19. Nothing in the statutes or regulations should be construed to mean that the entryman must wait until the end of the year to submit his annual proof, because the proof may be properly submitted as soon as the expenditures have been made. Proof sufficient for the three years may be offered whenever the amount of $3 an acre has been expended in reclaiming and improving the land, and thereafter annual proof will not be required.

FINAL PROOF.

20. The entryman, his assigns, or, in case of death, his heirs or devisees, are allowed four years from date of the entry within which to comply with the requirements of the law as to reclamation and cultivation of the land and to submit final proof, but final proof may be made and patent thereon issued as soon as there has been expended the sum of $3 per acre in improving, reclaiming, and irrigating the land, and one-eighth of the entire area entered has been actually cultivated with irrigation, and when the requirements of the desert-land laws as to water rights and the construction of the necessary reservoirs, ditches, dams, etc., have been fully complied with. The cultivation and irrigation of the one-eighth of the entire area may be had in a body on one legal subdivision or may be distributed over several subdivisions. When an entryman has reclaimed the land and is ready to make final proof, he should apply to the Register and Receiver for a notice of intention to make such proof. This notice must contain a complete description of the land and must describe the entry by giving the number thereof and the name of the entryman. If the proof is made by an assignee, his name, as well as that of the original entryman, should be stated. It must also show when, where, and before whom the proof is to be made. Four witnesses may be named in this notice, two of whom must be used in making the proof.

21. This notice must be published once a week for five successive weeks in a newspaper of established character and general circulation published nearest the land (see 38, L. D., 131), and it must also be posted in a conspicuous place in the local land office for the same period of time. The date fixed for the taking of the proof must be at least thirty days after the date of first publication. Proof of the publication must be made by the affidavit of the publisher of the newspaper or by some one authorized to act for him. The Register will certify to the posting of the notice in the local office.

22. At the time and place mentioned in the notice, and before the officer named therein, the claimant will appear with two of the witnesses named in the notice and make proof of the reclamation, cultivation, and improvement of the land. This proof may be taken by any one of the officers named in paragraph 11 hereof. All claimants, however, are advised that, whenever possible, they should make proof before the Register or Receiver, because by doing so, they may, in many instances, avoid such delay as results from the practice whereby proofs submitted before officers other than the Register or Receiver are frequently suspended for investigation by a special agent.

The testimony of each claimant should be taken separate and apart from and not within the hearing of either of his witnesses, and the testimony of each witness should be taken separate and

apart from and not within the hearing of either the applicant or of any other witness, and both the applicant and each of the witnesses should be required to state, in and as a part of the final proof testimony given by them, that they have given such testimony without any actual knowledge of any statement made in the testimony of either of the others. In every instance where, for any reason whatever, final proof is not submitted within the four years prescribed by law, or within the period of an extension granted for submitting such proof, an affidavit should be filed by claimant, with the proof, explaining the cause of delay.

IRRIGATION, CULTIVATION, AND WATER RIGHTS.

23. The final proof must show specifically the source and volume of the water supply and how it was acquired and how maintained. The number, length, and carrying capacity of all ditches to and on each of the legal subdivisions must also be shown. The claimant and the witnesses must each state in full all that has been done in the matter of reclamation and improvement of the land, and must answer fully, of their own personal knowledge, all of the questions contained in the final-proof blanks. They must state plainly whether at any time they saw the land effectually irrigated, and the different dates on which they saw the land irrigated should be specifically stated.

24. While it is not required that all of the land shall have been actually irrigated at the time final proof is made, it is necessary that the one-eighth portion which is required to be cultivated shall also have been irrigated in a manner calculated to produce profitable results, considering the character of the land, the climate, and the kind of crops being grown. (Alonzo B. Cole, 38 L. D., 420.) Furthermore, the final proof must clearly show that all of the permanent main and lateral ditches necessary for the irrigation of all the irrigable land in the entry have been constructed so that water can be actually applied to the land as soon as it is ready for cultivation. If there are any high points or any portions of the land, which for any reason it is not practicable to irrigate, the nature, extent, and situation of such areas in each legal subdivision must be fully stated. If less than one-eighth of a smallest legal subdivision is practically susceptible of irrigation from claimant's source of water supply, such subdivision must be relinquished.

25. As a rule, actual tillage of one-eighth of the land must be shown. It is not sufficient to show only that there has been a marked increase in the growth of grass, or that grass sufficient to support stock has been produced on the land, as a result of irrigation. If, however, on account of some peculiar climatic or soil conditions, no crops except grass can be successfully produced, or if actual tillage will destroy or injure the productive quality of the soil, the actual production of a crop of hay, of merchantable value, will be accepted as sufficient compliance with the requirements as to cultivation (32 L. D., 456). In such cases, however, the facts must be stated, and the extent and value of the crop of hay must be shown, and as before stated, that same was produced as a result of actual irrigation.

26. The final proof must also show that the claimant has made the preliminary filings and taken such other steps as are required

by the laws of the State or Territory in which the land is located, for the purpose of securing a right to the use of a sufficient supply of water to irrigate successfully all of the irrigable land embraced in his entry. It is a well-settled principle of law in all the States and Territories in which the desert-land acts are operative, that actual application to a beneficial use of water appropriated from public streams measures the extent of the right to the water, and that failure to proceed with reasonable diligence to make such application to beneficial use, within a reasonable time, constitutes an abandonment of the right. (Wiel's Water Rights in the Western States, sec. 172.) The final proof, therefore, must show that the claimant has exercised such diligence as will, if continued, under the operation of this rule, result in his definitely securing a perfect right to the use of sufficient water for the permanent irrigation and reclamation of all of the irrigable land in his entry. To this end, the proof must at least show that water, which is being diverted from its natural course and claimed for the specific purpose of irrigating the lands embraced in claimant's entry, under a legal right acquired by virtue of his own or his grantor's compliance with the requirements of the State of Territorial laws governing the appropriation by individuals of the waters of public streams or other sources of supply, as shown by the record evidence of such right which accompanies the proof, has actually been conducted through claimant's main ditches to and upon the land; that one-eighth of the land embraced in the entry has been actually irrigated and cultivated and that water has been brought to such a point on the land as to readily demonstrate that the entire irrigable area may be irrigated from the system and that he is prepared to distribute the water so claimed over all of the irrigable land in each smallest legal subdivision in quantity sufficient for practical irrigation as soon as the land shall have been cleared or otherwise prepared for cultivation. The nature of the work necessary to be performed in and for the preparation for cultivation of such part of the land as has not been irrigated should be carefully indicated, and it should be shown that the said work of preparation is being prosecuted with such diligence as will permit of beneficial application of appropriated water within a reasonable time.

27. In those States where entrymen have made applications for water rights and have been granted permits, but where no final adjudication of the water right can be secured from the State authorities, owing to delay in the adjudication of the water courses, or other delay for which the entrymen are in no way responsible, proof that the entrymen have done all that is required of them by the laws of the State, together with proof of actual irrigation of one-eighth of the land embraced in their entries, may be accepted. This modification of the rule that the claimant must furnish evidence of an absolute water right will apply only in those States where, under the local laws, it is absolutely impossible for the entryman to secure final title to his water right within the time allowed him to submit final proof on his entry, and in such cases the best evidence obtainable must be furnished.

28. Where final proof is not made within the period of four years, or within the period for which an extension of time has been granted, the Register and Receiver should send the claimant a

notice, addressed to him at his post-office address of record, informing him that he will be allowed ninety days in which to submit final proof. Should no action be taken within the time allowed, the Register and Receiver will report that fact, together with evidence of service, to the General Land Office, whereupon the entry will be canceled.

EXTENSION OF TIME IN SUBMITTING PROOF UNDER CERTAIN CONDITIONS.

29. Under the provisions of the Act of March 28, 1908, the period of four years may be extended, in the discretion of the Commissioner of the General Land Office, for an additional period not exceeding three years, if, by reason of some unavoidable delay in the construction of the irrigating works intended to convey water to the land, the entryman is unable to make proof of reclamation and cultivation required within the four years. This does not mean that the period within which proof may be made will be extended as a matter of course for three years. The statute authorizes the Commissioner of the General Land Office to grant the extension, in his discretion, for such a period as he may deem necessary for the completion of the reclamation, not exceeding three years, but such applications for extension will not be granted unless it be clearly shown that the failure to reclaim and cultivate the land within the regular period of four years was due to no fault on the part of the entryman, but to some unavoidable delay in the construction of the irrigation works, for which he was not responsible and could not have readily foreseen. Under no other condition is an extension of time to make final proof authorized, except in cases falling under section 5 of the Act of June 27, 1906, pertaining to the entry of land within the limits of reclamation projects.

An entryman who desires to make application for extension of time under the provisions of the Act of March 28, 1908, should file with the Register and Receiver an affidavit setting forth fully the facts, showing how and why he has been prevented from making final proof of reclamation and cultivation within the regular period. This affidavit should be executed before one of the officers named in paragraph 11 of this circular and must be corroborated by two witnesses who have personal knowledge of the facts, and the Register and Receiver, after carefully considering all of the facts, will forward the application to the General Land Office, with appropriate recommendation thereon. Inasmuch as Registers and Receivers reside in their respective districts, they are presumed to have more or less personal knowledge of the conditions existing therein, and for that reason much weight will be given their recommendations.

PAYMENTS—FEES.

30. At the time of making final proof the claimant must pay to the Receiver the sum of $1 per acre for each acre of land upon which proof is made. This, together with the 25 cents per acre paid at the time of making the original entry, will amount to $1.25 per acre, which is the price to be paid for all lands entered under the desert-land law, regardless of their location. The Receiver will issue a receipt for the money paid, and, if the proof is satisfactory, the Register will issue a certificate in duplicate and deliver one copy

to the entryman and forward the other copy to the General Land Office at the end of the month during which the certificate was issued.

If the entryman is dead and proof is made by anyone for the heirs, no will being suggested in the record, the final certificate should issue to the heirs generally, without naming them; if by anyone for the heirs or devisees, final certificate should issue, in like manner, to the heirs or devisees.

When final proof is made on an entry made prior to the Act of March 28, 1908, for unsurveyed land, if such proof is satisfactory, the Register and Receiver will approve the same and forward it to the General Land Office without collecting the final payment of $1 an acre and without issuing final certificate. Fees for reducing the final-proof testimony to writing should be collected and receipt issued therefor, if the proof is taken before the Register and Receiver. As soon as the land is surveyed they will call upon the entryman to make proof, in the form of an affidavit, duly corroborated, showing the legal subdivisions covered by his entry. When this has been done the Register and Receiver will, in the absence of conflict or other objection, correct their records so as to make them describe the land by legal subdivisions, and, if final proof has been made and found satisfactory and no other objections exist, final papers should be issued upon payment of the proper amount.

31. No fees or commissions are required of persons making entry under the desert-land laws, except such fees as are paid to the officers for taking the affidavits and proofs. The only payments made to the Government are the original payment of 25 cents an acre at the time of making the application and the final payment of $1 an acre, to be paid at the time of making final proof. Where final proofs are made before the Register or Receiver in California, Oregon, Washington, Nevada, Colorado, Idaho, New Mexico, Arizona, Utah, Wyoming and Montana they will be entitled to receive, jointly, 22½ cents for each 100 words of testimony reduced to writing; in all other States they will be allowed 15 cents per 100 words for such service. The United States Commissioners, United States Court Commissioners, Judges, and Clerks are not entitled to receive a greater sum than 25 cents for each oath administered by them, except that they are entitled to receive $1 for administering the oath to each entryman and each final-proof witness where final-proof testimony has been reduced to writing by them.

CONTESTS AND RELINQUISHMENTS.

32. Contests may be initiated against a desert-land entry for illegal inception, abandonment, or failure to comply with the law after entry. Successful contestants will be allowed a preference right of entry for thirty days after notice of the cancellation of the contested entry, in the same manner as in homestead cases, and the Register will give the same notice and is entitled to the same fee for notice as in other cases. However, see, in this connection, the Act of June 25, 1910 (36 Stat., 867).

33. A desert-land entry may be relinquished at any time by the party owning the same, and when relinquishments are filed in the local land office the entries will be canceled by the Register and Receiver in the same manner as in homestead, preemption, and other

cases, under the first section of the Act of May 14, 1880 (21 Stat., 140).

DESERT-LAND ENTRIES WITHIN A RECLAMATION PROJECT.

34. By section 5 of the Act of June 27, 1905 (34 Stat., 519), it is provided that any desert-land entryman who has been or may be directly or indirectly hindered or prevented from making improvements on or from reclaiming the lands embraced in his entry, by reason of the fact that such lands have been embraced within the exterior limits of any withdrawal under the reclamation Act of June 17, 1902, will be excused during the continuance of such hindrance from complying with the provisions of the desert-land laws.

35. This Act applies only to persons who have been, directly or indirectly, delayed or prevented, by the creation of any reclamation project or by any withdrawal of public lands under the reclamation act, from improving or reclaiming the lands covered by their entries.

36. No entryman will be excused under this Act from a compliance with all of the requirements of the desert-land law until he has filed in the local land office for the district in which his lands are situated an affidavit showing in detail all of the facts upon which he claims the right to be excused. This affidavit must show when the hindrance began, the nature, character, and extent of the same, and it must be corroborated by two disinterested persons, who can testify from their own personal knowledge.

37. The Register and Receiver will at once forward the application to the engineer in charge of the reclamation project under which the lands involved are located and request a report and recommendation thereon. Upon the receipt of this report the Register and Receiver will forward it, together with the applicant's affidavit and their recommendation, to the General Land Office, where it will receive appropriate consideration and be allowed or denied, as the circumstances may justify.

38. Inasmuch as entrymen are allowed one year after entry in which to submit the first annual proof of expenditures for the purpose of improving and reclaiming the land entered by them, the privileges of this Act are not necessary in connection with annual proofs until the expiration of the years in which such proofs are due. Therefore, if at the time that annual proof is due it can not be made, on account of hindrance or delay occasioned by a withdrawal of the land for the purpose indicated in the Act, the applicant will file his affidavit explaining the delay. As a rule, however, annual proofs may be made, notwithstanding the withdrawal of the land, because expenditures for various kinds of improvements are allowed as satisfactory annual proofs. Therefore an extension of time for making annual proof will not be granted unless it is made clearly to appear that the entryman has been delayed or prevented by the withdrawal from making the required improvements; and, unless he has been so hindered or prevented from making the required improvements, no application for extension of time for making final proof will be granted until after all the yearly proofs have been made.

39. An entryman will not need to invoke the privileges of this Act in connection with final proof until such final proof is due, and if at that time he is unable to make the final proof of reclamation

and cultivation as required by law, and such inability is due, directly or indirectly, to the withdrawal of the land on account of a reclamation project, the affidavit explaining the hindrance and delay should be filed in order that the entryman may be excused for such failure.

40. When the time for submitting final proof has arrived and the entryman is unable, by reason of the withdrawal of the land, to make such proof, upon proper showing, as indicated herein, he will be excused, and the time during which it is shown that he has been hindered or delayed on account of the withdrawal of the land will not be computed in determining the time within which final proof must be made.

41. If after investigation the irrigation project has been or may be abandoned by the Government, the time for compliance with the law by the entryman will begin to run from the date of notice of such abandonment of the project and of the restoration to the public domain of the lands which had been withdrawn in connection with the project. If, however, the reclamation project is carried to completion by the Government and a water supply has been made available for the land embraced in such desert-land entry, the entryman must comply with all the provisions of the Act of June 17, 1902, and must relinquish all the land embraced in his entry in excess of 160 acres, and upon making final proof and complying with the terms of payment prescribed in said Act of June 17, 1902, he shall be entitled to patent.

42. Special attention is called to the fact that nothing contained in the Act of June 27, 1906, shall be construed to mean that a desert-land entryman who owns a water right and reclaims the land embraced in his entry must accept the conditions of the reclamation Act of June 17, 1902, but he may proceed independently of the Government's plan of irrigation and acquire title to the land embraced in his desert-land entry by means of his own system of irrigation.

43. Desert-land entrymen within exterior boundaries of a reclamation project who expect to secure water from the Government must relinquish all of the lands embraced in their entries in excess of 160 acres whenever they are required to do so through the local land office and must reclaim one-half of the irrigable area covered by their water right in the same manner as private owners of land irrigated under a reclamation project.

44. All previous rulings and instructions not in harmony herewith are hereby vacated.

FRED DENNETT, Commissioner.

Approved.

FRANK PIERCE,
Acting Secretary.

STATUTES.

(A) An Act to Provide for the Sale of Desert Lands in Certain States and Territories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for any citizen of the United States, or any person of requisite age "who may be entitled to become a citizen, and who has filed his declaration to become such" and upon payment of twenty-five cents per acre—to file a declaration under oath with the register and the receiver of the land district in which

any desert land is situated, that he intends to reclaim a tract of desert land not exceeding one section,* by conducting water upon the same, within the period of three years† thereafter: Provided, however, That the right to the use of water by the person so conducting the same, on or to any tract of desert land of six hundred and forty acres shall depend upon bona fide prior appropriation; and such right shall not exceed the amount of water actually appropriated, and necessarily used for the purpose of irrigation and reclamation; and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands, and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining and manufacturing purposes subject to existing rights. Said declaration shall describe particularly said section of land if surveyed, and, if unsurveyed, shall describe the same as nearly as possible without survey. At any time within the period of three years after filing said declaration, upon making satisfactory proof to the register and receiver of the reclamation of said tract of land in the manner aforesaid, and upon the payment to the receiver of the additional sum of one dollar per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him: Provided, That no person shall be permitted to enter more than one tract of land and not to exceed six hundred and forty acres, which shall be in compact form.

Sec. 2. That all lands exclusive of timber lands and mineral lands which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands, within the meaning of this act, which fact shall be ascertained by proof of two or more credible witnesses under oath, whose affidavit shall be filed in the land office in which said tract of land may be situated.

Sec. 3. That this act shall only apply to and take effect in the States of California, Oregon, and Nevada, and the Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and Dakota, and the determination of what may be considered desert land shall be subject to the decision and regulation of the Commissioner of the General Land Office.

Approved, March 3, 1877 (19 Stat., 377).

* Limited to 320 acres by Act of March 3, 1891 (26 Stat., 1095).

† Time extended to four years by Act of March 3, 1891, supra.

(B) Three Hundred and Twenty Acre Limitation.

Approved, August 30, 1890 (26 Stat., 391). See page 531.

(C) An Act to Repeal Timber-Culture Laws, and for Other Purposes.

* * * * * * *

Sec. 2. That an Act to provide for the sale of desert lands in certain States and Territories, approved March third, eighteen hundred and seventy-seven, is hereby amended by adding thereto the following sections:

Sec. 4. That at the time of filing the declaration hereinbefore required the party shall also file a map of said land which shall exhibit a plan showing the mode of contemplated irrigation, and which plan shall be sufficient to thoroughly irrigate and reclaim said land, and prepare it to raise ordinary agricultural crops, and shall also show the source of the water to be used for irrigation and reclamation. Persons entering or proposing to enter separate sections or fractional parts of sections of desert lands may associate together in the construction of canals and ditches for irrigating and reclaiming all of said tracts, and may file a joint map or maps showing their plan of internal improvements.

Sec. 5. That no land shall be patented to any person under this Act unless he or his assignees shall have expended in the necessary irrigation, reclamation, and cultivation thereof, by means of main canals and branch ditches, and in permanent improvements upon the land, and in the purchase of water rights for the irrigation of the same, at least three dollars per acre of whole tract reclaimed and patented in the manner following: Within one year after making entry for such tract of desert land as aforesaid, the party so entering shall expend not less than one dollar per acre for the purposes aforesaid; and he shall in like manner expend the sum of one dollar per acre during the second and also during the third year thereafter, until the full sum of three dollars per acre is so expended. Said party shall file during each year with the register, proof, by the affidavits of two or more credible witnesses, that the full sum of one dollar per acre has been expended in such necessary improvements during such year, and the manner in which expended, and at the expiration of the third year a map or plan showing the character and extent of such improvements. If any party who has made such application shall fail

during any year to file the testimony aforesaid, the lands shall revert to the United States, and the twenty-five cents advanced payment shall be forfeited to the United States, and the entry shall be canceled. Nothing herein contained shall prevent a claimant from making his final entry and receiving his patent at an earlier date than hereinbefore prescribed, provided that he then makes the required proof of reclamation to the aggregate extent of three dollars per acre: Provided, That proof be further required of the cultivation of one-eighth of the land.

Sec. 6. That this Act shall not affect any valid rights heretofore accrued under said Act of March third, eighteen hundred and seventy-seven, but all bona fide claims heretofore lawfully initiated may be perfected, upon due compliance with the provisions of said Act, in the same manner, upon the same terms and conditions, and subject to the same limitations, forfeitures, and contests as if this Act had not been passed; or said claims, at the option of the claimant, may be perfected and patented under the provisions of said Act, as amended by this Act, so far as applicable; and all acts and parts of acts in conflict with this Act are hereby repealed.

Sec. 7. That at any time after filing the declaration, and within the period of four years thereafter, upon making satisfactory proof to the register and the receiver of the reclamation and cultivation of said land to the extent and cost and in the manner aforesaid, and substantially in accordance with the plans herein provided for, and that he or she is a citizen of the United States, and upon payment to the receiver of the additional sum of one dollar per acre for said land, a patent shall issue therefor to the applicant or his assigns; but no person or association of persons shall hold, by assignment or otherwise prior to the issue of patent, more than three hundred and twenty acres of such arid or desert lands; but this section shall not apply to entries made or initiated prior to the approval of this act: Provided, however, That additional proofs may be required at any time within the period prescribed by law, and that the claims or entries made under this or any preceding act shall be subject to contest, as provided by the law relating to homestead cases, for illegal inception, abandonment, or failure to comply with the requirements of law, and upon satisfactory proof thereof shall be canceled, and the lands and money paid therefor shall be forfeited to the United States.

Sec. 8. That the provisions of the Act to which this is an amendment, and the amendments thereto, shall apply to and be in force in the State of Colorado, as well as the States named in the original act; and no person shall be entitled to make entry of desert land except he be a resident citizen of the State or Territory in which the land sought to be entered is located.

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Approved, March 3, 1891 (26 Stat., 1095).

(D) Sec. 2294, United States Revised Statutes, as Amended by Act of March 4, 1904 (33 Stat., 59).

Sec. 2294. That hereafter all proofs, affidavits, and oaths of any kind whatsoever required to be made by applicants and entrymen under the homestead, preemption, timber-culture, desert-land, and timber and stone acts, may, in addition to those now authorized to take such affidavits, proofs, and oaths, be made before any United States commissioner or commissioner of the court exercising federal jurisdiction in the Territory or before the judge or clerk of any court of record in the county, parish, or land district in which the lands are situated: Provided, That in case the affidavits, proofs, and oaths hereinbefore mentioned be taken out of the county in which the land is located the applicant must show by affidavit, satisfactory to the Commissioner of the General Land Office, that it was taken before the nearest or most accessible officer qualified to take said affidavits, proofs, and oaths in the land districts in which the lands applied for are located; but such showing by affidavit need not be made in making final proof if the proof be taken in the town or city where the newspaper is published in which the final proof notice is printed. The proof, affidavit, and oath, when so made and duly subscribed, or which may have heretofore been so made and duly subscribed, shall have the same force and effect as if made before the register and receiver, when transmitted to them with the fees and commissions allowed and required by law. That if any witness making such proof, or any applicant making such affidavit or oath, shall knowingly, willfully, or corruptly swear falsely to any material matter contained in said proofs, affidavits, or oaths he shall be deemed guilty of perjury, and shall be liable to the same pains and penalties

as if he had sworn falsely before the register. That the fees for entries and for final proofs, when made before any other officer than the register and receiver, shall be as follows:

"For each affidavit, twenty-five cents.

"For each deposition of claimant or witness, when not prepared by the officer, twenty-five cents.

"For each deposition of claimant or witness, prepared by the officer, one dollar.

"Any officer demanding or receiving a greater sum for such service shall be guilty of a misdemeanor, and upon conviction shall be punished for each offense by a fine not exceeding one hundred dollars."

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(E) An Act Providing for the Subdivision of Lands Entered Under the Reclamation Act, and for Other Purposes.

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Sec. 5. That where any bona fide desert-land entry has been or may be embraced within the exterior limits of any land withdrawal or irrigation project under the Act entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June seventeenth, nineteen hundred and two, and the desert-land entryman has been or may be directly or indirectly hindered, delayed, or prevented from making improvements or from reclaiming the land embraced in any such entry by reason of such land withdrawal or irrigation project, the time during which the desert-land entryman has been or may be so hindered, delayed, or prevented from complying with the desert-land law shall not be computed in determining the time within which such entryman has been or may be required to make improvements or reclaim the land embraced within any such desert-land entry: Provided, That if after investigation the irrigation project has been or may be abandoned by the Government, time for compliance with the desert-land law by any such entryman shall begin to run from the date of notice of such abandonment of the project and the restoration to the public domain of the lands withdrawn in connection therewith, and credit shall be allowed for all expenditures and improvements heretofore made on any such desert-land entry of which proof has been filed; but if the reclamation project is carried to completion so as to make available a water supply for the land embraced in any such desert-land entry, the entryman shall thereupon comply with all the provisions of the aforesaid act of June seventeenth, nineteen hundred and two, and shall relinquish all land embraced within his desert-land entry in excess of one hundred and sixty acres, and as to such one hundred and sixty acres retained, he shall be entitled to make final proof and obtain patent upon compliance with the terms of payment prescribed in said act of June seventeenth, nineteen hundred and two, and not otherwise. But nothing herein contained shall be held to require a desert-land entryman who owns a water right and reclaims the land embraced in his entry to accept the conditions of said reclamation act.

Approved, June 27, 1906 (34 Stat., 520).

(F) An Act Providing for Second Desert-Land Entries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who prior to the passage of this Act has made entry under the desert-land laws, but from any cause has lost, forfeited, or abandoned the same, shall be entitled to the benefits of the desert-land law as though such former entry had not been made, and any person applying for a second desert-land entry under this Act shall furnish the description and date of his former entry: Provided, That the provisions of this Act shall not apply to any person whose former entry was assigned in whole or in part or canceled for fraud, or who relinquished the former entry for a valuable consideration.

Approved, March 26, 1908 (35 Stat., 48).

(G) An Act Limiting and Restricting the Right of Entry and Assignment Under the Desert-Land Law and Authorizing an Extension of Time Within Which to Make Final Proof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage

of this Act the right to make entry of desert lands under the provisions of the Act approved March third, eighteen hundred and seventy-seven, entitled "An Act to provide for the sale of desert lands in certain States and Territories" as amended by the Act approved March third, eighteen hundred and ninety-one, entitled "An Act to repeal timber-culture laws, and for other purposes," shall be restricted to surveyed public lands of the character contemplated by said Acts, and no such entries of unsurveyed lands shall be allowed or made of record: Provided, however, That any individual qualified to make entry of desert lands under said acts who has, prior to survey, taken possession of a tract of unsurveyed desert land not exceeding in area three hundred and twenty acres in compact form, and has reclaimed or has in good faith commenced the work of reclaiming the same, shall have the preference right to make entry of such tract under said acts, in conformity with the public land surveys, within ninety days after the filing of the approved plat of survey in the district land office.

Sec. 2. That from and after the date of the passage of this Act no assignment of an entry made under said acts shall be allowed or recognized, except it be to an individual who is shown to be qualified to make entry under said acts of the land covered by the assigned entry, and such assignments may include all or part of an entry; but no assignment to or for the benefit of any corporation or association shall be authorized or recognized.

Sec. 3. That any entryman under the above acts who shall show to the satisfaction of the Commissioner of the General Land Office that he has in good faith complied with the terms, requirements, and provisions of said acts, but that because of some unavoidable delay in the construction of the irrigating works, intended to convey water to the said lands, he is, without fault on his part, unable to make proof of the reclamation and cultivation of said land, as required by said acts, shall, upon filing his corroborated affidavit with the land office in which said land is located, setting forth said facts, be allowed an additional period of not to exceed three years, within the discretion of the Commissioner of the General Land Office, within which to furnish proof, as required by said acts, of the completion of said work.

Approved, March 28, 1908 (35 Stat., 52).

(H) An Act for the Protection of the Surface Rights of Entrymen.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who has in good faith located, selected, or entered under the nonmineral land laws of the United States any lands which subsequently are classified, claimed, or reported as being valuable for coal, may, if he shall so elect, and upon making satisfactory proof of compliance with the laws under which such lands are claimed, receive a patent therefor, which shall contain a reservation to the United States of all coal in said lands, and the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal, but no person shall enter upon said lands to prospect for, or mine and remove coal therefrom, without previous consent of the owner under such patent, except upon such conditions as to security for and payment of all damages to such owner caused thereby as may be determined by a court of competent jurisdiction: Provided, That the owner under such patent shall have the right to mine coal for use on the land for domestic purposes prior to the disposal by the United States of the coal deposit: Provided further, That nothing herein contained shall be held to affect or abridge the right of any locator, selector, or entryman to a hearing for the purpose of determining the character of the land located, selected, or entered by him. Such locator, selector, or entryman who has heretofore made or shall hereafter make final proof showing good faith and satisfactory compliance with the law under which his land is claimed shall be entitled to a patent without reservation unless at the time of such final proof and entry it shall be shown that the land is chiefly valuable for coal.

Approved, March 3, 1909 (35 Stat., 844).

(I) An Act to Provide for Agricultural Entries on Coal Lands.

Act June 22, 1910 (36 Stat., 583). See page 486.

(J) An Act for the Relief of Assignees in Good Faith of Entries of Desert Lands in Imperial County, California.

Be it enacted by the Senate and House of Representatives of the United

States of America in Congress assembled, That any person, other than a corporation, who has in good faith heretofore acquired by assignment a desert-land entry, which entry is regular upon its face, in the belief that he was obtaining a valid title thereto, which assignment was accepted when filed at the local land office of the United States and recognized at the General Land Office as a proper transfer of such entry, shall be entitled to complete the entry so acquired, notwithstanding any contest that has been or may be filed against such entry, based upon a charge of fraud of which the assignee had no knowledge: Provided, however, That this Act shall only apply to any person who at the time of receiving such assignment was without notice of any fraud in the entry assigned or in any annual proof made concerning the same: Provided further, That patent shall not issue to any such assignee unless he shall affirmatively establish, by his evidence, under oath, good faith and lack of notice of fraud, and by the testimony, under oath, of himself and at least two witnesses that expenditure in the total amount and cultivation and reclamation to the full extent required by law have been actually made and accomplished: And provided further, That nothing herein contained shall be construed to waive or avoid liability for any fraud or violation of the law on the part of the person committing the same.

Sec. 2. That where a person having made entry under the desert-land law was thereafter permitted by the Land Department to hold another entry or entries by assignment, or where a person having previously perfected title under assignment of a desert-land entry, or having held land under assignment to the amount of three hundred and twenty acres or more at different times, was thereafter permitted by the Land Department to make an entry in his own right, or to hold other lands under assignment, such persons, or their lawful assignees, shall be, upon showing full compliance with all requirements of existing law as to expenditure, reclamation, and cultivation, permitted to complete title to the land now held by them, notwithstanding any contest that may have been or may hereafter be filed against the entry based upon the charge that the present claimant has exhausted his right under the desert-land law by reason of having previously made an entry or held land under an assignment as above detailed: Provided, however, That this section shall not be applicable to entries made or taken by assignment subsequently to November thirtieth, nineteen hundred and eight: Provided further, That no person shall be entitled to the benefits of either the first or second section of this Act who has heretofore acquired title to three hundred and twenty acres of land under the desert-land laws; nor shall this Act be construed to modify in any manner the provisions of the Act of August thirtieth, eighteen hundred and ninety (Twenty-sixth Statutes, three hundred and ninety-one), and the seventeenth section of the Act of March third, eighteen hundred and ninety-one (Twenty-sixth Statutes, ten hundred and ninety-five), restricting the quantity of lands that may be acquired under the agricultural-land laws.

Sec. 3. The provisions of this act shall apply to Imperial County, California, only.

Approved, June 25, 1910 (Sess. Law, 2d sess., 61st Cong., 867).

DESERT ENTRIES IN WELD AND LARIMER COUNTIES, COLORADO—EXTENSION OF TIME.

Instructions.

Department of the Interior,
General Land Office,
Washington, March 19, 1912.

Register and Receiver,
Sterling, Denver, and Glenwood Springs, Colorado.

Sirs: Annexed is a copy of the Act of Congress approved January 16, 1912 (Public—No. 62), entitled "An Act authorizing the Secretary of the Interior to grant further extension of time within which to make proof on desert land entries in the counties of Weld and Larimer, Colorado."

1. All applications for the benefit of this Act must be supported by the affidavits of the applicants and at least two corroborating witnesses made before an officer legally authorized to administer oaths in connection with the entry in question and set forth the facts on account of which the further extension of time is desired.

