission, but defended the Public Lands committee anyway. "So far as I can learn," he said, "no one made a specific request that the State of Wyoming be omitted from the group of States named in the bill; but the Committee's understanding was . . . that Wyoming is satisfied with its grazing conditions and does not want to have a grazing district created as proposed in the bill." This bold statement of the committee's "understanding" portended dissent from the livestock industry, both in Wyoming and elsewhere, but Warren shrugged off the matter for the moment. Indeed, not being a member of the Public Lands Committee allowed Warren to refer more and more of these matters to Senator Kendrick.[61]

By the end of the year, Warren was ill with recurring bouts of bronchitis, topped off with "bad colds and . . . touches of the flu." His secretary claimed that he was "working unusually hard -- harder than he should work under the above-restricted circumstances." Warren was busy, but not with grazing policy matters. His duties on the appropriation committee were demanding, and he still kept

in constant contact with his son, Fred, to manage the Warren Live Stock Company. For all his talk of getting out of the business, Warren still added to his estate and expected it to remain a family business long after he was gone. A doting grandfather, he forwarded literature on the sheep industry so that his grandson could read them: "various articles . . . making up the best story about the foreign wools, etc., that I have ever read. I think they are mighty good articles to keep in your wool library and to read some time, and as young Francis E. becomes interested in all sheep and wool subjects I think they will interest him."[62]

By 1927 Warren's correspondence with Fred reflected a guarded optimism. When the final numbers for the season came in, Warren's company fared well. He congratulated his son in a give-and-take compliment: "you showed up better than I feared you would," he said. Not letting the praise stand, Warren recommended that Fred cut costs and not take any unnecessary risks in the coming season. As an aside, Warren commented that his wife, Clara, was "doing a little better each day now, and I have great hopes for her." He said nothing about grazing legislation.[63]

Indeed, what was there to say? The promise of Stanfield's 1926 grazing bill to overhaul the public domain

had been diluted by time. The nation's ranchers and the politicians who represented them carried on as they had for years before. Senator Ralph Cameron of Arizona -- finishing out his term as a defeated candidate -- introduced into the record the objections of ranchers to a grazing fee increase proposed by Secretary of Agriculture Jardine and Chief Forester W. B. Greeley. An editorial from the Daily Silver Belt, a Miami, Arizona newspaper, said, "Now that [Cameron] has gone down to political defeat it is probably characteristic of the forestry officials to interpret that fact as a vindication of the position." In the larger grazing debate, strained relationships between ranchers and the government continued.[64]

In an attempt to reconcile that relationship, Jardine organized a "grazing fee conference" with members of the livestock industry, held in Salt Lake City in January 1927. It was a one-day affair, though through it Jardine hoped to settle the question that was, in his words, "breaking our morale." Jardine emphasized that grazing regulations were democratic and local in nature, and there were avenues for appeal and recourse when necessary. He then quickly traced the history of grazing fees, reminding his audience that "stockmen were [only] required to pay a grazing fee for the first time on January 1, 1906," and that fees had risen in

intervals in 1910, 1912, and 1915, from 48 cents to 75 cents per head of cattle per year. The most recent fee increases had brought the amount to $1.50 per head per year. Jardine stressed that the fees were "fair and equitable" to comparable private grazing fees and that fee increases were never arbitrary. The discussion that ensued showed that the members of the audience disagreed. In the end, the conference had done little to "settle" the question. Warren was not present, and his name did not come up in the discussion.[65]

The grazing debate was at a stalemate. The aging Senator Warren was less involved. He presented yet another memorial from the Wyoming legislature opposing any increase in grazing fees, but did little else other than introduce such messages into the record. In February 1927, Warren entered his last significant comments into the Congressional Record in the form of a document on the "relation of the public-land states to the federal union." But even here, the words were not his but instead those taken from a lengthy speech at a Casper, Wyoming Chamber of Commerce Meeting. Grazing issues were no longer a priority for Warren.[66]

Indeed, one of Warren's last significant legislative

measures was a bill in June 1929 to provide $151 million in federal farm relief, an unknowing acknowledgment of the looming Great Depression and shifting role of the federal government in providing direct relief to a suffering economy. But even here Warren was only acting in his capacity as a member of the Committee on Appropriations. His political papers barely speak to the matter at all.[67]

