

MESSAGE ABOUT CONTROLLER BAY

President Answers Critics of His Elimination Order.

THE "DICK TO DICK" LETTER.

No Trace of It in the Files or Elsewhere—Charles P. Taft Never Heard of Controller Bay Railroad, President Says, Until Very Recently.

Washington, July 26.—President Taft today sent to the senate a message concerning the Controller bay affair and the reduction of the area of the Chugach national forest reserve to permit the Controller Bay Railway and Navigation company to acquire land on the bay to be used as terminals for a railway line to the Bering coal fields, twenty-five miles away. The message is in response to a resolution passed by the senate June 27 last, which asked for copies of all departmental orders, maps, surveys, letters, reports and official documents in the case. Copies of these documents accompany the message.

The executive order of Oct. 28, 1910, referred to in the resolution was in the terms following:

CHUGACH NATIONAL FOREST, ALASKA.

Under authority of the act of congress of June 4, 1897 (30 Stat., 11, at 24 and 30), and on the recommendation of the secretary of agriculture it is hereby ordered that the proclamation of Feb. 23, 1908, enlarging the Chugach National forest be modified to reduce the area of such national forest by eliminating therefrom the following described tract, containing approximately 12,800 acres of land, which has been found upon examination to be not chiefly valuable for national forest purposes:

Beginning at a point where the meridian of longitude 144 degrees 5 minutes west crosses the coast line of Controller bay, thence north along said meridian line to the parallel of latitude at 60 degrees 10 minutes north, thence west along said parallel to a point where the same crosses the coast line at or near the mouth of Bering river and thence along the coast to the place of beginning.

The tract above described is hereby restored to the public domain.

WILLIAM H. TAFT.

The White House, Washington, Oct. 28, 1910.

The president declares that the order does not permit the Controller Bay Railway and Navigation company to secure a monopoly of the Controller bay harbor as, under the law, a strip eighty rods wide must be left between each entry, having a frontage of 100 rods on navigable water. The law also keeps the control of the shore, which includes the flats lying between high water and low water, under the direction of congress. This provision, says Mr. Taft, fully protects the public and absolutely prevents any individual or corporation from acquiring a monopoly.

In regard to the "Dick to Dick" letter, in which there is a reference to Charles Taft, the president denies that his brother ever spoke to him concerning Controller bay, Richard S. Ryan or any grant in Alaska. He says that the letter in question cannot be found in the files of the government, and he refers to it as a "wicked fabrication." He declares that his brother never heard of Controller bay until the president sent him a cablegram regarding the subject.

Possible Harbor in Controller Bay.

The message describes the location of Controller bay, which was originally included in the Chugach forest reserve. For a time it was thought that the water of the bay was too shallow to make it valuable as a harbor, but in 1907 a channel was discovered extending into the bay about seven miles. The tract taken from the forest reserve by the president's order covers 12,800 acres in a triangular form, the side along Controller bay being between six and seven miles long, which covers the channel mentioned.

The president's message then says:

All the territory surrounding Controller bay was included in the Chugach forest reservation in 1909 by a proclamation of President Roosevelt. The importance of Controller bay is that it lies about twenty-five miles from very valuable coal deposits, known as the Bering coal fields. Katala bay is to the west of Controller bay and almost immediately adjoins it. It is an open roadstead, upon the shore of which an attempt was made by the Morgan-Guggenheim syndicate to establish a railway terminal and thence to build a road to the Bering coal fields, already mentioned. The attempt failed for the reason that the breakwater protecting the terminals was destroyed by storms and the terminals became impracticable. Some fifty miles or more farther west of Katala bay is the mouth of the Copper river, where there is an excellent harbor, on which is the town of Gordova. There the Copper River railroad, owned by the Morgan-Guggenheim interests, has its terminals, and the line runs to the northeast along the Copper river and has nearly reached certain rich copper mines in the interior. A branch from this main line is projected to the Bering coal fields and is feasible.

When the channel in the Controller bay was discovered Mr. Tittman, superintendent of the coast survey, as shown by his letter in the record, was of opinion that it was of great value and ought to be maintained as a nar-

val reservation because of its proximity to the coal fields. His letter was submitted by the secretary of commerce and labor to the secretary of the interior, who invited the comment of the director of the geological survey. That officer replied that the harbor was a poor one and that it would not be as good for a naval reservation as one already selected, but that he thought that private capital ought to be encouraged to construct a railway from the channel over the mud flats to the shore and thence to the coal fields.

