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BOOK REVIEWS

Law and Economic Growth: The Legal History of the Lumber Industry in Wisconsin, 1836-1915

By

JAMES WILLARD HURST

Pp. xx, 946, $17.50

This book by a Professor of Law at the University of Wisconsin is a history of the legal, economic, and social aspects of Wisconsin's great lumber industry between 1836 and 1915.

Four general concepts of law—property, contract, police power, and general planning by the political process (labeled "political economy")—provide the framework. Within these references the author describes the legal and socio-economic processes and environment that prevailed during the exploitation of Wisconsin's virgin pine lands. For his sources Professor Hurst relies on the journals of both houses of the Wisconsin legislature and cases reaching the state supreme court, as well as innumerable other public documents, articles, dissertations, books, and monographs. As befits a work by an eminent legal scholar, the text is abundantly documented, with 302 of its 946 pages devoted entirely to notes and citations.

As an economic and social history, the text accurately captures the nineteenth century philosophy of growth and development: "Measured against the facts, the use men made of timber wealth was particularly revealing of their time preference and the value they put upon pace and scale in economic growth." Repeatedly, Professor Hurst makes the point that a key factor in the public and private policies of the nineteenth century was a shortage of capital, and most particularly of operating capital. Wealth in natural resources and opportunities in other forms of commerce and industry were abundant, but the operating capital to exploit these opportunities was scarce. The vast tracts of virgin pine forests, in addition to being a prize in themselves, were a ready source of capital with which frontier entrepreneurs could push the development of agricultural

1. P. 112.
lands, railroads, and industry. The federal and state government both followed the Jeffersonian philosophy that the rapid creation of a substantial class of independent freeholders was essential to the successful life of a republic. Thus, basically the same policies of rapid divestment were followed in the disposal of public pine timberlands as were used to settle the Prairie States and southern hardwood sections of the three Lake States.

For those who would make contemporary judgments on the policies of the past, Professor Hurst succinctly points out the main reason why "sustained yield forestry" could not have succeeded even if the lumberman and land owners of the time had been so inclined:

So long as vast inventories of cheap virgin timber hung over the market, available for clear-cutting without regulation, private operators faced substantial deterrents to pursuing more costly sustained-yield procedures in harvesting timber, and state legislators faced difficult choices in subjecting home industry to regulatory burdens from which our out-of-state competitors were free.²

Also, in a time when systematic resource statistics were virtually nonexistent and agricultural knowledge was not as highly developed as today, it comes as no surprise that there was only a vague knowledge of the quantitative extent of the vast pineries, and that the prevailing opinion was that all these northern sandy lands would become lush farms once the timber was harvested. As Professor Hurst points out:

They assumed that the forest was 'inexhaustible for ages,' 'practically without limit,' 'endless.' They assumed that agriculture was by nature inevitably Wisconsin's fortune, and that the normal use-history of any given tract of land in northern Wisconsin would be for a farm to follow the forest when the pine should 'fall,' as they assumed it must finally do in any particular area subject to logging. Common opinion held to the first assumption into the eighties, and to the second into the early twentieth century.³

Thus it was that, although the logging of the virgin pine lands was well on the way out by 1915, not until a decade or so later did the proponents of agricultural development in the northern counties finally begin to realize that light sandy soils, relatively short grow-

² P. 438.
³ P. 461.
ing seasons, and distances from the consumer markets of large population centers were insurmountable obstacles to wide-scale agricultural development of most of these cut-over lands. Indeed, in some parts of northern Wisconsin, Minnesota, and Michigan, the local aim of promoting agricultural development on such cut-over lands persisted well into the 1940’s.

During the late 1800’s and early 1900’s, when this belief that farms would follow the forests everywhere still strongly prevailed, wild fires were most destructive. As Professor Hurst notes, one could well speculate on what the condition of the northern forests in all three Lake States would be today if wild fires had not repeatedly burned through most of these logged-over tracts. But with agricultural settlement deemed the next step in land use, there was little sentiment for organizing and appropriating funds for forest fire control and suppression. Not until 1925 did a legislative interim committee urge the development of more effective fire protection so as to safeguard public or private investment in growing timber.

Although the social mechanism of law touched most aspects of the Wisconsin lumber industry, Professor Hurst reports no major state statutes or court decisions that stand as landmarks in the history of the Wisconsin lumber industry. Rather, the record shows a pattern of common law and state statutes closely reflecting the wishes of a society anxious for economic growth and development.

The book is not light reading and the “arm-chair” historian or conservationist would doubtless find it lacking in drama and continuity. It is, however, a noteworthy contribution to socioeconomic and legal history, and legal scholars as well as social scientists should find it of considerable interest.

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