Instead he was celebrating his eighty-fifth birthday, his papers full of messages of congratulations.[68] On June 18, 1929, the Senate paused to pay tribute to the longest-serving senator. On that day, Warren had served thirty-six years, six months, and twenty-eight days in the chamber, the top of the list of only eleven senators who had served more than thirty years. Another statistic pointed out was that, in his service on the Appropriations Committee, Warren had "looked after the expenditure of something like $40,000,000,000." As a final tribute, Warren's colleagues noted that the United States Geographic Board had approved the naming of the highest peak in Wyoming, located in the Wind River Range, as Mount Warren.[69]

Such honors reflected time and service, but age also conspired against Warren. By November 1929 he again fell ill to a bronchial attack. Despite a few moments in which he appeared to gain the upper hand -- "he is considerably

better," his physician said at one point -- and lifted spirits upon learning that Pershing was coming from France to see him, Warren lost the final struggle and died on November 24, 1929.[70]

Four days later, the "Grand Old Man" of Wyoming was buried in Cheyenne, a city he did much to create. A flag-draped casket was rolled on an artillery caisson to its final resting place; a military dirge filled the snowy, leaden air. A senator in attendance said the November weather was "characteristic of the storms [Warren] breasted all his life." The ceremony drew to a close as a thirteen-gun salute pierced the sky and, finally, the lonely sounds of taps sent everyone away.[71]

Although the New York Times called Warren an "irremovable United States Senator," it would not speak ill of the dead. Instead it dwelled on positive reminiscences. Warren's motto, it seemed, was "facts, not words." For this the paper was grateful. "It cannot now be recalled," the Times wrote, "that he ever said an unnecessary word in the Senate." While praising Warren, the paper also took an opportunity to criticize self-serving politicians. "It must have come as a relief to a Senate buffeted for hours by winds of rhetoric to have Senator Warren quietly rise and intimate that it was an excellent time to accept a

conference report or pass an appropriation bill to which there were no real objections." For the moment, Warren was remembered for pragmatism and terseness. Indeed, in a tribute to Warren at the next session of Congress, Wyoming Representative Vincent Carter said that Warren was "the very spirit of the practical. He believed in building, planning, and reaping."[72] Warren died exactly one month after "Black Thursday," the beginning of the unprecedented stock market crash of 1929. Both events marked the ending of an era and the beginning of another.

ENDNOTES

1. United States Department of Agriculture Yearbook 1920, 66th Cong., 3rd sess., House Document No. 1038 (Washington: Government Printing Office, 1921), p. 316.

2. "Resolutions Adopted at the Twenty-third Annual Convention of the American National Live Stock Association," January 27-29, 1920, WSGA Papers, Box 216, Folder 3.

3. See, for example, Warren to Charles B. Hill, February 7, 1920, Warren Papers, Reel 81, Box 17, Folder 1, p. 976; Warren to Thomas Nicholas, February 7, 1920, Warren Papers, Reel 81, Box 17, Folder 1, p. 986; Warren to Robert Carey, February 7, 1920, Warren Papers, Reel 81, Box 17, Folder 1, p. 978. For grazing discussion in the House, see Congr. Record, 66th Cong., 2nd sess., vol. 59, pp. 2673-2674, 2916, 8802-8806, 8809-8812. For Warren's work on public roads, see Warren to National Park to Park Highway Association, May 16, 1920, Warren Papers, Reel 82, Box 17, Folder 2, p. 811.

4. Warren to Fred Warren, February 21, 1920, Warren Papers, Reel 82, Box 17, Folder 2, pp. 83-84.

5. For the continued grazing debate in the House, see remarks by Edward Taylor in Congr. Record, 66th Cong., 2nd sess., vol. 59, pp. 8889-8891. For Warren's interest in the unsigned bill, see Warren to Ira Casteel, February 26, 1920, Warren Papers, Reel 82, Box 17, Folder 2, pp. 131-132; "Leasing of Lands in Alaska for Grazing Purposes," 66th Cong., 2nd sess., Senate Report No. 612, pp. 1-2.

6. Annual Report of the Department of Agriculture, 1920, 66th Cong., 3rd sess., House Document No. 923 (Washington: Government Printing Office, 1921), esp. p. 48.

7. Warren to President of the Stockgrowers' Bank, December 2, 1920, Warren Papers, Reel 83, Box 17, Folder 3, p. 767. Emphasis in original.

