

I have never heard any reason offered by the Department for the delay, and inasmuch as the Secretary himself cites these claims as an impediment to progress, I cannot help but wonder how it was that the Department, knowing that the situation existed, failed to act until the problem had become a serious one.

Senator Moss. What was the date of the withdrawal order?

Mr. LYNCH. January 27, 1967. And I say in my statement that this Mr. Sweifel alone, between 1966 and the date of the withdrawal order, filed claims covering some 340,000 acres in Garfield County. That is an approximate figure, simply counting the entries in the preemption book and multiplying by 160. But so far as I know from inspection, all of the claims filed by Mr. Sweifel were 160-acre claims.

The second point that I make, and this is in the form of a suggestion to the committee, is that the Department of the Interior must immediately begin to contest these claims or some other device must be found by which the claims can promptly be declared null and void, if indeed they are, and the Secretary indicated, I suppose, in his statement this morning, there may be doubt as to the validity of some of them. Perhaps, some of them are valid, but, at any rate, some disposition of this matter ought to be taken promptly, and unless action is taken promptly we may have the same problems we have had with the pre-1920 claims where witnesses have disappeared, people have died, testimony has become unavailable, and the like.

I have suggested an approach to the committee which it may find helpful, and that is a legislative taking of these lands. Of course, the Constitution provides that we cannot take property without the payment of just compensation, but I am advised there are some precedents for either executive or legislative taking without condemnation proceedings, where provision is made for the filing of claims so that just compensation can be made. If this technique were available it would have a considerable number of advantages over the institution of contested proceedings which are necessarily lengthy.

Primarily, the title question, the question of whether these lands will be made available for leasing or whatever other disposition that the Secretary or the Congress proposes to make, the title question would be solved immediately, and the other question to be then determined is, What is the fair value, if any, of the claims which have been filed?

I leave it to the committee to consider the merits of this, if it has any merits. At any rate, it is a matter that has to be looked into.

I would like to make a few other points. There has been testimony, of course, by representatives of oil companies, and I have no doubt that the oil companies who have been interested in the Piceance Basin area of Colorado and other areas where oil shale deposits are known to exist, would like to have a right to keep the process of extracting the kerogen from the shale stone. I have no doubt, if the process were developed and were sufficiently economically attractive, that we would develop an oil shale industry.

I am concerned, however, that the Secretary, apparently, and the committee, at least in these current hearings and in other hearings which have gone before this, have not considered as an alternative to the leasing proposals or the inducement method of encouraging private