2. Such applications and affidavits must be filed in the local land office of the district wherein the lands are situated for transmission, with the recom-

mendation of the register and receiver, to the Commissioner of the General Land Office.

3. You are directed to suspend any application that may be considered defective in form or substance, and allow the applicant an opportunity to remedy the defects or to file exceptions to the requirements made, advising him that upon his failure to take any action within a specified time, appropriate recommendations will be made. Should exceptions be filed, they will be duly considered with the entire record. In transmitting applications for the benefit of this act, you will report specifically whether or not there is any contest pending against the entry, and if a contest is pending, you will transmit the application to the Commissioner of the General Land Office by special letter without action thereon, making due reference to this paragraph.

Very respectfully,
S. V. Proudfit,
Assistant Commissioner.

Approved:
Samuel Adams,
First Assistant Secretary.

[Public—No. 62.]

An Act authorizing the Secretary of the Interior to grant further extension of time within which to make final proof on desert-land entries in the counties of Weld and Larimer, Colorado.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assmbled, That the Secretary of the Interior may, in his discretion, grant to any entryman who has heretofore made entry under the desert-land laws in the counties of Weld and Larimer, in the State of Colorado, a further extension of the time within which he is required to make final proof: Provided, That such entryman shall, by his corroborated affidavit filed in the land office of the district where such land is located show to the satisfaction of the Secretary that because of unavoidable delay in the construction of irrigation works intended to convey water to the land embraced in his entry he is, without fault on his part, unable to make proof of the reclamation and cultivation of said lands as required by law within the time limited therefor; but such extension shall not be granted for a period of more than three years, and this Act shall not affect contests initiated for a valid existing reason.

Approved, January 26, 1912.

[Circular No. 116.]

EXTENSION OF TIME FOR SUBMITTING FINAL PROOF ON DESERT-LAND ENTRIES—ACT OF APRIL 30, 1912 (PUBLIC NO. 143).

Department of the Interior,
General Land Office,
Washington, May 21, 1912.

Registers and Receivers,
United States Land Offices.

Sirs: Annexed is a copy of the Act of Congress approved April 30, 1912 (Public, No. 143), entitled "An Act authorizing the Secretary of the Interior to grant further extension of time within which to make proof on desert-land entries."

....

1. All applications for the benefit of this Act must be supported by the affidavits of the applicants and at least two corroborating witnesses, made before an officer legally authorized to administer oaths in connection with the entry in question, and set forth the facts on account of which the further extension of time is desired.

2. Such applications and affidavits must be filed in the local land office of the district wherein the lands are situated, for transmission, with the recommendation of the register and receiver, to the Commissioner of the General Land Office.

3. You are directed to suspend any application that may be considered defective in form or substance and allow the applicant an opportunity to remedy the defects or to file exceptions to the requirements made, advising him that, upon his failure to take any action within a specified time, appropriate recommendations will be made. Should exceptions be filed, they will be duly considered with the entire record. In transmitting applications for the benefit of this Act you will report specifically whether or not there is any contest pending against the entry involved, and if a contest is pending you

will transmit the application to the Commissioner of the General Land Office by special letter, without action thereon, making due reference to this paragraph.

Very respectfully,

Approved:
Samuel Adams,
First Assistant Secretary.

Fred Dennett,
Commissioner.

[Public—No. 143.]

An Act authorizing the Secretary of the Interior to grant further extension of time within which to make proof on desert-land entries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may, in his discretion, in addition to the extension authorized by existing law, grant to any entryman under the desert-land laws a further extension of the time within which he is required to make final proof: Provided, That such entryman shall, by his corroborated affidavit filed in the land office of the district where such land is located, show to the satisfaction of the Secretary that because of unavoidable delay in the construction of irrigation works intended to convey water to the land embraced in his entry he is, without fault on his part, unable to make proof of the reclamation and cultivation of said lands as required by law within the time limited therefor; but such extension shall not be granted for a perior of more than three years, and this act shall not affect contests initiated for a valid existing reason: Provided, That the total extension of the statutory period for making final proof that may be allowed in any one case under this act, and any other existing statutes of either general or local application, shall be limited to six years in the aggregate.

Approved, April 30, 1912.

SUSPENDED ENTRIES—RULES AND REGULATIONS—BOARD OF EQUITABLE ADJUDICATION.

Under the Act of Congress, approved August 3, 1846, entitled "An Act providing for the adjustment of all suspended preemption land claims in the several States and Territories," the following general equitable rules and regulations were established for the government of the Commissioner of the General Land Office:

The Commissioner will recognize as valid and place in the first class, suspended entries of the following description:

1. All preemption entries in which one or more legal requirements do not appear in the papers because of the neglect or inattention of the land officers, but where the existing testimony shows a substantial and bona fide settlement and improvement of the lands; or where such facts were satisfactorily shown to the local officers by proof which was lost in transmission to the General Land Office and cannot now be renewed by reason of the death of witnesses or other cause.

2. All entries in virtue of "floats" under the Acts of 29th May, 1830, and 19th June, 1834, where the original settlement (from which the "Float" was derived) was bona fide and had been actually entered, but where such original settlement was on land reserved for private claims, the survey of which had not been returned by time of entry; and also all entries by such "floats" on land liable to sale, where the "float" entries had been made prior to the return of the official plat of survey for the original settlement.

3. All preemption entries under the Acts of 12th April, 1814, 29th May, 1830, and 19th June, 1834, 22nd June, 1838, and 1st June, 1840, which have been allowed in the name of assignees, instead of

the preemptors themselves, where the claim is bona fide, and the assignees or subsequent purchasers are in possession.

4. Entries allowed by preemption on "sketch maps" (obtained by the parties) before the return of the regular approved plat of the township embracing the land.

5. All entries allowed by preemption on land which was reserved at the date of the Preemption Act, but which was released from reservation before the expiration of said Act, where such entries are in other respects regular.

6. Preemption entries under laws requiring actual residence on public land, in which the residence was found to be on private property, but where the tract entered formed a substantial part of the farm of the claimant, and was improved and cultivated by him at the period required for residence.

7. Preemption entries of legal subdivisions of a fractional section which contain more than 160 acres, but which are as near to that quantity as the existing subdivisions will allow.

8. Preemption entries allowed under one preemption law, where it shall have been discovered that said entries are invalid under that Act, but where the settlement and improvement is of a character to have entitled the parties to a legal and valid claim under a subsequent law, provided the land is not embraced by the valid claim of another.

9. Preemption entries in the mineral region embracing the half of a quarter section reserved for mineral purposes where the half quarter so entered is shown not to have contained mineral, and also entries as "floats" allowed to the claimants, who, by reason of one portion of the quarter section on which they were settled containing mineral, were unable to enter more than the half of said quarter section, provided the claim is otherwise a bona fide one.

10. Preemption entries founded upon a bona fide right of preemption, where, as it respects the mode and manner of the entry, there is not a strict conformity with the law, but where such entry does not embrace a quantity exceeding that allowed by law, is in accordance with the wish of the party or parties interested and does not interfere with the rights or interests of another.

11. All private sales of tracts which have not been previously offered at public sale, but where the entry appears to have been permitted by land officers under the impression that the land was liable to private entry, and there is no reason to presume fraud, or to believe that the purchase was made otherwise than in good faith.

12. All sales made at one land office of lands which were only liable to sale at another where the proceedings in all other respects were regular.

13. All bona fide entries on lands which had been once offered, but afterwards temporarily withdrawn from market, and then released from reservation, where such lands are not rightfully claimed by others.

14. All bona fide entries at private sale, allowed at Mineral Point, Wisc., and fully paid for, of lands which were not ascertained or reported to contain lead mineral until after the date of said entries, where the land is not rightly claimed by another.

The foregoing regulations are not to embrace any case where

the entry has been canceled or desired by the party or where a subsequent entry of the same land has been legally made by the claimant himself or by another person.

James L. Piper,
Acting Commissioner of the General Land Office.

We concur in these rules and regulations, October 3, 1846.

R. J. Walker,
Secretary of the Treasury.
J. Y. Mason,
Attorney-General.

(Rule 15, having become obsolete, is omitted.)

Under the Act of Congress, approved 3d of March, 1853, reviving and continuing in force the Act of 3d of August, 1846, the following rule was established for the government of the Commissioner of the General Land Office:

16. That all locations under the Act of 14th August, 1848, entitled, "An Act in relation to military land warrants," be confirmed and patents issued thereon, where the land located lies in one body, and the only objection to the location is that it consists, technically, of more than one legal subdivision.

James Wilson,
Commissioner.

We concur in this rule, 16th March, 1854.

R. McClelland,
Secretary of the Interior.
C. Cushing,
Attorney-General.

Department of the Interior,
General Land Office.
Washington, D. C., April 25, 1877.

Sir: I have the honor to submit herewith, for your concurrence and that of the honorable Attorney-General, a set of rules to govern me in submitting for confirmation, under section 2450 of the Revised Statutes of the United States, entries suspended for various causes, but which upon principles of equity and justice should be confirmed.

Authority to confirm suspended entries of the public lands was first vested in the Secretary of the Treasury, Attorney-General and Commissioner of the General Land Office by Act of Congress of August 3, 1846, and revised and extended by Acts of 3d of March, 1853, and 26th of June, 1856.

Under these Acts, from time to time, sixteen rules have been established, the last March 16, 1854. (See 1 Lester, Land Laws, 482, title 5.)

Since then the different homestead Acts have been passed and new classes of suspended entries under the preemption laws have arisen. I have prepared eleven new rules from Nos. 17 to 27, inclusive. I find that many of the old established rules are obsolete.

Cases in each of the classes mentioned, except class 22, have been confirmed under section 2450 of the Revised Statutes.

It is believed that these classes will cover all agricultural entries falling under general rules.

Special cases not covered by these rules, in which equitable

relief should be afforded, will probably arise. Such cases will be submitted as special, with letters of explanation.

I respectfully request that if you should approve the accompanying rules you will submit them to the honorable Attorney-General for his concurrence.

J. A. Williamson,
Commissioner.

Hon. Carl Schurz,
Secretary of the Interior.

Department of the Interior,
Office of the Secretary.
Washington, D. C., May 18, 1877.

Sir: I return herewith, approved by the Attorney-General and myself, the additional rules transmitted with your letter of the 25th ultimo, numbered from 17 to 27, inclusive, to govern your office in the disposal of suspended entries of public lands under various laws.

I am, sir, very respectfully, your obedient servant,

C. Schurz,
Secretary.

Hon. J. A. Williamson,
Commissioner General Land Office.

ADDITIONAL RULES.

Under section 2450 of the Revised Statutes of the United States the following rules, additional to those established under the Act of August 3, 1846, are provided for the government of the Commissioner of the General Land Office.

17. All entries where the preemption affidavit was taken before an officer authorized to administer oaths, when, on account of bodily infirmity the party cannot appear at the local office.

18. All entries where the preemption affidavit was taken before some officer other than the Register or Receiver, and the preemptor died before the defect could be cured.

19. All entries made upon land appropriated by entry or selection, but which entry or selection was subsequently cancelled for illegality.

20. Preemption entries in which the party has shown good faith, but did not, through ignorance of the law, declare his intention to become a citizen of the United States until after he made his entry.

21. All entries based upon preemption proof where the party had failed to file a declaratory statement therefor, provided no adverse claim attached prior to entry.

22. All entries of unoffered land, based upon a second declaratory statement, where the same was filed between June 22, 1874, and June 30, 1875.

23. All preemption entries in which the affidavit is defective in not showing that the party was not the owner of 320 acres of land in any State or Territory, and had never had the benefit of the Act, the form for which affidavit was furnished by the local land officers.

24. All homestead entries in which, by reason of ignorance of the law, sickness of the party or his family, the final proof was

not made within the period prescribed by statute, but in other respects the law has been complied with.

25. All homestead entries in which the party failed to settle on the land within the time required by law by reason of physical disability, and where good faith is shown.

26. All homestead entries by mistake made in the name of the wrong party, but where on final proof the error may be corrected without prejudice to another's right.

27. In all homestead entries where the husband has deserted the wife and children, if he have any, who have in good faith complied with the homestead law by residence upon and cultivation of the land and final proof shall be made with the wife, or in case of her death, by her heirs or their legal guardians, such entry shall be confirmed, and patent shall issue to the parties entitled thereto.

J. Williamson,
Commissioner General Land Office.

We concur in the above rules, May 8, 1877.

C. Schurz,
Secretary of the Interior.
Chas. Devens,
Attorney-General.

Board of Equitable Adjudication—Amendment of Rules—Regulations.

Department of the Interior,
General Land Office.
Washington, D. C., October 17, 1910.

Rules 28, 29, 30, 32 and 33, for the government of the Commissioner of the General Land Office in the submission of entries to the Board of Equitable Adjudication under section 2450, Revised Statutes of the United States, adopted May 12, 1888 (6 L. D., 799), and April 24, 1890 (10 L. D., 502), are hereby amended as follows:

28. All desert land entries made by a duly qualified party under the Act of March 3, 1877, and the subsequent Acts additional to and amendatory of the same, including all such entries which have been assigned to a party duly qualified to be recognized as an assignee, where the land was properly subject to entry under the law and has been reclaimed, and one-eighth of it cultivated, substantially as required by said statutes, but where any of the declarations, affidavits, or proofs required under said statutes were omitted, or are defective, and where, on account of the death or absence of claimant, or his assignors, the missing papers cannot be supplied, or the defective papers amended, and where there is no adverse claim.

29. All desert land entries in which the final proof and payment were not made within four years from the date of entry, or within such additional period as may have been granted in the particular case in pursuance of statutory provisions, but in which the entryman (and the assignee, if the entry has been assigned), were duly qualified, the land properly subject to entry under the statutes, and subsequently reclaimed and one-eighth of it cultivated in due time, according to their requirements, in which the failure to make final proof or payment in due time is satisfactorily explained as being the result of ignorance, accident or mistake, or other

sufficient reason not indicating bad faith, and in which there is no adverse claim.

30. All desert land entries in which the claimant has failed to reclaim or to cultivate the land and to make final proof and payment, as required by the statutes, within four years from date of entry, or within such additional time as may have been granted him, or to which he may have been entitled, under the statutes, but where the entryman (and assignee, if the entry has been assigned), were duly qualified, the land properly subject to entry under the statutes, and actual compliance with the legal requirements as to reclamation, cultivation, acquisition of water rights, and citizenship of claimant is satisfactorily established by the final proof, and the failure to reclaim the land and to cultivate one-eighth of it in time is satisfactorily explained as being the result of ignorance, accident or mistake, or of obstacles which the claimant could not control, and where there is no adverse claim.

Sec. 31, as amended by circular of April 10th, 1890 (10 L. D., P. 503), reads as follows:

All preemption, homestead, commutation of homestead, and timber-culture entries, in which final proof has been made, and in which compliance with one or more legal requirements with reference to the final proof notice or in other respects, does not appear in the papers, because of the neglect or inattention of the district land officers, in allowing the final proof and payment to be made notwithstanding such defect, but where in fact notice was given and in which no adverse claim appears, and the existing testimony shows a substantial, bona fide compliance with the law as to residence and improvement in preemption, homestead, and commutation of homestead entries, or as to the required planting, cultivating and protecting of the timber, in timber-culture entries, or where such facts were satisfactorily shown to the district land officers by proof which was lost in transmission to the General Land Office, and cannot now be renewed by reason of the death of witnesses or other cause.

32. All homestead, timber and stone, and timber-culture entries in which the party has shown good faith, and a substantial compliance with the legal requirements of residence and cultivation of the land, in homestead entries, or the required planting, cultivating and protecting of the timber in timber-culture entries, but in which the party did not, through ignorance of the law, or other sufficient reason not indicating bad faith, declare his intention of becoming a citizen of the United States until after he had made his entry, or, in homestead entries, did not from like cause perfect citizenship until after the making of final proof, and in which there is no adverse claim.

33. All homestead and timber-culture entries in which good faith appears, and a substantial compliance with law, and in which there is no adverse claim, but in which full compliance with law was not effected, or final proof made, within the period prescribed by statute, and in which such failure was caused by any sufficient reason not indicating bad faith.

An additional rule is established as follows:

Rule 34. All homestead entries in which the final affidavit and proof testimony of claimant, and all desert land entries in which

the claimant's deposition or any affidavit required of him as a part of the final proof is taken at his residence or outside of the county or land district in which the land is situated, on account of illness, or in which, in case of the death of the entryman, the heirs competent to make proof are prevented by great distance or the lack of means from appearing before a proper officer within such county or land district to give their testimony, and in which compliance with law in other respects is shown, and all entries of isolated tracts sold at public sale under Sec. 2455, R. S., as amended, wherein compliance with one or more legal requirements with reference to the published notice does not appear in the papers, because of the neglect or inattention of the district land officers in allowing the sale to be made notwithstanding such defect, but where, in fact, notice was given and no adverse claim appears.

Fred Dennett,
Commissioner of the General Land Office.

We concur in the rules as amended and in the additional rule.

Jesse E. Wilson,
Acting Secretary of the Interior.
Geo. W. Wickersham,
Attorney-General.

FEES AND COMMISSIONS—REGISTERS AND RECEIVERS.

[Circular.]

Department of the Interior,
General Land Office,
Washington, D. C., May 20, 1905.

To Registers and Receivers of United States Land Offices in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

Gentlemen: The following are the fees and commissions allowed by law in full for all services rendered by registers and receivers in your respective land districts:

Declaratory Statements.

Preemption declaratory statement	$ 3.00
Soldiers' and sailors' homestead declaratory statement	3.00
Coal land declaratory statement	3.00
Reservoir declaratory statement (Act January 13, 1897)	3.00

Mineral Applications and Adverse Claims.

For filing and acting upon each application for a patent	$10.00
For filing and acting upon each adverse claim	10.00

Timber and Stone Land Applications.

For filing and acting upon each application to purchase timber or stone lands, to be paid only when the entry is allowed	$10.00

Homestead Entries, Original Entry Fees and Commissions, Payable When Application Is Made.

For 160 acres, at	$1.25	per acre:	Fee,	$10.00;	commissions,	$ 6.00;	total, $16.00
For 80 acres, at	$1.25	per acre:	Fee,	5.00;	commissions,	3.00;	total, 8.00
For 40 acres, at	$1.25	per acre:	Fee,	5.00;	commissions,	1.50;	total, 6.50
For 160 acres, at	2.50	per acre:	Fee,	10.00;	commissions,	12.00;	total, 22.00
For 80 acres, at	2.50	per acre:	Fee,	5.00;	commissions,	6.00;	total, 11.00
For 40 acres, at	2.50	per acre:	Fee,	5.00;	commissions,	3.00;	total, 8.00

Final Homestead Commissions (No Fees), Payable When Certificate Issues.

For 160 acres, at	$1.25	per acre	$ 6.00
For 80 acres, at	1.25	per acre	3.00
For 40 acres, at	1.25	per acre	1.50
For 160 acres, at	2.50	per acre	12.00
For 80 acres, at	2.50	per acre	6.00

For 40 acres, at 2.50 per acre..... 3.00

(The commissions payable on a homestead entry of 160 acres or less must be computed at the rate of 3 per centum strictly on the cash value of the land applied for, except where a different basis for such computation is fixed by statute in particular cases.)

Final Timber-Culture Commissions (No Fees), Payable When Certificate Issues.

For each final entry, irrespective of area or price.....$ 4.00

(There is no distinction between minimum and double minimum lands in timber-culture entries.)

Donation Claims.

For each final certificate for 160 acres.....$ 5.00
For each final certificate for 320 acres..... 10.00
For each final certificate for 640 acres..... 15.00

Note.—For charges to be made by officers preparing and acknowledging papers see "Title Commissioners." See Sec. 2294, Review Statutes, page 446.

Military Bounty Land Warrants.

For locating a 160 acre warrant.....$ 4.00
For locating a 120 acre warrant..... 3.00
For locating an 80 acre warrant..... 2.00
For locating a 60 acre warrant..... 1.50
For locating a 40 acre warrant..... 1.00

(No fees are chargeable on warrants issued prior to February 11, 1847.)

(Revolutionary bounty land scrip is received and accounted for as cash, and no fee is chargeable to parties presenting such scrip.

Porterfield Warrants (Act of April 11, 1860).

For locating these warrants the same fees are chargeable as are allowed for military bounty land warrants.

Cash Entries.

The commissions of registers and receivers on cash sales of the public lands are paid by the United States, and no fees or commissions on such sales are chargeable to the purchasers, except in cases of homestead entries on ceded Indian reservations affected by the Act of May 17, 1900 (31 Stat., 179), and commuted under the provisions of the Act of January 26, 1901 (31 Stat., 740), in which cases the entryman is required to pay a commission of 3 per centum on the cash price of the land (31 L. D., 106).

State Selections.

For each final location of 160 acres (or fraction thereof) under any grant of Congress to States (except for agricultural colleges).....$ 2.00

No fees are chargeable on State swamp-land selections, but a fee of $2.00 is to be collected on each location of 160 acres, or fraction thereof, made with swamp-land indemnity certificates.

For method of computing fees, see "Railroad and Other Selections."

Railroad and Other Selections.

For each final location of 160 acres (or fraction thereof) by railroad or other corporations .....$ 2.00

(In computing the amount of fees payable on a list of State or railroad selections, the receiver will divide the total area by 160; the quotient will be the number of 160-acre selections on which a fee of $2.00 each is chargeable. Should the quotient consist of a fraction over a whole number, the legal fee of $2.00 will be collected for such fraction).

Agricultural College Scrip.

For each piece of agricultural college scrip located.....$ 4.00

Private Land Scrip, Valentine Scrip.

For each piece of scrip filed on unsurveyed lands.....$ 1.00
For each location of scrip..... 1.00

Supreme Court Scrip.

No fees or commissions are allowed on the location of supreme court scrip, nor on the location of Indian scrip or other private land scrip, except as specially provided for by law or instructions.

Reducing Testimony to Writing.

Fees for reducing testimony to writing are allowed at the rate of 22½ cents for each 100 words in the following cases only:

1. In making final proof in preemption cases.
2. In making final proof in commuted and noncommuted homestead and timber-culture cases.
3. In establishing claims to mineral lands.
4. In establishing claims to timber and stone lands.
5. In hearings before registers and receivers in contested cases.
6. The same fees are also payable to registers and receivers for examining and approving final-proof testimony taken in homestead and timber-culture cases in which the proof has been taken before some other officer authorized by law to take testimony in such cases.

No testimony fees are chargeable by registers and receivers for taking final proofs in desert-land entries.

No fees are allowed for reducing testimony to writing in any case where the writing is not done by the register or receiver, or by the employees in their office. In computing the fees for reducing testimony to writing, only the words actually written must be charged for at the rate allowed by paragraphs 10, 11, and 12, of section 2238, R. S., and no charge is to be made for the printed words. The words written must be actually counted and charged for, and there can be no uniform fee of a specified sum applicable to every case of the same class of entries; that is, registers and receivers cannot fix the fee at $1.00 or any other sum for each preemption, final homestead, mineral or other entry.

Transcripts from Records.

Registers and receivers are entitled to charge at the rate of 10 cents per hundred words for making transcripts of their records for individuals (Act of Congress of March 22, 1904).

Record Information.

Registers and receivers for any consolidated land district are entitled to charge and receive for any record information respecting public lands or land titles in their consolidated land district such fees as are properly authorized by the tariff existing in the local courts of such district (Sec. 2239, R. S.).

(Consolidated districts are those districts into which one or more previously existing districts have been merged.)

Plats and Diagrams.

Registers and receivers of all districts are also authorized to furnish plats, diagrams, etc.

Under the second section of the Act of March 3, 1883, authorizing a charge to be made for plats, diagrams, etc., the fees for the same are hereby fixed as follows:

For a diagram showing entries only.....$ 1.00
For a township plat showing entries, names of claimants, and character of entry 2.00
For a township plat showing entries, names of claimants, character of entry and number..... 3.00
For a township plat showing entries, names of claimants, character of entry, number and date of filing or entry, together with topography, etc. 4.00

The plat or diagram must be of standard size (Form 4-590b) and it must be a correct and complete delineation of the particular township. There is no legal authority under said statute for registers and receivers to furnish a plat of a section or subdivision, or any other fraction of a township, and to charge or receive therefor a proportionate part of the authorized fee.

For lists of lands sold, furnished State or Territorial authorities for the purpose of taxation, compensation for the same at the rate of 10 cents per entry.

Cancellation Notices.

For giving notices to contestants of the cancellation of any preemption, homestead, or timber-culture entry.....$ 1.00

No fees, commissions, or rewards are required or allowed to be paid at United States Land Offices for extra services of any character whatever; and registers and receivers are absolutely prohibited by law from charging or receiving, directly or indirectly, any fee or compensation not expressly author-

ized by law, or for any service not imposed upon them by law, or a greater fee for compensation in any case than specifically allowed by law. Officers charging or receiving illegal fees, compensation or gratuity are subject to summary dismissal from office, in addition to the penalties provided in title "Crimes," chapter "Official Misconduct," United States Revised Statutes. Illegal fees received by clerks, employees or agents are received by the land officers within the meaning and prohibitions of the law, and registers and receivers will be held personally and officially responsible therefor.

W. A. Richards, Commissioner.

Approved May 20, 1905:
E. A. Hitchcock, Secretary.

[Circular.]

Department of the Interior,
General Land Office,
Washington, D. C., May 20, 1905.

To Registers and Receivers of United States Land Offices in Alabama, Arkansas, Florida, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin.

Gentlemen: The following are the fees and commissions allowed by law in full for all services rendered by registers and receivers in your respective land districts:

Declaratory Statements.

Preemption declaratory statement	$ 2.00
Soldiers' and sailors' homestead declaratory statement	2.00
Coal land declaratory statement	2.00
Reservoir declaratory statement (Act January 13, 1897)	2.00

Mineral Applications and Adverse Claims.

For filing and acting upon each application for a patent	$10.00
For filing and acting upon each adverse claim	10.00

Timber and Stone Land Applications.

For filing and acting upon each application to purchase timber or stone lands, to be paid only when the entry is allowed.....$10.00

Homestead Entries, Original Entry Fees and Commissions, Payable When Application Is Made.

For 160 acres, at $1.25 per acre:	Fee, $10.00;	commissions,	$4.00;	total,	$14.00
For 80 acres, at 1.25 per acre:	Fee, 5.00;	commissions,	2.00;	total,	7.00
For 40 acres, at 1.25 per acre:	Fee, 5.00;	commissions,	1.00;	total,	6.00
For 160 acres, at 2.50 per acre:	Fee, 10.00;	commissions,	8.00;	total,	18.00
For 80 acres, at 2.50 per acre:	Fee, 5.00;	commissions,	4.00;	total,	9.00
For 40 acres, at 2.50 per acre:	Fee, 5.00;	commissions,	2.00;	total,	7.00

Final Homestead Commissions (No Fees), Payable When Certificate Issues.

For 160 acres, at $1.25 per acre	$ 4.00
For 80 acres, at 1.25 per acre	2.00
For 40 acres, at 1.25 per acre	1.00
For 160 acres, at 2.50 per acre	8.00
For 80 acres, at 2.50 per acre	4.00
For 40 acres, at 2.50 per acre	2.00

(The commissions payable on a homestead entry of 160 acres or less must be computed at the rate of 2 per centum strictly on the cash value of the land applied for, except where a different basis for such computation is fixed by statute in particular cases.)

Final Timber-Culture Commissions (No Fees), Payable When Certificate Issues.

For each final entry, irrespective of area or price.....$ 4.00

(There is no distinction between minimum and double-minimum lands in timber-culture entries.)

Military Bounty Land Warrants.

For locating a 160-acre warrant	$ 4.00
For locating a 120-acre warrant	3.00
For locating an 80-acre warrant	2.00
For locating a 60-acre warrant	1.50
For locating a 40-acre warrant	1.00

(No fees are chargeable on warrants issued prior to February 11, 1847.)

(Revolutionary bounty land scrip is received and accounted for as cash, and no fee is chargeable to parties presenting such scrip.)

Porterfield Warrants (Act of April 11, 1860).

For locating these warrants the same fees are chargeable as are allowed for military bounty land warrants.

Cash Entries.

The commissions of registers and receivers on cash sales of the public lands are paid by the United States, and no fees or commissions on such sales are chargeable to the purchasers, except in cases of homestead entries on ceded Indian reservations affected by the Act of May 17, 1900 (31 Stat., 179), and commuted under the provisions of the Act of January 26, 1901 (31 Stat., 740), in which cases the entryman is required to pay a commission of 2 per centum on the cash price of the land (31 L. D., 106).

State Selections.

For each final location of 160 acres (or fraction thereof) under any grant of Congress to States (except for agricultural colleges).....$ 2.00

No fees are chargeable on State swamp-land selections, but a fee of $2.00 is to be collected on each location of 160 acres, or fraction thereof, made with swamp-land indemnity certificates.

For method of computing fees, see "Railroad and Other Selections."

Railroad and Other Selections.

For each final location of 160 acres (or fraction thereof) by railroads or other corporations.....$ 2.00

(In computing the amount of fees payable on a list of State or railroad selections, the receiver will divide the total area by 160; the quotient will be the number of 160-acre selections on which a fee of $2.00 each is chargeable. Should the quotient consist of a fraction over a whole number, the legal fee of $2.00 will be collected for such fraction).

Agricultural College Scrip.

For each piece of agricultural college scrip located.....$ 4.00

Private Land Scrip, Valentine Scrip.

For each piece of scrip filed on unsurveyed lands.....$ 1.00
For each location of scrip..... 1.00

Supreme Court Scrip.

No fees or commissions are allowed on the location of supreme court scrip, nor on the location of Indian scrip or other private land scrip, except as specially provided for by law and instructions.

Reducing Testimony to Writing.

Fees for reducing testimony to writing are allowed at the rate of 15 cents for each 100 words in the following cases only:

1. In making final proof in preemption cases.
2. In making final proof in commuted and noncommuted homestead and timber-culture cases.
3. In establishing claims to mineral lands.
4. In establishing claims to timber and stone lands.
5. In hearings before registers and receivers in contested cases.
6. The same fees are also payable to registers and receivers for examining and approving final-proof testimony taken in homestead and timber-culture cases in which the proof has been taken before some other officer authorized by law to take testimony in such cases.

No testimony fees are chargeable by registers and receivers for taking final proofs in desert-land entries.

No fees are allowed for reducing testimony to writing in any case where the writing is not done by the register or receiver, or by the employees in their office. In computing the fees for reducing testimony to writing, only the words actually written must be charged for at the rate allowed by paragraphs 10 and 11 of section 2238, R. S., and no charge is to be made for the printed words. The words written must be actually counted and charged for, and there can be no uniform fee of a specified sum applicable to every case of the same

class of entries; that is, registers and receivers cannot fix the fee at $1.00 or any other sum for each preemption, final homestead, mineral or other entry.

Transcript from Record.

Registers and receivers are entitled to charge at the rate of 10 cents per hundred words for making transcripts of their records for individuals (Act of Congress of March 22, 1904).

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Consolidated districts are those districts into which one or more previously existing districts have been merged.

Plats and Diagrams.

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For a diagram showing entries only.....$ 1.00
For a township plat showing entries, names of claimants, and character of entry 2.00
For a township plat showing entries, names of claimants, character of entry, and number..... 3.00
For a township plat showing entries, names of claimants, character of entry, number and date of filing of entry, together with topography, etc. 4.00

The plat or diagram must be of standard size (Form 4-590b), and it must be a correct and complete delineation of the particular township. There is no legal authority under said statute for registers and receivers to furnish a plat of a section or subdivision, or any other fraction of a township, and to charge or receive therefor a proportionate part of the authorized fee. For lists of lands sold, furnished State or Territorial authorities for the purpose of taxation, compensation at the same rate of 10 cents per entry.

Cancellation Notices.

For giving notices to contestants of the cancellation of any preemption, homestead, or timber-culture entry.....$ 1.00

No fees, commissions, or rewards are required or allowed to be paid at United States Land Offices for extra services of any character whatever; and registers and receivers are absolutely prohibited by law from charging or receiving, directly or indirectly, any fee or compensation not expressly authorized by law, or for any service not imposed upon them by law, or a greater fee or compensation in any case than specifically allowed by law. Officers charging or receiving illegal fees, compensation, or gratuity are subject to summary dismissal from office, in addition to the penalties provided in title "Crimes," chapter "Official Misconduct," United States Revised Statutes. Illegal fees received by clerks, employees, or agents are received by the land officers within the meaning and prohibitions of the law, and registers and receivers will be held personally and officially responsible therefor.

W. A. Richards, Commissioner.

Approved May 20, 1905:
E. A. Hitchcock, Secretary.

Note.—For charges to be made by person taking acknowledgements, see page 446.

FEES OF LOCAL OFFICERS FOR REDUCING TESTIMONY TO WRITING.

Instructions.

Department of the Interior,
General Land Office,
Washington, D. C., June 5, 1908.

