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## 1918 August 1, Kingsbury Biennial Report Including Report on The Torrens Law, Surveyor General's Report to Governor of California

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**BIENNIAL REPORT**  
OF THE  
**SURVEYOR-GENERAL**  
OF THE  
**STATE OF CALIFORNIA**

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**FOR THE TERM ENDING AUGUST 1, 1918**

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**INCLUDING A REPORT ON**  
**“THE TORRENS LAW”**  
**under the provisions of Chapter 800,**  
**Statutes of California, 1917**

CALIFORNIA STATE PRINTING OFFICE  
SACRAMENTO

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# BIENNIAL REPORT OF THE SURVEYOR GENERAL.

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STATE OF CALIFORNIA, OFFICE OF THE SURVEYOR GENERAL,  
SACRAMENTO, October 17, 1918.

*To His Excellency, WILLIAM D. STEPHENS,  
Governor of the State of California.*

SIR: I have the honor to herewith submit a report covering the work of this office for the term ending August 1, 1918, together with a report on "The Torrens Law" under the provisions of chapter 800, statutes of California, 1917.

## GENERAL OFFICE BUSINESS

AMOUNT OF FEES COLLECTED BY SURVEYOR GENERAL AND REGISTER OF  
THE STATE LAND OFFICE FROM AUGUST 1, 1916, TO AUGUST 1, 1918.

	Month	Paid into State Treasury	Paid to Secretary of State
1916 -	August.....	\$131 00	\$14 00
	September.....	160 50	44 00
	October.....	203 50	-
	November.....	141 00	34 00
	December.....	150 00	13 00
1917 -	January.....	235 65	46 00
	February.....	293 00	55 00
	March.....	301 00	52 00
	April.....	398 00	23 00
	May.....	335 50	51 00
	June.....	321 20	100 00
	July.....	375 70	128 00
	August.....	211 00	53 00
	September.....	576 50	128 00
	October.....	442 00	87 00
	November.....	173 00	16 00
	December.....	820 50	193 00
1918 -	January.....	492 00	83 00
	February.....	542 50	131 00
	March.....	618 00	127 00
	April.....	312 00	45 00
	May.....	186 00	26 00
	June.....	288 00	49 00
	July.....	218 30	56 00
	Totals.....	\$7,925 85	\$1,554 00

### AMOUNT OF DEPOSITS RECEIVED BY SURVEYOR GENERAL.

Under the Act of March 20, 1889, the Surveyor General received from August 1, 1916 to August 1, 1918, and paid into the State Treasury, deposits as follows:

1916 -	August.....	\$20 00
	September.....	20 00
	October.....	None
	November.....	20 00
	December.....	None
1917 -	January.....	60 00
	February.....	20 00
	March.....	None
	April.....	20 00
	May.....	20 00
	June.....	40 00
	July.....	40 00
	August.....	20 00
	September.....	None
	October.....	60 00

	November.....	20 00
	December.....	20 00
1918 -	January.....	20 00
	February.....	20 00
	March.....	20 00
	April.....	None
	May.....	None
	June.....	60 00
	July.....	None
	Total.....	\$500 00

Amount of annual rentals received by the Surveyor General for the lease of state lands pursuant to the provisions of chapter 493, statutes of California, 1917, from November 1, 1917 to August 1, 1918, and paid into the State School Land Fund as follows:

1917 -	November.....	\$390 39
	December.....	75 00
1918 -	January.....	1,095 21
	February.....	148 80
	March.....	1,413 24
	April.....	1,074 71
	May.....	879 91
	June.....	1,353 83
	July.....	264 20
	Total.....	\$6,695 29

### FINANCIAL RECAPITULATION.

Amount of fees, office of Surveyor General and Register of the State Land Office.....	\$7,925 85
Amount of deposits, office of Surveyor General.....	500 00
Amount of fees collected by Register of State Land Office for Secretary of State.....	1,554 00
Amount of annual rentals received by the Surveyor General for the lease of state land under chapter 493, Statutes of 1917.....	6,695 29
Total.....	\$16,675 14

### APPLICATIONS TO PURCHASE STATE LANDS

From August 1, 1916 to August 1, 1918, applications to purchase state lands have been received and filed as follows:

