

Act of Admission

An Act to Provide for the Admission of the State of Wyoming into the Union, and for Other Purposes

(Approved July 10, 1890, 26 Statutes at Large 222, Ch. 664.)

Section

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§ 1. Wyoming admitted as a state; constitution ratified.

Whereas, the people of the territory of Wyoming did, on the 30th day of September, 1889, by a convention of delegates called and assembled for that purpose, form for themselves a constitution, which constitution was ratified and adopted by the people of said territory at the election held therefor on the first Tuesday in November, 1889, which constitution is republican in form and is in conformity with the constitution of the United States; and

Whereas, said convention and the people of the said territory have asked the admission of said territory into the union of states on an equal footing with the original states in all respects whatever; therefore,

Be it enacted, etc., that the State of Wyoming is hereby declared to be a state of the United States of America, and is hereby declared admitted into the union on an equal footing with the original states in all respects whatever; and that the constitution which the people of Wyoming have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed.

Cross references. — As to United States military reservations, see § 19-7-301. As to United States lands generally, see §§ 36-10-101 to 36-10-203.

Act construed to promote justice. — In construing the Act of Admission it is wiser to apply good common sense to promote and preserve justice than to subserve hollow technicalities and arrive at absurd

unjust results. *United States v. Wyoming*, 195 F. Supp. 692, 1961 U.S. Dist. LEXIS 4250 (D. Wyo. 1961), *aff'd*, 310 F.2d 566, 1962 U.S. App. LEXIS 3929 (10th Cir. Wyo. 1962).

Effect of ratification of state constitution. — The provisions of the Act of Admission ratifying the state constitution had the same effect as an indepen-

dent act of congress enacting the provisions of the constitution. Act of Admission. *Merrill v. Bishop*, 74 Wyo. 298, 287 P.2d 620, 1955 Wyo. LEXIS 37 (Wyo. 1955), overruled, *In re General Adjudication of All Rights to Use Water in Big Horn River Sys.*, 753 P.2d 76, 1988 Wyo. LEXIS 26 (Wyo. 1988).

By its Act of Admission ratifying the state constitution, congress gave express approval to that declaration regarding the state's ownership of waters. *Day v. Armstrong*, 362 P.2d 137, 1961 Wyo. LEXIS 97 (Wyo. 1961), citing *Merrill v. Bishop*, 69 Wyo. 45, 237 P.2d 186, 1951 Wyo. LEXIS 3 (1951); Act of Admission. *Merrill v. Bishop*, 74 Wyo. 298, 287 P.2d 620, 1955 Wyo. LEXIS 37 (Wyo. 1955), overruled, *In re General Adjudication of All Rights to Use Water in Big Horn River Sys.*, 753 P.2d 76, 1988 Wyo. LEXIS 26 (Wyo.

1988); *Mitchell Irr. Dist. v. Sharp*, 121 F.2d 964, 1941 U.S. App. LEXIS 3370 (10th Cir. Wyo.), cert. denied, 314 U.S. 667, 62 S. Ct. 129, 86 L. Ed. 534, 1941 U.S. LEXIS 241 (U.S. 1941).

Rights of Indians. — The water rights reserved to Indians in a prior treaty must be construed in the light of, and as limited by, the Act of Admission. *Merrill v. Bishop*, 74 Wyo. 298, 287 P.2d 620, 1955 Wyo. LEXIS 37 (1955). See note to art. 8, § 3, Wyo. Const.

Sovereign immunity. — Nothing in language of this section constitutes a waiver of federal sovereign immunity. *Wyoming v. United States*, 61 F. Supp. 2d 1209, 1999 U.S. Dist. LEXIS 13075 (D. Wyo. 1999), aff'd in part and rev'd in part, 279 F.3d 1214, 2002 U.S. App. LEXIS 1922 (10th Cir. Wyo. 2002).

§ 2. Boundaries; limitations as to Yellowstone National Park; federal jurisdiction in Yellowstone National Park.

