

MAN-HANDLING THE PAPAGOS

By unworthy nuisance tactics, the Arizona delegation forced a settlement of the Papago mineral lands controversy into the Wheeler-Howard Act. We consider this settlement a serious injustice to the Papagos. Anxiety to make the Wheeler-Howard bill law, explains the Administration's capitulation on this issue. It apparently allowed the injection of this extraneous matter into the Act only because it could not overcome persistent political pressure.

A Presidential Executive Order created the Papago Indian Reservation in 1917. It granted ownership of the surface to the Papagos, and reserved title of the sub-surface in the United States. Accordingly, the reservation was regarded as public domain for mining purposes; miners located minerals and took out patents under the mining laws of the United States. As mining developed, however, it became imperative that some balance be struck in protection of the Papagos' livestock industry, and in prevention of further alienation of their lands through the patenting of claims. Secretary Ray Lyman Wilbur made a decisive step in this direction in October 1932 when he issued an order prohibiting the taking of claims upon the reservation.

Arizonans protested that this withdrawal order was without legal justification; but no test was made in the courts. Instead, their delegates in Congress vigorously demanded a rescindment of the order. With equal vigor they fought legislative attempts to protect the Papagos' surface rights.

Complicating the issue was the claim that the Papagos had ownership not only of the surface, but also of the minerals. Last March, in an exhaustive opinion on this claim, Solicitor Nathan Margold established that the Indians had no right to the minerals; that the Arizonans were within their rights in demanding the cancellation of the withdrawal; *but that in fairness to the Indians' surface interest, a law should be enacted providing compensation for damages and loss of lands, and protecting the Papagos' sources of water.* Solicitor Margold prepared such a bill, and it was submitted to the Senate Committee on Indian Affairs. Immediately, opposition came from Arizona and from the State's delegation in Congress.

Later, when the Wheeler-Howard bill came before the Senate,