Registers and Receivers,
United States Land Offices.

Gentlemen: Your attention is directed to section 14 of the Act of Congress, approved May 29, 1908 (Public—No. 160), as follows:

Sec. 14. That subdivision ten of section twenty-two hundred and thirty-eight of the Revised Statutes of the United States be, and the same is hereby amended so as to read as follows:

"Tenth. Registers and receivers are allowed jointly at the rate of fifteen cents per hundred words for testimony reduced by them to writing for claimant in establishing preemption, desert land, and homestead rights."

So much of office circulars of May 20, 1905 (33 L. D., 629 and 633), as conflicts with the foregoing is hereby revoked.

Very respectfully,

Fred Dennett, Commissioner.

Approved:

Frank Pierce, Acting Secretary.

FEES FOR CARBON COPIES OF TESTIMONY IN CONTEST CASES.

Instructions.

Department of the Interior,
General Land Office,
Washington, D. C., May 28, 1910.

Registers and Receivers,
United States Land Offices.

Sirs: When the reducing of testimony to writing in a contest case is done by regularly appointed employees of your office, carbon copies may be furnished at the rate of 5 cents per page, irrespective of the number of words or figures thereon.

If the testimony is reduced to writing by a clerk employed under authority of the circular of February 15, 1909 (37 L. D., 448), such clerk will be allowed to make a charge of not exceeding 5 cents per page for each carbon copy, to be collected by him from the party to whom the same is furnished.

Very respectfully,

Fred Dennett.

Approved:

R. A. Ballinger, Secretary.

[In Reply Please Refer to Circular No. 80.]

Department of the Interior,
General Land Office,
Washington, February 2, 1912.

HOMESTEAD FEES.

Registers and Receivers,
United States Land Offices.

Sirs: Your attention is called to departmental decision in the case of Sorli vs. Berg (40 L. D., 259), which enforces section 2289, R. S., forbidding homestead entries by any person who is the proprietor of more than 160 acres, even though the excess be less than one acre. It follows that the same construction will, when applied to section 2290, R. S., overrule the departmental decision in the case of Alcide Guidney (8 Copp's Land Owner, 157), which formed the basis of the present rule for the collection of a fee of only $5 where the application embraced less than 81 acres. This new rule will require the payment of a fee of $10 under all applications for all homestead entries which embrace more than 80 acres, and you are, therefore, directed to require payments accordingly under all applications hereafter presented.

Very respectfully,

Fred Dennett, Commissioner.

Approved February 2, 1912:

Samuel Adams, First Assistant Secretary.

[Circular No. 125.]

ENACTMENT OF THREE-YEAR HOMESTEAD LAW.

Department of the Interior,
General Land Office,
Washington, June 10, 1912.

Sir: There is printed below a copy of an Act passed by Congress and signed by the President on June 6, 1912, amending sections 2291 and 2297 of the Revised Statutes of the United States

relating to homesteads and homestead entries. I call your particular attention to the last proviso to section 2291, reading as follows:

Provided, That the Secretary of the Interior shall, within sixty days after the passage of this Act, send a copy of the same to each homestead entryman of reecord who may be effected thereby by ordinary mail to his last known address, and any such entryman may, by giving notice within one hundred and twenty days after the passage of this Act, by registered letter to the register and receiver of the local land office, elect to make proof upon his entry under the law under which the same was made without regard to the provisions of this Act.

If you wish to elect to make proof upon your entry under the law under which the same was made, you must give notice thereof within 120 days after June 6, 1912, to the Register and Receiver of the local land office. This notice must be sent by registered mail and may not be sent in any other way. If, in your case, you desire to make proof under the law under which you made your entry, there is, for your convenience, inclosed herewith a printed notice of election, which you may fill out and use for that purpose.

Unless you elect in the manner and form and within the time above stated your entry will, without notice become subject to the provisions of said act of June 6, 1912; and in reaching a decision as to which course you prefer you should first carefully examine the provisions and requirements of the new act printed herewith.

Very respectfully,

FRED DENNETT,
Commisisoner.

Approved:
WALTER L. FISHER,
Secretary.

Note.—For form of election see page —. For copy of Act mentioned above see page —. For forms of notice of beginning and termination of leave of absence see page —.

ELECTION TO MAKE PROOF UNDER LAW UNDER WHICH ENTRY WAS MADE.

Act of June 6, 1912 (Public, No. 179).

(Place.)

(Date.)

Register and Receiver,
United States Land Office,

(Place.)

Sirs: On ———— I made Homestead Entry No. ——, for ———— Sec. ——, T. ——, R. ——, —— Meridian.

Under the privilege allowed by section 2291, U. S. R. S., as amended by the Act of June 6, 1912 (Public, No. 179), I hereby give notice that I elect to make proof on said entry under the law under which the same was made.

My post-office address is ————————

(Sign name in full.)

[Circular No. 142.]

THE THREE-YEAR HOMESTEAD LAW.

Department of the Interior,
Washington, July 15, 1912.

The Commissioner of the General Land Office.

Sir: Questions having arisen, through correspondence and otherwise, as to the construction to be given the several provisions of the

new homestead law of June 6, 1912 (Public, No. 179), I have thought it advisable at this time to give the following general outline of my understanding of this Act as affecting entries made prior to its passage, as well as those made thereafter; also to prescribe an order of procedure to be respected in matter of applications for reduction of the required area of cultivation and to promulgate a rule prescribing the amount of cultivation to be required respecting entries made prior to, but which are to be adjudicated under, the new law:

RESIDENCE.

(1) By the Act of June 6, 1912 (Public, No. 179), the period of residence necessary to be shown in order to entitle a person to patent under the homestead laws is reduced from five to three years, and the period within which a homestead entry may be completed is reduced from seven to five years. The three-year period of residence, however, is fixed not from the date of the entry but "from the time of establishing actual permanent residence upon the land." It follows, as a consequence, that credit can not be given for constructive residence for the period that may elapse between the date of the entry and that of establishing actual permanent residence upon the land.

(2) Honorably discharged soldiers and sailors of the War of the Rebellion and also of the Spanish War and the suppression of the insurrection in the Philippines, entitled to claim credit under their homestead entries for the period of their military service, may do so after they have "resided upon, improved, and cultivated the land for a period of at least one year" after they shall have commenced their improvements. This is the requirement of section 2305 of the Revised Statutes, which is in nowise affected by the Act of June 6, 1912. Respecting the cultivation to be required under said section it has been heretofore administered as requiring such showing as ordinarily applies in other cases preliminary to final proof, and as the new law exacts showing of cultivation of at least one-eighth of the area before final proof a showing should be exacted of a like amount for at least one year before final proof.

CULTIVATION.

(3) Prior to the passage of this act no specific amount of cultivation had been required respecting a homestead entry made under the general law; that is, an entry for 160 acres. With respect to every such entry section 2291 of the Revised Statutes had required proof of "cultivating the same for the term of five years immediately succeeding the time of filing affidavit." The words "the same" could refer only to the entry, and literally construed would require the cultivation of the entire tract entered for the term of five years. But a more liberal interpretation has properly obtained in the Land Department, and proof has been accepted upon a showing that the tract has been used in a husband-like manner, even though a smaller part of the entire entry had been actually cultivated than was in fact susceptible of cultivation. Furthermore, the long period of residence required (five years) has, in many instances, led to the acceptance of even a much smaller area of cultivation than husband-like methods and the character

of the land would have reasonably justified. Under exceptional circumstances grazing land has been accepted as the equivalent of cultivation, where the lands were valuable only for grazing purposes. This can not be justified under any known definition of "cultivation," although some special legislation with reference to lands formerly within Indian reservations seems to require such a construction with respect to these particular lands. Under this special legislation lands formerly within certain Indian reservations have been first specifically classified as grazing lands, and then specifically opened to entry under the homestead law. It would be impossible to administer these special laws unless grazing is accepted as a compliance therewith, where it can be shown that the lands are in fact not capable of cultivation. The classification, however, was general, and where the general area was grazing in character it was so classified, even where it embraced local areas susceptible of cultivation. Where such lands are in fact physically and climatically susceptible of tillage, the cultivation provisions of the new homestead law must be applied. By that law it is required that the claimant "cultivate not less than one-sixteenth of the area of his entry, beginning with the second year of the entry and not less than one-eighth beginning with the third year of the entry, and until final proof, except that in the case of entries under section 6 of the enlarged-homestead laws, double the area of cultivation herein provided shall be required, but the Secretary may, upon a satisfactory showing, under rules and regulations prescribed by him, reduce the required area of cultivation."

(4) The enlarged homestead Acts here referred to (35 Stat., 639), (36 Stat., 531), authorize entries of 320 acres of lands designated for this purpose by the Secretary of the Interior, and requires proof "that at least one-eighth of the area embraced in the entry was continuously cultivated to agricultural crops, other than native grasses, beginning with the second year of the entry, and that at least one-fourth of the area embraced in the entry was so continuously cultivated beginning with the third year of the entry." The residence provisions of the homestead law (and now of the new act) were applicable to these entries, with an exception relating to certain lands in the States of Utah and Idaho, with respect to which the requirement of resident is omitted, and in lieu thereof the entryman is required to cultivate twice the area required under the general provisions of the Act. The enlarged homestead Acts were intended to apply generally to lands suitable for cultivation only under dry-farming methods, and under these methods it is customary to summer fallow a portion of the land one year, planting it the following year. Under the new law such summer fallowing can not be accepted as the equivalent of cultivation, and this was equally true of the old laws, which required the land to be "cultivated to agricultural crops other than native grasses." The new law, however, does reduce the required area of cultivation to not less than one-sixteenth during the second year of the entry, and not less than one-eighth during the third year of the entry, and until final proof, except that in the case of entries under section 6 of the enlarged homestead laws, where residence is not required, one-eighth of the area of the entry must be cultivated during the second year, and one-quarter beginning with the third

year of the entry, and until final proof. In other words, the effect of the new law, with respect to the enlarged homestead Acts, except in instances where residence is not required, is generally to reduce by one-half the amount of cultivation to agricultural crops other than native grasses, which had previously been required.

CHARACTER OF CULTIVATION.

(5) In reducing the period of residence required in perfecting title to a tract of land entered under the homestead law from five to three years Congress has required that it be shown that an actual cultivation has been accomplished of at least certain specified portions of the land entered. This amount has been fixed at one-sixteenth, beginning with the second year of the entry, and one-eighth the following year, and until proof is offered. In view of the liberal reduction in the period of residence making it possible to secure title in three years, which would require a showing of but two years' cultivation of one-sixteenth of the area entered, and an additional one-sixteenth for but one year, a mere breaking of the soil will not meet the terms of the statute, but such breaking or stirring of the soil must also be accompanied by planting or the sowing of seed and tillage for a crop other than native grasses.

(6) It should be noted that under the new law the period within which the cultivation should be made is reckoned from the date of the entry.

REDUCTION OF CULTIVATION.

(7) The Secretary of the Interior is authorized, upon a satisfactory showing therefor, to reduce the required area of cultivation. In the administration of this provision it is not believed that the physical or financial disabilities or misfortunes of the entryman should be the grounds of reducton, but the sole question should be as to whether, under the peculiar conditions governing the tract entered, the exaction of cultivation of this particular tract by any entryman to the amount required is reasonable. The actual special physical and climatic conditions of the land entered in each case must therefore determine whether the required amount of cultivation should be reduced. It is desirable that the entryman should, wherever practicable, know in advance what, if any, reduction can properly be made; and therefore, as a general regulation governing applications for reduction in area of cultivation, it is directed that all entrymen who desire a reduction shall file applications therefor during the first year of the entry and upon forms to be prepared and furnished by the Commissioner of the General Land Office and distributed through the land offices. Where a satisfactory showing is filed in support of an application for reduction, you will submit the same with your recommendation in the premises; otherwise the application will be by you rejected subject to the usual right of appeal. The final granting of any reduction in area of cultivation rests with the Secretary of the Interior, who may in appropriate cases defer action until final proof.

EXCEPTIONS.

(8) The requirements as to cultivation do not apply to entries

made for lands within a reclamation project under the Act of June 17, 1902 (32 Stat., 388), nor to entries made in State of Nebraska under the Act of April 28, 1904 (33 Stat., 547), commonly known as the Kinkaid Act. In such instances the existing requirements as to cultivation made by the Acts named continue in force.

ENTRIES NOT REQUIRING RESIDENCE.

(9) In all entries made under section 6 of the enlarged homestead Acts (35 Stat., 639, and 36 Stat., 531), under which residence is not required, the entryman must cultivate at least one-eighth of the land in the second year after date of the entry and one-fourth of it during each year thereafter until he makes proof, and the existing period of cultivation required under said Acts is not reduced by the Act of June 6, 1912.

PERMISSIBLE ABSENCES FROM THE HOMESTEAD.

(10) The law clearly requires that the homestead entryman shall establish an actual residence upon the land entered within six months after the date of entry. Where, owing to climatic reasons, sickness, or other unavoidable cause, residence can not be commenced within this period, the Commissioner of the General Land Office may, within his discretion, allow the settler such additional period, not exceeding in the aggregate 12 months, within which to establish his residence. It is not meant thereby that because, for the reasons stated, residence may not be commenced within the six-months' period, that the settler is authorized to delay the commencement of residence beyond the required period and after the cause no longer exists. It is not thought necessary to require an application in advance in order to entitle the settler to this additional privilege, but the full circumstances will be open to investigation and consideration upon contest.

(11) After the establishment of residence the entryman is permitted to be absent from the land for one continuous period of not more than five months in each year following, provided that upon absenting himself for such period he has filed in the local land office notice of the beginning of such intended absence. He must also file notice with the local land office upon his return to the land following such period of absence.

(12) In according such extended periods of absence the Congress has dealt liberally with the homestead entryman, and bona fide continuous residence during the remaining portions of the three-year period must be clearly shown.

(13) A second period of absence immediately following the first period, even though the two periods occur in different years, reckoned from the date of the establishment of actual residence, will not be recognized, as it was never contemplated that an absence was permissible in excess of six months in view of the specific provisions for contest provided for in section 2197 of the Revised Statutes. There should be at least some substantial period of actual continuous residence upon the land separating the periods of absence accorded under the statute. Only those protracted absences with respect to which notice has been given as required by the statute will be respected either in case of contest or on final proof. This

law does not repeal or modify the Acts of March 2, 1889 (25 Stat., 854), June 25, 1910 (36 Stat., 864), and April 30, 1912 (37 Stat., —).

COMMUTATION.

(14) The privilege of commutation after 14 months' actual residence, as heretofore required by law, is unaffected by this legislation, excepting that the person commuting must be at the time a citizen of the United States. It has heretofore been the practice to permit the making of commutation proof upon a homestead entry by one who had merely declared his intention to become a citizen of the United States and prior to his actual naturalization. This practice, however, is abrogated, and in instances weher commutation proof is made after the passage of this Act it should be exacted and shown that the claimant, if foreign born, has become fully naturalized. Commutation proof can not, however, be made on entries under the enlarged homestead laws, the reclamation Act, or on entries made under any other homestead law which prohibits commutation.

DEATH OF THE HOMESTEAD ENTRYMAN.

(15) Where the person making homestead entry dies before the offer of final proof, those succeeding to the entry in the order prescribed under the homestead law, in order to complete such entry must show that the entryman had complied with the law in all respects to the date of his death, and that they have since complied with the law in all respects as would have been required of the entryman had he lived, excepting that they are relieved from any requirement of residence upon the land. It follows, as a consequence, that where the entryman had not complied with the law in all respects prior to his death the entry will be forfeited, and upon proof thereof such entry will be canceled. This will apply to all entries made under the new law and those made prior to the passage of this Act, where the entryman fails to elect to make proof under the law under which his entry was made.

ELECTION BY ENTRYMEN UNDER ENTRIES MADE PRIOR TO THIS ACT.

(16) The provisions of section 2291 of the Revised Statutes, as amended, in respect to the homestead period, are made applicable to all unperfected entries upon which residence is required, as well as to those made after June 6, 1912, where the entryman fails to elect to make proof under the law under which his entry was made within the prescribed time. This obligates the previous entryman to compliance with the law of June 6, 1912, respecting all of its provisions, the performance of which is exacted during the homestead period. As a consequence, while residence is reduced from five to three years, specific cultivation is exacted beginning with the second year after entry. Final proof of full compliance must be made within five years from date of entry.

RULE PRESCRIBED RESPECTING CULTIVATION TO BE SHOWN ON ENTRIES MADE PRIOR TO, BUT ADJUDICATED UNDER, NEW LAW.

(17) It may be that such prior entryman can not show that he had cultivated one-sixteenth of the area embraced in his entry beginning with the second year of the entry and one-eighth begin-

ning with the third year of the entry and until final proof, although he may have had during the year preceding his offer of proof one-eighth or more of the area embraced in his entry under actual cultivation, and may have cultivated one-sixteenth during the previous year, thus accomplishing the amount of cultivation required as a general rule under the new law, but not in the order and for the particular years required by that law.

(18) By the section I am authorized, under rules and regulations to be prescribed by me, to reduce the required area of cultivation. Acting thereunder, I have prescribed the following rule to govern action on proof where the homestead entry was made prior to June 6, 1912, but, through failure of election, must be adjudicated under the new law:

shows cultivation of at least one-sixteenth for one year and of at least one-eighth for the next year and each succeeding year until faith of the entryman appears, the proof will be acceptable if it

Respecting cultivation necessary to be shown upon such an entry, in all cases where, upon considering the whole record, the good final proof, without regard to the particular year of the homestead period in which the cultivation of the one-sixteenth was performed.

TIME FOR PROOF ON ENTRIES MADE BEFORE BUT ADJUDICATED UNDER NEW LAW.

(19) The new law also requires that the proof shall be made within five years from date of entry and if the entry is to be administered under that law the Department is not authorized to extend the period within which proof may be made, but when submitted after that time, in the absence of adverse claims, the entry may be submitted to the Board of Equitable Adjudication for confirmation.

(20) Respecting entries heretofore or hereafter made requiring payment for the land entered in annual installments extending beyond the period of residence required under the new law, the homesteader may make his proof as in other cases, but final certificate will not be issued until the entire purchase price has been paid.

(21) It may not be to the advantage of all entrymen to have their entries adjudicated under the new law, and the matter should be seriously considered before acting upon the election accorded previous entrymen under the statute.

(22) Unless they elect to make proof under the law under which their entries were made within the time accorded under the statute—i. e., on or before October 4, 1912—it will be incumbent upon the Department to exact compliance with the new law, subject tc the regulation herein above established.

The local officers will be furnished with copies hereof for their use when inquiries are made of them respecting the new law.

Very respectfully,

WALTER L. FISHER, Secretary.

[Public—No. 179.]

An Act to Amend Section Twenty-two Hundred and Ninety-one and Section Twenty-two Hundred and Ninety-seven of the Revised Statutes of the United States Relating to Homesteads.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-two hundred and

ninety-one and section twenty-two hundred and ninety-seven of the Revised Statutes of the United States be amended to read as follows:

"Sec. 2291. No certificate, however, shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself and by two credible witnesses that he, she, or they have a habitable house upon the land and have actually resided upon and cultivated the same for the term of three years succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she, or they will bear true allegiance to the Government of the United States, then in such case he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law: Provided, That upon filing in the local land office notice of the beginning of such absence, the entryman shall be entitled to a continuous leave of absence from the land for a period not exceeding five months in each year after establishing residence, and upon the termination of such absence the entryman shall file a notice of such termination in the local land office, but in case of commutation the fourteen months' actual residence as now required by law must be shown, and the person commuting must be at the time a citizen of the United States: Provided, That when the person making entry dies before the offer of final proof those succeeding to the entry must show that the entryman had complied with the law in all respects to the date of his death and that they have since complied with the law in all respects, as would have been required of the entryman had he lived, excepting that they are relieved from any requirement of residence upon the land: Provided further, That the entryman shall, in order to comply with the requirements of cultivation herein provided for, cultivate not less than one-sixteenth of the area of his entry, beginning with the second year of the entry, and not less than one-eighth, beginning with the third year of the entry, and until final proof, except that in the case of entries under section six of the enlarged-homestead law double the area of cultivation herein provided shall be required, but the Secretary of the Interior may, upon a satisfactory showing, under rules and regulations prescribed by him, reduce the required area of cultivation: Provided, That the above provision as to cultivation shall not apply to entries under the Act of April twenty-eighth, nineteen hundred and four, commonly known as the Kinkaid Act, or entries under the Act of June seventeenth, nineteen hundred and two, commonly known as the reclamation Act, and that the provisions of this section relative to the homestead period shall apply to all unperfected entries as well as entries hereafter made upon which residence is required: Provided, That the Secretary of the Interior shall, within sixty days after the passage of this Act, send a copy of the same to each homestead entryman of record who may be affected thereby, by ordinary mail to his last known address, and any such entryman may, by giving notice within one hundred and twenty days after the passage of this Act, by registered letter to the register and receiver of the local land office, elect to make proof upon his entry under the law under which the same was made without regard to the provisions of this Act."

"Sec. 2297. If, at any time after the filing of the affidavit as required in section twenty-two hundred and ninety and before the expiration of the three years mentioned in section twenty-two hundred and ninety-one, it is proved, after due notice to the settler, to the satisfaction of the register of the land office that the person having filed such affidavit has failed to establish residence within six months after the date of entry, or abandoned the land for more than six months at any time, then and in that event the land so entered shall revert to the Government: Provided, That the three years' period of residence herein fixed shall date from the time of establishing actual permanent residence upon the land: And provided further, That where there may be climatic reasons, sickness, or other unavoidable cause, the Commissioner of the General Land Office may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules ond regulations as he may prescribe."

Approved June 6, 1912.

INSTRUCTIONS UNDER THE ACT APPROVED JUNE 22, 1910 (36 STAT., 583), "TO PROVIDE FOR AGRICULTURAL ENTRIES ON COAL LANDS," WITH AMENDMENT OF SEPTEMBER 27, 1910.

Department of the Interior,
General Land Office,
Washington, September 8, 1910.

Registers and Receivers,
United States Land Offices.

The following instructions are issued for your guidance in the administration of the Act of Congress approved June 22, 1910 (36 Stat., 583), "An Act to provide for agricultural entries on coal lands," a copy of which is appended hereto.

THE PURPOSE OF THE ACT.

1. This act was not designed to operate as an implied repeal of any provision of the Act of March 3, 1909 (35 Stat., 844). There is no inconsistency between the two Acts, and both of them may have harmonious operation within their proper spheres. The earlier law provides a remedy in those cases in which entries, locations, and selections have been or may be made for lands which, subsequently to entry, location, or selection, have been, or may be, claimed, classified, or reported as being valuable for coal, while the later Act permits dispositions (therein named) to be made of lands valuable for coal, notwithstanding that they may have been previously withdrawn, or classified as such. The proviso to section 1 of the later Act also affords relief to those persons who, prior to June 22, 1910, in good faith, made entries, locations, or selections of lands which, at the date of such entries, locations, or selections, had been withdrawn or classified, as valuable for coal.

LANDS TO WHICH THE ACT IS APPLICABLE.

2. The Act applies to unreserved public lands of the United States in those States and Territories in which the coal-land laws are applicable, exclusive of the District of Alaska, which have been withdrawn from coal entry and not released therefrom, or which have been classified as coal lands or which are valuable for coal, though not withdrawn or classified. It does not change, repeal, or modify agreements or treaties made with Indian tribes for the disposition of their lands, or apply to lands ceded to the United States to be disposed of for the benefit of such tribes.

CLASSES OF ENTRIES.

3. Original entries made under the provisions of the Act or validated and confirmed thereby.

(a) Section 1 of the Act provides that from and after its passage, the unreserved public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as coal lands, or are valuable for coal, shall be subject to appropriate entry under the homestead laws, by actual settlers only, the desert-land law, selection under section 4 of the Act approved August 18, 1894, known as the Carey Act, and to withdrawal under the Act approved June 17, 1902, known as the Reclamation Act, whenever such entries, selections, or withdrawals shall be made with a view of obtaining

or passing title, with a reservation to the United States of the coal in such lands and of the right to prospect for, mine, and remove the same; but that no desert-land entry made under the provisions of this Act shall contain more than 160 acres, and that all homestead entries made thereunder shall be subject to the conditions, as to residence and cultivation, of entries provided for under the Act approved February 19, 1909, entitled "An Act to provide for an enlarged homestead."

Section 2 of the Act provides that any person desiring to make entry under the homestead laws or the desert-land law, any State desiring to make selection under section 4 of the Act of August 18, 1894, known as the Carey Act, and the Secretary of the Interior in withdrawing under the Reclamation Act lands classified as coal lands, or valuable for coal, with a view to securing or passing title to the same in accordance with the provisions of said Acts, shall state in the application for entry, selection, or notice of withdrawal that the same is made in accordance with and subject to the provisions of this Act.

With reference to homestead entries made under the provisions of this Act, attention is called to the fact that the said Act of February 19, 1909 (subject to which, as to residence and cultivation, such homestead entries must be made), provides that "no entry made under this Act shall be commuted" (35 Stat., 639). This, then, requires a residence for the full period of five years to entitle the homesteader to patent thereunder. The latter Act also provides that in addition to the proofs and affidavits required under section 2291 of the Revised Statutes the entryman shall prove by two credible witnesses that at least one-eighth of the area embraced in his entry was continuously cultivated to agricultural crops, other than native grasses, beginning with the second year of the entry, and that at least one-fourth of the area embraced in the entry was so continuously cultivated beginning with the third year of the entry.

(b) Non-mineral entries, selections, or locations initiated prior to the passage of the Act.

In the proviso to section 1 it is enacted that those who have initiated non-mineral entries, selections, or locations in good faith, prior to the passage of this Act, on lands withdrawn or classified as coal lands, may perfect the same under the provisions of the laws under which said entries were made, but shall receive the limited patent provided for in this act.

Upon receipt of these instructions, Registers and Receivers will promptly advise, by registered mail, all those who have initiated non-mineral entries, selections, or locations, prior to the passage of this Act, on lands withdrawn or classified as coal lands prior to entry, selection, or location, which have not been restored to entry under the general land laws, that they may perfect such non-mineral entries, selections or locations (if made in good faith) under the provisions of the laws under which said entries were made, but shall receive the limited patent provided for in this Act, unless the lands are restored to entry under the general land laws prior to final action upon such entries, selections, or locations, or unless, within thirty days from receipt of such notice, in cases where final proofs have been made, or prior to final proof where such proofs

have not been submitted, they submit evidence, preferably the sworn statements of experts or practical miners, that the land is, in fact, not coal in character, together with an application for classification, if the land is merely withdrawn, or for reclassification if classified as coal land. The application and evidence will be by you transmitted to this office and follow the procedure prescribed in section 5, paragraph 2, of these instructions.

NOTICE TO CHIEF OF FIELD DIVISION.

4. Nothing herein shall change the procedure of forwarding to the proper Chief of Field Division and the proper officers in charge of the national forest (if in such a forest) a copy of all applications to make final proof, final entry, or to purchase public lands, for the indorsement of "protest" or "no protest," as provided for in the circular of April 24, 1907, paragraph 5 et seq., except that where the only charge against the same in the office of the Chief of Field Division is that the land is coal in character, it will be unnecessary for him to protest same or make investigation, in view of the provisions of the Act.

HEARING TO DISPROVE CLASSIFICATION.

5. The last proviso to section 3 of the Act provides that nothing in the Act contained shall be held to deny or abridge the right to present and have prompt consideration of applications to locate, enter, or select, under the land laws of the United States, lands which have been classified as coal lands wih a view of disproving such classification and securing a patent without reservation.

Except in the case of those who present applications under section 2 of the Act, you will advise any person presenting a nqn-mineral application or filing for lands classified as coal lands that he will be allowed thirty days in which to submit evidence, preferably the sworn statements of experts or practical miners, that the land is in fact not coal in character, together with an application that the same be reclassified, and that in the event of failure to furnish said evidence within the time specified the application will be rejected. Such applications will be given proper serial numbers and notation thereof made upon the records, and when accompanied by the necessary evidence they will be forwarded to the General Land Office for action, where, if upon the showing made, and such other inquiry as may be deemed proper, the land is classified as agricultural land, the non-mineral application, in the absence of other objections, will be returned for allowance. If reclassification be denied, the applicant may, within thirty days from receipt of notice, apply for a hearing, at which he may be afforded an opportunity for showing that the classification is improper, in which event he must assume the burden of proof. If he should fail to apply for a hearing within the time allowed, his application to enter or file will be finally rejected. The rejection of such application, however, does not preclude the person from filing another application pursuant to section 2 of the Act.

DISPOSAL OF COAL DEPOSITS.

6. Right to Prospect for Coal—Bond to Be Filed.—By section 3 of the Act it is provided that upon satisfactory proof of full com-

pliance with the provisions of the laws under which entry is made, and of this Act, the entryman shall be entitled to a patent to the land entered by him, which patent shall contain a reservation to the United States of all the coal in the land so patented, together with the right to prospect for, mine, and remove the same; and that the coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal. Said section 3 also provides that any person qualified to acquire coal deposits or the right to mine and remove the coal under the laws of the United States shall have the right, at all times, to enter upon the lands selected, entered, or patented, as provided by this Act, for the purpose of prospecting for coal thereon upon the approval of the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting; and that any person who has acquired from the United States the coal deposits in any such land, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the coal therefrom, and mine and remove the coal, upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages.

As a condition precedent to the exercise of the right mentioned in this Act to prospect for coal, the person desiring so to prospect must file in the office of the Commissioner of the General Land Office, for submission to the Secretary of the Interior for his approval, a bond or undertaking to indemnify the non-mineral claimant in lawful possession under this Act from all damages that may accrue to the latter's crops and improvements on such lands by reason of such prospecting, the right to prospect to date from receipt of notice of approval of the bond. There must be filed with such bond evidence of service of a copy thereof upon the non-mineral claimant. The bond must be executed by the prospector as principal, with two competent sureties or a bond company that has complied with the provisions of the Act of August 13, 1894 (28 Stat., 289), as amended by the Act approved March 23, 1910 (36 Stat., 241), in the sum of $1,000, as per form hereto annexed. Coal declaratory statements for and application to purchase the coal deposits in lands entered, selected, or withdrawn under the Reclamation Act, as provided in section 2 of Act, will be received and filed at any time after such entry or selection has been received and allowed of record or such withdrawal has become a matter of record in your office; coal declaratory statements for and applications to purchase the coal deposits in those lands embraced in non-mineral entries, selections, or locations made in good faith, described in, and protected by, the proviso in section 1 of the Act, will be accepted and filed after it shall have been determined and become a matter of record in your office that such non-mineral entryman, selector, or locator shall receive the limited patent, prescribed in the act: Provided always, That such lands, or the coal deposits therein, have then been restored to disposition under the coal-land laws and the regulations in force.

APPLICATIONS, CERTIFICATES, AND PATENTS.

7. (a) Entries and selections under the provisions of this Act must have noted across the face of the application for entry or selection, before such application for entry or selection is signed by the applicant and presented to you, the following:

Application made in accordance with and subject to the provisions and reservations of the Act of June 22, 1910 (36 Stat., 583). (See Amendment, page —.)

Like notation will be made by you across the face of the notice of allowance (Form 4-279) issued on applications to enter or select lands under the provisions of this Act. (Amendment of September 27, 1910.)

The Secretary of the Interior in withdrawing, under the Reclamation Act, lands classified as coal lands, or valuable for coal, with a view to securing or passing title to the same in accordance with the provisions of said Acts, will state in the notice of withdrawal that the same is made in accordance with and subject to the provisions and reservations of the Act of June 22, 1910, supra.

(b) You will cause to be stamped on the final certificates issued to non-mineral claimants under this Act—

Patent to contain provisions, reservations, conditions, and limitations of Act of June 22, 1910 (36 Stat., 583).

There will be incorporated in patents issued to non-mineral claimants under this Act the following:

Excepting and reserving, however, to the United States all the coal in the lands so patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove the coal from the same upon compliance with the conditions and subject to the provisions and limitations of the Act of June 22 1910 (36 Stat., 583).

Immediately upon the notation upon your records of the filing and allowance of an entry, Carey Act selection, or a reclamation withdrawal under section 2 of the Act, and upon the ascertainment (which will be noted of record) that the non-mineral entryman, selector, or locator mentioned in and protected by the proviso in section 1 of the Act shall receive the limited patent prescribed therein, you will stamp on the tract book, on the same line with the entry and as near the descriptions as practicable, "Coal reserved to the United States, Act of June 22, 1910." You will also write on the margin of the plat, under the heading, "Coal reserved to the United States, Act of June 22, 1910," the description of the land in which the coal deposit has been reserved.

