

Senate Report No. 603, Sixty-ninth Congress, first session

CONFIRMING TITLE TO PUBLIC-SCHOOL LANDS

APRIL 5 (calendar day, APRIL 16), 1926.—Ordered to be printed

MR. STANFIELD, from the Committee on Public Lands and Surveys, submitted the following:

REPORT

[To accompany S. 564]

The Committee on Public Lands and Surveys, to whom was referred the bill (S. 564) confirming in States and Territories title to lands granted by the United States in the aid of common or public schools, having carefully considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The bill relinquishes to the States and Territories the title of the United States to all lands designated in the grants and all lands certified under the indemnity provisions thereof, excepting such as are "subject to valid adverse claims of third parties" or included in existing reservations established by the United States. With respect to such designated lands as are in such reservations, the bill provides that relinquishment of title thereto by the United States shall be effective "from the date of extinguishment of such reservation and the restoration of such land to the public domain." Hence the designated lands situated in existing reservations are unaffected by the bill. They remain subject to present law until disestablishment of the reservations, whereupon, if indemnity has not been received therefor, all the title of the United States thereto is relinquished.

The effect of the bill would be to remove a condition under existing school-grant legislation which the Secretary of the Interior, in a letter addressed to the chairman of the committee and made a part of this report for the information of the Senate, says "has resulted in much vexatious and costly litigation." The Secretary's letter followed a reference of the bill to him for an expression of his views thereon. His recommendation is that the bill be not enacted and that a bill "along the lines suggested" by him, a draft of which accompanied his letter, be introduced as a "substitute bill." The thus proposed "substitute bill" is also made a part of this report.

The major difference between S. 564 and the "substitute bill" proposed by the Secretary is this: S. 564 contemplates a legislative relinquishment of the title of the United States. The proposed "substitute bill" suggests that Congress authorize the issue of patents. Relinquishment of title by act of Congress would immediately terminate the "vexatious and costly litigation" to which the Secretary refers. An authorization of issue of patents would not achieve that purpose.

In his said letter the Secretary states:

This department has heretofore earnestly recommended legislation providing for the issuance of patents to the several States for school-section lands in order to quiet titles thereunder and to prevent the uncertainty that has always existed in regard to title in the States to such granted lands.

The issue of patents would, of course, afford the same degree of assurance of title in the States as patents do to all to whom the United States thus transfers title; i. e., they could not be canceled on suit by the United States after six years from the time of their issuance except for fraud of which the United States had no notice, or could not have had notice if reasonably diligent, within six years previous to bringing of suit to cancel.

However, the "vexatious and costly litigation" of which the Secretary has long had notice has not been litigation in the courts. It has been almost wholly litigation in the Department of the Interior. It has not been litigation in judicial tribunals between States and the United States, or between States and third parties, but has been practically entirely litigation between the Interior Department and the States, with that department discharging the combined functions of judge and jury in the litigation.

The uncertainty that has always existed in regard to title in the United States to such granted lands.

as said by the Secretary, has been uncertainty that is traceable exclusively to the never-ending jurisdiction of the Department of the Interior over such lands. In his said letter the Secretary further states—

that there is no statute of limitation which prevents inquiry at any time, either by way of Government proceedings or by private contest or protest, as to whether or not title to school-section lands has vested in a State.

But the substitute bill proposed by the Secretary does not contain a provision limiting the time within which the Department of the Interior shall either issue patents or finally determine that a State is not entitled thereto. Therefore the proposed "substitute bill" would not afford a remedy for the "vexatious and costly litigation" to which the Secretary refers, nor—

prevent the uncertainty that has always existed in regard to title in the States to such granted lands.

In hearings held by the committee it was shown that sections designated in the school grants which were surveyed and presumably passed into the ownership of the State as long ago as 1877 have been made the subject of inquiry and proceedings by the Department of the Interior—

to determine whether or not the title to school-section land has vested in a State—

as recently as February 1, 1926. The data presented at the hearings show that a very large number of sections designated in the

school grants and surveyed 25 years ago are involved in now pending inquiries and proceedings instituted by the Department of the Interior in very recent years. In short, the statistical data presented at the hearing by the Department of the Interior with respect to such inquiries and proceedings abundantly demonstrate the truth of the observation made in the Secretary's letter to the committee, viz, that it is highly desirable in the public interest that legislation be enacted that will—

prevent the uncertainty that has always existed in regard to title in the States to such granted lands.