The said state shall consist of all the territory included within the following boundaries, to-wit: Commencing at the intersection of the twenty-seventh meridian of longitude west from Washington with the forty-fifth degree of north latitude and running thence west to the thirty-fourth meridian of west longitude; thence south to the forty-first degree of north latitude; thence east to the twenty-seventh meridian of west longitude, and thence north to the place of beginning. Provided, that nothing in this act contained shall repeal or affect any act of congress relating to the Yellowstone National Park, or the reservation of the park as now defined, or as may be hereafter defined or extended, or the power of the United States over it; and nothing contained in this act shall interfere with the right and ownership of the United States in said park and reservation as it now is or may hereafter be defined or extended by law; but exclusive legislation, in all cases whatsoever, shall be exercised by the United States, which shall have exclusive control and jurisdiction over the same; but nothing in this proviso contained shall be construed to prevent the service within said park of civil and criminal process lawfully issued by the authority of said state; and the said state shall not be entitled to select indemnity school lands for the sixteenth and thirty-sixth sections that may be in said park reservation as the same is now defined or may be hereafter defined.

Cross references. — As to boundaries of state, see art. 11, § 1, Wyo. Const.

Tax on sales of gasoline in Yellowstone national park. — Under the federal statute permitting the state to levy a tax on sales of gasoline in Yellowstone national park, the state cannot levy a tax on gasoline used by the importer in its own trucks and buses within the confines of the park. *State v. Yellow-*

stone Park Co., 57 Wyo. 502, 121 P.2d 170, 1942 Wyo. LEXIS 5 (Wyo.), cert. denied, 316 U.S. 689, 62 S. Ct. 1280, 86 L. Ed. 1760, 1942 U.S. LEXIS 585 (U.S. 1942).

Stated in *Yellowstone National Park*. *Zacharias v. Ippen*, 337 F.2d 445, 1964 U.S. App. LEXIS 4113 (10th Cir. 1964).

§ 3. Congressional representation.

Until the next general census, or until otherwise provided by law, said state shall be entitled to one representative in the house of representatives of the United States, and the election of the representative to the fifty-first congress and the representative to the fifty-second congress shall take place at the time and be conducted and certified in the same manner as is provided in the constitution of the state for the election of state, district, and other officers.

§ 4. School lands granted.

Sections numbered 16 and 36 in every township of said proposed state, and, where such sections, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of congress, other lands equivalent thereto, in legal subdivisions of not less than one-quarter-section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said state for the support of common schools, such indemnity lands to be selected within said state in such manner as the legislature may provide, with the approval of the secretary of the

interior; provided, that section 6 of the act of congress of August 9, 1888, entitled "An act to authorize the leasing of the school and university lands in the Territory of Wyoming, and for other purposes," shall apply to the school and university indemnity lands of the said State of Wyoming so far as applicable.

Cross references. — As to sale or lease of school lands and disposition of proceeds, see note to § 5 of this act. As to acceptance of lands granted to state by this act, see § 36-1-104.

Section does not vest in state indefeasible interest in unsurveyed section. — This section, though containing words of present grant, did not vest in the state, immediately upon admission into the union, an indefeasible proprietary interest in the unsurveyed section, of such nature as precluded disposition by the federal government for other purposes. *United States v. Wyoming*, 331 U.S. 440, 67 S. Ct. 1319, 91 L. Ed. 1590, 1947 U.S. LEXIS 2879 (U.S.), reh'g denied, 332 U.S. 787, 68 S. Ct. 37, 92 L. Ed. 370, 1947 U.S. LEXIS 2019 (U.S. 1947).

Nor does state acquire right on basis of incomplete survey. — The state cannot be deemed to have acquired an indefeasible equitable right to a school section on the basis of a survey which was incomplete. *United States v. Wyoming*, 331 U.S. 440, 67 S. Ct. 1319, 91 L. Ed. 1590, 1947 U.S. LEXIS 2879 (U.S.), reh'g denied, 332 U.S. 787, 68 S. Ct. 37, 92 L. Ed. 370, 1947 U.S. LEXIS 2019 (U.S. 1947).