Captain Pillsbury of the army engineers in a report in the record made in 1907 mentions three possible objections to Controller bay—first, that the surrounding islands may prove to be so low as not fully to protect the channel; second, that the flats extend two or three miles from the shore, and, third, that ice formed in the rivers entering the bay and, affected by tidal currents, may destroy structures put upon the flats and especially a long trestle built over them.

Ryan Asks For Land.

In December, 1909, Richard S. Ryan, representing the Controller Railway and Navigation company, applied to Mr. Pinchot, the then forester, for an elimination from the Chugach forest reservation of a tract of land to enable his company to secure railroad terminals, bunkers, railroad shops, etc., on the northwest shore of Controller bay. This application was referred by the associate forester to the district forester at Portland, Ore., and by him to the forester in Alaska. The result of these references and the application was that early in 1910 Mr. Graves, who had in the meantime become forester, reported that there was no objection from the standpoint of forestry interests to the elimination of the tract indicated or, indeed, of 18,000 acres on the northwest shore of Controller bay.

The attention of the navy department was invited by the forestry bureau to the proposal to open the shore of Controller bay to entry and occupation, and inquiry was made whether the navy department desired to use Controller bay as a reservation and whether it objected to its being opened up. The answer was in the negative.

The matter was considered by the forestry bureau, by the secretary of agriculture, by the secretary of the interior and by the general land office, and the result was a recommendation to me in May, 1910, that an elimination be made of 320 acres with a frontage of 160 rods on the northwest shore of Controller bay.

I considered the whole case in August, 1910, and directed that the 320 acres, recommended by both departments, be eliminated as recommended. The question finally came before the cabinet late in October. After a full discussion of the matter and after a consideration of the law I expressed dissatisfaction with the order because it purported on its face to make the elimination for the benefit of a railroad company of a tract of land which the company could not secure under the statute, for it was a tract 320 acres in one body when only 100 acres could be thus acquired. In the second place, I preferred to make a much larger elimination of a tract facing the entire channel and with sufficient room for a terminal railway town.

I was willing to do this because I found the restrictions in the law sufficient to prevent the possibility of any monopoly of either the upland or the harbor or channel by the Controller Railway and Navigation company or any other persons or company.

It had been originally suggested by the forestry bureau that 18,000 acres might safely be eliminated so far as forestry purposes were concerned, but fear had been expressed by one of the district foresters that such a large elimination would offer an opportunity to the company to use land scrip and acquire title to extensive town sites, and the result of the joint consideration of both departments had been the reduction to 320 acres.

Assumes All Responsibility.

I wish to be as specific as possible upon this point and to say that I alone am responsible for the enlargement of the proposed elimination from 320 acres to 12,800 acres and that I proposed the change and stated my reasons therefor, and, while both secretaries cordially concurred in it, the suggestion was mine.

The statement of Mr. Ryan, who had been properly vouched to the forester by two gentlemen whom I know, Mr. Chester Lyman and Mr. Fred Jennings, and who had produced a letter from a reputable financial firm, Probst, Wetzler & Co., was that the railway company which he represented had expended more than \$75,000 in making preparations for the construction of a railway from Controller bay to the coal fields, twenty-five miles away, but that they were obstructed in so doing by the order reserving the Chugach forest reservation, which covered all of the Controller bay shore. He, as well as Probst, Wetzler & Co., gave every assurance that the Copper River Railway company, owned by Messrs. Morgan and Guggenheim, had no connection with them and that they were engaged in an independent enterprise in good faith to build an independent railroad. No evidence to the contrary has been brought to my attention since.

Of course it was possible that the owners of the Copper River Railway company might attempt to buy this railroad when and if it was built. It was possible that Mr. Ryan was acting in the interests of the Copper River railroad, although I did not believe it.

Protected by Congress.

If a railroad was to be constructed from Controller bay to the Bering coal fields it was perfectly evident that

there must be a terminal town on the shore of Controller bay, and I was therefore glad and anxious to throw it open to entry and settlement as one important step in encouraging railroad enterprise. I was certain that congress had provided in the statutes affecting the entry and settlement of land in Alaska limitations which would prevent the possibility of the exclusive appropriation of the harbor and channel of Controller bay or its shores or upland to any one railroad. This I propose now to show.

The only practicable method for securing title from the government in such a tract as this after its elimination is by the use of what is called "soldiers' additional homestead right" evidenced by scrip. The statutory limitations upon this method of acquiring title are threefold:

First.—No more than 160 acres can be entered in any single body by such scrip.