District	Number of applications	Acres
Los Angeles.....	9	1,144.18
Sacramento.....	6	920.00
San Francisco.....	9	1,135.60
Susanville.....	1	40.00

Imperial.....	4	320.00
Swamp and overflowed lands.....	37	10,555.23
Eureka.....	4	880.00
Independence.....	4	1,119.20
Totals.....	74	16,114.21

**CERTIFICATES OF PURCHASE ISSUED**  
From August 1, 1916, to August 1, 1918

Grant	Number of certificates	Acres
Sixteenth and thirty-sixth sections and lieu lands.....	24	4,097.88
Swamp and overflowed lands.....	8	239.37
Totals.....	32	4,337.25

**PATENTS ISSUED**  
From August 1, 1916, to August 1, 1918

Grant	Number of patents	Acres
Sixteenth and thirty-sixth sections and lieu lands.....	899	180,506.45
Swamp and overflowed lands.....	26	3,654.41
Lake lands.....	3	646.25
Totals.....	928	184,807.11

**LANDS LISTED TO THE STATE**

From August 1, 1916, to August 1, 1918, lands have been listed to the state of California by the United States, as follows:

Grant	Acres
Indemnity (lieu) lands.....	210,205.42
Swamp lands.....	64,771.20
Total.....	274,976.62

**LICENSED LAND SURVEYORS.**

Licenses issued from August 1, 1916, to August 1, 1918..... 77

SCHOOL LAND PAYMENTS.

Amounts received by county treasurers for the state, principal, interest, costs and penalties, on account of school lands from August 1, 1916, to August 1, 1918.

County	Principal	Interest	Total	Penalty	Costs
Alameda.....	-	-	-	-	-
Alpine.....	\$1,191 15	\$1,898 55	\$3,089 70	-	\$3 00
Amador.....	-	93 11	93 11	-	-
Butte.....	532 19	656 13	1,188 32	-	3 00
Calaveras.....	-	16 80	16 80	-	6 00
Colusa.....	361 25	92 40	453 65	-	3 00
Contra Costa.....	-	-	-	-	6 00
Del Norte.....	-	156 80	156 80	-	-
El Dorado.....	2,400 00	312 00	2,712 00	-	3 00
Fresno.....	9,727 78	7,976 94	17,704 72	\$63 23	72 00
Glenn.....	-	560 00	560 00	71 68	3 00
Humboldt.....	280 00	693 66	973 66	-	27 00
Imperial.....	1,760 00	4,861 74	6,621 74	188 16	54 00
Inyo.....	4,556 65	1,235 36	5,792 01	26 88	3 00
Kern.....	9,332 30	7,714 32	17,046 62	182 70	45 00
Kings.....	160 00	179 20	339 20	-	9 00
Lake.....	960 00	657 71	1,617 71	-	12 00
Lassen.....	6,878 42	11,341 13	18,219 55	1,458 27	228 00
Los Angeles.....	1,048 70	1,047 73	2,096 43	-	-
Madera.....	1,638 78	440 22	2,079 00	-	3 00
Marin.....	-	-	-	-	-
Mariposa.....	2,087 14	306 56	2,393 70	-	-
Mendocino.....	2,127 87	3,424 82	5,552 69	2 49	54 00
Merced.....	1,474 02	801 08	2,275 10	-	-
Modoc.....	3,020 00	2,768 70	5,788 70	53 76	36 00
Mono.....	2,535 13	3,509 90	6,045 03	-	6 00
Monterey.....	3,237 20	5,852 05	9,089 25	90 07	81 00
Napa.....	400 05	487 09	887 14	15 68	15 00
Nevada.....	320 00	98 06	418 06	-	-
Orange.....	-	14 00	14 00	-	3 00
Placer.....	160 00	36 37	196 37	-	3 00
Plumas.....	-	89 60	89 60	-	-
Riverside.....	4,488 00	5,349 61	9,837 61	66 82	33 00
Sacramento.....	-	-	-	-	3 00
San Benito.....	2,899 47	3,467 81	6,367 28	25 95	60 00
San Bernardino.....	8,840 00	16,658 48	25,498 48	162 40	-
San Diego.....	280 90	926 49	1,207 39	1 12	3 00
San Francisco.....	-	-	-	-	-
San Joaquin.....	731 35	476 63	1,207 98	-	3 00
San Luis Obispo.....	2,941 58	4,674 21	7,615 79	-	57 00
San Mateo.....	560 00	909 13	1,469 13	-	3 00
Santa Barbara.....	199 08	112 60	311 68	-	3 00
Santa Clara.....	441 48	701 78	1,143 26	46 54	12 00
Santa Cruz.....	-	-	-	-	-
Shasta.....	516 85	541 32	1,058 17	13 44	15 00
Sierra.....	-	-	-	-	-
Siskiyou.....	2,162 79	890 66	3,053 45	16 80	39 00
Solano.....	240 00	352 80	592 80	-	6 00
Sonoma.....	253 90	616 76	870 66	2 24	45 00
Stanislaus.....	2,760 00	3,173 60	5,933 60	-	21 00
Sutter.....	-	-	-	-	-
Tehama.....	1,791 97	2,229 69	4,021 66	12 53	27 00

