

Mr. SCHAAB. To Mr. Bernal. I think Mr. Bernal has been interpreting for both of them, together.

Senator METCALF. Thank you very much. Go right head. I am sorry to interrupt.

Mr. BERNAL. This has been a different interpretation of acreage, 32,000, somebody says, and 31,000, somebody says. The 1933 act has been very, very unsatisfactory to the Indian people. We want to amend that, and we want for us to be returned the 48,000 acres, in trust title, and this is what I wanted and this is what I am testifying for.

Senator METCALF. Well, the 1933 act says, "Containing approximately 30,000 acres." Specifically, plainly, clearly, and without equivocation, "containing approximately 30,000 acres." That is section 4 of the act.

Actually, it contains a few more than 30,000.

Mr. SCHAAB. Apparently more accurately, 31,000 and some odd.

Senator METCALF. That is correct. But there wasn't any attempt to deceive anybody. It was understated in the statute, and there is really more acreage than was stated in the statute.

Mr. SCHAAB. Mr. Chairman, perhaps I can answer just one.

Senator METCALF. I would be delighted to have you clarify it.

Mr. SCHAAB. I think the documentary record with which I am familiar, and which is part of the Pueblo statement, indicates there was a good deal of uncertainty from 1927 until 1933 when the description that was used in the 1933 act was being formulated as to exactly what land was covered by it. They did specify the acreage of 30,000, but the Forest Service, in a couple of places, stated that the entire watershed covered only 34,000, and it is clear to me from the documents how Mr. Collier and others on whom the Taos Pueblo were then relying did not understand that the 30,000 acres description in the 1933 act failed to include the entire watershed.

Senator METCALF. Mr. Schaab, if we adopt the theory that you have advanced here, that by subsequent affidavit, and subsequent statements, you can impeach a statute or a deed, there wouldn't be a single acre of land in the United States that couldn't be challenged.

Mr. SCHAAB. That is not really what my intention is. This is in the nature of legislative history. It is part of the background of the 1933 act. I think in a technical, legal sense there may have been evidence of a mutual mistake on both sides, by the Pueblo's representatives and by the Forest Service representatives, as to exactly what land was covered by that 30,000-acre description.

Senator METCALF. I can't understand how there could be a mutual mistake when it specifically says 30,000 acres, and now you come in and say 48,000. I am not a land expert, although I have gone over some of the land, but I believe that I could tell the difference between 48,000 and 30,000 acres, and, as I say, I don't know of an Indian in Montana that couldn't tell that difference.

Mr. SCHAAB. The issue really was not the number of acres. The issue involved was the land to be covered. If the entire watershed had been covered by the 1933 act, even though the number of acres were 30,000 instead of 48,000, it would have met what John Collier thought he was getting at the time. He didn't realize that he was getting less than the entire watershed, within the scope of the act. I think that is quite clear from the state of the record.