Title to lands within a section granted to the state as school lands by the Organic Act, § 14, but which, prior to completion of an official survey, were included in a petroleum reserve by a presidential order promulgated under authority of the act of June 25, 1910, 36 Stat. 847, had not vested in the state. *United States v. Wyoming*, 331 U.S. 440, 67 S. Ct. 1319, 91 L. Ed. 1590, 1947 U.S. LEXIS 2879 (1947), rehearing denied, 332 U.S. 787, 68 S. Ct. 37, 92 L. Ed. 370, 1947 U.S. LEXIS 2019 (1947). But see final decree of supreme court in *United States v. Wyoming*, 335 U.S. 895, 69 S. Ct. 297, 93 L. Ed. 431 (1948), wherein it is stated that pursuant to Public Law 887, July 2, 1948, 62 Stat. 1233, a patent was issued to the state effective as of July 10, 1890.

Section grants subdivisions or their equivalents. — There is no magic in the numbers "16" and "36." The tenor of this section infers a grant of legal subdivisions or their equivalents. *United States v. Wyoming*, 195 F. Supp. 692, 1961 U.S. Dist. LEXIS 4250 (D. Wyo. 1961), aff'd, 310 F.2d 566, 1962 U.S. App. LEXIS 3929 (10th Cir. Wyo. 1962).

And state is entitled to no more than quota. — The state is entitled to its quota of school lands, but only to its full quota. *United States v. Wyoming*, 195 F. Supp. 692, 1961 U.S. Dist. LEXIS 4250 (D. Wyo. 1961), aff'd, 310 F.2d 566, 1962 U.S. App. LEXIS 3929 (10th Cir. 1962), cert. denied, 372 U.S. 953, 83 S. Ct. 952, 9 L. Ed. 2d 977, 1963 U.S. LEXIS 1920 (1963)

Title vests in state on approval of survey. — This section becomes effective when the lands are identified by a survey and the approval thereof, and the designation of sections 16 to 36 in the original survey amounts to a confirmation of the grant of school lands to the state. Title to such newly surveyed land as so designated passes to the state upon approval of the survey. *United States v. Wyoming*, 195 F. Supp. 692, 1961 U.S. Dist. LEXIS 4250 (D. Wyo. 1961), aff'd, 310 F.2d 566, 1962 U.S. App. LEXIS 3929

(10th Cir. 1962), cert. denied, 372 U.S. 953, 83 S. Ct. 952, 9 L. Ed. 2d 977, 1963 U.S. LEXIS 1920 (1963) .

Or vested on admission to Union if survey was previously made. — The title in the state to the school sections vested at the date of the original surveys and their approval, or when the state was admitted to the Union, where the surveys were made prior to 1890. *United States v. Wyoming*, 195 F. Supp. 692, 1961 U.S. Dist. LEXIS 4250 (D. Wyo. 1961), aff'd, 310 F.2d 566, 1962 U.S. App. LEXIS 3929 (10th Cir. 1962), cert. denied, 372 U.S. 953, 83 S. Ct. 952, 9 L. Ed. 2d 977, 1963 U.S. LEXIS 1920 (1963)

But resurvey is proper. — There is nothing obnoxious to an adjustment of the proper location of a federal grant of lands to a state by means of a resurvey. *United States v. Wyoming*, 195 F. Supp. 692, 1961 U.S. Dist. LEXIS 4250 (D. Wyo. 1961), aff'd, 310 F.2d 566, 1962 U.S. App. LEXIS 3929 (10th Cir. Wyo. 1962).

