LEGISLATION AND ITS ROLE IN IMPROVED UTILIZATION¹

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In a democracy, legislation is an expression of the will of the people. It is not imposed by arbitrary rule under despots. Therefore, the role of legislation on improved forest utilization is not like an ordinance beyond question and unchangeable. In fact, it expresses the response of the public towards the operations of the forest industry. In a sense it reflects the beating of the pulse of industry, on the management of the forest resource.

Improved forest utilization is more directly the result of a group of factors affecting the economy of processing and marketing a product rather than being the direct result of legislative action.

Legislation as it deals with Crown timber, specifically in Ontario, is tailored to fit the better standards of utilization possible under current economic conditions. In the varying conditions encountered throughout a province as large as this, there cannot help but be a wide gap in the economy of utilization from one end to the other. Therefore, legislation cannot fairly require practices in remote or undeveloped areas to the same degree as in the areas that are closest to markets, but it must take the middle road when it sets out the minimum standard of acceptable utilization.

Legislation, to be judged as good, must be practical to administer. It will be better to be honored by acceptance by the average licensee rather than be judged by the number of penalties collected.

Prior to the development of new legislation, the policy makers of Government decide that certain minimum standards of utilization are practical. As soon as these standards are incorporated in the legislation, their role is to maintain whatever improvement these standards represent. For example, the Crown Timber Act of 1952 and the Regulations made thereunder specify a kind of utilization that, if not practiced, is regarded as wasteful and subject to the various penalties listed.

A standard of (improved) utilization may be set by legislation. There are two methods of approach that may be used in its administration. First—complete dependence may be placed upon the penalty clauses for enforcement, with inspection being conducted at any time but more often after operations have been completed; or second—supervision may be based on a clear understanding of operational problems accompanied by early and continuous inspection which will stop the waste before it reaches any size. The latter approach may also prove to the operator the interest of the Government in good management rather than add fuel to the fire of opposition that accompanies the unremitting enforcement of penalties.

Aside from the protection services performed by the Government, the main activities in forest management until recently have involved policing

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more than anything else. The reason is obvious—that owing to the large supply of mature and overmature timber available, legislation was almost wholly designed to regulate the harvesting and liquidation of the crop and safeguarding the public from loss of revenue through trespass and wasteful practices and from scoundrels and defaulters.

Now, with the knowledge of the limitation of timber supply to meet an ever increasing demand for many uses policing, although still necessary to a degree, will undoubtedly reduce in importance as foresters and a great many other technicians will be actively engaged in the regeneration and treatment of the growing crop. In this, legislation plays its role in utilization in the long-term programmes that require master plans and measures for keeping the areas productive under the system of licensing which is coming in vogue throughout Canada. If we do not have a crop to replace the one being cut, utilization will change but whether it will be improved or not is a question. There will certainly be less to improve under the latter circumstances.

Scarcity of a product influences the standard of utilization. It is a time when more of the lower grades are marketable. In numerous cases the use of lower grades results in poorer and less durable end products. Furthermore, as the high-quality material is of less volume, it can only be distributed to a few and a lower living standard can prevail. This is a type of "improved" utilization that can give very undesirable results, therefore, legislation should be designed to maintain in perpetuity and even increase the supply of high-quality timber and allow this type of improved utilization to become effective on the lower grades that are incidental to the production of the best. This is not to infer that improvement of utilization on the best grades should be overlooked. In the first case the stress on improvement is mainly concerned with increasing volume used while in the latter, improvement must be mainly concerned with better care in the preparation of the product to see that none is improperly used or wasted.

It has often been suggested that legislation affecting tenure could be changed either by granting timber lands in fee simple as the first choice, or by increasing the term of licences to the extent of practical ownership along with a relaxation of Government regulation. One of the great benefits to be derived from this action is reported to be improved utilization. In older countries the trend has often been for forest land to revert back to the state and it is difficult to see why this should not take place in Canada after the immediate values have been liquidated and taxation becomes a burden. In an economy of truly free enterprise, private industry can manage in any fashion it desires. The same unit of industry may and often does change its policy overnight. There is a great risk, therefore, to the public of loss of resource value—the loss of a continuing source of revenue—if it does not maintain some regulatory powers in order to ensure management for the good of all at all times.

There is not too much evidence in Canada of good forest management by industry or Government, but it is reasonable to say that Crown lands have been managed just as well as private timber lands. In the long run it is doubtful if a change in tenure as suggested will effectively improve utilization. The ownership of timberland and in some cases the rights of a timber licensee

are largely retained as security and not for management. Such reserves are used as buffers against the raise in price of purchase wood first and second for use. It is a forester's task not only to manage a selected few areas, but to strive for more management of more area and thus make available the full value of the forest resource. Accumulation of limits to provide security that is out of balance with the need and risks of management will delay the day of good management and further hold back progress in the establishment of new industry, all of which is tied into improved utilization.

A change in legislation affecting utilization was made in Ontario during the last session of the Legislature. The significance of the amendment may not be understood without some explanation. It reads as follows:

"The Minister, with the approval of the Lieutenant Governor-in-Council, may designate any public lands as a Crown management unit and enter into agreement with any person for the supply of Crown timber to such person from such unit for such term of years and in such manner as he may agree upon."

In Ontario all other rights to Crown timber are granted by a specific licence to cut Crown timber on an area described in the licence. With the new clause the Minister may by agreement commit a definite quantity annually from a management unit for a mill. It assumes that the area in question has many different values and consequently many demands upon it for timber of various kinds that a one-product industry could not use to advantage. One of the main features, then, is to satisfy a greater variety of demands from one area while it guarantees a supply to persons who in turn have committed themselves to the development of a mill of specific size and who have guaranteed the use of a stated quantity of wood from the management unit. Management of the unit is handled by the Department of Lands and Forests to the extent of setting up each annual operating area.

In this case the legislation followed the demand for a class of timber that previously was not considered to be economical to process and market. It provided the opportunity to practice better silviculture of sawlog species by improvement cuttings and thinnings extracted in the form of pulpwood. This situation is a direct confirmation of my earlier statement to the effect that "improved forest utilization is more directly the result of a group of factors affecting the economy of processing and marketing rather than being the direct result of legislative action". With this precedent and subsequent legislation it is now possible to proceed further along these lines where conditions are right.

In summing up this discussion on the role of legislation in improved utilization, it seems that legislation has two important functions: first—that of requiring minimum standards of utilization that are warranted under current economic conditions; and second—to require that measures be taken in all operations to maintain the supply of high-quality timber in perpetuity.