(c) Coal declaratory statements, applications to purchase, certificates, and patents issued under the provisions of this Act will describe the coal within legal subdivisions, and payment will be made at the price fixed for the whole acreage. Coal declaratory statements and applications to purchase under sections 2347-2352, Revised Statutes, for coal deposits disposable under this Act, must have noted across the face of same, before such coal declaratory statements or applications to purchase are signed by the coal claimants and presented to you, the words—

Patent will convey only the coal in the land and rights incident thereto in accordance with the conditions and limitations of the Act of June 22, 1910 (36 Stat., 583).

You will make like notation on each coal entry, final certificate, and notice of allowance issued by you for coal deposits disposable under this Act. (Amendment of September 27, 1910.)

There will be incorporated in patents to coal claimants for coal deposits disposed of under this Act substantially the following words:

Now know ye, that there is, therefore, pursuant to the law aforesaid, hereby granted by the United States unto the said grantee and to the heirs or successors and assigns of said grantee all the coal and the coal deposits in the land above described, together with the right to prospect for, mine, and remove the coal from the same upon compliance with the conditions of and subject to the limitations of the Act of June 22, 1910 (36 Stat., 583), entitled "An Act to provide for agricultural entries of coal lands."

Protests, contests, appeals, and other proceedings arising under these regulations and the Act shall be allowed and disposed of in accordance with the Rules of Practice.

Fred Dennett,
Commissioner.

Approved:
Frank Pierce,
Acting Secretary.

FORM OF BOND.

[Approved by Department, September 8, 1910.]
(Under Act of June 22, 1910, 36 Stat., 583.)

Know All Men by These Presents, That I ——— ——— of ——— (or we ——— ——— of ——— and ——— ——— of ———, as the case may be), a citizen (or citizens) of the United States, or having declared my (or our) intention to become a citizen (or citizens) of the United States, and never having held or purchased lands from the United States under the coal-land laws, either as an individual or as a member of an association, as principal (or principals), and ——— ——— of ———, ——— ——— of ———, as sureties, are held and firmly bound unto ——— ———, his heirs, executors, administrators, or assigns, in the full sum of one thousand dollars ($1,000), lawful money of the United States, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, and each and every one of us and them, jointly and severally, firmly by these presents.

Signed with our hands and sealed with our seals this —— day of ———, 191—.

The Condition of This Obligation Is Such, That whereas the above bounden ——— ——— is desirous of entering upon the ——, section ——, township ——, range ——, land district ———, for the purpose of prospecting for coal thereon under the provisions of the Act of June 22, 1910 (36 Stat., 583); and, whereas, the above-named ——— ——— is the lawful claimant of said land,

Now, Therefore, If the said above bounden parties, or either of them, or the heirs of either of them, their executors or administrators, upon demand, shall make good and sufficient recompense, satisfaction, and payment unto the said claimant, his heirs, executors or administrators, or assigns, for all such damages to the crops and improvements on said lands as the said claimant, his heirs, executors, administrators, or assigns shall suffer or sustain by reaon of his, the above bounden principal's, prospecting for coal on said described land, then this obligation shall be null and void; otherwise the same shall remain in full force and effect.

——— ———
Principal.

Signed and sealed in the presence of and witnesses by, the undersigned:

Residence ——— ———

——— ———

——— ———

Surety.

Residence ——— ——— Residence ——— ———

Surety.

Residence ——— ——— Residence ——— ———

An Act to Provide for Agricultural Entries on Coal Lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this Act unreserved public lands of the United States exclusive of Alaska which have been withdrawn or classified as coal lands, or are valuable for coal, shall be subject to appropriate entry under the homestead laws by actual settlers only, the desert-land law, to selection under section four of the Act approved August eighteenth, eighteen hundred and ninety-four, known as the Carey Act, and to withdrawal under the Act approved June seventeenth, nineteen hundred and two, known as the Reclamation Act, whenever such entry, selection, or withdrawal shall be made with a view of obtaining or passing title, with a reservation to the United States of the coal in such lands and of the right to prospect for, mine, and remove the same. But no desert entry made under the provisions of this Act shall contain more than one hundred and sixty acres, and all homestead entries made hereunder shall be subject to the conditions, as to residence and cultivation, of entries under the Act approved February nineteenth, nineteen hundred and nine, entitled "An Act to provide for an enlarged homestead:" Provided, That those who have initiated nonmineral entries, selections, or locations in good faith prior to the passage of this Act, on lands withdrawn or classified as coal lands may perfect the same under the provisions of the laws under which said entries were made, but shall receive the limited patent provided for in this Act.

Sec. 2. That any person desiring to make entry under the homestead laws or the desert-land law, any State desiring to make selection under section four of the Act of August eighteenth, eighteen hundred and ninety-four, known as the Carey Act, and the Secretary of the Interior in withdrawing under the Reclamation Act lands classified as coal lands, or valuable for coal, with a view of securing or passing title to the same in accordance with the provisions of said Acts, shall state in the application for entry, selection, or notice of withdrawal that the same is made in accordance with and subject to the provisions and reservations of this Act.

Sec. 3. That upon satisfactory proof of full compliance with the provisions of the laws under which entry is made, and of this Act, the entryman shall be entitled to a patent to the land entered by him, which patent shall contain a reservation to the United States of all the coal in the lands so patented, together with the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal. Any person qualified to acquire coal deposits or the right to mine and remove the coal under the laws of the United States shall have the right, at all times, to enter upon the lands selected, entered, or patented, as provided by this Act, for the purpose of prospecting for coal thereon upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal deposits in any such land, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the coal therefrom, and mine and remove the coal, upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: Provided, That the owner under such limited patent shall have the right to mine coal for use upon the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: Provided further, That nothing herein contained shall be held to deny or abridge the right to present and have prompt consideration of application to locate, enter, or select, under the land laws of the United States, lands which have been classified as coal lands with a view of disproving such classification and securing a patent without reservation.

Approved, June 22, 1910 (36 Stat. L., 583).

Department of the Interior,
General Land Office,

Washington, D. C., September 27, 1910.

Amendment to circular of September 8, 1910, of instructions under the Act approved June 22, 1910 (36 Stat., 583), "To provide for agricultural entries on coal lands."

Registers and Receivers,
United States Land Offices.

Sirs: The circular approved September 8, 1910, of instructions under the Act of June 22, 1910 (36 Stat., 583), entitled "An Act to provide for agricultural entries on coal lands," is hereby amended by striking out the second sentence of section 7, paragraph (a), thereof, and substituting therefor the following:

Like notation will be made by you across the face of the notice of allowance (Form 4-279) issued on applications to enter or select lands under the provisions of this Act.

Also by striking out the second sentence of paragraph (c) of said section 7, and substituting in lieu thereof the following:

You will make like notation on each coal entry final certificate, and notice of allowance issued by you for coal deposits disposable under this Act.

Very respectfully,
Fred Dennett, Commissioner.

Approved, September 27, 1910:
Frank Pierce, Acting Secretary.

[In Reply Please Refer to Circular No. 79.]

Department of the Interior,
General Land Office,

Washington, February 8, 1912.

Instructions Under the Acts of March 3, 1909 (35 Stat., 844), and June 22, 1910 (36 Stat., 583).

Registers and Receivers,
United States Land Offices.

Sirs: The purpose of this circular is to impress upon you the necessity for a careful review of the circulars of September 7, 1909 (38 L. D., 183), and September 8, 1910 (39 L. D., 179), relating respectively to the Acts of March 3, 1909, and June 22, 1910, providing for the granting of surface title to coal lands, it being apparent that there exists considerable misunderstanding as to the effect and distinguishing features of said Acts.

The following general suggestions will be found helpful:

(1) Where an entry, selection, or location is made upon lands subsequently classified, claimed, or reported as being valuable for coal, the entryman, selector, or locator, having submitted satisfactory proof of compliance with the laws under which he claims, may elect, upon the form provided, to accept a patent containing a reservation to the United States of all coal in the lands. (See circular of September 7, 1909.)

(2) Where an entry, selection, or location was made prior to June 22, 1910, upon lands which at the time of the initiation of such entry, selection, or location, were classified, claimed, or reported as valuable for coal, the claimant may perfect title under the provisions of the law under which his claim was initiated, but shall receive the limited patent provided for by Sec. 3 of the Act of June 22, 1910. There is no right of election in such cases and you should not accept elections as in case of entries coming within the provisions of the Act of March 3, 1909. The procedure in cases of this kind is set out in paragraph 3b, of the circular of September 8, 1910. The claimant may join issue as to the character of the land or may waive that right. Should he file such waiver or default after proper notice, the limited patent will issue in the absence of other objection, and in cases where the right to dispute the alleged coal character of the land is so waived or default made, upon the submission of satisfactory proof you should make proper notations on the final certificate and the records of your office.

(3) Since June 22, 1910, claims may be initiated with a view to acquiring surface title to lands which have been withdrawn or classified as coal lands or are valuable for coal, only in accordance with the provisions of the Act of that date. (See paragraph 3a, circular of September 8, 1910.)

It is believed that the foregoing, if carefully read in connection with the circulars referred to, will render it easy to determine whether the disposition of a case, where the coal question is involved, is governed by the Act of March 3, 1909, the Act of June 22, 1910, or the proviso to Sec. 1 of the latter Act, and

thus avoid the delay incurred by the necessity for supplemental action by this office.

Very respectfully,
Fred Dennett, Commissioner.

SECOND HOMESTEAD ENTRIES.

Under Special Acts of Congress and Under Equitable Rule.

Second homestead entries may be made by the following classes of persons, if they are otherwise qualified to make entry:

(a) By a former entryman who commuted his entry prior to June 5, 1900.

(b) By a homestead entryman who, prior to May 17, 1900, paid for lands to which he would have been afterwards entitled to receive patent without payment under "Free Homestead Act."

(c) By any person whose former entry was made prior to February 3, 1911, which entry has been specifically lost, forfeited or abandoned for any cause, provided the former entry was not canceled for fraud or relinquished or abandoned for a valuable consideration in excess of the filing fees paid on said former entry. If an entryman received for relinquishing or abandoning his entry an amount in excess of the fees and commissions paid to the United States at the time of making said entry, or if he sells his improvements for a sum in excess of said filing fees and relinquishes his entry in connection therewith, he can not make a second entry.

(d) By persons whose original entries have failed because of the discovery, subsequent to entry, of obstacles which could not have been foreseen, and which render it impracticable to cultivate the land, or because, subsequent to entry, the land becomes useless for agricultural purposes through no fault of the entryman. There is no specific statute authorizing the making of second entries and these classes of cases, and such entries are allowed under the general equitable power of the Land Department to grant relief in cases of accident and mistake.

(e) Any person who has already made final proof for less than 160 acres under the homestead laws, may, if he is otherwise qualified, make a second or additional entry for such an amount of public land as will, when added to the amount for which he has already made proof, not to exceed in the aggregate 160 acres.

See Enlarged Homestead Act, and instructions thereunder. Also Three-Year Homestead law, pages 303 to 311.

(f) Any person desiring to make a second entry must first select and inspect the lands he intends to enter, and then make application therefor on blanks furnished by the Register and Receiver. Each application must state the date and number of the former entry and the Land Office at which it was made, or give the section, township, and range in which the land entered was located. Any person coming within paragraphs (a), (b) or (e), above, must state the date when and how the former entry was perfected. Any person coming within paragraph (c) above, must show, by an oath of himself and some other person or persons, the time when his former entry was lost, forfeited or abandoned; that it was not cancelled for fraud; and the consideration, if any, received for the abandonment or relinquishment.

Any person mentioned in paragraph (d), above, must, in addition to the above evidence as to date and description of his former

entry, date of abandonment, and receipt of consideration, show, by duly corroborated affidavits, the grounds on which he seeks relief and that he used due diligence prior to entry to avoid any mistake.

(g) A person who has made and lost, forfeited, or abandoned an entry of less than 160 acres is not entitled to make another entry unless he comes within paragraph (c) or (d) above. Such a person can not make another entry merely because his first entry contained less than 160 acres.

(14) An additional homestead entry may be made by a person for such an amount of public lands adjoining lands then held and resided upon by him under his original entry as will, when added to such adjoining lands, not exceed in the aggregate 160 acres. An entry of this kind may be made by any person who has not acquired title to and is not, at the date of his application, claiming under any of the agricultural land laws, other settlement or entry made since August 30, 1890, and other lands, which, with the land then applied for, would exceed in the aggregate 320 acres, but the applicant will not be required to show any of the other qualifications of a homestead entryman. (See Enlarged Homestead Act and instructions thereunder, page 317; also Three-Year Homestead Law, pages 303-311.)

An adjoining farm entry may be made for such an amount of public lands lying contiguous to lands owned and resided upon by the applicant as will not, with the lands so owned and resided upon, exceed in the aggregate 160 acres, but no person will be entitled to make entry of this kind who is not qualified to make an original homestead entry. A person who has made one homestead entry, although for a less amount than 160 acres, and perfected title thereto, is not qualified to make an adjoining farm entry. (See also Reclamation Homesteads, page 171.)

EQUITABLE RULE.

As stated under subdivision (d) of the title Second Homesteads, a second homestead may be made where the original entry failed because of the discovery subsequent to entry, of obstacles which could not have been foreseen and which render it impracticable to cultivate the land, or because, subsequent to entry the land becomes useless for agricultural purposes through no fault of the entryman. This class of entries are allowed under the general equitable power of the Land Department to grant relief in cases of accident and mistake.

The Act of April 28, 1904, the Act of February 8, 1908, and the Act of February 3, 1911, are very similar in their provisions. These Acts did not divest the Department of its equitable powers to grant relief as above indicated on the ground of accident or mistake.

By decision of the Department in the case of Maraduke William Matthews, 38 L. D., 406, the rule announced in the case of Finsans Erhardt, 36 L. D., 154, paragraph 9 of the Instructions of June 11, 1907, 35 L. D., 590, and paragraph 8 of Instructions, February 29, 1908, 36 L. D., 291, which held to the contrary view, were overruled.

In the Maraduke case (38 L. D.) it is said, on page 408:

"Accident and mistake are inevitable in human affairs. The object of Congress and the object of the citizen in accepting its offer must sometimes fail of accomplishment through no fault of the entryman. The Land Department

having all and sole jurisdiction to administer the Act, necessarily had power to grant relief in such case as any other tribunal would have in similar case to relieve from the hardships of accident and mistake. Equitable rights are within the jurisdiction of the Land Department to determine. Brown v. Hitchcock, 173 U. S., 473-8. It may relieve against unforeseen occurrences not provided for by express statutory provisions. Williams v. U. S., 138 U. S., 514-24. The Land Department has been wont to exercise such powers from the earliest times. The rule of approximation is an example, express restrictive words as to area, that may be entered under various statutes being forced to yield, as to fractions of subdivisions to administrative necessity in order to effectuate the spirit and purpose of the land laws. Instructions 31 L. D., 225."

It is further said on page 409 of the opinion:

"This salutary and eminently equitable rule is not taken away by the Act of April 28, 1904, or of February 8, 1908, supra, or by any other Act of like or similar tenor and purpose. Those Acts are remedial merely. They show no purpose to take away salutary powers long exercised and exercised and existing from the organization of the Land Department. They are not Acts of limitation of power, but are grants of right in cases not within the ordinary and long exercised power of the Land Department. The instructions and decision in the Finsans Erhardt cite as authority for your decision, construing these acts to be limitations upon the power of the Land Department to grant relief in such cases, are clearly misconstructions of these relief acts and erroneous and will no longer be observed by your office.

The opinion concludes:

"The proofs satisfactorily show that the object of the homestead law and intent of Mathews in making his entry were defeated without his fault; that the entry was made by mistake as to the character of the land, which was utterly worthless and incapable of cultivation or to be improved and made a home. He never, in fact, intelligently exercised his homestead right and it will be recognized by your office as not exercised and not exhausted by his ill judged and futile attempt. If no other objection exists his application will be allowed."

(Marmaduke William Mathews, 38 L. D., 406. See also in this connection the case of Moritz v. Hinz, 37 L. D., 382).

By a comparison of the Act of April 28, 1904, February 8, 1908, and February 11, 1911, it will be observed that the Act of February 3, 1911, is a substantial re-enactment of the other two laws without specification as to grounds for second entry, with the additional provision that the benefits of the law should not be extended to those who relinquished their entry for valuable consideration in excess of the filing fees, paid by him on his original entry. It is, therefore, apparent that Congress did not divest the Department of its equitable powers to grant relief in such cases.

In the Moritz-Hinz case quoted, the Secretary said:

"Further, if the allegations set forth in Moritz patent, filed in support of his application for second entry, be true, he has never, in fact, enjoyed the privileges intended to be extended under the homestead laws. In July, 1905, he made his first entry after visiting and examining the land and judging it to be cultivable. Subsequently he found it was the bed of a lake, free from water only in dry weather, and he was unable to cultivate it. He had never improved or lived on it, having found it impossible to do so. He entered the land in good faith and relinquished it without consideration. Such statement, if true, rendered the land uninhabitable and uncultivable, so that the object of the homestead law was effectually defeated and he has not in fact had an entry under the homestead law. Departmental decision of June 1st, 1908, supra, holding otherwise, is vacated and recalled, nor is it necessary now to order a hearing on Hinz protest and application." . . .

The following instruction was issued by the General Land Office on March 29, 1910, concerning this subject.

"SECOND HOMESTEAD ENTRIES.

Instructions.

Department of the Interior,
General Land Office,
Washington, D. C., March 29, 1910.

Registers and Receivers, United States Land Office.

Gentlemen: Under date of February 1st, 1910, in the case of Maraduke William Mathews (38 L. D., 406) the Department held that the Act of February 8, 1908 (35 Stat., 6), was not a limitation of the equitable powers of the Land Department to grant relief in cases of accident and mistake. Second entries will, therefore, be allowed by this office, although the applicant does not come within the Act of February 8, 1908, supra, when it satisfactorily appears that obstacles which could not have been foreseen and which render it impracticable to cultivate the land, are discovered subsequent to entry, or where, subsequent to entry, and through no fault of the entryman, the land becomes useless for agricultural purposes. When an application is presented which can be allowed under any Act of Congress, you will allow the same as you are required to do under the present regulations. When an application is presented which does not come within the purview of any Act of Congress, you will not reject the same, but will make the proper notations on your records, and forward the application to this office, with appropriate recommendations.

Paragraphs 6 and 8 of circular of February 29, 1908 (36 L. D., 291), are accordingly modified.

Very respectfully,
Fred Dennett, Commissioner.

Approved:
R. A. Ballinger, Secretary."

Persons applying to make entry of lands under this rule are required to present their evidence, duly corroborated, showing the nature of the mistake or accident, the character of the land, how the mistake was made, what facts render the land uninhabitable and unfit for cultivation, when the mistake was discovered, what precautions, if any, were employed to avoid accident and mistake, in fact the affidavit should contain a complete statement of all the facts and circumstances surrounding the examination of the land before entry thereof.

In addition to the cases cited, the rule has been invoked in the following cases:

"A second homestead entry is permissible, where the first is made in good faith, where the land covered thereby is uninhabitable on account of the non-potable character of the water obtained thereon."

"Where the right to make a second rests on the non-inhabitable character of the land covered by the first, the facts as to the nature and condition of both tracts should be clearly set forth." (William E. Jones, 9 L. D., 207.)

"The inability of the entryman to secure water fit for domestic use on the first entered is a sufficient cause for the allowance of the second, if due diligence and good faith are made apparent." (Chas. F. Babcock, 9 L. D., 333.)

"A second homestead entry may be allowed, where the land embraced in the first does not afford a supply of water fit for domestic use, and the entryman does not appear to have been wanting in diligence or good faith." (Louis Wilson, 21 L. D., 391.)

"The right to make a second homestead entry may be recognized where the first was cancelled on account of the entryman's failure to establish residence, and such failure was due to circumstances beyond his control." (Chas. A. Garrison, 22 L. D., 179.)

"The right to make a second homestead entry may be accorded

to one who in good faith relinquishes the first on account of an adverse claim asserted to the land included therein." (Anna Lee, 24 L. D., 531.)

"The right to make a second may be recognized where the first through mistake was not made for the land intended, and was accordingly relinquished." (Bohun v. Brest, 24 L. D., 16.)

"A second entry will not be allowed on account of the worthless character of the land covered by the first, if such entry was made without examination of the land." (Alix Heipfner, 26 L. D., 23.)

"The right to make a second entry will not be accorded to one who relinquishes his prior entry on account of a money consideration or its equivalent." (North Perry Townsite et al. v. Malone, 23 L. D., 87.)

"Permission to make a second homestead entry may be accorded where there is no adverse claim, and the first is relinquished on account of the worthless character of the land, and the applicant, under the circumstances, is not chargeable with negligence in the premises." (John Herkowski, 28 L. D., 259.)

In cases where obstacles which could not have been foreseen and render it impracticable to cultivate the land are discovered subsequent to entry, such as the impossibility of obtaining water by digging wells or otherwise, or where subsequent to entry and through no fault of the homesteader, the lands become useless for agricultural purposes, as would the deposit of tailings in the channel of a stream, a dam is formed, causing the waters to overflow, entry may, in the discretion of the Commissioner of the General Land Office be cancelled and a second entry allowed; but in the event of a new entry the party will be required to show the same compliance with law in connection therewith as though he had not made a previous entry and must pay the proper fees and commissions on the same. (See page 19, Circular January 25, 1904.)

SPECIAL STATUTES.

Several statutes of special character have been enacted having a local application, viz.: Statutes of March 2, 1889 (25 Stat. L., 1004, Secs. 12, 13, 14 and 15; February 13, 1893 (27 Stat. L., 563), in reference to certain Indian lands in Oklahoma; September 29, 1890 (26 Stat. L., 496), in reference to certain forfeited railroad lands; March 3, 1891 (26 Stat. L., 1043), in reference to Crow Indian lands in Montana, and June 6, 1900 (31 Stat. L., 672-680), with reference to Comanche, Kiowa and Apache lands in Oklahoma Territory; as well as Acts opening Sioux Rosebud, Flathead, Coeur d'Alene, Colville, Yakima, Umatilla, Fort Peck, Fort Belknap, Fort Berthold, Cheyenne, Shoshone and other Indian reservations and lands, and the Act of June 11, 1906, relating to homestead entries within national forests.

These statutes make the exception in favor of parties who have made entries prior to the respective dates of approval thereof, leaving the rule to operate unimpaired with respect to cases thereafter arising.

For Act February 3, 1911, see page 531.

SUGGESTIONS TO HOMESTEADERS AND PERSONS DESIRING TO MAKE HOMESTEAD ENTRIES.

8. Right of wife of entryman to contest entry.
9. Right of minor children to make proof on entry.
10. Marriage of entrywoman after entry.
11. Entry by widow.
12. Entry by soldier or sailor.
13. By whom second homestead entries may be made.
14. Amount of land in additional entry.
15. Qualifications for adjoining farm entry.
16. How homestead entries are made.
17. Applications and affidavits.
18. Applications to make second homestead entries.
19. Preferred right of entry.
20. Applications by soldiers or sailors.
21. Rights of widows, heirs, or devisees under the homestead laws.
22. Final proof by widow.
23. Right of heirs of contestant to make entry.
24. Entry by widow or heirs of soldiers of War of Rebellion, Spanish-American War, or Philippine insurrection.
25. Residence and cultivation.
26. Amount of cultivation and improvements required.
27. Actual residence.
28. Residence and cultivation by soldiers and sailors.
29. Residence by sailor or soldier during enlistment.
30. Residence and cultivation by widows and minor children of soldiers and sailors.
31. Residence and cultivation by widow or heirs of settlers.
32. Cultivation of entry by widow or heirs of entryman.
33. Residence by entrymen elected to Federal, State, or county office.
34. Residence on land covered by adjoining farm entry.
35. Residence and cultivation by insane entryman.
36. Leaves of absence.
37. Commutation of homestead entries.
38. Homestead final and commutation proof.
39. By whom proof may be offered.
40. How proofs may be made.
41. Publication fees.
42. Duty of officers before whom proofs are made.
43. Fees and commissions.
44. Alienation.
45. Relinquishments.
46. Enlarged homestead entries; kind of land subject to entry.
47. Designation of lands.
48. Compactness; fees.
49. Form of application.
50. Additional entries.
51. Final proof on original and additional entries; commutation not allowed.
52. Right of entry.
53. Constructive residence on certain lands in Utah.
54. Constructive residence permitted on certain lands in Idaho.
55. Officers before whom applications and proofs may be made.

Appendix No. 1, page 342; No. 2, page 344; No. 3, page 345; No. 4, page 346; No. 5, page 348; No. 6, page 348; No. 7, page 348; No. 8, page 353; No. 9, page 337; No. 10, page 348; No. 11, page 337; No. 12, page 337; No. 13, page 337; No. 14, page 348; No. 15, page 337.

LIST OF UNITED STATES LAND OFFICES.

The General Land Office does not issue maps showing the location of vacant public land subject to entry. This information can be reliably obtained only from the records of the various district land offices, which are located as follows:

Alabama:
Montgomery.
Alaska:
Fairbanks.
Juneau.
Nome.
Arizona:
Phoenix.
Arkansas:
Camden.
Harrison.
Little Rock.
California:
Eureka.
Independence.
Los Angeles.
Redding.
Sacramento.
California—Cont.
San Francisco.
Susanville.
Visalia.
Colorado:
Del Norte,

Colorado—Cont.
Denver.
Durango.
Glenwood Sp'gs.
Hugo.
Lamar.
Leadville.
Montrose.
Pueblo.
Sterling.
Florida:
Gainesville.
Idaho:
Blackfoot.
Boise.
Coeur d'Alene.
Hailey.
Lewiston.
Kansas:
Dodge City.
Topeka.
Louisiana:
Baton Rouge.
Michigan:
Marquette.
Minnesota:
Cass Lake.
Minnesota—Cont.
Crookston.
Duluth.
Mississippi:
Jackson.
Missouri:
Springfield.
Montana:
Billings.
Bozeman.
Glasgow.
Great Falls.
Havre.
Helena.
Kalispell.
Lewistown.
Miles City.
Missoula.
Nebraska:
Alliance.
Broken Bow.
Lincoln.
North Platte.
O'Neill.
Valentine.
Nevada:
Carson City.
New Mexico:
Clayton.
Fort Sumner.
Las Cruces.
Roswell.
Santa Fe.
Tucumcari.
North Dakota:
Bismarck.
Devils Lake.
Dickinson.
Fargo.
Minot.
Williston.
Oklahoma:
Guthrie.
Lawton.
Woodward.
Oregon:
Burns.
La Grande.
Lakeview.
Portland.
Roseburg.
The Dalles.
Vale.
South Dakota:
Bellefourche.
Chamberlain.
Gregory.
Lemmon.
Pierre.
Rapid City.
Timber Lake.
Utah:
Salt Lake City.
Vernal.
Washington:
North Yakima.
Olympia.
Seattle.
Spokane.
Vancouver.
Walla Walla.
Waterville.
Wisconsin:
Wausau.
Wyoming:
Buffalo.
Cheyenne.
Douglas.
Evanston.
Lander.
Sundance.

No specific descriptions of the character of the land, climate, water, or timber can be given by the General Land Office.

Unoccupied public lands, subject to settlement and entry, are to be found in all the States and Territories west of the Mississippi River, except Iowa and Texas. There is also considerable vacant public land in the States of Michigan, Florida, Alabama, and Mississippi.

Persons who desire to make homestead entry should first decide where they wish to locate, then go or write to the local land office of the district in which the lands are situated, and obtain from the records diagrams of vacant lands.

A personal inspection of the lands should be made to ascertain if they are suitable, and, when satisfied on this point, entry can be made at the local land office in the manner prescribed by law, under the direction of the local land officers, who will give the applicant full information. Should a person desire to obtain information in regard to vacant lands in any district before going there for personal inspection, he should address the register and receiver of the particular local land office, who will give such information as is available. The local land officers can not, however, be expected to furnish extended lists of vacant lands subject to entry, except through township plats, which they are authorized to sell as hereinafter explained.

[Circular No. 10.]

SUGGESTIONS TO HOMESTEADERS AND PERSONS DESIRING TO MAKE HOMESTEAD ENTRIES.

Department of the Interior,
General Land Office,
Washington, D. C., April 20, 1911.

1. Persons desiring to make homestead entries should first fully inform themselves as to the character and quality of the lands they desire to enter, and should in no case apply to enter until they have visited and fully examined each legal subdivision for which they make application, as satisfactory information as to the character and occupancy of public lands can not be obtained in any other way.

As each applicant is required to swear that he is well acquainted

with the character of the land described in his application, and as all entries are made subject to the rights of prior settlers, the applicant can not make the affidavit that he is acquainted with the character of the land, or be sure that the land is not already appropriated by a settler, until after he has actually inspected it.

Information as to whether a particular tract of land is subject to entry may be obtained from the Register or Receiver of the land district in which the tract is located, either through verbal or written inquiry, but these officers must not be expected to give information as to the character and quality of unentered land or to furnish extended lists of lands subject to entry, except through plats and diagrams which they are authorized to make and sell as follows:

For a township diagram showing entered land only	$1.00
For a township plat showing form of entries, names of claimants, and character of entries	2.00
For a township plat showing form of entries, names of claimants, character of entry, and number	3.00
For a township plat showing form of entries, names of claimants, character of entry, number, and date of filing or entry, together with topography, etc.	4.00

Purchasers of township diagrams are entitled to definite information as to whether each smallest legal subdivision, or lot, is vacant public land. Registers and Receivers are therefore required in case of an application for a township diagram showing vacant lands to plainly check off with a cross every lot or smallest legal subdivision in the township which is not vacant, leaving the vacant tracts unchecked. There is no authority for Registers and Receivers to charge and receive a fee of 25 cents for plats and diagrams of a section or part of a section of a township.

If because of the pressure of current business relating to the entry of lands Registers and Receivers are unable to make the plats or diagrams mentioned above, they may refuse to furnish the same and return the fee to the applicant, advising him of their reason for not furnishing the plats requested, that he may make the plats or diagrams himself, or have same made by his agent or attorney, and that he may have access to the plats and tract books of the local land office for this purpose, provided such use of the records will not interfere with the orderly dispatch of the public business.

A list showing the general character of all the public lands remaining unentered in the various counties of the public-land States on the 30th day of the preceding June may be obtained at any time by addressing "The Commissioner of the General Land Office, Washington, D. C."

All blank forms of affidavits and other papers needed in making application to enter or in making final proofs can be obtained by applicants and entrymen from the land office for the district in which the land lies.

2. Kind of Land Subject to Homestead Entry.—All unappropriated surveyed public lands adaptable to any agricultural use are subject to homestead entry if they are not mineral or saline in character and are not occupied for the purposes of trade or business and have not been embraced within the limits of any withdrawal, reservation, or incorporated town or city, but homestead entries on lands within certain areas (such as lands in Alaska, lands withdrawn

under the Reclamation Act, certain ceded Indian lands, lands within abandoned military reservations, agricultural lands within national forests, lands in western and central Nebraska, and lands withdrawn, classified, or valuable for coal) are made subject to the particular requirements of the laws under which such lands are opened to entry. None of these particular requirements are set out in these suggestions, but information as to them may be obtained by either verbal or written inquiries addressed to the Register and Receiver of the land office of the district in which such lands are situated.

How Claims Under the Homestead Law Originate.

3. Claims under homestead laws may be initiated either by settlement on surveyed or unsurveyed lands of the kind mentioned in the foregoing paragraph, or by the filing of a soldier's or sailor's declaratory statement, or by the presentation of an application to enter any surveyed lands of that kind.

4. Settlements may be made under the homestead laws by all persons qualified to make either an original or a second homestead entry, as explained in paragraphs 6 and 13, and in order to make settlement a settler must personally go upon and improve or establish residence on the land he desires. By making settlement in this way the settler gains the right to enter the land settled upon as against all other persons, but not as against the Government should the land be withdrawn by it for other purposes.

A settlement made on any part of a surveyed technical quarter section gives the settler the right to enter all of that quarter section which is then subject to settlement, although he may not place improvements on each 40-acre subdivision; but if the settler desires to initiate a claim to surveyed tracts which form a part of more than one technical quarter section he should perform some act of settlement—that is, make some improvement—on each of the smallest legal subdivisions desired. When settlement is made on unsurveyed lands, the settler must plainly mark the boundaries of all the lands claimed by him.

The settlement must be made by the settler in person, and can not be made by his agent, and each settler must within a reasonable time after making his settlement, establish and thereafter continuously maintain an actual residence on the land, and if he fails to do this, or, in case of his death, his widow, heirs, or devisees fail to continue cultivation or residence, or if he, or his widow, heirs, or devisees, fail to make entry within three months from the time he first settles on surveyed land, or within three months from the filing in the local land office of the plat of survey of unsurveyed lands on which he made settlement, the right of making entry of the lands settled on will be lost in case of an adverse claim, and the land will become subject to entry by the first qualified applicant.

