

**IN THE MATTER OF THE ADJUSTMENT
OF THE CALIFORNIA SCHOOL LAND
GRANT: COMMUNICATION TO THE
HONORABLE, THE SECRETARY OF THE
INTERIOR**

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In the matter of the adjustment of the California school land grant: Communication to the Honorable, the Secretary of the Interior by U. S. Webb

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U. S. WEBB

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OF THE CALIFORNIA SCHOOL LAND
GRANT: COMMUNICATION TO THE
HONORABLE, THE
SECRETARY OF THE INTERIOR**

California, Attorney general's office

IN THE MATTER OF THE ADJUSTMENT

OF THE

California School Land Grant

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Communication to the

Honorable, the Secretary of the Interior

FROM

U. S. Webb

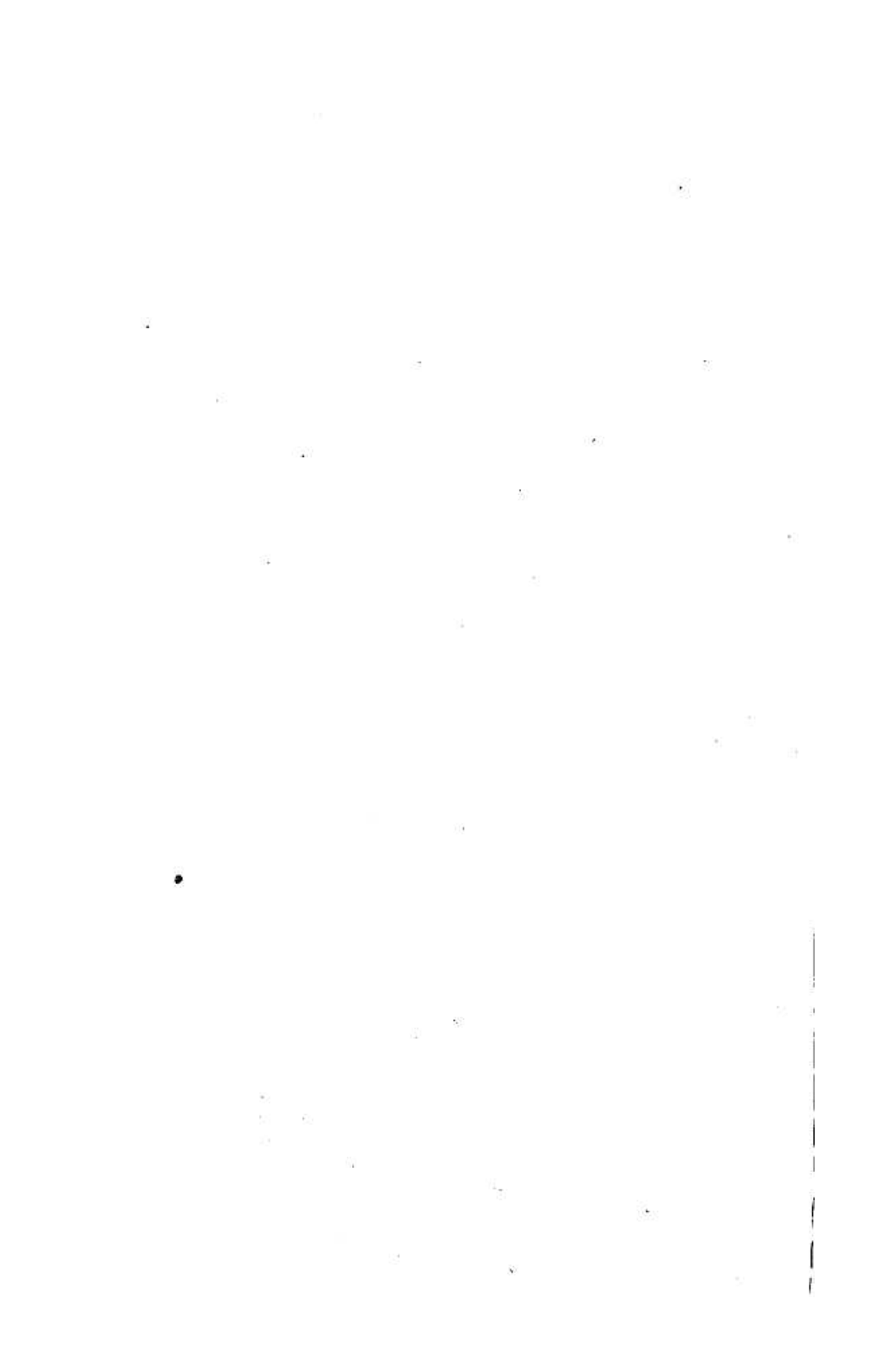
Attorney General of the State of California

FRIEND WM. RICHARDSON, SUPERINTENDENT OF STATE PRINTING

SACRAMENTO, CALIFORNIA

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SAN FRANCISCO, November 11, 1913.

IN THE MATTER OF THE ADJUST-
MENT OF THE CALIFORNIA
SCHOOL LAND GRANT.

To the Honorable, the Secretary of the Interior,

SIR:

The matter of the adjustment of the California School Land Grant has been pending for several years, and it was believed that final agreement respecting the same had been reached, and that the Department would proceed as expeditiously as possible to the listing of the, approximately, 400,000 acres awaiting departmental action.