8. Warren to Elliott, December 8, 1920, Warren Papers, Reel 83, Box 17, Folder 3.

9. Warren to Lee Simonson, December 8, 1920, Warren Papers, Reel 83, Box 17, Folder 3, p. 812; Warren to Ira Casteel, December 8, 1920, Warren Papers, Reel 83, Box 17,

Folder 3, p. 812; Warren to John Clay, December 9, 1920, Warren Papers, Reel 83, Box 17, Folder 3; Warren to A. N. Marble, December 9, 1920, Warren Papers, Reel 83, Box 17, Folder 3, p. 817; Warren to Kendall, December 9, 1920, Warren Papers, Reel 83, Box 17, Folder 3. For a sample of Smoot's pro-tariff solutions, see Congr. Record, 66th Cong., 3rd sess., vol. 60, pp. 150-151.

10. Warren to John F. Vivian, December 9, 1920, Warren Papers, Reel 83, Box 17, Folder 3, pp. 823-824; Warren to Fred Warren, December 10, 1920, Warren Papers, Reel 83, Box 17, Folder 3, pp. 828-829.

11. Warren to Greeley, December 10, 1920, Warren Papers, Reel 83, Box 17, Folder 3; Warren to Budd, December 14, 1920, Warren Papers, Reel 83, Box 17, Folder 3; Greeley to Warren, December 14, 1920, Warren Papers, Reel 83, Box 17, Folder 3, pp. 896-897.

12. Press release, December 20, 1920, Warren Papers, Reel 83, Box 17, Folder 3, pp. 895-896.

13. Warren to Kilpatrick Brothers Company, December 15, 1920, Warren Papers, Reel 83, Box 17, Folder 3, p. 877.

14. Warren to Albert Mau, December 21, 1920, Warren Papers, Reel 83, Box 17, Folder 3, pp. 898-899; Warren to President of the Northern Colorado Sheep Feeders' Association, December 20, 1920, Warren Papers, Reel 83, Box 17, Folder 3; Warren to Robert Steele, December 20, 1920, Warren Papers, Reel 83, Box 17, Folder 3; Warren to Fred Roberts, December 21, 1920, Warren Papers, Reel 83, Box 17, Folder 3, p. 901; Warren to Cheaney, Decemer 22, 1920, Warren Papers, Reel 83, Box 17, Folder 3; Warren to Lawrence Johnson, December 26, 1920, Warren Papers, Reel 83, Box 17, Folder 3, p. 934.

15. "Resolutions Adopted at the Twenty-fourth Annual Convention of the American National Live Stock Association," January 12-14, 1921, WSGA Papers, Box 216, Folder 3, p. 13; "Resolutions Adopted at the Mid-Year Meeting of the American National Live Stock Association," August 26-27, 1921, WSGA Papers, Box 216, Folder 3, pp. 9-10.

16. Special to the Laramie Republican, January 24, 1921, Warren Papers, Reel 84, Box 17, Folder 4; Warren to Secretary of Agriculture, January 24, 1921, Warren Papers, Reel 84, Box 17, Folder 4, pp. 197-198.

17. "Deferred Grazing Fees," 67th Cong., 1st sess., House of Representatives Report No. 155, pp. 1-2; Warren to John Patrick, August 8, 1921, Warren Papers, Reel 86, Box 18, Folder 1, p. 135; Cong. Record, 67th Cong., 2nd sess., Vol. 62, p. 4910. For the grazing debate in the House, and especially Mondell's role in the issue, see Congr. Record, 67th Cong., 1st sess., vol. 61, pp. 3384-3390, 5677-5678; and "Deferring Further the Payment of Grazing Fees," 67th Cong., 1st sess., House of Representatives Report No. 360, pp. 1-2.

18. Warren to Dewey, Gould, and Company, July 1, 1921, Warren Papers, Reel 85, Box 17, Folder 5; Warren to J. D. Wilson, August 20, 1921, Warren Papers, Reel 86, Box 18, Folder 1, p. 252; "Hearings Before the Committee on Finance of the United States Senate on the Proposed Tariff Act of 1921 (H.R. 7456)," 67th Cong., 2nd sess., Senate Document No. 108, Vol. IV (Washington: Government Printing Office, 1922), pp. 2598-2599, 2645-2648.

19. Warren to George Cross, July 5, 1921, Warren Papers, Reel 85, Box 17, Folder 5, p. 824; "Resolutions Adopted at the Twenty-Fifth Annual Convention of the American National Live Stock Association," January 12-14, 1922, WSGA Papers, Box 216, Folder 3, pp. 9-10.

