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January 27, 1909.

Edward L. Hamilton
Chairman Committee on Territories,
House of Representatives.

Pursuant to your verbal request for a discussion of part of a suggested Statehood Bill for New Mexico and Arizona which particularly affects this Department, I have considered the bill with some care and make the following observations:

Paragraph "Seventh", at the end of Section 3 should, and I believe as it is printed and should not have any provise added which might restrict the operations of the Reclamation Service in the proposed States. Both of these States are unusually arid and need every opportunity for the development of irrigation projects which can be furnished. To restrict further Government reclamation work would I believe immediately injure the proposed States and indirectly the whole country.

The provisions affecting the grant of land to the Territories found in Sections 6 to 14 inclusive should be

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made very clear. As they read, there would be needless difficulty in the way of construction by the Department and facile administration. This would lead to more or less discussion and friction between State and Federal officials. The terms and conditions of the grant should be made very clear. I have attempted to indicate in pencil upon the face of the bill some of the changes which would help in this direction, but suggest that the rewritten sections enclosed, which I am sure contain the same ideas as those of the bill, should be substituted.

Referring to the enclosed typewritten sections (marked "A") proposed as substitutes, I will discuss them in their order:

Section 6.

1. -- It seemed wise to recognize that Sections 16 and 36 had been granted to New Mexico.

2. -- This, and all the sections, refer to New Mexico only; and there must be slight modifications to meet the conditions in Arizona.

3. -- This section is written as though there were to be no grant except indemnity selection right within any reservations; but perhaps New Mexico would be glad to accept the grant within the national forests, along the lines suggested by Governor Kibbey.

4. -- The latter half of the section gives to the State the same method of making indemnity selections now pro-

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vided for other States. The words used, however, are, I hope, much clearer than those in existing law.

5. -- Please notice the clause beginning with the words "such indemnity selections", four lines from the end of the section. This clause should be omitted, in the interests of reasonable administration. It was inserted to include the idea contained at the top of page 9 of the printed bill. The object of the provision, which has appeared in several other indemnity grants, is to prevent the selection of large areas in solid blocks. To this extent, it is a good provision. The objections to it are, the impracticability of determining without delay, expense and friction, what lands are "as near as practicable", and also that this restriction prevents the State from selecting the best public land left. The land lost to the State, because it is within reservations, is usually the most valuable part of the grant, and on this account Congress has in the case of all other States yielded to the demand of the States and repealed this particular provision. For that reason I suggest that in typewritten section 6, you might omit all after the words "thus certified", in the fifth line from the end of the section.

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## Section 7.

1. The first sentence of this section is a very necessary one to protect homemakers who get upon school sections before the survey.

2. The second and long sentence is inserted for your consideration. It is not contained in the printed bill but is the usual provision to make sure (a) that the State shall not suffer because of fractional townships, by which is meant townships part of which are wanting because of the closing up of surveys or the existence of bodies of water which the surveying laws require to be meandered, and (b) im order that the United States may not lose large areas of land by indemnity rights for land which never existed, and therefore could not be lost to the State. There is no strong reason for this part of section 7, and it might be omitted without particular damage. The State would undoubtedly prefer to have it in the law.

## Section 8.

1. To make the repeals of existing laws in lieu of which the grants in quantity are granted, I have brought into paragraph 1 of section 8 the provision for the repeal of the act granting saline lands to New Mexico. It seemed proper that this provision for repeal should be coupled with the repeal of the act of 1841 and of the swamp-land act. There seems no good reason for separating such closely related items as these.

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The act of 1841, unless it were repealed, would have granted 500,000 acres to the "new State" for internal improvement purposes. It has been customary in all enabling acts to repeal this act and make specific grants in lieu of it.

2. With the same idea of logical correlation, I have brought the grant of lands for university purposes in section 8 of the printed bill and the grant of lands for legislative, executive, and judicial public buildings contained in section 7 of the printed bill into the table of grants in quantity contained in the second paragraph of typewritten section 8. There would seem to be no possible objection to this, since the orderly arrangement of the bill will be much improved and no doubt raised as to the security of the two grants mentioned.

