

The timber that might be merchantable could be cut and other uses consistent with the multiple-use policy should be applicable.

These policies exerted pressure against the Indian uses of the property, their religious uses, and the Indians then in the 1950's began again to ask that Congress go back to the 1933 act and give them greater certainty in their possession of the watershed for the protection of their religion.

Bills to increase the size of the 1933 permit were introduced at the end of the 1950's and then in 1965 Senator Anderson introduced by request S. 3085, which was the same bill as H.R. 3306 before its amendment in the House in the 90th Congress.

That completes the summary of the history of this matter briefly and I would like finally to express a view about this precedent question which came up yesterday morning.

I am sure that this is a very important matter to Congress. Congress, I suppose, hates to take any step that might foreclose its freedom of action in future cases. You do not want to pass a bill that will tie the hands of Congress in dealing with other cases allegedly similar in future years, but I believe that H.R. 3306 does not require any breach of prior congressional policy with respect to this area.

In my own mind, the question of whether approval of H.R. 3306 would create a precedent is answered by looking back to the acts of 1928 and 1933. In those acts those Congresses long ago, 35 and 40 years ago respectively, recognized the direct and immediate interest of the Indians in this watershed area.

Congress took steps to insure that the Indian interest in the area would not be infringed by outsiders, by miners coming in, by other inconsistent uses. Because of a conflict in basic philosophy between the national forest multiple-use concept and the Indians' religious use of the land, the purposes that Congress intended to realize in the 1933 act have not been carried out and what we are asking is for Congress to go back to the 1933 act and to amend it to make clear and to give the Indians the protection that we believe Congress at that time intended to give; that is, the exclusive use and ownership of this land.

Senator METCALF. The 1933 act did not give exclusive use. Let me read you, "Such permit shall specifically provide for and safeguard all rights and equities hitherto established and enjoyed by said tribe of Indians under any contracts or agreements hitherto existing, shall authorize the free use of wood, forage, and land for the personal or tribal benefit, shall define the conditions under which the natural resources under the control of the Department of Agriculture not needed"—not needed—"by said Indians shall be made available for commercial use by the Indians or others and shall establish necessary and proper safeguards."

So we give the Indians the use and we tell them they have an opportunity to have free wood and forage and they are able to have a commercial development of the timber but the area or the resources not needed will be used for others.

Now, what does that "others" mean?

Mr. SCHAAAB. Senator, I am not contending that this view you are expressing was not taken by the Forest Service.

Senator METCALF. You said it was the congressional intent that there be exclusive use.