20. Warren to Fred Warren, November 16, 1921, Warren Papers, Reel 86, Box 18, Folder 1, p. 914.

21. New York Herald, July 26, 1922.

22. Warren to Fred Warren, July 31, 1922, Warren Papers, Reel 89, Box 18, Folder 4, pp. 77-80.

23. Warren to Fred Warren, September 27, 1922, Warren Papers, Reel 89, Box 18, Folder 4, p. 481; Warren to Fred Warren, September 2, 1922, Warren Papers, Reel 89, Box 18, Folder 4, p. 281; Warren to Fred Warren, September 8, 1922, Warren Papers, Reel 89, Box 18, Folder 4, pp. 282-283; Warren to Fred Warren, September 7, 1922, Warren Papers, Reel 89, Box 18, Folder 4, p. 307.

24. Congr. Record, 67th Cong., 2nd sess., vol. 62, p. 12313; Wall Street Journal, April 14, 1922; Congr. Record, 67th Cong., 2nd sess., vol. 62, pp. 12423-12428. For Warren's machinations to place Mondell as Secretary of the Interior, see Warren to C. W. Burdick, February 8, 1923, Warren Papers, Reel 90, Box 18, Folder 5, pp. 326-331.

25. See, for example, Warren to George Tucker, January 4, 1923, Warren Papers, Reel 90, Box 18, Folder 5, p. 3; Warren to Amoretti, January 10, 1923, Warren Papers, Reel 90, Box 18, Folder 5, p. 43; and Warren to Cheyenne Chamber of Commerce, January 10, 1923, Warren Papers, Reel 90, Box 18, Folder 5, p. 46.

26. Warren to J. J. Jewett, January 18, 1923, Warren Papers, Reel 90, Box 18, Folder 5, p. 94.

27. Warren to W. C. DeLoney, February 2, 1923, Warren Papers, Reel 90, Box 18, Folder 5, p. 294; Warren to Bernie Linn, January 29, 1923, Warren Papers, Box 18, Folder 5, p. 233; Warren to George Ross, January 29, 1923, Warren Papers, Reel 90, Box 18, Folder 5.

28. Warren to Hugh Thomson, January 10, 1923, Warren Papers, Reel 90, Box 18, Folder 5, p. 67; Warren to Harry Henderson, January 15, 1923, Warren Papers, Reel 90, Box 18, Folder 5, p. 88.

29. Warren to G. H. Hagens, January 18, 1923, Warren Papers, Reel 90, Box 18, Folder 5, pp. 104-105.

30. Warren to David H. Blair, Commissioner of Internal Revenue, February 10, 1923, Warren Papers, Reel 90, Box 18, Folder 5, pp. 359-360.

31. Warren to Fred Warren, February 13, 1923, Warren Papers, Reel 90, Box 18, Folder 5, pp. 407-408; Congr. Record, 67th Cong., 4th sess., vol. 64, p. 3865.

32. United States Department of Agriculture Yearbook, 1923, 68th Cong., 1st sess., House Document No. 209 (Washington: Government Printing Office, 1924), pp. 5, 402-405. See also Annual Reports of the Department of Agriculture, 1923, 68th Cong., 1st sess., House Document No. 120 (Washington: Government Printing Office, 1924), pp. 5-7, 58-68.

33. Annual Reports of the Department of Agriculture, 1923, 68th Cong., 1st sess., House Document No. 120 (Washington: Government Printing Office, 1924), pp. 62-64.

34. Annual Reports of the Department of Agriculture, 1923, 68th Cong., 1st sess., House Document No. 120 (Washington: Government Printing Office, 1924), pp. 66-67.

35. Nels Jorgensen to Warren, March 1, 1924, and John Hay to Warren, March 10, 1924, Warren Papers, Reel 93, Box 19, Folder 3, p. 278.

36. Warren to Hay, March 14, 1924, Warren Papers, Reel 93, Box 19, Folder 3, p. 281.

37. Letter to Warren, May 20, 1924, Warren Papers, Reel 93, Box 19, Folder 3.

38. Office of Senator Warren to J. B. Wilson, Wyoming Wool Growers Association, March 17, 1924, Warren Papers, Reel 93, Box 19, Folder 3; Warren to Henry C. Wallace, May 16, 1924, Warren papers, Reel 93, Box 19, Folder 3, p. 957.

39. Cong. Record, 68th Cong., 1st sess., vol. 65, p. 9143; [name illegible], Acting Secretary of the Leo Sheep Company to E. F. Ladd, Committee on Public Lands and Surveys, June 9, 1924, Warren Papers, Reel 94, Box 19, Folder 4, p. 212; L. M. Wells to Brimmer, June 15, 1924, Warren Papers, Reel 94, Box 19, Folder 4, p. 211.

