

doubt that these strictures were deserved. But here we are only concerned to affirm our conviction that Mr. Roosevelt uttered absolute truth in his Guildhall speech, and took an appropriate time to utter it; and that in that utterance there was nothing inconsistent with his accompanying declaration: "I speak not only as an American, but as a radical, a real and not a mock democrat, who feels that his first thought is bound to be for the welfare of the masses of mankind, his first duty to war against violence, injustice, and wrong-doing wherever found."

## THE BALLINGER CASE

### A REVIEW

Last January a Congressional Committee was appointed to investigate the Interior Department and the Bureau of Forestry. The investigation has continued for four months; the testimony and documents submitted to the Committee occupy six volumes. A member of the staff of *The Outlook* has attended the most important sessions in order to get an impression of the personalities of the more important witnesses. And the whole testimony has been very carefully examined in the preparation of the following article. In condensing into seven pages a story which in the original telling occupies five thousand pages, *The Outlook* has had to select what appeared to it the more important facts and circumstances, to pass by without mention circumstances that to some might have seemed important, and, in some cases of disputed testimony, to determine which view should be taken, though where this has been done the fact is generally indicated by a foot-note. The reader of *The Outlook* may be sure, however, that no pains have been spared to make this account as accurate and adequate as was possible, and that nothing in it has been set down in malice or conscious prejudice. We intend it to be, and we believe that it is, a just and impartial summing up of the Ballinger case.

In many respects the chief contribution of President Roosevelt to his country was his policy of Conservation.

The people of the United States collect-

ively are the greatest landowner in their own dominions. Thus the people of Maine, of New York, of South Carolina, of Ohio, of California, of each of the other States, are part owners of great tracts of land in Alaska, in Utah, in Oregon, and in other States and Territories. For years the people, as a whole, seemed to have little interest in their lands. They were concerned in building up a great country with a great population. So they gave some of their lands to individuals, with little thought of how those individuals would dispose of them; other lands they gave to railways; still other lands they gave to the States, which in turn disposed of them to rich individuals and concerns.

Gradually, however, the American people began to realize that these lands of theirs contained coal and oil and ores and other deposits, included water power that could be used in place of fuel, bore or could be made to bear forests. So Congress was urged to make laws to restrict and regulate the disposal of these lands. Persons eager for these lands, however, found ways to procure them. Under the pretense of getting homesteads they secured great tracts of land for various purposes, valuable coal deposits, and stretches of timber land. The only way these lands could be conserved for the common interest and kept from benefiting merely a few was by the strong action of the Executive. Congress could pass rules for the use of this property, but only the President and his subordinates could see that the property was not squandered.

Under the President two departments of the Government are charged with administering the landed estate of the American people. One is the Interior Department, the other the Department of Agriculture. The Interior Department acts through three agencies: the Geological Survey, which obtains certain kinds of information about the lands; the Reclamation Service, which, besides getting information, manages the great projects for bringing water to fertilize rainless lands; and the General Land Office, which, besides getting information, is charged with seeing that such lands as the Government disposes of are secured only by those who are entitled to have them.