Second.—No location of scrip along any navigable waters can be made within the distance of eighty rods of any lands along such waters, and no entry can be allowed extending more than 160 rods along the shore of any navigable water, and along such shore a space of at least eighty rods must be reserved from entry between all such claims.

Third.—Nothing in the act contained is to be construed to authorize entries to be made or title to be acquired to the shore of any navigable waters within said district.

Under the first limitation the navigation company and every other person is prevented from locating more than 160 acres in one body. By the construction of the land department, as shown in the record, this requires a separation between any two entries by the same person or in the same interest of a tract of forty acres. This would prevent the possibility of any one person or any one interest acquiring an entire tract like that of 12,800 acres.

Frontage Held by Government.

The second limitation is important in that it prevents the entry of claims at any point on the shore having a greater frontage than half a mile and requires that between that and the next claim taken up there shall be a frontage reserved to the public and kept in public control of a quarter of a mile. The consequence is that in the seven miles of the frontage of this eliminated tract there must be reserved for government control and use and such disposition as congress may see fit to make and free from private appropriation a frontage aggregating two and three-quarter miles and so distributed along the shore in frontages of eighty rods as to make certain of a public frontage of this width having all the advantage that any private frontage can have. In other words, if a tract with a half mile frontage is located at a particularly advantageous place with reference to the harbor then on each side of that frontage must be reserved to the public a frontage of a quarter of a mile, or a half mile in all, for public uses.

These two restrictions necessarily prevent a monopoly of land abutting on the shore, and as they necessarily prevent a monopoly by any one locator or in the interest of any company for whom locators are acting they take away the motive for the acquisition of land and frontage merely for the purpose of excluding other companies and possible competitors and tend to confine locators to the acquisition of land to be profitable in its use.

Since the executive order was issued, Oct. 28, 1910, there have been four locations under soldiers' scrip, three of them of 160 rods each along the bay, separated by two divisions of eighty rods. I shall assume that all of them are in the interest of the Controller Railway and Navigation company. None of them has been approved or passed to patent, but I shall assume they can be passed to valid patent.

Frontage Left Open.

Of the shore frontage unlocated which may be appropriated by scrip there remain six frontages of 160 rods each on the shore of the tract opened by the executive order facing the bay and channel, and in addition at least two and three-quarter miles of frontage distributed in eleven eighty-rod strips, subject to public use and the disposition of congress. There is thus ample room for many other railroads to reach high water mark on Controller bay and there to acquire tracts for terminals. Of the 12,800 acres the entries in area have covered only 800 acres, and all the rest is available for scrip location under the provisions of the act.

There is a third reason why the opening of this tract to settlement and limited private appropriations cannot lead to a monopoly in the Controller Bay company or any one else. The distance from the dry land—i. e., the shore land—the line of high water mark—to the line of low water mark is between two and three miles, and the distance to deeper water is about a mile farther, making it necessary, if a harbor is to be reached and used, to construct a viaduct or trestle three or four miles long from the shore to the channel. This tidal flat is owned by the United States, and the acquisition under the public land laws of tracts on the shore abutting these tidal flats gives no right or title to those flats. This would be the law if the statute was silent on the subject, but not only the statute of 1898 but also the amending statute of 1903 expressly imposes the restriction that no title or right can be obtained under the act in the shore of a navigable body of water.

I submit to all fair minded men who may have been disturbed over the charges made in respect to the execu-

tive order of Oct. 28, 1910, that it has been demonstrated by the foregoing that no public interest has suffered from its issue, that great good may come from it and that no dishonest or improper motive is needed to explain it. I might, therefore, stop here; but, rather, for the purpose of the moral to be drawn from them than to vindicate the order, I propose to consider the attacks upon the order that hysteria or rancor has prompted.

Order Was Made Public.

The charge has been made that this was a secret order and that though it was made in October, 1910, no one knew it until April, 1911. This is utterly unfounded. The statement of Mr. Vernon, the correspondent of the Post-Intelligencer of Seattle, a newspaper of wide circulation among a people most interested in Alaska, shows that ten days before the order was made news of the details of Ryan's application and the probability of its being granted was given wide publicity. It further appears from the records of the interior department that the evening the order was signed, Oct. 28, 1910, a full notice of the issue of the order and its details was furnished by the department to all correspondents in the form of a news bulletin. Finally the agent of the Associated Press certifies that at 7:23 p. m., Oct. 28, 1910, there was sent out by that association to all its newspaper clients a telegram taken from a typewritten statement issued by the interior department as follows:

Washington, Oct. 28.—Approximately 12,800 acres of land in the Chugach National forest, Alaska, have been restored by the president for disposition under appropriate land laws, according to information made public today by the interior department. These lands are situated on the coast line of Controller bay, in southern Alaska, near the Cunningham claim, and have been found upon examination to be of little value for forestry purposes.