40. Proceedings of the Convention of the Wyoming Stock Growers Association, June 3-4, 1924, WSGA Papers, Box 69, Folder 8, pp. 34-40.

41. Dodge papers as quoted in Congr. Record, 68th Cong., 1st sess., vol. 65, pp. 4010-4012.

42. Congr. Record, 68th Cong., 2nd sess., vol. 66, p. 903.

43. For a sample of Smoot's work on grazing, see Cong. Record, 68th Cong., 2nd sess., vol. 66, pp. 2845-2846; Warren to Deming, January 28, 1925, Warren Papers, Reel 96, Box 20, Folder 1, p. 5.

44. L. M. Wells to J. B. Wilson, February 11, 1925, Warren Papers, Reel 96, Box 20, Folder 1; Warren to Thomas MacDonald, February 18, 1925, Warren Papers, Reel 96, Box 20, Folder 1; Warren to D. H. Blair, February 16, 1925, Warren Papers, Reel 96, Box 20, Folder 1.

45. Congr. Record, 68th Cong., 2nd sess., vol. 66, pp. 4108-4123; Warren staff to Fuller, February 24, 1925, Warren Papers, Reel 96, Box 20, Folder 1, p. 308. It is difficult for the researcher to document the absence of attention Warren paid to the grazing debate, but that is the best way to describe it. Warren simply was not there.

46. "Second Deficiency Appropriation Bill, 1925," 68th Cong., 2nd sess., Senate Report No. 1244; "Authorizing and Directing the Secretary of Agriculture to Waive One-Half of the Grazing Fees for the Use of the National Forests," 68th Cong., 2nd sess., House Report No. 1617, pp. 1-2; for the brief discussion of the waiving of grazing fees, which Warren did not participate in, see Congr. Record, 68th Cong., 2nd sess., vol. 66, pp. 5276-5277.

47. Warren to Greeley, February 27, 1925, Warren Papers, Reel 96, Box 20, Folder 1; Warren to Judge Ilsley, February 27, 1925, Warren Papers, Reel 96, box 20, Folder 1.

48. Congr. Record, 68th Cong., 2nd sess., vol. 66, pp. 5082-5083.

49. For Carey's comments, see Proceedings of the Annual Convention, 1925, WSGA Papers, Box 69, Folder 11, pp. 62-64. For resolutions, see Proceedings of the Annual Convention, 1925, WSGA Papers, Box 69, Folder 11, pp. 116-117.

50. For an overview of grazing legislation in 1926, see Cong. Record, 69th Cong., 1st sess., vol. 67, p. 207; for the House debate cited, see Congr. Record, 69th Cong., 1st sess., vol. 67, pp. 1660-1665.

51. L. M. Wells to John Kendrick, January 6, 1929, Warren Papers, Reel 98, Box 20, Folder 3; "Permitting Leo Sheep Co. Of Rawlins, Wyo. to Convey Certain Lands to the United States and to Select Other Lands in Lieu Thereof," Senate Calendar No. 116, 69th Cong., 1st sess., Senate Report No. 114, pp. 1-2; "Permitting Leo Sheep Co. Of Rawlins, Wyo. to Convey Certain Lands to the United States and to Select Other Lands in Lieu Thereof," 69th Cong., 1st sess., House Report No. 437, pp. 1-3; Warren to Robert Stanfield, March 4, 1926, Warren Papers, Reel 98, Box 20, Folder 3.

52. Warren to H. C. Miller, March 5, 1926, Warren Papers, Reel 98, Box 20, Folder 3, p. 773.

53. Congr. Record, 69th Cong., 1st sess., vol. 67, p. 5372; Peffer, The Closing of the Public Domain, pp. 190-194.

54. Warren to W. B. Greeley, March 12, 1926, Warren Papers, Reel 98, Box 20, Folder 3; Warren to J. G. Imeson, March 17, 1926, Warren Papers, Reel 98, Box 20, Folder 3, p. 873; Warren to Joseph McElvain, March 12, 1926, Warren Papers, Box 20, Folder 3, p. 851; see also Warren to Robert Miller, March 13, 1926, Warren Papers, Reel 98, Box 20,

Folder 3, p. 848.

55. Warren to Albert Tonkin, March 22, 1926, Warren Papers, Reel 98, Box 20, Folder 3, p. 915. The specifics of Clara Warren's cause for hospitalization are unknown, but Warren fretted over it in the correspondence from the period.