In March, 1907, during Mr. Roose-

velt's administration, Mr. Richard A. Ballinger, formerly a reform Mayor of Seattle, Washington, became Commissioner of the General Land Office. The law then in force limited the acquirement of coal land in Alaska by any one person to 160 acres. Many people had tried to evade this law by various methods. A man, for instance, would get several people to pretend to apply for coal lands for themselves, but really for him; or he would join with a number of people and, with the intention of forming a company, secure many hundreds of acres through the claims of his associates. In 1906 President Roosevelt had issued a proclamation saying that no more coal lands would be given away, though the claims already filed would be kept under consideration. When Mr. Ballinger came into office, there were about nine hundred such claims. Of these thirty-three were in one group, called the Cunningham group, from the name of the agent who acted on behalf of the claimants. The Cunningham claimants were the only ones who had carried their claims to entry—that is, had gone through the formality of offering proof of compliance with the law, had paid to the Government the required ten dollars an acre, and had been given a receipt. These Cunningham claimants were therefore the only “entrymen” of the Alaska coal-fields. Several of these claimants were prominent men of Seattle. Mr. Ballinger, as former Mayor of Seattle, knew the prominent men of the city. If these claimants had among themselves reached such an understanding or made such agreement as to frustrate the object of the law, their claims were illegal. As Land Commissioner, Mr. Ballinger was under pressure from men who had paid their money to the Government for the land, and who urged him to perform the Governmental acts necessary to perfect their titles. During the year 1907 three Government agents, Mr. Love, Mr. Jones, and Mr. Glavis, were designated in turn to investigate the Alaskan coal claims to see if they were in accord with the law. Mr. Love, who had before this time been making investigations, reported to the General Land Office facts which were suspicious, but nevertheless recommended that

the claims be allowed. Mr. Love, it should be said, was somewhat embarrassed in his investigations by his social and political relations with the claimants. Before Mr. Love's report was submitted Mr. Jones was directed to join him, and together with him conferred with Mr. Ballinger. Mr. Jones was given to understand by Mr. Ballinger that he was to make only a preliminary examination for the purpose of furnishing Mr. Ballinger information that would assist him in recommending changes in the coal land law. Within a few days Mr. Jones submitted a report in which he gave his impression that the claims all tended to the Guggenheim companies—an impression apparently justified by subsequent evidence of an option given by the Cunningham claimants to the Guggenheim syndicate. Mr. Jones recommended that the entries be further investigated. Later, Mr. Glavis, Chief of a Field Division of the General Land Office, who had given Mr. Jones information about the Alaskan coal land laws, in a letter to Mr. Ballinger informed him that one of the claimants, not of the Cunningham group, had explained that he had refused to give information on advice from Mr. Ballinger. A month later Mr. Glavis was summoned to Washington, and, after telling Mr. Schwartz, a Land Office official, who had charge of all field investigations, that there was danger of a coal land scandal, and after talking with Mr. Ballinger, was put in charge of the Alaskan investigation. Then there followed a succession of vacillating actions.

Within a few days, Mr. Moore, one of the Cunningham claimants, called on Commissioner Ballinger and talked over the claims with him. In the presence of the claimant Mr. Ballinger called in Mr. Schwartz and got from him information about the status of these claims, being shown in particular Mr. Love's report, declared that he thought they should be allowed, and, receiving the concurrence of this subordinate, ordered that these claims be “clear-listed” for patent—that is, that they be taken out of the division that was investigating them and put on the way to be recorded as valid. As soon as Mr. Glavis, who had in the meantime left Washington, received

word of this clear-listing order, he protested by telegraph and letter. As a consequence, Mr. Ballinger canceled the order for clear-listing; but when the Cunningham claimant who had visited him in Washington inquired by telegraph for a reason for the delay, Commissioner Ballinger indicated that the cancellation not only was done on account of Mr. Glavis's protest, but also was not expected to be permanent, by personally writing and sending by telegraph the answer, "Temporary delay caused by report of field agent." Within a few days Mr. Ballinger appeared before a Congressional committee and urged the passage of a bill one effect of which, if passed, would have been to validate claims otherwise invalid. It was for this occasion that Mr. Ballinger had asked Mr. Jones for information about coal entries. Within a day or two he left office.