Trinity.....	960 00	862 40	1,822 40	-	12 00
Tulare.....	2,247 59	1,185 79	3,433 38	-	18 00
Tuolumne.....	2,266 53	622 89	2,889 40	-	6 00
Ventura.....	160 00	228 38	388 38	-	3 00
Yolo.....	-	134 40	134 40	-	-
Yuba.....	-	-	-	-	-
Totals.....	\$90,930 12	\$101,437 46	\$192,367 58	\$2,500 76	\$1,047 00

### LEASING OF STATE LANDS

From August 1, 1917 to August 1, 1918, applications to lease state lands have been received and filed, and state lands leased by the state of California, as follows:

	Acres
State lands leased pursuant to the provisions of chapter 612, Statutes of California, 1911.....	1,621.13
Lands embraced in lease applications pending (chapter 612, statutes of California, 1911).....	198.72
State lands leased pursuant to the provisions of chapter 493, Statutes of California, 1917.....	82,358.89
Lands embraced in lease applications pending (chapter 493, statutes of California, 1917).....	10,726.38
Total.....	94,905.12

### ANNUAL PAYMENTS OF RENTAL TO THE STATE TREASURER.

Amount received by the Treasurer of the state of California as rental for the lease of state lands pursuant to the provisions of chapter 612, statutes of California, 1911, from August 1, 1917, to August 1, 1918, \$3,497.95.

The area of state lands leased pursuant to the provisions of chapter 612, statutes of California, 1911, amounts to 1,621.13 acres, the annual rental for which amounts to \$4,052.83. As the rental for the land embraced in Lease Applications 119 and 122 (containing 211.95 acres), amounting to \$554.88, was not received by the State Treasurer until August 1, 1918, said amount of rental has not been included in this report.

### SALE OF SCHOOL LANDS SUITABLE FOR CULTIVATION.

Under the provisions of chapter 395, statutes of California, 1915, proposed by this office, 4,088.64 acres of school land suitable for cultivation have been sold to twenty-five actual settlers at prices fixed by the State Board of Control and the Surveyor General ranging from \$2.50 to \$30.00 per acre as compared with the price of \$1.25 per acre received for the great majority of the school lands sold to speculators under the early methods of selling school lands.

### UNSOLD SCHOOL LAND.

June 30, 1918, there were 813,573 acres of vacant school land in the state of California, 121,751 acres thereof being situated within national forests created by the



federal government and being withheld from sale by the provisions of section 3408*b* of the Political Code. The remaining 691,822 acres are subject to sale by the laws of the state.

Lands unsuitable for cultivation which are very limited in area shall be sold to actual settlers at a price to be fixed by the State Board of Control and the Surveyor General. Lands suitable for cultivation shall be sold at public auction to the highest bidder but owing to conditions brought about by the war it was deemed advisable by the Board of Control and the Surveyor General to postpone any sales until normal conditions were restored and prices commensurate therewith prevail. Also, ways and means may be devised through the co-operation of the federal and state governments to put a large area of the land in condition suitable to occupancy by the time of the soldiers' return.

#### COLLECTION OF DELINQUENT INTEREST AND THE FORFEITURE OF SCHOOL LANDS TO THE STATE.

The great majority of the school lands of the state were sold at \$1.25 an acre, \$0.25 an acre down, the balance of \$1.00 bearing interest at the rate of 7 per cent per annum.

