

I must say that this poses a real problem, of course, in connection with the integrity of the development of this whole matter of oil shale. If the committee wishes, I think it would be helpful if we heard from Mr. Barry now, a general statement in response to the comments that you have made, and then we can ask questions of Senator Douglas.

Mr. DOUGLAS. May I first say that I have never seen Mr. Zweifel, but he is an extraordinarily frank man. In fact from his frankness I find him most engaging. He wrote one letter—I do not know that I should be privileged to introduce it—where he says, “I hold up to a half interest in the 4 million acres which we have claimed. Ramparts accused me of stealing the 4 million acres which is not quite true. They do not have reason for thinking so.”

Then he writes to the man who is sending the letter, “Anyway you are free to quote anything I have written and say.”

I have formed an admiration for him as I would for Captain Kidd or Henry Morgan. I never heard of such a fellow and he should be given an “A” for frankness at least.

The CHAIRMAN. Very good.

Mr. Barry, why do you not make a statement now?

STATEMENT OF FRANK J. BARRY, SOLICITOR, DEPARTMENT OF THE INTERIOR

Mr. BARRY. All right.

The CHAIRMAN. I think it would be helpful if you could make a general statement at this point.

Mr. BARRY. I hope I can be helpful, and I think to put this matter in proper context it would be important.

It might be said that there is a crime that is involved, and the crime is that literally the law permits what Mr. Zweifel is doing. It is really not necessary that a miner or a prospector have a discovery when he locates a claim although the statute says so. The cases have held that it is not necessary that he have a discovery at that time. Although as against the United States his claim is not valid, still to keep peace in the mining camps in the early days—that is the reason that is given by the courts, by the way: in order to prevent gun battles, to effect dispossession by one miner or another, and then have the disseizor justified in his conduct because the man who was holding the property had no discovery at the time—the courts have held that if an individual locates a mining claim on which he does not have sufficient evidence to qualify for a discovery, he will be protected in his possession against any other person who seeks to displace him.

That means that he is not a trespasser. Indeed the statute itself, which is the 1872 act now, passed nearly a hundred years ago, and the statute which applies to the claims Mr. Zweifel has filed, is an act that invites the public to enter upon lands of the United States. Let me read section 22 of title 30 of the United States Code, as follows:

Except as otherwise provided, all valuable mineral deposits in land belonging to the United States, both surveyed and unsurveyed shall be free and open to exploration and purchase and the lands in which they are found to occupation and purchase by citizens of the United States and those who have declared their intention to become such under regulations prescribed by law and according to the local customs or rules of miners in the several mining districts so far as the same are applicable and not inconsistent with the laws of the United States.