5. Soldiers' and sailors' declaratory statements may be filed in the land office for the district in which the lands desired are located by any persons who have been honorably discharged after ninety days' service in the Army or Navy of the United States during the War of the Rebellion or during the Spanish-American War or the Philippine insurrection. Declaratory statements of this character may be filed either by the soldier or sailor in person or through his agent acting under a proper power of attorney, but the soldier or

sailor must make entry of the land in person, and not through his agent, within six months from the filing of his declaratory statement, or he may make entry in person without first filing a declaratory statement if he so chooses. If a declaratory statement is filed by a soldier or sailor in person, it must be executed by him before one of the officers mentioned in paragraph 16, in the county or land district in which the land is situated; if filed through an agent, the affidavit of the agent must be executed before one of the officers above mentioned, but the soldier's affidavit may be executed before any officer using a seal and authorized to administer oaths and not necessarily within the county or land district in which the land is situated.

By Whom Homestead Entries May Be Made.

6. Homestead entries may be made by any person who does not come within either of the following classes:

(a) Married women, except as hereinafter stated.

(b) Persons who have already made homestead entry, except as hereinafter stated.

(c) Foreign-born persons who have not declared their intention to become citizens of the United States.

(d) Persons who are the owners of more than 160 acres of land in the United States.

(e) Persons under the age of 21 years who are not the heads of families, except minors who make entry as heirs, as hereinafter mentioned, or who have served in the Army or Navy during the existence of an actual war for at least 14 days.

(f) Persons who have acquired title to or are claiming, under any of the agricultural public-land laws, through settlement or entry made since August 30, 1890, any other lands which, with the lands last applied for, would amount in the aggregate to more than 320 acres. See, however, modification hereof in the regulations concerning enlarged homestead entries (par. 52).

7. A married woman who has all of the other qualifications of a homesteader may make a homestead entry under any one of the following conditions:

(a) Where she has been actually deserted by her husband.

(b) Where her husband is incapacitated by disease or otherwise from earning a support for his family and the wife is really the head and main support of the family.

(c) Where the husband is confined in a penitentiary and she is actually the head of the family.

(d) Where the married woman is the heir of a settler or contestant who dies before making entry.

(e) Where a married woman made improvements and resided on the lands applied for before her marriage, she may enter them after marriage if her husband is not holding other lands under an unperfected homestead entry at the time she applies to make entry.

8. If an entryman deserts his wife and abandons the land covered by his entry, his wife then has the exclusive right to contest the entry if she has continued to reside on the land, and on securing its cancellation she may enter the land in her own right, or she may continue her residence and make proof in the name of and as the agent for her husband, and patent will issue to him.

9. If an entryman deserts his minor children and abandons his

entry after the death of his wife, the children have the same right to make proof on the entry as the wife could have exercised had she been deserted during her lifetime.

10. The marriage of the entrywoman after making entry will not defeat her right to acquire title if she continues to reside upon the land and otherwise comply with the law. A husband and wife can not, however, maintain separate residences on homestead entries held by each of them, and if, at the time of marriage, they are each holding an unperfected entry on which they must reside in order to acquire title, they can not hold both entries. In such case they may elect which entry they will retain and relinquish the other.

11. A widow, if otherwise qualified, may make a homestead entry notwithstanding the fact that her husband made an entry and notwithstanding she may be at the time claiming the unperfected entry of her deceased husband.

12. A person serving in the Army or Navy of the United States may make a homestead entry if some member of his family is residing on the lands applied for, and the application and accompanying affidavits may be executed before the officer commanding the branch of the service in which he is engaged.

13. Second homestead entries may be made by the following classes of persons if they are otherwise qualified to make entry:

(a) By a former entryman who commuted his entry prior to June 5, 1900.

(b) By a homestead entryman who, prior to May 17, 1900, paid for lands to which he would have been afterwards entitled to receive patent without payment, under the "Free-Homes Act." (Appendix No. 3.)

(c) By any person whose former entry was made prior to February 3, 1911, which entry has been subsequently lost, forfeited, or abandoned for any cause, provided the former entry was not canceled for fraud or relinquishment or abandoned for a valuable consideration in excess of the filing fees paid on said former entry. If an entryman received for relinquishing or abandoning his entry an amount in excess of the fees and commissions paid to the United States at time of making said entry, or if he sells his improvements for a sum in excess of such filing fees and relinquishes his entry in connection therewith, he can not make a second entry.

(d) By persons whose original entries have failed because of the discovery, subsequent to entry, of obstacles which could not have been foreseen and which render it impracticable to cultivate the land, or because, subsequent to entry, the land becomes useless for agricultural purposes through no fault of the entryman. There is no specific statute authorizing the making of second entries in these classes of cases, and such entries are allowed under the general equitable power of the Land Department to grant relief in cases of accident and mistake.

(e) Any person who has already made final proof for less than 160 acres under the homestead laws may, if he is otherwise qualified, make a second or additional entry for such an amount of public land as will, when added to the amount for which he has already made proof, not exceed in the aggregate 160 acres. See, however, instructions under the Enlarged Homestead Act (par. 52).

(f) Any person desiring to make a second entry must first

select and inspect the lands he intends to enter and then make application therefor on blanks furnished by the Register and Receiver. Each application must state the date and number of the former entry and the land office at which it was made, or give the section, township, and range in which the land entered was located. Any person coming within paragraphs (a), (b), or (c) above must state the date when and how the former entry was perfected. Any person coming within paragraph (c) above must show, by the oath of himself and some other person or persons, the time when his former entry was lost, forfeited, or abandoned; that it was not canceled for fraud; and the consideration, if any, received for the abandonment or relinquishment.

Any person mentioned in paragraph (d) above must, in addition to the above evidence as to date and description of his former entry, date of abandonment, and receipt of consideration, show, by duly corroborated affidavit, the grounds on which he seeks relief, and that he used due diligence prior to entry to avoid any mistake.

(g) A person who has made and lost, forfeited, or abandoned an entry of less than 160 acres is not entitled to make another entry unless he comes within paragraph (c) or (d) above. Such a person can not make another entry merely because his first entry contained less than 160 acres.

14. An additional homestead entry may be made by a person for such an amount of public lands adjoining lands then held and resided upon by him under his original entry as will, when added to such adjoining lands, not exceed in the aggregate 160 acres. An entry of this kind may be made by any person who has not acquired title to and is not, at the date of his application, claiming under any of the agricultural public-land laws, through settlement or entry made since August 30, 1890, any other lands which, with the land then applied for, would exceed in the aggregate 340 acres, but the applicant will not be required to show any of the other qualifications of a homestead entryman. See, however, instructions under the Enlarged Homestead Act (par. 50).

15. An adjoining farm entry may be made for such an amount of public lands lying contiguous to lands owned and resided upon by the applicant as will not, with the lands so owned and resided upon, exceed in the aggregate 160 acres; but no person will be entitled to make entry of this kind who is not qualified to make an original homestead entry. A person who has made one homestead entry, although for a less amount than 160 acres, and perfected title thereto is not qualified to make an adjoining farm entry.

How Homestead Entries Are Made.

16. A homestead entry may be made by the presentation to the land office of the district in which the desired lands are situated of an application properly prepared on blank forms prescribed for that purpose and sworn to before either the Register or the Receiver, or before a United States Commissioner, or a United States Court Commissioner, or a Judge, or a Clerk of a Court of record, in the county or parish in which the land lies, or before any officer of the classes named who resides in the land district and nearest and most accessible to the land, although he may reside outside of the county in which the land is situated.

17. Each application to enter and the affidavits accompanying it must recite all the facts necessary to show that the applicant is acquainted with the land; that the land is not to the applicant's knowledge, either saline or mineral in character; that the applicant possesses all of the qualifications of a homestead entryman; that the application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation; that the applicant will faithfully and honestly endeavor to comply with the requirements of the law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that the applicant is not acting as the agent for any person, persons, corporation, or syndicate in making such entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered or any part thereof; that the application is not made for the purpose of speculation, but in good faith to obtain a home for the applicant, and that the applicant has not directly or indirectly made and will not make, any agreement or contract in any way or manner with any person or persons, corporation, or syndicate whatsoever by which the title he may acquire from the Government to the lands applied for shall inure, in whole or in part, to the benefit of any person except himself.

18. All applications to make second homestead entries must, in addition to the facts specified in the preceding paragraph, show the number and date of the applicant's original entry, the name of the land office where the original entry was made, and the description of the land covered by it, and it should state fully all the facts which entitle the applicant to make a second entry.

19. All applications by persons claiming as settlers must, in addition to the facts required in paragraph 17, state the date and describe the acts of settlement under which they claim a preferred right of entry, and applications by the widows, devisees, or heirs of settlers must state facts showing the death of the settler and their right to make entry; that the settler was qualified to make entry at the time of his death, and that the heirs or devisees applying to enter are citizens of the United States, or have declared their intentions to become such citizens, but they are not required to state facts showing any other qualifications of a homestead entryman, and the fact that they have made a former entry will not prevent them from making an entry as such heirs or devisees, nor will the fact that a person has made entry as the heir or devisee of the settler prevent him from making an entry in his own individual right, if he is otherwise qualified to do so.

20. All applications by soldiers, sailors, or their widows, or the guardians of their minor children should be accompanied by proper evidence of the soldier's or sailor's service and discharge, and of the fact that the soldier or sailor had not, prior to his death, made an entry in his own right. The application of the widow of the soldier or sailor must also show that she is unmarried, and that the right has not been exercised by any other person. Applications for the children of soldiers or sailors must show that the father died without having made entry, that the mother died or remarried without making entry, and that the person applying to make entry for them is their legally appointed guardian.

RIGHTS OF WIDOWS, HEIRS, OR DEVISEES UNDER THE HOMESTEAD LAWS.

21. If a homestead settler dies before he makes entry, his widow has the exclusive right to enter the lands covered by his settlement. If there be no widow, the right to enter the lands covered by the settlement passes to the persons who are named as heirs of the settler by the laws of the State in which the land lies. If there be no widow or heirs the right to enter the lands covered by the settlement passes to the person to whom the settler has devised his rights by a proper will; but a devisee of the claim will not be entitled to take when there is a widow or an heir of the settler. The persons to whom the settler's right of entry passes must make entry within the time named in paragraph 4 or they will forfeit their right to the next qualified applicant. They may, however, make entry after that time if no adverse claim has attached.

22. If a homestead entryman dies before making final proof, his rights under his entry will pass to his widow; or if there be no widow, and the entryman's children are all minors, the right to a patent vests in them upon making publication of notice and proof of the death of the entryman without a surviving widow, that they are the only minor children and that there are no adults heirs of the entryman, or the land may be sold for the benefit of such minor children in the manner in which other lands belonging to minors are sold under the laws of the State or Territory in which the lands are located.

If the children of a deceased entryman are not all minors and his wife is dead, his rights under the entry pass to the persons who are his heirs under the laws of the State or Territory in which the lands are situated. If there be no widow or heirs of the entryman, the rights under the entry pass to the person to whom the entryman has devised his rights by proper will, but a devisee of the entry will be entitled to take only in the event there is no widow or heir of the entryman.

23. If a contestant dies after having secured the cancellation of an entry his right as a successful contestant to make entry passes to his heirs; and if the contestant dies before he has secured the cancellation of the entry he has contested, his heirs may continue the prosecution of his contest and make entry if they are successful in the contest. In either case to entitle the heirs to make entry they must show that the contestant was a qualified entryman at the date of his death; and in order to earn a patent the heirs must comply with all the requirements of the law under which the entry was made to the same extent as would have been required of the contestant had he made entry.

No foreign-born persons can claim rights as heirs under the homestead laws unless they have become citizens of the United States or have declared their intentions to become citizens.

24. The unmarried widow, or, in case of her death or remarriage, the minor children of soldiers and sailors who were honorably discharged after 90 days' actual service during the War of the Rebellion, the Spanish-American War, or the Philippine insurrection may make entry as such widow or minor children if the soldier

or sailor died without making entry. The minor children must make a joint entry through their duly appointed guardian.

Residence and Cultivation.

(See also Commutation and Final Proof.)

25. The residence and cultivation required by the homestead law means a continuous maintenance of an actual home on the land entered, to the exclusion of a home elsewhere, and continuous annual cultivation of some portion of the land. A mere temporary sojourn on the land, followed by occasional visits to it once in six months or oftener, will not satisfy the requirements of the homestead law, and may result in the cancellation of the entry.

The law contemplates that the entryman make the land the home of himself and his family, and the failure of his family to reside on the land with him raises a presumption against the bona fides of his residence which must be rebutted at the time of proof.

26. No specific amount of either cultivation or improvements is required where entry is made under the general homestead law, but there must in all cases be such continuous improvement and such actual cultivation as will show good faith of the entryman. Lands covered by such a homestead entry may be used for grazing purposes if they are more valuable for pasture than for cultivation to crops. When lands of this character are used for pasturage, actual grazing will be accepted in lieu of actual cultivation. The fact that lands covered by homesteads are of such a character that they can not be successfully cultivated or pastured will not be accepted as an excuse for failure to either cultivate or graze them.

Grazing can not be accepted in lieu of cultivation when entry is made under the enlarged homestead Act. (See par. 51.)

Homestead Entries for Coal Lands.—Where homestead entry is made under the Act of June 22, 1910 (36 Stat., 583), for land which has been withdrawn or classified as coal land, or which is valuable for coal, the entryman must show improvements as above stated and must further comply with the requirements of the enlarged homestead Act of February 19, 1909 (35 Stat., 639), as to residence and cultivation; that is, he must cultivate at least one-eighth of the area of the entry to agricultural crops other than native grasses, beginning with the second year of the entry, and at least one-fourth of the area of the entry beginning with the third year of the entry and continuing to the date of proof. Entries in this class can not be commuted. (See par. 51.)

27. Actual residence on the lands entered must begin within six months from the date of all homestead entries, except additional entries and adjoining farm entries of the character mentioned in paragraphs 14 and 15, and residence with improvements and annual cultivation must be continued until the entry is five years old, except in cases hereinafter mentioned; but all entrymen who actually resided upon and cultivated lands entered by them prior to making such entries and while the land was subject to settlement or entry by them, may make final proof at any time after entry when they can show five years' residence and cultivation.

An entryman can not claim credit for residence prior to entry during the time when the land was not subject to settlement or

entry by him, as, for instance, while it was embraced in the entry of another.

Under certain circumstances leaves of absence may be granted in the manner pointed out in paragraph 36 of these suggestions, but the entryman can not claim credit for residence during the time he is absent under such leave.

An extension of time for establishing residence can be granted only in cases where the entryman is actually prevented by climatic hindrances from establishing his residence within the required time. This extension can not be granted in advance; but on making final proof or in case a contest is instituted against the entry the entryman may show the storms, floods, blockades of snow or ice, or other climatic reasons which rendered it impossible for him to commence residence within six months from date of entry, and he must as soon as possible after the climatic hindrances disappear establish his residence on the land entered. Failure to establish residence within six months from date of entry will not necessarily result in a forfeiture of the entry, provided the residence be established prior to the intervention of an adverse claim.

After an entryman has fully complied with the law and has submitted proof he is no longer required to live on the land. But all entrymen should understand that if they discontinue their residence on the land prior to the issuance of patent they do so at their risk, and by so doing they may place themselves in such a position that they may be unable to comply with requirements made by the General Land Office, should their proof on examination be found unsatisfactory.

28. Residence and cultivation by soldiers and sailors of the classes mentioned in paragraph 5 must begin within six months from the time they file their declaratory statements regardless of the time they make entry under such statement, but if they make entry without filing a declaratory statement they must begin their residence within six months from the date of such entry, and residence thus established must continue in good faith, with improvements and annual cultivation for at least one year, but after one year's residence and cultivation the soldier or sailor is entitled to credit on the remainder of the five-year period for the term of his actual naval or military service, or if he was discharged from the Army or Navy because of wounds received or disabilities incurred in the line of duty he is entitled to credit for the whole term of his enlistment. No credit can be allowed for military service where commutation proof is offered.

29. A soldier or sailor making entry during his enlistment in time of peace is not required to reside personally on the land, but may receive patent if his family maintain the necessary residence and cultivation until the entry is five years old or until it has been commuted; but a soldier or sailor is not entitled to credit on account of his military service in time of peace. And if such soldier has no family, there is no way by which he can make entry and acquire title during his enlistment in time of peace.

30. Widows and minor orphan children of soldiers and sailors who make entry as such widows and children must begin their residence and cultivation of the lands entered by them within six months from the dates of their entries, or the filing of declaratory

statement, and thereafter continue both residence and cultivation for such period as will, when added to the time of their husbands' or fathers' military or naval service, amount to five years from the date of the entry, and if the husbands or fathers either died in the service or were discharged on account of wounds or disabilities incurred in the line of duty, credit for the whole term of their enlistment, not to exceed four years, may be taken, but no patent will issue to such widows or children until there has been residence and cultivation by them for at least one year. No credit can be allowed for military service where commutation proof is offered.

31. Persons who make entry as the widow or heirs of settlers are not required to both reside upon and cultivate the land entered by them, but they must at least cultivate the land entered by them for such a period as, added to the time during which the settler resided on and cultivated the land, will make the required period of five years. Commutation proof may, however, be made upon showing 14 months' actual residence performed either by the settler or the heirs or widow, or in part by the settler and in part by the widow or heirs. In case of entries made under the enlarged homestead Act cultivation as required by that Act must be maintained by the widows or heirs. (See par. 51.) The above rules also apply to a devisee of the settlement claim in cases where a devisee is entitled to take.

32. The widow or heirs of a homestead entryman who dies before he earns patent are not required to both reside upon and cultivate the lands covered by his entry, but they must, within six months after the death of the entryman, begin cultivation on the land covered by the entry and continue same for such a period of time as will, when added to the time during which the entryman complied with the law, amount in the aggregate to the required period of five years. Commutation proof may be made showing 14 months' actual residence performed by the entryman or by the widow or heirs, or in part by the entryman and in part by the widow or heirs. In case of an entry made under the enlarged homestead Act cultivation as required by that Act must be maintained by the widow or heirs. (See par. 51.) The above rules also apply to a devisee of the entry in cases where the devisee is entitled to take.

33. Homestead entrymen who have been elected to either a Federal, State, or county office, after they have made entry and established an actual residence on the land covered by their entries are not required to continue such residence during their term of office, if the discharge of their bona fide official duties necessarily requires them to reside elsewhere than upon the land; but they must continue their cultivation and improvements for the required length of time. Such an officeholder can not commute, however, unless he can show at least 14 months' actual residence. (See circulars of February 16 and 20, 1909, Appendix No. 13, and October 18, 1907, Appendix No. 14.)

A person who makes entry after he has been elected to office is not excused from maintaining residence, but must comply with the law in the same manner as though he had not been elected.

34. Residence is not required on land covered by an adjoining farm entry of the kind mentioned in paragraph 15; but a person

who makes an adjoining farm entry is not entitled to a patent until he has continued his residence and cultivation for the full five years on the land owned by him at the time he made entry, or on the adjoining lands entered by him, unless he commutes his entry after 14 months' residence on either the entered lands or the lands originally owned by him; in neither case can credit be claimed for residence on the original farm prior to the date of the adjoining farm entry.

A person who has made on additional entry of the kind mentioned in paragraph 14 for lands adjoining his original entry is not entitled to patent for the lands so entered until he can show five years' residence, either on the original entry or in part on the original and in part on the additional. No commutation of the additional entry is allowed by law in the latter case.

35. Neither residence nor cultivation by an insane homestead entryman is necessary after he becomes insane, if such entryman made entry and established residence before he became insane and complied with the requirements of the law up to the time his insanity began.

Leaves of Absence.

(See pages 26 to 31.)

36. Leaves of absence for one year or less may be granted to entrymen who have established actual residence on the lands entered by them in all cases where total or partial failure or destruction of crops, sickness, or other unavoidable casualty has prevented the entryman from supporting himself and those dependent upon him by a cultivation of the land.

Applications for leaves of absence should be addressed to the Register and Receiver of the land office where the entry was made and should be sworn to by the applicant and some disinterested person before such Register and Receiver or before some officer in the land district using a seal and authorized to administer oaths, except in cases where, through age, sickness, or extreme poverty, the entryman is unable to visit the district for that purpose, when the oath may be made outside of the land district. All applications of this kind should clearly set forth:

(a) The number and date of the entry, a description of the lands entered, the date of the establishment of his residence on the land, and the extent and character of the improvements and cultivation made by the applicant.

(b) The kind of crops which failed or were destroyed and the cause and extent of such failure or destruction.

(c) The kind and extent of the sickness, or injury assigned, and the extent to which the entryman was prevented from continuing his residence upon the land, and, if practicable, a certificate signed by a reliable physician as to such sickness, disease, or injury, should be furnished.

(d) The character, cause, and extent of any unavoidable casualty which may be made the basis of the application.

(e) The dates from which and to which the leave of absence is requested.

An entryman can not claim credit for residence during the time

he is absent under a leave of absence, but such a period of absence will not be held to break the continuity of his residence; that is, the period of residence preceding such an absence may be added to the period of residence succeeding such absence to make up the time required for either five-year or commutation proof.

(See title, Leave of Absence.)

Enlarged Homestead Entries.

46. Kind of Land Subject to Entry.—The first section of the Act of February 19, 1909 (35 Stat., 639; see Appendix No. 15), provides for the making of homestead entries for an area of 320 acres, or less, of nonmineral, nontimbered, nonirrigable public land in the States of Colorado, Montana, Nevada, Oregon, Utah, Washington, Wyoming, and in the Territories of Arizona and New Mexico. By the first section of the Act approved June 17, 1910 (36 Stat., 531, see Appendix No. 15), the same kind of entries are allowed to be made in the State of Idaho.

The terms "arid" or "nonirrigable" land, as used in these Acts, are construed to mean land which, as a rule, lacks sufficient rainfall to produce agricultural crops without the necessity of resorting to unusual methods of cultivation, such as the system commonly known as "dry farming," and for which there is no known source of water supply from which such land may be successfully irrigated at a reasonable cost.

Therefore lands containing merchantable timber, mineral lands, and lands within a reclamation project, or lands which may be irrigated at a reasonable cost from any known source of water supply may not be entered under these Acts. Minor portions of a legal subdivision susceptible of irrigation from natural sources, as, for instance, a spring, will not exclude such subdivision from entry under these Acts, provided, however, that no one entry shall embrace in the aggregate more than 40 acres of such irrigable lands.

47. Designation of Lands.—From time to time lists designating the lands which are subject to entry under these Acts are sent to the Registers and Receivers in the States affected, and they are instructed immediately upon the receipt of such lists to note the same upon their tract books. In the order designating land a date is fixed on which such designation will become effective. Until such date no applications to enter can be received and no entries allowed under these Acts, but on or after the date fixed it is competent for the Registers and Receivers to dispose of applications for land designated under the provisons of these Acts, in like manner as other applications for public lands.

The fact that lands have been designated as subject to entry is not conclusive as to the character of such lands, and should it afterwards develop that the land is not of the character contemplated by the above Acts the designation may be canceled; but where an entry is made in good faith under the provisions of these Acts, such designation will not thereafter be modified to the injury of anyone who, in good faith, has acted upon such designation. Each entryman must furnish affidavit as required by section 2 of the Acts.

48. Compactness—Fees.—Lands entered under the enlarged homestead Acts must be in a reasonably compact form and in no event exceed 1½ miles in length.

The Acts provide that the fees shall be the same as those now required to be paid under the homestead laws; therefore, while the fees may not in any one case exceed the maximum fee of $10 required under the general homestead law, the commissions will be determined by the area of the land embraced in the entry.

49. Form of Application.—Applications to make entry under these Acts must be submitted on forms prescribed by the General Land Office, and in case of an original entry on No. 4-003.

The affidavit of an applicant as to the character of the land must be corroborated by two witnesses. It is not necessary that such witnesses be acquainted with the applicant, and if they are not so acquainted their affidavits should be modified accordingly.

50. Additional Entries.—Sections 3 of the Acts provide that any homestead entryman of lands of the character described in the first sections of the Acts, upon which entry final proof has not been made, may enter such other lands subject to the provisions of the Acts, contiguous to the former entry, which shall not, together with the lands embraced in the original entry, exceed 320 acres, and that residence upon and cultivation of the original entry shall be accepted as equivalent to residence upon and cultivation of the additional entry.

These sections contemplate that lands may, subsequent to entry, be classified or designated by the Secretary of the Interior as falling within the provisions of these acts, and in such cases an entryman of such lands may, at any time prior to final proof on his original entry, make such additional entry, provided he is otherwise qualified. Applicants for such additional entries must tender the proper fees and commissions, and make application and affidavit on the form prescribed (No. 4-004). Entrymen who have made final proof on their original entries are not qualified to make additional entries.

51. Final Proof on Original and Additional Entries—Commutation Not Allowed.—Final proof must be made as in ordinary homestead cases, and in addition to the showing required of ordinary homestead entrymen it must be shown that at least one-eighth of the area embraced in the entry has been continuously cultivated to agricultural crops other than native grasses, beginning with the second year of the entry, and that at least one-fourth of the area embraced in the entry has been continuously cultivated to agricultural crops other than native grasses, beginning with the third year of the entry and continuing to date of final proof.

Final proof submitted on an additional entry must show that the area of such entry required by the acts to be cultivated has been cultivated in accordance with such requirement; or that such part of the original entry as will, with the area cultivated in the additional entry, aggregate the required proportion of the combined entries, has been cultivated in the manner required by the acts.

Proof must be made on the original entry within the statutory period of seven years from the date of the entry; and if it can not be shown at that time that the cultivation has been such as to satisfy the requirements of the Acts as to both entries it will be necessary to submit supplemental proof on the additional entry at the proper time. But proof should be made at the same time to cover both entries in all cases where the residence and cultivation are such as to meet the requirements of the Acts.

Commutation of either original or additional entry made under these Acts is expressly forbidden.

52. Right of Entry.—Homestead entries under the provisions of section 2289 of the Revised Statutes, for 160 acres or less, may be made by qualified persons within the States and Territories named upon lands subject to such entry, whether such lands have been designated under the provisions of these Acts or not. But those who make entry under the provisions of these Acts can not afterwards make homestead entry under the provisions of the General Homestead Law.

A person who has, since August 30, 1890, entered and acquired title to 320 acres of land under the agricultural land laws (which is construed to mean the timber and stone, desert land, and homestead laws), is not entitled to make entry under these Acts; neither is a person who has acquired title to 160 acres under the General Homestead Law entitled to make another homestead entry under these Acts, unless entitled to the benefits of section 2 of the Act of June 5, 1900 (31 Stat., 267), or section 2 of the Act of May 22, 1902 (32 Stat., 203, Appendix No. 5).

If, however, a person is a qualified entryman under the homestead laws of the United States, he may be allowed to enter 320 acres under these Acts, or such a less amount as when added to the lands previously entered or held by him under the agricultural land laws shall not exceed in the aggregate 480 acres.

53. Constructive Residence on Certain Lands in Utah.—The sixth section of the Act of February 19, 1909 (35 Stat., 639, Appendix No. 15), provides that not exceeding 2,000,000 acres of land in the State of Utah, which do not have upon them sufficient water suitable for domestic purposes as will render continuous residence upon such lands possible, may be designated by the Secretary of the Interior as subject to entry under the provisions of that Act; with the exception, however, that entrymen of such lands, will not be required to prove continuous residence thereon. This Act provides in such cases that all entrymen must reside within such distance of the land entered as will enable them successfully to farm the same as required by the Act; and no attempt will be made at this time to determine how far from the land an entryman will be allowed to reside, as it is believed that the proper determination of that question will depend upon the circumstances of each case.

Applications to enter under section 6 of this Act will not be received until the date fixed in the order designating the lands as subject to entry under this section. Lists of lands designated under this section will be from time to time furnished to the Registers and Receivers, who will be instructed to note same on their tract books immediately upon their receipt. These lists will fix a date on which the designations will become effective. Applications under this section must be submitted on form No. 4-003a.

Final proof under this section must be made as in ordinary homestead entries, except that proof of residence on the land will not be required, in lieu of which the entryman will be required to show that, from the date of entry until the time of making final proof, he resided within such distance from said land as enabled him to successfully farm the same. Such proof must also show that

not less than one-eighth of the entire area of land entered was cultivated during the second year, not less than one-fourth during the third year and not less than one-half during the fourth and fifth years after entry.

54. Constructive Residence Permitted on Certain Lands in Idaho.—The sixth section of the Act of June 17, 1910 (36 Stat., 531), provides that not exceeding 320,000 acres of land in the State of Idaho, which do not have upon them sufficient water suitable for domestic purposes as will render continuous residence upon such lands possible, may be designated by the Secretary of the Interior as subject to entry under the provisions of this Act, with the exception, however, that entrymen of such lands will not be required to prove continuous residence thereon. This section provides, in such cases, that after six months from date of entry and until final proof, all entrymen must reside not more than 20 miles from the land entered, and be engaged personally in preparing the soil for seed, seeding, cultivating, and harvesting crops upon the land during the usual seasons for such work, unless prevented by sickness, or other unavoidable cause. It is further provided that leaves of absence from the residence established under this section, may be granted upon the same terms and conditions as are required from other homestead entrymen.

Applications to enter under this section of this Act will not be received before the date fixed in the order designating the land as subject to entry under this section. Lists of lands designated under this section will from time to time be furnished the Registers and Receivers who will be instructed to note the same on their tract books immediately upon their receipt. In the lists furnished the Registers and Receivers a date will be fixed on which the designation will become effective. Applications under this section must be submitted on form 4-003a.

The final proof under this section must be made as in ordinary homestead entries, except that proof of residence on the land will not be required, in lieu of which the entryman will be required to show that, from the expiration of six months after the date of original entry and until the time of making final proof, he resided not more than 20 miles from the land entered and was personally engaged in farming the same as required by said Act. Such proof must also show that not less than one-eighth of the entire area of the land entered was cultivated during the second year; not less than one-fourth during the third year; and not less than one-half during the fourth and fifth years.

55. Officers Before Whom Applications and Proofs May Be Made.—The Acts provide that any person applying to enter land under the provisions thereof shall make and subscribe before the proper officer an affidavit, etc. The term "proper officer," as used herein, is held to mean any officer authorized to take affidavits or proof in homestead cases.

Fred Dennett,
Commissioner.

Approved April 20, 1911.

Walter L. Fisher,
Secretary.

APPENDIX.

(No. 1.)

UNITED STATES REVISED STATUTES.*

Sec. 2288. Any bona fide settler under the preemption, homestead, or other settlement law shall have the right to transfer by warranty against his own acts any portion of his claim for church, cemetery, or school purposes, or for the right of way of railroads, telegraph, telephones, canals, reservoirs, or ditches for irrigation or drainage across it; and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to his claim. (As amended by Act Mar. 3, 1905.)

Sec. 2289. Every person who is the head of a family, or who has arrived at the age of twenty-one years, and is a citizen of the United States, or who has filed his declaration of intention to become such, as required by the naturalization laws, shall be entitled to enter one quarter-section, or a less quantity, of unappropriated public lands, to be located in a body in conformity to the legal subdivisions of the public lands; but no person who is the proprietor of more than one hundred and sixty acres of land in any State or Territory shall acquire any right under the homestead law. And every person owning and residing on land may, under the provisions of this section, enter other land lying contiguous to his land, which shall not, with the land so already owned and occupied, exceed in the aggregate one hundred and sixty acres. (As amended by Act Mar. 3, 1891.)

Sec. 2290. That any person applying to enter land under the preceding section shall first make and subscribe before the proper officer and file in the proper land office an affidavit that he or she is the head of a family, or is over twenty-one years of age, and that such application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation, and that he or she will faithfully and honestly endeavor to comply with all the requirements of law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that he or she is not acting as agent of any person, corporation, or syndicate in making such entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that he or she does not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for himself, or herself, and that he or she has not directly or indirectly made, and will not make, any agreement or contract in any way or manner, with any person or persons, corporation, or syndicate whatsoever, by which the title which he or she might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person, except himself, or herself, and upon filing such affidavit with the Register or Receiver on payment of five dollars, when the entry is of not more than eighty acres, and on payment of ten dollars, when the entry is for more than eighty acres, he or she shall thereupon be permitted to enter the amount of land specified. (As amended by Act Mar. 3, 1891.)

For sec. 2291, as amended by three year law, see page 311.

* See Table of Revised Statutes Cited and Construed.

Sec. 2292. In case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of such infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell the land for the benefit of such infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States on the payment of the office fees and sum of money above specified.

Sec. 2293. (See pages 560 to 563.)

For sec. 2294 as amended by the Act of March 4, 1904 (33 Stat., 59), see page 286.

Sec. 2296. No lands acquired under the provisions of this chapter shall in any event become liable to the satisfaction of any debt contracted prior to the issuing of the patent therefor.

For sec. 2297 as amended by three year homestead law see page 303.

Sec. 2298. No person shall be permitted to acquire title to more than one quarter section under the provisions of this chapter.