In many instances the interest was not paid and the district attorneys did not commence actions to enforce the payment of interest or foreclose the interest of the purchaser in the land as provided by section 3548 of the Political Code, consequently the delinquent interest accumulated, some of the interest being delinquent for forty years, the amount on January 1, 1917, reaching the grand total of \$168,000.00, one manipulator of school lands owing \$19,665.00

As the state was unable under the then existing laws to collect the interest due or recover the land, the Attorney General at my request drafted a bill to meet the emergency, when bill became a law, being chapter 602, statutes of California, 1917, under the provisions of which \$51,000.00 delinquent interest was collected and 81,500 acres of land were recovered by the state.

#### LIEU LAND CONTROVERSY BETWEEN THE STATE OF CALIFORNIA AND THE FEDERAL GOVERNMENT.

When I assumed office in 1907, there were pending in the Department of the Interior, Washington, D. C., applications of the state for some 450,000 acres of federal lands to compensate the state for losses to its school land grant; said lands being applied for by the state for the benefit of its applicants who had been waiting for from one to forty years for the federal government to convey the land to the state in order that they might get patents to their land.

Conveyancing to the state was suspended pending the settlement of a claim of the federal government against the state of about 50,000 acres of federal land alleged to have been erroneously secured by the state.

State legislation and an appropriation were secured to adjust the controversy and this office proceeded to check the area conveyed to the state by the federal government with the area granted by Congress which necessitated the preparation by this office of

abstracts covering some 4,781 townships involving 5,653,326 acres of land, which resulted in the relinquishment to the federal government by the state of 32,997.97 acres of land and the payment of \$22,760.36.

The federal government thereupon resumed the conveyancing of lieu land to the state, 97,342 acres being conveyed up to July 1, 1913.

The act of Congress approved February 28, 1891 (26 Stat. 796), was construed by the land department of the United States for a number of years as a general adjustment act, alike applicable to all states and territories, and as authorizing exchanges of lands in school sections within reservation boundaries for lands outside as well as the selection of lands as indemnity for actual losses to the various grants in aid of common schools. In view of a contrary opinion having been expressed by the courts with reference to exchanges (84 Fed. 571; 136 Pac. 981), and of the large importance of the questions involved, it was determined by the department about July 1, 1913, to withhold further approvals of selections based on the exchange provisions of said act of 1891, pending further remedial legislation or an affirmative decision by the court of last resort. The opinion in 84 Fed. 571, was later followed in the case of the *Deseret Water, Oil & Irrigation Co. vs. The State of California*, 167 Cal. 147.

Many months were spent by me in Washington endeavoring to secure the remedial legislation, but as the bill had to be a general one covering all of the western public land states and as all of the states could not agree on the provisions demanded by the departments of the Interior and Agriculture, favorable action was only secured in the House, the bill being finally held up in the Senate.

While the bill was pending, the aforementioned *Deseret* case was taken to the United States Supreme Court by the state for a final construction of the said act of Congress of February 28, 1891. When said case was pending before the Supreme Court, a brief in intervention was prepared in the Department of Justice which presented the case to the court supporting the opinion in 84 Fed. 571, and the *Deseret* case, which was contrary to the construction of the Department of the Interior and inimical to the interests of the state and which, if adopted by the United States Supreme Court meant the upsetting of title to many hundred thousand acres of land.

I personally called the attention of the Department of the Interior to the brief, which resulted, as set forth in copy of letter from Honorable Franklin K. Land, Secretary of the Interior, hereto appended, in the substitution by said department of a brief favorable to the state. The decision of the United States Supreme Court in 1917 sustained the contentions set forth in the brief, clearing the title to a vast acreage and resulted in a resumption of the conveyancing of federal land to the state for the benefit of its transferees, the total amount conveyed since 1907 being 341,806 acres, all of which is now taxable, the counties wherein the land lies being materially enriched thereby.

The settlement of the controversy also resulted in the sale by the state under an act of the legislature proposed by me in 1909 of 24,500 acres of lieu land at an average price of \$7.06 per acre against the price of \$1.25 per acre secured by the state prior to my incumbency, and that, after what were considered the desirable lands had been grabbed by a gang of lieu land manipulators.

DEPARTMENT OF THE INTERIOR.  
WASHINGTON.

September 18, 1918.

