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DECISIONS RELATING TO THE PUBLIC LANDS. 609

the reclamation act, provided the lands involved are not embraced within a withdrawal of the first form.

Seventh. When any entry for lands embraced within a withdrawal under the first form is canceled by reason of contest, or for any other reason, such lands become subject immediately to such withdrawal and can not, thereafter, so long as they remain so withdrawn, be entered or otherwise appropriated, either by a successful contestant or any other person; but any contestant who gains a preferred right to enter any such lands may exercise that right at any time within thirty days from notice that the lands involved have been released from such withdrawal and made subject to entry.

Eighth. In the event any lands embraced in any entry under which final proof has not been offered, or in any unapproved or uncertified selection, are needed in the construction and maintenance of any irrigation work (other than for right of way for ditches or canals reserved under act of August 30, 1890) under the reclamation act, the Government may cancel such entry or selection and appropriate the lands embraced therein to such use, after paying the value of the improvements thereon and the enhanced value of such lands caused by such improvements.

Ninth.—Where the owners of the improvements mentioned in the preceding section shall fail to agree with the representative of the Government as to the amount to be paid therefor, such amount shall be ascertained by the sworn appraisal of three trustworthy and disinterested freeholders, one of whom shall be selected by the owner of the improvements, one by a representative of the Government, and a third by the two thus chosen, and no entry shall be canceled or the lands embraced therein so appropriated until the amounts thus ascertained or agreed upon have been paid to the owner thereof.

Very respectfully,

W. A. RICHARDS, *Commissioner.*

Approved, June 6, 1905.

E. A. HITCHCOCK, *Secretary.*

~~RIGHT OF WAY—FOREST RESERVES—JURISDICTION.~~

The respective jurisdictions of the Department of the Interior and the Department of Agriculture over applications for rights and privileges within forest reserves defined.

Secretary Hitchcock to the Secretary of Agriculture, June 8, 1905.
(F. L. C.) (F. W. C.)

In further reply to your letter of April 28, 1905, and after an informal conference between the law officer of the Forestry Bureau

of your Department and the Assistant Attorney General for this Department, I have to advise you that it is believed the respective jurisdictions of the two departments over applications for rights and privileges within forest reserves may be safely defined as follows, namely, that your Department is invested with jurisdiction to pass upon all applications under any law of the United States providing for the granting of a permission to occupy and use lands in a forest reserve which occupation or use is temporary in character, and which, if granted, will in nowise affect the fee or cloud the title of the United States should the reserve be discontinued, but that this Department retains jurisdiction over all applications affecting lands within a forest reserve the granting of which amounts to an easement running with the land, with the further understanding that any permission or license granted by your Department is subject to any later disposal of the land by this Department. Within the limits of the separate jurisdictions herein defined, it is believed that the actions of the two departments will proceed harmoniously.

This Department would be pleased to be informed as to whether these views coincide with the views of your Department, and whether you have any further suggestions to make in the premises.

[By letter of June 18, 1906, the Secretary of Agriculture expressed his concurrence in the views herein set forth.]

UTTAH INDIAN RESERVATION—UNALLOTTED LANDS—ACTS OF MAY 27, 1902, AND MARCH 8, 1905.

INSTRUCTIONS.

The provision in the act of May 27, 1902, that persons entering, under the homestead laws, any of the unallotted lands in the Uintah Indian reservation, shall pay therefor at the rate of one dollar and twenty-five cents per acre, is not repealed by the provision in the act of March 8, 1905, "that the said unallotted lands [with certain stated exceptions] shall be disposed of under the general provisions of the homestead and townsite laws of the United States."

By reason of the legislation affecting these unallotted lands, which amounts to an appropriation thereof, no claim on the part of the State to any portion thereof will be recognized, either under its grant of specific sections in place in support of common schools, or under the provisions of the act of March 2, 1895.

Secretary Hitchcock to the Commissioner of the General Land Office,
(F. L. C.) June 18, 1906. (F. W. C.)

Your office letters of April 21, and June 9, last, present for the consideration of this Department certain questions preliminary to the preparation of a proclamation to be issued by the President