

Mr. BARRY. It is clear it is not open to entry. It is also clear that you cannot locate sodium carbonates. Here is somebody who has located one. What do you do? In my view it is clear.

The CHAIRMAN. Is there a specific statutory provision that excludes it or is it by interpretation of existing previous law?

Mr. BARRY. Well, just to take this dawsonite situation, dawsonite is sodium aluminum carbonate. Section 161 of title 30 of the United States Code provides that all carbonates of sodium are leaseable, and other sections of the Mineral Leasing Act provide that the only way that you acquire such minerals is under the Mineral Leasing Act.

The CHAIRMAN. What I am saying, in effect, is, Could we not, by legislation, prohibit the local county auditors from recording such claims?

Mr. BARRY. Well, yes; I suppose we could.

Senator ALLOTT. May I interject just a word? I think you are getting off into deep water here. I do not think the Federal Government can do anything which would keep a county clerk, as it is in Colorado—and that is the section that we are talking about now, I do not know about Wyoming—from accepting any instrument that anybody asks to have filed or recorded.

Mr. BARRY. Yes.

The CHAIRMAN. As it relates to Federal lands?

Senator ALLOTT. I still do not think you can do it.

The CHAIRMAN. Well, I am not sure.

Mr. BARRY. The only reason they file it there is because of Federal law. If it did not do them any good to file it there, they would not do it.

The CHAIRMAN. The States have no authority to interfere with Federal property and do anything that would put a cloud on the title, I would think. It would seem to me such legislation would be constitutional. I am relating it only to Federal land, of course.

Mr. BARRY. Just to give an experience of my own, Mr. Chairman, I had a lawsuit one time involving a piece of property in Arizona where somebody went down and insisted that the recorder put an affidavit on the record that he owned the property. It was not a deed. It was not a mortgage. It was not anything in the statute or anything else. Yet the title company would not give me a title insurance policy and I had to quiet title against this fellow because he had put it on the record that he owned the property. The title company was just not going to take a chance.

So I can see even if we were to repeal the law that says it is up to the local laws to decide how you go about locating a claim and if we were to say you will record it in the Department of the Interior, people might still put something on the record. It would not bother us much because we would not have to recognize it for any purpose.

The CHAIRMAN. But why would it not be constitutional for the Congress to prohibit, as we can certainly, interference on public lands? We could prohibit the recordation by the States of any device that would have the net effect of placing a cloud over the title to that property.

Mr. BARRY. Let me say this: There are a few sacred cows in this country and I have run into a few of them in the Department of the