For a year thereafter Mr. Ballinger practiced law in Seattle. Meantime the direction of affairs in the General Land Office fell to the hands of Mr. Ballinger's former assistant, Mr. Dennett. Soon after Mr. Ballinger had left office, Mr. Glavis secured from Mr. Cunningham a journal that indicated that the entrymen had made an agreement or arrangement to act jointly. Very soon thereafter Mr. Glavis was first ordered by the Land Office to limit his office expenses and later ordered to discontinue his investigation of the Alaska claims. The reason given was a lack of funds. Mr. Glavis protested that such discontinuance would work injury to the Government's case; but he had to comply. In May ample funds were voted by Congress, and later in the month a new coal law (not, however, the one advocated by Mr. Ballinger) was passed. The general order to Mr. Glavis as to limitation of expenditure was revoked, but no direction was given him to resume the investigation of the Alaska coal cases.<sup>1</sup> So Mr. Glavis busied himself with some pressing cases regarding lands in Oregon and an examination of timber in Alaska. The summer months, during which a field examination of the Alaska claims was possible, passed,

therefore, without any field examination being made. In some way the claimants had information as to the course the Government was pursuing. During these months Mr. Ballinger, now practicing law, wrote from Seattle several letters to his former subordinate asking favorable consideration for several claims. His letters were of a friendly, not to say intimate, character. In September Mr. Ballinger drew up an affidavit for Mr. Cunningham. This affidavit refers to the Cunningham journal Mr. Glavis had secured, relates with some detail the course which Mr. Cunningham had pursued which had led to the location of the Cunningham group of claims, asserts that there was no combination among the claimants that would result in "parting with title," and states that Mr. Cunningham knew of no claimant who had any contractual obligation with the Guggenheim or other syndicate. Mr. Ballinger took this affidavit to Mr. Garfield, the Secretary of the Interior, and presented to him the contention of the Cunningham claimants. For this service he was paid a small fee of two hundred or two hundred and fifty dollars. In October, when it was too late to make a field examination, Mr. Glavis's instructions to suspend the coal investigations were definitely revoked. By this time all field examination had to wait till the following summer.

This was the status of the Alaska coal claims in March, 1909. So far Mr. Ballinger, beyond opposing the establishment of the Chugach National Forest in the coal regions of Alaska, had had little to do with any Conservation question except that of coal lands. Other Conservation problems, however, were being dealt with.

Under Mr. Garfield, Secretary of the Interior, the Reclamation Service, directed by Mr. F. H. Newell, was continuing the great task of reclaiming arid lands. Some of these lands were public lands, some private. The cost of this work is only temporarily borne by the Government, for it is ultimately paid for by the settlers who receive the benefit of the irrigation. The Government simply loans its capital without interest. In some cases the water users proposed that the Government should not even do that, but permit them to do some of the ditching work them-

<sup>1</sup> It has been held that communications to Mr. Glavis indicated that he was to resume his investigations, but we think Mr. Glavis was right in thinking that they did not. He ascribed the discontinuance to the Presidential campaign.

selves under direction of Government engineers. For this purpose an ingenious form of certificates was prepared. These certificates were issued by the water users, not by the Government, as a convenient bookkeeping arrangement so that it could be easily determined how much each settler had contributed in labor instead of money. Of course each day's work that was done by a settler saved the Government just so much expense, and therefore made it unnecessary for the settler to reimburse the Government for that expense. Under this plan the co-operation of the settlers with the Government was secured.

With information supplied by the Reclamation Service Mr. Garfield withdrew from entry thousands of acres along certain rivers. He did this because it was certain that there were places there where water power plants could be erected. It was desirable that such places should not be taken under the guise of homesteads and then used by power companies. It was also desirable that any such place where power could be utilized for driving machinery in connection with reclamation projects should be kept for reclamation purposes. Furthermore, as the Secretary of the Interior can withdraw land for use as stations for Government forest rangers, Secretary Garfield chose for many of those stations places where there were power sites.

In the Forest Service, which is a bureau of the Department of Agriculture, Mr. Pinchot had been developing a body of expert forest rangers. By an agreement between the Secretary of the Interior, under whom the Indian Office is placed, and the Secretary of Agriculture, men from the Forest Service were beginning the management of forests on Indian lands. Mr. Pinchot had also been continuing the development of the forests themselves. The policy of Conservation and Reclamation was thus being firmly established.

When President Taft's Administration began, Mr. Ballinger, leaving his law practice in Seattle, became Secretary of the Interior. Within a few weeks he had brought about what almost amounted to a complete reversal of the methods which had been followed.