Sec. 2299. Nothing contained in this chapter shall be so construed as to impair or interfere in any manner with existing preemption rights; and all persons who may have filed their applications for a preemption right prior to the twentieth day of May, eighteen hundred and sixty-two, shall be entitled to all the privileges of this chapter.

Sec. 2300. No person who has served, or may hereafter serve, for a period not less than fourteen days in the Army or Navy of the United States, either regular or volunteer, under the laws thereof, during the existence of an actual war, domestic or foreign, shall be deprived of the benefits of this chapter on account of not having attained the age of twenty-one years.

Sec. 2301. Nothing in this chapter shall be so construed as to prevent any person who shall hereafter avail himself of the benefits of section twenty-two hundred and eighty-nine from paying the minimum price for the quantity of land so entered at any time after the expiration of fourteen calendar months from the date of such entry, and obtaining a patent therefor, upon making proof of settlement and of residence and cultivation for such period of fourteen months, and the provision of this section shall apply to lands on the ceded portion of the Sioux Reservation by Act approved March second, eighteen hundred and eighty-nine, in South Dakota, but shall not relieve said settlers from any payments now required by law. (As amended by Act of March 3, 1891.)

Sec. 2302. No distinction shall be made in the construction or execution of this chapter on account of race or color; nor shall any mineral lands be liable to entry and settlement under its provisions.

For sec. 2304 see page 563.

Sec. 2305. The time which the homestead settler has served in the Army, Navy, or Marine Corps shall be deducted from the time heretofore required to perfect title, or if discharged on account of wounds received or disability incurred in the line of duty, then the term of enlistment shall be deducted from the time heretofore re-

quired to perfect title, without reference to the length of time he may have served; but no patent shall issue to any homestead settler who has not resided upon, improved, and cultivated his homestead for a period of at least one year after he shall have commenced his improvements: Provided, That in every case in which a settler on the public land of the United States under the homestead laws died while actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the war with Spain or the Philippine insurrection, his widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, may proceed forthwith to make final proof upon the land so held by the deceased soldier and settler, and that the death of such soldier while so engaged in the service of the United States shall, in the administration of the homestead laws, be construed to be equivalent to a performance of all requirements as to residence and cultivation for the full period of five years, and shall entitle his widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, to make final proof upon and receive Government patent for said land; and that upon proof produced to the officers of the proper local land office by the widow, if unmarried, or in case of her death or marriage, then his minor orphan children or his or their legal representatives, that the applicant for patent is the widow, if unmarried, or in case of her death or marriage, his orphan children or his or their legal representatives, and that such soldier, sailor, or marine died while in the service of the United States as hereinbefore described, the patent for such land shall issue. (As amended by Act of March 1, 1901.)

For sec. 2307 see page 343.

For sec. 2309 see page 343.

See Table of Revised Statutes cited and construed, page 527.

(No. 2.)

THREE HUNDRED AND TWENTY ACRE LIMITATION.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * *

No person who shall, after the passage of this act, enter upon any of the public lands with a view to occupation, entry, or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry, or settlement is validated by this Act: Provided, That in all patents for lands hereafter taken up under any of the land laws of the United States or on entries or claims validated by this Act, west of the one hundredth meridian, it shall be expressed that there is reserved from the lands in said patent described a right of way thereon for ditches or canals constructed by the authority of the United States.

Approved, August 30, 1890. (26 Stat., 391.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * *

Sec. 17. That reservoir sites located or selected and to be located and selected under the provisions of "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, and for other purposes," and amendments thereto, shall be restricted to and shall contain only so much land as is actually necessary for the construction and maintenance of reservoirs, excluding so far as practicable lands occupied by actual settlers at the date of the location of said reservoirs; and that the provisions of "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes," which reads as follows, viz: "No person who shall after the passage of this Act enter upon any of the public lands with a view to occupation, entry, or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws," shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands, and not include lands entered or sought to be entered under mineral-land laws.

Approved, March 3, 1891. (26 Stat., 1095.)

(No. 3.)

FREE HOMESTEAD ACT.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all settlers under the homestead laws of the United States upon the agricultural public lands, which have already been opened to settlement, acquired prior to the passage of this Act by treaty or agreement from the various Indian tribes, who have resided or shall hereafter reside upon the tract entered in good faith for the period required by existing law, shall be entitled to a patent for the land so entered upon the payment to the local land officers of the usual and customary fees, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry: Provided, That the right to commute any such entry and pay for said lands in the option of any such settler and in the time and at the prices now fixed by existing laws shall remain in full force and effect: Provided, however, That all sums of money so released which if not released would belong to any Indian tribe shall be paid to such Indian tribe by the United States, and that in the event that the proceeds of the annual sales of the public lands shall not be sufficient to meet the payments heretofore provided for agricultural colleges and experimental stations by an Act of Congress, approved August thirtieth, eighteen hundred and ninety, for the more complete endowment and support of the colleges for the benefit of agriculture and mechanic arts, established under the provisions of an Act of Congress, approved July second, eighteen hundred and sixty-two, such deficiency shall be paid by the United States: And provided further, That no lands shall be herein included on which the United States Government had made valuable improvements, or lands that have been sold at public auction by said Government.

Sec. 2. That all Acts or parts of Acts inconsistent with the provisions of this Act are hereby repealed.

Approved, May 17, 1900. (31 Stat., 179.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of section twenty-three hundred and one of the Revised Statutes of the United States, as amended, allowing homestead settlers to commute their homestead entries be, and the same hereby are, extended to all homestead settlers affected by or entitled to the benefits of the provisions of the Act entitled "An Act providing for free homesteads on the public lands for actual and bona fide settlers, and reserving the public lands for that purpose," approved the seventeenth day of May, anno Domini nineteen hundred: Provided, however, That in commuting such entries the entryman shall pay the price provided in the law under which original entry was made.

Approved, January 26, 1901. (31 State., 740.)

(No. 4.)

ADDITIONAL HOMESTEAD ENTRIES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * *

Sec. 6. That every person entitled, under the provisions of the homestead law, to enter a homestead, who has heretofore complied with or who shall hereafter comply with the conditions of said laws, and who shall have made his final proof thereunder for a quantity of land less than one hundred and sixty acres and received the Receiver's final receipt therefor, shall be entitled under said laws to enter as personal right, and not assignable, by legal subdivisions of the public lands of the United States subject to homestead entry, so much additional land as added to the quantity previously so entered by him shall not exceed one hundred and sixty acres: Provided, That in no case shall patent issue for the land covered by such additional entry until the person making such additional entry shall have actually and in conformity with the homestead laws resided upon and cultivated the lands so additionally entered, and otherwise fully complied with such laws: Provided also, That this section shall not be construed as affecting any rights as to location of soldiers' certificates heretofore issued under section two thousand three hundred and six of the Revised Statutes.

Approved, March 2, 1889. (25 Stat., 854.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * *

Sec. 2. That any homestead settler who has heretofore entered, or may hereafter enter, less than one-quarter section of land may enter other and additional land lying contiguous to the original entry which shall not, with the land first entered and occupied, exceed in the aggregate one hundred and sixty acres, without proof of residence upon and cultivation of the additional entry; and if final proof of settlement and cultivation has been made for the original entry when the additional entry is made, then the patent

shall issue without further proof: Provided, That this section shall not apply to or for the benefit of any person who does not own and occupy the lands covered by the original entry: And provided, That if the original entry should fail for any reason prior to patent, or should appear to be illegal or fraudulent, the additional entry shall not be permitted, or, if having been initiated, shall be canceled.

Sec. 3. That commutation under the provisions of section twenty-three hundred and one of the Revised Statutes shall not be allowed of an entry made under this Act.

Approved, April 28, 1904. (33 Stat., 527.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * *

Sec. 2. That any person who has heretofore made entry under the homestead laws and commuted same under provisions of section twenty-three hundred and one of the Revised Statutes of the United States and the amendments thereto, shall be entitled to the benefits of the homestead laws, as though such former entry had not been made, except that commutation under the provisions of section twenty-three hundred and one of the Revised Statutes shall not be allowed of an entry made under this section of this Act.

Approved, June 5, 1900. (31 Stat., 267.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * *

Sec. 2. That any person who, prior to the passage of an Act entitled "An Act providing for free homesteads on the public lands for actual and bona fide settlers, and reserving the public lands for that purpose," approved May seventeenth, nineteen hundred, having made a homestead entry and perfected the same and acquired title to the land by final entry by having paid the price provided in the law opening the land to settlement, and who would have been entitled to the provisions of the act before cited had final entry not been made prior to the passage of said Act, may make another homestead entry of not exceeding one hundred and sixty acres of any of the public lands in any State or Territory subject to homestead entry: Provided, That any person desiring to make another entry under this Act will be required to make affidavit, to be transmitted with the other filing papers now required by law, giving the description of the tract formerly entered, date and number of entry, and name of the land office where made, or other sufficient data to admit of readily identifying it on the official records: And provided further, That said person has all the other proper qualifications of a homestead entryman: And provided also, That commutation under section twenty-three hundred and one of the Revised Statutes or any amendment thereto, or any similar statute, shall not be permitted of an entry made under this Act, excepting where the final proof submitted on the former entry hereinbefore described, shows a residence upon the land covered thereby for the full period of five years or such term of residence thereon as added to any properly credited military or naval service shall equal such period of five years.

Approved, May 22, 1902. (32 Stat., 203.)

(No. 5.)

SECOND HOMESTEAD ENTRIES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who, prior to the approval of this Act, has made entry under the homestead or desert-land laws, but who, subsequently to such entry, from any cause shall have lost, forfeited, or abandoned the same, shall be entitled to the benefits of the homestead or desert-land laws as though such former entry had not been made, and any person applying for a second homestead or desert-land entry under this Act shall furnish a description and the date of his former entry: Provided, That the provisions of this Act shall not apply to any person whose former entry was canceled for fraud, or who relinquished his former entry for a valuable consideration in excess of the filing fees paid by him on his original entry.

Approved, February 3, 1911. (Public—No. 340.)

See table of Acts of Congress cited and construed.

(No. 6.)

RIGHTS OF SETTLERS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * *

Sec. 3. That any settler who has settled, or who shall hereafter settle, on any of the public lands of the United States, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall be allowed the same time to file his homestead application and perfect his original entry in the United States Land Office as is now allowed to settlers under the preemption laws to put their claims on record, and his right shall relate back to the date of settlement the same as if he settled under the preemption laws.

Approved, May 14, 1880. (21 Stat., 140.)

(See all similar laws application and settlement.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * *

Sec. 2. That all commutations of homestead entries shall be allowed after the expiration of fourteen months from date of settlement.

Approved, June 3, 1896. (29 Stat., 197.)

(No. 7.)

HOMESTEAD ENTRY BY MARRIED WOMAN.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the third section of the Act of Congress approved May fourteenth, eighteen hundred and eighty, entitled "An Act for the relief of settlers on the public lands," be amended by adding thereto the following:

"Where an unmarried woman who has heretofore settled, or may hereafter settle, upon a tract of public land, improved, established, and maintained a bona fide residence thereon, with the intention of appropriating the same for a home, subject to the home-

stead law, and has married, or shall hereafter marry, before making entry of said land, or before making application to enter said land, she shall not, on account of her marriage, forfeit her right to make entry and receive patent for the land: Provided, That she does not abandon her residence on said land, and is otherwise qualified to make homestead entry: Provided further, That the man whom she marries is not, at the time of their marriage, claiming a separate tract of land under the homestead law.

"That this Act shall be applicable to all unpatented lands claimed by such entrywoman at the date of passage."

Approved, June 6, 1900. (31 Stat., 683.)

(See Married Women and Deserted Wives, page 266.)

(No. 8.)

Settlers Who Become Insane. (See pages 26-31, 353.)

(No. 9.)

Leaves of absence. (See pages 26-31, 337.)

(No. 10.)

FINAL PROOF NOTICE.

Act approved March 3, 1879 (20 Stat., 472). (See page 216.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * *

Sec. 7. That the "Act to provide additional regulations for homestead and preemption entries of public land," approved March third, eighteen hundred and seventy-nine, shall not be construed to forbid the taking of testimony for final proof within ten days following the day advertised as upon which such final proof shall be made, in cases where accident or unavoidable delays have prevented the applicant or witnesses from making such proof on the date specified.

Approved, March 2, 1889. (25 Stat., 854.)

(No. 11.)

PENALTIES FOR DESTROYING CORNER MONUMENTS.

United States Criminal Code—Chapter 4, Section 57.

Sec. 57. Whoever shall wilfully destroy, deface, change, or remove to another place any section corner, quarter-section corner, or meander post, on any Government line of survey, or shall wilfully cut down any witness tree or any tree blazed to mark the line of a Government survey, or shall wilfully deface, change, or remove any monument or bench mark of any Government survey, shall be fined not more than two hundred and fifty dollars, or imprisoned not more than six months or both.

Approved.

(No. 12.)

RELINQUISHMENTS.

(See page 543.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when a preemption, homestead, or timber-culture claimant shall file a written relinquishment of his claim in the local land office, the land covered

by such claim shall be held as open to settlement and entry without further action on the part of the Commissioner of the General Land Office.

* * * * * *

Approved, May 14, 1880. (21 Stat., 140.)

(No. 13.)

INSTRUCTIONS CONCERNING ABSENCE BY OFFICEHOLDERS FROM THEIR HOMESTEADS.

Department of the Interior,
General Land Office,
Washington, D. C., February 20, 1909.

Registers and Receivers,
United States Land Offices.

Gentlemen: In the case of Ed Jenkins, decided by the department February 3, 1909, it was held that the absence of a person from his homestead entry on account of his duties as a public official can not be excused in the consideration of commutation proof.

Attention is called to circular of February 16, 1909, a copy of which is printed below.

In no case is official employment to be accepted as an excuse for absence from a homestead entry where commutation proof is offered. The making of commutation proof is to be governed by the provisions of the circular of October 18, 1907, a copy of which is also printed below.

Very respectfully,
Fred Dennett,
Commissioner.

Washington, D. C., February 16, 1909.

Registers and Receivers,
United States Land Offices.

Gentlemen: For many years it has been the practice of the department to permit a homestead entryman who had established residence upon his claim and afterwards had been elected or appointed to a Federal, State, or county office, to be absent from his entry if required by his official duty, and to consider such absence constructive residence upon his claim. This ruling includes deputies and assistants in such offices. See 2 L. D., 147; 6 L. D., 668; 7 L. D., 88; 9 L. D., 523-525; 17 L. D., 195; 21 L. D., 155.

This privilege, which is not a statutory right but rests solely upon departmental rulings, has led to such grave abuse that the objects of the homestead law have been to a great extent defeated. Therefore, the department has decided to discontinue the said practice in so far as it has been applied to persons appointed to office, and limit it to persons elected to office. All decisions and instructions heretofore given, not in harmony with this view, are hereby overruled or modified in so far as they accredit such absence as residence to persons not elected to office.

It is not intended, however, to disturb the status of persons who have acted under the rule heretofore prevailing, nor to deny the benefit of the rule to persons who, prior to April 1, 1909, shall have been appointed to such office. Persons having homestead entries, who enter upon public service in nonelective positions to which they were not appointed prior to the above date, will be required to comply fully with all of the provisions of the homestead law just as other settlers.

Very respectfully,
Fred Dennett,
Commissioner.

Approved:
Frank Pierce,
Acting Secretary.

(No. 14.)

COMMUTATION PROOF.

Washington, D. C., October 18, 1907.

Registers and Receivers,
United States Land Offices.

Gentlemen: The following rules will govern your action upon homestead commutation proofs hereafter submitted, namely:

1. Commutation proof offered under a homestead entry made on or after

November 1, 1907, will be rejected unless it be shown thereby that the entryman has, in good faith, actually resided upon and cultivated the land embraced in such entry for the full period of at least 14 months.

2. Where such commutation proof is offered under an entry made prior to November 1, 1907, if it be satisfactorily shown thereby that the entryman had, in good, faith, established actual residence on the land within six months from the date of his entry, he may be credited with constructive residence from date of entry: Provided, That it be also shown that such residence was, in good faith, maintained for such period as, when added to the period of constructive residence herein recognized, equals the full period of 14 months' residence required by the homestead laws; and

3. In no case can commutation proof be accepted when it fails to show that the required residence and cultivation continued to the date on which application for notice of intention to make such proof was filed.

Very respectfully, R. A. Ballinger,
Commissioner.

Approved.
James Rudolph Garfield,
Secretary.

(The rule of constructive residence has been abolished.)

See Commutation and Final Proof.

(No. 15.)

ENLARGED HOMESTEADS.

35 Stat., 639. (See pages 196, 210.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who is a qualified entryman under the homestead laws of the United States may enter, by legal subdivision, under the provisions of this act, in the State of Idaho, three hundred and twenty acres or less of arid nonmineral, nonirrigable, unreserved, and unappropriated surveyed public lands which do not contain merchantable timber, located in a reasonably compact body and not over one and one-half miles in extreme length: Provided, That no lands shall be subject to entry under the provisions of this Act until the lands shall have been designated by the Secretary of the Interior as not being, in his opinion, susceptible of successful irrigation, at a reasonable cost, from any known source of water supply.

(Sections 2, 3, 4, and 5 of this Act are in the exact language of corresponding sections of the Act of February 19, 1909, supra.)

Sec. 6. That whenever the Secretary of the Interior shall find that any tracts of land in the State of Idaho subject to entry under this act do not have upon them such a sufficient supply of water suitable for domestic purposes as would make continuous residence upon the lands possible, he may, in his discretion, designate such tracts of land, not to exceed in the aggregate three hundred and twenty thousand acres, and thereafter they shall be subject to entry under this Act, without the necessity of residence upon the land entered: Provided, That the entryman shall in good faith cultivate not less than one-eighth of the entire area of the entry during the second year, one-fourth during the third year, and one-half during the fourth and fifth years after the date of said entry, and that after six months from date of entry and until final proof the entryman shall reside not more than twenty miles from said land and be engaged personally in preparing the soil for seed, seeding, cultivating, and harvesting crops upon the land during the usual seasons for such work unless prevented by sickness or other unavoidable cause. Leave of absence from a residence established under this section may, however, be granted upon the same terms and conditions as are required of other homestead entrymen.

Approved, June 17, 1910. (36 Stat., 531.)

CIRCULAR NO. 157.

ADDITIONAL ENTRIES UNDER ENLARGED HOMESTEAD ACTS—INSTRUCTIONS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., August 14, 1912.

REGISTERS AND RECEIVERS,
United States Land Offices, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, North Dakota, Oregon, Utah, Washington, and Wyoming.

Gentlemen: In a decision rendered June 11, 1912 (in the case of John Auld, Havre series 08277), the department held that where a person has an entry under the general homestead law more than seven years old, he is not entitled to make an additional entry under section 3 of the enlarged homestead act of February 19, 1909 (35 Stat., 639), or June 17, 1910 (36 Stat., 531), though proof has not been submitted on the original entry.

The department in said decision said:

"It will be observed that said section (3) makes no provision for allowance of an entry under said act as additional to a former entry upon which proof has been offered. It is not conceivable that a right to make such additional entry could be gained by deferring the making of final proof on an original entry beyond the fixed, legal statutory period. If proof be made upon the original entry, or if the statutory period within which such proof is required by law to be made expires prior to the making of additional entry, then the right granted by section 3 has lapsed and is of no avail. To hold otherwise would permit circumvention of the law and would grant a right clearly not intended in the act."

The department further says that while the board of equitable adjudication may, upon a proper showing, confirm the original entry, notwithstanding submission of the proof after expiration of the statutory period of seven years, the fact that an entryman may show himself entitled to equitable consideration by the board would not operate to confer upon him the right of additional entry.

You will govern yourselves by the principles above indicated, and reject all applications for additional entry filed under the conditions named in the decision. The same principles will apply where the expiration of the statutory life of an entry occurs under the provisions of the act of June 6, 1912 (Public, No. 179).

Very respectfully,

Approved:

FRED DENNETT, *Commissioner.*

SAMUEL ADAMS,
First Assistant Secretary.

INSANE ENTRYMAN.

General circular of January 25, 1904, provides:

The rights of homestead claimant who has become insane may, under Act of June 8, 1880, be proved up and his claim perfected by any person duly authorized to act for him during his disability. (21 Stat. L., 166.)

Such claim must have been initiated in full compliance with law,

by a person who was a citizen or had declared his intention of becoming a citizen and was in other respects duly qualified.

The party for whose benefit the Act shall be invoked must have become insane subsequent to the initiation of his claim.

Claimant must have complied with the law up to the time of becoming insane, and proof of compliance will be required to cover only the period prior to such insanity, but the Act will not be construed to cure a failure to comply with the law when the failure occurred prior to such insanity.

The final proof must be made by a party whose authority to act for the insane person during his disability shall be duly certified under seal of the proper Probate Court.

SETTLERS WHO BECOME INSANE.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which parties who regularly initiated claims to public lands as settlers thereon, according to the provisions of the preemption or homestead laws, have become insane or shall hereafter become insane before the expiration of the time during which their residence, cultivation, or improvement of the land claimed by them is required by law to be continued in order to entitle them to make the proper proof and perfect their claims, it shall be lawful for the required proof and payment to be made for their benefit by any person who may be legally authorized to act for them during their disability, and thereupon their claims shall be confirmed and patented, provided it shall be shown by proof satisfactory to the Commissioner of the General Land Office that the parties complied in good faith with the legal requirements up to the time of their becoming insane, and the requirements in homestead entries of an affidavit of allegiance by the applicant in certain cases as a prerequisite to the issuing of the patents shall be dispensed with so far as regards such insane parties.

Approved, June 8, 1880. (21 Stat., 166.)

Consult table of Acts of Congress cited and construed.

Consult three year homestead law.

Consult title "Contests."

[Circular No. 71.]

ISOLATED TRACTS—SECTION 2455, REVISED STATUTES, AS AMENDED BY ACT OF JUNE 27, 1906 (34 STATS., 517).

Department of the Interior,
General Land Office,
Washington, D. C., January 18, 1912.

Registers and Receivers, United States Land Offices.

Sirs: The sale of isolated tracts of public lands outside of the area in the State of Nebraska described in the Act of March 2, 1907 (34 Stats., 1224), is authorized by the provisions of the Act of June 27, 1906 (34 Stats., 517), amending section 2455* of the Revised Statutes.

1. Applications to have isolated tracts ordered into market must be filed with the Register and Receiver of the local land office in the district wherein the lands are situated.

2. Applicants must show by their affidavits, corroborated by at least two witnesses, that the land contains no salines, coal, or other minerals; the amount, kind, and value of timber or stone thereon, if any; whether the land is occupied, and if so the nature of the occupancy; for what purpose the land is chiefly valuable; why it is desired that same be sold; that applicant desires to pur-

*Amended, see page 358. (See Isolated Tracts of Coal Land, page 360.)

chase the land for his own individual use and actual occupation and not for speculative purposes, and that he has not heretofore purchased, under section 2455, Revised Statutes, or the amendments thereto, isolated tracts, the area of which, when added to the area now applied for, will exceed approximately 160 acres; and that he is a citizen of the United States, or has declared his intention to become such. If applicant has heretofore purchased lands under the provisions of the Acts relating to isolated tracts, same must be described in the application by subdivision, section, township, and range.

3. The affidavits of applicants to have isolated tracts ordered into market, and of their corroborating witnesses, may be executed before any officer having a seal and authorized to administer oaths in the county or land district in which the tracts described in the applications are situated.

4. The officer before whom such affidavits are executed will cause each applicant and his witnesses to fully answer the questions contained upon the accompanying form and, after the answers to the questions therein contained have been reduced to writing, to sign and swear to same before him.

5. No sale will be authorized upon the application of a person who has purchased under section 2455, Revised Statutes, or the amendments thereto, any lands, the area of which, when added to the area applied for, shall exceed approximately 160 acres.

6. Only one tract may be included in an application for sale, and no tract exceeding approximately 160 acres in area will be ordered into the market.

7. No tract of land will be deemed isolated and ordered into the market unless, at the time application is filed, the said tract has been subject to homestead entry for at least two years after the surrounding lands have been entered, filed upon, or sold by the Government, except in cases where some extraordinary reason is advanced sufficient, in the opinion of the Commissioner of the General Land Office, to warrant waiving this restriction.

8. The local officers will on receipt of applications note same upon the tract books of their office, and if the applications are not properly executed, or not corroborated, they will reject the same subject to the right of appeal. Applications found to be properly executed and corroborated will be disposed of as follows: (1) If all, or any portion, of the land applied for is not subject to disposition under the provisions of paragraph 7, or by reason of some prior appropriation of the land, the application will be forwarded to the General Land Office with the monthly returns, accompanied by a report as to the status of the land applied for and the surrounding lands, and any other objection to the offering known to the local officers. Upon determining what portion, if any, of the lands applied for should be ordered into the market, the Commissioner of the General Land Office will call upon the local officers and the Chief of Field Division for the report, as next provided for, concerning the value of the land. (2) If all of the land applied for is vacant and not withdrawn or otherwise reserved from such disposition, and the status of the surrounding lands is such that a sale might properly be ordered under paragraph 7, the local officers after noting the application on their records, will promptly forward

the same to the Chief of Field Division for report as to the value of the land and any objection he may wish to interpose to the sale, and the Register will make proper notations on his schedule of serial numbers in the event the application is not returned in time to be forwarded with the returns for the month in which it is filed. Upon receipt of the application from the Chief of Field Division with his report thereon, the local officers will attach their report as to the status of the land and that surrounding, the value of the land applied for, if they have any knowledge concerning the same, and any objection to the sale known to them, and forward the papers to the General Land Office with the returns for the current month.

9. An application for sale under these instructions will not segregate the land from entry or other disposal, for such lands may be entered at any time prior to the receipt in the local land office of the letter authorizing the sale and its notation of record. Should all of the land applied for be entered or filed upon while the application for sale is in the hands of the Chief of Field Division, the local officers will so advise him and request the return of the application for forwarding to the General Land Office. Likewise, should any or all of the land be entered or filed upon while the application for sale is pending before the General Land Office, the local officers will so report by special letter.

10. Upon receipt of the letter authorizing the sale, the local officers will note thereon the time when it was received and at once examine the records to see whether the tract, or any part thereof, has been entered. They will note on the tract book, opposite such portion of the tract as is found to be clear, that sale has been authorized, giving the date of the letter. Thereupon the land will be considered segregated for the purpose of sale.

If the examination of the records show that all of the tract has been entered or filed upon, the local officers will not promulgate the letter authorizing the sale, but will report the facts to the General Land Office, whereupon the letter authorizing the sale will be revoked. If a part of the land has been entered they will so report and proceed as provided below as to the remainder.

The local officers will prepare a notice for publication on the form hereinafter given, describing the land found to be unentered, and fixing a date for the sale, which date must be far enough in advance to afford ample time for publication of the notice, and for the affidavit of the publisher to be filed in the local land office prior to the date of the sale. The Register will also designate a newspaper as published nearest to the land described in the notice. The notice will be sent to the applicant with instructions that he must publish the same at his expense in the newspaper designated by the Register. Payment for publication must be made by applicant directly to the publisher, and in case the money for publication is transmitted to the Receiver he must issue receipt therefor, and immediately return the money to the applicant by his official check, with instructions to arrange for the publication of the notice as hereinbefore provided.

If on the day set for the sale the affidavit of the publisher, showing proper publication, has not been filed in the local land office, the Register and Receiver will report that fact to this office, and will not proceed with the sale.

11. Notice must be published once a week for five consecutive weeks (or thirty consecutive days, if in a daily paper) immediately prior to the date of sale, but a sufficient time should elapse between the date of the last publication and the date of sale to enable the affidavit of the publisher to be filed in the local land office. The notice must be published in the paper designated by the Register as nearest the land described in the application. The Register and Receiver will cause a similar notice to be posted in the local land office, such notice to remain posted during the entire period of publication. The publisher of the newspaper must file in the local land office, prior to the date fixed for the sale, evidence that publication has been had for the required period, which evidence may consist of the affidavit of the publisher, accompanied by a copy of the notice published.

12. At the time and place fixed for the sale the Register or Receiver will read the notice of sale and allow all qualified persons an opportunity to bid. Bids may be made through an agent personally present at the sale, as well as by the bidder in person. The Register or Receiver conducting the sale will keep a record showing the names of the bidders and the amount bid by each. Such record will be transmitted to this office with the other papers in the case.

The sale will be kept open for one hour after the time mentioned in the published notice. At the expiration of the hour, and after all bids have been offered, the local officers will declare the sale closed, and announce the name of the highest bidder, who will be declared the purchaser, and he must immediately deposit the amount bid by him with the Receiver, and within ten days thereafter furnish evidence of citizenship, or of declaration of intention to become a citizen, nonmineral and nonsaline affidavit, Form 4-062, or nonsaline affidavit, Form 4-062a, as the case may require. Upon receipt of the proof, and payment having been made for the lands, the local officers will issue the proper final papers.

13. No lands will be sold at less than the price fixed by law, nor at less than $1.25 per acre. Should any of the lands offered be not sold, the same will not be regarded as subject to private entry unless located in the State of Missouri (Act of March 2, 1889, 25 Stats., 854), but may again be offered for sale in the manner herein provided.

14. After each offering where the lands offered are not sold, the local officers will report by letter to the General Land Office. No report by letter will be made when the offering results in a sale, but the local officers will issue cash papers as in ordinary cash entries, noting thereon the date of the letter authorizing the offering, and report the same in their current monthly returns. With the papers must be forwarded the affidavit of publisher showing due publication, and the Register's certificate of posting.

Very respectfully,

Fred Dennett,
Commissioner.

Approved January 19, 1912:
Samuel Adams,
First Assistant Secretary.

An Act to amend an Act entitled "An Act to amend section twenty-four hundred and fifty-five of the Revised Statutes of the United States," approved February twenty-sixth, eighteen hundred and ninety-five.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of February twenty-sixth, eighteen hundred and ninety-five, entitled "An Act to amend section twenty-four hundred and fifty-five of the Revised Statutes of the United States," be, and the same is hereby, amended so as to read as follows:

"It shall be lawful for the Commissioner of the General Land Office to order into market and sell, at public auction at the land office of the district in which the land is situated, for not less than one dollar and twenty-five cents per acre, any isolated or disconnected tract or parcel of the public domain not exceeding one quarter section which, in his judgment, it would be proper to expose for sale after at least thirty days' notice by the land officers of the district in which such land may be situated: Provided, That this Act shall not defeat any vested right which has already attached under any pending entry or location."

Approved, June 27, 1906 (34 Stats., 517).

[Form 4—008B.]

APPLICATION FOR SALE OF ISOLATED OR DISCONNECTED TRACTS.

Department of the Interior,
United States Land Office,
....., ...
....., 19..

To the Commissioner of the General Land Office:

....., whose post-office address is ....., respectfully requests that the ..... of Section ....., Township ....., Range ....., be ordered into market and sold under the Act of June 27, 1906 (34 Stats., 517), at public auction, the same having been subject to homestead entry for at least two years after the surrounding lands were entered, filed upon, or sold by the Government.

Applicant states that he .....
(Insert statement that affiant is a native-born or naturalized citizen, or has declared intention to become such, as the case may be.)
....
citizen of the United States; that this land contains no salines, coal, or other minerals, and no stone except .....; that there is no timber thereon except ..... trees of the ..... species, ranging from ..... inches to ..... feet in diameter, and aggregating about ..... feet stumpage measure, of the estimated value of $.....; that the land is not occupied except by ..... of ..... post-office, who occupies and uses it for the purpose of ....., but does not claim the right of occupancy under any of the public-land laws; that the land is chiefly valuable for ....., and that applicant desires to purchase same for his own individual use and actual occupation for the purpose of ....., and not for speculative purposes; that he has not heretofore purchased public lands sold as isolated tracts, the area of which when added to the area herein applied for will exceed approximately 160 acres. The lands heretofore purchased by him under said act are described as follows: .....

If this request is granted applicant agrees to have notice published at his expense in the newspaper designated by the register.

(Applicant will answer fully the following questions:)

Question 1. Are you the owner of land adjoining the tract above described? If so, describe the land by section, township, and range.

Answer .....

Question 2. To what use do you intend to put the isolated tract above described should you purchase same?

Answer .....

Question 3. If you are not the owner of adjoining land, do you intend to reside upon or cultivate the isolated tract?

Answer .....

Question 4. Have you been requested by anyone to apply for the ordering of the tract into market? If so, by whom?

Answer .....

Question 5. Are you acting as agent for any person or persons or directly

or indirectly for or in behalf of any person other than yourself in making said application?

Answer .....

Question 6. Do you intend to appear at the sale of said tract if ordered, and bid for same?

Answer .....

Question 7. Have you any agreement or understanding, expressed or implied, with any other person or persons that you are to bid upon or purchase the land for them or in their behalf, or have you agreed to absent yourself from the sale or refrain from bidding so that they may acquire title to the land?

Answer .....

.....

(Sign here with full Christian name.)