56. L. M. Wells to Cola Shepard, March 23, 1926, Warren Papers, Reel 98, Box 20, Folder 3.

57. Warren to George A. Cross, March 29, 1926, Warren Papers, Reel 98, Box 20, Folder 3.

58. "Grazing on Public Lands and National Forests," 69th Cong., 1st sess, Senate Report No. 517; Yearbook of Agriculture, 1926, 69th Cong., 2nd sess., House Document No. 660 (Washington: Government Printing Office, 1927), esp. pp. 36-37.

59. Congr. Record, 69th Cong., 1st sess., vol. 67, pp. 7089-7091.

60. Frank Garry to W. H. Kleinke to Warren, April 1926, Warren Papers, Reel 99, Box 20, Folder 4, p. 9; Warren to Kleinke, April 3, 1926, Warren Papers, Reel 99, Box 20, Folder 4, p. 8; typescript, April 3, 1926, Warren Papers, Reel 99, Box 20, Folder 4.

61. Warren to G. A. Brimmer, April 5, 1926, Warren Papers, Reel 99, Box 20, Folder 4.

62. Warren to Fred Warren, December 22, 1926, Warren Papers, Reel 100, Box 20, Folder, 5; Warren to Fred Warren, December 29, 1926, Warren Papers, Reel 100, Box 20, Folder 5; Warren to Fred Warren, March 20, 1926, Warren Papers, Reel 98, Box 20, Folder 3, p. 913.

63. Warren to Fred Warren, January 3, 1927, Warren Papers, Reel 100, Box 20, Folder 5; Warren to Fred Warren, January 6, 1927, Warren Papers, Reel 100, Box 20, Folder 5.

64. Congr. Record, 69th Cong., 2nd sess., vol. 68, p. 970; Daily Silver Belt, ca. January 3, 1927.

65. Transcript, Grazing Fee Conference Between Secretary of Agriculture William M. Jardine and Sheepmen and Cattlemen of the West, Wyoming Stock Growers Association Records, 1858-1987, American Heritage Center, University of

Wyoming. This transcript is over two hundred pages long. Though it is invaluable to students of grazing, for our purposes of exploring Francis Warren and grazing policy it is of minimal use other than to show continued dissatisfaction in the industry.

66. Congr. Record, 69th Cong., 2nd sess., vol. 68, pp. 4106; 3486–3491.

67. Congr. Record, 71st Cong., 1st sess., vol. 71, p. 2977.

68. See Warren Papers, Reel 105, Box 21, Folder 5, passim.

69. Congr. Record, 71st Cong., 1st sess., vol. 71, pp. 3020–3021.

70. New York Times, November 14, 1929; New York Times, November 19, 1929.

71. New York Times, November 29, 1929.

72. New York Times, November 25, 1929; Congr. Record, 71st Cong. 2nd sess., vol. 72, pp. 12130–12131.

CHAPTER 7

FINAL THOUGHTS

Grazing was and continues to be a perennial problem for the American West. The open range seemed to be the most abundant natural resource in a land that was ill suited to much else. On the other hand, the land policies that Americans brought with them as they settled the West were anachronistic, inappropriate, and even arbitrary in their application to the vast commons. Social conflicts such as the Johnson County War and the political battles that politicians such as Francis E. Warren waged in the struggle for a workable grazing policy may have been unavoidable given the starting point of American land policy in the West. As Warren's fruitless and frustrated efforts demonstrated, it was impossible for a comprehensive grazing policy to be enacted without a catastrophic catalyst for change.

Such a trauma arrived for the nation, of course, with the Great Depression. Farmers and ranchers felt the pinch before heavy industries, but by the 1930s the entire nation had enough of Republican policies and elected a president who promised a New Deal. The major act of the New Deal in regard to grazing was the passing of the Taylor Grazing Act in 1934. Survey textbooks may ignore the Taylor Act, but

it should be included as the obituary for the Homestead Act if for no other reason. The Taylor Act closed off homesteading and gave the federal government control over the public domain. 173 million acres of grazing land were now available to be managed and administered by the Interior Department; 16 million of those acres were in Wyoming. The Taylor Act and its effect on the West has received more than its share of attention from historians.[1] A contribution of this dissertation is to examine the complicated story of grazing before the course-altering Great Depression and New Deal.

Before we return to Francis Warren and offer a few summations of his, in the end, sad struggle to achieve a grazing policy, indulge the author for a moment. We will stay in Wyoming and retain our subject of grazing. But we look to the recent past to see just how alive and critical the struggle over grazing policy can be. Warren's home state has yet to find a solution to vexing problem of grazing the commons.