DEAR MR. KINGSBURY:

I am in receipt of your letter of September 10, 1918, asking me to state briefly the circumstances attending the presentation to the Supreme Court of the case of the *Deseret Water, Oil and Irrigation Company vs. State of California*, and the effect of that decision upon pending indemnity school selections of the state of California.

When the case of the *Deseret Company, etc. vs. State of California* was pending before the Supreme Court of the United States, a brief was prepared by an assistant attorney in the Department of Justice which, in the opinion of those familiar with the subject, did not present the case to the court in the way the subject was viewed by this department and which might have resulted in a decision adverse to the state or a decision not conclusive of the vital question involved. At that time you were present in Washington endeavoring in every possible way to expedite the acceptance and approval of state of California indemnity school selections and personally called to the attention of officers of this department the inadequacy of the brief as you viewed it. Thereupon the matter was taken up by this department informally with the Solicitor General of the United States and he kindly consented to withdraw the brief prepared in the Department of Justice and permit this Department to prepare and file a brief presenting the matter to the Supreme Court in its own way. Such a brief was filed, and the decision of the Supreme Court fully sustained the contention of this department and of the state of California. This decision has definitely settled controverted questions relating to school indemnity acres of lands selected by the various states. Following said decision, some 330,000 acres of school indemnity selections in California have been taken up for action by this department and titles are being conveyed to the state of California.

Cordially yours,

(Signed) FRANKLIN K. LANE.

MR. W. S. KINGSBURY,  
Surveyor-General State of California,  
Sacramento, California.

## REPORT OF SURVEYOR GENERAL.

[Made pursuant to the provisions of chapter 800, statutes of California, 1917, in relation to land titles registered under "The Torrens Law" as embodied in the initiative measure approved by the electors of the state of California November 3, 1914.]

The Torrens Law was first adopted in this state in 1897 (Statutes of California 1897, page 138), California being the first state in the Union to pass a land registration act. Two months later the state of Illinois passed a similar act and other states adopted it in the following order: Massachusetts, 1898; Minnesota and Oregon, 1901; Colorado, 1903; Washington, 1907; New York, 1908; Ohio and North Carolina, 1913; Mississippi, 1914; Nebraska, 1915. The Federal Government put the act into effect in the Philippines in 1902 and Hawaii adopted it in 1907.

The law was designed to simplify the transfer of real estate and to give the property owners a quick and inexpensive means of transfer after the land had once been brought under the system. The act adopted in 1897 was unsatisfactory, only a few titles being taken out thereunder; the act of 1914 being intended to remedy the defects in the old law.

The initial proceedings to registration are similar to an ordinary suit to quiet title. After a decree of court is obtained a certificate is issued by the registrar of deeds which certificate is conclusive evidence that the party named thereupon is the owner of the property subject only to such liens or objections as may appear on the certificate after which the registrar of titles issues a new certificate to the new owner.

Torrens titles are protected by state insurance. When the land is first brought under the act the owner pays into the assurance fund one-tenth of one per cent of the assessed value of the land including permanent improvements thereon as the same were valued for county taxation the last time said land and permanent improvements or either thereof were assessed. All subsequent purchasers are insured without further cost.

Title to property under the Torrens act can not be questioned after it has once passed into the hands of an innocent third party for value but a party sustaining injury through the workings of the act can recover the value of the property from the assurance fund in the hands of the State Treasurer. On August 1, 1918, the assurance fund contained \$9,132.68.

In connection with other duties, I visited various county registrars of land titles to inspect their system of registration. With the exception of one or two counties, systems are only installed in the ten counties having registrations. Those registrars who have issued certificates of title appear to have had no difficulty in following the law and their records appear to embrace all of the requisites. The forms used by the registrars for carrying the law into effect are carried in stock by the county supply houses and are generally uniform and sufficient to meet all of the requirements of the law.

The Torrens Law contains one hundred and fifteen sections and appears very formidable to some of the county recorders and, as a consequence, there is considerable opposition among them to the law. Their chief objections to adopting the system are their unfamiliarity with the law, the extra work and responsibility involved without extra compensation and the possibility of error arising on account of having two systems of title recordation.

The legislature has provided no funds with which to carry on an extended investigation of the Torrens system nor to employ an expert to assist the county recorders with their first registrations. The system is growing at the rate of considerably more than one hundred registrations a month and will gradually extend into counties wherein registrars are unprepared. If these men had someone to assist them with their first registrations and to whom they could refer future questions concerning the law, considerable opposition would disappear, the growth of the system would be furthered and the interests of owners of registered property would thereby be benefited.