We are personally acquainted with the above-named applicant and the land described by him, and the statements hereinbefore made are true to the best of our knowledge and belief.

.....

(Sign here with full Christian name.)

.....

(Sign here with full Christian name.)

I certify that the foregoing application and corroborative statement were read to or by the above-named applicant and witnesses, in my presence, before affiants affixed their signatures thereto; that affiants are to me personally known (or have been satisfactorily identified before me by .....); that I verily believe affiants to be credible persons, and the identical persons hereinbefore described; that said affidavits were duly subscribed and sworn to before me, at my office, at ....., this ..... day of ....., 19..

.....

.....

Official designation of officer.)

[Forms 4—348c and 4—348d.]

NOTICE FOR PUBLICATION—ISOLATED TRACT.
PUBLIC LAND SALE.

Department of the Interior,
United States Land Office,

....., ...

....., 19..

Notice is hereby given that, as directed by the Commissioner of the General Land Office, under the provisions of the Act of Congress approved June 27, 1906 (34 Stats., 517), pursuant to the application of ..... Serial No. ....., we will offer at public sale to the highest bidder, but at not less than $..... per acre, at ..... o'clock .. m., on the ..... day of ....., next, at this office, the following tract of land.....

Any persons claiming adversely the above described land are advised to file their claims or objections on or before the time designated for sale.

....., Register.

....., Receiver.

[Circular No. 103.]

ISOLATED TRACTS—SECTION 2455, REVISED STATUTES, AS AMENDED BY ACT OF MARCH 28, 1912 (PUBLIC, NO. 111).

Department of the Interior,
General Land Office,
Washington, D. C., April 30, 1912.

Registers and Receivers,
United States Land Offices.

Sirs: Your attention is directed to the Act of Congress, approved March 28, 1912 (Public, No. 111), amending section 2455, Revised Statutes of the United States, to read as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-four hundred

and fifty-five of the Revised Statutes of the United States be amended to read as follows:

"'Sec. 2455. It shall be lawful for the Commissioner of the General Land Office to order into market and sell at public auction, at the land office of the district in which the land is situated, for not less than one dollar and twenty-five cents an acre, any isolated or disconnected tract or parcel of the public domain not exceeding one-quarter section which, in his judgment, it would be proper to expose for sale after at least thirty days' notice by the land officers of the district in which such land may be situated: Provided, That any legal subdivisions of the public land, not exceeding one-quarter section, the greater part of which is mountainous or too rough for cultivation, may, in the discretion of said Commissioner, be ordered into the market and sold pursuant to this Act upon the application of any person who owns lands or holds a valid entry of lands adjoining such tract, regardless of the fact that such tract may not be isolated or disconnected within the meaning of this act: Provided further, That this act shall not defeat any vested right which has already attached under any pending entry or location.'

"Approved, March 28, 1912."

The material change is found in the first proviso, authorizing the sale of legal subdivisions not exceeding one-quarter section, the greater part of which is mountainous or too rough for cultivation, upon the application of any person who owns or holds a valid entry of lands adjoining such tract, and regardless of the fact that such tract may not be actually isolated by the entry or other disposition of surrounding lands. It is left entirely to the discretion of the Commissioner of the General Land Office to determine whether a tract shall be sold, and it will not be practicable to prescribe a set of rules governing the conditions which would render a tract susceptible to sale under the proviso. Applications will be disposed of by you in accordance with the isolated-tract regulations contained in circulars of January 19, 1912, No. 71 (general) and No. 72 (Kinkaid territory in Nebraska), except that paragraph 7 of Circular No. 71 and paragraph 22 of Circular No. 72 are not applicable, and no tract within the territory affected by the Kinkaid Act in Nebraska, exceeding 160 acres in area, will be ordered into the market under the first proviso to section 2455. Applications may be made upon the forms provided (4—008B and 4—008C) and printed in the circulars above named, properly modified as necessitated by the terms of the proviso. In addition, the applicant must furnish evidence of his ownership of adjoining land, or that he holds a valid entry embracing adjoining land, in connection with which entry he has fully met the requirements of law; also detailed evidence as to the character of the land applied for, the extent to which it is cultivable, and the conditions which render the greater portion unfit for cultivation; also a description of any and all lands theretofore applied for under the proviso or purchased under section 2455 or the amendments thereto. This evidence must consist of an affidavit by the claimant, corroborated by the affidavits of not less than two disinterested persons having actual knowledge of the facts.

No sale will be authorized under the proviso upon the application of a person who has procured one offering thereunder except upon a showing of strong necessity therefor owing to some peculiar condition which prevented original application for the full area allowed to be sold at one time, 160 acres. And in no event will an application be entertained where the applicant has purchased under section 2455, or the amendments thereto, an area which, when added to the area applied for, shall exceed approximately 160 acres.

Until it becomes necessary to reprint the same (when a new supply will be furnished you), you will use the form of notice for publication now provided for isolated-tract sales, but in all cases, whether the sale is ordered under the body of the Act or the proviso, you will insert, in lieu of "June 27, 1906 (34 Stat., 517)," the words "March 28, 1912 (Public, No. 111)," and where the sale is authorized under the proviso you will add after the description of the land, "This tract is ordered into the market on a showing that the greater portion thereof is mountainous or too rough for cultivation."

The provisions of section 2455 relating to the sale of tracts actually isolated are not changed by this Act, and such applications will be governed by the regulations contained in Circulars Nos. 71 and 72, supra, as heretofore.

Very respectfully,

Fred Dennett,
Commissioner.

Approved:
Samuel Adams,
First Assistant Secretary.

[Circular No. 117.]

ACT APPROVED APRIL 30, 1912—OFFERINGS AT PUBLIC SALE OF ISOLATED TRACTS OF COAL LAND.

Department of the Interior,
General Land Office,
Washington, May 23, 1912.

Registers and Receivers,
United States Land Offices.

Gentlemen: The Act of Congress approved April 30, 1912, Public 141, provides:

That * * * unreserved public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as coal lands, or are valuable for coal, shall * * * be subject * * * to disposition * * * under the laws providing for the sale of isolated or disconnected tracts of public lands, but there shall be a reservation to the United States of the coal in such lands so * * * sold, and of the right to prospect for, mine, and remove the same in accordance with the provisions of the Act of June twenty-second, nineteen hundred and ten, and such lands shall be subject to all the conditions and limitations of said Act.

The instructions of January 19, 1912, and April 30, 1912, issued under amended section 2455, Revised Statutes, should be followed in administering this Act, in so far as they are applicable, and these instructions are issued in addition thereto:

(1) An application to have coal land offered at public sale must bear across its face the notation provided by paragraph 7(a) of the circular of September 8, 1910, 39 L. D., 179; in the printed and posted notice of sale will appear the statement:

This land will be sold in accordance with, and subject to, the provisions and reservations of the Act of June 22, 1910 (36 Stat., 583).

The purchaser's consent to the reservation of the coal in the land to the United States will not be required, but the cash certificate and patent will contain, respectively, the provisions specified in paragraph 7(b) of said circular of September 8, 1910.

(2) In cases where offerings have been had, and sales made, of lands coming within the purview of the Act of April 30, 1912, the purchasers may furnish their consent to receive patents, containing the limitation provided by said paragraph 7(b), and, thereupon, the entries may be confirmed and patents, limited as indicated, may issue.

Very respectfully,
Fred Dennett,
Commissioner.

Approved:
Samuel Adams,
First Assistant Secretary.

REVISED REGULATIONS UNDER THE KINKAID ACTS.

[Circular.]

Department of the Interior,
General Land Office,
Washington, D. C., January 19, 1912.

Registers and Receivers, United States Land Offices.

Sirs: Section 7 of the Act of Congress approved May 29, 1908 (35 Stat., 465), amended section 2 of the Act of April 28, 1904 (33 Stat., 547), commonly known as the Kinkaid Act, to read as follows:

Sec. 2. That entrymen under the homestead laws of the United States within the territory above described who own and occupy the lands heretofore entered by them may, under the provisions of this Act and subject to its conditions, enter other lands contiguous to their said homestead entry, which shall not, with the land so already entered, owned and occupied, exceed in the aggregate six hundred and forty acres, and residence continued and improvements made upon the original homestead, subsequent to the making of the additional entry shall be accepted as equivalent to actual resi-

dence and improvements made upon the additional land so entered, but final entry shall not be allowed of such additional land until five years after first entering the same, except in favor of entrymen entitled to credit for military service.

This amendment did not affect sections 1 and 3 of the Kinkaid Act, which read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after sixty days after the approval of this Act entries made under the homestead laws in the State of Nebraska west and north of the following line, to wit: Beginning at a point on the boundary line between the States of South Dakota and Nebraska where the first guide meridian west of the sixth principal meridian strikes said boundary; thence running south along said guide meridian to its intersection with the fourth standard parallel north of the base line between the States of Nebraska and Kansas; thence west along said fourth standard parallel to its intersection with the second guide meridian west of the sixth principal meridian; thence south along said guide meridian to its intersection with the third standard parallel north of the said base line; thence west along said third standard parallel to its intersection with the range line between ranges twenty-five and twenty-six west of the sixth principal meridian; thence south along said line to its intersection with the second standard parallel north of the said base line; thence west on said standard parallel to its intersection with the range line between ranges thirty and thirty-one west; thence south along said line to its intersection with the boundary line between the States of Nebraska and Kansas, shall not exceed in area six hundred and forty acres, and shall be as nearly compact in form as possible, and in no event over two miles in extreme length: Provided, That there shall be excluded from the provisions of this Act such lands within the territory herein described as in the opinion of the Secretary of the Interior it may be reasonably practicable to irrigate under the national irrigation law, or by private enterprise; and that said Secretary shall, prior to the date above mentioned, designate and exclude from entry under this Act the lands, particularly along the North Platte River, which in his opinion it may be possible to irrigate as aforesaid; and shall thereafter, from time to time, open to entry under this Act any of the lands so excluded, which upon further investigation, he may conclude can not be practically irrigated in the manner aforesaid.

Sec. 3. That the fees and commissions on all entries under this Act shall be uniformly the same as those charged under the present law for a maximum entry at the minimum price. That the commutation provisions of the homestead law shall not apply to entries under this Act, and at the time of making final proof the entryman must prove affirmatively that he has placed upon the lands entered permanent improvements of the value of not less than $1.25 per acre for each acre included in his entry: Provided, That a former homestead entry shall not be a bar to the entry under the provisions of this Act of a tract which, together with the former entry, shall not exceed 640 acres: Provided, That any former homestead entryman who shall be entitled to an additional entry under section 2 of this Act shall have for ninety days after the passage of this Act

the preferential right to make additional entry as provided in said section.

All general instructions heretofore issued under this Act, and the instructions issued under the supplemental Act of March 2, 1907 (34 Stat., 1224), (32 L. D., 87, and 546; 37 L. D., 225), are hereby modified and reissued as follows:

1. It is directed by the law that in that portion of the State of Nebraska lying west and north of the line described therein, which was marked in red ink upon maps transmitted with said circular, upon and after June 28, 1904, except for such lands as might be thereafter and prior to said excluded under the proviso contained in the first section thereof, homestead entries may be made for and not to exceed 640 acres, the same to be in as nearly a compact form as possible, and must not in any event exceed two miles in extreme length.

2. Under the provisions of the second section, a person who within the described territory has made entry prior to May 29, 1908, under the homestead laws of the United States, and who now owns and occupies the lands theretofore entered by him, and is not otherwise disqualified, may make an additional entry of a quantity of land contiguous to his said homestead entry, which, added to the area of the original entry, shall make an aggregate area not to exceed 640 acres; and he will not be required to reside upon the additional land so entered, but residence continued and improvements made upon the original homestead entry subsequent to the making of the additional entry will be accepted as equivalent to actual residence and improvements on the land covered by the additional entry. But residence either upon the original homestead or the additional land entered must be continued for the period of five years from the date of the additional entry, except that entrymen may claim and receive credit on that period for the length of their military service, not exceeding four years.

3. A person who has a homestead entry upon which final proof has not been submitted and who makes additional entry under the provisions of section 2 of the Act, will be required to submit his final proof on the original entry within the statutory period therefor, and final proof upon the additional entry must also be submitted within the statutory period from date of that entry.

4. Such additional entry must be for contiguous lands and the tracts embraced therein must be in as compact form as possible, and the extreme length of the combined entries must not in any event exceed two miles.

5. In accepting entries under this Act compliance with the requirement thereof as to compactness of form should be determined by the relative location of the vacant and unappropriated lands, rather than by the quality and desirability of the desired tracts.

6. By the first proviso of section 3 any person who made a homestead entry either within the tract above described or elsewhere prior to his application for entry under this Act, if no other disqualification exists, will be allowed to make an additional entry for a quantity of land which, added to the area of the land embraced in the former entry, shall not exceed 640 acres, but residence upon and cultivation of the additional land will be required to be made and proved as in ordinary homestead entries. But the appli-

cation of one who has an existing entry and seeks to make an additional entry under said proviso, can not be allowed unless he has either abandoned his former entry or has so perfected his right thereto as to be under no further obligation to reside thereon; and his qualifying status in these and other respects should be clearly set forth in his application.

7. Under said Act no bar is interposed to the making of second homesteads for the full area of 640 acres by parties entitled thereto under existing laws, and applications therefor will be considered under the instructions of the respective laws under which they are made.

8. Upon final proof, which may be made after five years and within seven years from date of entry, the entryman must prove affirmatively that he has placed upon the lands entered permanent improvements of the value of not less than $1.25 per acre for each acre, and such proof must also show residence upon and cultivation of the land for the five-year period as in ordinary homestead entries, but credit for military service may be claimed and given under the supplemental Act mentioned above.

9. In the making of final proofs the homestead-proof form will be used, modified when necessary in case of additional entries made under the provisions of section 2.

10. It is provided by section 3 that the fees and commissions on all entries under the Act shall be uniformly the same as those charged under the present law for a maximum entry at the minimum price, viz: At the time the application is made $14, and at the time of making final proof $4, to be payable without regard to the area embraced in the entry.

11. In case that the combined area of the subdivisions selected should, upon applying the rule of approximation thereto, be found to exceed in area the aggregate of 640 acres, the entryman will be required to pay the minimum price per acre for the excess in area.

12. Entries under this Act are not subject to the commutation provisions of the homestead law.

13. In the second proviso of section 3 entrymen who had made their entries prior to April 28, 1904, were allowed a preferential right for 90 days thereafter to make the additional entry allowed by section 2 of the law.

14. The supplemental act, approved March 2, 1907 (34 Stat., 1224), reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all qualified entrymen who, during the period beginning on the twenty-eighth day of April, nineteen hundred and four, and ending on the twenty-eighth day of June, nineteen hundred and four, made homestead entry in the State of Nebraska within the area affected by an Act entitled "An Act to amend the homestead laws as to certain unappropriated and unreserved public lands in Nebraska," approved April twenty-eighth, nineteen hundred and four, shall be entitled to all the benefits of said Act as if their entries had been made prior or subsequent to the above-mentioned dates, subject to all existing rights.

Sec. 2. That the benefits of military service in the Army or Navy of the United States granted under the homestead laws shall

apply to entries made under the aforesaid Act, approved April twenty-eighth, nineteen hundred and four, and all homestead entries hereafter made within the territory described in the aforesaid Act shall be subject to all the provisions thereof.

Sec. 3. That within the territory described in said Act approved April twenty-eighth, nineteen hundred and four, it shall be lawful for the Secretary of the Interior to order into market and sell under the provisions of the laws providing for the sale of isolated or disconnected tracts or parcels of land any isolated or disconnected tract not exceeding three quarter sections in area: Provided, That not more than three quarter sections shall be sold to any one person.

(See Isolated Tracts.)

CIRCULAR ON RESTORATION OF LOST OR OBLITERATED CORNERS AND SUBDIVISION OF SECTIONS—GENERAL LAND OFFICE, MARCH 14, 1901.

Penalties for Destroying Corner Monuments.

To aid in the protection of all evidences of public-land surveys, the following law was enacted as a clause in chapter 398, 29 United States Statutes, page 343, which was approved June 10, 1896:

Provided further, That hereafter it shall be unlawful for any person to destroy, deface, change, or remove to another place any section corner, quarter-section corner, or meander post, or any Government line of survey, or to cut down any witness tree, or any tree blazed to mark the line of a Government survey, or to deface, change, or remove any monument or bench mark of any Government survey. That any person who shall offend against any of the provisions of this paragraph shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court shall be fined not exceeding two hundred and fifty dollars, or be imprisoned not more than one hundred days. All the fines accruing under this paragraph shall be paid into the Treasury and the informer in each case of conviction shall be paid the sum of twenty-five dollars.

Department of the Interior,
General Land Office,
Washington, D. C., March 14, 1901.

The increasing number of letters from county and local surveyors received at this office making inquiry as to the proper method of restoring to their original position lost or obliterated corners marking the survey of the public lands of the United States, or such as have been willfully or accidentally moved from their original position, have rendered the preparation of the following general rules necessary, particularly as in a very large number of cases the immediate facts necessary to a thorough and intelligent understanding are omitted. Moreover, surveys having been made under the authority of different acts of Congress, different results have been obtained, and no special law has been enacted by that authority covering and regulating the subject of the above-named inquiries. Hence, the general rule here given must be considered merely as an expression of the opinion of this office on the subject, based, however, upon the spirit of the several acts of Congress authorizing the surveys, as construed by this office, and by United States court decisions. When cases arise which are not covered by these rules, and the advice of this office is desired, the letter of inquiry should always contain a description of the particular corner, with reference to the township, range, and section of the public surveys, to enable this office to consult the record.

An obliterated corner is one where no visible evidence remains of the work of the original surveyor in establishing it. Its location may, however, have been preserved beyond all question by acts of landowners, and by the memory of those who knew and recollect the true situs of the original monument. In such cases it is not a lost corner.

A lost corner is one whose position can not be determined, beyond reasonable doubt, either from original marks or reliable external evidence.

Surveyors sometimes err in their decision whether a corner is to be treated as lost or only obliterated.

Surveyors who have been United States deputies should bear in mind that

in their private capacity they must act under somewhat different rules of law from those governing original surveys, and should carefully distinguish between the provisions of the statute which guide a Government deputy and those which apply to retracement of lines once surveyed. The failure to observe this distinction has been prolific of erroneous work and injustice to landowners.

To restore extinct boundaries of the public lands correctly, the surveyor must have some knowledge of the manner in which townships were subdivided by the several methods authorized by Congress. Without this knowledge he may be greatly embarrassed in the field, and is liable to make mistakes invalidating this work, and leading eventually to serious litigation. It is believed that the following synopsis of the several acts of Congress regulating the surveys of the public lands will be of service to county surveyors and others, and will help to explain many of the difficulties encountered by them in the settlement of such questions.

Compliance with the provisions of Congressional legislation at different periods has resulted in two sets of corners being established on township lines at one time; at other times three sets of corners have been established on range lines; while the system now in operation makes but one set of corners on township boundaries, except on standard lines—i. e., base and correction lines, and in some exceptional cases.

The following brief explanation of the modes which have been practiced will be of service to all who may be called upon to restore obliterated boundaries of the public land surveys.

Where two sets of corners were established on township boundaries, one set was planted at the time the exteriors were run, those on the north boundary belonging to the sections and quarter sections north of said line, and those on the west boundary belonging to the sections and quarter sections west of that line. The other set of corners was established when the township was subdivided. This method, as stated, resulted in the establishment of two sets of corners on all four sides of the townships.

Where three sets of corners were established on the range lines, the subdivisional surveys were made in the above manner, except that the east and west section lines, instead of being closed upon the corners previously established on the east boundary of the township, were run due east from the last interior section corner, and new corners were erected at the points of intersection with the range line.

The method now in practice requires section lines to be initiated from the corners on the south boundary of the township, and to close on existing corners on the east, north, and west boundaries of the township, except when the north boundary is a base line or standard parallel.

But in some cases, for special reasons, an opposite course of procedure has been followed, and subdivisional work has been begun on the north boundary and has been extended southward and eastward or southward and westward.

In the more recent general instructions, greater care has been exercised to secure rectangular subdivisions by fixing a strict limitation that no new township exteriors or section lines shall depart from a true meridian or east and west lines more than twenty-one minutes of arc; and that where a random line is found liable to correction beyond this limit, a true line on a cardinal course must be run, setting a closing corner on the line to which it closes.

This produces, in new surveys closing to irregular old work, a great number of exteriors marked by a double set of corners. All retracing surveyors should proceed under these new conditions with full knowledge of the field notes and exceptional methods of subdivision.

Synopsis of Acts of Congress.

The first enactment in regard to the surveying of the public lands was an ordinance passed by the Congress of the Confederation May 20, 1785, prescribing the mode for the survey of the "Western Territory," and which provided that said territory should be divided into "townships of six miles square, by lines running due north and south, and others crossing them at right angles" as near as might be.

Ordinance of the Congress of the Confederation of May 20, 1785. U. S. Land Laws, p. 349. Edition 1828.

It further provided that the first line running north and south should begin on the Ohio River, at a point due north from the western terminus of a line

with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any United States deputy surveyor to make the survey. The Commissioner of the General Land Office shall also have power to establish the maximum charges for surveys and publication of notices under this chapter; and, in case of excessive charges for publication, he may designate any newspaper published in a land district where mines are situated for the publication of mining notices in such district, and fix the rates to be charged by such paper; and, to the end that the Commissioner may be fully informed on the subject, each applicant shall file with the Register a sworn statement of all charges and fees paid by such applicant for publication and surveys, together with all fees and money paid the Register and the Receiver of the land office, which statement shall be transmitted, with the other papers in the case, to the Commissioner of the General Land Office.

Verification of affidavits, etc.

10 May, 1872, c. 152, s. 13, v. 17, p. 95.

Sec. 2335. All affidavits required to be made under this chapter may be verified before any officer authorized to administer oaths within the land district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the Register and Receiver of the land office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided on personal notice of at least ten days to the opposing party; or if such party can not be found, then by publication of at least once a week for thirty days in a newspaper, to be designated by the Register of the land office as published nearest to the location of such land; and the Register shall require proof that such notice has been given.

Where veins intersect, etc.

10 May, 1872, c. 152, s. 14, v. 17, p. 96.

Sec. 2336. Where two or more veins intersect or cross each other, priority of title shall govern, and such prior location shall be entitled to all ore or mineral contained within the space of intersection; but the subsequent location shall have the right of way through the space of intersection for the purposes of the convenient working of the mine. And where two or more veins unite, the oldest or prior location shall take the vein below the point of union, including all the space of intersection.

Patents for nonmineral lands, etc.

10 May, 1872, c. 152, s. 15, v. 17, p. 96.

Sec. 2337. Where nonmineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such nonadjacent surface ground may be embraced and included in an application for a patent for

such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location hereafter made of such nonadjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this chapter for the superficies of the lode. The owner of a quartz mill or reduction works, not owning a mine in connection therewith, may also receive a patent for his mill site, as provided in this section.

What conditions of sale may be made by local legislature.

Sec. 2338. As a condition of sale, in the absence of necessary legislation by Congress, the local legislature of any State or Territory may provide rules for working mines, involving easements, drainage, and other necessary means to their complete development; and those conditions shall be fully expressed in the patent.

26 July, 1866, c. 262, s. 5, v. 14, p. 252.

Vested rights to use of water for mining, etc.; right of way for canals.

Sec. 2339. Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

26 July, 1866, c. 262, s. 9, v. 14, p. 253.

Patents, preemptions, and homesteads subject to vested and accrued water rights.

Sec. 2340. All patents granted, or preemption or homesteads allowed, shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under or recognized by the preceding section.

9 July, 1870, c. 235, s. 17, v. 16, p. 218.

Mineral lands in which no valuable mines are discovered open to homesteads.

Sec. 2341. Wherever, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar, or copper discovered, and which are properly agricultural lands, the settlers or owners of such homesteads shall have a right of preemption thereto, and shall be entitled to purchase the same at the price of one dollar and twenty-five cents per acre, and in quantity not to exceed one hundred and sixty acres; or they may avail themselves of the provisions of chapter five of this Title, relating to "Homesteads."

26 July, 1866, c. 262, s. 10, v. 14, p. 253.

Mineral lands, how set apart as agricultural lands.

26 July, 1866, c. 262, s. 11, v. 14, p. 253.

Sec. 2342. Upon the survey of the lands described in the preceding section, the Secretary of the Interior may designate and set apart such portions of the same as are clearly agricultural lands, which lands shall thereafter be subject to preemption and sale as other public lands, and be subject to all the laws and regulations applicable to the same.

Additional land districts and officers, power of the President to provide.

26 July, 1866, c. 262, s. 7, v. 14, p. 252.

Sec. 2343. The President is authorized to establish additional land districts, and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of this chapter.

Provisions of this chapter not to affect certain rights.

10 May, 1872, c. 152, s. 16, v. 17, p. 96.

9 July, 1870, c. 235, s. 17, v. 16, p. 218.

Sec. 2344. Nothing contained in this chapter shall be construed to impair, in any way, rights or interests in mining property acquired under existing laws; nor to affect the provisions of the Act entitled "An Act granting to A. Sutro the right of way and other privileges to aid in the construction of a draining and exploring tunnel to the Comstock lode, in the State of Nevada," approved July twenty-five, eighteen hundred and sixty-six.

Mineral lands in certain States excepted.

18 Feb., 1873, c. 159, v. 17, p. 465.

Sec. 2345. The provisions of the preceding sections of this chapter shall not apply to the mineral lands situated in the States of Michigan, Wisconsin, and Minnesota, which are declared free and open to exploration and purchase, according to legal subdivisions, in like manner as before the tenth day of May, eighteen hundred and seventy-two. And any bona fide entries of such lands within the States named since the tenth day of May, eighteen hundred and seventy-two, may be patented without reference to any of the foregoing provisions of this chapter. Such lands shall be offered for public sale in the same manner, at the same minimum price, and under the same rights of preemption as other public lands.

Grant of lands to States or corporations not to include mineral lands.

30 Jan., 1865, Res. No. 10, v. 13, p. 567.

Sec. 2346. No act passed at the first session of the Thirty-eighth Congress, granting lands to States or corporations to aid in the construction of roads or for other purposes, or to extend the time of grants made prior to the thirtieth day of January, eighteen hundred and sixty-five, shall be so construed as to embrace mineral lands, which in all cases are reserved exclusively to the United States, unless otherwise specially provided in the Act or Acts making the grant.

ACTS OF CONGRESS PASSED SUBSEQUENT TO THE REVISED STATUTES.

An Act to amend the Act entitled "An Act to promote the development of the mining resources of the United States," passed May tenth, eighteen hundred and seventy-two.

Claim located prior to May 10, 1872, first annual expenditure extended to Jan. 1, 1875.

Act of Congress approved June 6, 1874 (18 Stat. L., 61).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the fifth section of the Act entitled "An Act to promote the development of the mining resources of the United States," passed May tenth, eighteen hundred and seventy-two, which requires expenditures of labor and improvements on claims located prior to the passage of said Act, are hereby so amended that the time for the first annual expenditure on claims located prior to the passage of said Act shall be extended to the first day of January, eighteen hundred and seventy-five.

An Act to amend section two thousand three hundred and twenty-four of the Revised Statutes, relating to the development of the mining resources of the United States.

Money expended in a tunnel considered as expended on the lode.

Act of Congress approved Feb. 11, 1875 (18 Stat. L., 315).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section two thousand three hundred and twenty-four of the Revised Statutes be, and the same is hereby, amended so that where a person or company has or may run a tunnel for the purpose of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since the passage of said Act; and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by said Act.

An Act to exclude the States of Missouri and Kansas from the provisions of the Act of Congress entitled "An Act to promote the development of the mining resources of the United States," approved May tenth, eighteen hundred and seventy-two.

Missouri and Kansas excluded from the operation of the mineral laws.

Act of Congress approved May 5, 1876 (19 Stat. L., 52).

Be it enacted from the Senate and House of Representatives of the United States of America in Congress assembled, That within the States of Missouri and Kansas deposits of coal, iron, lead, or other mineral be, and they are hereby, excluded from the operation of the Act entitled "An Act to promote the development of the mining resources of the United States," approved May tenth, eighteen hundred and seventy-two, and all lands in said States shall be subject to disposal as agricultural lands.

An Act authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes.

Citizens of Colorado, Nevada, and the Territories authorized to fell and remove timber on the public domain for mining and domestic purposes.

Act of Congress approved June 3, 1878 (20 Stat. L., 88).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all citizens of the United States and other persons, bona fide residents of the State of Colorado, or Nevada, or either of the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, or Montana, and all other mineral districts of the United States, shall be, and are hereby, authorized and permitted to fell and remove, for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said States, Territories, or districts of which such citizens or persons may be at the time bona fide residents, subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and for other purposes: Provided, The provisions of this Act shall not extend to railroad corporations.

Sec. 2. That it shall be the duty of the Register and the Receiver of any local land office in whose district any mineral land may be situated to ascertain from time to time whether any timber is being cut or used upon any such lands, except for the purposes authorized by this Act, within their respective land districts; and, if so, they shall immediately notify the Commissioner of the General Land Office of that fact; and all necessary expenses incurred in making such proper examinations shall be paid and allowed such Register and Receiver in making up their next quarterly accounts.

Sec. 3. Any person or persons who shall violate the provisions of this Act, or any rules and regulations in pursuance thereof made by the Secretary of the Interior, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding five hundred dollars, and to which may be added imprisonment for any term not exceeding six months.

An Act to amend sections twenty-three hundred and twenty-four and twenty-three hundred and twenty-five of the Revised Statutes of the United States concerning mineral lands.

Application for patent may be made by authorized agent.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-three hundred and twenty-five of the Revised Statutes of the United States be amended by adding thereto the following words: "Provided, That where the claimant for a patent is not a resident of or within the land district wherein the vein, lode, ledge, or deposit sought to be patented is located, the application for patent and the affidavits required to be made in this section by the claimant for such patent may be made by his, her, or

its authorized agent, where said agent is conversant with the facts sought to be established by said affidavits: And provided, That this section shall apply to all applications now pending for patents to mineral lands."

Sec. 2. That section twenty-three hundred and twenty-four of the Revised Statutes of the United States be amended by adding the following words: "Provided, That the period within which the work required to be done annually on all unpatented mineral claims shall commence on the first day of January succeeding the date of location of such claim, and this section shall apply to all claims located since the tenth day of May, anno Domini eighteen hundred and seventy-two."

On unpatented claims period commences on Jan. 1 succeeding date of location.

Act of Congress approved Jan. 22, 1880 (21 Stat. L., 61).

An Act to amend section twenty-three hundred and twenty-six of the Revised Statutes relating to suits at law affecting the title to mining claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if, in any action brought pursuant to section twenty-three hundred and twenty-six of the Revised Statutes, title to the ground in controversy shall not be established by either party, the jury shall so find, and judgment shall be entered according to the verdict. In such case costs shall not be allowed to either party, and the claimant shall not proceed in the land office or be entitled to a patent for the ground in controversy until he shall have perfected his title.

In action brought title not established in either party.

Act of Congress approved Mar. 3, 1881 (21 Stat. L., 505).

An Act to amend section twenty-three hundred and twenty-six of the Revised Statutes in regard to mineral lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the adverse claim required by section twenty-three hundred and twenty-six of the Revised Statutes may be verified by the oath of any duly authorized agent or attorney in fact of the adverse claimant cognizant of the facts stated; and the adverse claimant, if residing or at the time being beyond the limits of the district wherein the claim is situated, may make oath to the adverse claim before the clerk of any court of record of the United States or the State or Territory where the adverse claimant may then be, or before any notary public of such State or Territory.

Adverse claim may be verified by agent.

Sec. 1, act of Congress approved April 26, 1882 (22 Stat L., 49).

Sec. 2. That applicants for mineral patents, if residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit required for proof of citizenship before the clerk of any court of record, or before any notary public of any State or Territory.

Affidavit of citizenship; before whom made.

Sec. 2, act of Congress approved April 26, 1882 (22 Stat. L., 49).

(See Appendix, p. —.)

An Act to exclude the public lands in Alabama from the operation of the laws relating to mineral lands.

Alabama excepted from the operation of the mineral laws.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That within the State of Alabama all public lands, whether mineral or otherwise, shall be subject to disposal only as agricultural lands: Provided, however, That all lands which have heretofore been reported to the General Land Office as containing coal and iron shall first be offered at public sale: And provided further, That any bona fide entry under the provisions of the homestead law of lands within said State heretofore made may be patented without reference to an Act approved May tenth, eighteen hundred and seventy-two, entitled "An Act to promote the development of the mining resources of the United States," in cases where the persons making application for such patents have in all other respects complied with the homestead law relating thereto.

Act of Congress approved Mar. 3, 1883 (22 Stat. L., 487).

An Act providing for a civil government for Alaska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

Mining laws extended to the district of Alaska.