Whether the relief to which the States are entitled should be that measure of relief which is provided for in S. 564, or which is suggested by the Secretary of the Interior in his draft of the proposed "substitute bill," should be determined with reference to what would be necessary or advisable to be done by the Department of the Interior before it could issue patents. Patents should not be issued without inquiry or investigation by the department with respect to the sections of land described in the patents. A patent is an adjudication of the character of land and, of course, an adjudication can not be made in the absence of knowledge concerning the subject matter of the adjudication. The Department of the Interior is not now with knowledge of the character of the many thousands of sections of land that have been granted to the States for common or public school purposes. To acquire knowledge concerning them would either necessitate the employment of a very large number of field employees or mean, if the present force of such employees would be depended upon, indefinite delay, probably extending over many years, in the issuance of patents.

As stated in his letter of the 18th of February, 1926, to the chairman of the committee, the Commissioner of the General Land Office states that in order to inform himself on the character of the many thousands of sections of land described in the school grants it would be necessary that he—

require reports from our field representatives, the reading of thousands of pages of field notes in each survey, together with examination of all the plats of survey. All of this data could be secured and compiled only by detailing a large force of employees now engaged on pressing work for several months at least.

So it is obvious from the statements of officers of the Department of the Interior to the committee that no immediate relief would be available to the States under any legislation authorizing the issue of patents. And any such legislation that did not limit the time within which either the patent should issue or there should be a final determination as to whether the States were entitled to patents would continue in the Department of the Interior that never-ending jurisdiction which it now has over school-grant lands for the purpose of determining whether or not the title thereto has vested in a State.

The needs of the State demand legislation that will render immediately enjoyable by them the benefits intended to be conferred by Congress in enacting the school-grant legislation. The objectives of that legislation need not be discussed here. However, the effect upon the school funds of the States of the uncertainty and doubt which have been the inevitable results of the serious defects in existing law should be briefly described.

The various grants to the States for school purposes are as a rule contained in the enabling act of that State. All States did not receive the same number of sections. Some received one, others two, and still others four. The number of sections granted apparently varying according to the class of land to be found within the confines of that particular State; also varying because of reservations by the Federal Government of one form or another within the State. The grant itself makes no provision for any evidence of title, it operating both as a grant and conveyance, subject to certain exceptions.

The enabling acts of the various States nearly all provided that the proceeds derived from the lands so granted for educational purposes should be and constitute a permanent school fund, the interest of which only should be expended for the support of the schools, and it was further provided that the lands should not be subject to preemption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, and should be surveyed for school purposes only.

In some of the enabling acts mineral lands are excepted, and in case school section lands are of known mineral character at the time the title to them would have otherwise attached these do not pass under the grant.

As has been stated by the Secretary in his report:

This has resulted in much vexatious and costly litigation, as there is no statute of limitation which prevents inquiry at any time either by way of Government proceedings or by private contest or protest, as to whether or not title to school section land has vested in a State.

Contests or proceedings may be brought or initiated which bring into question the title of the State or its transferees at any time, be it 1 or 100 years after the survey, or after statehood, as the case may be.

In many instances States who have presumably held title to their school lands for more than 30 years are now being deprived of these sections of land upon the theory that they were of known mineral character at the time such State was admitted into the Union, and this notwithstanding the fact that the Federal Government has had 30 years or more in which to inquire into that question. In other instances the States have conveyed title to these lands to third parties, and they to fourth parties, and so on, until they have passed through many hands, each transferee assuming that he had and received a good and sufficient title from his predecessor in interest. These parties proceed to occupy and farm or improve the land, as the case may be, when without the slightest warning their title is brought into question, either by a private party or the Federal Government, and they are haled into court, forced to obtain counsel and indulge in costly and protracted litigation in defense of a title which was in the first instance secured from a sovereign State of the United States, and which the transferee had assumed, and the sovereign State had assumed (and they had a right to assume) to be good for more than 30 years. No claim is made that the lands were of mineral character until years after the title had presumably passed and the State or the transferee has been lulled into a state of security because of the length of time that has passed.

Here is a cogent example of what can and does happen. The State transfers its title in good faith. In later years subsequent develop-

ments of the surrounding or adjacent territory shows promise of being mineral in character, and this only after extensive and expensive exploration work has been carried on; or probably in the meantime science has developed a new process making valuable a deposit which theretofore had no value; or science may conclude that certain physical conditions are now known to indicate the presence of mineral. Then and for the first time is the title attacked, and the purchasers in good faith, the State, or both, are called forth in defense of a title which has been in repose for many years. In some instances it has been shown that land which had been classified as nonmineral by one arm of the Government years before is suddenly and at this late date now claimed to be in fact mineral by another arm of the Government. This results in hopeless, endless confusion and chaos, and the States can not, it would seem, rely upon a classification of the Government's own agents, nor does the Government seem disposed to rely upon it itself.

At the present time, as shown by the Department of the Interior's own report, hundreds of school sections are now in contest under proceedings brought by the Federal Government, and hundreds more are being prepared for contest. Nor is the situation improving. It is, in fact, rapidly becoming worse, and the end is not in sight, unless it be the end of the States' common-school fund.

The transferee, be it State or individual, is placed in an embarrassing situation. The State can not be sued, and hence the transferee must depend upon the goodness of the State legislature for reimbursement, and thus the very purpose and intent of the grant, viz, the building up of a fund for educational purposes within the confines of the State, is practically, indeed, if not entirely, defeated. This condition is as deplorable as it is indefensible.

The condition referred to is particularly prevalent in the following named States, whose titles, if not now being attacked, are nevertheless subject to attack at any time: Arizona, admitted in 1912; California, admitted in 1850; Colorado, admitted in 1876; Idaho, admitted in 1890; Nevada, admitted in 1864; Montana, admitted in 1889; New Mexico, admitted in 1912; Oregon, admitted in 1859; Washington, admitted in 1889; Wyoming, admitted in 1890; and Utah, admitted in 1896. Many of the foregoing States are having their title to these lands attacked and are now being deprived of them in wholesale lots; as a result there is a permanent cloud upon their title to these school lands and they are unable to dispose of them, in one form or another, which they must do in order to effectuate the purpose for which they were granted, and build up an educational fund for the benefit of their common and public schools, and thus the real purpose and intent of the grant is defeated.

This is a matter of vital importance to these States and is the very lifeblood of their common-school system which is being drained away surely and systematically. Many of these States are but sparsely settled and nearly all of them have large areas of arid, desolate, barren, and desert waste, which is totally valueless. As a result their taxation is high (and it will be higher if the deprivation of these lands continues), and they must depend to a large extent upon the funds derived from the disposal of these school lands for the maintenance of that great institution, our common-school system.

Manifestly, this condition of affairs should not be allowed to continue as long as Congress has the power to ameliorate it. And it is only right and proper that this Congress should realize and know how precarious a sovereign State's rights, interests, and title under its school grant (under solemn compact and contract with this United States) has become in recent years. Indeed it has become and is an impotent thing.

It may be suggested that the States have the right to select other lands for those taken away, but it appears there are at least three effective and conclusive answers to that proposition, particularly as applied to the Western States; first, as has been said before, much of the land is barren, desert waste and of no value whatsoever; second, all of the better land which would have any salable value has either been sold or taken up; third, the remaining land which is of some value and desirable is in Government reservation of some kind or other and not subject to selection.

It will be borne in mind that in the 11 Western States approximately one-half of the remaining public domain is either withdrawn or under reservation in one form or another, and thus the power to tax is defeated, and this notwithstanding the fact that the State is required to police these lands and build roads over this entire area. In one or two States approximately 70 per cent of the land within their borders is the property of the Federal Government, and this amount is steadily being increased.

The question presented by the proposed legislation is not a new one. Two bills were introduced in this body in the Sixty-second Congress, one in the Sixty-third, one in the Sixty-sixth, four in the Sixty-seventh and two in the House, five in the Sixty-eighth and two in the House, five in the present session and also four in the House. All had reference to the situation and condition with respect to these school-land grants. Twice this body has passed legislation, but it never reached the House Calendar. In the last session this body passed a bill almost identical with the present one and which was introduced by the same author; it, however, never reached the House Calendar. Thus it will readily be seen that the subject is not a new one, and it will also be noted that the number of bills introduced in the succeeding sessions of Congress have increased, apparently due to the fact that the situation was rapidly becoming worse.

There is, we think, ample grounds and precedent for the proposed legislation. But even if there were not, certainly justice and equity would furnish sufficient grounds for its enactment into law.

All of the Eastern States secured outright, without reservation, the lands within their borders. In addition, Michigan, Wisconsin, Minnesota, Missouri, Kansas, Alabama, Oklahoma, and Florida were given their minerals. Oklahoma also received a grant of \$5,000,000 for the benefit of the common schools, this because of Indian reservations. Some of the Southern States received swamp-land grants without any reservation. These States have all derived revenues, almost inexhaustible, from their public lands and built up great common-school systems supported almost entirely by a fund derived from that source. Michigan and Minnesota are good examples.

If these school sections are placed in the hands of the States, it would at least tend to put them on a somewhat equal basis with the original States. It would only be just and equitable to do so. They

would then be relieved of all this costly, needless, and interminable litigation; titles would be stabilized and forever quieted. They would be able to relieve in part the present school tax burden which is increased correspondingly with the deprivation of their school lands, and will thus be enabled to at least partly accumulate a fund to establish and support their common and public schools, and thereby effectuate the purpose and intent of their grant.

There seems to be no good reason why this should not be done. At least no good reason has as yet been forthcoming. It does not amount to any sacrifice on the part of the Federal Government. In some States it amounts to but two sections in a township, in others four, and in any event it leaves the Federal Government at least 32 sections in each township, which should more than suffice. Certainly Congress and the Federal Government can well afford to, and should, adopt a beneficent attitude toward these States whenever legislation which has for its purpose the education of its people is before it for consideration. That is the purpose of the proposed legislation.

In conclusion, it might be well to state that 11 of the Western States have indorsed the bill and are anxious to see it passed. Also the department of superintendence of the National Education Association only recently, in their national convention, passed a resolution calling upon Congress to enact such legislation as that proposed. Numerous other organizations have also indorsed it, and your committee feels that the bill should be passed.

The letter of the Secretary of the Interior, under date of January 5, 1926, is appended hereto and made a part of this report, as follows:

DEPARTMENT OF THE INTERIOR,
Washington, January 5, 1926.

Hon. ROBERT N. STANFIELD,
Chairman Committee on Public Lands and Surveys,
United States Senate.

MY DEAR SENATOR STANFIELD: I have your request of December 12, 1925, for a report on Senate bill 564, "Confirming in States and Territories title to lands granted by the United States in the aid of common or public schools," which bill provides that the United States relinquish to the State or Territory all right, title, and interest in said lands, irrespective of their character.

Such legislation would constitute an enlargement of the school-land grants to the States by including all mineral lands in such school sections, which would be in direct contradiction of the intent of the school-land grants, and in derogation of the well-settled policy with respect to public lands, viz, that mineral lands and mineral deposits be disposed of, if at all, under the provisions of the mining laws of the United States.

It is therefore recommended that Senate bill 564 be not enacted.

This department has heretofore earnestly recommended legislation providing for the issuance of patents to the several States for school section lands, in order to quiet titles therein and to prevent the uncertainty that has always existed in regard to title in the States to such granted lands. A draft of such a bill was prepared in this department and was transmitted with report dated February 20, 1924, on Senate bill 671, introduced December 10, 1923, in the Sixty-eighth Congress.

Senate bill 3412, following the draft of the bill, suggested, was presented May 26, 1924, in the last Congress; at the close of the session no report thereon had been submitted.

The purpose of this substitute bill, as set forth in section 1 of the bill, is to provide for the issuance of United States patents to the several States in further assurance of and in confirmation of title in and to school section lands granted to them in place, and which have not been exchanged for other lands of the United States.

These grants of land in aid of public or common schools (section 16 in some of the States, sections 16 and 26 in others, and sections 2, 16, 32, and 36 in still

others), are usually found in the enabling acts of the States, which, however, contain no provisions whereby the States may be given evidence of the title conveyed, by United States patent or otherwise, the statute making the grant operating as a conveyance as well, with respect to lands of the character and status subject to the grant.

Mineral lands, as a rule, are excepted from these grants, and in case school-section lands are of known mineral character at the time the grant would otherwise become effective, such lands remain the property of the United States. This has resulted in much vexatious and costly litigation, as there is no statute of limitation which prevents inquiry at any time, either by way of Government proceedings or by private contest or protest, as to whether or not the title to school-section land has vested in a State.

These grants take effect at the date thereof or at the date of admission of the State into the Union, as to lands surveyed prior to such dates. As to lands subsequently surveyed, the grants are effective from the date of acceptance of the survey by the Government. (*United States v. Morrison*, 240 U. S. 192.)

In the absence of some provision by which the known condition of the specified sections, at the time when the grant takes effect, can be ascertained and adjudicated, the title of the State must remain in doubt and be subject to attack. A case in point is that of the *United States v. Sweet* (245 U. S. 563), wherein the State sold school-section land under a grant (act of July 16, 1894, 28 Stat. 107), which does not expressly exclude or include mineral lands. The land sold, however, was of known mineral character at the time the grant would otherwise have attached. The court denied the claim of title based on transfer by the State.

This proposed legislation is in no wise mandatory on the States. No title, if vested, is disturbed. In this connection, and with special reference to mineral deposits, attention is called to the following statement found in the decision of the United States Supreme Court, March 28, 1921, case of *State of Wyoming et al. v. United States* (255 U. S. 489):

"The Land Department uniformly has ruled that the States acquire a vested right in all school sections in place which are not otherwise appropriated, and not known to be mineral at the time they are identified by the survey—or at the date of the grant where the survey precedes it—regardless of when the matter becomes a subject of inquiry and decision, and that this right is not defeated or affected by a subsequent mineral discovery."

Section 2 of the proposed bill deals with school section lands in place, not granted because of their known mineral character at time of grant, but which, nevertheless, have been sold by the States. Provision is made therein for the acquisition of surface title by the transferees of the States, mediate or immediate, upon payment of the ordinary minimum price for Government lands, and for a preference right to lease the mineral deposits therein. The provisions of the section do not apply (1) to lands containing deposits of metalliferous minerals, nor (2) to lands withdrawn or reserved for governmental purposes on account of their mineral deposits. As to lands of the first class, not claimed by others, the purchaser from the State, if qualified, may make location and secure patent under the mining laws of the United States, and as to lands of the second class, the right and interest of the public are, of course, paramount. Under the terms of the bill it is believed that the rights of the Government as to these withdrawn lands may be protected.

Section 3 of the bill deals with the appropriation of moneys received, and is believed to be commendable.

Section 4 of the bill deals with grants of lands to States (other than those of school lands in place), which do not by the statutes themselves convey title or require patents to be issued. In such case the evidence of title given the State is a certified copy of the list of the lands selected, as approved by this department (sec. 2449 United States Rev. Stat.). This is a less desirable form of evidence of title than a United States patent, for which reason section 4 of the bill directs that future transfers of title from the United States to the States be made by United States patents.

It is believed that this substitute bill will fairly and adequately protect the interests of the States, of bona fide purchasers from the States, and of the United States. The necessity for such legislation can not be too strongly emphasized.

Under this substitute bill there may be an adjudication and final determination as to whether or not school section lands passed to a State under its grant, and if found to have passed a confirmatory patent, will issue as evidence of complete title in the State, secure and unassailable for all time, in the absence of plain mistake of fraud in procurement. Similar proceedings are now authorized by law and are had in the case of railroad grants; and in like manner in the case of

every entry or selection under the agricultural land laws, there is a final adjudication and issuance of evidence of title where warranted. It is believed that the States should have the same evidence of title as the individual, viz, a United States patent.

In conclusion, it is recommended that legislation be enacted along the lines suggested, whether in the form of the substitute bill, a copy of which is inclosed, or in other form deemed by Congress more effective or appropriate.

Very truly yours,

HUBERT WORK, Secretary.

A BILL Further to assure title to lands granted the several States, in place, in aid of public schools, and to quiet titles

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any State having a grant in place of designated section of land for school purposes may file lists of selections of such lands claimed as inuring to it under such grant, upon payment to the register of the district land office within whose jurisdiction the selected lands are located of a fee of \$2 for each selection of a section or part of a section of land. Upon determination by the Secretary of the Interior that any of the land so selected has been granted for the purpose aforesaid and not exchanged for other lands of the United States, patent shall issue to the State therefore in further assurance of and in confirmation of title: *Provided*, That nothing herein contained shall be so construed as to postpone the time of the attachment of the grant of such lands under the law existing at the time the State's right attached thereto, if it has attached, nor to deprive any court of jurisdiction it may now have to determine any controversy which may arise touching the title of the State or any of its assignees to any such lands.

Sec. 2. That in any case wherein lands so designated have been heretofore purchased in good faith from any State and hereafter are found by final decree of a Federal court or by final judgment of the Secretary of the Interior, or Commissioner of the General Land Office in proceedings initiated under the provisions of this act to have been of known mineral character at the time the grant to the State would have otherwise attached, the transferees of the State, mediate or immediate, upon the payment of \$1.25 per acre, shall have a right to a confirmatory patent from the United States with reservation of the mineral deposits in the lands to the United States, its grantees or permittees, to prospect for, mine, and remove the same, and a preference right to lease the mineral deposits in such lands from the United States in the manner provided by the laws governing the leases of such deposits in force at the time application to lease is filed: *Provided*, That the provisions of this section shall not apply to lands containing deposits of metalliferous minerals, nor to lands withdrawn or reserved for governmental purposes on account of their mineral deposits: *Provided further*, That the right of purchase and the preference right to lease claimed to be conferred by this section must be asserted, if at all, through formal applications filed within six months from the date of the final decree or judgment affecting the lands and mineral deposits to be so purchased or leased.

The Secretary of the Interior is authorized to prescribe such rules and regulations as may be necessary to carry the provisions of this and the preceding section into full force and effect.

Sec. 3. That 50 per cent of all moneys received from the sales and leases authorized by section 2 of this act shall be paid by the Secretary of the Treasury, after the expiration of the fiscal year, to the State within the boundaries of which the lands are located, said moneys to be used by such State for the support of common or public schools therein, and the balance thereof shall be paid into, reserved, and appropriated as a part of the reclamation fund created by the act of Congress, known as the reclamation act, approved June 17, 1902.

Sec. 4. That hereafter transfers of titles to the States by the United States of lands selected under any law by Congress shall be by United States patent.

Since the passage of S. 564 by the Senate the chairman of the committee received the following memorandum from the Secretary of the Interior accompanied by a letter of transmittal under date of May 5, 1926:

PROPOSED GRANT OF MINERAL SCHOOL SECTIONS TO WESTERN STATES

MAY 3, 1926.

S. 564 passed by the Senate April 29, 1926, without discussion, proposes to grant to the Western States all school sections, irrespective of their character, which means whether valuable for mineral and excepted from the grants heretofore made for that purpose or not. Copy of adverse report of this department on the bill attached.

The general mining laws did not apply to Michigan, Minnesota, Illinois, Indiana, Ohio, and most other Eastern and Midwest States. The mining laws and the general leasing laws do apply to all the Western States and to Arkansas and Florida.

In school grants by Congress to the Western States and to Arkansas and Florida, mineral lands known at the time of approval of survey were reserved to the United States, the State being allowed to take other lands in place thereof.

The Supreme Court of the United States in *California Mining Co. v. Consolidated Mining Co.* (102 U. S. 671) held that grant of sections 16 and 36 to California for school purposes was not intended to cover mineral lands. Such lands were by the settled policy of the General Government excluded from all grants.

In the case of Utah, the enabling act granted the State four sections in each township for schools, making no specific mention of mineral. The Supreme Court in *United States v. Utah* (245 U. S. 563) held that the Utah school grant was not intended to include lands known to be valuable for mineral, but that same were reserved to the United States.

Ohio, Indiana, Illinois, Missouri, Alabama, Mississippi, Louisiana, Michigan, Arkansas, Florida, Iowa, and Wisconsin were granted only one section in each township for school purposes. California, Minnesota, Oregon, Kansas, Nebraska, Colorado, Washington, Dakota, Montana, Idaho, and Wyoming were granted two sections in each township for school purposes. Utah, New Mexico, and Arizona were granted four sections in each township for common schools.

Presumably in view of the much larger grants made to the Western States, it appears Congress saw fit to withhold any known mineral lands from the grant.

There are now pending 1,706 hearings, investigations, or suits involving school sections in the Western States, the majority being in Utah, New Mexico, and Arizona, alleging that that number of school sections did not pass to the State because of their known value for mineral, such as coal, oil, oil shale, or other minerals. The area involved in these proceedings is approximately 1,132 acres. There is also a considerable area of lands not yet surveyed in those States, part of which are probably valuable for mineral.

At present, mineral lands, including those in school sections, are subject to disposition by the General Government under the mining laws and under the general leasing laws. Under the mining laws all the proceeds, except 5 per cent which goes to the States, goes into the reclamation fund. Under the general leasing laws 37½ per cent of all rents and royalties goes to the State, 52½ per cent of it goes to the reclamation fund for irrigation of arid lands in the West, and the remaining 10 per cent into the United States Treasury.

The bill therefore proposes to change the policy followed by Congress since, at, or prior to 1860.

Unquestionably, a considerable percentage of the lands proposed to be given to the States contain very valuable deposits of coal, oil, oil shale, or other minerals, which, if the reservation to the Government be continued and same are disposed of under the mining and general leasing laws, will yield a revenue of many millions of dollars to the States, the reclamation fund, and the general treasury.

With reference to the above memorandum it may be said that the statements therein are in the main answered or met by the matter appearing in the Senate report hereinbefore set out. It may be further said, and it has been heretofore pointed out, that the minerals are expressly reserved to the States under the measure

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reported herewith, and certainly Congress and the Federal Government ought to deal with the States as sovereigns rather than subjects. Certainly they ought to be viewed in the light of confidence rather than mistrust. The States ought to be relied upon to dispose of their lands to the best possible advantage realizing in doing so that they are thereby reducing taxation within their borders. This we feel confident they will do.

Attention is called to the great number of hearings now pending before the department, 1,766 according to the Secretary's memorandum. This is the "vexatious and costly litigation" to which the Secretary refers in his report on S. 564 to the Senate Committee on Public Lands and Surveys. Some of the States have been compelled through lack of funds with which to carry on the litigation, to let them go by default and are thus deprived of lands which were granted to them.

It is interesting to note that the following organizations have passed resolutions indorsing this legislation and urging its enactment into law: The National Education Association; the western division of the American Mining Congress; the United States Chamber of Commerce; the National Association of Attorneys General; and the department of superintendents of the National Education Association.

The resolutions passed by these organizations are submitted herewith:

FROM RESOLUTIONS ADOPTED AT PHILADELPHIA, JUNE 27 TO JULY 2, 1926

School lands: * * * The settled policy of the Federal Government to foster education by granting to the several States large tracts of land to be used in support of their common and public schools is a wise and beneficent one. However, certain practices and rulings in recent years have so clouded and impaired the States' title to such land that it is impossible to realize the purposes intended. Therefore we favor such legislation by the Congress of the United States as will clear the title to the lands granted to the States for the benefit of their common and public schools and will make it possible for the States to enjoy the benefits and to realize the purposes intended for the promotion of education and for the safety of the Republic.

I hereby certify that the above resolution was one of the resolutions adopted by the National Education Association at its annual convention at Philadelphia, June 27 to July 2, 1926.

Subscribed and sworn.

T. D. MARTIN,

Director, Division of Records and Membership.

