

TO AMEND SECTION 8, PROTECTION OF WATERSHEDS
OF NAVIGABLE STREAMS

MARCH 5, 1926.—Committed to the Committee of the Whole House on the state
of the Union and ordered to be printed

Mr. HAUGEN, from the Committee on Agriculture, submitted the
following

REPORT

[To accompany H. R. 9039]

The Committee on Agriculture, to whom was referred the bill (H. R. 9039) to amend section 8 of the act approved March 1, 1911 (36 Stat. 961), entitled "An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers," having considered the same, report thereon with a recommendation that it do pass.

The bill reported herewith is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act approved March 1, 1911 (Thirty-sixth Statutes, page 961), is hereby amended by adding to section 8 thereof the following language:

"*Provided,* That in condemnation proceedings, heretofore or hereafter prosecuted, for the acquisition of lands under this act, in which a decree is entered vesting title thereto in the United States upon payment of the award into the registry of the court, the Secretary of Agriculture is authorized to make such payment when advised by the Attorney General that the proceedings and the decree are regular."

Section 8 of the act approved March 1, 1911 (36 Stat. 961), is as follows:

That the Secretary of Agriculture may do all things necessary to secure the safe title in the United States to the lands to be acquired under this act, but no payment shall be made for any such lands until the title shall be satisfactory to the Attorney General and shall be vested in the United States.

The Department of Agriculture has advised that in the acquisition of lands under this act it not infrequently happens that the only way to secure a satisfactory title is by condemnation proceedings.

These are usually of a friendly nature and solely for the purpose of securing good title. In condemnation proceedings it is required that the value of the lands be paid into the court before a final decree is rendered by the court in the proceedings. The Attorney General has recently held under the above-quoted section 8 he can not approve a title until it is vested in the United States. Title can not vest in the United States until the amount awarded in condemnation has been paid into the registry of the court and final decree has been entered. The Secretary of Agriculture, however, can not pay the award into the registry of the court until title has been approved by the Attorney General. Strictly interpreted, section 8, as at present worded, establishes an impossible condition which nullifies the act of March 1, 1911, in all cases where condemnation is necessary to perfect title. This bill proposes to amend the act in order to correct this situation and make it possible to proceed in these condemnation suits in a lawful manner. The draft of bill was considered by the Solicitor for the Department of Agriculture as well as by a representative of the Department of Justice, and it is reported that it will accomplish the desired result.

A letter to the chairman of the committee from the Acting Secretary of Agriculture in reference to the bill is as follows:

FEBRUARY 19, 1926.

HON. GILBERT N. HAUGEN,

Chairman Committee on Agriculture, House of Representatives.

DEAR MR. HAUGEN: Reference is made to your request of February 9 by telephone for report on House bill 9039, a bill to amend section 8 of the act approved March 1, 1911 (36 Stat. 961), entitled "An act to enable any State to cooperate with any other State or States, or with the United States, for the protection of the watersheds of navigable streams and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers."

Section 8 of the above-mentioned act authorizes the Secretary of Agriculture to do all things necessary to secure the safe title in the United States to the lands which may be acquired under the act. It further provides that no payment shall be made for any lands until the title shall be satisfactory to the Attorney General and shall be vested in the United States.

It not infrequently happens that the only way to secure a satisfactory title is by condemnation proceedings. These are usually of a friendly nature and solely for the purpose of securing good title. In condemnation proceedings it is required that the value of the lands be paid into the court before a final decree is rendered by the court in the proceedings. The Attorney General has recently held under the above-mentioned section 8 he can not approve a title until it is vested in the United States. Title can not vest in the United States until the amount awarded in condemnation has been paid into the registry of the court and final decree has been entered. The Secretary of Agriculture, however, can not pay the award into the registry of the court until title has been approved by the Attorney General. Strictly interpreted, section 8, as at present worded, establishes an impossible condition which nullifies the act of March 1, 1911, in all cases where condemnation is necessary to perfect title.

In order to correct this situation and make it possible to proceed in these condemnation suits in a lawful manner, the proposed amendment of the act of March 1, 1911, as shown in H. R. 9039, is suggested. The draft of bill was considered by the solicitor for this department as well as by a representative of the Department of Justice, and I am informed, will accomplish the desired legislation. I accordingly recommend that the bill be favorably reported by your committee.

Sincerely yours,

R. W. DUNLAP, *Acting Secretary.*