

CONFIRMING TITLE TO LANDS IN AID OF COMMON OR PUBLIC SCHOOLS

DECEMBER 9, 1926.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. COLTON, from the Committee on the Public Lands, submitted the following

REPORT

[To accompany S. 564]

The Committee on the Public Lands, to whom was referred the act (S. 564), confirming in States and Territories title to lands granted by the United States in the aid of common or public schools, having considered the same, report it favorably to the House with the recommendation that it do pass with the following amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

That, subject to the provisions of subsections (b) and (c) of this section, the United States hereby grants and relinquishes to any State or Territory all right, title, and interest of the United States to the lands, irrespective of their character, granted to such State or Territory by numbered sections, or otherwise, for the support of or in aid of common or public schools, or other State institutions or purposes, unless land has been granted to and/or selected by, and certified to any such State or Territory in lieu of and/or as indemnity land for any land so granted by numbered sections, or otherwise, and in such case such relinquishment shall be limited to such indemnity or lieu lands.

(b) That the additional grant and relinquishment made by this act are upon the express condition that all sales, grants, deeds, or patents for any of the lands so granted or relinquished shall be subject to and contain a reservation to the State or Territory of all the coal and other minerals in the lands so sold, granted, deeded, or patented, together with the right to prospect for, mine, and remove the same. The coal and other mineral deposits in such land shall be subject to lease by the State or Territory, as the State or Territorial legislature may direct, the proceeds of rentals and royalties therefrom to be utilized for the support of or in aid of the common or public schools or for the attainment of the purposes for which the lands were granted, as the case may be. *Provided*, That any lands or minerals disposed of contrary to the provisions of this act shall be forfeited to the United States by appropriate proceedings instituted by the Attorney General for that purpose in the United States district court for the district in which the property or some part thereof is located.

(c) That any lands included within any reservation for national purposes, or included in any pending suit, or proceeding in the courts of the United States,

or subject to the valid adverse claim of third parties, are excluded from the provisions of this act; and lands included within any military, Indian, or other reservation, or specifically reserved for water-power purposes, shall be included within the scope and purposes of this act only from and after the date the extinguishment of such reservation and the restoration of such land to the public domain.

The bill relinquishes to the various States and Territories the title of the United States to all lands designated in the grant in aid of common or public schools, also those lands granted in support of the various other State institutions designated in the grant.

The bill specifically excepts therefrom "Any lands included within any reservation for national purposes, included in any pending suit or proceeding in the courts of the United States, or subject to valid adverse claims of third parties;" and "lands included within any military, Indian, or other reservation, or specifically reserved for water-power purposes," are "included within the scope and purposes of the act only from and after the date of the extinguishment of such reservation and the restoration of such land to the public domain." Thus it will be seen that the designated lands situated in existing reservations are unaffected by the bill. They remain subject to the present law until disestablishment of the reservations whereupon, if indemnity has not been received therefor, the title of the United States is relinquished.

The bill also requires the States and Territories to reserve and withhold unto themselves all minerals of whatsoever character in any and all lands which they might transfer or sell, giving to them, however, the right to lease the minerals in the lands and to utilize the proceeds received as royalties or rentals "for the attainment of the purposes for which the lands were granted as the case may be."

The committee had before it for consideration a number of bills introduced in the House at the last session of Congress dealing with the same subject matter. On one of them a hearing was held and considerable testimony was taken and after a very careful study and full discussion of the matter and the various bills introduced with reference to the same, the committee reached the conclusion that not only was immediate and adequate relief necessary, but that the measure reported herewith, while not giving the full relief desired by the States nevertheless remedied to a large extent the existing conditions which jeopardize and cloud the States' title to these lands, which prevents to a large extent the realization of the purposes intended by the grant itself.