He showed at once his distrust of the Director of the Reclamation Service. He

brought sharply to the attention of the Director and his Chief Engineer the criticisms he had heard of the service. He attempted, but finally abandoned the attempt, to make the Chief Engineer rather than the Director his means of communication with the bureau; indeed, he proposed a plan of organization which would have eliminated the Director as chief of the bureau, relegated him to a place over merely one of the branches of the bureau, and left the service without a chief of any kind.

Contrary to the wish of the Director, Secretary Ballinger retained in office an engineer of the Reclamation Service who had accepted each month a check from a railway with which the Government was regularly doing business through his branch of the service, and even gave him enlarged powers. He exonerated this engineer on the ground that a letter authorizing him to give lectures for men's clubs and the like, for pay, authorized his receipt of such a retainer.

In spite of the opposition of both the Director and Chief Engineer, he made known to them his wish that the withdrawn lands, with all the power sites, be restored to entry. He had no intention of rewithdrawing them, but instead would have left them to be taken up by settlers. When protests came in, he ordered, as a second thought, that the Geological Survey supply charts for rewithdrawing these lands. He later reported to the President that his only error in this was in not making the orders for restoration and rewithdrawal concurrently. The rewithdrawals, however, were much narrower than the original withdrawals. It does not yet appear that they are broad enough to secure the control of the power sites.

He had his subordinates submit to the Attorney-General a statement of facts purporting to describe the conditions under which the water users' certificates were issued, but which did not accurately describe the conditions, and, on the decision of the Attorney-General that under such conditions the certificates were illegal, he abolished them.

He came into office finding the agreement between the Secretary of the Interior and the Secretary of Agriculture regarding forestry on Indian lands in operation. Later, when asked by the President for



the reason for the abandonment of this agreement, he transmitted a copy of a decision of the Comptroller which declares one arrangement proposed under that agreement illegal, but does not invalidate the whole agreement, and which much less erects a barrier against every kind of co-operative agreement between the two departments.

As head of the Interior Department Mr. Ballinger now had final responsibility regarding the Alaska coal cases. In accord with his instructions, Mr. Glavis was at once directed to hasten the investigations. On account of snow in Alaska he could not make field examinations until the first of July. Urgent requests for expedition came from Mr. Moore on behalf of the Cunningham claimants. Mr. Ballinger explicitly stated that, in view of his relation while out of office to the claimants, he would have nothing to do with these Cunningham cases. He so informed Mr. Moore, but added that, if he were to decide, he should have to make his decision adverse to the claimants. He suggested, on the other hand, that the claimants might wish to take advantage of the new Coal Act of May, 1908, and that the Department was disposed to construe this liberally. Before continuing with the investigations, Mr. Glavis wanted a construction of the new Coal Act of May, 1908, in order to understand how far the Department would regard it as applicable to these claims. Mr. Ballinger agreed with him that there was no use in making further expensive investigations if the law allowed these claimants to have title. So it was decided, with Mr. Ballinger's approval, to have the question submitted to the Attorney-General. Mr. Ballinger's First Assistant, Mr. Pierce, however, under the general instructions received from Mr. Ballinger to take these cases in charge, rendered a decision himself which would have enabled these claimants to take advantage of this act, and get their claims patented. When Mr. Glavis heard of this, he went to Mr. Hoyt, an Assistant United States Attorney, and laid the situation before him. He could not secure from Mr. Ballinger any reversal of the course he believed the Department was following, because Mr. Ballinger had an-