Where original surveys were erroneous. — Where all the land in dispute was surveyed and the plats of such surveys were approved in 1883 and 1884, each original survey plat of the townships in dispute containing a section 16 and 36, and the parties agreed that the original surveys were inaccurate, erroneous or obliterated, at the time of the survey therefore the area in dispute was, practically speaking, unsurveyed public land. On the other hand, the area not in dispute was susceptible of ascertainment. By the system of segregation, that is, the separation of the state-owned lands from the public domain, the state's vested right in the school sections was preserved. No vested rights were impaired. *United States v. Wyoming*, 195 F. Supp. 692, 1961 U.S. Dist. LEXIS 4250 (D. Wyo. 1961), aff'd, 310 F.2d 566, 1962 U.S. App. LEXIS 3929 (10th Cir. 1962), cert. denied, 372 U.S. 953, 83 S. Ct. 952, 9 L. Ed. 2d 977, 1963 U.S. LEXIS 1920 (1963)

But designation on resurvey as sections 16 or 36 does not vest title. — The mere designation of lands as sections 16 and 36 did not change the character of their title. *United States v. Wyoming*, 195 F. Supp. 692, 1961 U.S. Dist. LEXIS 4250 (D. Wyo. 1961), aff'd, 310 F.2d 566, 1962 U.S. App. LEXIS 3929 (10th Cir. 1962), cert. denied, 372 U.S. 953, 83 S. Ct. 952, 9 L. Ed. 2d 977, 1963 U.S. LEXIS 1920 (1963)

And state is only entitled to original school sections or resurveyed sections. — Where the original surveys of townships were either inaccurate or erroneous and many of the monuments were obliterated, then, when the boundary lines of original school sections were reestablished by resurveys thereof and such sections were identified by tract or lot numbers and the words "school section" inscribed on such tracts or lots, on the official plats of such resurveys the state was entitled, under the grant to it of such school sections, only to the lands within such original school sections, unless it elected to waive its claim to such original school sections and to select in lieu thereof lands embraced in resurveyed school sections and in such case it was only entitled to the lands embraced within the resurveyed school sections. *Wyoming v. United States*, 310 F.2d 566, 1962 U.S. App. LEXIS 3929 (10th Cir. Wyo. 1962), cert. denied,

372 U.S. 953, 83 S. Ct. 952, 9 L. Ed. 2d 977, 1963 U.S. LEXIS 1920 (U.S. 1963).

Lieu lands. — Where the state had accepted the offer made by congress, by waiving its right to certain lands for the support of common schools which had been included within the boundaries of a national forest, and had made proper proofs that the land selected in lieu thereof was open to entry and not mineral, it acquired an equitable right to the lands before the selection was approved by the secretary of the interior, so that the selection could not be rejected by the secretary on the ground that oil was subsequently discovered thereon or that the land was included in a withdrawal of oil land from entry. *Wyoming v. United States*, 255 U.S. 489, 41 S. Ct. 393, 65 L. Ed. 742, 1921 U.S. LEXIS 1720 (U.S. 1921).

This section provides that 2 sections in each township are granted for school purposes and “where such sections, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of congress” indemnity lands may be selected. The congressional intent was that if part of any section to be granted for school purposes had been disposed of under an act of congress, the state on admission did not get that part of the section. *Wyoming v. Udall*, 379 F.2d 635, 1967 U.S. App. LEXIS 6029 (10th Cir. Wyo.),

cert. denied, 389 U.S. 985, 88 S. Ct. 470, 19 L. Ed. 2d 479, 1967 U.S. LEXIS 202 (U.S. 1967).

Failure to exercise right to select lieu lands does not enlarge the grant. *Wyoming v. Udall*, 379 F.2d 635, 1967 U.S. App. LEXIS 6029 (10th Cir. Wyo.), cert. denied, 389 U.S. 985, 88 S. Ct. 470, 19 L. Ed. 2d 479, 1967 U.S. LEXIS 202 (U.S. 1967).

Oil and gas underlying a railroad right-of-way granted by congress in 1862 did not pass to the state under the grant for school purposes. *Wyoming v. Udall*, 379 F.2d 635, 1967 U.S. App. LEXIS 6029 (10th Cir. Wyo.), cert. denied, 389 U.S. 985, 88 S. Ct. 470, 19 L. Ed. 2d 479, 1967 U.S. LEXIS 202 (U.S. 1967).

Copies of official plats are prima facie evidence. — Copies of the official plats of 8 townships in issue were prima facie evidence of the status of the lands. *United States v. Wyoming*, 195 F. Supp. 692, 1961 U.S. Dist. LEXIS 4250 (D. Wyo. 1961), aff’d, 310 F.2d 566, 1962 U.S. App. LEXIS 3929 (10th Cir. 1962), cert. denied, 372 U.S. 953, 83 S. Ct. 952, 9 L. Ed. 2d 977, 1963 U.S. LEXIS 1920 (1963)

Quoted in *Mayor v. Board of Land Comm’rs*, 64 Wyo. 409, 192 P.2d 403, 1948 Wyo. LEXIS 7 (1948).

Law reviews. — For comment, “Wyoming’s Last Great Range War: The Modern Debate Over the State’s Public School Lands,” see XXXIV *Land & Water L. Rev.* 75 (1999).

§ 5. Sale or lease of school lands; immunity from entry under land laws.

All lands herein granted for educational purposes shall be disposed of only at public sale, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulations as the legislature shall prescribe, be leased for mineral, grazing, agricultural, or other purposes, provided that the term of agricultural and grazing leases shall not exceed 10 years; and such land shall not be subject to preemption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

The words “but shall be reserved for school purposes only” in this section, together with the words of present grant in § 4, are not to be construed as immediately vesting in the state an indefeasible interest in the granted lands, nor as a limitation on the federal government’s power to deal with such lands in a manner consistent with applicable federal statutes. *United States v. Wyoming*, 331 U.S. 440, 67 S. Ct. 1319, 91 L. Ed. 1590, 1947 U.S. LEXIS 2879 (U.S.), reh’g denied, 332 U.S. 787, 68 S. Ct. 37, 92 L. Ed. 370, 1947 U.S. LEXIS 2019 (U.S. 1947).

Rents and royalties derived from oil leases are not the ordinary rents contemplated by the constitution but arise from and represent the corpus of the land and must be treated as principal becoming part of the permanent school fund. *State ex rel. School Dist. v. Snyder*, 29 Wyo. 163, 212 P. 758, 1923 Wyo. LEXIS 5 (Wyo. 1923).

School fund not diminished. — A contract entered into by the state in accordance with a statute providing for an investigation by an expert of the amount due the state on lease of state lands was not required to be construed to exclude school land leases on the ground that payment of a contingent fee to the expert would diminish the school fund in violation of constitution since the efforts of the expert would create a wholly new fund to the extent of the amount he received above the contingent fee. *Bourne v. Cole*, 53 Wyo. 31, 77 P.2d 617, 1938 Wyo. LEXIS 1 (Wyo. 1938).

Federal tax on income received under trust agreement with lessee. — Income received by an affiliate under a trust agreement with its parent company, owner of an oil and gas lease from the state covering school lands, is subject to federal income tax, and the tax is not subject to constitutional objection as a tax on a state instrumentality. *Helvering v. Mountain Producers Corp.*, 303 U.S. 376, 58 S. Ct. 623, 82 L. Ed. 907, 1938 U.S. LEXIS 415 (U.S. 1938).

Discretion of board of land commissioners. — The discretion of the board of land commissioners in both the leasing and the sale of school lands has been given a very broad scope, subject only to the limitation that review by the courts may be had of the board’s action in the event of the board’s transgression of provisions of positive law, fraud or grave abuse of discretion. Whether the board has exceeded this limitation must be determined from the varying circumstances of individual cases. *Mayor v. Board of Land Comm’rs*, 64 Wyo. 409, 192 P.2d 403, 1948 Wyo. LEXIS 7 (Wyo.), reh’g denied, 64 Wyo. 430, 195 P.2d 752 (Wyo. 1948).

The contention that when an applicant for the lease of state school lands, who is in all respects qualified to hold it as a renewal lessee, presents his application for such a lease to the board of land commissioners, that body must grant the lease and may not under any circumstances decline to issue it to him, could not be sustained. *Mayor v. Board of Land Comm’rs*, 64 Wyo.

409, 192 P.2d 403, 1948 Wyo. LEXIS 7 (Wyo.), reh'g denied, 64 Wyo. 430, 195 P.2d 752 (Wyo. 1948).