The major difference between the measure reported herewith as amended and the original bill, is this: The measure as amended expressly requires that all minerals must be reserved by the State in any "lands so sold, granted, deeded, or patented," and authorizes the States or Territories to lease the same and use the royalties and rentals received "for the support of or in aid of the common or public schools or for the attainment of the purposes for which the lands were granted, as the case may be." It also specifically excludes from the provisions of the act lands "included in any pending suit or proceeding in the courts of the United States." It also provides that in case the State fails to comply with the provisions of the act, proceedings may be instituted by the Attorney General for the purpose of forfeiting to the United States any lands disposed of by the States or Territories in contravention of the provisions of the act.

It will readily be observed that the provision requiring the States to reserve unto themselves all minerals in lands sold or transferred fully protects the State and conserves the natural resources.

To the uninitiated in the subject of this legislation the impression might be that the legislation proposed deals with the entire public domain within the borders of the States affected. Such is not the case. The proposed legislation deals only with those lands which were granted to the States by Congress in their enabling acts for the benefit of their common and public schools and other State institutions, which grants comprise but a very small fraction of the entire area in the State. The proposed legislation does not and can not work any hardship on the Federal Government when the situation is thoroughly understood. Some States receive but two school sections in each township, a township usually comprising 36 sections. Some States receive but one, and three or four States received four. Some receiving four because of the many Government reservations within their borders and, also, because of the barren and desert character of the land. Assuming then that each got four sections in each township which, of course, is not the case, and further assuming that each one of the four sections contained mineral (which would be a violent presumption) it would, in the last analysis, amount to a diversion of but one-ninth of the royalty the Government received upon minerals coming under the leasing act and which are now credited to other funds.

To illustrate: Under the leasing act of February, 1920, the royalties received from minerals coming under that act are divided as follows: 37½ per cent goes to the State within which the minerals are found, 52½ per cent goes to the reclamation fund which, of course, is used primarily in the States which are asking for the enactment of this legislation; 10 per cent is reserved by the Government for administration. It will be perceived that upon the basis above referred to—that is, a four-section township—it would simply result in the diversion of one-ninth to the school fund or to that institutional fund to which the land was granted. In other cases it would only amount to a diversion of one-eighteenth and in some cases only to one thirty-sixth. That is assuming that the sections in each instance contained mineral which came under the leasing act. Certainly the diversion if made could not be made for a better purpose than the education of the people. It will, therefore, be seen that it can only mean one-ninth or one-eighteenth, as the case may be, of the one-tenth that now goes to the Federal Government that will be diverted from the present channel so far as the Federal Treasury is concerned, and surely no one will deny that the States affected should have the right to choose between their schools and the reclamation fund as regards the one-ninth and one-eighteenth of the reclamation fund. It must be remembered that mineral occurs only in a very small fraction of the lands involved.

Upon the basis above outlined this still leaves the Federal Government in full control of at least 32 sections in each township, and in most instances it would still retain control of 34 sections.

It should, also, be borne in mind that only the interest from the funds which a State receives from the sale, lease, or rental of these lands or the minerals therein can be expended, that is to say the principal can not be used. This for the reason that Congress saw

fit in passing the enabling acts of the various States provided therein that the funds derived from the sale, lease or rental of those school lands should be invested to form a principal permanent fund the interest only of which might be used for the benefit of the common and public schools or other State institutions as the case may be. Thus, it will be seen that the principal can never be depleted or dissipated. It will be noted that under this plan it is necessary for a State to accumulate a principal fund of some considerable amount in order to realize sufficient interest to be of benefit to its common-school system and to result in the reduction of taxation for school purposes. Having this in mind, your committee fully realizes the difficulties under which these States are forced to labor and therefore reached the conclusion that their cause was a meritorious one and that Congress could well afford to adopt a benificent attitude toward them in view of the end desired to be accomplished. It also prevents valuable mineral lands from falling into the hands of third parties, thereby insuring the proper return and full measure of support to the particular institution to which the lands were granted.

Some States have already enacted laws reserving unto themselves all minerals found in State lands which are sold. Those that do not have such provisions upon their statute books, of course, must comply with the terms of the act in order to realize it's benefits.

The Senate Report on S. 564 herewith reported is interesting as well as illuminating: