

however, that oil shale is subject to disposal only as provided in the act except as to valid claims in existence on the date of the act and thereafter maintained in compliance with the laws under which initiated. One of the requirements of the 1872 law is performance of annual assessment work.

Accordingly, in the 1920's and the 1930's, the Department interpreted the statute to permit the Government to contest and nullify claims for failure to perform assessment work. The case you referred to was decided in 1935. The Supreme Court held in that case that the Secretary could not nullify a claim for failure to do assessment work. Of course, that was a setback because thousands of claims had been contested on that ground in the 1920's and 1930's. U.S. District Court in Colorado has recently held that the Supreme Court decision meant the Department has no jurisdiction to cancel claims for failure to do assessment work. Thus when, 30 years after the decision was made in other cases, no appeal having been taken, an application for patent is filed, the District Court held patent could not be denied on the ground that the claim was cancelled years ago. The District Court said it was beyond our jurisdiction to cancel the claims and, in effect, that the cancellation proceedings were totally void. The court held that the applications for patent are in good standing and should be processed as ordinary applications for patent.

Senator JORDAN. I would be interested, and I think it would be helpful for the record, to know what percent of this oil shale resource is privately owned or constitutes valid claims? What percent of the resource is under cloud of title for one reason or another, some legalistic entanglement involved? And what percent is totally devoid of any controversy vested in the Federal Government?

Mr. UDALL. Senator, the rough estimate we have been using, and, of course, until one can define with more precision than we can today what the quantities and values are, this is a rough estimate, is about 80 percent in Federal ownership and 20 percent in private ownership.

Senator JORDAN. You are talking about land area now?

Mr. UDALL. No; we are talking about oil content.

Senator JORDAN. Oil content. Taking into account the richer and poorer and—

Mr. UDALL. That is right.

Senator JORDAN (continuing). Taking the quality of the lands into account.

All right. There is a great area in here of no man's land still involved in legal controversy. You have given me 20 percent recognized private ownership, 80 percent Federal.

Is there not an area in here that is controversial? What percent is in doubt? Obviously, the ratio would have to come off of one or the other of these allocations.

Mr. UDALL. Well, Senator, I think maybe I ought to be more precise. I ought to provide you with a written answer to this later if that is all right, Mr. Chairman.

Senator MOSS. Yes; it may be supplied.

Mr. UDALL. But there are many reasons why the question cannot be answered with real precision. One of them is the very fact of the recording statute that we lack. We do not have, we cannot gather