In 1999, University of Wyoming law professor Debra Donahue published The Western Range Revisited. In her book and on the lecture circuit, Donahue reassessed grazing on public lands at the end of the twentieth century and came to a radical conclusion: end public land grazing

altogether. Donahue presented two basic arguments. First, she demonstrated that since the Taylor Grazing Act of 1934, the Bureau of Land Management's grazing program brought in less revenue than the outgoing costs of administration. In other words, public land grazing was a huge and wasteful subsidy to western ranchers. Second, she reinvigorated the Coville and Pinchot emphasis on the destructive effects of public land grazing to the greater ecosystem. The only solution, Donahue argued, was to remove livestock from nearly all public lands in order to restore the natural biodiversity of a long-abused environment.[2]

Donahue made the "unthinkable thinkable." "Commercial livestock production," she said in a environmental journal, "is an inappropriate use of public lands -- inappropriate because it is ecologically damaging, uneconomic, and inequitable." Her argument confronted directly the entrenched power structure of Wyoming that Warren had done so much to establish. Revenues generated by grazing fees were overshadowed by the costs of administering the program, resulting in a lopsided subsidy. Millions of "recreational users" enjoyed the public lands, she pointed out, while by the 1990s less than 23,000 grazing permit holders existed, thus resulting in inequitable use of land ostensibly held in the public trust. Her book also

deconstructed the myths of the ranching "way of life" to show that federal grazing permit holders were overwhelmingly large corporations, banks, and wealthy individuals, not the family ranch of cowboy fiction. Finally, Donahue argued that public land grazing did little to support western communities, which in fact existed only to serve public land ranchers.[3]

The reaction to Donahue's "unthinkable" proposition was fierce. The president of the Wyoming Senate, Jim Twiford, called for the outright elimination of the University of Wyoming School of Law, Donahue's employer. A former candidate for governor admitted that he had not read the book but nonetheless called it "garbage." Another rancher said, "With a title like hers, do we really need to spend fifty dollars to read the rest?" Even the University of Wyoming president, Philip Dubois, was dubious about supporting Donahue's academic freedom. First he issued a statement -- addressed to a livestock industry newspaper, no less -- that "the official position of the University of Wyoming is, has been, and will continue to be, support for those industries -- including production agriculture -- that have brought this state from its status as a territory in 1886 to its promise in the new millennium." Later, in "defending" academic freedom before the state legislature,

Dubois backpedaled somewhat: “We defend the right of the faculty to publish their work. At the same time, as a land-grant institution we feel an obligation to provide support for the agriculture industry. I don’t see those as inconsistent positions.” In the end, Donahue survived the “ruckus” and, as it became apparent that the federal government was not about to end public land ranching, the furor died down. Even so, Donahue confessed to an interviewer, “I’m viewed as a traitor. You’d think this was the most radical publication since Lady Chatterley’s Lover.”[4]

These modern day observations on the centrality of grazing to Wyoming and the West bring us back to the realities that Francis E. Warren faced in his decades of wrestling with land policy in a grazing economy. As a new senator from a new state in the 1890s, he began his congressional career with high hopes of bringing about a major change in American land policy. Through the 1890s, he worked to solve the grazing problems of the West not through a centralized approach along the lines that Powell proposed, but instead through localized control. Warren’s drive to cede all public lands to the states, had it succeeded, would have represented a fundamental change in the relationship of the State to the states. Although his

push for state's rights had the potential to win great favor in Wyoming and the West, local events such as the Johnson County War and the depressed livestock economy in the 1890s, ironically, worked against Warren. For a brief time he lost his seat in the Senate. Although he regained his position of power, his land cession movement never gained enough traction to pass Congress or be implemented. The push for land cession was Warren's boldest move, a measure with the greatest potential to bring about a grazing policy for the West. For the remainder of his career, Warren's involvement with grazing issues was determined by the specifics of the situation at hand, an ad hoc approach driven not so much by a desire for a sweeping policy but instead a series of individual responses based on the politics of the day.[5]

Coinciding with the collapse of Warren's cession movement was the rise of conservation. The newly created national forests would become the next stage for the debate over grazing policy. Warren and other western politicians found themselves on the defensive as scientific management of rangelands and regulated grazing of them attempted to restore the public domain as a commons held in trust for the entire nation and not merely the use of local industry. The genesis of managed grazing was identified with

Frederick Coville and his attempt to restore damaged environments to productive and protected use through regulation. Coville was no preservationist, nor was he naive about the needs of the livestock industry in the public domain. But his focus on grazing was a centralized one. Coville's ideas, and Pinchot's implementation of them, set the tone of the conversation about grazing.[6] Warren and the livestock industry in the West were thus placed in a position of responding and reacting to the direction of Washington.