nounced that he would have nothing to do with the cases. First Mr. Hoyt, and the next day Mr. Glavis, had an interview with the Attorney-General, Mr. Wickersham. Evidently as a consequence of these interviews, the identical questions on which Mr. Pierce rendered his decision were submitted to the Attorney-General.<sup>1</sup> The resulting decision of the Attorney-General, while perhaps not technically a reversal of the Pierce decision, was in practical effect a reversal so far as these Cunningham claims were concerned, for it made it possible still further to call in question the good faith of the claimants. Mr. Ballinger has expressed himself as being greatly vexed with both Mr. Hoyt and Mr. Glavis for this incident, on the ground that since he had been informed that the claimants were going to appeal to the President, he would himself have referred the matter to the Attorney-General. The opinion of the Attorney-General was rendered in June. On the first of July Mr. Schwartz, the Chief of Field Service, wrote of Mr. Glavis as a specially competent man. A week later Mr. Glavis urged the necessity of awaiting field examination before beginning proceedings looking to canceling the entries. At the same time he asked the Forest Service for assistance. Inasmuch as several of these Cunningham claims were in the Chugach National Forest Reserve (though they had been filed before the Forest had been created), the Bureau of Forestry was legitimately interested. In attempting to get the papers on file concerning these claims the Forest officials were at first put off by the Interior Department officials, and then given an incomplete record. Within a week thereafter the Chief of Field Service, Mr. Ballinger's subordinate, on the ground that Mr. Glavis had been slow, put Mr. Sheridan, who had been detailed to assist him, in Mr. Glavis's place in charge of the Cunningham group, and informed him that without further delay the Government would endeavor to cancel the claims. Mr. Sheridan, by independent study, reached the same conclusion as

<sup>1</sup> It is a disputed point whether the question was submitted to the Attorney-General by Mr. Ballinger independently of any action on Mr. Glavis's part. The evidence, we believe, indicates strongly that Mr. Glavis's action was in this matter the chief factor.

Mr. Glavis in favor of postponing hearings until the Government could ascertain new facts to meet new conditions. At the suggestion of a Forest Service official the Secretary of Agriculture also made request for a delay in the hearings. Even this request was not promptly granted. Ultimately, however, the hearings were postponed. In the meantime Mr. Glavis became more apprehensive on account of the attitude of the Commissioner of the Land Office, Mr. Dennett. Letters written by Mr. Dennett at this time justify Mr. Glavis's fears. Later Mr. Glavis consulted with Mr. Pinchot, and on his advice finally decided to lay the whole matter before the President. He did so, and, upon Secretary Ballinger's request, was discharged for insubordination and unfair statements.

It has since transpired that the Guggenheim syndicate for the development of Alaska had an option on the Cunningham claims, that just before the clear-listing order Mr. Guggenheim accepted that option, and that during the summer of 1909 Secretary Ballinger wrote to Mr. George W. Perkins, a member of the firm of J. P. Morgan & Co., which is interested in the Guggenheim syndicate for the development of Alaska, recommending an engineer to accompany Mr. Perkins in an examination of the resources of Alaska. This same engineer, it may be said, has been mentioned as under consideration as a man to displace Mr. Newell as Chief of the Reclamation Service.

The charges on which Mr. Glavis was discharged were presented in a number of memoranda. These were submitted by Secretary Ballinger, Mr. Dennett, Mr. Schwartz, and Mr. Lawler, Secretary Ballinger's official legal adviser. All these men, with the exception of Mr. Lawler, were involved in the dealings with the Cunningham claimants, and Mr. Lawler has acknowledged a long-standing feeling of strong hostility to Mr. Glavis. With these memoranda in hand and with an almost full record in the case, the Attorney-General prepared a summary and report exonerating Mr. Ballinger and condemning Mr. Glavis. Secretary Ballinger gave Mr. Glavis no opportunity of knowing what the charges against him were.

In the course of preparing his mate-

rial for submission to the President, Mr. Glavis received the assistance of Mr. Price, Associate Forester, with the authorization of Mr. Pinchot; and later, in the course of giving to the public, through "Collier's Weekly," his statement of the facts in the case, received the assistance of both Mr. Price and Mr. Shaw, Assistant Law Officer of the Service. For giving such information both Mr. Price and Mr. Shaw were discharged. Then, because Mr. Pinchot, in response to a request from Senator Dolliver, wrote a letter to the Senator approving the course of Mr. Price and Mr. Shaw without receiving from his Chief, the Secretary of Agriculture, the permission he understood he had received, Mr. Pinchot was discharged. Finally, after many attempts to obtain Mr. Lawler's memorandum for submission to the Investigating Committee had been frustrated by the officials of the Department of the Interior, a stenographer, Mr. Kerby, made a public statement concerning the contents of this memorandum and the circumstances of its preparation. For this act Mr. Kerby was discharged.

On the stand, before the Committee, Mr. Ballinger has been evasive in his answers, and has shown the greatest feeling, not over any danger to public property, but over what he calls an attack on his reputation. He has repeatedly attempted to explain letters he has signed by ascribing the preparation of them to subordinates, and to explain actions by saying that, though they were taken by subordinates in accord with his strongly expressed wish, they were not done under his orders. He has repeatedly denounced his subordinates, the Director and Chief Engineer of the Reclamation Service, and he has made statements which, as they would be ordinarily understood, do not accord with the facts. His counsel, apparently with his consent, has held the Conservation policy of the last Administration up to ridicule.

These facts, derived from the full record of the proceedings, lead us to certain definite conclusions.

The notion that there has been a conspiracy to injure Mr. Ballinger may be disregarded. What Mr. Garfield, Mr. Pinchot, Mr. Newell, Mr. Price, Mr.

Shaw, Mr. Glavis, and Mr. Kerby have done may not in all particulars have been directed by sound judgment, but there is no evidence that it has been governed by intent to do damage to any man.

Whether it was necessary to dismiss Mr. Glavis from public office was a question that had to be decided according to the discretion of the President. Dismissal, however, does not necessarily carry with it judgment against the man himself. Mr. Glavis should not be condemned. He has rendered important service. Believing, as he did, that the public interest was in danger, he could not have pursued any other course than that of appealing to the President.

Mr. Pinchot has, we think, committed some errors of judgment; but they have been incidental to a career that has been guided by sound instincts. This, generally true of his activities as a public official, is, in particular, true of the part he has taken in this controversy. His separation from the public service is a misfortune. What he has contributed to the advancement of the Nation is quite beyond computation or estimate.

What Mr. Price and Mr. Shaw, of the Forest Service, and Mr. Kerby, the stenographer in the Interior Department, did toward making the facts of this case public was done with the object of the public welfare. Whether they might have done better to resign before taking extreme measures is a matter on which opinions may disagree; but the method of action which they did adopt was in accord with sound moral principles.

Questions of the violation of law are not to be determined by a Congressional Committee, much less by a newspaper. Nevertheless, concerning Mr. Ballinger's relation to public office the question of the violation of law in one instance has been raised. According to the revised statutes (190), it is unlawful for "an officer, clerk, or employee in any of the departments to act as counsel, attorney, or agent for prosecuting any claim against the United States which was pending in either of said Departments while he was such officer, clerk, or employee, nor by any means to aid in the prosecution of any such claim, within two years next after he shall have ceased to be such officer, clerk, or employee." Mr.

Ballinger's action in presenting the merits of coal land claims to the Department seems to us to be contrary to the spirit, if not the letter, of the statute; but since the Attorney-General of the United States appears to hold that this and other similar statutes apply only to money claims, we shall not put our opinion against his. The reason, however, for the prohibition against representing money claims applies equally to land claims.

We are loth to believe that anything that Mr. Ballinger has done has been with wrong intent. We do not believe that a careful reading of the testimony compels to such a conclusion. As it is not in our province to render decisions concerning the legality of actions, so it is not in our province to sit in judgment on motives and purposes.