Effect of § 36-5-105, Wyoming Statutes. — The provisions of law in § 36-5-105 of the Wyoming Statutes become binding upon the board's action if and when it decides to lease school lands. *Mayor v. Board of Land Comm'rs*, 64 Wyo. 409, 192 P.2d 403, 1948 Wyo. LEXIS 7 (Wyo.), reh'g denied, 64 Wyo. 430, 195 P.2d 752 (Wyo. 1948).

Statute giving preference to old lessees not invalid. — A statute which gives preference to old lessees in application for leases of public school lands

is not unconstitutional as giving an absolute right of renewal, even though the Act of Admission limited such leases to 5 years. *Mercer v. Thorley*, 48 Wyo. 141, 43 P.2d 692, 1935 Wyo. LEXIS 26 (Wyo. 1935).

Applied in *In re Hagood*, 356 P.2d 135, 1960 Wyo. LEXIS 87 (Wyo. 1960).

Law reviews. — For article, "Federal Reserved Water Rights Applied to School Trust Lands?," see XXXIV *Land & Water L. Rev.* 1 (1999).

For comment, "Wyoming's Last Great Range War: The Modern Debate Over the State's Public School Lands," see XXXIV *Land & Water L. Rev.* 75 (1999).

§ 6. Lands for public buildings.

Fifty sections of the unappropriated public lands within said state, to be selected and located in legal subdivisions as provided in section 4 of this act, shall be, and are hereby granted to said state for the purpose of erecting public buildings at the capital of said state.

§ 7. Common school fund.

Five per cent of the proceeds of the sales of public lands lying within said state which shall be sold by the United States subsequent to the admission of said state into the union, after deducting all the expenses incident to the same, shall be paid to the said state, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said state.

§ 8. University lands; university fund; state control of schools; certain institutions not to be supported by sales of school lands; fish hatchery land transferred to state.

The lands granted to the Territory of Wyoming by the act of February 18, 1881, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho and Wyoming, for university purposes," are hereby vested in the State of Wyoming, to the extent of the full quantity of 72 sections to said state, and any portion of said lands that may not have been selected by said Territory of Wyoming may be selected by the said state; but said act of February 18, 1881, shall be so amended as to provide that none of said lands shall be sold for less than \$10 per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said state, and the income thereof be used exclusively for university purposes. The schools, colleges, and universities provided for in this act shall forever remain under exclusive control of said state, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college, or university. The section of land granted by the act of May 28, 1888, to the Territory of Wyoming for a fish hatchery and other public purposes shall, upon the admission of said State of Wyoming into the union, become the property of said state.

Cross references. — As to consolidation of university permanent land fund and university land income fund, see § 9-7-510.

Granting right-of-way for road across university lands not prohibited. — Neither the Act of Admission nor the constitution prohibits the granting of rights-of-way for roads across university lands, since such grants are neither sales nor disposals. *Ross v. Trustees of Univ. of Wyo.*, 30 Wyo. 433, 222 P. 3, 1924 Wyo. LEXIS 67 (Wyo.), reh'g denied, 31 Wyo. 464, 228 P. 642, 1924 Wyo. LEXIS 40 (Wyo. 1924).

Use of income from university permanent land fund. — The use of income from the university permanent land fund is not confined to the current expenses of the university, and such income may be

used for the erection of buildings provided legislative authority for such purpose has been granted. *Arnold v. Bond*, 47 Wyo. 236, 34 P.2d 28, 1934 Wyo. LEXIS 22 (Wyo. 1934).

Suit against trustees of university as action against state. — A suit against the trustees of the university to quiet title to land granted to the state by the Act of Admission for the benefit of a university was a suit against the state and not maintainable without the consent of the state, since the state was the holder of the legal title to the land in question and the trustees public agents of the state. *Hjorth Royalty Co. v. University of Wyoming*, 30 Wyo. 309, 222 P. 9, 1924 Wyo. LEXIS 68 (Wyo. 1924).

§ 9. Laramie City penitentiary granted to state.