That response was often one of resistence and begrudging complaint. From the emergence of Coville's proposals in the late 1890s to the ultimate implementation of them in 1906, Warren represented his home industry dutifully. It was a challenge, however, as the "industry" response to Coville's plans varied between cattle and sheep raisers. Moreover, divisions within the West itself between large owners and small owners added to the complexity of the livestock industry's response to regulated forest grazing. Finally, a general suspicion of "outside" policy makers from Washington imposing their ideas onto the West complicated the search for a unified grazing policy; the "strategic mistake" that Powell made resurfaced, although Pinchot made great strides in forming

connections with westerners. Warren's response to this culminating pressure was to lobby for grazing fee reductions and waivers whenever possible.[7]

From the implementation of fee-based forest grazing in 1906 through the 1920s, Warren's role in the search for a grazing policy reached its lowest point. Although the livestock industry won a small victory with the passage of the Stock Raising Homestead Act in 1916, Warren was pulled from the forefront of the debate by a combination of personal tragedy, political scandal, and a loss of political power when the Democrats gained control during the Wilson years. Warren survived, to be sure, but the fencing scandal hurt his credibility both at home and on the floor of Congress.[8]

As the nation emerged from World War I and entered a new era of prosperity, the livestock industry faced falling prices and the first signs of an even greater economic depression. Warren, aging and apparently no longer interested in bold moves such as land cession, took on a custodial role in grazing affairs; that is, he responded to specific problems of interests from his state, but did little else. If political conservatism meant maintaining the status quo and resisting great change, Warren fulfilled that expectation in his final years.[9]

ENDNOTES

1. The Taylor Act, and especially the administration of it, has received an abundance of attention from scholars. Start with Karen R. Merrill, Public Lands and Political Meaning: Ranchers, the Government, and the Property Between Them (Berkeley: University of California Press, 2002); Christopher McGrory Klyza, Who Controls Public Lands? Mining, Forestry, and Grazing Policies, 1870-1990 (Chapel Hill: University of North Carolina Press, 1996); R. McGreggor Cawley, Federal Land, Western Anger: The Sagebrush Rebellion and Environmental Politics (Lawrence: University of Kansas press, 1993), primarily covers late twentieth century issues, but it still worth consideration; Philip O. Foss, ed., Federal Lands Policy (New York: Greenwood press, 1987); Marian Clawson, The Federal Lands Revisited (Baltimore: Johns Hopkins Press, 1983), like most work by Clawson, is a valuable institutional history of the Bureau of Land Management; William Voight, Public Grazing Lands: Use and Misuse by Industry and Government (New Brunswick, NJ: Rutgers University Press, 1976); again Marian Clawson, The Bureau of Land Management (New York: Praeger, 1971); Joe A. Stout, "Cattlemen, Conservationists, and the Taylor Grazing Act," New Mexico Historical Review 45 (1970): pp. 311-332; Joseph A. Stout, "The Influence of Public Opinion on the Drafting of the Taylor Grazing Act of 1934," M.A. thesis, Texas A&M University, 1968; Robert Birdwell, "The Taylor Grazing Act," M.A. thesis, University of Oklahoma, 1966; Philip O. Foss, Politics and Grass: The Administration of Grazing on the Public Domain (Seattle: University of Washington press, 1960); and Wesley Calef, Private Grazing and Public Lands: Studies of the Local Management of the Taylor Act (New York: Arno, 1979, a reprint of a 1960 dissertation), among others. Most of these studies, however, cover the Taylor Act in practice rather than the background behind it.

2. Debra L. Donahue, The Western Range Revisited: Removing Livestock from Public Lands to Conserve Native Biodiversity (Norman: University of Oklahoma Press, 1999).

3. Debra Donahue, "Livestock Spoil the Native Diversity on America's Public Lands," Watersheds Messenger 8, no. 3 (Fall 2001), p. 5; Donahue, The Western Range Revisited, pp. 11-30.

4. Debra Donahue, "Cattle Prod: Why We Need to Push Livestock Off Public Lands," Writers on the Range (February

25, 2000); “Cow Remarks Cause Firestorm in Wyoming,” USA Today, March 3, 2000.

5. See Chapter 2.

6. See Chapter 3.

7. See Chapter 4.

8. See Chapter 5.

9. See Chapter 6.

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