It would be difficult to prepare an advertisement more informing to the public or more likely to attract the attention of all likely to desire acquisition of land on Controller bay. On the 29th the chief forester sent a telegram making a similar announcement to his district forester at Portland, Ore.

The order has been attacked on the ground that it did not contain a provision delaying its taking effect for thirty days after its publication, as orders restoring land to settlement by homesteaders frequently do. An examination of the record furnishes an explanation of this feature of the order as made. When in October the two departments had agreed, with my acquiescence, that the order should be an elimination of only 320 acres, an order describing the 320 acres, directing its restoration to settlement and containing the usual provision postponing its taking effect thirty days was prepared in the forestry bureau and forwarded to the interior department. There it was deemed wiser to spread on the face of the order a specific declaration that it was made to afford terminals for the Controller Railway and Navigation company, and as no one else was expected to intervene and take up any part of the eliminated tract the restoration was made immediate.

Approved by Secretary.

The form thus amended was submitted to the secretary of agriculture, who expressed his preference for the immediate restoration order through his solicitor's memorandum on the face of the order, as follows:

Mr. Clements, Assistant Attorney in the Interior Department—We think this O. K. The secretary says it is the direct way and appeals to him.

GEORGE P. McCABE.

The idea of the secretary doubtless was that the short form of order was preferable because on its face it was directly indicative of the purpose to secure an opportunity to the railway company by proper entry to settle on the land eliminated, and as no one else was expected to intervene no postponement was needed. Accordingly when the case came for decision in the cabinet the order was without any postponement clause. This was the form sent me for my signature by the acting secretary of the interior department.

When I directed the striking out of the reference to the railway company and the enlargement of the area from 320 acres to 12,800 acres the form of the order in its provision for immediate restoration was not changed. I have no doubt that this was the reason why the order issued took the form it did. Had the postponement clause been suggested I would doubtless have directed it to be embodied in the order. But the event has proven that it was really not important in this case, for in now nearly nine months only the Controller Railway Navigation company has made any scrip entries on the eliminated tract, and this although 11,000 acres and three miles of water front still remain open to entry and there are several different railway companies in addition to the Controller Railway and Navigation company that had filed locations for rights of way in the vicinity in the last two years who have had in the last nine months the fullest notice of their opportunity if they wished to enter on this land.

The "Dick to Dick" Letter.

Before closing I desire to allude to a circumstance which the terms of this resolution make apt and relevant. It is a widely published statement attributed to a newspaper correspondent that in an examination of the files of the interior department a few weeks ago a postscript was found attached to a letter of July 13, 1910, addressed by Mr. Richard S. Ryan to Secretary Ballinger—and in the present record—urging the elimination of land enough for terminals for the Controller Railway and Navigation company. The postscript was said to read as follows:

Dear Dick—I went to see the president the other day. He asked me who it was

I represented. I told him, according to our agreement, that I represented myself. But this didn't seem to satisfy him. So I sent for Charles Taft, and asked him to tell his brother, the president, who it was I really represented. The president made no further objection to my claim. Yours, DICK.

The postscript is not now on the files of the department. If it were, it would be my duty to transmit it under this resolution. Who is really responsible for its wicked fabrication, if it ever existed, or for the viciously false statement made as to its authenticity is immaterial for the purposes of this communication. The purport of the alleged postscript is and the intention of the fabricator was to make Mr. Richard S. Ryan testify through its words to the public that although I was at first opposed in the public interest to granting the elimination which he requested, nevertheless through the undue influence of my brother, Mr. Charles P. Taft, and the disclosure of the real persons in interest I was induced improperly and for the promotion of their private gain to make the order.

The statement in so far as my brother is concerned—and that is the chief feature of the postscript—is utterly unfounded. He never wrote to me or spoke to me in reference to Richard S. Ryan or on the subject of Controller bay or the granting of any privileges or the making of any orders in respect to Alaska. He has no interest in Alaska, never had and knows nothing of the circumstances connected with this transaction. He does not remember that he ever met Richard S. Ryan. He never heard of the Controller Bay railroad until my cablegram of inquiry reached him.

Mr. Ballinger says in a telegram in answer to my inquiry that he never received such a postscript and that he was in Seattle on the date of July 13, when it was said to have been written.