Sec. 8. That the said district of Alaska is hereby created a land district, and a United States land office for said district is hereby located at Sitka. The commissioner provided for by this Act to reside at Sitka shall be ex officio register of said land office, and clerk provided for by this Act shall be ex officio receiver of public moneys, and the marshal provided for by this Act shall be ex officio surveyor-general of said district and the laws of the United States relating to mining claims, and the rights incident thereto shall, from and after the passage of this Act, be in full force and effect in said district, under the administration thereof herein provided for, subject to such regulations as may be made by the Secretary of the Interior, approved by the President: Provided, That the Indians or other persons in said district shall not be disturbed in the possession of any lands actually in their use or occupation or now claimed by them, but the terms under which such persons may acquire title to such lands is reserved for future legislation by Congress: And provided further, That parties who have located mines or mineral privileges therein under the laws of the United States applicable to the public domain, or who have occupied and improved or exercised acts of ownership over such claims, shall not be disturbed therein, but shall be allowed to perfect their title to such claims by payment as aforesaid: And provided also, That the land not exceeding six hundred and forty acres at any station now occupied as missionary

Act of Congress approved May 17, 1884 (23 Stat. L., 24).

stations among the Indian tribes in said section, with the improvements thereon erected by or for such societies, shall be continued in the occupancy of the several religious societies to which said missionary stations respectively belong until action by Congress. But nothing contained in this Act shall be construed to put in force in said district the general land laws of the United States.

An Act making appropriations for sundry civil expenses of the Government, for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

Right of entry under all the land laws restricted to 320 acres. (Repealed, see act March 3, 1891, sec. 17).

Reservation in patents for right of way for ditches and canals constructed.

Act of Congress approved Aug. 30, 1890 (26 Stat. L., 371).

No person who shall after the passage of this Act enter upon any of the public lands with a view to occupation, entry, or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry or settlement, is validated by this Act: Provided, That in all patents for lands hereafter taken up under any of the land laws of the United States or on entries or claims validated by this Act west of the one hundredth meridian it shall be expressed that there is reserved from the lands in said patent described a right of way thereon for ditches or canals constructed by the authority of the United States. * * *

An Act to repeal the timber-culture laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

Town sites on mineral lands authorized.

Lands entered under the mineral laws not included in restrictions to 320 acres.

Act of Congress approved March 3, 1891 (26 Stat. L. 1095).

Sec. 16. That townsite entries may be made by incorporated towns and cities on the mineral lands of the United States, but no title shall be acquired by such towns or cities to any vein of gold, silver, cinnabar, copper, or lead, or to any valid mining claim or possession held under existing law. When mineral veins are possessed within the limits of an incorporated town or city, and such possession is recognized by local authority or by the laws of the United States, the title to town lots shall be subject to such recognized possession and the necessary use thereof, and when entry has been made or patent issued for such townsites to such incorporated town or city, the possessor of such mineral vein may enter and receive patent for such mineral vein, and the surface ground appertaining thereto: Provided, That no entry shall be made by

such mineral-vein claimant for surface ground where the owner or occupier of the surface ground shall have had possession of the same before the inception of the title of the mineral-vein applicant.

Sec. 17. That reservoir sites located or selected and to be located and selected under the provisions of "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and eighty-nine, and for other purposes, and amendments thereto, shall be restricted to and shall contain only so much land as is actually necessary for the construction and maintenance of reservoirs, excluding so far as practicable lands occupied by actual settlers at the date of the location of said reservoirs, and that the provisions of "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes," which reads as follows, viz: "No person who shall after the passage of this Act enter upon any of the public lands with a view to occupation, entry, or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws," shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not include lands entered or sought to be entered under mineral land laws.

* * * * *

An Act to authorize the entry of lands chiefly valuable for building stone under the placer mining laws.

27 Stat., 348. (See page 915.)

An Act to amend section numbered twenty-three hundred and twenty-four of the Revised Statutes of the United States relating to mining claims.

Requirement of proof of expenditure for the year 1893 suspended except as to South Dakota.

Act of Congress approved Nov. 3, 1893 (28 Stat. L. 6).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of section numbered twenty-three hundred and twenty-four of the Revised Statutes of the United States, which require that on each claim located after the tenth day of May, eighteen hundred and seventy-two, and until patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year, be suspended for the year eighteen hundred and ninety-three, so that no mining claim which has been regularly located and recorded as required by the local laws and mining regulations shall be subject to forfeiture for nonperformance of the annual assessment for the year eighteen hundred and ninety-three: Provided, That the claimant or claimants of any mining location, in order to secure the benefits of this act shall cause to

be recorded in the office where the location notice or certificate is filed on or before December thirty-first, eighteen hundred and ninety-three, a notice that he or they, in good faith intend to hold and work said claim: Provided, however, That the provisions of this Act shall not apply to the State of South Dakota.

This Act shall take effect from and after its passage.

An Act to amend section numbered twenty-three hundred and twenty-four of the Revised Statutes of the United States relating to mining claims.

Requirement of proof of expenditure for the year 1894 suspended except as to South Dakota.

Act of Congress approved July 18, 1894 (28 Stat. L., 114).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of section numbered twenty-three hundred and twenty-four of the Revised Statutes of the United States, which require that on each claim located after the tenth day of May, eighteen hundred and seventy-two, and until patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year, be suspended for the year eighteen hundred and ninety-four, so that no mining claim which has been regularly located and recorded as required by the local laws and mining regulations shall be subject to forfeiture for nonperformance of the annual assessment for the year eighteen hundred and ninety-four: Provided, That the claimant or claimants of any mining location, in order to secure the benefits of this Act, shall cause to be recorded in the office where the location notice or certificate is filed on or before December thirty-first, eighteen hundred and ninety-four, a notice that he or they in good faith intend to hold and work said claim: Provided, however, That the provisions of this Act shall not apply to the State of South Dakota.

Sec. 2. This Act shall take effect from and after its passage.

An Act making appropriations for current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-six, and for other purposes.

[WICHITA LANDS, OKLAHOMA.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

Lands ceded.

Act of Mar. 2, 1895 (28 Stat. L., 876, 894, 899).

The said Wichita and affiliated bands of Indians in the Indian Territory hereby cede, convey, transfer, relinquish, forever and absolutely, without any reservation whatever, all their claim, title and interest of every kind and character in and to the lands embraced in the following-described tract of country in the Indian Territory, to wit:

Commencing at a point in the middle of the main channel of the Washita River, where the ninety-eighth meridian of west longitude crosses the same, thence up the middle of the main channel of said river to the line of ninety-eight degrees forty minutes west longitude, thence on said line of ninety-eight degrees forty minutes due north to the middle of the channel of the main Canadian River, thence down the middle of said main Canadian River to where it crosses the ninety-eighth meridian, thence due south to the place of beginning.

* * * * *

Mineral laws. That the laws relating to the mineral lands of the United States are hereby extended over the lands ceded by the foregoing agreement.

An Act making appropriations for current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-seven, and for other purposes.

[FORT BELKNAP INDIAN RESERVATION, MONTANA.]

Sec. 8.

* * * * *

That upon the filing in the United States local land office for the district in which the lands surrendered by article one of the foregoing agreement are situated, of the approved plat of survey authorized by this section, the lands so surrendered shall be open to occupation, location, and purchase, under the provisions of the mineral-land laws only, subject to the several articles of the foregoing agreement: Provided, That said lands shall be sold at ten dollars per acre: And provided further, That the terms of this section shall not be construed to authorize the occupancy of said lands for mining purposes prior to the date of filing said approved plat of survey. * * *

Provisos.
Price.
No occupancy prior to opening.

[BLACKFEET INDIAN RESERVATION, MONTANA.]

Sec. 9.

* * * * *

That upon the filing in the United States local land office for the district in which the lands surrendered by article one of the foregoing agreement are situated, of the approved plat of survey authorized by this section, the lands so surrendered shall be opened to occupation, location, and purchase under the provisions of the mineral-land laws only, subject to the several articles of the foregoing agreement: Provided, That the terms of this section shall not be construed to authorize occupancy of said lands for mining purposes prior to the date of filing said approved plat of survey:

Proviso.
No occupancy prior to opening.

[SAN CARLOS INDIAN RESERVATION, ARIZONA.]

Sec. 10.

* * * * *

That upon the filing in the United States local land office for the district in which the lands surrendered by article one of the foregoing agreement are situated, of the approved plat of survey authorized by this section, the lands so surrendered shall be opened to occupation, location, and purchase under the provisions of the mineral-land laws only, subject to the several articles of the foregoing agreement: Provided, That the terms of this section shall not be construed to authorize occupancy of said lands for mining purposes prior to the date of filing said approved plat of survey: Provided, however, That any person who in good faith prior to the passage of this Act had discovered and opened, or located, a mine of coal or other mineral, shall have a preference right of purchase for ninety days from and after the official filing in the local land office of the approved plat of survey provided for by this section.

Provisos.
No occupancy prior to opening.

Preference to discoverers of coal, etc.

Act of Congress approved June 10, 1896 (29 Stat. L., 353, 357, 360).

An Act to authorize the entry and patenting of lands containing petroleum and other mineral oils under the placer mining laws of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person authorized to enter lands under the mining laws of the United States may enter and obtain patent to lands containing petroleum or other mineral oils, and chiefly valuable therefor, under the provisions of the laws relating to placer mineral claims: Provided, That lands containing such petroleum or other mineral oils which have heretofore been filed upon, claimed, or improved as mineral, but not yet patented, may be held and patented under the provisions of this Act the same as if such filing, claim, or improvement were subsequent to the date of the passage hereof.

Entry and patenting of lands containing petroleum and other mineral oils under the placer-mining laws.

Act of Congress approved Feb. 11, 1897 (29 Stat. L., 526).

An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes.

* * * * *

All public lands heretofore designated and reserved by the President of the United States under the provisions of the Act approved March third, eighteen hundred and ninety-one, the orders for which shall be and remain in full force and effect, unsuspended and unrevoked, and all public lands that may hereafter be set aside and reserved as public forest reserves under said Act, shall be as far as practicable controlled and administered in accordance with the following provisions:

Act of Congress approved June 4, 1897 (30 Stat. L., 34, 35, 36).

Forest reservations, when to be established.

No public forest reservation shall be established, except to improve and protect the forest within the reservation, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States; but it is not the purpose or intent of these provisions, or of the Act providing for such reservations, to authorize the inclusion therein of lands more valuable for the mineral therein, or for agricultural purposes, than for forest purposes.

* * * * *

Use of timber, etc., by settlers, etc.

The Secretary of the Interior may permit, under regulations to be prescribed by him, the use of timber and stone found upon such reservations, free of charge, by bona fide settlers, miners, residents, and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting, and other domestic purposes, as may be needed by such persons for such purposes; such timber to be used within the State or Territory, respectively, where such reservations may be located.

Egress and ingress of settlers within reservations, etc.

Nothing herein shall be construed as prohibiting the egress or ingress of actual settlers residing within the boundaries of such reservations, or from crossing the same to and from their property or homes; and such wagon roads and other improvements may be constructed thereon as may be necessary to reach their homes and to utilize their property under such rules and regulations as may be prescribed by the Secretary of the Interior. Nor shall anything herein prohibit any person from entering upon such forest reservations for all proper and lawful purposes, including that of prospecting, locating, and developing the mineral resources thereof: Provided, That such persons comply with the rules and regulations covering such forest reservations.

* * * * *

Restoration of mineral or agricultural lands to the public domain.

Upon the recommendation of the Secretary of the Interior, with the approval of the President, after sixty days' notice thereof, published in two papers of general circulation in the State or Territory wherein any forest reservation is situated, and near the said reservation, any public lands embraced within the limits of any forest reservation which, after due examination by personal inspection of a competent person appointed for that purpose by the Secretary of the Interior, shall be found better adapted for mining or for agricultural purposes than for forest usage, may be restored to the public domain. And any mineral lands in any forest reservation which have been or which may be shown to be such, and subject to entry under the existing mining laws of the United States

and the rules and regulations applying thereto, shall continue to be subject to such location and entry, notwithstanding any provision herein contained.

An Act extending the homestead laws and providing for right of way for railroads in the district of Alaska, and for other purposes.

* * * * *

Mining rights in Alaska to native-born citizens of the Dominion of Canada

Act of Congress approved May 14, 1898 (30 Stat. L., 415).

Sec. 13. That native-born citizens of the Dominion of Canada shall be accorded in said district of Alaska the same mining rights and privileges accorded to citizens of the United States in British Columbia and the Northwest Territory by the laws of the Dominion of Canada or the local laws, rules, and regulations; but no greater rights shall be thus accorded than citizens of the United States, or persons who have declared their intention to become such, may enjoy in said district of Alaska; and the Secretary of the Interior shall from time to time promulgate and enforce rules and regulations to carry this provision into effect.

An Act making further provisions for a civil government for Alaska, and for other purposes.

* * * * *

What recorded.

Act of Congress approved June 6, 1900 (31 Stat. L., 321, 326, 330).

Sec. 15. The respective Recorders shall, upon the payment of the fees for the same prescribed by the Attorney-General, record separately, in large and well-bound separate books, in fair hand:

First. Deeds, grants, transfers, contracts to sell or convey real estate and mortgages of real estate, releases of mortgages, powers of attorney, leases which have been acknowledged or proved, mortgages upon personal property;

* * * * *

Ninth. Affidavits of annual work done on mining claims;

Tenth. Notices of mining location and declaratory statements;

Eleventh. Such other writings as are required or permitted by law to be recorded, including the liens of mechanics, laborers, and others: Provided, Notices of location of mining claims shall be filed for record within ninety days from the date of the discovery of the claim described in the notice, and all instruments shall be recorded in the recording district in which the property or subject-matter affected by the instrument is situated, and where the property or subject-matter is not situated in any established recording district the instrument affecting the same shall be recorded in the office of the clerk of the division of the court having supervision over the recording division in which such property or subject-matter is situated.

Proviso. Mining claims.

Where instruments recorded.

* * * * *

Proviso. Miners' regulations for recording, etc.—recorder. Records at Dyea, etc., legalized.

* * * Provided, Miners in any organized mining district may make rules and regulations governing the recording of notices of location of mining claims, water rights, flumes and ditches, mill sites and affidavits of labor, not in conflict with this Act or the general laws of the United States; and nothing in this Act shall be construed so as to prevent the miners in any regularly organized mining district not within any recording district established by the court from electing their own Mining Recorder to act as such until a Recorder therefor is appointed by the court: Provided further, All records heretofore regularly made by the United States commissioner at Dyea, Skagway, and the Recorder at Douglas City, not in conflict with any records regularly made with the United States commissioner at Juneau, are hereby legalized. And all records heretofore made in good faith in any regularly organized mining district are hereby made public records, and the same shall be delivered to the Recorder for the recording district including such mining district within six months from the passage of this Act.

Mining laws.

Sec. 26. The laws of the United States relating to mining claims, mineral locations, and rights incident thereto are hereby extended to the district of Alaska: Provided, That subject only to such general limitations as may be necessary to exempt navigation from artificial obstructions all land and shoal water between low and mean high tide on the shores, bays, and inlets of Bering Sea, within the jurisdiction of the United States, shall be subject to exploration and mining for gold and other precious metals by citizens of the United States, or persons who have legally declared their intentions to become such, under such reasonable rules and regulations as the miners in organized mining districts may have heretofore made or may hereafter make governing the temporary possession thereof for exploration and mining purposes until otherwise provided by law: Provided further, That the rules and regulations established by the miners shall not be in conflict with the mining laws of the United States; and no exclusive permits shall be granted by the Secretary of War authorizing any person or persons, corporation, or company to excavate or mine under any of said waters below low tide, and if such exclusive permit has been granted it is hereby revoked and declared null and void; but citizens of the United States or persons who have legally declared their intention to become such shall have the right to dredge and mine for gold or other precious metals in said waters, below low tide, subject to such general rules and regulations as the Secretary of War may prescribe for the preservation of order and the protection of the interests of commerce; such rules and regulations shall not, however, deprive miners on the

Provisos. Gold, etc. Explorations on Bering Sea.—miners' regulations.—not to conflict with Federal laws. Exclusive permits to mine void, etc.

beach of the right hereby given to dump tailings into or pump from the sea opposite their claims, except where such dumping would actually obstruct navigation; and the reservation of a roadway sixty feet wide, under the tenth section of the Act of May fourteenth, eighteen hundred and ninety-eight, entitled "An Act extending the homestead laws and providing for right of way for railroads in the district of Alaska, and for other purposes," shall not apply to mineral lands or town sites.

Provisions reserving roadway, etc., not to apply. Vol. 30, p. 413.

* * * * *

An Act to ratify an agreement with the Indians of the Fort Hall Reservation in Idaho, and making appropriations to carry the same into effect.

Act of Congress approved June 6, 1900 (31 Stat. L., 680.)

[DISPOSITION OF COMANCHE, KIOWA, AND APACHE LANDS.]

That should any of said lands allotted to said Indians, or opened to settlement under this Act, contain valuable mineral deposits, such mineral deposits shall be open to location and entry, under the existing mining laws of the United States, upon the passage of this Act, and the mineral laws of the United States are hereby extended over said lands.

* * * * *

An Act extending the mining laws to saline lands.

An Act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

Uintah and White River Utes.

Allotment of irrigable land.

That the Secretary of the Interior, with the consent thereto of the majority of the adult male Indians of the Uintah and the White River tribes of Ute Indians, to be ascertained as soon as practicable by an inspector, shall cause to be allotted to each head of a family eighty acres of agricultural land which can be irrigated and forty acres of such land to each other member of said tribes, said allotments to be made prior to October first, nineteen hundred and three, on which date all the unallotted lands within said reservation shall be restored to the public domain: Provided, That persons entering any of said land under the homestead law shall pay therefor at the rate of one dollar and twenty-five cents per acre: And provided further, That nothing herein contained shall impair the rights of any mineral lease which has been approved by the Secretary of the Interior, or any permit heretofore issued by direction of the Secretary of the Interior to negotiate with said Indians for a

Unallotted lands restored to public domain.

Provisos.

Homestead entries.

Mineral leases.

mineral lease; but any person or company having so obtained such approved mineral lease or such permit to negotiate with said Indians for a mineral lease on said reservation, pending such time and up to thirty days before said lands are restored to the public domain as aforesaid, shall have in lieu of such lease or permit the preferential right to locate under the mining laws not to exceed six hundred and forty acres of contiguous mineral land, except the Raven Mining Company, which may in lieu of its lease locate one hundred mining claims of the character of mineral mentioned in its lease; and the proceeds of the sale of the lands so restored to the public domain shall be applied, first, to the reimbursement of the United States for any moneys advanced to said Indians to carry into effect the foregoing provisions; and the remainder, under the direction of the Secretary of the Interior, shall be used for the benefit of said Indians.

Raven Mining Company.

Application of proceeds from sales.

Act of Congress approved May 27, 1902 (32 Stat. L., 263).

* * * * *

An Act defining what shall constitute and providing for assessments on oil mining claims.

Assessment required for oil mining claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That where oil lands are located under the provisions of title thirty-two, chapter six, Revised Statutes of the United States, as placer mining claims, the annual assessment labor upon such claims may be done upon any one of a group of claims lying contiguous and owned by the same person or corporation, not exceeding five claims in all: Provided, That said labor will tend to the development or to determine the oil-bearing character of such contiguous claims.

Act of Congress approved Feb. 12, 1903 (32 Stat. L., 825).

An Act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and four, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * *

Uncompahgre Indian Reservation.

Mining claims located on prior to Jan. 1, 1891, valid.

That in the lands within the former Uncompahgre Indian Reservation, in the State of Utah, containing gilsonite, asphaltum, elaterite, or other like substances, which were reserved from location and entry by provision in the Act of Congress entitled "An Act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes, for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes," approved June seventh, eighteen hundred and ninety-seven, all discoveries and locations of any such mineral lands by qualified persons prior to January first, eighteen hun-

30 Stat., p. 87.

dred and ninety-one, not previously discovered and located, who recorded notices of such discoveries and locations prior to January first, eighteen hundred and ninety-one, either in the State of Colorado, or in the office of the County Recorder of Uintah County, Utah, shall have all the force and effect accorded by law to locations of mining claims upon the public domain. All such locations may hereafter be perfected, and patents shall be issued therefor upon compliance with the requirements of the mineral-land laws, provided that the owners of such locations shall relocate their respective claims and record the same in the office of the County Recorder of Uintah County, Utah, within ninety days after the passage of this Act. All locations of any such mineral lands made and recorded on or subsequent to January first, eighteen hundred and ninety-one, are hereby declared to be null and void; and the remainder of the lands heretofore reserved as aforesaid because of the mineral substances contained in them, in so far as the same may be within even-numbered sections, shall be sold and disposed of in tracts not exceeding forty acres, or a quarter of a quarter of a section, in such manner and upon such terms and with such restrictions as may be prescribed in a proclamation of the President of the United States issued for that purpose not less than one hundred and twenty days after the passage of this Act, and not less than ninety days before the time of sale or disposal, and the balance of said lands and also all the mineral therein are hereby specifically reserved for future action of Congress.

Patents to issue on relocations, etc., of claims.

Claims located after Jan. 1, 1891, invalid.

Sale of remainder of mineral lands.

Restrictions.

Act of Congress approved Mar. 3, 1903 (32 Stat. L., 998).

* * * * *

An Act for the survey and allottment of lands now embraced within the limits of the Flahead Indian Reservation, in the State of Montana, and the sale and disposal of all surplus lands after allotment.

* * * * *

Sec. 5. That said commissioners shall then proceed to personally inspect and classify and appraise, by the smallest legal subdivisions of forty acres each, all of the remaining lands embraced within said reservation. In making such classification and appraisement said lands shall be divided into the following classes: First, agricultural land of the first class; second, agricultural land of the second class; third, timber lands, the same to be lands more valuable for their timber than for any other purpose; fourth, mineral lands; and fifth, grazing lands.

Classification, etc., of lands.

* * * * *

Sec. 8. That when said commission shall have completed the classification and appraisement of all of said lands and the same shall have been approved by the Secretary of the Interior, the land shall be disposed of under the provisions of the homestead, min-

Disposal of lands.

eral, and town-site laws of the United States, except such of said lands as shall have been classified as timber lands, and excepting sections sixteen and thirty-six of each township, which are hereby granted to the State of Montana for school purposes. * * *

Timber and school lands excepted.

* * * * *

Mineral land entries.

Sec. 10. That only mineral entry may be made on such of said lands as said commission shall designate and classify as mineral under the general provisions of the mining laws of the United States, and mineral entry may also be made on any of said lands whether designated by said commission as mineral lands or otherwise, such classification by said commission being only prima facie evidence of the mineral or non-mineral character of the same: Provided, That no such mineral locations shall be permitted upon any lands allotted in severalty to an Indian.

Proviso. Exceptions.

Act of Congress approved April 23, 1904 (33 Stat. L., 302).

An Act to ratify and amend an agreement with the Indians of the Crow Reservation, in Montana, and making appropriations to carry the same into effect.

Town-site and mineral lands.

Sec. 5. * * * And provided further, That the price of said lands shall be four dollars per acre, when entered under the homestead laws. * * * Lands entered under the town-site and mineral land laws shall be paid for in amount and manner as provided by said laws, but in no event at a less price than that fixed herein for such lands, if entered under the homestead laws. * * *

Act of Congress approved April 27, 1904 (33 Stat. L., 352).

An Act to authorize the sale and disposition of surplus or unallotted lands of the Yakima Indian Reservation, in the State of Washington.

* * * * *

Appraisal of unallotted lands, etc.

Sec. 3. That the residue of the lands of said reservation—that is, the lands not allotted and not reserved—shall be classified under the direction of the Secretary of the Interior as irrigable lands, grazing lands, timber lands, or arid lands, and shall be appraised under their appropriate classes by legal subdivisions, with the exception of the mineral lands, which need not be appraised, and the timber on the lands classified as timber lands shall be appraised separately from the land. The basis for the appraisal of the timber shall be the amount of standing merchantable timber thereon, which shall be ascertained and reported.

* * * * *

Mineral lands. Lands not classified as mineral lands. *Provisos.*

The lands classified as mineral lands shall be subject to location and disposal under the mineral-land laws of the United States: Provided, That lands not classified as mineral may also be located and entered as mineral lands, subject to approval by the Secretary of the Interior and conditioned upon the payment, within one year from the date when located, of the appraised value of the lands per acre fixed prior to the date of such location, but at not less than the price fixed by

existing law for mineral lands: Provided further, That no such mineral locations shall be permitted on any lands allotted to Indians in severalty or reserved for any purpose as herein authorized.

Restriction.

Act of Congress approved Dec. 21, 1904 (33 Stat. L., 595).

An Act to ratify and amend an agreement with the Indians residing on the Shoshone or Wind River Indian Reservation in the State of Wyoming and to make appropriations for carrying the same into effect.

* * * * *

Sec. 2. That the lands ceded to the United States under the said agreement shall be disposed of under the provisions of the homestead, town-site, coal, and mineral land laws of the United States and shall be opened to settlement and entry by proclamation of the President. * * *

Opening of lands to entry.

Proclamation.

* * * * *

* * * Lands entered under the town-site, coal, and mineral land laws shall be paid for in amount and manner as provided by said laws. Notice of location of all mineral entries shall be filed in the local land office of the district in which the lands covered by the location are situated, and unless entry and payment shall be made within three years from the date of location all rights thereunder shall cease; * * * that all lands, except mineral and coal lands, herein ceded remaining undisposed of at the expiration of five years from the opening of said lands to entry shall be sold to the highest bidder for cash at not less than one dollar per acre under rules and regulations to be prescribed by the Secretary of the Interior. * * *

Town-site, coal, and mineral entries.

Act of Congress approved Mar. 3, 1905 (33 Stat. L., 1016).

An Act to authorize the sale and disposition of surplus or unallotted lands of the diminished Colville Indian Reservation, in the State of Washington, and for other purposes.

* * * * *

Sec. 3. That upon the completion of said allotments to said Indians the residue or surplus lands—that is, lands not allotted or reserved for Indian school, agency, or other purposes—of the said diminished Colville Indian Reservation shall be classified under the direction of the Secretary of the Interior as irrigable lands, grazing lands, timber lands, mineral lands, or arid lands, and shall be appraised under their appropriate classes by legal subdivisions, with the exception of the lands classed as mineral lands, which need not be appraised, and which shall be disposed of under the general mining laws of the United States.

Mineral lands.

Act of Congress approved March 22, 1906.

An Act making appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and seven.

* * * * * * *

Mineral lands.

* * * Provided further, That the general mining laws of the United States shall extend after the approval of this Act to any of said lands, and mineral entry may be made on any of said lands, but no such mineral selection shall be permitted upon any lands allotted in severalty to the Indians: Provided further, That all the coal or oil deposits in or under the lands on the said reservation shall be and remain the property of the United States, and no patent that may be issued under the provisions of this or any other Act of Congress shall convey any title thereto. * * *

Act of Congress approved June 21, 1906 (34 Stat. L., 336).

Coal and oil deposits reserved.

Act of Congress approved March 2, 1907 (35 Stat. L., 1243).

An Act to amend the laws governing labor or improvements upon mining claims in Alaska.

Alaska.

Annual improvements, etc., required on mining claims.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That during each year and until patent has been issued therefor, at least one hundred dollars' worth of labor shall be performed or improvements made on, or for the benefit or development of, in accordance with existing law, each mining claim in the district of Alaska heretofore or hereafter located. And the locator or owner of such claim or some other person having knowledge of the facts may also make and file with the said Recorder of the district in which the claims shall be situate an affidavit showing the performance of labor or making of improvements to the amount of one hundred dollars as aforesaid and specifying the character and extent of such work. Such affidavit shall set forth the following: First, the name or number of the mining claims and where situated; second, the number of days' work done and the character and value of the improvements placed thereon; third, the date of the performance of such labor and of making improvements; fourth, at whose instance the work was done or the improvements made; fifth, the actual amount paid for work and improvement, and by whom paid when the same was not done by the owner. Such affidavit shall be prima facie evidence of the performance of such work or making of such improvements, but if such affidavits be not filed within the time fixed by this Act the burden of proof shall be upon the claimant to establish the performance of such annual work and improvements. And upon failure of the locator or owner of any such claim to comply with the provisions of this Act, as to performance of work and improvements, such claim shall become forfeited and open to location by others as if no location of the same had ever been made. The affidavits required hereby may be made before any officer authorized to administer oaths, and the provisions of sections fifty-three hundred and ninety-two and fifty-three hundred

Filing affidavits.

Contents.

Prima facie evidence of performance of work, etc.

Forfeiture.

Officer before whom affidavits may be made.

R. S. secs. 5392, 5393, p. 1045.

and ninety-three of the Revised Statutes are hereby extended to such affidavits. Said affidavits shall be filed not later than ninety days after the close of the year in which such work is performed.

Time of filing. Fee.

Sec. 2. That the Recorders for the several divisions or districts of Alaska shall collect the sum of one dollar and fifty cents as a fee for the filing, recording, and indexing said annual proofs of work and improvements for each claim so recorded.

An Act authorizing a resurvey of certain townships in the State of Wyoming, and for other purposes.

[BITTER ROOT VALLEY, MONTANA.]

Mining laws extended to lands.

Act of Congress approved May 29, 1908 (35 Stat. L., 467).

Sec. 11. That all the provisions of the mining laws of the United States are hereby extended and made applicable to the undisposed-of lands in the Bitter Root Valley, State of Montana, above the mouth of the Lo Lo Fork of the Bitter Root River, designated in the Act of June fifth, eighteen hundred and seventy-two: Provided, That all mining locations and entries heretofore made or attempted to be made upon said lands shall be determined by the Department of the Interior as if said lands had been subject to mineral location and entry at the time such locations and entries were made or attempted to be made: And provided further. That this Act shall not be applicable to lands withdrawn for administration sites for use of the Forest Service.

An Act for relief of applicants for mineral surveys.

Repayment of deposits for mineral surveys.

Act of Congress approved Feb. 24, 1909 (36 Stat. L., —). Pub. No. 257.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of the moneys heretofore or hereafter covered into the Treasury from deposits made by individuals to cover cost of work performed and to be performed in the offices of the United States surveyors-general in connection with the survey of mineral lands, any excess in the amount deposited over and above the actual cost of the work performed, including all expenses incident thereto for which the deposits were severally made or the whole of any unused deposit; and such sums, as the several cases may be, shall be deemed to be annually and permanently appropriated for that purpose. Such repayments shall be made to the person or persons who made the several deposits, or to his or their legal representatives, after the completion or abandonment of the work for which the deposits were made, and upon an account certified by the surveyor-general of the district in which the mineral land surveyed, or sought to be surveyed is situated and approved by the Commissioner of the General Land Office.

An Act extending the time for final entry of mineral claims within the Shoshone or Wind River Reservation in Wyoming.

Time extended for making entry.
Act of Congress approved Feb. 25, 1909 (36 Stat. L., —). Pub. No. 266.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section two of chapter fourteen hundred and fifty-two of the Statutes of the Fifty-eighth Congress (United States Statutes at Large, volume thirty-three, part one), being "An Act to ratify and amend an agreement with the Indians residing on the Shoshone or Wind River Indian Reservation, in the State of Wyoming, and to make appropriations to carry the same into effect," be, and the same is hereby, amended so that all claimants and locators of mineral lands within the ceded portion of said reservation shall have five years from the date of location within which to make entry and payment instead of three years, as now provided by the said Act.

REGULATIONS.

NATURE AND EXTENT OF MINING CLAIMS.

1. Mining claims are of two distinct classes: Lode claims and placers.

Lode Claims.

2. The status of lode claims located or patented previous to the 10th day of May, 1872, is not changed with regard to their extent along the lode or width of surface; but the claim is enlarged by sections 2322 and 2328, by investing the locator, his heirs or assigns, with the right to follow, upon the conditions stated therein, all veins, lodes, or ledges, the top or apex of which lies inside of the surface lines of his claim.

3. It is to be distinctly understood, however, that the law limits the possessory right to veins, lodes, or ledges, other than the one named in the original location, to such as were not adversely claimed on May 10, 1872, and that where such other vein or ledge was so adversely claimed at that date the right of the party so adversely claiming is in no way impaired by the provisions of the Revised Statutes.

4. From and after the 10th May, 1872, any person who is a citizen of the United States, or who has declared his intention to become a citizen, may locate, record, and hold a mining claim of fifteen hundred linear feet along the course of any mineral vein or lode subject to location; or an association of persons, severally qualified as above, may make joint location of such claim of fifteen hundred feet, but in no event can a location of a vein or lode made after the 10th day of May, 1872, exceed fifteen hundred feet along the course thereof, whatever may be the number of persons composing the association.

5. With regard to the extent of surface ground adjoining a vein or lode, and claimed for the convenient working thereof, the Revised Statutes provide that the lateral extent of locations of veins or lodes made after May 10, 1872, shall in no case exceed