As the system grows in this state the question of indices is going to be a very important one and each registrar of titles should see to it that he has the most convenient and complete indices. The property index adopted by and now in use in San Bernardino County is the most compact submitted to this office. It is a very small affair, yet large and elastic enough for all future needs of the county. Registrars who are preparing for their first registrations should investigate this index before adopting their forms.

Section 22 of the act provides that the registrar shall enter in a "book" the names of persons to whom certificates were issued. The name index is as important as the property index and much future time of the registrar as well as of the public will be saved or lost according to the convenience of this index. It has been pointed out that a book is not elastic enough for ready reference where many names are being added daily and it has been suggested that the registrars would be well repaid for their trouble by adopting a card index of names such as are in common use in banks, in addition to the index which the law requires to be kept in a book.

In order to ascertain the progress made throughout the state a letter was addressed by this office to each county recorder asking for the number of registrations up to August 1, 1918. Forty-eight counties have no registrations, the remaining reporting as follows:

Humboldt, 17 decrees and 53 transfers, making a total of 70 registrations; Imperial, 103 certificates; Kern, 1 suit and 13 transfers; Los Angeles, 4,859 certificates; Orange, 253 registrations, 293 certificates; Riverside, 45 certificates; San Bernardino, 119 registrations, 150 certificates; San Diego, 720 certificates, 755 parcels; San Francisco, 5 certificates; and Tulare County, 9 certificates.

The Registrar of Los Angeles County has submitted a report showing the registrations year by year from the passage of the initiative measure up to August 1, 1918, which report is submitted herewith.

STATEMENT.  
Land Registration Department Los Angeles County, California.

Year	Number of instruments.	Number of parcels registered	Assessed value	Number of conveyances subsequent to original registration	Number of loans
1915.....	55	157	\$238,010 00	9	7
1916.....	385	1,077	1,510,310 00	70	73
1917.....	1,524	1,843	3,600,090 00	318	244
1918.....	1,164	965	2,567,120 00	295	220
Totals.....	3,128	4,045	\$7,915,350 00	692	544

Certificates written up to August 1, 1918, 4,859.

The County Recorder of San Bernardino County reported in part on September 18, 1918, as follows:

“I am confident that the law is a good one for the holder of real property. I think I am justified in saying, I believe it a good thing for the real estate owner, for I have had almost thirty years’ experience in southern California as an abstractor of titles, which experience has taught me some of the shortcomings of the methods of handling real property, in common use, and at the same time helps me to judge somewhat of the merits of the Torrens Title System under our registration law. There may be some valid objections to the present law, but if it proves so, I feel sure they may be overcome in time by new legislation and experience.

”It appears to me the principal things that tend against the system coming into use more rapidly are, the long time required in putting through an application; the influence of the objectors, such as the abstract people and the moneyed interests represented by the banks and money loaning institutions, and last, and principally, a lack of the knowledge of its benefits by the property owners themselves. The last two objections, I feel sure, can be overcome by educating the people as to the benefits of the system. To that end, I think a sum of money should be appropriated to put a man in the field to go over the state in a campaign of education, to personally talk with and demonstrate to the people, the banks (especially the Savings Banks), the loan associations and the real estate agents, the real benefits of the system. It does seem to me that a law, like this title registration law, passed by more than 140,000 majority vote of the people, is entitled to have some money spend in its behalf. I realize that it would be a fight against big odds; but, if some person, who thoroughly enthused in the work, could be put into the field, he could do great things in getting the system into use. The system is nothing less than a revolution in the matter of handling titles and all revolutions work slowly, but like the ‘Mills of the Gods,’ are sure.

“I assure you I have given this matter of title registration a great deal of thought and study and am firmly convinced that a campaign of education is the thing above all things that is now needed and ought to be done. The people are entitled to it. It is not really their fault that they do not go into it; they are frightened from it by the seeming

valid objections of those whose vested interests cause them to work against it; so again I repeat, the campaign of education should be made, and made strenuously and wholeheartedly and at once. No lukewarm stuff.”

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Respectfully submitted.

W. S. KINGSBURY,  
Surveyor General.