The penitentiary at Laramie City, Wyo., and all lands connected therewith and set apart and reserved therefor, and the personal property of the United States, now being in the Territory of Wyoming, and which has been in use in the said territory in the administration of the territorial government, including books and records, and the property used at the constitutional convention, which convened at Cheyenne in the month of September, eighteen hundred and eighty-nine, are hereby granted and donated, and unexpended appropriations of money therefor, are hereby granted and donated to the State of Wyoming.

§ 10. Lands for agricultural college.

Ninety thousand acres of land, to be selected and located as provided in section 4 of this act, are hereby granted to said state for the use and support of an agricultural college in said state, as provided in the acts of congress making donations of lands for such purpose.

§ 11. Federal land grants for certain purposes.

In lieu of the grant of land for the purpose of internal improvement made to new states by the eighth section of act of September 4, 1841, which section is hereby repealed as to the State of Wyoming, and in lieu of any claim or demand by the said state under the act of September 28, 1850, and section 2479 of the Revised Statutes, making a grant of swamp and overflowed lands to certain states, which grant it is hereby declared is not extended to the State of Wyoming, and in lieu of any grant of saline lands to said state, the following grants of land are hereby made, to-wit:

To the State of Wyoming: For the establishment and maintenance and support in the said state the insane asylum in Uinta County 30,000 acres; for the penal, reform or educational institution in course of construction in Carbon County, 30,000 acres; for the penitentiary in Albany County, 30,000 acres; for the fish hatchery in Albany County, 5,000 acres; for the deaf, dumb and blind asylum in Laramie County, 30,000 acres; for the poor farm in Fremont County, 10,000 acres; for a hospital for miners who shall become disabled or incapacitated to labor, while working in the mines of the state 30,000 acres; for public buildings at the capital of the state, in addition to those hereinbefore granted for that purpose, 75,000 acres; for state, charitable, educational, penal and reformatory institutions, 260,000 acres; making a total of 500,000 acres; Provided, that none of the lands granted by this act shall be sold for less than ten dollars per acre.

§ 12. Further land grants prohibited except for specific purposes.

The state of Wyoming shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act; and the lands granted by this section shall be held, appropriated, and disposed of exclusively for the purposes herein mentioned, in such manner as the legislature of the state may provide.

Quoted in *Wyoming v. United States*, 310 F.2d 566, 1962 U.S. App. LEXIS 3929 (10th Cir. 1962).

§ 13. Mineral lands exempt; lands in lieu thereof.

All mineral lands shall be exempted from the grants made by this act. But if sections 16 and 36, or any sub-division or portion of any smallest sub-division thereof in any township, shall be found by the department, of the interior to be mineral lands, said state is hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said state in lieu thereof, for the use and the benefit of the common schools of said state.

Mineral character of lands unknown at time of admission. — The provisions of this section exempting "mineral lands" from the school land grants do not apply where at the time of the admission of Wyoming the mineral character of the lands was not known. The established law is that in the construction

of such grants the mineral or nonmineral character is to be determined by the known presence of valuable minerals on the effective date of the grant. *Wyoming v. Udall*, 379 F.2d 635, 1967 U.S. App. LEXIS 6029 (10th Cir. Wyo.), cert. denied, 389 U.S. 985, 88 S. Ct. 470, 19 L. Ed. 2d 479, 1967 U.S. LEXIS 202 (U.S. 1967).

§ 14. Lands to be selected under direction of secretary of interior; deductions.

All lands granted in quantity or as indemnity by this act shall be selected, under the direction of the secretary of the interior, from the surveyed, unreserved, and unappropriated public lands of the United States within the limits of the state entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said state the number acres heretofore donated by congress to said territory for similar objects.

Quoted in Wyoming v. United States, 310 F.2d 566, 1962 U.S. App. LEXIS 3929 (10th Cir. 1962).

§ 15. Convention expenses.

The sum of \$30,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the treasury not otherwise appropriated, to said territory for defraying the expense of the said convention and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the territorial legislatures, and for the elections held therefor and thereunder. Any money hereby appropriated not necessary for such purpose shall be covered into the treasury of the United States.

§ 16. Circuit and district courts; judges; attorney; marshal; clerks; terms; juries; jurisdiction; powers of officers; fees.

The said state, when admitted as aforesaid, shall constitute a judicial district, the name thereof to be the same as the name of the state, and the circuit and district courts therefor shall be held at the capital of the state for the time being, and the said district shall, for judicial purposes, until otherwise provided, be attached to the eighth judicial circuit. There shall be appointed for said district one district judge, one United States attorney, and one United States marshal. The judge of the said district shall receive a yearly salary of \$3,500, payable in four equal installments, on the first days of January, April, July and October of each year, and shall reside in the district.

There shall be appointed clerks of said courts in the said district, who shall keep their offices at the capital of said state. The regular terms of said courts shall be held in said district at the place aforesaid on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned in both said circuit and district courts. The circuit and district courts for said district, and the judges thereof, respectively, shall possess the same powers and jurisdiction, and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and clerks of the circuit and district courts of said district, and all other officers and person performing duties in the administration of justice, therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States; and shall, for the services they may perform, receive the fees and compensation allowed by law to other similar officers and persons performing similar duties in the State of Oregon.

§ 17. Cases pending in supreme court; territorial supreme court succeeded; judgments prior to admission.

All cases of appeal or writ of error heretofore prosecuted and now pending in the supreme court of the United States upon any record from the supreme court of said territory, or that may hereafter lawfully be prosecuted upon any record from said courts, may be heard and determined by said supreme court of the United States. And the mandate of execution or of further proceedings shall be directed by the supreme court of the United States to the circuit or district court hereby established within the said state from or to the supreme court of such state, as the nature of the case may require. And the circuit, district and state courts herein named shall, respectively, be the successor of the supreme court of the territory, as to all such cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same, and award mesne or final process therein; and that from all judgments and decrees of the supreme court of the territory mentioned in this act, in any case arising within the limits of the

proposed state prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the supreme court of the United States as they shall have had by law prior to the admission of said state into the union.

§ 18. Transfer of pending actions to circuit and district courts and to state courts; transfer of files and records; writs not to abate; request for trial in federal courts.

In respect to all cases, proceedings and matters now pending in the supreme or district courts of the said territory at the time of the admission into the union of the State of Wyoming and arising within the limits of such state, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said supreme and district [district] courts of said territory; and in respect to all other cases, proceedings, and matters pending in the supreme or district courts of the said territory at the time of the admission of such territory into the union, arising within the limits of said state, the courts established by such state shall, respectively, be the successors of said supreme and district territorial courts; and all the files, records, indictments, and proceedings relating to any such cases shall be transferred to such circuit, district and state courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause, or proceeding now pending, or that prior to the admission of the state shall be pending, in any territorial court in said territory shall abate by the admission of such state into the union, but the same shall be transferred and proceeded with in the proper United States circuit, district, or state court, as the case may be: Provided, however, that in all civil actions, causes and proceedings, in which the United States is not a party, transfer shall not be made to the circuit and district courts of the United States except upon written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request such cases shall be proceeded with in the proper state courts.

§ 19. Election of United States senators and members of the house of representatives.

The legislature of the said state may elect two senators of the United States, as is provided by the constitution of said state, and the senators and representatives of said state shall be entitled to be admitted to seats in congress and to all the rights and privileges of senators and representatives of other states in the congress of the United States.

§ 20. Territorial officers to hold over until after state election.

Until the state officers are elected and qualified under the provisions of the constitution of said state, the officers of the Territory of Wyoming shall discharge the duties of their respective offices under the constitution of the state, in the manner and form as therein provided.

§ 21. Existing territorial laws to remain in force; laws in conflict with this act is repealed.

From and after the admission of said state into the union, in pursuance of this act, the laws of the United States, not locally inapplicable, shall have the same force and effect within the said state as elsewhere within the United States; and all laws in force made by said territory, at the time of its admission into the union, until amended or repealed, shall be in force in said state except as modified or changed by this act or by the constitution of the state, an all acts or parts of acts in conflict with the provisions of this act, whether passed by a legislature of said territory or by congress, are hereby repealed.