Mr. Richard S. Ryan, in a letter which he has sent me without solicitation, says that he never met my brother, Mr. Charles P. Taft, and that so far as he knows Mr. Charles P. Taft never had the slightest interest in Controller bay, in the Controller Railway and Navigation company or in any Alaskan company, and he utterly denies writing or signing the alleged postscript. The utter improbability of his writing such a postscript to Mr. Ballinger at Washington when the latter was away for his vacation for two months must impress every one.

The fact is that Mr. Ballinger never saw the letter of July 13, 1910, to which this postscript is said to have been attached. It was sent to me by Mr. Carr, Secretary Ballinger's private secretary, at Beverly, on July 14—the next day. I read the letter at Beverly in August with other papers and sent them to the White House. It was placed upon the White House files and remained there until April 22, 1911, when it was, by request of Secretary Fisher, for use in connection with its answer to a senate inquiry, returned to the interior department, and it was after this that the correspondent is said to have seen the letter with the postscript attached. Mr. Carr saw no such postscript when he sent the letter to me. I did not see it when I read it. No one saw it in the executive office, but it remained to appear as a postscript when it is said that the correspondent saw the letter in April or May on the files of the interior department. All others were denied the sight.

The person on whose statement the existence of what has been properly characterized as an amazing postscript is based is a writer for newspapers and magazines, who was given permission by Secretary Fisher, after consultation with me, to examine all the files in respect to the Controller bay matter, and this under the supervision of Mr. Brown, then private secretary to the secretary of the interior. After the examination, at which it is alleged this postscript was received from the hand of Mr. Brown, the correspondent prepared an elaborate article on the subject of this order and Controller bay, which was submitted to Mr. Fisher and which was discussed with Mr. Fisher at length, but never in the conversation between them or in the article submitted did the correspondent mention the existence of the postscript. Mr. Brown states that there was no such postscript in the papers when he showed them to the correspondent and that he never saw such a postscript. Similar evidence is given by Mr. Carr and other custodians of the records in the interior department.

Stronger evidence of the falsity and maliciously slanderous character of the alleged postscript could not be had. Its only significance is the light it throws on the bitterness and venom of some of those who take active part in every discussion of Alaskan issues. The intensity of their desire to besmirch all who invest in that district and all who are officially connected with its administration operates upon the minds of weak human instruments and prompts the fabrication of such false testimony as this postscript. I dislike to dwell upon this feature of the case, but it is so full of a lesson that ought to be taken to the heart of every patriotic citizen that I cannot pass it over in silence.

When I made this order I was aware that the condition of public opinion in reference to investments in Alaska, fanned by charges of fraud, some well founded and others of a hysterical and unjust or false character, would lead to an attack upon it and to the questioning of my motives in signing it. I remarked this when I made the order, and I was not mistaken. But a public officer when he conceives it his duty to take affirmative action in the public interest has no more right to allow fear of unjust criticism and attack

to hinder him from taking that action that he would to allow personal and dishonest motives to affect him. It is easy in cases like this to take the course which timidity prompts and to do nothing, but such a course does not inure to the public weal.

I am in full sympathy with the concern of reasonable and patriotic men that the valuable resources of Alaska should not be turned over to be exploited for the profit of greedy, absorbing and monopolistic corporations or syndicates. Whatever the attempts which have been made, no one, as a matter of fact, has secured in Alaska any undue privilege or franchise not completely under the control of congress. I am in full agreement with the view that every care, both in administration and in legislation, must be observed to prevent the corrupt or unfair acquisition of undue privilege, franchise or right from the government in that district. But every one must know that the resources of Alaska can never become available either to the people of Alaska or to the public of the United States unless reasonable opportunity is granted to those who would invest their money to secure a return proportionate to the risk run in the investment and reasonable under all the circumstances.

On the other hand, the certainty of spirit and the intense dislike that have been engendered in respect to the administration of the government in Alaska and in the consideration of measures proposed for her benefit and the wanton recklessness and eagerness with which attempts have been made to besmirch the characters of high officials having to do with the Alaskan government and even of persons not in public life present a condition that calls for condemnation and requires that the public be warned of the demoralization that has been produced by the hysterical suspicions of good people and the unscrupulous and corrupt misrepresentations of the wicked. The helpless state to which the credulity of some and the malevolent scandal mongering of others have brought the people of Alaska in their struggle for its development ought to give the public pause, for until a juster and fairer view be taken investment in Alaska, which is necessary to its development, will be impossible, and honest administrators and legislators will be embarrassed in the advocacy and putting into operation of those policies in regard to the territory which are necessary to its progress and prosperity.

WILLIAM H. TAFT.

The White House, July 26, 1911.

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