This belief was induced through repeated assurances from the Department that listing would proceed when the State had performed the acts on its part to be performed, pursuant to such agreement, and the full performance by the State, as will hereafter appear, of all things required of it.

By night letter received October 10, 1913, the Surveyor General of the State was advised that a new question had arisen in the Department, and that no action upon withheld selections would be taken by the Department until that question had been determined. The night letter referred to is as follows:

“October 9, 1913.

“No indemnity school land selections have been approved since July first. Question as to authority generally to make

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such selections as under act of 1891 is before Department.
Letter follows.

BRUCE, Assistant Commissioner."

From this and the letter referred to it appears that the Department is now questioning the authority of the Government to accept as bases surveyed school selections lying within the exterior limits of Government reserves.

The importance of this question and the tremendous evil and loss to the State of California which would result from an adverse decision is my excuse for this letter, and justifies, I believe, the extended review of the negotiations heretofore had between the State and your Department which is hereinafter made. These negotiations cover a period of years, and at no time during their continuance has it been suggested by the Department, directly or indirectly, that there existed in the mind of any departmental official a doubt as to the power or duty of the Department to accept such bases, nor has it been suggested that there be, or could be, the slightest disposition to disregard the several decisions of the Department made many years ago, holding such selections to be valid, but, on the contrary, all parties have dealt with this question in the light of such decisions and with full faith in their finality.

The negotiations respecting this matter have been carried forward through several different administrations of the Interior Department, and this fact seems to suggest at this time a somewhat general review of the various steps taken during such period.

Briefs fully discussing the legal problems having heretofore been presented to the Department by the State, and by others, it seems unnecessary in this letter to rediscuss the law, and therefore the law will be referred to or discussed only in so far as it seems advisable so to do to illustrate or explain a fact or facts set forth.

By section 6 of an act of Congress approved March 3, 1853, sections sixteen and thirty-six in each township were granted to the State of California for the purposes of public schools.

Section 7 of said act provides that where any settlement is made upon the sixteenth or thirty-sixth sections before survey, or where such sections may be reserved for public uses, or taken by private claims, other land shall be selected by the proper authorities of the State in lieu thereof.

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Section 6 of an act of Congress entitled "An act to quiet land titles in California," approved July 23, 1866, provides that an act entitled "An act to provide for the survey of the public lands in California," * * * approved March 3, 1853, shall be construed as giving the State of California the right to select for school purposes other lands in lieu of such sixteenth and thirty-sixth sections as were settled upon prior to survey, reserved for public uses, covered by *grants made under Spanish or Mexican authority*, or by other private claims, etc.

Section 2275 (26 Stat. L., 796, February 28, 1891) provides:

“And other lands of equal acreage are also hereby appropriated and granted, and may be selected by said state or territory where sections sixteen and thirty-six are *mineral land*, or are included within any *Indian, military or other reservation*, or are otherwise disposed of by the United States.”

Section 2276 provides for selections to compensate for deficiencies of school lands in fractional townships.

Under date of November 2, 1903, the Commissioner of the General Land Office, by letter “G” addressed to the State Surveyor General required the State to adjust the school grant so that each township in which the State has lost lands in place may be charged with the number of acres actually taken as indemnity therefor.

On February 14, 1905, the Commissioner addressed another communication to the State Surveyor General concerning the adjustment in which he states that unless some action is taken within a reasonable time in response to letters previously written, his office would feel justified in applying towards the adjustment of the grant any actual losses that shall be found to have occurred.

Said communication was answered by the State Surveyor General on April 6, 1905, which closes with the statement:

“This communication is but preliminary to a fuller discussion of the matter in the brief which I shall hope to be able to transmit to you very shortly.”

The Department on November 17, 1905, held in 34 L. D. 270:

“It is not only within the power of this Department, but becomes its necessary duty, to see that sufficient losses or quantities to which the grant might have been entitled, had they been in place and not otherwise disposed of, equal in amount to previous certifications on account of this grant, approximately, are furnished as a base for such previous approvals or certifications, before other approvals and certifications are made on account of the grant.”

And instructed the Commissioner to advise the State of California of the conclusions reached.

The departmental decision was promulgated by Commissioner's letter “G” of December 15, 1905, which reads:

“I enclose herewith a copy of departmental decision of November 17, 1905, relative to the excess in approvals or certifications heretofore made to the State of California on account of her grant in aid of common schools.

The matter of the further adjustment of this grant, and other school grants to the several states, is remanded to the primary consideration of this office, with direction that the State of California be advised of the conclusions reached, viz: That where, through mistake, school land indemnity selections were permitted to exceed the losses, the approved selections are not affected, but that the only reasonable course open to the Department in protecting the interests of the United States in the matter, is to exact that losses be supplied to meet the excess in approvals, before further approvals or certifications are made on account of the grant.

The attention of the State has been called, in a number of office letters to cases wherein approvals were made in excess of the losses of school land, with request in each case for the designation of sufficient new and valid base to satisfy the excess in approval. It is hoped and expected that these requests, as well as similar requests that may be made in