Section 9.

Having taken the first half of section 8 of the printed bill and inserted in in section 8 of the typewritten matter, it seemed proper that the second half of said section 8 which, in the printed bill finds itself illogically between a grant of land for a specific purpose and a revocation of the saline grant, should be thrown into a section by itself, in some appropriate place. For that reason I have typewritten it as section 9.

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Section 10.

This typewritten section is simply Section 10 of the printed bill, and needs no comment.

Section 11.

I --- The history of the public land States in the matter of disposal of granted school lands has convinced me that those States which have a minimum price fixed on their lands granted for educational purposes get a much larger return from their lands. I am informed that most States with no minimum have not disposed of their lands to the best advantage, thus seriously failing to derive the full benefit to which the schools are entitled. The States of North and South Dakota, Montana, Wyoming, Idaho and Washington have a $10.00 minimum fixed on their lands, and I am informed that none of these States, unless it is Wyoming, feels that this high minimum is harmful. On the contrary, I find that officials of these States are zealous and proud of the splendid school funds which they are creating from the sale of school lands. North Dakota, which a few years ago seemed to contain immense areas of poor land, is, I am informed, obtaining in many cases $15.00 or $20.00 per acre for its school sections. Colorado seems to have an exceedingly low minimum, $2.50; and nevertheless it has administered its land grants unusually well, securing from them very large returns, both from sales and from leases. For these reasons, I urge that a minimum price

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be fixed for these new proposed States. They will be able to lease most of their land if it is not to-day worth the minimum price and will thereby obtain an income.

2. -- Recognizing that the aridity of these States becomes greater as we pass westward from the eastern boundary of New Mexico, I have suggested two minimum prices, one of $5.00 for the part of New Mexico between the eastern boundary and the 105th meridian and $3.00 for all land west of that meridian. If this plan were carried out for Arizona, its minimum price should be $3.00.

3. -- I am informed that some of the States have lost part of the principal of their school fund. This should not be allowed; and I have inserted a provision in the last half of Section 11 which I believe will have a double salutary effect. (a) The State officials will be reminded to use greater care in investing the funds, and (b), the legislature will be obliged to replace any part of the fund that is lost.

Section 12.

(1) The first part of this section gathers in one

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place the restrictive provisions concerning the class of land which may be selected and the manner of the selection.

2. -- The provision contained in the last three lines of the section after the words "the said State", are not contained in the printed bill, but should be inserted, in order that the new States may have the same burden concerning fees and commissions as are now carried by the other public land States.

Section 13

This section gathers together provisions found in two or three different places in the printed bill, and I believe amply protects the States in the land already granted to them, except in so far as they are required to select indemnity land for that which was previously granted in certain instances, and in so far as there are specific repeals of previous grants and the substitution of grants in lieu thereof.

I draw attention to the slip pasted on page 12 of the printed bill. This provides for an area larger than the State of Connecticut to be given to these States for the payment of their debts. I have inserted it at the end of the second paragraph of typewritten section 8 where it would seem logically to belong.

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I call attention to the fact that no State except Utah has ever received a grant of four school sections and that many of the public land States received only one.

Without passing judgment upon the propriety of the difference between the grants to New Mexico and Arizona, I draw attention to the fact that New Mexico has been granted already, independently of the saline lands, the grant for which is revoked, more than 1,300,000 acres, and has already selected practically this entire area, there being less than 6,000 acres of these grants unsatisfied. Arizona, on the contrary, has received only 46,080 acres.

This makes a discrepancy between the two States of more than a million and a quarter acres.

I am hurrying this report as you requested and have not been able to take up the specific differences of the wording for Arizona. I will finish that matter and send to you before to-morrow noon a suggested typewritten form for these sections to be applicable to Arizona. In this copy I will attempt to provide for leaving the school sections in the national forests, as Governor Kibby suggests.

You will notice that the rearrangement of sections has brought it about that there will be no section 14 if you insert my typewritten matter for the printed matter.

Very respectfully,

(Signed) James Rudolph Garfield.

Secretary.

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