Whereas the western land-grant States of Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, North Dakota, South Dakota, Oregon, Utah, Washington, and Wyoming have been granted certain lands by the Government for the benefit of the common schools and institutions of higher learning; and

Whereas by the terms of a number of these grants and by judicial construction and departmental rulings as to the balance, the mineral rights in the lands granted have been retained by the Government; and

Whereas the surface rights of much of the lands of these grants are of little or no value and contribute only in small part to the cost of education in the various States; and

Whereas the principal object to be attained by these grants will be defeated unless the mineral rights are relinquished to the States; Therefore be it

Resolved by the western division of the American Mining Congress, that the United States should relinquish 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 for the support of or in the aid of common or public schools, as provided for in Senate bill 564 of the first session of the Sixty-fifth Congress of the United States, passed by the Senate April 29, 1926; subject to the provisions of such bill.

RESOLUTION ADOPTED AT THE FOURTEENTH ANNUAL MEETING OF THE CHAMBER
OF COMMERCE OF THE UNITED STATES AT WASHINGTON, D. C., MAY 13, 1926

SCHOOL LANDS IN WEST

The Federal Government had a very beneficent policy in providing for States in the West as they were created an endowment for school purposes from the public domain. The value of this endowment has been impaired through questions which have been raised and which may continue to be raised indefinitely by the Federal Government itself as to the title of lands which were granted. Congress should at once enact legislation which will give complete and final effect to its original intention. It is not in the public interest that title in these lands should continue to be uncertain.

THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

RESOLUTION NO. 1

Whereas it has become the settled policy of the Federal Government for more than one hundred years to foster education in order to enlighten its people and thereby guarantee and further insure the safety of the Republic by granting to the several States and Territories large tracts of land for the benefit of their common and public schools; and

Whereas the funds derived from the lands so granted by Congress for the benefit of the common and public schools of the several States constitutes and is the very lifeblood of schools, which, if taken away, will seriously impair and endanger that great public and common school system which is so vital to the welfare of our children and the generations to come; and

Whereas the public-land States, through the practices and rulings of certain of the departments of the Federal Government, have been, and now are, being deprived of vast tracts of land granted to them in the aid of their common and public schools by a wise and beneficent Congress; and

Whereas by reason of the practices and rulings the titles of the several States to the lands so granted to them by Congress have become so clouded and impaired as to bring about utter confusion and chaos in the disposal of such lands to such an extent that it is impossible for the public-land States to dispose of their lands in order to realize the purpose for which they were granted by Congress; and

Whereas there is now pending in Congress certain legislation which will tend to relieve the States of the onerous conditions which exist with reference to their title to their school lands: Now, therefore, be it

Resolved, That it is the sense of this convention that the Congress of the United States should, by the enactment of the pending legislation, relieve the several States from the hardship and embarrassment that has resulted from the rulings and practices of the Federal Government, which have postponed and prevented full enjoyment by the States of the grants to them by Congress in the aid of their common and public schools. Therefore, we indorse and urge the enactment into law of Senate bill 564, passed by the United States Senate April 29, 1926, believing that it will remedy and relieve the present intolerable situation; and be it further

Resolved, That this resolution be spread upon the minutes and printed in the proceedings of the association and that the members of this association individually pledge their support to secure the enactment of Senate bill 564; and be it further

Resolved, That a copy of this resolution be sent to the Senate and House of Representatives of the United States of America.

THE DEPARTMENT OF SUPERINTENDENTS OF THE NATIONAL EDUCATION ASSOCIATION OF THE UNITED STATES

RESOLUTION PASSED FEBRUARY 25, 1926

The settled policy of the Federal Government to foster education by granting to the several States large tracts of land to be used in support of their common and public schools is a wise and beneficent one. However, certain practices and rulings in recent years have so clouded and impaired the State's title to such land that it is impossible to realize the purposes intended. Therefore, we favor such legislation by the Congress of the United States as will clear the title to the lands granted to the States for the benefit of their common and public schools and will make it possible for the States to enjoy the benefits and to realize the purposes intended for the promotion of education and for the safety of the Republic.