The evidence, however, is clear that the ethical standards which Mr. Ballinger has adopted are not those which the American people in these days have a right to expect in their public servants. The law-honesty which Mr. Ballinger believes he observed in representing coal claimants is not the proper measure for a public servant's conduct. The fact that as Secretary of the Interior he recommended an engineer to accompany a member of the firm that is associated with the Guggenheims in a trip to investigate opportunities for exploiting the mining regions of Alaska indicates that his opinion of what is delicate and fitting in a public official is not in accord with the standards to which a public official should hold himself. The reason he gave for exonerating an engineer of the Reclamation Service for accepting a retainer from a railway with which as a representative of the Government this engineer was dealing affords another illustration of Secretary Ballinger's standards of public official conduct. These specific illustrations are in accord with his participation in his own exoneration and with his resistance to the search for facts in the case. His attitude as thus illustrated helps to explain the general tone of the Interior Department officials as shown in the testimony. The standards set by the head of a Department are felt throughout the Department. It is clear that views of the public service that have prevailed in those bureaus of the Interior

Department which responded most readily to Secretary Ballinger's influence are those which we hoped had been left behind with a past epoch.

Specifically with regard to the history of the Cunningham claims, the facts show that Mr. Ballinger was ill-advised to act as attorney for the agent of the claimants; that, having acted as attorney, it was unfortunate that he was prevailed upon to accept the office of Secretary of the Interior; that, having found it not inconsistent to have served the claimants after serving the Government, and having accepted the office of Secretary of the Interior, it was wrong for him to refuse to defend the interests of the Government against what he regarded as invalidated claims; that, having concluded that he could not protect the interests of the Government, it was incumbent upon him to resign; and that, after remaining in office, though incapacitated from protecting this property from illegal claims, he is not in a position to hold the confidence of the owners of the property—the people of the United States.

In respect to the withdrawals of public lands, to the water users' certificates, and to the co-operative agreement between the Department of Agriculture and the Department of the Interior, he has justified his action on the ground of his respect for law. He has not, however, been able to show that his rewithdrawals are any more legal from his point of view than the original withdrawals, or that there was any lack of funds necessitating, as he claims, the abolition of the certificate system, or that the Comptroller's decision which he transmitted to the President rendered the co-operative agreement illegal. Likewise he was unable to show on the stand the legal ground for his opinion that the irrigation of private lands is permissible if in conjunction with public lands, but not permissible if not in conjunction with public lands. In other words, it is not the law but his opinion of the law that reigns; and the testimony shows that this opinion is not valuable. So far as this opinion is a principle, it seems to amount to this: that laws defining powers to defend public interests must be interpreted strictly, but laws defining the rights of private interests must be interpreted liberally.

As an administrator Secretary Ballinger has, by the evidence, been shown to be inefficient. Not only his general attitude toward the Reclamation Service, but his specific plan for the reorganization of that bureau, is violative of the primary principle of efficient organization. The evidence shows that his subordinates cannot always distinguish between what he regards as a wish without directive force and what he regards as an order. His announced belief that some of his subordinates are "snakes" which are to be killed is death to *esprit de corps*. Under his administration bureau jealousy has been fostered.

Upon the record here set down there is no adequate ground to adjudge that Mr. Ballinger has violated the law or acted with deliberate wrong intent. But, because his standards for the conduct of public business do not reach the level that is expected of public servants, because in dealing with the Alaska coal cases he has not invariably been the protector of the public interests, because he is an uncertain and arbitrary interpreter of law, and because he has been inefficient in administering his Department, he cannot be regarded as a trustworthy custodian. The verdict of history will be that he did not understand either the spirit and purposes of the people of his time or the duties and functions of his great office.



## WITNESSES WORTHY OF BELIEF

The credibility of a witness depends on two things: knowledge and veracity; and when a man or woman appears to give evidence touching the meaning of life and the interpretation of its facts, these two questions must be pressed home: Do you know the facts? Are you telling the truth? The witness-box has been filled by a long succession of men and women who were eager to tell us about life. They have written numberless books, they have filled the pages of the magazines and newspapers, they have been heard in all places of public speech. They assail our intelligence through every faculty; they enchant us with the music of the spoken word; they throw over us the spell of temperament; they play on